

# Karnataka Biodiversity Board

## Proceedings of the 25<sup>th</sup> Board Meeting.

Venue: KFDC Board Meeting Hall, 2<sup>nd</sup> floor, VANAVIKAS, 18<sup>th</sup> Cross,  
Mallechwaram, Bengaluru – 560 003.

The 25<sup>th</sup> Board meeting of Karnataka Biodiversity Board was held on 12/11/2014 in the KFDC meeting hall, 2<sup>nd</sup> Floor 'Vanavikas', 18<sup>th</sup> Cross, Mallechwaram, Bangalore.

The following members were present:

1	Sri. R.M.N. Sahai, I.F.S (Retd.), Karnataka Biodiversity Board, 4th floor, Vanavikas, 18 <sup>th</sup> Cross, Mallechwaram, Bengaluru - 560 003	Chairman
2	Sri. M. Madan Gopal, IAS, Additional Chief Secretary to Government. Forest, Ecology and Environment Department, M.S Buildings, Bengaluru	Ex-officio Member
3	Sri. Ramachandra, IFS Secretary to Government. Forest, Ecology and Environment Department, M.S Buildings, Bengaluru	Ex-officio Member
4	Sri Prabhash .C. Ray, IFS, Special Commissioner, RDPR, M.S Buildings, Bengaluru (Representing ACS, RDPR, Government of Karnataka, Bengaluru)	Ex-officio Member
5	Sri. G.V. Sugur, IFS Principal Chief Conservator of Forests (HoFF), Aranya Bhavan, 18 <sup>th</sup> Cross, Mallechwaram, Bengaluru – 560 003	Non-officio Member
6	Dr. H. Shivananda Murthy Professor & Head, Department of Aquaculture. College of Fisheries, Kankanady, Mangalore – 575 002	Non-officio Member
7	Dr. M. Sanjappa CSIR Emeritus Scientist. No:504, Block C-7, Kendriya Vihara, Yelahanka, Bengaluru -560 034	Non-officio Member
8	Dr. Saraswathi, Dy. Dir.(Ayurveda) & Prof. Lalitha, Dravya Guna Vibhaga. Department of AYUSH. Danvantari Road, Ananda Rao Circle, Bengaluru – 560009	Special Invitee
9	Sri R. K. Singh, IFS, Member Secretary. Karnataka Biodiversity Board, Ground floor, Vanavikas, 18 <sup>th</sup> Cross, Mallechwaram, Bengaluru - 560 003	Member Secretary

Leave of absence was granted to the following members:

1	Sri Bharat Lal Meena, IAS, Principal Secretary to Government Agriculture Department, MS Building, Bengaluru.	Ex-officio Member
2	Dr. M. H. Swaminath, IFS (Retd.) No: 19A, 1 <sup>st</sup> 'B' Main, 6 <sup>th</sup> Sector, H.S.R. Layout, MCHS Colony, Bengaluru – 560 034	Ex-officio Member
3	Dr. K.N. Ganeshiah Professor & Head, Department of Forest & Environmental Sciences, GKVK, University of Agricultural Sciences, Bengaluru – 560 065	Non-officio Member
4	Dr. M.D. Subash Chandran Environment Specialist. C- 789 Viveknagar, Kumta – 581 343, Uttara Kannada District.	Non-officio Member

The meeting commenced with the formal welcome of the members by the Chairman, and the agenda for the meeting was taken up for discussion and decisions.

**1. Reading and recording of the proceedings of 24<sup>th</sup> Board meeting.**

The proceedings of 24<sup>th</sup> board meeting held on 24/6/2014 were communicated to all the members. As there were no comments from Members, the proceeding was adopted.

**2. Action taken on 24<sup>th</sup> Board meeting proceedings.**

Action taken on 24<sup>th</sup> Board meeting was noted by the Board.

**3. Compliance of the Karnataka Biodiversity Rules 2005 with the Biological Diversity Act 2002**

Following decisions were taken with general opinion including the written remarks sent by Dr. M.H. Swaminath, Member of Board.

Sl. No	NBA's Observations/Suggestions	Remarks	Decision of the Board
1	Rule 4(3) of the Karnataka Rules which provides that the continuance of the Chairperson in the office 'at the pleasure of the State Government' totally affects and curtails the independence of the office of the Chairperson. It may be noted that such a provision is not provided for in the Central Rules for the Chairperson of the National Biodiversity Authority. Further Section-11 of the Act provides for the removal of members on certain grounds which include the Chairperson also. In such a case, the said rule may go contrary to Section 11 of the Act and be treated as <i>ultra vires</i> . Hence it is strongly recommended that this may be deleted or modified suitably.	1. As per S.25 of the BD Act, provisions of S. 9 to 17 to apply with modifications to state Biodiversity Board. In view of this heading S. 9 of Biodiversity Act has to be read with Rule 4(1) of the Karnataka Biodiversity Rules 2005 That means state Govt. having power u/s 9 of Biological Diversity Act 2002, has once prescribed term of office of chairperson of KBB under Rule 4(1) as 3 years, then he can be removed within 3 years only on the grounds contained u/s 11 of The Biological Diversity Act 2002. Hence Rule 4(3) of Karnataka Biological Diversity Rule 2005 being contrary to the S.9 of BD Act, 2002 and contrary to Rule 4(1) of KBD Rules-2005 and ultravires. Hence observation of NBA on Point No.1 is valid steps be taken to delete Rule 4(3) of KBD Rules 2005.	There is no need to change the Rule.
2	Rule 6 of the Karnataka Rules provides for the appointment of non-official members. This provision does not adequately provide how a non-official	2. The observation of NBA on Sl. No. 2 regarding Rule 6 of KBD Rule-2005 is valid in view of Section 22 of the BD Act 2002 r/w heading to Section 25 of BD	Board agreed to recommend changes as suggested by National Biodiversity Authority.

Sl. No	NBA's Observations/Suggestions	Remarks	Decision of the Board
	<p>member is to be appointed. It does not even provide that such a non-official member is to be an expert member as required in Section 22(4) of the Act. Rule 6 of the Karnataka Rules may be amended to include the following in order to be in the with section 22(4)(c) of the Act.</p> <p><i>“Every Non-official member of the Board from amongst experts in matters relating to conservation of Biological Diversity, sustainable use of biological resources and equitable sharing of benefits arising out of the use of biological resources shall be nominated by the state Government shall hold office for a term not exceeding three years at a time the date of publication of their appointment in the official gazette.”</i></p>	<p>Act 2002. Hence suggestion of NBA regarding Rule of KBD Rule-2005 may be accepted.</p>	
3	<p>According to Section 10 read with Section 25 of the Act, the Chairperson of the State Biodiversity Board shall be the Chief Executive of the State Biodiversity Board. Any powers given to the Member Secretary of the Board should not be contrary to the provisions of the Act. However, the rule 10 of the Karnataka Rules provides for powers and functions to the Member Secretary of the Board which could be treated as ultra vires of the Act which is not desirable. Accordingly, the powers of the Member Secretary need to be harmonized with Section 10 of the Act.</p> <p>Rule 10 of the Karnataka Rules may include the following additional point:</p>	<p>3) True in view of Section 10 r/w Section 25 of The BD Act 2002, the Chairperson of Karnataka Biodiversity Board shall be the Chief Executive of the State Biodiversity Board. Hence observation of NBA on Rule 10 of KBD Rules-2005 is valid and may be accepted.</p>	<p>After deliberation the Board resolved that there is no need to take any action.</p>

Sl. No	NBA's Observations/Suggestions	Remarks	Decision of the Board
	<i>"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 thereto".</i>		
4	In Rule 13(iii) of the Karnataka Rules, the departments of the State Government need to be elaborated for the purpose of clarity.	4) The suggestion of Rule 13(ii) of KBD Rules is important may be considered.	The Board resolved that following departments should be added in place of 'departments' 1. Agriculture 2. Horticulture 3. Fisheries (Inland and Marine) 4. Animal and Husbandry 5. Ayush 6. Sericulture 7. Forestry 8. Rural Development and Panchyat Raj.
5	The current version of the Rule 13 (iv) of the Karnataka Rules is not in line with the provisions of the Act and needs an immediate amendment. The continuation of using the same interpretation is counter to the provisions of the Act. Hence Rule 13(iv) may be replaced with following words for better clarity and to be in line with Section 7 and Section 23(b) of the Act.  <i>"Regulate by granting of approvals or otherwise requests for commercial utilization or bio-survey and bio-utilization for commercial utilization of any biological resource by Indian citizen, or body corporate, association or organization registered in India except those covered under Section 3(2) of the Act."</i>	5) Rule 13(iv) of KBD Rules is nothing but reiteration of Section.7 Hence said Rule is unnecessary may be deleted. Even proposed insertion is unnecessary as S.23(b) provide the nature of function of SBB	After deliberation the Board resolved that suggested changes may be incorporated.
6	Rule 13(xii) of the Karnataka	6) However suggestion of NBA	After deliberation, Board

Sl. No	NBA's Observations/Suggestions	Remarks	Decision of the Board
	Rules, requires to be modified in such a way that it reflects that the directions from the Board to BMCs should be either done in consultation with NBA or should be complementary to Rule 12 (xiv) of the Central Rules.	regarding Rule 13(xii) is valuable and may be considered.	resolved that there is no need to amend Rule 13 (xii)
7	In Rule 13(xiv) of the Karnataka Rules, the words " <i>recommended, prescribe, modify and collect fees</i> " for biological resources from time to time are ambiguous and may run counter to the provisions of the Act. Any collection of fees levied on biological resources as per the Act is permitted only by the under section 41(3) and this may be deleted.	7) Observation of NBA on Rule 13(xiv) of KBD Rules 2005 cannot be accepted, because S.63 (1) of the B.D. Act 2002 has given full power to SBB. When Rules framed by central Govt. don not prescribe the quantum of fee to be collected by BMCS, to bring an uniformity all over the state regarding quantum of fee to be collected by BMCs, Rule 13(xiv) of state Rule is valuable. Hence suggestion of NBA may not be accepted	Board resolved that there is no need to accept the suggestion of National Biodiversity Authority.
8	In Rule14(1) of the Karnataka Rules, the following words shall be added " <i>The Chairperson shall be the Chief Executive of the Biodiversity Board</i> " at the start of the sentence, in order to be in line with Section 10 of the Act.	8) Suggestion NBA on Rule 14(1) of KBD Rules-2005 is unnecessary when S.10 r/w Section 25 of BD Act 2002 has declared the Chairperson as chief executive of SBB, then no need to add to Rule 14(1) by way of reiteration.	The Board resolved that there is no need to add to Rule 14(1) which amounts to reiteration.
9	Rule15(1) and 15(2) of the Karnataka Rules requires to be replaced with the following words in order to be in line with Section 7 and Section 24 of the Act: <i>"(1) Any citizen of Indi or body corporate, organization or association registered in India seeking access to/ collection of biological resources and associated knowledge for commercial utilization or bio-survey and bio-utilization for commercial utilization with the exception of those in the provision to Section 7 of the Act, shall give</i>	9) The suggestion of NBA as Rule 15(1) (2) of KBD Rules 2005 are valid may be accepted.	The Board resolved that there is no need to change the suggestion at (1) by National Biodiversity Authority.  However Board agreed for making suitable changes as suggested by National Biodiversity Authority at (2).

Sl. No	NBA's Observations/Suggestions	Remarks	Decision of the Board
	<p><i>prior intimation to the Board by making an application in Form-1 appended to these rules.</i></p> <p><i>(2) Every application under sub-rule (1) shall be accompanied by a fee of Rs. 1,000 for commercial utilization, and shall be in the form of a cheque or demand draft, four fifth of which shall be refunded to the application in case of rejection of the application.</i></p>		
10	<p>With respect to Rule 15(5) of the Karnataka Rules, kindly refer to the comments on 15(1). There is no jurisdiction of the SBB for India or body corporate, association or organization which is registered in India for accessing/collecting of biological resources and therefore in appropriate revision of this clause is required referring to Section 7 of the Act.</p>	<p>10) In column No.2, instead of figure 8, the figure S.7 to be written. It is true the state Board has authority to regulate access of biological resources by such of Indian companies, etc doing business within the particular state limits. In my considered view Rule 15(5) of KBD Rule is not inconsistent with S.7 of The BD Act. Hence no need to revise Rule 15(5) of KBD Rules 2005.</p>	<p>The Board resolved that there is no need to revise Rule 15 (5) of Karnataka Biological Diversity Rules 2005.</p>
11	<p>With respect to Rule 15(6) of Karnataka Rules, kindly refer to comment on 15(4). Specific permission in the SBB rules can be made to restrict access for certain purpose as stated in Rule 17 of the Karnataka Rules.</p>	<p>11) Though the NBA has observed to refer to comment on Rule 15(4), but no comments made on Rule 15(4) of KBD Rules, Hence in my opinion the existing Rule 15(6) and Rule 17 of KBD Rules 2005 need no changes.</p>	<p>Board accepted the advise of legal Advisor to the Board and resolved not to make any changes for Rule 15 (6) and Rule 17.</p>
12	<p>Rule 16 of the Karnataka Rules states that the “revocation of access/approval”. Section 7 of the Act makes a mention of the term “intimation” to be given to the SBB for obtaining biological resources for certain purpose by Indians. Under 24(2), SBB can prohibit or restrict any activity related to such commercial utilization by providing directions in writing. This power given to the SBB should not be confused</p>	<p>12) Suggestion of NBA on Rule 16 of KBD Rules 2005 may be noted as guidance while taking decision on revocation of access/approval.</p>	<p>The Board noted the suggestions of National Biodiversity Authority on Rule 16 of Karnataka Biological Diversity Rules 2005.</p>

Sl. No	NBA's Observations/Suggestions	Remarks	Decision of the Board
	with the power to grant permission /give approval for accessing biological resources for commercial utilization by Indians which is not envisaged under Act.		
13	In Rule 18(2) of the Karnataka Rules, there is usage of the terms "licence fee and royalty." These terms relates to claims under Intellectual Property Rights which only NBA is only empowered to deal with under Section 6 of the Act. Accordingly, it is suggested that these terms may be removed from the rule.	13) The observation of NBA on Rule 18(2) of KBD Rules is valid may be accepted	After long deliberation, the Board resolved that there is no need to remove the terms 'license fee and royalty'.
14	In Rule 20(1) of the Karnataka Rules, kindly note that there is no requirement of consult the Central Government while designating Biodiversity Heritage Sites as per the Act and hence it may be amended accordingly.	14) True only to frame Rules for management and conservation of Heritage Sites state must consult Central Government and not for notifying biodiversity Heritage site. Hence this suggestion on Rule 20(1) is valid and may be accepted.	The Board resolved to accept the suggestion on Rule 20(1) that there is no requirement to consult the Central Government while designating Biodiversity Heritage Site.
15	Rule 23(1)(a) of the Karnataka Rules may be amended as follows in order to be line with Section 50of the it is currently incorrectly drafted. " If a dispute arise between the Authority and Board or between one Board and other Board(s) on account of implementation of any order/direction or on any issue of policy decision, either of the aggrieved parties i.e., Authority or the Board, as the case may be, prefer an appeal under Section 5 of the Act. In the case of dispute between one Board and other Boards) the Central Government shall refer the same to the National Biodiversity Authority under Section 50(4) of the Act.	15) Suggestion Rule 23(1) of KBD Rules 2005 is valid may be accepted	The Board resolved that the suggestion by National Biodiversity Authority for Rule 23 (1) need not be agreed.
16	Kindly note of the contradiction between Form I and Rule 17 of	16) Suggestion of NBA on Form –I is valid and may be accepted.	Suggestions of NBA was not accepted by the Board.

Sl. No	NBA's Observations/Suggestions	Remarks	Decision of the Board
	the Karnataka Rule		
17	Form I of the Karnataka Rules, point 1(c) the words “agent” if any , in India” shall be replaced with “agent, if any”. This form is to be used only by Indians and those not covered under Rule 3(2).		Board accepted the suggestion of the NBA
18	In Form I Part A point 1(c) the words “type and extent of research” requires to be deleted since the Act does not warrant any permission under Section 7 for the purpose of research and also replace the word “ commercial use” with commercial utilization by Indians.		Not accepted by the Board
19	In Form I Part B of the Karnataka Rules, the word ‘royalty’ requires to be removed (kindly refer to earlier comment on Rules 18(2).		Not accepted by the Board

#### 4. India's Fifth National Report to the Convention on Biological Diversity (CBD) 2014:

The Board discussed the National Biodiversity Action Plan and noted that the 12 targets of Nation Biodiversity Action Plan corresponds to the 20 Aichi targets which is part of Nagoya protocol on convention on Biodiversity strategic plan 2011-2012. As per the protocol, these targets are to be achieved in the decade for Biodiversity i.e., 2011-2020. The Board further noted that some of the agencies which are not included in the column for responsible agencies, may also be added. After detailed deliberation the Board resolved that the Government may be advised to issue suitable directions to all the agencies which are responsible for taking up the actions for achieving 12 National Biodiversity Targets (INBT).

#### 5. People's Biodiversity Registers Status / Methodology:

The Member Secretary submitted the methodology adopted for preparation of People's Biodiversity Registers before the Board. He submitted that Karnataka State is divided into 10 Agro Climatic Zone and explained that the variation in flora and fauna within a particular Agro Climatic Zone will not be much. Accordingly, a Master Checklist comprising of all the formats required for writing of People's Biodiversity Registers as prescribed by National Biodiversity Authority and suitably modified and adopted by Karnataka Biodiversity Board, is prepared for each Agro Climatic Zone and all such Master Checklists were placed before a committee of experts. After incorporating the suggestion of the experts,



the Master Checklist for Agro climatic Zone is standardized for each zone. Dr. Sanjappa pointed out there may be some variations in species in an Agro climatic zone which can be taken care while doing the field work in the Gramapanchayats. The Member Secretary also presented fund requirement involved in organizing the field visit of students and lecturer towards logistic charges, remuneration and honorarium to lecturers etc.,

Member Secretary informed the Board that Dr.M.H. Swaminath, Member of the Board, who has informed the leave of absence, responded the agenda note with suggestion to constitute a review committee for each Agro Climatic Zone to validate the People's Biodiversity Registers. This issue was discussed at length and members noted that the Master Checklist had been placed before a committee of Experts. Members also felt that the People's Biodiversity Registers is adopted by the Biodiversity Management Committee after detailed discussion with all the stakeholders at Gramapanchayat level. Hence, there is no need to validate the People's Biodiversity Registers again. After a long deliberation members appreciated the methodology and asked the Member Secretary to decide time line for completing all the People's Biodiversity Registers for the whole state. Member Secretary submitted that under ideal situation, all People's Biodiversity Registers should be completed within 2 years, if the main focus is on spp. under utilization/harvest. However, since the Board depends upon external services of Professors and students of Bio science departments achieving this target is subject to the co-operation from them.

After detailed deliberation the Board resolved to approve the financial expenditure given in Annexure-VIII involved in writing of People's Biodiversity Registers.

#### **6. UNEP-GEF-MoEF ABS Project:**

The Board noted the various components of the project as informed by National Biodiversity Authority. The Member Secretary explained about the unit of implementation of the project in different States and submitted to the Board that in order to have the uniformity of action in a unit, taluk will be a better unit as the Bio resources are often not limited to smaller areas. Additional Chief Secretary pointed out that there may be cases where a particular Bio-resource is limited to village only, in that case that should be considered as a special case and in such cases, Gramapanchayat Biodiversity Management Committee should be getting the benefit as in that case, the unit of implementation of project will be Gramapanchayat. However, in general Taluk Panchayat and Taluk Biodiversity Management Committees may be taken as the unit of implementation of the project.

After detailed discussion, the Board resolved that for the purpose of implementation of this project, taluka panchayat shall be considered as a unit.

**7. Any other subject with the permission of the Chair:**

Member Secretary informed that a project on mapping network of procurement of selected plant bio-resources was submitted by EMPRI costing Rs. 5.00 lakhs and which will be completed in 6 months. This project was placed as Annexure - IIa (Page No.14) in 24<sup>th</sup> Board Meeting held on 4/9/2014 which could not be discussed during 24<sup>th</sup> Board Meeting. This study proposal is to address the information gap that exists along with the process, business and economics of access, extraction and use of bio-resources by registered Herbal industries. The Member Secretary explained the project and submitted for approval. -

After a detailed deliberation the Board resolved to approve the project submitted by EMPRI contained in Annexure-IIa of 24<sup>th</sup> Board Meeting agenda.

With no other subject for discussion, the meeting ended with a vote of thanks to the chair.

Member Secretary  
**Karnataka Biodiversity Board.**

Chairman  
**Karnataka Biodiversity Board.**