



COMPLIANCE OF NATIONAL BIODIVERSITY ACT, 2002 AND NATIONAL BIODIVERSITY RULES, 2004 AT TERI UNIVERSITY.

As per the University Grants Commission , Ministry of Human Resource Development , Govt. of India vide its letter no D.O. No. 14-6/2015 (CPP-II) dated 4th March 2015 all researchers/scientists/ teaching departments have to ensure strict adherence to the provisions of the National Biodiversity Act, 2002 and the National Biodiversity Rules, 2004.

The Act covers conservation, use of biological resources and associated knowledge occurring in India for commercial or research purposes or for the purposes of bio-survey and bio-utilization. It provides a framework for access to biological resources and sharing the benefits arising out of such access and use. The Act also includes in its ambit the transfer of research results and application for intellectual property rights (IPRs) relating to Indian biological resources.

The Act covers foreigners, non-resident Indians, body corporate, association or organization that is either not incorporated in India or incorporated in India with non-Indian participation in its share capital or management. These individuals or entities require the approval of the National Biodiversity Authority when they use biological resources and associated knowledge occurring in India for commercial or research purposes or for the purposes of bio-survey or bio-utilization

The Act, therefore, aims at conservation and sustainable use of biological resources and fair and equitable sharing of benefits arising out of the use of these biological resources and associated knowledge. A citizen of India or a body corporate, association or organization which is registered in India, can obtain biological resource for commercial utilization, or bio-survey and bio-utilization for commercial utilization only after giving prior intimation to the State Biodiversity Board

Chapter 1 provides with important definitions viz., biodiversity, biological resources, Bio survey, bio utilization, Research ,Sustainable Use and Regulations.

TU researchers need to comply with the BD Act while undertaking any research related to biological diversity in India as of the activities related to biological resources need prior approval of the National Biodiversity Authority or the State biodiversity Boards as desired by the provisions in the Act and Rules.

Some of the important notifications under the rules pertain to :

A. Conservation and Sustainable Use

A.1 Designation of Repositories under the Biological Diversity Act, 2002. Eg. Botanical and Zoological Surveys of India, National Plant, Animal, Fish, Trees, Agriculturally important microorganisms etc.

A.2 Officers authorized to file complaints under Section 61(a) of the BD Act, 2002:

Sl. No.	Officers authorised to file complaints under Section 61(a) of the Biological Diversity Act, 2002	Area of Jurisdiction
(1)	(2)	(3)
1.	Officers of the National Biodiversity Authority, not below the rank of Scientist 'C'	Whole of India
2.	Officers of the State Biodiversity Boards, not below the rank of Scientist 'C'	Whole of the concerned State
3.	Officers of the Regional Offices of the Ministry of Environment and Forests, Government of India, not below the rank of Scientist 'C'.	Whole of the States under the jurisdiction of the respective Regional Offices.

A.3 Species of Plants and animals which are on the verge of extinction in different states of India and as declared under BD Act and other related Acts:.

B. Access and Benefit Sharing.

1. Guidelines for International Collaboration Research Projects involving Transfer or exchange of Biological Resources or information relating thereto between institutions including Government sponsored Institutions and such institutions in other countries.
2. Guidelines on Access to Biological Resources and Associated Knowledge and Benefits Sharing Regulations, 2014.
3. Exemption of Crops listed in the Annex I of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) from seeking approval of NBA under Section 3 and 4 of the Biological Diversity Act, 2002.
4. Tables 1 and 2 provide guidance on nature of agreements and arrangements to be made in case the project involves ABS.

In addition to the aforesaid, TERI researchers must refer to the Act wrt to the following for compliance::

C. Collaborative research with Indian partners

D. Collaborative research with foreign partners

E. Filing IPRs / patents based on research in India and abroad

Chapters 1 – XI of the Act must be looked at, in particular Chapter IV and V which deals with functions and powers of the National Biodiversity Authority.

The important provisions of National Guidelines on Access and Benefit Sharing, 2014 are mentioned in Tables 1 and 2. The researchers must refer the original and updated guidelines from official website of National Biodiversity Authority.

Table 1 – Provisions under ABS Guidelines, 2014 as per BD Act, 2002 for access

	Purpose of Access	Procedure	Agreement	Benefit sharing arrangements
1	Research / bio-survey and bio-utilisation for research (NRIs, Foreign entities)	Application to NBA using Form I	With NBA	As per agreement and may include upfront payment for high economic value resources
2	Commercial utilization or for bio-survey for commercial utilization (Indian)	Application to NBA, SBB using Form I	With NBA or SBB as applicable	1) If agreement is not done before purchase then 1% to 3% of purchase price for trader and for manufacturer 3% to 5% of purchase price. 2) If agreement is made then not less than 3% of purchase price for trader and not less than 5% for manufacturer 3) For high value resources upfront payment of 5% on auction price / sale price
3	Commercial utilization			0.1% to 0.5% of annual gross ex-factory sale ranging from Rs 1 Cr to more than Rs 3 Cr

Table 2 - Provisions under ABS Guidelines, 2014 as per BD Act, 2002 for various purposes

	Purpose	Procedure	Benefit sharing arrangements	Obligations
1	Transfer of research result (NRIs, Foreign entities)	1) Application to NBA through Form II 2) Provide evidence of approval from NBA	1) As per agreement 2) Payment to NBA 3% to 5% of the monetary benefits received	Complete disclosure of information on potential commercial value
2	Obtaining IPR for resource obtained from India	1) Application to NBA through Form III 2) NRIs, Foreign entities need to provide evidence of access	1) As per agreement 2) Payment to NBA 0.2% to 1% of the monetary benefits received, if applicant is commercializing 3) In case of third party, 3% to 5% of fee received and 2% to 5% of royalty amount	1) Prior intimation by Indian person to SBB as per the form and comply with any terms and conditions 2) If Foreign entity/ies, then need to apply to NBA with Form I

3	Third party transfer for research or commercial utilization	Application to NBA under Form IV	1) As per agreement 2) Payment to NBA 2% to 5% of the monetary benefits / royalty received 3) Upfront payment in case of high economic value resource	
4	Non-commercial research / emergency research outside India by Indian entity	Application to NBA using Form B of Guidelines		Deposit copy of voucher specimens in the designated national repositories. And provide proof of such deposits to NBA

The Act, Rules and guidelines in details are available at www.nbaindia.org



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