

**Karnataka Biodiversity Board**  
**Agenda notes for the 33<sup>rd</sup> Board Meeting**

**1. Reading and recording of proceedings of the 32<sup>nd</sup> Board meeting:**

The proceedings of the 32<sup>nd</sup> Board Meeting held on 18/08/2016 were communicated to all the members. As there were no comments from the members, the proceeding may be adopted. (Annexure-I).

**2. Action taken on 32<sup>nd</sup> Board Meeting Proceedings:**

Action taken on proceedings of 32<sup>nd</sup> Board Meeting is placed in (Annexure-II).

**33-1- Access and Benefit Sharing: Proceedings of the 3<sup>rd</sup> meeting of the ABS Expert committee held on 29<sup>th</sup> Sept 2016.**

**Technical review of Form-I submitted to the Board:**

Form-I submitted to the Board by various stakeholders have to be disposed off as far as possible within a period of two months from the date of receipts as per Rule 15(3) of the Karnataka Biological Diversity Rules, 2005 after consultation with the concerned local BMC. The members discussed this at length and opined that since most of the bio-resources used by industries are obtained from various traders, the jurisdictional BMC of the origin of bio-resources cannot be traced for consulting the BMC, the process of review of each of the application cannot be completed within a time period of 2 months.

The members compared the provisions of the Section 24 (2) of the Biological Diversity Act, 2002 and the Rule 15(3) of the Karnataka Biological Diversity Rules, 2005 which prescribe the process of review of applications for use of bio-resources. The provisions are as under:

On comparison of the Section 24(2) of the Act and the Rule 15(3) of the Karnataka Biological Diversity Rules, 2002, the members opined that under Section 24(2), the word 'may' does not make it mandatory to consult the local bodies, whereas, the word 'shall' used in the Rule 15(3) makes it mandatory to consult the local bodies for use of bio-resources.

The committee members opined that the Board should discuss these provisions for the review of the applications and approvals. It is opined that the consultation process (with BMC) should not be made a mandatory provision of the Karnataka Biological Diversity Rules, 2005 for the utilization of bio-resources. But, for species under threat or of conservation concern or whose status is unknown, the opinion of the jurisdictional BMC is important for taking appropriate decisions by the Board. The members suggested that the matter may be discussed in the next Board meeting to

bring appropriate amendment to Rule 15(3) to read “*The Board may, after consultation with the concerned local Biodiversity Management Committee and on collection of such additional information from the applicant and other resources, as it may deem necessary, dispose of the application, as far as possible, within a period of six months from the date of receipts.*” and approach the State Government to bring in suitable amendments to the Rule 15(3). (ANNEXURE –III)

### **33-2 The amendment to the Karnataka Biological Diversity Rules, 2005:**

The amendments to the Karnataka Biological Diversity Rules, 2005 as resolved during the 25<sup>th</sup> meeting of the Board held on 12 November 2014 has been notified by the State Government vide letter no FEE 106 ENV 2014 dated 29/08/2016 (ANNEXURE- IV)

The amendments to the Rule 15(2) state that ‘Every application under sub-rule (i) shall be accompanied by a fee of one thousand rupees for commercial utilization in the form of cheque or demand draft drawn in favour of the Board, four fifth of which shall be refunded to the applicant in case of rejection of the application’.

Further, Rule 15(1) states that any person intending to obtain any biological resources and associated knowledge for research or for commercial utilization shall give prior intimation to the Board in Form-I.

With the above referred amendment to the Rule 15(2), the matter of payment of the Form-I fee (Rs.1000) by applicants for research purpose was sent to the Government for clarification vide letter dated 30/11/2016.

The matter is placed before the Board for deliberation.

### **33-3 Technical review of Form-I submitted to the Board:**

Since most of the bio-resources used by industries are from sourced from various traders, the jurisdictional BMC of the origin of bio-resources cannot be traced. In such cases:

1. Should the Board seek consent of the jurisdictional BMC of the area where the trader is located?
2. Can this be used as consent or otherwise to execute the agreement document?
3. In the absence of a response from the BMC, steps to be taken by the Board for in terms of technical review of the application and the execution of agreement with the stakeholder
4. How to ensure sustainable utilization when quantum of bio-resource trade in the State is unknown?
5. **Basis for approval of Form-I and the execution of agreement document (which governs the access to bio-resources by the applicant as per Rule 15(5) of the Karnataka Biological**

### **Diversity Rules, 2005) in the absence of information on the status and sustainability of biological resources**

The same is placed before the Board for deliberation and suitable decision.

#### **33-4 Dispersal of ABS amount collected by the Board:**

The Board in its 30<sup>th</sup> meeting held on 8<sup>th</sup> December 2015 had resolved to disburse the amount of ABS collected among three or four biodiversity rich taluks of the State since the exact location of origin of the bio-resources are unknown. To identify bio-diversity rich taluks of the State, letters were addressed to the Forest Department and also the Karnataka State Medicinal Plants Authority for support (vide letter dated 18/2/2016 and 29/02/2016)

A reminder was also sent to the APCCF (FRM) requesting for data on the NTFP auction sales carried out by the Department for enabling the Board to take decision in this matter(vide letter dated 15/03/2016 and 02/11/2016) (**ANNEXURE –V**).

Since there is no concrete methodology for the identification of only 4 biodiversity rich taluks in the State, the matter is put up for the Board for deliberation and guidance.

#### **33-5 Upfront payment of ABS for High Economic value bio-resources:**

As per the Regulation 3(3) of the ABS Regulations, 2014, in cases of biological resources having high economic value such as sandalwood, red sanders etc and their derivatives, the benefit sharing may include an upfront payment of not less than 5% on the proceeds of the auction or the sale amount to be deposited to the designated fund. The same was communicated to the Forest Department to collect upfront ABS payments of 5% from the purchaser of sandalwood etc and deposit the same to the State Biodiversity Fund (vide letter no.ADM/A01/28 BM/ dated 25/06/2015 and 11/08/2015). The matter was referred to the State Government by the Forest Department for necessary inclusion in the Forest Code, 1976 (vide letter dated 10/03/2016). The Board had opined that the inclusion to the Forest Code was not necessary for the collection of upfront payment of ABS, since, it is similar to the collection of various other taxes collected by the Forest Department. Another letter was addressed to the PCCF (HoFF) to look into the matter (vide letter dated 27/05/2106). But, there has been no further response from the Forest Department or the State Government in this regard. Another reminder regarding this matter was sent to the PCCF (HoFF) vide letter dated 25/11/2016 along-with a **proforma (ANNEXURE-VI)** for the collection of the ABS. The same was also sent to the Secretary, FEE, for necessary guidelines to be issued to the Forest Department for the

collection of the upfront payment of ABS for bio-resources of high economic value during the auction sales.

The matter is put up for the Board for deliberation and discussion.

### **33-6-Non-compliance of provisions of the Biological Diversity Act, 2002 and Karnataka Biological Diversity Rules, 2005.**

As per the resolution of the 32<sup>nd</sup> meeting of the Board, the issue of non-compliance of the provisions of the Act and Rules by various industrial sectors was referred to the AYUSH Department and the Drugs Controller (vide letter 16/9/2016 and 7/10/2016 ) to prevail upon the industries to comply with the provisions of the Act. The matter was also referred to the Principal Secretary, Health and Family Welfare Services, Govt. of Karnataka (**ANNEXURE-VII**).

It is mandatory to submit the prior intimation (Form-I) to the Board for accessing biological resources under Section 7 read-with Section 24(2) of the Biological Diversity Act, 2002 and Rule 15(1) of the Karnataka Biological Diversity Rules, 2005. A total of 377 companies were sent intimations to submit the mandatory requirements of the Act. Status of Form-I received by the Board till date:

<b>Sl No.</b>	<b>Year</b>	<b>No. of Form-I received</b>
1.	2014-15	138
2.	2015-16	174
3.	2016-17	72

But, 239 companies from the Pharma, nutraceuticals, cosmetic sectors have still not submitted Form-I for the year 2014-15. Letters intimating them to submit the forms were sent in July and October 2015 and January 2016. But there have been no responses from these companies. Therefore, it is proposed that the defaulting companies may be notified and be prohibited from accessing biological resources from the State of Karnataka. It may be noted that non-submission of Form-I amounts to offence under Section 55(2) of the Act.

The notice drafted in consultation with the advocate is put up for discussion and decision (**ANNEXURE-VIII**).

### **33-7 - Initiating legal action against defaulting companies:**

As per the proviso to Section 24(2), opportunities for hearing was provided to companies which did not submit the Form-I and Form-A (ABS) for the years 2014-15 and 2015-16. Hearings

were conducted on 28<sup>th</sup> and 29<sup>th</sup> March 2016 for 16 companies. A second opportunity on 2<sup>nd</sup> May 2016 was provided for 5 companies that did not attend the hearing conducted in March. Representatives of M/s Arya Vaidya Sala Kottakal, Nanjangud, submitted a written statement objecting to the collection of ABS by the Karnataka Biodiversity Board. Four other companies that were intimated to attend the hearing were not present. The proceeding of the Expert committee along-with the statement submitted by the M/s Arya Vaidya Sala is enclosed for the kind perusal of the Board (**ANNEXURE- IX**).

Therefore, as per the resolution of the 31<sup>st</sup> Board meeting, the services of the advocate empanelled with the KFDC (Mr.G.S Kannur of Kannur and Katti Legal, Bangalore) were solicited for providing a draft of the complaint to be filed against the 4 defaulting companies and to draft a speaking order against M/s Arya Vaidya Sala Kottakal, Nanjangud, rejecting their submissions.

The drafts are brought to the kind attention of the Board along-with the proposed costs of pursuing the legal action against the defaulting companies. (**ANNEXURE-X**).

### **33-8 - Decentralizing the implementation of ABS provisions in the State:**

- The ABS provisions of the Biological Diversity Act, 2002 is being implemented in the State since the notification of the ABS Guidelines on 21<sup>st</sup> November 2014. Several meetings were held by the Board for creating awareness regarding the provisions of the Act and the ABS provisions among the various stakeholders utilizing biological resources in the State. Lists of registered companies were obtained from the AYUSH Department. Requests for list of registered companies with the Department of Industries and Commerce, Drugs Control Department etc were far from satisfactory. Implementation of the provisions of the Act and ABS provisions in the entire State from a small under-staffed office of the Karnataka Biodiversity Board is not feasible.
- Therefore, it is proposed that a de-centralized mechanism for implementation of the ABS provisions of the Act (as envisaged by the Uttar Pradesh State Biodiversity Board-**ANNEXURE-XI**) may be notified for Karnataka for better monitoring and implementation of the provisions of the Biological Diversity Act, 2002 in its entirety.
- The model as envisaged by the Uttar Pradesh State Biodiversity Board consists of a three tier approach with State, Directorate and District Level Government offices. The proposed structure will consist of a District level Committee headed by a Chairperson and a suitable co-ordinator. The District level committee shall comprise of officers from Agriculture,

Horticulture, Fisheries, District Industries Centre, Micro Small and Mini Enterprises (MSME), Rural Development and Panchayat Raj, AYUSH, Drugs Control, Excise, Food Safety and Standards (FSSAI) etc. This committee will support the State Biodiversity Board in terms of:

- Identification of Industries/traders/manufactures using biological resources in that district/reporting detailed information of the quantum of biological resources used by them to SBB for initiating benefit sharing mechanism.
- Technical review and approvals of applications for access of biological resources
- Collection of benefit sharing for the bio resources related to their departments.
- To monitor the implementation of the Biological Diversity Act, 2002 and Regulations at District level.
  - Therefore, it is proposed that a similar District level committee be set up with the District Industries Officer/ Deputy Conservator of Forests (territorial) as the nodal officer for the activities of the Board and suitable guidelines may be issued by the State Government.
  - The matter is put up for the kind perusal of the Board.

### **33-9 Research proposal by Wildlife Institute of India pending for approval:**

**Application in Form-I for the access to bio-resources:** Dr. Per Johan Alstrom, Researcher, Dept of Animal Ecology, Uppsala University, Sweden and others from Wildlife Institute of India, Dehradun, have submitted an application Form-I to the National Biodiversity Authority (NBA) for approval of the research study. The applicants intend to carry out a research study on the taxonomy of the Jerdon's Bushlark (a bird species). The researchers intend to collect 50 microlitres of blood sample from 20 individual birds by catching them in various places in Mysore District using mistnets. The birds will be released in the same spot.

Since the study site is Mysore, Karnataka, the NBA referred the application to this Board for the consent or otherwise of the jurisdictional BMC. Letters were addressed to the Chief Executive Officer (CEO) of the Mysore Zilla Panchayat, since the CEO is the designated Secretary to the BMC (vide letter no. TEC/C04/IPR/ Vol-3/1079 dated 6/09/2016 and 07/10/2016) and also the PCCF (wildlife), Karnataka Forest Department (vide letter no TEC/C04/IPR/ Vol-3/1079 dated 6/09/2016 and 17/09/2016). (**ANNEXURE -XII**)

Since there was no response from the concerned Departments, the matter was put up for discussion in the Expert Committee on IPR constituted by the Board. The meeting of the committee was held on 23<sup>rd</sup> September 2016 (**ANNEXURE-XIII**) and the committee opined that

since the Wildlife Institute of India is the premier institute in the country, all standard operating procedure for research will be taken into account and decided that the application may be approved provided:

1. The researchers provide details of measures to ensure that the same individual bird is not captured more than once during the research period.
2. Statutory administrative permits are taken by the researchers.

But, since the matter is sensitive and there is no mechanism to ensure that the individual birds are unharmed, the matter is put up for the Board for discussion and suitable decision in this matter.

### **33-10- Collection of ABS from manufacturers when traders have sourced bio-resources from outside the State:**

Traders located in Karnataka have claimed to source the bio-resources from outside Karnataka and have also submitted Form-I claiming the same and have therefore not paid the ABS.

The companies that buy from these traders have now submitted Form-I and have paid the ABS.

#### **(ANNEXURE-XIV)**

The issue of payment of ABS by the company when the trader himself has not sourced the bio-resources from Karnataka is out up for discussion.

### **33/11 - Research Project:**

As per the 23<sup>rd</sup> meeting resolution on agenda 23/8 (Concept Note - **Annexure – XV**), Terms of Reference (ToR) were prepared and Expression of Interest (EoI) was invited by advertising in news dailies. 13 proposal were received and screened by a committee consisting of Dr. M H Swaminathan, IFS (retd.), Shri G N Shreekantiah IFS (retd.) and Dr. M Sanjappa Ex-Director, BSI. The Committee shortlisted 3 proposals on Shola forests under studies on unique vegetation and Biodiversity hot spots in Karnataka and suggested for obtaining opinion from 3 domain experts. The matter was placed before Technical Expert Committee held on 11.08.2016. Committee discussed the comments of all three domain experts on the proposals submitted regarding research projects on Shola grasslands of Karnataka. Committee felt that out of three proposals, the projects submitted by Dr. B C Nagaraja and Dr. T V Ramachandra are technically competent. The Committee finally recommended to consider Dr. B C Nagaraja's project proposal subject to following conditions:

- a. The study should cover Uttara Kannada, Dakshina Kannada, Kodagu and Chikkamangaluru.
- b. As one of the domain expert in his remarks stated that “Another project with almost same scope is in progress at same institute as per project proposal”, KBB must ensure that there is no duplication or repetition of the work or similar project.

The Committee felt that Karnataka Biodiversity Board may consider the project for funding. Registrar, Bangalore University was asked to submit revised proposal as per the Technical Expert Committee recommendation on 04.11.2016 vide letter No. TEC/C01/TOR/52. The Board received revised project proposal with an estimated cost of Rs. 21,53,030/-. Registrar, Bangalore University vide letter No.DEV:D2a:KBB-GOK:Dr.B.C.N:Env.Sc:2015-16 dt 08/11/2016 certified that proposal is no duplication or repetition of the work or similar project from our or other institute. (**Annexure -XVI**)

### **33/12 – Formation of Expert Committee on Biodiversity Heritage sites:**

As per the proceedings of the 13<sup>th</sup> Board meeting, an expert committee was constituted to look into the following matters associated with Biodiversity Heritage Site:

1. Identification of sites for declaration as Heritage sites/hotspots
2. Frame the rules for preparation of Management plan for conservation of Heritage sites.
3. Scrutinize the objections submitted by various stakeholders on declaration of Heritage site and submit recommendation on the same.

The said Expert Committee on Biodiversity Heritage Sites last met on 10/08/2011 and no further meetings have taken place hitherto. In this regard an expert committee needs to be constituted to look into various issues related to BHS such as preparation of Management plan for all 4 BHS viz 1) Nallur Tamarind Grove, 2) GKVK 3) Ambaragudda and 4) Hogarekan.

The matter is put up for deliberation and suitable decision.

### **33/13 National Medicinal Plants Boards project on Medicinal Plants:**

National Medicinal Plants Board (NMPB) in their vide letter No NMPB/ IFD/GIA/ NR/PL/2014-15 dated 26/03/2015 as sanctioned Rs. 294.40 lakh towards the project cost and released amount Rs. 200 lakh as first installment. While submitting the project, it was proposed that services of the students from Forestry College from Sirsi and Ponnampet in Karnataka will be utilized for the field survey, but it was found that these students are not available throughout the year on continuous basis as they have their own academic activities. As a result of this, field



work got hampered. After having realized this difficulty, the matter was discussed in 29<sup>th</sup> Board meeting and resolved to select field botanists / taxonomists Ayurvedic doctors. As per the 29<sup>th</sup> board meeting resolution 20 MSc students were enrolled with the remuneration of Rs.16,000 per month. Out of 20 students, only 14 students participated till September-2016. During the field survey, the team consists of 3 students and 2 forest officials. The remuneration paid to students was on much higher side up to Rs.8,488/ beat as on November-2016. The actual provision made was Rs.2500/beat. In the process, these students have got sufficient experience in identification and are also competent enough to lead the team. Now each student can be used as a field botanist for survey. Accordingly a new plan is suggested. As per the plan a team consisting of a field botanist (who will be appointed by board at honorarium of Rs.800/working day) will lead the team. Forest Department has to provide 2 Guards/DRFO and one watcher/helper. The Guards/DRFO should be in a position to identify /write medicinal plants name and they should assist field botanists in survey and documentation. Deputy Conservator of Forests (DCF Territorial) also need to identify more number of field botanists in their division for early completion of survey.

For this purpose, the Forest Department of Karnataka, in each division are requested to identify forest staff, who have good knowledge in the identification of medicinal plants and can record botanical names of species. Furthermore all DCF's should arrange for the necessary infrastructure requirements needed for the survey like food, accommodation, transport in addition to taking precaution for safety. The project is envisaged by treating the forest department as a partner. Food bills, remuneration of field botanists and taxonomists, may be paid by Karnataka Biodiversity Board (KBB) from project. DCF (Territorial) division has to take lead in laying transact lines and inform the KBB for support to arrange the field botanists. Terms of Reference for appointing field botanists on contract basis is attached (**Annexure-XVII**).

### **33/14 - UNEP-GEF-MoEF-ABS Project for “Strengthening the Implementation of the Biological Diversity Act and Rules with focus on its ABS provisions”**

The technical and financial closure of the UNEP-GEF-MoEF-ABS project is due for completion in the month of December 2016 vide letter no. F. 13/18/12-13/Vol.III/1038 dated 29-06-2016. Since the inception of the UNEP-GEF-MoEF-ABS project in September 2014 various activities relating to strengthening and implementation of the Biological Diversity Act 2002 were carried out which included constitution of 20 Local Biodiversity Funds, constitution of 20 taluk level BMC's and documentation of 20 People's Biodiversity Registers. A number of training programmes, focus group meetings, sector specific meetings and legal advisory meetings were

also conducted to create awareness on implementation of the provisions of the ABS regulations 2014.

Under the project, eight books are printed. Local Biodiversity fund- Operation and Maintenance, Access and Benefit sharing Mechanism, Biodiversity Management Committee-Operational tool kit and Guidelines for Operationalization of BMC), ABS Terminology were translated into regional language Kannada and published. 'Tradable Bioresources in Karnataka', information Brochure and compiled 'Biodiversity Act Book' forms part of the remaining publications.

This is brought to the notice of the board for kind information.

### **33/15 - Continuation of personnel staff of Chairman, Karnataka Biodiversity Board:**

The Chairman of the Karnataka Biodiversity Board term will be ending on 24/01/2017. In order to ensure that smooth functioning of the Board, it is necessary to continue the personnel staff till new Chairman is appointed to Karnataka Biodiversity Board.

The matter is put up for kind consideration.

### **33/16 – Hyderabad Karnataka reservation under article 371 (J):**

As per Govt. letter No. FEE 217 ENV 2016 dt 21/10 2016, notification for Hyderabad Karnataka reservation under article 371 (J) (2) (B) of the Indian Constitution was prepared. The copy of the notification has been sent to Government on 25/10/2016. Government by its letter No FEE 217 ENV 2016 dt 01/12/2016 has stated that reservation notified against various posts is in order and directed to notify the same, at Board level. **(Annexure-XVIII)**

The Notification to be published in the Gazette is placed for the approval of the Board.

### **33-17 - Deputation of Readers / Associate Professors and Deputy Director (Ayush)**

The Government vide its order No. FEE 125 ENV 2003 dt 19/6/2003 and Govt. order No. FEE 125 ENV 2003 (p) dated 13/01/2009 has provided for posting of following Executive Officers.

1. Executive Officer (ISM&H) in the cadre of Deputy Director of Indian system of Medicine and Homeopathy Department.
2. Reader / Associate Professor (Botany)
3. Reader / Associate Professor (Zoology)

It is informed that the post of Reader / Associate Professor Botany, Reader / Associate Professor Zoology and Deputy Director (Ayush) are vacant for want of officers from the concerned

Universities/ Organizations. We requested the Department of Ayush for deputing the Deputy Director (Ayush). As per the resolution of the 14<sup>th</sup> Board meeting advertisement were placed in News Papers and Website. After conducting interview, selected 2 post graduates in Botany and Zoology against the post of Reader / Associate Professor Botany, & Zoology on contract basis.

But, the Board is in need of experienced Readers /Associate Professors in Botany and Zoology to handle the Technical / Research subjects efficiently instead of Research Associates who are engaged on contract basis.

Hence the Board may consider recommending the Government to depute Deputy Director (ISM&H) from Department of Ayush and Reader / Associate Professors in Botany and Zoology from Universities.

### **33-18 - Appointment of Legal Consultant:**

Following legal issues needs to be addressed by the KBB urgently.

1. Certain clarification about the Biological Diversity Act 2002, specially Access and Benefit sharing.
2. Karnataka Biological Diversity Rules needs to be framed regarding prosecution of offenders.
3. Different Companies using bio-resources are giving different replies to notices from the Board. Such replies need to be examined and suitable response should be drafted on case to case basis.

Therefore, it is urgently required to appoint a Legal Consultant. This is brought to the notice of the board for deliberation.

### **33-19 – Outsourcing of Technical Executives / Executive Assistant (Admin):**

Earlier Technical Executives and Executive Assistant (Admin) were taken on contract. November 2016 onwards Technical Executives / Executive Assistant (Admin) services are taken through Man power agency.

This is brought to the notice of the Board for kind information. (Annexure)

### **33-20: Extension of Project title “Collection, Conservation and Charecterization of Appemidi:**

Karnataka Biodiversity Board has sanctioned the project on ‘Collection, Conservation and Characterization of Appemidi on 16/02/2016 to Director ICAR,- IIHR, Heseragatta, Bangalore. The duration of the project is one year. (17/02/2016- 16/02/2016) Dr. Ravihankar, K.V, Principal Scientist, IIHR, Bangalore has requested to extend the project duration till June 30<sup>th</sup>

2017 in his letter dt 07/12/2016 because the usual picking mango season starts from mid March to mid May month. These two months are ideal for the collection and Characterization of appemidi. (picking mangoes). The matter is placed before the Board for kind approval.  
**(Annexure-XIX)**

**33-20 Any other subject with permission of the chair.**

**Member Secretary  
Karnataka Biodiversity Board**