

KARNATAKA BIODIVERSITY BOARD

Note on Biodiversity Management Committees (BMCs)

Constitution of Biodiversity Management Committee

*BDA 41.(1) Every local body shall constitute a Biodiversity Management Committee within its area for the purpose of promoting conservation, sustainable use and documentation of biological diversity including preservation of habitats, conservation of land races, folk varieties and cultivars, domesticated stocks and breeds of animals and microorganisms and chronicling of knowledge relating to biological diversity.

(2) The National Biodiversity Authority and the State Biodiversity Boards shall consult the Biodiversity Management Committees while taking any decision relating to the use of biological resources and knowledge associated with such resources occurring within the territorial jurisdiction of the Biodiversity Management Committee.

(3) The Biodiversity Management Committees may levy charges by way of collection fees from any person for accessing or collecting any biological resource for commercial purposes from areas falling within its territorial jurisdiction.

Local Biodiversity Fund

BDA 44. (1) Subject to the provisions of sub-section (2), the management and the custody of the Local Biodiversity Fund and the purposes for which such Fund shall be applied, be in the manner as may be prescribed by the State Government.

(2) The Fund shall be used for conservation and promotion of biodiversity in the areas falling within the jurisdiction of the concerned local body and for the benefit of the community in so far such use is consistent with conservation of biodiversity.

Annual Report of Biodiversity Management Committees

45. The person holding the custody of the Local Biodiversity Fund shall prepare, in such form and during each financial year at such time as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the concerned local body.

Audit of accounts of Biodiversity Management Committees.

Audit of accounts of Biodiversity Management Committees

46. The accounts of the Local Biodiversity Fund shall be maintained and audited in such manner as may, in consultation with the Accountant-General of the State, be prescribed and the person holding the custody of the Local Biodiversity Fund shall furnish, to the concerned local body, before such date as may be prescribed, its audited copy of accounts together with auditor's report thereon. Annual report, etc, of the Biodiversity Management Committee to be submitted to district Magistrate

47. Every local body constituting a Biodiversity Management Committee under sub-section (1) of section 41, shall cause, the annual report and audited copy of accounts together with auditor's report thereon referred to in sections 45 and 46, respectively and relating to such Committee to be submitted to the District Magistrate having jurisdiction over the area of the local body.

*** BDR 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 subrule (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 less than 18% should belong to the Scheduled Castes/Scheduled Tribes.

(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 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 People's 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 vairs and practitioners using the biological resources.

(8) The Authority shall take steps to specify the form of the People's 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 People's Biodiversity Registers.

(10) The People's 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.

***KBDR 15.Procedure for prior intimation for obtaining biological resources:**

(3) The Board shall, 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 two months from the date of receipts.

21. 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 subrule (1) shall consist of a Chairperson and not more than six persons nominated by the local body, of which not less than one third should be women and not less that 18% should belong to the Scheduled Castes/Scheduled tribes.
- (3) The Chairperson of the Biodiversity Management Committee shall be elected form 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 the Biodiversity Management Committee shall have tenure of three years.
- (5) The local Member of Legislative Assembly / Member of Legislative Member of Parliament would be special invitees to the meetings of the Committee.
- (6) The following officers shall be the Secretaries of respective Biodiversity Management Committee.
 - (i) Grama Panchayath BMC - Secretary of the GP
 - (ii) Taluk Panchayath BMC - Executive Officer of the TP
 - (iii) Zilla Panchayath BMC - Chief Executive Officer of the ZP
 - (iv) Municipality BMC - Chief Officer of the Municipality
 - (v) Corporation BMC - Commissioner of the Corporation
- (7) The Main function of the Biodiversity Management Committee is to prepare People's 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.
- (8) The other functions of the Biodiversity Management Committee 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 voids and practitioners using the biological resources.
- (9) The Authority and the State shall take steps to specify the form of the People's Biodiversity Registers, and the particulars it shall contain and the format for electronic database.

(10) The Authority and the State Biodiversity Boards shall provide guidance and technical support to the Biodiversity Management Committees for preparing People's Biodiversity Registers.

(11) The People's Biodiversity Registers shall be maintained and validated by the Biodiversity Management Committees.

(12) 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.

22. Local Biodiversity Funds:

(5) The Biodiversity Management Committee shall submit the Annual Report, and copy of Audited Statement of Accounts together with a copy of Auditor's Report to the Deputy Commissioner of the District by October 15th of every year

Steps:

1. Gramasabha Meeting
2. Nomination of 7 Members as per the Act
3. Selection of a Chairman of BMC out of 7 members
4. The Secretary of the BMC as per the Act and Rules

FORM – III (See Rule 22 (4))

GRAM PANCHAYAT/TP/ZP/MUNICIPALITY/CORPORATION BIODIVERSITY MANAGEMENT COMMITTEE Annual Report for the Financial Year April 200..... to March 200....

1. Introductory
2. Constitution of the BMC including changes therein
3. Meeting of the BMC
4. Activities of the BMC including the various functions performed under Section 41 of the Act.
5. Prosecutions launched and convictions secured
6. Finance and Accounts of the Board
7. Visits to the BMC by experts, Important persons etc.
8. Any other important matter dealt with by the Board.

(Dr. R.C.Prajapati) I.F.S
Addl. Principal Chief Conservator of
Forests and Member Secretary

*BDA-Biological Diversity Act 2002

*BDR-Biological Diversity Rules 2004

*KBDR-Karnataka Biological Diversity Rules 2005

KARNATAKA BIODIVERSITY BOARD

Note on Preparation of People's Biodiversity Registers

BDR 22. Constitution of Biodiversity Management Committees

(6) The main function of the BMC is to prepare People's 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.

(10) The People's 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.

KBDR 21. Constitution of Biodiversity Management Committees:

(7) The Main function of the Biodiversity Management Committee is to prepare People's 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.

(10) The Authority and the State Biodiversity Boards shall provide guidance and technical support to the Biodiversity Management Committees for preparing People's Biodiversity Registers.

(11) The People's Biodiversity Registers shall be maintained and validated by the Biodiversity Management Committees.

(12) 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.

Steps

1. Formation of Biodiversity Management Committees (BMCs)
2. Discussion in the BMC.
3. Formation of Study Team
4. Survey work and filling up the forms
5. Discussion and completion of data on Biodiversity and Traditional Knowledge.
6. Preparation of draft People's Biodiversity Registers.
7. Discussion of draft BMC.
8. Approval of the draft from Karnataka Biodiversity Board.
9. Revision of draft wherever necessary.

10. Preparation of revised PBR along with Traditional Local Knowledge and submission to Karnataka Biodiversity (Hardcopy and Softcopy) along with Map, Photos etc.

The PBR will serve the following objectives:

1. Community regulation of access to biological resources related to sustainable harvests.
2. Promoting knowledge based sustainable management of agriculture, livestock, fish, forest and public health so as to enhance the quality of life of the community members.
3. Opportunities to generate funds through the imposition of collection fees for access to biological resources.
4. Conserving valuable Resources.
5. Value addition to biological resources.
6. Recording of biodiversity related knowledge, coupled with opportunities to generate funds through imposition of collection fees for access to local knowledge.
7. Sharing the benefits of commercial application of local knowledge.
8. Help people access information of significance in management of their crops and livestock, availability of seeds of various traditional crop cultivars, and special properties of these cultivars.
9. Help people share their special knowledge of uses and management of biological resources, access to information on technologies of relevance for better management of biodiversity resources, provide information on prevalent prices and quantities of that species to help estimate the level of commercial demand for the species.
10. Help continuation of traditional practices of conservation and sustainable use of biodiversity by facilitating their recognition and incorporation in the Biodiversity Management plans of local Biodiversity Management Committees.
11. Help empower women and other weaker sections of communities intimately linked to biodiversity by involving them in the process of documentation and development of the Biodiversity Management Plans of local Biodiversity Management Committees.
12. Help preserve the biodiversity related knowledge of people for the posterity through its codification and recording.
13. Help people publicize the nature of their special knowledge without disclosing full details, thereby opening avenues for arriving at contractual agreement with commercial enterprises interested in access to such knowledge.
14. Help local communities claim rewards in national conservation programmes.

(Dr. R.C.Prajapati) I.F.S
Addl. Principal Chief Conservator of
Forests and Member Secretary

***BDA-Biological Diversity Act 2002**

***BDR-Biological Diversity Rules 2004**

KARNATAKA BIODIVERSITY BOARD

Note on Biological Diversity Heritage Site

***BDA 37. Biological Diversity Heritage Sites**

1. Without prejudice to any other law for the time being in force, the State Government may, from time to time in consultation with the local bodies, notify in the Official Gazette, areas of biodiversity importance as biodiversity heritage sites under this Act.
2. The State Government, in consultation with the Central Government, may frame rules for the management and conservation of all the heritage sites.
3. The State Government shall frame schemes for compensating or rehabilitating any person or section of people economically affected by such notification.

***KBDR 20. Establishment and Management of Biodiversity Heritage Sites:**

(1) The Board shall, in consultation with the local bodies and other key stakeholders, take necessary steps to facilitate setting up of areas of significant bio-diversity values as Heritage Sites. Following recommendation from the Board and after consultation with the Central Government, the State Government shall issue notification to this effect.

Importance of Biological Diversity Heritage Sites:

Biodiversity is closely linked to ecological security. Loss of biodiversity and bio-resources are in the increasing trend and also threatened by the human activities. Therefore, it is necessary to instill and nurture conservation ethics in the community. The declaration of Biodiversity Heritage Site will ensure bringing home the values and ethics in the society and thereby protecting the environment ensuring availability of bio-resources for the present and future generations.

Definition of Biological Diversity Heritage Sites:

Biodiversity Heritage Sites (BHS) are well defined areas that are unique ecologically fragile ecosystems-terrestrial, freshwater or marine having rich biodiversity comprising of any one or more of the components such as; species richness, high endemism, presence of rare, endemic and threatened species, keystone species, species of evolutionary significance, wild ancestors of domestic/cultivated species or land races or their varieties, past pre-eminence of biological components represented by fossil beds and having cultural or aesthetic values.

The criteria for identification of Biodiversity Heritage Sites (BHS)

The BHS shall be identified in accordance with the definition above. Accordingly the following types of areas of biodiversity importance shall qualify as BHS.

- a. Areas of biodiversity importance that contain a mosaic of natural semi-natural and human made habitats, which together contain a unique diversity of life forms.
- b. Areas of biodiversity importance that contain significant domesticated biodiversity and/or representative of agro biodiversity and agro ecosystems.
- c. Areas of biodiversity importance that are of cultural significance such as sacred groves and sites, or other large community conserved areas.
- d. Areas of biodiversity importance that offer refuge or corridors for threatened and endemic fauna and flora, such as community conserved areas or urban greens and wetlands.
- e. Areas of biodiversity importance whether government, community or private shall be considered.

Process for Identification and Declaration of Biodiversity Heritage Sites.

State Biodiversity Boards (SBB) shall invite proposals (or consider those already coming from communities) for declaration of BHSs, through BMC with widespread dissemination of information among farmer/fisher/advansi associations, rural communities, NGOs, urban group, research institutions, government agencies, and other organizations, regarding the provision of BHSs, through locally appropriate print and or local media.

- a) Biodiversity Management Committees in consultation with NGOs and community institutions shall initiate proposals for declaring BHSs.
- b) SBBs shall screen the proposals based on the criteria and come up with a list of areas which shall be designated as the Biodiversity Heritage Sites.
- c) Public discussions with various sections of society with gender and social representation, in such discussions amongst the Gramsabahs, urban ward committees, and other relevant local institutions (including government institutions), regarding proposals for declaring BHSs.
- d) SBB shall move for issuing a notification through their respective state governments specifying the boundaries with proper survey of the BHS in consultation with BMC.
- e) Technical Support Group (TSG) constituted by the SBB shall facilitate the documentation, conservation and management.
- f) Final notification and announcement for declaring the BHS shall be made at the state level in an appropriate manner giving it wide media coverage particularly in the vernacular language.

Management of BHS

- a. BMC which in addition to their duties defined in the Act, shall take care of the management of each BHS.
- b. It shall be the responsibility of the BMC to prepare and implement a management plan for a period of five to ten years in consultation with SBB and with the support of TSG.

Components of the Management Plan:

The communities with support from the TSG mentioned in point No. 6 (e) above and with the help of others (if required), will prepare a management plan for the BHS, through participatory rural appraisal (PRA) methodology for implementation.

SBB will then approve the implement and final management plan.

Management Action plan shall be reviewed and modified periodically.

Monitoring of BHS:

- a. The monitoring committee(s) shall be constituted by the SBB
- b. This committee shall monitor the implementation of management plan periodically and submit a report to the SBB.
- c. The monitoring committee shall comprise of the members (not exceeding 9 individuals) chosen out of experts/knowledgeable individuals in the field of conservation.
- d. The monitoring committee shall have a life of three years before its reconstitution.

Background note for implementation of Section 37 of Biological Diversity Act, 2002.

Areas which have already been designated, identified or notified (for example as protected area, biosphere reserve, etc) under other Acts or programmes may not be considered under this provision. The idea is to identify those areas important from biodiversity point of view which do not enjoy protection/support under any other Act or programme.

Steps:

1. Formation of Biodiversity Management Committees at Gramapachayath level.
2. Resolution of Gramapanchayth for declaring Biodiversity Heritage Site.
3. Filling up of the format with details including opinion of Zilla Panchayath, Deputy Commissioner etc. complete justification for proposal should be provide.
4. Completed format with all information including Map and Photos submitted to Biodiversity Board, Karnataka.
5. Discussion in the Board Meeting
6. Submission of proposal to the Government by the Board,
7. Necessary order of the State Government.

(Dr. R.C.Prajapati) I.F.S
Addl. Principal Chief Conservator of
Forests and Member Secretary

***BDA-Biological Diversity Act 2002**

***KBDR- Karnataka Biological Diversity Rules 2005**

KARNATAKA BIODIVERSITY BOARD

Note on National Biodiversity Authority (NBA)

Functions and powers of National Biodiversity Authority

BDA-18. (1) It shall be the duty of the National Biodiversity Authority to regulate activities referred to in sections 3, 4 and 6 and by regulations issue guidelines for access to biological resources and for fair and equitable benefit sharing.

(2) The National Biodiversity Authority may grant approval for undertaking any activity referred to in sections 3, 4 and 6.

(3) The National Biodiversity Authority may

a. advise the Central Government on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of benefits arising out of the utilization of biological resources;

b. advise the State Governments in the selection of areas of biodiversity importance to be notified under sub-section (1) of section 37 as heritage sites and measures for the management of such heritage sites;

c. perform such other functions as may be necessary to carry out the provisions of this Act.

(4) The National Biodiversity Authority may, on behalf of the Central Government, take any measures necessary to oppose the grant of intellectual property rights in any country outside India on any biological resource obtained from India or knowledge associated with such biological resource which is derived from India.

Approval by the National Biodiversity Authority

Approval by National Biodiversity Authority for undertaking certain activities

19. (1) Any person referred to in sub-section (2) of section 3 who intends to obtain any biological resource occurring in India or knowledge associated thereto for research or for commercial utilization or for bio" survey and bio-utilization or transfer the results of any research relating to biological resources occurring in, or obtained from, India, shall make application in such form and payment of such fees as may be prescribed, to the National Biodiversity Authority.

(2) Any person who intends to apply for a patent or any other form of intellectual property protection whether in India or outside India referred to in sub-section (1) of section 6, may make an application in such form and in such manner as may be prescribed to the National Biodiversity Authority.

(3) On receipt of an application under sub-section (1) or sub-section (2), the National Biodiversity Authority may, after making such enquiries as it may deem fit and if necessary after consulting an expert committee constituted for this purpose, by order, grant approval subject to any regulations made in this behalf and subject to such terms and conditions as it may deem fit, including the imposition of charges by

way of royalty or for reasons to be recorded in writing, reject the application: Provided that no such order for rejection shall be made without giving an opportunity of being heard to the person affected.

(4) The National Biodiversity Authority shall give public notice of every approval granted by it under this section. Transfer of biological resource or knowledge

20. (1) No person who has been granted approval under section 19 shall transfer any biological resource or knowledge associated thereto permission of the National Biodiversity Authority.

(2) Any person who intends to transfer any biological resource or knowledge associated thereto referred to in sub-section (1) shall make an application in such form and in such manner as may be prescribed to the National Biodiversity Authority.

(3) On receipt of an application under sub-section (2), the National Biodiversity Authority may, after making such enquiries as it may deem fit and if necessary after consulting an expert committee constituted for this purpose, by order, grant approval subject to such terms and conditions as it may deem fit, including the imposition of charges by way of royalty or for reasons to be recorded in writing, reject the application: Provided that no such order for rejection shall be made without giving an opportunity of being heard to the person affected.

(4) The National Biodiversity Authority shall give public notice of every approval granted by it under this section.

21.(1) The National Biodiversity Authority shall while granting approvals under section 19 or section 20 ensure that the terms and conditions subject to which approval is granted secures equitable sharing of benefits 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.

(2) The National Biodiversity Authority shall, subject to any regulations made in this behalf, determine the benefit sharing which shall be given effect in all or any of the following manner, namely:

- a. grant of joint ownership of intellectual property rights to the National Biodiversity Authority, or where benefit claimers are identified, to such benefit claimers;
- b. transfer of technology;
- c. location of production, research and development units in such areas which will facilitate better living standards to the benefit claimers;
- d. association of Indian scientists, benefit claimers and the local people with research and development in biological resources and bio-survey and bio-utilization;
- e. setting up of venture capital fund for aiding the cause of benefit claimers;
- f. payment of monetary compensation and non-monetary benefits to the benefit claimers as the National Biodiversity Authority may deem fit.

(3) Where any amount of money is ordered by way of benefit sharing, the National Biodiversity Authority may direct the amount to be deposited in the National Biodiversity Fund: Provided that where biological resource or knowledge was a

result of access from specific individual or group of individuals or organizations, the National Biodiversity Authority may direct that the amount shall be paid directly to such individual or group of individuals or organizations in accordance with the terms of any agreement and in such manner as it deems fit.

(4) For the purposes of this section, the National Biodiversity Authority shall, in consultation with the Central Government, by regulations, frame guidelines.

BDR -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.

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. organize 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 organize 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 subsection

(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;

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 Central Government from time to time.

(Dr. R.C.Prajapati) I.F.S
Addl. Principal Chief Conservator of
Forests and Member Secretary

***BDA-Biological Diversity Act 2002**

***BDR-Biological Diversity Rules 2004**

KARNATAKA BIODIVERSITY BOARD

Note on the purpose of Biological Diversity Act, 2002

No. 18 OF 2003 (5th February, 2003)

An Act to provide for conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of the use of biological resources, knowledge and for matters connected therewith or incidental thereto.

WHEREAS India is rich in biological diversity and associated traditional and contemporary knowledge system relating thereto.

AND WHEREAS India is a party to the United Nations Convention on Biological Diversity signed at Rio de Janeiro on the 5th day of June, 1992.

AND WHEREAS the said Convention came into force on the 29th December, 1993.

AND WHEREAS the said Convention reaffirms the sovereign rights of the States over their biological resources.

AND WHEREAS the said Convention has the main objective of conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of utilization of genetic resources.

AND WHEREAS it is considered necessary to provide for conservation, sustainable utilization and equitable sharing of the benefits arising out of utilization of generic resources and also to give effect to the said Convention.

(Dr. R.C.Prajapati) I.F.S
Addl. Principal Chief Conservator of
Forests and Member Secretary

KARNATAKA BIODIVERSITY BOARD

Note on State Biodiversity Board

BDA 7. Regulation of Access to Biological Diversity

No person, who is a citizen of India or a body corporate, association or organization which is registered in India, shall obtain any biological resource for commercial utilization, or bio-survey and bio-utilization for commercial utilization except after giving prior intimation to the State Biodiversity Board concerned:

Provided that the provisions of this section shall not apply to the local people and communities of the area, including growers and cultivators of biodiversity and *vaid*s and *hakims*, who have been practicing indigenous medicine.

BDA 23. The functions of the State Biodiversity Board:

- a. advise the State Government, subject to any guidelines issued by the Central Government, on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of the benefits arising out of the utilization of biological resources;
- b. regulate by granting of approvals or otherwise requests for commercial utilization or bio-survey and bio-utilization of any biological resource by Indians;
- c. perform such other functions as may be necessary to carry out the provisions of this Act or as may be prescribed by the State Government. Power of State Biodiversity Board to restrict certain activities.

Power of State Biodiversity Board to restrict certain activities.

24. (1) Any citizen of India or a body corporate, organization or association registered in India intending to undertake any activity referred to in section 7 shall give prior intimation in such form as may be prescribed by the State Government to the State Biodiversity Board.

(2) On receipt of an intimation under sub-section (1), the State Biodiversity Board may, in consultation with the local bodies concerned and after making such enquires as its conservation, may deem fit, by order, prohibit or restrict any such activity if it is of opinion that such activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or equitable sharing of benefits arising out of such activity: Provided that no such order shall be made without giving an opportunity of being heard to the person affected.

(3) Any information given in the form referred to in sub-section (1) for prior intimation shall be kept confidential and shall not be disclosed, either intentionally or unintentionally, to any person not concerned thereto.

BDA 55. (2) Whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 7 or any order made under sub-section (2) of section 24 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five lakh rupees, or with both. Penalty for contravention of directions or orders of Central government, State government, National Biodiversity Authority and State Biodiversity Boards

56. If any person contravenes any direction given or order made by the Central Government, the State Government, the National Biodiversity Authority or the State Biodiversity Board for which no punishment has been separately provided under this Act, he shall be punished with a fine which may extend to one lakh rupees and in case of a second or subsequent offence, with fine which may extend to two lakh rupees and in the case of continuous contravention with additional fine which may extend to two lakh rupees everyday during which the default continues. Offences by companies

57. (1) Where an offence or contravention under this Act has been committed by a company, every person who at the time the offence or contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence or contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence or contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence or contravention.

(2) Notwithstanding anything contained in sub-section (1), where an offence or contravention under this Act has been committed by a company and it is proved that the offence or contravention has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence or contravention and shall be liable to be proceeded against and punished accordingly.

Explanation - For the purposes of this section, a. "company" means any body corporate and includes a firm or other association of individuals; and
b "director", in relation to a firm, means a partner in the firm. Offences to be cognizable and non-bailable

58. The offences under this Act shall be cognizable and non-bailable. Act to have effect in addition to other Acts.

KBDR 13. General Powers and Functions of the Board:

In particular and without prejudice to the generality of other provisions, the Board may perform the following functions:

i. lay down the procedure and guidelines to govern the activities provided under section 23 of the Act.

- ii. advise the State Government on any matter concerning conservation of biodiversity sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resource and knowledge.
- iii. provide technical assistance and guidance to the departments of the State Government and Biodiversity Management Committee.
- iv. regulate by granting of approvals or otherwise requests for commercial utilization or bio-survey and bio-utilisation of any biological resource by Indian nationals.
- v. facilitate updating and implementation of State Bio-diversity Strategy and Action Plan.
- vi. commission studies and sponsor investigations and research.
- vii. engage consultant for a specific period, not exceeding three years, for providing technical assistance to the Board 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 Board shall seek prior approval of the State Government for such an engagement.
- viii. collect, compile and publish technical and statistical data, manuals, codes or guides relating to conservation of Biological 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. organize through mass media a comprehensive program regarding conservation of biological bio-diversity, sustainable use of its components and fair and equitable sharing of benefits arising of the use of biological resource and knowledge.
- x. plan and organize training of personnel engaged or likely to be engaged in programs for the conservation of biological bio-diversity and sustainable use of its components
- xi. take steps to build up database and to create information and documentation system for biological resources and associated traditional knowledge through biodiversity registers and electronics data bases, to ensure effective management, promotion and sustainable uses.
- xii. give directions to the local bodies/Bio-diversity Management Committees in writing for effective implementation of the Act, and to facilitate their meaningful participation in all measures relating to conservation, sustainable use, and equitable benefit-sharing.
- xiii. report to the State Government about the functioning of the Board and implementation of the Act and the rules made there under.
- xiv. recommended, prescribe, modify, collection fee of biological resources from time to time.

xv. to devise methods to ensure protection of rights including intellectual property rights over biological resources and associated knowledge including systems of maintaining confidentiality of such information as appropriate, including the protection of the information recorded in People's Biodiversity Registers.

xvi. sanction grants-in-aid and grants to Bio-diversity Management Committees for specific purposes.

xvii. undertake physical inspection of any area in connection with the implementation of the Act.

xviii. ensure that biodiversity and biodiversity-dependent livelihoods are integrated into all sectors of planning and management, and at all levels of planning from local to state, to enable such sectors and administrative levels to contribute effectively for conservation and sustainable use.

xix. prepare the annual Budget of the Board incorporating its own receipts as also the devolution from the State and Central Government provided that the allocation by the Central Government shall be operated in accordance with the budget provisions approved by the Central Government.

xx. Board shall have full powers for granting administrative and technical sanctions to all the estimates; it may however delegate such administrative and technical sanction powers to the Member Secretary of the Board as may be deemed necessary.

xxi. recommend creation of posts to State Government, for effective discharge of the functions by the Board 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 State Government.

xxii. perform such other functions, as may be necessary to carry out the provisions of the Act or as may be prescribed by the State Government from time to time.

xxiii. shall have power to acquire, hold and dispose of property, both movable and immovable and enter into contract for the same.

KBDR 15. Procedure for prior intimation for obtaining biological resources:

(1) Any person intending to obtain any biological resources and associated knowledge for research or for commercial utilization, with the excepting of those in the proviso to section 7 of the Act, shall give prior intimation to the Board by making an application in Form I.

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

(3) The Board shall, 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 two months from the date of receipts.

(4) While disposing the application under sub-rule (iii), the Board may by order, prohibit or restrict any activity deemed detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or equitable sharing of benefits arising out of such activity. The order shall be made after giving an opportunity of being heard to the applicant.

(5) A written agreement duly signed by an authorized officer of the Board and the applicant shall govern the access / collection. The form of the agreement shall be decided by the Board.

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

(7) Any information given in the form referred to in the sub-rule (1) for prior intimation shall be kept confidential and shall not be disclosed, either intentionally or unintentionally, to any person not concerned thereto.

KBDR 16. Revocation of access / approval :

(1) The Board may either on the basis of any complaint or suo moto withdraw the access granted and revoke the written agreement under the following conditions:

i. on the basis of reasonable belief that the person accessing the said bio-resource has violated any of the provisions of the Act or the condition on which application was allowed.

ii. when the person has failed to comply with the terms of agreement ;

iii. on failure to comply with any of the conditions of access ;

iv. on account of overriding public interest with reference to protection of environment and conservation of biological diversity, and protection of the rights, livelihoods, and knowledge of local communities ;

(2) The revocation order shall be made only after making such inquiries as required after giving the person so affected an opportunity of being heard.

(3) The Board shall send a copy of such revocation order to the Biodiversity Management Committees for prohibiting the access and also to assess the damage, if any, caused and take steps to recover the damage.

KBDR 17. Restriction on activities related to access to biological resources

The Board, if it deems necessary and appropriate, shall take the steps to restrict or prohibit the proposal for access to biological resources for the following reasons:

i. the request for access is for any threatened taxa, or taxa that is likely to become threatened due to such access ;

ii. the request for access is for any endemic and rare species.

- iii. the request for access may likely result in adverse effect on the livelihoods, culture, or indigenous knowledge 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 the country.
- (2) Any order of restriction shall be made only after making such inquires as required; consulting the concerned local bodies and Biodiversity Management Committees, and giving the person so affected an opportunity of being heard.

(Dr. R.C.Prajapati) I.F.S
Addl. Principal Chief Conservator of
Forests and Member Secretary

***BDA-Biological Diversity Act 2002**
***KBDR- Karnataka Biological Diversity Rules 2005**

FORM I
(See 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:

- a. Name:
- b. Permanent address:
- c. Address of the contact person / agent, if any, in India :
- d. Profile of the organization (personal profile in case the applicant is an Individual). Please attach relevant documents of authentication):
- e. Nature of business:
- f. Turnover of the organization in Indian Rupee

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

- a. Identification (scientific name) of biological resources and its traditional use
- b. Geographical location (including village, taluk and district) of proposed collection:
- c. Description / nature of traditional knowledge and its existing manifestations and uses (oral / documented):
- d. Any identified individual / family / community holding the traditional knowledge
- e. Quantity of biological resources to be collected:
- f. Times span in which the biological resources are proposed to be collected.
- g. Name and number of person authorized by the company for making the collection.
- 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 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" : Declaration

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
Date

Signed
Name
Title

KARNATAKA BIODIVERSITY BOARD

Note on Penalties

***BDA 55.** (1) Whoever contravenes or to or abets the contravention of the provisions of section 3 or section 4 or section 6 shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to ten lakh rupees and where the damage caused exceeds ten lakh rupees such fine may commensurate with the damage caused, or with both.

(2) Whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 7 or any order made under sub-section (2) of section 24 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five lakh rupees, or with both.

Penalty for contravention of directions or orders of Central government, State government, National Biodiversity Authority and State Biodiversity Boards

56. If any person contravenes any direction given or order made by the Central Government, the State Government, the National Biodiversity Authority or the State Biodiversity Board for which no punishment has been separately provided under this Act, he shall be punished with a fine which may extend to one lakh rupees and in case of a second or subsequent offence, with fine which may extend to two lakh rupees and in the case of continuous contravention with additional fine which may extend to two lakh rupees everyday during which the default continues.

Offences by companies

57. (1) Where an offence or contravention under this Act has been committed by a company, every person who at the time the offence or contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence or contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence or contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence or contravention.

(2) Notwithstanding anything contained in sub-section (1), where an offence or contravention under this Act has been committed by a company and it is proved that the offence or contravention has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence or contravention and shall be liable to be proceeded against and punished accordingly.

Explanation - For the purposes of this section,

a. "company" means any body corporate and includes a firm or other association of individuals; and

b "director", in relation to a firm, means a partner in the firm. Offences to be cognizable and non-bailable

(Dr. R.C.Prajapati) I.F.S
Addl. Principal Chief Conservator of
Forests and Member Secretary

***BDA-Biological Diversity Act 2002**

KARNATAKA BIODIVERSITY BOARD

Access to Bio Resources

BDA 7. Regulation of Access to Biological Diversity

No person, who is a citizen of India or a body corporate, association or organization which is registered in India, shall obtain any biological resource for commercial utilization, or bio-survey and bio-utilization for commercial utilization except after giving prior intimation to the State

Biodiversity Board concerned:

Provided that the provisions of this section shall not apply to the local people and communities of the area, including growers and cultivators of biodiversity and *vaid*s and *hakims*, who have been practicing indigenous medicine.

24. Power of State Biodiversity Board to restrict certain activities.

(1) Any citizen of India or a body corporate, organization or association registered in India intending to undertake any activity referred to in section 7 shall give prior intimation in such form as may be prescribed by the State Government to the State Biodiversity Board.

(2) On receipt of an intimation under sub-section (1), the State Biodiversity Board may, in consultation with the local bodies concerned and after making such enquires as its conservation, may deem fit, by order, prohibit or restrict any such activity if it is of opinion that such activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or equitable sharing of benefits arising out of such activity: Provided that no such order shall be made without giving an opportunity of being heard to the person affected.

(3) Any information given in the form referred to in sub-section (1) for prior intimation shall be kept confidential and shall not be disclosed, either intentionally or unintentionally, to any person not concerned thereto. Provisions of sections 9 to 17 to apply with modifications to State Biodiversity Board

BDA 55. (2) Whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 7 or any order made under sub-section (2) of section 24 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five lakh rupees, or with both. Penalty for contravention of directions or orders of Central government, State government, National Biodiversity Authority and State Biodiversity Boards

***BDA 58.** The offences under this Act shall be cognizable and non-bailable. Act to have effect in addition to other Acts.

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(4) While disposing the application under sub-rule (iii), the Board may by order, prohibit or restrict any activity deemed detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or equitable sharing of benefits arising out of such activity. The order shall be made after giving an opportunity of being heard to the applicant.

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ii. when the person has failed to comply with the terms of agreement ;

iii. on failure to comply with any of the conditions of access ;

iv. on account of overriding public interest with reference to protection of environment and conservation of biological diversity, and protection of the rights, livelihoods, and knowledge of local communities ;

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- iii. the request for access may likely result in adverse effect on the livelihoods, culture, or indigenous knowledge 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 the country.

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(Dr. R.C.Prajapati) I.F.S
Addl. Principal Chief Conservator of
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