

**Regional Meeting on Conservation, Use and Exchange of Crop
Genetic Resources: Promoting Regional cooperation for a
Food-Secure, Climate-Resilient South Asia**

ABS under the CBD and the Nagoya Protocol: Implications and Scope for Regional Cooperation: The Case of India

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Biodiversity in India 1

- India, a megadiverse country with only 2.4% of the land area, and 4% of water accounts for about 8% of the recorded species of the world.
- In India 45,968 species of plants and 91,364 species of animals have been documented so far.
- India's ten biogeographic zones possess an exemplary diversity of ecological habitats like
 - Alpine Forests
 - Grasslands
 - Wetlands
 - Coastal And Marine
 - Ecosystems
 - Desert Ecosystems

Biodiversity in India 2

- Four out of 34 global biodiversity hotspots, which is an indicator of high degree of endemism of species in India.
- About 5150 plant and 1837 animal species are endemic.
- India is one of the eight primary centres of origin of cultivated plants and also a centre of crop diversity with about 375 wild relatives in rice, pulses, millets etc.
- It has 16 major types and 251 subtypes of forests.

INDIAN EXPERIENCE WITH BIODIVERSITY PROTECTION AND ABS

Introduction

- India signed the **Convention on Biological Diversity on 5 June 1992** and ratified it on **18 February 1994**
- Signed Cartagena Protocol on 23 Jan 2001 and ratified the same on 11 Sep 2003
- Signed **Nagoya Protocol on 11 May 2011** and **ratified the same on 9 Oct 2012**
- The **Biological Diversity Act (BDA), 2002** was enacted on 5 Feb 2003 and the follow-up Rules on **15 April 2004**

Institutional Structure for Implementing the BDA

- A three tiered statutory and autonomous structure to implement the law
 - National Biodiversity Authority (NBA)
 - Established by the Central Government
 - State Biodiversity Boards (SBBs)
 - Established by the State Governments
 - Biodiversity Management Committees (BMCs)
 - Established by the local bodies

ABS Functions of NBA

- Issues guidelines for access to biological resources
- Determines fair and equitable benefit sharing
- Advises the Government on issues relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of benefits arising out of the utilization of biological resources

ABS Functions of SBBs

- Regulates commercial utilization or bio-survey and bio-utilization of any biological resource by Indians and can prohibit or restrict, in consultation with the local bodies concerned, any activity, which is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or **equitable sharing of benefits** arising out of such activity
- Advises state governments on matters relating to the conservation of biodiversity, sustainable use of its components and **equitable sharing of the benefits arising out of the utilisation of biological resources.**

ABS Functions of BMCs

- Promotes conservation, sustainable use and documentation of biodiversity
- Prepares **People's Biodiversity Register (PBR)** in consultation with local people
 - Comprehensive information on availability and knowledge of local biological resources, their medicinal or any other use or any other traditional knowledge associated with them
- Can 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
- About **35,000 BMCs** have been set up

ACCESS REGIME

Approval of NBA Required for ...

- **Accession and use of any biological resources TK** by foreign individuals and firms
- **Transfer to foreigners and foreign firms research results** relating to any biological resources in India
- **Application for any IPR anywhere** for any invention based on any research or information on a biological resource obtained from India
- NBA **can impose benefit sharing fee or royalty** or both or impose conditions including the sharing of financial benefits arising out of the commercial utilization of such rights

Exemptions

- **Collaborative research projects** involving transfer or exchange of biological resources or related information between institutions, including Government sponsored institutions of India, and such institutions in other countries, provided such projects
 - Conform to the policy guidelines issued by the Central Government in this regard
 - Are approved by the Central Government
- For access and utilisation **by local people** and local communities
- Application for rights under the Plant Varieties Protection law
- Biological resources **normally traded as commodities.**

BENEFIT SHARING

Criteria for Benefit Sharing

- The formula for benefit sharing is determined on a case-by case basis
- Quantum of benefits is mutually agreed upon between accessors the NBA in consultation with the local bodies and benefit claimers, keeping in view
 - The extent of use
 - The sustainability aspect
 - Impact and expected outcome levels, including measures ensuring conservation and sustainable use of biological diversity

Monetary and Non-monetary Benefits

- Grant of **joint ownership of IPRs** to the NBA, or where benefit claimers are identified, to such benefit claimers
- **Transfer of technology**
- **Location of production, research and development units** in such areas, which will facilitates better living standards to the benefit claimers
- **Association of Indian scientists, benefit claimers and the local people** with research and development in biological resources and bio-survey and bio-utilization
- Setting up of **venture capital fund** for assisting the benefit claimers
- Payment of appropriate **monetary compensation** and non-monetary benefits to the benefit claimers

Performance

Applications	Number
Received	1058
Cleared	692
MATs signed	187
Closed	137
PBRs documented	1863

CHALLENGES IN EFFECTIVE IMPLEMENTATION OF ABS

Identifying the Beneficiaries and Reaching the Benefits

- Given the wide spread availability of GRs, it is a significant challenge for the NBA **to identify the potential beneficiaries** thereby causing undue delays in the processing ABS applications
- **Monetary benefits have not yet started reaching local communities**
 - Even the paltry monetary benefits accruing from commercial use of biological resources have not reached the local communities who are the preservers and conservers of biological resources and associated TK
- Availability of BRs through intermediaries and local markets makes it difficult **to identify the source of the resources**

Monitoring Accessions by Non-Residents

- Difficulties in monitoring biological resources accessed by non-residents, including foreign firms
 - Biological resources accessed under an ABS agreement may involve transfers of resources to third parties that are part of a value chain. Tracking and monitoring such transfers have been posing a major challenge to the NBA.

INDIA AND NAGOYA PROTOCOL

India and Nagoya Protocol

- Government stand: No change in the Act required.
- Streamlining of **guidelines** and clarifications in the **Rules** can ensure effective implementation of the NP obligations
 - Already in the process

Nagoya Protocol Requirements and India 1

- **PIC:** Clear procedures exist for securing PIC
- **Focal Points:** NBA and SBBs
- **Internationally Recognised Certificates:**
Access certificates are issued by NBA after following due procedure and contain detailed terms and conditions
- **Involvement of Communities:** Through local bodies and BMCs

Nagoya Protocol Requirements and India 2

- **Non-commercial research and check points:** Matter of procedure; effective check points to be developed
- **User country measures:** Negotiate with other countries; Patents Act provides for certificate of access from authority concerned
- **ABS and Communities:** Law provides but practical measures to be developed to ensure that benefits reach communities concerned

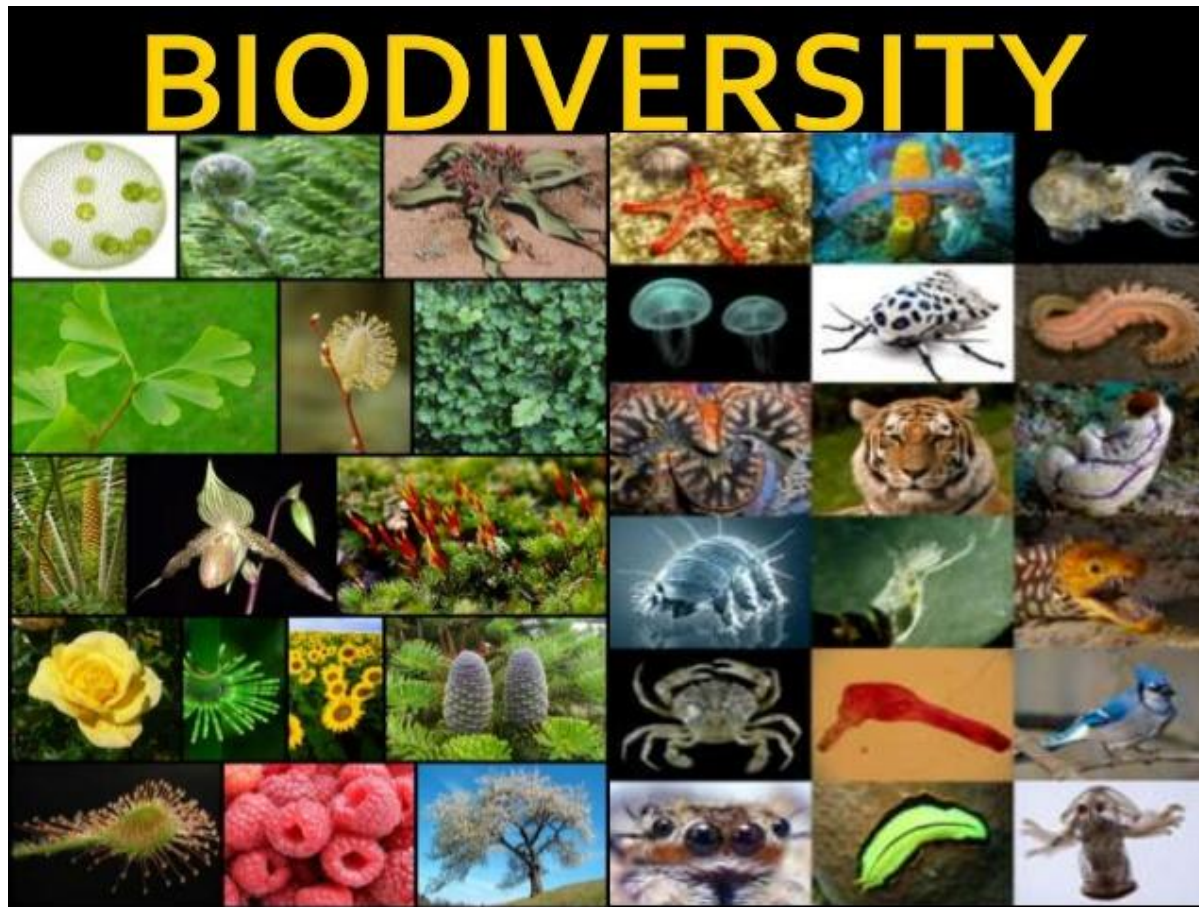
Regional Co-operation

- Common Bio-Diversity
 - Mountain, Terrestrial, Marine
- Impact on Environment and ecosystem affects all
- Need to have a common approach with a view to ensuring sustainable access and fair and equitable benefit sharing from such access and exploitation for the communities
- Provider and User country measures to be common in GRs
- Exchange of experiences
 - Sharing of knowledge, information and capacity building programmes

Biodiversity is Life

Biodiversity is our life

If you want to walk fast, walk alone
If you want to walk far, walk together



Thanks