

Revised Guidelines in the Form of Draft Notification

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE
(National Biodiversity Authority)
NOTIFICATION

G.S.R No... – In exercise of the powers conferred by section 64 read with sub-section (1) of section 18 and sub-section (4) of section 21 of the Biological Diversity Act, 2002 (18of2003), herein after referred to as the Act, and, in pursuance of the Nagoya Protocol on access to genetic resources and the fair and equitable sharing of benefits arising from their utilization to the Convention on Biological Diversity dated the 29th October, 2010, and in supersession of the notification no. G.S.R.827 dated 21.11.2014, the National Biodiversity Authority hereby makes the following regulations, namely. –

Short title, scope and commencement. –

(1) These regulations may be called ‘Guidelines on Access to Biological Resources and Associated Knowledge and Equitable Sharing of Benefits Regulations, 2019’.

(2) State Biodiversity Boards shall also follow these regulations for benefit sharing while granting approvals in exercise of powers conferred under section 23(b) and section 24(2) for persons and activities regulated under section 7 of the Act.

(3) In these regulations, the usage of term ‘biological resources’ may also include associated knowledge, if any.

(4) They shall come into force on the date of their publication in the Official Gazette.

1. Procedure for accessing/obtaining biological resources and/or associated traditional knowledge for research or bio-survey and bio-utilization. –

(1) Any person referred to under sub-section (2) of section 3 of the Act, who intends to have access to or obtain biological resources and/or associated traditional knowledge for research or bio-survey and bio-utilization for research shall apply to the National Biodiversity Authority (NBA) in Form-I of the Biological Diversity Rules, 2004 for obtaining access to such biological resource and/or associated knowledge, occurring in India.

(2) The NBA shall, on being satisfied with the application under sub-regulation (1), enter into a benefit sharing agreement with the applicant which shall be

deemed as grant of approval for access to biological resource(s) for research referred to in that sub-regulation:

Provided that in case of biological resources having high conservation and economic value as referred under Annex-I, or associated knowledge are accessed for commercial research, the NBA may impose upfront payment to the applicant, on a case-to-case basis.

2. Procedure for accessing/obtaining biological resources, for commercial utilization or for bio-survey and bio-utilization for commercial utilization and mode of benefit sharing thereof. –

(1) Procedure for accessing/obtaining biological resources

(a) Any person who intends to have access to or obtain biological resources for commercial utilization or for bio-survey and bio-utilization for commercial utilization shall apply to the NBA in Form-I of the Biological Diversity Rules, 2004 or to the State Biodiversity Board (SBB), in such form as prescribed in the respective State Biodiversity Rules, as the case may be.

(b) The NBA or the SBB, as the case may be, shall, on being satisfied with the application under sub-regulation (a), enter into a benefit sharing agreement with the applicant which shall be deemed as grant of approval for access to biological resources, for commercial utilization or for bio-survey and bio-utilization for commercial utilization referred to in that sub-regulation.

(2) Mode of Benefit Sharing. –

(i). Option I - on purchase price

(a) Where the applicant intends to access or obtain the biological resources for commercial utilization or for bio-survey and bio-utilization for commercial utilization, the benefit sharing obligations on the applicant shall be in the range of 3.0 to 5.0% of the purchase price of the biological resources.

Provided that in the event of the applicant submitting proof of payment of levy fee to the BMC(s) under section 41(3) of the Act, the benefit sharing component payable to the NBA/SBB shall be 25% lower than the benefit sharing amount due.

(b) In case of the biological resource having high conservation/economic value, as illustrated in the list appended at Annex-I, the benefit sharing may include an upfront payment of not less than 5.0%, on the proceeds of the auction or sale amount, as decided by the NBA or SBB, as the case may be, and the successful

bidder, purchaser or user shall pay the amount to the designated fund, before accessing the biological resource.

(ii). Option II - on ex-factory sale price

(a) When the biological resources are accessed for commercial utilization or bio-survey and bio-utilization leading to commercial utilization, the applicant shall have the option to pay the benefit sharing upto 0.5% of the annual gross ex-factory sale price minus government taxes as given below:-

(Amount in rupees)

Annual Turnover	Registration Fee to be paid to NBA/SBB for a period of three years at once, as the case may be	Annual gross ex-factory sale price of product using biological resource(s) minus government taxes	Benefit sharing component per-annum	Benefit sharing component if levy fee paid to BMC(s)
Up to 1,00,00,000	NIL	Any amount upto one crore	Lumpsum 500/- only	NIL
1,00,00,001 up to 3,00,00,000	Rs. 25,000/-	Any amount upto three crore	0.2%	Less 25% of the benefit sharing amount due
Above 3,00,00,000	Rs. 25,000/-	Any amount above three crore	0.5%	

Provided that in the event of the applicant submitting proof of payment of levy fee to the BMC(s) under section 41(3) of the Act, the benefit sharing component payable to the NBA/SBB shall be 25% lower than the benefit sharing amount due.

Provided further that where the applicant is having annual turnover upto rupees one crore, benefit sharing obligation on the applicant shall be rupees five hundred as lumpsum under regulation (2) above.

Provided further that there will be no benefit sharing obligation for an applicant under this proviso if he furnishes proof of payment of benefits sharing under regulation 5(2).

Provided that in case of biological resource(s) having high conservation/ economic value, as illustrated in the list appended at Annex-I, the benefit sharing component shall be 25% more than the benefit sharing amount due

(I) *Illustration 1: A company engaged in the cosmetics business manufacturing products using biological resources.*

Annual turnover: Rs. 1.5 crore

Annual gross ex-factory sale price of products derived from the biological resources: Rs.20 lakh

ABS obligations: 0.1% of Rs.20 lakh =Rs. 2,000

(II) *Illustration 2: A company engaged in the cosmetics business manufacturing products using biological resources.*

Annual turnover: Rs.90 lakh

Annual gross ex-factory sale price of products derived from the biological resources: Rs.50 lakh

ABS obligations: Rupees five hundred only

(III) *Illustration 3: A company engaged in the cosmetics business manufacturing products using biological resources.*

Annual turnover: Rs. 2.5 crore

Annual gross ex-factory sale price of products derived from biological resources: 2 crore

ABS obligations: 0.2% of Rs. 02 crore: Rs. 40,000

3. Collection of fees. —

Collection of fees, if levied by Biodiversity Management Committee (BMC) for accessing or collecting any biological resource for commercial purposes from areas falling within its territorial jurisdiction under sub-section (3) of section 41 of the Act, shall be in addition to the benefit sharing payable to the National Biodiversity Fund or State Biodiversity Fund, as the case may be, under these regulations.

Explanation: Applicant having annual turnover of less than rupees one crore shall also be liable to pay charges, if levied by the BMC(s).

4. Procedure for transfer of results of research relating to biological resources and mode of benefits sharing thereof. —

(1) Procedure for transfer of results of research

(a) Any person who intends to transfer results of research relating to biological resources occurring in or obtained from India, to persons referred to under sub-section (2) of section 3 of the Act for monetary consideration or otherwise, shall –

(i) Apply to the NBA in Form II of the Biological Diversity Rules, 2004 for transfer of the results of research relating to biological resources occurring in or obtained from India for any purpose;

(ii) provide evidence of approval of NBA for access to the biological resource and/or associated knowledge involved in the research:

Provided that the requirement of evidence under this clause shall not apply to an applicant who is a citizen of India or a body corporate, association or organization which is registered in India and not having any non-Indian participation in its share capital or management;

(iii) provide complete information on potential commercial value within the knowledge of the applicant, of the results of research.

(b) The NBA shall, on being satisfied with the application under sub-regulation (a), enter into a benefit sharing agreement with the applicant which shall be deemed as grant of approval for transfer of the results of research referred to in that sub-regulation.

(2) Mode of benefit sharing. –

Applicant shall, in case of transfer of results of research under sub-regulation (1), pay to the NBA such monetary and/or non-monetary benefit(s), as agreed between the applicant and the NBA:

Provided that in case of monetary benefit received by him, if any, on such transfer, the applicant shall pay to the NBA 2.0 to 5.0% of the monetary consideration.

5. Procedure for obtaining Intellectual Property Rights (IPR) and mode of benefit sharing thereof. –

(1) Procedure for obtaining Intellectual Property Rights (IPR)

(a) Any person who intends to obtain any intellectual property right, by whatever name called, in or outside India, for any invention based on any research or information on any biological resource obtained from India, shall make an application to the NBA in Form III of the Biological Diversity Rules, 2004:

Provided that if the applicant is a person referred to under sub-section (2) of section 3 of the Act, he shall provide evidence of approval of NBA for access to the biological resources and/or associated knowledge used in the research leading to the invention:

Provided further that any person applying for any right under the Protection of Plant Varieties and Farmers' Rights Act, 2001(53 of 2001) shall be exempted from the provisions of this sub-regulation.

(b) The NBA shall, on being satisfied with the application under sub-regulation (a), enter into a benefit sharing agreement with the applicant which shall be deemed as grant of approval for obtaining IPR.

(2) Mode of benefit sharing in IPR. —

(a) The applicant shall, in case of commercialization of the IPR obtained, pay to the NBA such monetary and/or non-monetary benefit(s), as agreed between the applicant and the NBA.

(i) When the applicant himself commercializes the intellectual property rights, the monetary sharing shall be in the range of 0.05 to 1.0% based on sectoral approach, which shall be worked out on the annual gross ex-factory sale price of product minus government taxes, on a case-to-case basis.

Provided that any person, if upon the lapse of the IPR, intends to access the biological resource(s), to be used in the product for which IPR was obtained, for commercial utilization shall pay the benefits as referred to under regulation 2.

(ii) In case the applicant assigns / licenses the IPR to a third party for commercialization, the applicant shall pay to NBA 2.0 to 5.0% of the fee received (in any form including the license/assignee fee) and 2.0 to 5.0% of the royalty amount received annually from the assignee/licensee, based on sectoral approach, on a case-to-case basis.

(b) Any person who intends to access the biological resource(s) for commercialization of the IPR shall apply to NBA/SBB, as the case may be, under regulation 2(1).

6. Procedure for transfer of accessed biological resource and/or associated knowledge to third party for research/commercial utilization and mode of benefit sharing thereof. —

(1) Procedure for transfer

(a) Any person who intends to transfer the biological resources and/or associated knowledge which has been granted access under regulation 1 to a third party for research or for commercial utilization, shall apply to NBA in Form IV of the Rules.

Provided that application in Form-IV will be applicable only in the event of complete transfer of biological resources along with the results of research thereof, if any, no longer required by the applicant.

(b) The NBA shall, on being satisfied with the application under sub-regulation (a), enter into a benefit sharing agreement with the applicant, which shall be deemed as grant of approval for transfer of accessed biological resource and/or associated knowledge referred to in that sub-regulation.

(2) Mode of benefit sharing. —

(a) The applicant shall pay to the NBA such monetary and/or non-monetary benefit(s), as agreed between the applicant and the NBA.

(b) Applicant (transferor) shall pay to the NBA 2.0% to 5.0% (following a sectoral approach) of any amount and/or royalty received from the transferee, as benefit sharing, throughout the tenure of the agreement, on a case-to-case basis.

7. Conducting of non-commercial research outside India or research for emergency purposes outside India or by Indian researcher / institutions. —

(a) Any Indian researcher, academic/research institutions which is not covered under section 3(2) of the Act who intends to carry/send the biological resources outside India to undertake basic research other than collaborative research referred to in section 5 of the Act shall apply to the NBA in Form 'A' annexed to these regulations.

(b) Any person not covered under section 3(2) of the Act who intends to send biological resources to carry out certain urgent studies to avert emergencies like epidemics, etc., shall apply in Form 'A' annexed to these regulations.

(c) The NBA shall, on being satisfied with the application under sub-regulation (a) or sub-regulation (b), accord its approval within a period of 45 days from the date of receipt of the application.

(d) On receipt of approval of the NBA under sub-regulation (c), the applicant shall deposit voucher specimens in the designated national repositories before carrying / sending the biological resources outside India and a copy of proof of such deposits shall be endorsed to NBA.

8. Deposition of novel microbial strain(s) in the repositories outside India.-

Any Indian researcher/scientist who intends to deposit the novel microbial strain(s) discovered from India in the repositories outside India for publication in the journals as per the international obligations, shall provide prior intimation to the NBA in Form 'B' annexed to these regulations.

9. Criteria for determination of benefit sharing. —

(a) Benefit sharing may be done in monetary and/or non-monetary modes, as agreed upon by the applicant and the NBA/SBB concerned in consultation with the BMC/Benefit claimer, etc. Options for such benefit sharing are provided in Annex-II.

(b) Determination of benefit sharing shall be based on considerations such as commercial utilization of the biological resource, stages of research and development, potential market for the outcome of research, amount of investment already made for research and development, nature of technology applied, time-lines and milestones from initiation of research to development of the product and risks involved in commercialization of the product.

Provided that special consideration may be given to cases where technologies/ innovations/products are developed for controlling epidemics/diseases; for mitigating environmental pollution affecting human/animal/plant health. In such cases, the benefit sharing obligation on the applicant may be 'minimal', as decided by the NBA, on a case-to-case basis.

Provided further that in the event of contributing to non-monetary benefits as mutually agreed, the monetary benefit sharing obligation under these regulations shall be as reduced as determined by the NBA, as the case may be.

(c) The amount of benefit sharing shall remain the same whether the product contains one or more biological resources.

(d) Where the biological resources of a product are sourced from the jurisdiction of two or more SBBs, the total amount of the accrued benefits shall be shared among them in proportion as decided by the NBA/SBBs concerned, as the case may be.

10. Sharing of benefits among NBA/SBBs/benefit claimers. —

(1) Where approval has been granted by the NBA for research or for commercial utilization or for transfer of results of research or for Intellectual Property Rights or for third party transfer, the mode of benefit sharing shall be as under: —

- (a). 5.0% of the accrued benefits shall go to the NBA, out of which half of the amount shall be retained by the NBA and the other half may be passed on to the concerned SBB as administrative charges.
- (b). 95% of the accrued benefits shall go to concerned BMC(s) and/ or benefit claimers:

Provided that where the biological resource or knowledge is sourced from an individual or group of individuals or organizations, the amount received under this clause shall directly go to such individual or group of individuals or organizations, in accordance with the terms of any agreement and in such manner as may be deemed fit:

Provided further that where benefit claimers are not identified, such funds shall be used to support conservation and sustainable use of biological resources and to promote livelihoods of the local people from where the biological resources are accessed.

- (c) The interest earned on the benefit sharing amount deposited in the national/state biodiversity fund will remain with the NBA/SBB, as the case may be, and shall be utilized in a manner as decided by the competent authorities in the NBA/SBBs.

(2) Where approval has been granted by State Biodiversity Board under these regulations. —

- (a) The sharing of accrued benefits shall be as under. —

The SBB may retain a share, not exceeding 5% of the benefits accrued towards their administrative charges and the remaining share shall be passed on to the BMC concerned or to benefit claimers, where identified:

Provided that where any individual or group of individuals or organizations cannot be identified, such funds shall be used to support conservation and sustainable use of biological resources and to promote livelihoods of the local people from where the biological resources are accessed.

11. Processing of applications received by NBA/SBB(s). —

- (1). Every application shall be complete in all respects, including all the enclosures referred thereto.
- (2). Incomplete applications devoid of any relevant information specifically sought, including ambiguous replies, incomplete disclosure, absence of proof, etc., shall be returned to the applicants.
- (3). The time limit specified for processing the applications shall commence only when the application complete in all respects including fee prescribed is received.
- (4). Any information specified in the application as confidential shall not be disclosed to any person not concerned thereto.
- (5). While processing the application for access to any biological resource (including plants and/ or animals and/or their parts or genetic material or derivatives), the NBA/SBB(s) may consider the following factors, namely: --

Whether the biological resource is -

- (a). cultivated or domesticated or wild;
 - (b). rare or endemic or endangered or threatened species;
 - (c). accessed directly through the primary collectors living in natural habitat or obtained through intermediaries like traders;
 - (d). developed or maintained under ex-situ conditions;
 - (e). of high value/ importance to livelihoods of local communities;
 - (f). restricted under the Act or any other law for time being in force;
 - (g). exempted under section 40 of the Act;
 - (h). included in crops listed under Annex I to the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), to which India is a contracting party;
 - (i). Included in the Appendices of the Convention on International Trade on Endangered Species (CITES).
- (6). The NBA/SBB(s) while taking any decision on the application relating to the use of biological resources and/or knowledge associated thereto may consult the BMCs within whose jurisdiction the biological resources and/ or the knowledge occur.
 - (7). The NBA/SBB(s) may restrict or prohibit the request for access to biological resources for the reasons specified under respective Rules.
 - (8). On receipt of application, the NBA/SBB(s) may make enquiries, as deemed fit, and if necessary, may consult experts or expert committee constituted for this purpose.

- (9). The NBA/SBB(s) may upon such enquiry and/or consultation referred to in sub-regulation (8), by order, grant approval or reject the application.

Provided that where the NBA/SBB(s) has rejected an application, the reasons for such rejections shall be recorded in writing after giving an opportunity of being heard to the applicant.

- (10). Approval granted by the NBA/SBB(s) shall be duly signed by an authorized officer of the NBA/SBB, as applicable:

Provided that the NBA may grant approval, upon due submission of declaration by the users of biological resources (researcher and recipient/guide who is a non-Indian) for the purposes of conducting non-commercial research or research for emergency purposes outside India by Indian researchers/Government institutions under regulation 7.

- (11). Based on any complaint or *suo moto*, the NBA/SBB(s) may withdraw the approval granted for access and revoke the written agreement on the grounds specified under the respective Rules.

Provided that a copy of the order of such revocation shall be issued to the concerned State Biodiversity Board and the Biodiversity Management Committee(s) for the purposes of prohibition of access.

- (12). Where the applicant for withdrawal of his application has made a request or the applicant fails to respond to queries of the NBA/SBB(s) within the stipulated time, the NBA shall close the applications or initiate action under these regulations as it deems appropriate:

Provided that if the applicant wishes to revive the application, he shall make a fresh application with the requisite fee.

Note:

1. All the applications shall be filed only through online portal at <http://absefiling.nic.in>
2. Application forms for access to biological resources and/or associated knowledge, guidelines for filling them and form of agreements, are available in the NBA website: www.nbaindia.org.

12. Certain activities or persons exempted from approval of NBA or SBB. –

The following activities or persons shall not require approval of the NBA or SBB, namely:-

- (a). citizens or entities other than falling under section 3(2) of the Act for accessing biological resources and/or associated knowledge, occurring in or obtained from India, for the purposes of research or bio-survey and bio-utilization for research in India;

(b). collaborative research projects, involving the transfer or exchange of biological resources or related information outside India, if such collaborative research projects have been approved by the concerned Ministry or Department of the State or Central Government and conform to the policy guidelines issued by the Central Government for such collaborative research projects;

(c). local people and communities of the area, including growers and cultivators of biological resources, and *vaid*s and *hakims*, practicing indigenous medicines, except for obtaining intellectual property rights;

(d). accessing biological resources for conventional breeding or traditional practices in use in any agriculture, horticulture, poultry, dairy farming, animal husbandry or beekeeping, in India;

Explanatory note: The conventional breeding and traditional practices for the purposes of these regulations shall be developing more genetic variability or improvement of animal and plant species by facilitating meiotic combination of genes expressing themselves in the subsequent generations that are practiced in agriculture, aquaculture, horticulture, sericulture, poultry, dairy farming, animal husbandry or bee keeping and animal husbandry, etc., by the growers/cultivators/farmers/individuals based on their traditional knowledge passed on to them from their previous generations. However, when practiced for scaling up with a commercial intent will not be considered as conventional breeding and traditional practices.

(e). publication of research papers or dissemination of knowledge, in any seminar or workshop, if such publication is in conformity with the guidelines issued by the Central Government from time to time;

(f). accessing products, which contain portions or extracts of plants and animals in unrecognizable and physically inseparable form;

Explanatory note: When such products are used as raw material (input/ingredient) for the development/manufacturing of another product then this exemption is not applicable.

Illustration 1: A company engaged in the manufacturing cosmetic products using biological resources.

A product is being sold in the market under a brand name, say, 'A' comprising 10 biological resources for improving digestion. However, if powder/extract of one or more biological resources used in product 'A' and other biological resources purchased from the market are both used as raw materials/ingredients in manufacturing of a cosmetic product and sold under the brand name, say 'y', the exemption will not be applicable to product 'Y'.

Illustration 2: A company 'x' engaged in the manufacturing of herbal products using biological resources.

A product is being sold in the market under a brand name, say, "BB" comprising 27 herbs for improving immunity. If the said product is bought from the market by another company named 'Y' for conducting research and development activities for innovating a

new product/formulation, the company 'Y' has to take approval from NBA/SBB, as the case may be.

(g) items listed below are exempted under section 40 of the Act as normally traded as commodities.

1. Timber/bamboo/cane and products derived out of these through forestry / plantations, etc., except species such as sandal, red sanders, agar wood and rose wood.
2. Finfish, shellfish and products derived out of these.
3. Poultry, livestock and products derived out of these.
4. Items/products derived from cultivated biological resources (agriculture, horticulture, apiculture) except those notified under the Geographical Indication Act, 1999.
5. Items/products derived from cultivated medicinal plants/trees.

Explanatory note:

1. *The above regulation is to facilitate trade of items including biological resources which are normally traded as commodities. However, if any of these items is intended to be used for research, bio-survey and bio-utilization for research and for obtaining IPR, the relevant provisions of the aforesaid Act shall apply.*
2. *The above exemption shall not apply to the folk varieties, land races and wild relatives of cultivated species (biological resources).*
3. *NBA/SBBs may restrict or prohibit access or collection of any biological resource or a product derived from it based on a reasoned order by the competent authority. In other words, it may not be treated as NTAC for a particular period.*

(h) in the event of accessing biological resources such as pests, insects, pathogens, microorganisms, plants or animals for testing/trial on any invention (for example a new seed variety) and product (for example a pesticide) for statutory regulatory requirements. However, this exemption will not be applicable if such biological resource is a part of their invention or claim or ingredients in their product.

(i) comparative trials accessing seeds from the market for evaluating the hybrids or varieties developed.

13. NBA to act as checkpoint for the purposes of Nagoya Protocol. -

Any person who intends to apply for IPR in India for an invention based on research on a biological/genetic resource obtained from a Party to the Nagoya Protocol, shall apply to NBA in Form-'C' for obtaining a 'no objection certificate', along with the proof of source of origin of the said resource including establishment of mutually agreed terms/internationally recognized certificate of compliance/obtaining of prior informed consent. However, from non-parties to Nagoya Protocol

only proof of source of origin of the bio-resource and/or any other relevant document, is required to be declared.

Form A
(See regulation 7)

Conducting of non-commercial research or research for emergency purposes outside India
by Indian researchers/institutions using biological resources

1	Name of the Applicant (Indian researcher/ government institution)	
2	Complete address *	
	a. Permanent	
	b. Present	
3	Name and address of institution in India	
4	Name of the supervisor or head of institution at the place of work in India	
5	Name and contact details of the institution or organization who shall guide the proposed research/receiving the biological resources.	
6	Details of the supervisor or head of the institution or organization who guides the proposed research or recipient of the biological resources	
7	Name of the funding agency supporting the proposed research	
8	Brief description of the research	
9	Details of biological resources proposed to be carried along or sent for the research	
	i. Name of the biological resource (scientific/ common name)	
	ii. Location of collection (village/ taluk/ dist./ state)	
	iii. Quantity required	
	iv. Duration of the research	
10	If it is for emergency purpose, specify details	

* Attach self-attested address/ID proof such as Aadhaar card/PAN card/passport, etc.

Undertaking

I, son/daughter/wife/husband of _____ aged _____ residing at _____ in _____ holding a permanent. I.D.No _____ (PAN card/ Aadhaar card/ passport, etc.) hereby declare that all the information provided above is correct and true. I hereby affirm that the biological resources shall be used only for the purposes as stated in the application. I shall not share/ provide/ part/ leave behind any biological resource at my collaborator's facility/ laboratory without approval of the NBA. I, along with my supervisor and collaborator, individually and severally declare that we shall not put to commercial utilization, nor shall seek any IPR claim on the biological resources and associated traditional knowledge used in this research/ collaboration. In case such a situation arises we shall apply to National Biodiversity Authority to seek prior approval. Results, process (es), products or other outcomes arising out of this activity shall be shared with the NBA during and/ or upon completion of research intended along with the copy of relevant documents and publications.

Signature:.....

Date:

Place:.....

Declaration by the Supervisor/ Head of Institution

I, _____ working as _____ in _____ (Name of institution) confirm that the details provided by Mr/Dr/Mrs/Ms. _____ are true and correct.

Date:

Place:.....

Signature:.....

Designation:.....

Official Seal:

Declaration by the Recipient / Collaborator

I, _____ working as _____ in _____ (Name of Institution / Organization) hereby affirm that I or my institution / organization shall use the biological resources for the purposes as stated in the application and which were sent by..... (Name of the institution) or being brought by Mr./Dr./Mrs./Ms..... The said biological resources shall be destroyed in full after the completion of the studies/ partnership or upon completion of the studies the biological resources shall be sent back to the institution from where the biological resources were received as the case may be or as decided by the NBA. I or the institution I am associated with shall not claim any ownership under instant application nor shall claim any IP Rights over the biological resources, derivatives or other such components without prior approval of the applicant, institution affiliated and the National Biodiversity Authority.

.....Signature:

.....Designation.

.....Official Seal

Form - B

(See regulation 8)

Deposition of micro-organism by an Indian scientist/researcher in non-Indian repository for claim of discovery of novel species from India

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 microorganism	

Declaration

Ian Indian scientist/ researcher, declare that I have read and understood the terms and conditions for depositing the microorganism in recognized repositories outside India for claim of discovery of novel species from India.

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

Place:

Date:

Signature of the Depositor

Note:

1. **For the applicant:** A copy of this shall be sent to the designated repositories mentioned at serial number 5 and 7.
2. **For the repository:** The repository concerned shall inform the user that he/she has to obtain prior approval before undertaking any research, bio-survey and bio-utilization, commercial utilization as per section 3 of the Biological Diversity Act, 2002 of India.

Form C

(See regulation 13)

Seeking no objection for obtaining IPR in India on the invention(s) based on use of biological/genetic resource accessed from outside India

S.no	Particulars	
1	Name of the applicant	
2	Complete address including e-mail ID, mobile number	
	a) Permanent	
	b) Present	
3	Whether applicant falls under section 3(2) of the Act or section 7 of the Act	
4	Patent application number: Priority patent number or PCT	
5	Indian patent application number	
6	Details of biological/genetic resource(s) used	
	a) Scientific and common name of the biological/genetic resource(s)	
	b) Country from which biological/genetic resource(s) was accessed	
	c) Whether the country from which the biological/genetic resources were accessed is a Party to Nagoya Protocol or not	Yes/No (Please tick whichever is applicable)
7	Proof/evidence on compliance of the measures established under Nagoya Protocol in the respective country from where the biological/genetic resource accessed (like PIC and/or MAT or IRCC)	
8	Proof of source of origin of biological resource is to be declared if the country is a non-party to Nagoya Protocol (refer 6c above)	

I hereby declare and solemnly affirm that the information provided above is true and correct to the best of my knowledge.

Place:

Date:

Signature of the Applicant

(See regulations 1 and 2)

List of biological resources having high conservation /economic value

S.No	Botanical Name
1	<i>Aconitum ferox</i>
2	<i>Aconitum heterophyllum</i>
3	<i>Aquilaria malaccensis</i>
4	<i>Berberis aristata</i>
5	<i>Bergenia ciliata</i>
6	<i>Boswellia serrata</i>
7	<i>Buchanania lanzan</i>
8	<i>Celastrus paniculatus</i>
9	<i>Chlorophytum tuberosum</i>
10	<i>Cinnamomum sulphuratum</i>
11	<i>Cinnamomum tamala</i>
12	<i>Commiphora wightii</i>
13	<i>Cosciniium fenestratum</i>
14	<i>Decalepis hamiltonii</i>
15	<i>Embelia ribes</i> Burm
16	<i>Embelia tsjeriam-cottam</i>
17	<i>Ephedra gerardiana</i>
18	<i>Garcinia indica</i>
19	<i>Glorioso superba</i>
20	<i>Gymnema sylvestre</i>
21	<i>Holostemma ada-kodien</i>
22	<i>Jurinea dolomiaea</i>
23	<i>Litsea glutinosa</i>
24	<i>Mesua ferrea</i>
25	<i>Nardostachys grandiflora</i>
26	<i>Nilgirianthus ciliatus</i>
27	<i>Operculina turpethum</i>
28	<i>Oroxylum indicum</i>
29	<i>Picrorhiza kurrooa</i>
30	<i>Pseudarthria viscida</i>
31	<i>Pterocarpus marsupium</i>
32	<i>Pterocarpus santalinus</i>
33	<i>Rauwolfia serpentina</i>
34	<i>Rheum emodi</i>

35	<i>Rheum moorcroftianum</i>
36	<i>Rhododendron anthopogon</i>
37	<i>Rubia cordifolia</i>
38	<i>Santalum album</i>
39	<i>Saraca asoca</i>
40	<i>Saussurea costus</i>
41	<i>Schrebera swietenoides</i>
42	<i>Smilax glabra</i>
43	<i>Sterculia urens</i>
44	<i>Swertia chirayita</i>
45	<i>Symplocos racemosa</i>
46	<i>Taxus wallichiana</i>
47	<i>Valeriano hardwickii</i>
48	<i>Valeriana jatamansi</i>
49	<i>Vateria indica</i>

Source: Goraya, G.S. and Ved, D.K. (2017) *Medicinal Plants in India: An Assessment of their Demand and Supply*. NMBP, Ministry of AYUSH, GOI, New Delhi and ICFRE, Dehradun.

* The above list of biological resources is a dynamic one as any biological resource may be deleted or new one may be added in the larger interest of conservation and sustainable utilization of biological resources having high conservation/economic value.

Fair and equitable benefit sharing options

The following options, either one or more, may be applied in accordance with mutually agreed terms between the applicant and the NBA, on a case by case basis, in accordance with the provisions of sub-rule (3) of rule 20 of the Biological Diversity Rules, 2004. These options are indicative in nature and other options, as approved by the NBA in consultation with the Central Government, may also be adopted:

(a) Monetary benefits options:

- (i) Up-front payment;
- (ii) One-time payment;
- (iii) Milestone payments;
- (iv) Share of the royalties and benefits accrued;
- (v) Share of the license fees;
- (vi) Contribution to National, State or Local Biodiversity Funds;
- (vii) Funding for research and development in India;
- (viii) Joint ventures with Indian institutions and companies;
- (ix) Joint ownership of relevant intellectual property rights.

(b) Non-monetary benefits options:

- (i) Providing institutional capacity building, including training on sustainable use practices, creating infrastructure (including disposal of waste/composting for a clean environment, providing safe drinking water/solar powered lights) and undertaking development of work related to conservation and sustainable use of biological resources;
- (ii) Transfer of technology or sharing of research and development results with Indian institutions/individuals/entities; providing green technologies to the local people/communities;
- (iii) Strengthening of capacities for developing technologies and transfer of technology to India and/or collaborative research and development programmes with Indian institutions/individuals/entities;
- (iv) Contribution/collaboration related to education and training in India on conservation and sustainable use of biological resources;

- (v) Setting up of production, research, and development units/facilities contributing to the local economy and income generation for the local communities;
- (vi) Measures for conservation and protection of species including rare, endangered and threatened species by raising nurseries and/or plantations in the area from where biological resources have been accessed.
- (vii) Instituting studies/projects on inventorization and resource assessment of biodiversity
- (viii) Sharing of scientific information relevant to conservation and sustainable use of biological diversity including biological inventories and taxonomic studies;
- (ix) Conducting research directed towards priority needs in India including food, health and livelihood security focusing on biological resources;
- (x) Providing scholarships, bursaries and financial aid to Indian institutions/ individuals preferably to regions, tribes/sects contributing to the delivery of biological resources and subsequent profitability if any;
- (xi) Setting up of venture capital fund for aiding the cause of benefit claimers;
- (xii) Salaries and preferential terms where mutually agreed.