The Gazette of India

EXTRAORDINARY

PART II Section 3- Sub-section (i)

PUBLISHED BY AUTHORITY

MINISTRY OF ENVIRONMENT AND FORESTS

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NOTIFICATION

New Delhi, Thursday, April 15, 2004

G.S.R. 261 (E) - In exercise of the powers conferred by section 62 of the Biological Diversity Act , 2002, and in supersession of the National Biodiversity Authority (salary, Allowances and conditions of service of Chairperson and other Members) Rules, 2003 except as respect to things done or omitted to be done before such supersession, the Central Government hereby makes the following rules namely:-

1. Short title and commencement

(1) These rules may be called the Biological Diversity Rules, 2004.

(2) Thus shall come into force on 15th April, 2004.

2. Definitions

In these rules, unless the context otherwise requires, -

(a) Act means the Biological Diversity Act 2002 (18 of 2003);

(b) Authority means the National Biodiversity Authority established

under sub- section (1) of Section 8,

(c) Biodiversity Management Committee means a Biodiversity Management Committee established by a local body under sub-section (1) of Section 41;

(d) Chairperson means the chairperson of the National Biodiversity Authority or as the case may be, of the State Biodiversity Board.

(e) fee means any fee stipulated in the Schedule;

(f) Formmeans form annexed to these rules;

(g) Member means a member of the National Biodiversity Authority or a State Biodiversity Board and includes the chairperson as the case may be;

(h) section means a section of the Act;

(i) Secretary means the full time Secretary of the Authority.

(j) words and expressions used but not defined in these rules and defined in the Act shall have the meaning respectively assigned to them in the Act.

3. Manner of selection and appointment of the Chairperson

(1) The Chairperson of the Authority shall be appointed by the Central Government.

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(2) Every appointment of Chairperson under sub-section (1) shall be made either on deputation basis or by selection from outside the Central Government. In case the appointment is through deputation, the applicant should not be below the rank of Additional Secretary to the Government of India.

4. Term of Office of the Chairperson

(1) The Chairperson of the Authority shall hold the office for a term of three years and shall be eligible for re-appointment,

(2) Provided that no Chairperson shall hold office as such after he attains the age of sixty five years or his term of office expires which is earlier.

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(3) The Chairperson may resign from his office by giving at least one month notice in writing to the Central Government.

5. Pay and Allowances of Chairperson :-

(1) A Chairperson shall be entitled to a fixed pay of Rs. 26,000/- per month. In case of retired person is appointed as Chairperson, his pay shall be fixed in accordance with the orders of the Central Government as applicable to such persons. .

(2) A Chairperson shall be entitled to such allowances, leave, pension, provident fund, house and other perquisites etc. to be decided by the Central Government from time to time.

6. Term of Office and Allowances of non-official Members. -

(1) Every non-official member of the Authority shall hold his office for a term not exceeding three years at a time from the date of publication of his appointment in the official Gazette.

(2) Every non-official member attending the meeting of the Authority shall be entitled to sitting allowance, travelling expenses, daily allowance and such other allowances as are applicable to non-official member of commissions and committees of the Central Government attending the meeting (s) of such Commissions or Committees.

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7. Filling up of vacancies of non-official members

(1) A non-official member of the Authority may resign his office at any time by giving in writing under his hand addressed to the Central Government and the seat of that member in the Authority shall become vacant.

(2) A casual vacancy of a non-official member in the Authority shall be filled up by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term of the member in whose place he was nominated.

8. Removal of the members of the Authority.

No member of the Authority shall be removed from his office on any ground specified in section 11, without a due and proper enquiry by an officer not below the rank of a Secretary to the Government of India appointed by the Central Government and without giving such member a reasonable opportunity of being heard.

9. Secretary of the Authority

(1) The Authority shall appoint a Secretary to it.

(2) The terms and conditions of the appointment of the Secretary shall be determined by the Authority by regulation.

(3) The Secretary shall be responsible for co-coordinating and convening the meetings of the Authority, maintenance of the records of the proceedings of the Authority and such other matters as may be assigned to him by the Authority.

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10.

Meetings of the Authority

(1)

The Authority shall meet at least four times in a year normally after a period of three months at the Head quarters of the Authority or at such place as may be decided by the Chairperson.

(2) The Chairperson shall, upon a written request from not less than five Members of the Authority or upon a direction of the Central Government, call a special meeting of the Authority.

(3) The members shall be given at least fifteen days notice for holding an ordinary meeting and atleast three days notice for holding a special meeting specifying the purpose, the time and the place at which such meeting is to be held.

(4) Every meeting shall be presided over by the Chairperson and in his absence, by a presiding officer to be elected by the members present from amongst themselves.

(5) The decision of the Authority at a meeting shall, if necessary, be taken by a simple majority of the Members present and voting and the Chairperson or in his absence, the Member presiding shall have a second or casting vote.

(6) Each member shall have one vote.

(7) The quorum at every meeting of the Authority shall be five.

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(8) No Member shall be entitled to bring forward for the consideration of a meeting any matter of which he has not given ten days notice unless the Chairperson in his discretion permits him to do so.

(9) Notice of the meeting may be given to the Members by delivering the same by messenger or sending it by registered post to his last known place of residence or business or in such other manner as the Secretary of the Authority may, in the circumstances of the case, think fit.

11. Appointment of Expert Committee by the Authority and their entitlements :-

(1) The Authority may constitute any number of Committees for such purposes as it may deem fit consisting wholly of members or wholly of other persons or partly of members or partly of other persons.

(2) The members of the Committee other than the members of the Authority shall be paid such fees and allowances for attending the meetings as the Authority may deem fit.

12. General functions of the Authority :-

The Authority may perform the following functions; namely :-

(i) lay down the procedure and guidelines to govern the activities provided under sections 3 ,4 and 6 ;

(ii) advise the Central Government on any matter concerning conservation of bio-diversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resource and knowledge;

(iii) coordinate the activities of the State Bio-diversity Boards;

(iv) provide technical assistance and guidance to the State Bio-diversity Boards;

(v) commission studies and sponsor investigations and research;

(vi) engage consultants, for a specific period, not exceeding three years, for providing technical assistance to the Authority in the effective discharge of its functions:

Provided that if it is necessary and expedient to engage any consultant beyond the period of three years, the Authority shall seek prior approval of the Central Government for such an engagement.

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(vii) collect, compile and publish technical and statistical data, manuals, codes or guides relating to conservation of bio-diversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resource and knowledge;

(viii) organise through mass media a comprehensive programme regarding conservation of bio-diversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resource and knowledge.

(ix) plan and organise training of personnel engaged or likely to be engaged in programmes for the conservation of bio-diversity and sustainable use of its components;

(x) prepare the annual Budget of the Authority incorporating its own receipts as also the devaluation from the Central Government provided that the allocation by the Central Government shall be operated in accordance with the budget provisions approved by the Central Government;

(xi) recommend creation of posts to the Central Government, for effective discharge of the functions by the Authority and to create such posts, provided that no such post whether permanent/ temporary or of any nature, would be created without prior approval of the Central Government;

(xii) approve the method of recruitment to the officers and servants of the Authority;

(xiii) take steps to build up data base and to create information and documentation system for biological resources and associated traditional knowledge through bio-diversity registers and electronics data bases, to ensure effective management, promotion and sustainable uses;

(xiv) give directions to State Bio-diversity Boards and the Bio-diversity Management Committees in writing for effective implementation of the Act ;

(xv) report to the Central Government about the functioning of the Authority and implementation of the Act ;

(xvi) recommend, modify, collection of benefit sharing fee under sub section (1) of Section 6 or Changes of royalties under sub-section (2) of section 19 in respect of biological resources from time to time ;

(xvii) sanction grants-in-aid and grants to the State Bio-diversity Board and Bio-diversity Management Committees for specific purposes;

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(xviii) undertake physical inspection of any area in connection with the implementation of the Act ;

(xix) take necessary measures including appointment of legal experts to oppose grant of intellectual property right in any country outside India on any biological resource and associated knowledge obtained from India in an illegal manner;

(xx) do such other functions as may be assigned or directed by the CentralGovernment from time to time.

13. Powers and duties of Chairperson

(1) The Chairperson shall have the overall control of the day- to -day activities of the Authority.

(2) Subject to the provisions of Section 10, the Chairperson shall have the powers of general superintendence over the officers and staff of the Authority and he may issue necessary directions for the conduct and management of the affairs of the Authority.

(3) The Chairperson shall be In charge of all the confidential papers and records of the Authority and shall be responsible for their safe custody.

(4) All orders and instructions to be issued by the Authority shall be under the signature of the Chairperson or of any other officer authorized by the Chairperson in this behalf.

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(5) The Chairperson, either himself or through an officer of the authority authorized for the purpose, may sanction and disburse all payments against the approved budget.

(6) The Chairperson shall have full powers for granting administrative and technical sanction to all estimates.

(7) The Chairperson shall convene and preside over all the meetings of the Authority and shall ensure that all decisions taken by the Authority are implemented in proper manner.

(8) The Chairperson shall exercise such other powers and perform such other functions as may be delegated to him from time to time by the Authority or the Central Government.

14. Procedure for access to biological resources and associated traditional knowledge

(1) Any person seeking approval of the Authority for access to biological resources and associated knowledge for research or for commercial utilization shall make an application in Form I.

(2) Every application under sub-rule (1) shall be accompanied by a fee of ten thousand rupees in the form of a cheque or demand draft drawn in favour of the Authority.

(3) The Authority shall after consultation with the concerned local bodies and collecting such additional information from the applicant and other sources, as it may deem necessary, dispose of the application, as far as possible, within a period of six months from the date of its receipts.

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(4) On being satisfied with the merit of the application, the Authority may grant the approval for access to biological resources and associated knowledge subject to such term and conditions as it may deem fit to impose.

(5) The approval to access shall be in the form of a written agreement duly signed by an authorized officer of the Authority and the applicant.

(6) The form of the agreement referred to in sub-rule (5) shall be laid down by the Authority and shall include the following ; namely :-

(i) general objectives and purpose of the application for seeking approval ;

(ii) description of the biological resources and traditional knowledge including accompanying information;

(iii) intended uses of the biological resources (research, breeding, commercial utilization etc.)

(iv) conditions under which the applicant may seek intellectual property rights;

(v) quantum of monetary and other incidental benefits. If need be, a commitment to enter into a fresh agreement particularly in case if the biological material is taken for research purposes and later on sought to be used for commercial purposes, and also in case of any other change in use thereof subsequently.

(vi) restriction to transfer the accessed biological resources and the traditional knowledge to any third party without prior approval of Authority;

(vii) to adhere to a limit set by the Authority on the quantity and specification of the quality of the biological resources for which the applicant is seeking access;

(viii) guarantee to deposit a reference sample of the biological material sought to be accessed with the repositories identified in Section 39;

(ix) submitting to the Authority a regular status report of research and other developments;

(x) commitment to abide with the provisions of Act and rules and other related legislations in force in the country ;

(xi) commitment to facilitate measures for conservation and sustainable use of biological resources accessed ;

(xii) commitment to minimize environmental impacts of collecting activities ;

(xiii) legal provisions such as duration of the agreement, notice to terminate the agreement, independent enforceability of individual clauses, provision to the extent that obligations in benefit sharing clauses survive the termination of the agreement, events limiting liability (natural calamities), arbitration, any confidentiality clause.

(7) The conditions for access may specifically provide measures for conservation and protection of biological resources to which the access is being granted.

(8) The Authority may for reasons to be recorded in writing reject an application if it considers that the request cannot be acceded to.

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(9) No application shall be rejected unless the applicant is given a reasonable opportunity of being heard.

(10) The Authority shall take steps to widely publicize the approvals granted, through print or electronic media and shall periodically monitor compliance of conditions on which the approval was accorded.

15. Revocation of access or approval . -

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(1) The Authority may either on the basis of any complaint or *suo moto* withdraw the approval granted for access under rule 15 and revoke the written agreement under the following conditions ; namely:-

(i) on the basis of reasonable belief that the person to whom the approval was granted has violated any of the provisions of the Act or the condition on which the approval was granted ;

(ii) when the person who has been granted approval has failed to comply with the terms of the agreement ;

(iii) on failure to comply with any of the conditions of access granted;

(iv) on account of overriding public interest or for protection of environment and conservation of biological diversity;

(2) The Authority shall send a copy of every order of revocation issued by it to the concerned State Biodiversity Board and the Biodiversity Management Committees for prohibiting the access and also to assess the damage, if any, caused and take steps to recover the damage.

16. Restriction on activities related to access to biological resources. -

(1) The Authority if it deems necessary and appropriate shall take the steps to restrict or prohibit the request for access to biological resources for the following reasons ; namely :-

(i) the request for access is for any endangered taxa ;

(ii) the request for access is for any endemic and rare species;

(iii) the request for access may likely to result in adverse effect on the livelihoods of the local people;

(iv) the request to access may result in adverse environmental impact which may be difficult to control and mitigate;

(v) the request for access may cause genetic erosion or affecting the ecosystem function;

(vi) use of resources for purposes contrary to national interest and other related international agreements entered into by India.

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17. Procedure for seeking approval for transferring results of research.-

(1) Any person desirous of transferring results of research relating to biological resources obtained from India for monetary consideration to foreign nationals, companies and Non Resident Indians (NRIs), shall make an application to the Authority in the Form II.

(2) Every application under sub-rule (i) shall be accompanied by a fee of five thousand rupees in the form of a Bank draft or Cheque drawn in favour of the Authority.

(3) Every application under sub-rule (i) shall be decided upon by the Authority, as far as possible within a period of three months from the receipt of the same.

(4) On being satisfied that the applicant has fulfilled all the requirements, the Authority may grant the approval for transferring the results of research subject to such terms and conditions as it may deem fit to impose in each case.

(5) The approval for transfer shall be granted in the form of a written agreement duly signed by an authorized officer of the Authority and the applicant. The form of the agreement shall be such as may be decided by the Authority.

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(6) The Authority may for reasons to be recorded in writing reject an application if it considers that the application cannot be allowed;

Provided that the application shall be rejected unless the applicant has been given a reasonable opportunity of being heard.

18. Procedure for seeking prior approval before applying for intellectual property protection. -

(1) Any person desirous of applying for a patent or any other intellectual property based on research on biological material and knowledge obtained from India shall make an application in Form III.

(2) Every application under sub-rule (1) shall be accompanied by paying a fee of five hundred rupees.

(3) The Authority after due appraisal of the application and after collecting any additional information, on the basis of merit shall decide on the application, as far as possible within a period of three months of receipt of the same.

(4) On being satisfied that the applicant has fulfilled all the necessary requirements, the Authority may grant approval for applying for a patent or any other IPR subject to such terms and conditions as it may deem fit to impose in each case.

(5) The approval shall be granted in the form of a written agreement duly signed by an authorized officer of the Authority and the applicant. The form of the agreement may be decided by the Authority.

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(6) The Authority may reject the application if it considers that the request cannot be acceded to after recording the reasons. Before passing order of rejection, the applicant shall be given an opportunity of hearing.

19. Procedure for third party transfer under sub-section (2) of Section 20.-

(1) The persons who have been granted approval for access to biological resources and associated knowledge, intend to transfer the accessed biological resource or knowledge to any other person or organization shall make an application to the Authority in Form IV.

(2) Every application under sub-rule (1) shall be accompanied by a fee of ten thousand rupees in the form of Bank draft or cheque drawn in favour of the Authority.

(3) The Authority shall after collecting any additional information, decide upon the application as far as possible within a period of six months of receipt of the same.

(4) On being satisfied that the applicant has fulfilled all the necessary requirements, the Authority may grant approval for third party transfer subject to such terms and conditions it may deem fit to impose in each case.

(5) The approval as may be granted under sub-rule (4) in the form of a written agreement duly signed by an authorized officer of the Authority and the applicant. The form of the agreement shall be such as may be decided by the Authority.

(6) The Authority may for reasons to be recorded in writing reject the application if it considers that the request cannot be acceded to provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.

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20. Criteria for equitable benefit sharing (Section 21)

(1) The Authority shall by notification in the Official Gazette formulate the guidelines and describe the benefit sharing formula.

(2) The guidelines shall provide for monetary and other benefits such as royalty; joint ventures; technology transfer; product development; education and awareness raising activities; institutional capacity building and venture capital fund.

(3) The formula for benefit sharing shall be determined on a case-by case basis.

(4) The Authority while granting approval to any person for access or for transfer of results of research or applying for patent and IPR or for third party transfer of the accessed biological resource and associated knowledge may impose terms and conditions for ensuring equitable sharing of the benefits arising out of the use of accessed biological material and associated knowledge.

(5) The quantum of benefits shall be mutually agreed upon between the persons applying for such approval and the Authority in consultation with the local bodies and benefit claimers and may be decided in due regard to the defined parameters of access, the extent of use, the sustainability aspect, impact and expected outcome levels, including measures ensuring conservation and sustainable use of biological diversity.

(6) Depending upon each case, the Authority shall stipulate the time frame for assessing benefit sharing on short, medium, and long term benefits.

(7) The Authority shall stipulate that benefits shall ensure conservation and sustainable use of biological diversity.

(8) Where biological resources or knowledge is accessed from a specific individual or a group of individuals or organizations, the Authority may take steps to ensure that the agreed amount is paid directly to them through the district administration. Where such individuals or group of individuals or organizations cannot be identified, the monetary benefits shall be deposited in the National Biodiversity Fund.

(9) Five percent of the assessed benefits shall be earmarked for the Authority or Board as the case may be , towards administrative and service charges.

(10) The Authority shall monitor the flow of benefits as determined under sub rule (4) in a manner determined by it.

21. Application of National Biodiversity Fund . -

(1) The National Biodiversity Fund shall be operated by the Chairperson or by such other officer of the Authority as may be authorized in this regard

(2) The National Biodiversity Fund shall have two separate heads of accounts, one relating to the receipts from the Central Government and the other concerning the fee, licence fee, royalty and other receipts of the Authority.

22. Constitution of Biodiversity Management Committees

(1) Every local body shall constitute a Biodiversity Management Committee (BMCs) within its area of jurisdiction.

(2) The Biodiversity Management Committee as constituted under sub-rule (1) shall consist of a Chairperson and not more than six persons nominated by the local body, of whom not less than one third should be women and not les than 18% should belong to the Scheduled Castes/Scheduled Tribes.

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(3) The Chairperson of the Biodiversity Management Committee shall be elected from amongst the members of the committee in a meeting to be chaired by the Chairperson of the local body. The Chairperson of the local body shall have the casting votes in case of a tie .

(4) The Chairperson of the Biodiversity Management Committee shall have a tenure of three years.

(5) The local Member of Legislative Assembly/ Member of Legislative Council and Member of Parliament would be special invitees to the meetings of the Committee.

(6) The main function of the BMC is to prepare Peoples Biodiversity Register in consultation with local people. The Register shall contain comprehensive information on availability and knowledge of local biological resources, their medicinal or any other use or any other traditional knowledge associated with them.

(7) The other functions of the BMC are to advise on any matter referred to it by the State Biodiversity Board or Authority for granting approval, to maintain data about the local vaids and practitioners using the biological resources.

(8) The Authority shall take steps to specify the form of the Peoples Biodiversity Registers, and the particulars it shall contain and the format for electronic database.

(9) The Authority and the State Biodiversity Boards shall provide guidance and technical support to the Biodiversity Management Committees for preparing Peoples Biodiversity Registers.

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(10) The Peoples Biodiversity Registers shall be maintained and validated by the Biodiversity Management Committees.

(11) The Committee shall also maintain a Register giving information about the details of the access to biological resources and traditional knowledge granted, details of the collection fee imposed and details of the benefits derived and the mode of their sharing.

23. Appeal for settlement of disputes under Section 50. -

(1) If a dispute arises between the Authority or a State Biodiversity Board or between one Board and other Board(s) on account of implementation of any order or direction or on any issue of policy decision, either of the aggrieved parties i.e. , Authority or the Board, as the case may be, prefer an appeal to the Central Government under section 50, in Form V to the Secretary, Ministry of Environment and Forests, Government of India

(2) In case the dispute arises between a State Biodiversity Board and another state Biodiversity Board or Boards, the aggrieved Board or Boards, shall prefer the

point or points of dispute to the Central Government which shall refer the same to the Authority.

(3) The memorandum of appeal shall state the facts of the case, the grounds relied upon by the appellant, for preferring the appeal and the relief sought for.

(4) The memorandum of appeal shall be accompanied by an authenticated copy of the order, direction or policy decision, as the case may be, by which the appellant is aggrieved and shall be duly signed by the authorised representative of the appellant.

(5) The memorandum of appeal shall be submitted in quadruplicate, either in person or through a registered post with Acknowledgement due, within 30 days from the date of the orders, direction or policy decision, impunged provided that if the Central Government is satisfied that there was good and sufficient reason for the delay in preferring the appeal, it may, for reason to be recorded in writing, allow the appeal to be preferred after the expiry of the aforesaid period of 30 days but before the expiry of 45 days from the date of the orders impugned, direction or policy decision, as the case may be.

(6) The notice for hearing of the appeal shall be given in Form VI by a registered post with an acknowledgement due.

(7) The Central Government shall, after hearing the appellant and the other parties, dispose of the appeal.

(8) In disposing of an appeal it may vary or modify or cancel impugned order, direction or policy, as the case may be.

(9) In adjudicating a dispute, the Authority shall be guided by the principles of natural justice and as far as practicable, follow the same procedure which the Central Government is required to follow under this rule.

24. Manner of giving notice under Section Section 61

(1) The manner of giving notice, under clause (b) of section 61, shall be as follows namely:-

(i) The notice shall be in writing in Form VII.

(ii) The person giving the notice may send it to ,-

(a) If the alleged offence has taken place in a Union territory, to the Chairperson of the National Bio-diversity Authority; and

(b) If the alleged offence has taken place in a State, to the Chairperson of the State Bio-diversity Board

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(2) The notice referred to in sub-rule (1) shall be sent by registered post acknowledgement due; and

(3) The period of thirty days mentioned in clause (b) of section 61 shall be reckoned from the date, the notice is received by the Authorities mentioned in sub-rule (1).

Schedule

FORM I

(see rule 14)

Application form for access to Biological resources and associated traditional knowledge

Part A

(i) Full particulars of the applicant

(ii) Name:

(iii) Permanent address:

(iv) Address of the contact person / agent, if any, in India:

(v) Profile of the organization (personal profile in case the applicant is an individual). Please attach relevant documents of authentication):

(vi) Nature of business:

(vii) Turnover of the organization in US$:

2. Details and specific information about nature of access sought and biological material and associated knowledge to be accessed

a) Identification (scientific name) of biological resources and its traditional use:

b) Geographical location of proposed collection:

c) Description / nature of traditional knowledge (oral / documented):

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d) Any identified individual / community holding the traditional knowledge:

e) Quantity of biological resources to be collected (give the schedule):

f) Time span in which the biological resources is proposed to be collected:

g) Name and number of person authorized by the company for making the selection:

h) The purpose for which the access is requested including the type and extent of research, commercial use being derived and expected to be derived from it:

i) Whether any collection of the resource endangers any component of biological diversity and the risks which may arise from the access:

3. Details of any national institution which will participate in the Research and Development activities.

4. Primary destination of accessed resource and identity of the location where the R&D will be carried out.

5. The economic and other benefits including those arriving out of any IPR, patent obtained out of accessed biological resources and knowledge that are intended, or may accrue to the applicant or to the country that he/she belongs

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6. The biotechnological, scientific, social or any other benefits obtained out of accessed biological resources and knowledge that are intended, or may accrue to the applicant or to the country that he/she belongs

7. Estimation of benefits, that would flow to India/ communities arising out of the use of accessed bioresources and traditional knowledge

8. Proposed mechanism and arrangements for benefit sharing.

9. Any other information considered relevant.

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Part B

Declaration

we declare that:

- Collection of proposed biological resources shall not adversely affect the sustainability of the resources;
- Collection of proposed biological resources shall not entail any environmental impact;
- Collection of proposed biological resources shall not pose any risk to ecosystems;
- Collection of proposed biological resources shall not adversely affect the local communities;

I/we further declare the Information provided in the application form is true and correct and I /We shall be responsible for any incorrect / wrong information.

Signed

Name

Title

Place

Date

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FORM II

(see Rule 17)

Application for seeking prior approval of National Biodiversity Authority for transferring the results of research to foreign nationals, companies, NRI`s, for commercial purposes.

1. Full particulars of the applicant

i) Name

ii) Address:

iii)Professional profile

iv)Organizational affiliation (Please attach relevant documents of authentication):

2. Details of the results of research conducted

3. Details of the Biological resources and /or associated knowledge used in the research.

4. Geo-graphical location from where the biological resources used in the research are collected

5 Details of any traditional knowledge used in the research and any identified individual /community holding the traditional knowledge

6. Details of institution where R&D activities carried out.

7. Details of the individual / organization to whom the research results are intend to transfer.

8. Details of economic, biotechnological, scientific or any other benefits that are intended, or may accrue to the individual /organization due to commercialization of transferred research results.

9. Details of economic, biotechnological, scientific or any other benefits that are intended, or may accrue to the applicant seeking approval for transfer of results of research.

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10. Details of any agreement or MOU between by the proposed recipient and applicant seeking approval for transfer of results of research.

Declaration

I/we declare the Information provided in the application form is true and correct and I /We shall be responsible for any incorrect / wrong information.

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Signed

Name

Title

Place

Date

FORM III

(See rule 18)

Application for seeking prior approval of National Biodiversity Authority for applying for Intellectual Property Right

1. Full particulars of the applicant i) Name

ii) Address:

iii) Professional profile

iv) Organizational affiliation (Please attach relevant documents of authentication):

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2. Details of the invention on which IPRs sought

3. Details of the Biological resources and /or associated knowledge used in the invention.

4. Geo-graphical location from where the biological resources used in the invention are collected

5. Details of any traditional knowledge used in the in the invention and any identified individual /communiti\y holding the traditional knowledge

6. Details of institution where Research and Development activities carried out.

7. Details of economic, biotechnological, scientific or any other benefits that are intended, or may accrue to the applicant due commercialization of the invention.

Declaration

I/we declare the Information provided in the application form is true and correct and I /We shall be responsible for any incorrect / wrong information.

Signed

Name

Title

Place

Date

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FORM IV

(See rule 19)

Application form for seeking approval of National Biodiversity Authority for third party transfer of the accessed Biological resources and associated traditional knowledge.

1. Full particulars of the applicant

   (i) Name

   (ii) Address:

   (iii) Professional profile

   (iv) Organizational affiliation (Please attach relevant documents of authentication):

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2. Details of the biological material and traditional knowledge accessed.

3. Details of the access contract entered (Copy to be enclosed)

4. Details of the benefits and mechanism / arrangements for benefit sharing already implemented.

5. Full particulars of the third part to whom the accessed material / knowledge is intended to transfer.

6. The purpose of the intended third party transfer.

7. Details of economic, social, biotechnological, scientific or any other benefits that are intended, or may accrue to the third party due to transfer of accessed biological material and knowledge.

8. Details of any agreement to be entered between the applicant and the third party.

9. Estimation of benefits that would flow to India/ communities arising out of the third party transfer of accessed biological resources and traditional knowledge

10. Proposed mechanism and arrangements for benefit sharing arising out of the proposed third party transfer.

11. Any other relevant information

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Declaration

I/we declare the Information provided in the application form is true and correct and I /We shall be responsible for any incorrect / wrong information.

Signed

Name

Title

Place

Date

FORM V
(See rule-23(1)

Form of Memorandum of Appeal

BEFORE THE _____MINISTRY OF ENVIRONMENT AND FORESTS, NEW DELHI

OR

NATIONAL BIODIVERSITY AUTHORITY

(as the case may be)

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(Memorandum of appeal under Section 50 of the Biological Diversity Act, 2002.)

Appeal No. _____of 200

_____

_____ Appellant (s)

Vs.

_____

_____ Respondent(s)

(here mention the designation of the Authority/

Board, as the case may be)

The appellant begs to prefer this Memorandum of Appeal against the order dated _____ passed by the Respondent on the following facts and grounds.

1. FACTS:

(Here briefly mention the facts of the case):

2. GROUND:

(Here mention the grounds on which the appeal is made) :

IndiaCode

i.)

ii.)

iii.)

3. RELIEF SOUGHT:

i)

ii)

iii)

4. PRAYER:

a) In the light of what is stated above, the appellant respectfully prays that the order/decision of the respondent be quashed/set-aside .

b) The policy/guidelines/regulation framed by the Respondent be quashed

/modified/annulled to the extent_____

c)_____

Place:_____ Signature of the appellant

Dated:_____ with Seal

IndiaCode

Address:

VERIFICATION

, the appellant do hereby declare that what is stated above is true to the best of my information and belief .

Verified on ____day of_____.

Signature of the appellant

With Seal

Address

Signature of the Authorised representative of the appellant

Enclosures: 1. Authenticated copy of the order/direction/policy decision, against which the appeal has been preferred.

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FORM VI

(See rule 28)

BEFORE THE _____ MINISTRY OF ENVIRONMENT AND FORESTS, NEW DELHI

OR

NATIONAL BIODIVERSITY AUTHORITY

(as the case may be)

IndiaCode

Appeal No. _____ of 200

Between :

_____

_____

Appellant(s)

Vs.

_____

_____ Respondents(s)

NOTICE

Please take notice that the above appeal filed by the appellant, against the order/direction/policy decision (give details) is fixed for hearing on _____ at _____.

The copies of the appeal memorandum and other annexure filed alongwith the appeal are sent herewith for your reference.

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Please note that if you fails to appear on the said date or other subsequent date of hearing of the appeal, the appeal would be disposed of finally by placing you ex-parte.

Authorised signatory on behalf of the Appellate Authority (Seal)

Date: _____

Place : _____

FORM

FORM OF NOTICE

(See rule 24 (1)

By Registered Post/Acknowledgement due

From,

Shri _____

_____

_____

IndiaCode

To,

_____

_____

_____

Sub: NOTICE UNDER SECTION 61(b) OF THE BIOLOGICAL DIVERSITY ACT, 2002.

Whereas an offence under the Biological Diversity Act, 2002 has been committed/is being committed by_____

2. I/we hereby give notice of 30 days under Section 61(b) of the Biological Diversity Act, 2002 of my /our intention to file a complaint in the Court against _____for violation of the provisions of the Biological Diversity Act, 2002.

3. In support of my/our notice , I am/we are enclosing herewith the following documents as evidence of proof.

Place:_____

Dated:_____

gnature

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EXPLANATION:

(1) In case the notice to be given in the name of a company, documentary evidence authorising the person to sign the notice on behalf of the company shall be enclosed to the notice.

(2) Give the name and address of the alleged offender. In case of using biological resource/ knowledge/research/bio-survey and bio utilisation /the intellectual property right /patent , without the approval of the Authority, the details thereof and the commercial utilisation if any, may be furnished.

(3) Documentary evidence shall include photograph, technical report etc. for enabling enquiry into the alleged violation/offence.

[No. J 22018/57/2002 CSC (BC)]

(Desh Deepak Verma)

Joint Secretary

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