

Links:

Forms and related formats can be downloaded from:

- Form-I: <http://www.kbb.kar.nic.in/Form%20I.pdf>
- Form-A: <http://www.kbb.kar.nic.in/Form%20A.pdf>
- Form ABS Calculation: <http://www.kbb.kar.nic.in/FORM-A-SALES.pdf>
- Declaration Form: <http://www.kbb.kar.nic.in/Declaration%20form-Indian%20entities.pdf>
- Form-II: <http://nbaindia.org/content/26/59/1/forms.html>
- Form-III: <http://nbaindia.org/content/26/59/1/forms.html>
- Form-IV: <http://nbaindia.org/content/26/59/1/forms.html>
- Form-B: <http://nbaindia.org/content/26/59/1/forms.html>
- Collaborative Research Projects as per section 5 of the Biological Diversity Act, 2002: <http://nbaindia.org/content/26/59/1/forms.html>
- Format for giving approval for the Collaborative Research Projects under Section 5 by the concerned Ministry or Department: <http://nbaindia.org/content/26/59/1/forms.html>
- Form-C: <http://nbaindia.org/content/26/59/1/forms.html>
- NTC List: http://nbaindia.org/uploaded/pdf/Notification_of_Normally_Tradeded_Commities_dt_7_April_2016.pdf

For more information please contact

KARNATAKA BIODIVERSITY BOARD

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Disclaimer:

The information provided in this booklet is designed for general information of public and is not meant to be used as a legal document. For legal purposes the relevant laws/Rules/Guidelines may be referred to.

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<http://www.karnataka.gov.in/kbb>

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Karnataka Biodiversity Board

Forest, Ecology and Environment Department
Government of Karnataka

Prospectus

on

“Access & Benefit Sharing”



UNEP-GEF-MoEF-ABS PROJECT

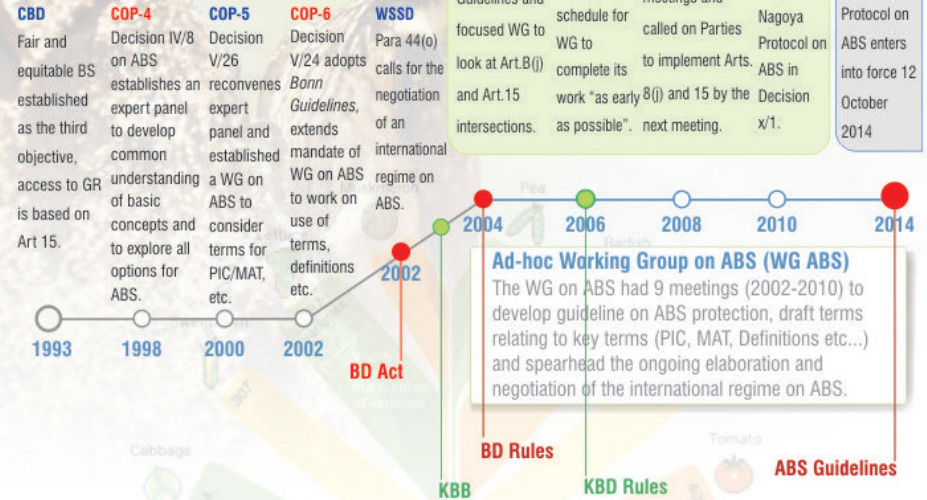
“Strengthening the implementation of the Biological Diversity Act and Rules with focus on its Access and Benefit Sharing (ABS) Provisions”



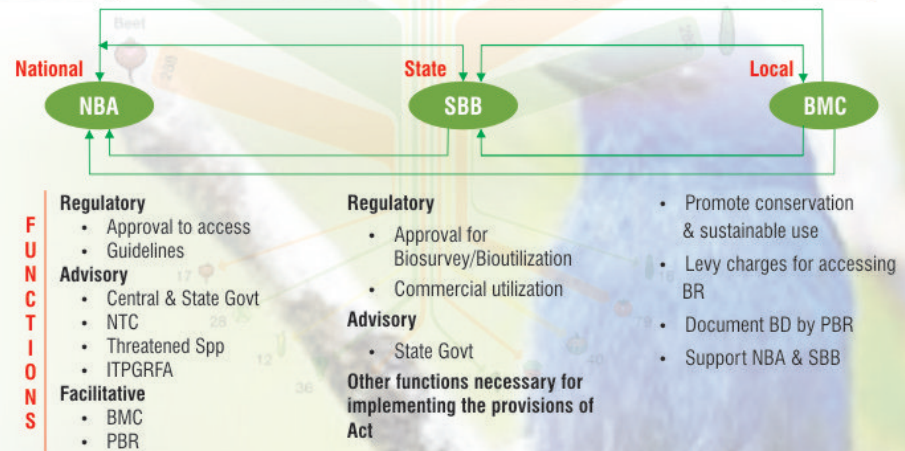
DEFINITIONS

- Access** To obtain biological resources or knowledge associated thereto within the jurisdiction for the purpose of research, or for commercial utilization, or for bio-survey and bio-utilization.
- Agreement** An agreement is a mutual understanding between two or more legally competent persons with respect to their rights and duties regarding their past or future actions. Every promise and every set of promises forming consideration for each other are agreement(s).
- Benefit Sharing** Equitable sharing of benefits (both monetary and non monetary), arising out of the use of accessed biological resources, their by-products, innovations and practices associated with their use and applications and knowledge relating thereto in accordance with mutually agreed terms and conditions between the person applying for such approval, local bodies concerned and the benefit claimers.
- Biological Resources** Plants, animals and microorganism or parts thereof, their genetic material and by-products (excluding value added products) with actual or potential use or value (but does not include human genetic material)
- Bio-survey/ Bioutilization** Survey or collection of species, subspecies, genes, component and extracts of biological resource for any purpose and includes characterization, inventorisation and bioassay.
- Commercial Utilization** Means end uses of biological resources for Commercial Utilization such as drugs, industrial enzymes, food flavours, fragrance, cosmetic, emulsifiers, oilo resins, colours, extracts and genes used for improving crops and livestock through genetic intervention, but does not include conventional breeding or traditional practices or used in any agriculture, horticulture, poultry, diary, animal husbandry or bee keeping.
- Ex-factory price** True price applied at the factory and does not include any other charges, such as delivery or subsequent taxes.
- Form-I** Application form prescribed under Rule 15 of the Karnataka Biological Diversity Rules, 2005 for securing access to biological resources and associated Traditional Knowledge under the Biological Diversity Act, 2002.
- Form-II** Application form prescribed under the Rule 17 of the Biological Diversity Rules, 2004 for seeking prior approval of National Biodiversity Authority for transferring the results of research to foreign nationals, companies, NRIs for commercial purposes under the Biological Diversity Act, 2002.
- Form-III** Application form prescribed under the Rule 18 of the Biological Diversity Rules, 2004 for seeking prior approval of National Biodiversity Authority for applying for intellectual property right under the Biological Diversity Act, 2002.
- Form-IV** Application form prescribed under the Rule 19 of the Biological Diversity Rules, 2004 for seeking prior approval of National Biodiversity Authority for third party transfer of the accessed biological resources and associated traditional knowledge under Biological Diversity Act, 2002.
- Licence fee** The fee charged for processing an application filed with the competent authority to obtain licences for import or export of any biological resources.
- Royalties** Source of payment for an inventor who holds the patent for a particular product or process. Royalties accrue when someone uses the patented product or process.
- Research** The study or systematic investigation of any biological resource or technological application that uses biological systems, living organisms or derivatives thereof to make or modify products or processes for any use.
- State Biodiversity Fund (SBF)** The fund created under the BD Act at State level that facilitates receipt of any grants and loans madeto SBB, any grants or loans made by NBA, all sums received by SBB from such other sources as maybe decided upon by the State Government.
- Up-front payments** Up-front payments is anything of value, usually money, delivered at the time a contract is signed.

THE CONTEXT



THREE TIER INSTITUTIONAL STRUCTURE TO IMPLEMENT THE ACT



FORMS AND FORMATS

FORM I

(See Karnataka Biological Diversity Rules 2005, Rule-15)

Application form for prior intimation to access / collection of Biological resources for commercial utilization and associated traditional knowledge

Every application shall be accompanied by a fee of Rs. 1000 (Rupees One Thousand only) in the form of cheque or demand draft drawn in favour of the Board.

Part A

1. Full particulars of the applicant:

- Name;
- Permanent address;
- Address of the contact person / agent, if any;
- Profile of the organization (personal profile in case the applicant is an individual);
- Nature of business;
- Turnover of the organization in Indian Rupee

2. Details & specific information about nature of access sought and biological material and/or associated knowledge to be accessed (Please attach separate sheets where required)

- Identification (scientific name) of biological resources and its traditional use;
- Geographical location (including village, taluk and district) of proposed collection;
- Description / nature of traditional knowledge and its existing manifestations and uses (oral / documented);
- Any identified individual / family / community holding the traditional knowledge
- Quantity of biological resources to be collected;
- Times span in which the biological resources are proposed to be collected;
- Name and number of person authorized by the company for making the collection;
- 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;
- Whether any collection or use of the resource endangers any component of biological diversity and the risks which may arise from the access.

3. Estimation of benefits that would flow to communities arising out of the use of accessed bio-resources and traditional knowledge

4. Proposed mechanism and arrangements for benefit sharing

5. Any other information

Part B

I/we declare that:

- Collection and use of proposed biological resources shall not adversely affect the sustainability of the resources;
- Collection and use of proposed biological resources shall not entail any environmental impact;
- Collection and use of proposed biological resources shall not pose any risk to biodiversity, including ecosystems, species, and genetic diversity
- Collection and use of proposed biological resources shall not adversely affect the local communities;

I/we undertake to pay any fee and / or royalty, as may be levied by the Board or Biodiversity Management Committees. I/we further undertake to furnish any irrevocable bank guarantee, as may be prescribed by the Board. 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.

Place _____	Signed _____
Date _____	Name _____
	Title _____

FORM-ABS CALCULATION

Information to be furnished for use of biological resources & sharing of benefits on the Ex-factory Sale

(Regulation no.4 of the "Guidelines on Access to Biological Resources and Associated Knowledge & Benefit Sharing Regulations, 2014" notified in the Gazette notification on 21st November 2014 by the MOEF&CC)

Self-disclosure for the year _____

1. Full particulars of the applicant / company:

- Name;
- Permanent address with phone number and email;
- Name and address of the Chief executive/contact person;
- Nature of business;
- Profile of the organization (Indian or Non-Indian); refer Section 3 (2) and Section (7) of the Biological Diversity Act, 2002
- Purpose of accessing biological resources;
- Particulars of manufactured products:
(Amount to include taxes)

Sl No.	Name of products manufactured	Bio-resources used	Locations / source from where Bioresources are procured (if available)	Rate per unit (kg/litre/hoes)	Total Sales in units (ex-factory)	Total ex-factory sale amount
	i	ii	iii	iv	v	vi
1.						
2.						

h. Amount of benefit sharing paid for the year: _____

II. Benefit sharing information:

- Total ex-factory sale of products (including taxes);
- Government taxes paid;
- Balance (a-b);
- Benefit Sharing at the rate of _____; (refer table under Regulation no. 4 of the Guidelines on ABS notified on 21st Nov 2014)

III. Particulars of the amount paid:

(DD no. Cheque no. with the amount and Payee Bank)
(To be paid in favour of 'Karnataka State Biodiversity Fund' payable at Bangalore)

- I have read and understood the terms and conditions of ABS guidelines and I undertake to abide by relevant legal provisions applicable to biological resource.
- I undertake to obtain the approval of the NBA/ SBB before making any change in the stated purpose.
- I undertake to furnish / share the relevant records with the NBA/ SBB, as and when required.
- I further declare that the information provided in the form is true and correct and I shall be liable for any incorrect wrong information and willful suppression of the facts.

Signature of the Authorized Signatory
Name of the trader/ company/manufacturer/ Authorized Representative

Place _____	Signed _____
Date _____	Name _____
	Title _____

FORM A

(See regulation 2)

Information to be furnished for use of biological resources by the applicant
Self-disclosure

Common Name of the biological resource proposed to be used: _____				
Scientific Name : _____				
Plants or animals or parts thereof traded : _____				
Specific purpose of access: _____				
Locations/source from where procured*	Quantity in Kgs	Rate per unit	State Biodiversity Board	Prospective Buyers/(if known)

*List of local body/BMCs, if already identified shall be attached.

Undertaking

- I have read and understood the terms and conditions of ABS guidelines and I undertake to abide by relevant legal provisions applicable to biological resource.
- I undertake to obtain the approval of the NBA/ SBB before making any change in the stated purpose.
- I undertake to furnish/ share the relevant records with the NBA/ SBB, as and when required.
- I further declare that the information provided in the form is true and correct and I shall be liable for any incorrect wrong information and willful suppression of the facts.

Signature _____

Name of the trader/ company/manufacturer/ Authorized Representative

Complete Address of the trader/ company/ manufacturer along with phone number and email address

Place _____	Signed _____
Date _____	Name _____
	Title _____

FORM II

(See Rule 17)

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

- Full particulars of the applicant:
 - Name;
 - Address;
 - Professional profile;
 - Organizational affiliation (Please attach relevant documents of authentication);
- Details of the results of research conducted
- Details of the Biological resources and /or associated knowledge used in the research.
- Geo-geographical location from where the biological resources used in the research are collected
- Details of any traditional knowledge used in the research and any identified individual / community holding the traditional knowledge
- Details of institution where R&D activities carried out
- Details of the individual / organization to whom the research results are intended to transfer.
- 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.
- 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.
- Details of any agreement or MOU between 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.

Place _____	Signed _____
Date _____	Name _____
	Title _____

FORM III

(See rule 18)

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

- Full particulars of the applicant:
 - Name;
 - Address;
 - Professional profile;
 - Organizational affiliation (Please attach relevant documents of authentication);
- Details of the invention on which IPRs sought
- Details of the Biological resources and /or associated knowledge used in the invention.
- Geo-geographical location from where the biological resources used in the invention are collected
- Details of any traditional knowledge used in the invention and any identified individual / community / holding the traditional knowledge
- Details of institution where Research and Development activities carried out.
- 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.

Place _____	Signed _____
Date _____	Name _____
	Title _____

FORM IV

(See Rule 19)

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

- Full particulars of the applicant:
 - Name;
 - Address;
 - Professional profile;
 - Organizational affiliation (Please attach relevant documents of authentication);
- Details of the biological material and traditional knowledge accessed;
- Details of the access contract entered (Copy to be enclosed)
- Details of the benefits and mechanism / arrangements for benefit sharing already implemented.
- Full particulars of the third party to whom the accessed material / knowledge is intended to transfer:
- The purpose of the intended third party transfer;
- 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.
- Details of any agreement to be entered between the applicant and the third party.
- Estimation of benefits that would flow to India / communities arising out of the third party transfer of accessed biological resources and traditional knowledge.
- Proposed mechanism and arrangements for benefit sharing arising out of the proposed third party transfer.
- Any other relevant information

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.

Place _____	Signed _____
Date _____	Name _____
	Title _____

FORM B

(See regulation 13)

Continuation of non-commercial research or research for emergency purposes outside India

In order to research the Government institutions across the biological resources.

Sl No.	Name of the National Institute/Researcher/ Sponsored Institution	1. Complete Address	2. Telephone	3. Fax	4. E-mail	5. Name and address of institution in India	6. Name of the Supervisor or Head of Institution at the place of work in India	7. Name and contact details of the institution or organization who shall provide the proposed research / equipment / the biological resources	8. Details of the Supervisor or Head of Institution or organization who shall provide the proposed research / equipment / the biological resources	9. Name of the funding agency supporting the proposed research	10. Full description of the research	11. Details of biological resources proposed to be accessed in India for the research	12. Location of original Access/Teacher/ Date	13. Scientific report	14. Name of the researcher	15. IPR or emergency purposes, specify details

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.

Proforma For Collaborative Research Projects As Per Section 5, Biological Diversity Act, 2002

- Name of the Ministry _____
- Name and Address of the Department _____
- Name of the country with whom Collaborative Research is intended / signed _____
- Name and Address of the Foreign Institution with whom Collaborative Research is intended / signed _____
- Period of Collaborative Research _____
- Type of Bioresource with details _____
- Quantity of Bioresource to be sent / transferred _____
- Remarks and Comments by NBPGR / other scientific agencies under the Ministry on the Bioresource (Enclose a copy) _____
- Purpose of the Bioresource required _____
- Whether the Collaborative Research project complies with biological diversity act, 2002 and notification (s.o. 1911 (e) D.O.08-11-2006) on guidelines for Collaborative Research Project issued by the Ministry of Environment & Forests, Govt. of India _____
- Name and Designation of the person authorised by the Ministry for sending the Bioresources _____
- Name and Designation of the authorised person for receiving the Bioresources _____
- Details of agreement signed between the Ministry and the Recipient Country _____
- Any other relevant information _____

Approval to be given by the concerned Union/State Ministry/ Department for the collaborative research project for exemption under Section 5 of the Biological Diversity Act, 2002

The undersigned hereby conveys the approval of the competent authority for the collaborative research project entitled _____ (Title of the Project) involving transfer/exchange of biological resources (Nature of the biological resources) or information relating thereto between _____ (Name of the Indian Institution) and _____ (Name of the foreign institution), as per the enclosed brief and as provided under Section 5 of the Biological Diversity Act, 2002 and the notification issued by the Ministry of Environment and Forests on 8th November, 2006.

Signature of the Authorized Signatory

Place _____	Signed _____
Date _____	Name _____
	Title _____

Seal of the Ministry/ Department:

FORM - C

Deposition of micro-organism by Indian scientist/ researchers in non-Indian repository for claim of novel species

1. Name of the depositor	
2. Complete Address with contact details	
3. Name(s) of the micro-organism(s) to be deposited in the foreign repository	
4. Geographical location from where the microorganism was isolated	
5. Name and contact details of the foreign repository where the biological resource(s) are to be deposited	
6. Purpose of deposition	
7. Name and contact details of the Indian repository where the biological resources are deposited	
8. Accession number allotted by the Indian repository to the deposited microorganisms	

Declaration

I _____ an Indian scientist/ researcher, have read and understood the terms and conditions for depositing the microorganisms in recognized repositories outside India for claim of novel species.

I further declare and solemnly affirm that the information provided above is true and correct.

Signature of the Depositor

Place _____	Signed _____
Date _____	Name _____
	Title _____

Note: A copy of this may be sent to the designated repository repository as per s. 51 no. 7

PRIVATE COMPANY/FIRM / ORGANISATION/ENTITY

COMMERCIAL UTILIZATION

RESEARCH/BIO-SURVEY/BIO-UTILIZATION

Section 3(2)

Section 7

Section 3(2)

Section 7

National Biodiversity Authority

Karnataka Biodiversity Board

National Biodiversity Authority

Karnataka Biodiversity Board

Form - I

Form - I

Agreement / Approval

Purchase Price of the bio-resource

Ex-factory sale of the product

High Economic value bio-resource

Transfer of Research Results (TRR)

Intellectual property Rights (IPR)

Third Party Transfer (III PT)

Trader 1-5%
Manufacturer 3-5%

BSA No BSA

0.1% - < 1 crore
0.2% - 1- 3 crore
0.5% - > 3 crore

≥ 5%

Form II
Rs. 5000/-

Form III
Rs. 500/-

Form IV
Rs. 10,000/-

Not < 3%
Not < 5%

1 - 3%
3 - 5%

For trader
For manufacturer

Benefit Sharing

(3-5%)

Fee / Royalty (3-5%)

Self (0.2%)

Fee Royalty (3-5%)
F (2-5%)
R

MAKING AN INFORMED DECISION

ACCESS BENEFIT SHARING COMPONENT

