

Biological Diversity Act, 2002

3 purposes

✓ Comprehensive conservation of Biodiversity

✓ Access & Benefit Sharing

✓ Meet the CBD requirements

1. Introduction

- The Biological Diversity Act, 2002 was formulated to **meet the obligations under the United Nations Convention on Biological Diversity (CBD)**.
- India became a party to the convention on February 18, 1994.
- The Act was passed by the Parliament of India in December 2002.

2. What is the Biological Diversity Act, 2002?

- It was enacted by the Parliament for the **preservation of biological diversity** in India.
- It provides a mechanism for equitable sharing of benefits arising out of the use of traditional biological resources and knowledge.

3. Objectives of the Biological Diversity Act, 2002

→ same as Objectives of CBD

- The objectives of the Act are 'to provide for
 - (1) conservation of biological diversity,
 - (2) sustainable use of its components and
 - (3) equitable sharing of the benefits arising out of the use of biological resources and for matters connected therewith or incidental thereto'.

4. Main Provisions of the Biological Diversity Act, 2002

- To ⁽¹⁾ conserve and sustainable use of biological diversity.
- A three tiered structure at the national, state and local level is envisaged in the Act, i.e., setting up of ^{2A} National Biodiversity Authority (NBA), ^{2B} State Biodiversity Board (SBB) and ^{2C} Biodiversity Management Committees (BMCs).

→ for conservation & management
- ³ NBA and SBB are required to consult BMCs in decisions relating to bioresource /related knowledge within their Jurisdiction.
- To respect and ⁴ protect knowledge of local communities traditional knowledge related to biodiversity.

NBA

- 2003
- Chennai
- makes work-plan, oversees implementation
- coordinates with SBBs
- Oversees the plans and activities of SBBs
- Gives permission for Bioprospecting for foreign applicants.

SBP

- Present in all States
- Make working plan, oversee project implementation
- Oversight of BMC
- Approval of Bioprospecting requests from Indian parties

BMC

- ✓ Dist. level
- ✓ Each dist.
- ✓ Local [★] implementation of projects
- ✓ Representation from every Panchayat
- ✓ Preparing People's Biodiversity Register

- To secure sharing of benefits with local people as conservers of biological resources and holders of knowledge and information relating to the use of biological resources.
- All foreign nationals / organisations require **prior approval of NBA for obtaining biological resources** and / or associated knowledge for use.
- Indian scientists / individuals require } *NBA section.*
✓ approval of NBA for transferring results of research to foreign nationals / organisations.
- Conservation and development of areas of importance from the standpoint of biological diversity by declaring them as **biological diversity heritage sites.**
- Protection and rehabilitation of threatened species.
- Involvement of institutions of State Government in the broad scheme of the implementation of the Biological Diversity Act through the constitution of committees.
- Protect India's rich biodiversity and associated knowledge against their use by foreign individuals and organisations without sharing benefits arising out of such use and
- check Biopiracy.

- Indian Industry needs prior intimation to SBB to obtain bioresource. SBB has the right to restrict if found to violate conservation and sustainable use and benefit sharing.
- Provisions for notifying heritage sites by the State Government in consultation with the local body.
- Creation of National, State and Local Biodiversity Fund and its use for conservation of biodiversity.
- Prior approval is needed from NBA for IPRs (Intellectual Property Rights) in any invention in India or outside India on bio-resources.

5. **Exemptions** provided in the **Biological Diversity Act, 2002**

- Exemption to local people and community of the area for free access to use biological resources within India.
- Exemption to growers and cultivators of biodiversity and to Vaids and Hakims to use biological resources.
- ✓ Exemption through notification of normally traded commodities from the purview of the Act. *→ for the rest*

- ✓ Exemption for collaborative research through government sponsored or government approved institutions subject to overall policy guidelines and approval of the Central Government.

6. National Biodiversity Authority (NBA)

6.1. What is the National Biodiversity Authority?

- The NBA is a **Statutory, Autonomous Body** and it performs a **facilitative, regulatory and advisory function** for the Government of India on issues of conservation, sustainable use of biological resources and fair and equitable sharing of benefits arising out of the use of biological resources.
- All matters relating to requests for access by foreign individuals, institutions or companies, and all matters relating to transfer of results of research to any foreigner are dealt with by the National Biodiversity Authority.

6.2. Establishment and Headquarters

- NBA was **established in 2003** to implement the Biological Diversity Act, 2002, with its **headquarters in Chennai, Tamil Nadu.**

6.3. Members of NBA (Ref. only)

- **A Chairperson**, who shall be an eminent person having adequate knowledge on conservation and sustainable use of biological diversity.
- **Three ex-officio members**, one representing the Ministry dealing with Tribal Affairs and two representing the Ministry dealing with Environment and Forests.
- **Seven ex-officio members** to represent respectively the Ministries of the Central Government dealing with:
 - ✓○ Agricultural Research and Education
 - ✓○ Biotechnology
 - ✓○ Ocean Development
 - ✓○ Agriculture and Cooperation
 - ✓○ Indian Systems of Medicine and Homoeopathy
 - ✓○ Science and Technology
 - ✓○ Scientific and Industrial Research
- **Five non-official members** to be appointed from amongst specialists and scientists having special knowledge and experience in the required matters.

6.4. Functions and Powers of NBA (Ref. only)

- Regulate activities, approve and advise the Government of India on research, commercial, bio-survey and bio-utilization.
- Advises the State Government in the selection of areas that are of biological importance.
- Certain persons not to undertake biodiversity related activities without approval of the NBA.
- Results of research not to be transferred to certain persons without approval of the NBA.
- Application for IPR rights not to be made without approval of the NBA.
- Perform such other functions as may be necessary to carry out the provisions of this Act.

7. State Biodiversity Boards (SBBs) (Ref.)

7.1. What is the State Biodiversity Board (SBB)?

- The SBBs are established by the State Governments in **accordance with Section 22 of the Biological Diversity Act, 2002.**
- All matters relating to access by Indians for commercial purposes will be under the purview of the SBB.

- The Indian industry will be required to provide prior intimation to the concerned SBB about the use of biological resources.

7.2. Power and Functions (Ref.)

- SBBs focus on advice the State Governments, 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 utilisation of biological resources.
- SBBs also regulate by granting of approvals or otherwise upon requests for commercial utilisation or bio-survey and bio-utilization of any biological resource by the Indians.

8. Biodiversity Management Committees (BMCs) (Ref. only)

8.1. What are Biodiversity Management Committees?

- Institutions of local state government will be required to set up BMCs in their respective areas for conservation, sustainable use,

documentation of biodiversity and chronicling of knowledge relating to biodiversity.

8.2. Powers and Functions

- The main function of the BMC is **to prepare the People's Biodiversity Register** in consultation with local people.
- NBA and SBBs are required to consult the concerned BMCs on matters related to use of biological resources and associated knowledge within their jurisdiction.
- The Local Level Biodiversity Management committees (BMCs) are responsible for
 - ✓○ promoting conservation,
 - ✓○ sustainable use and documentation of biological diversity including preservation of habitats,
 - ✓○ conservation of land races, folk varieties and cultivators,
 - ✓○ domesticated stocks and breeds of animals and microorganisms besides chronicling of knowledge relating to biological diversity.

✓ People's Biodiversity Register (PBR)

- PBR is a programme in tune with the objectives of the Convention on Biological Diversity. → Done by BMC
- PBR is a record of knowledge, perceptions and priorities of local people about biodiversity, its utilisation and conservation.
- It could serve as an important role in promoting the conditions of the people who are depending on those resources and maintaining the flow of services from the biodiversity and its sustenance.
- ✓ • Each Gram panchayat in India should have the People's Biodiversity Register according to the Biological Diversity Act, 2002. ←

9. Biodiversity Heritage Sites (BHS)

→ Est. under B/d Act, 2002

9.1. What are Biological Diversity Heritage Sites?

- Biodiversity Heritage Sites (BHS) are areas that are unique, ecologically fragile ecosystems having rich biodiversity comprising of any one or more of the components such as;
 - 1 ○ species richness,
 - 2 ○ high endemism,

- presence of rare, endemic and threatened species,
- keystone species, (*essential for ecosystem stability*)
- species of evolutionary significance,
- wild ancestors of domestic/cultivated species or land races or their varieties, *etc.*
- past pre-eminence of biological components represented by fossil beds, and
- having cultural or aesthetic values.

9.2. Notification

- **As per Section 37** of the Biological Diversity Act, 2002, the State Governments are empowered to notify in the official gazette, in consultation with 'local bodies', areas of biodiversity importance as Biodiversity Heritage Sites.

✓ State Govt. (after consulting local body).

9.3. List of Biodiversity Heritage Sites (Revise)....

S. No.	Name of the Site	State	Name of the District
1	Nallur Tamarind Grove	Karnataka	Bengaluru
2	Hogrekan	Karnataka	Chikmagalur
3	University of Agricultural Sciences, GKV Campus	Karnataka	Bengaluru

4	Ambaraguda	Karnataka	Shimoga
5	Glory of Allapalli	Maharashtra	Gadchiroli
6	Tonglu BHS under the Darjeeling Forest Division	West Bengal	Darjeeling
7	Dhotrey BHS under the Darjeeling Forest Division	West Bengal	Darjeeling
8	Dialong Village	Manipur	Tamenglong
9	Ameenpur lake	Telangana	Sangareddy
10	Majuli	Assam	Majuli
11	Ghariyal Rehabilitation Centre	Uttar Pradesh	Lucknow
12	Chilkigarh Kanak Durga	West Bengal	Jhargram
13	Khlaw Kur Syiem Kmielng	Meghalaya	Ri-Bhoi
14	Mandasaru	Odisha	Kandhamal
15	Purvatali Rai	Goa	North Goa
16	Naro Hills	Madhya Pradesh	Satna
17	Patalkot	Madhya Pradesh	Chhindwara
18	Asramam	Kerala	Kollam
19	Bambarde Myristica Swamps	Maharashtra	Dodamarg

20	Ganeshkhind Garden	Maharashtra	Pune
21	Landorkhori	Maharashtra	Jalgaon
22	Schistura Hiranyakeshi	Maharashtra	Sindhudurg
23	Baneswar Shiva Dighi	West Bengal	Coochbehar-II
24	Sacred Grove at Sural Bhattori Monastery	Himachal Pradesh	Chamba
25	High Altitude Meadow	Himachal Pradesh	Chamba
26	Birch-pine Forest Patch	Himachal Pradesh	Lahaul & Spiti
27	Baramura waterfall	Tripura	Khowai
28	Unakoti	Tripura	Unakoti
29	Silachari Caves	Tripura	Gomati
30	Debbari or Chabimura	Tripura	Gomati
31	Betlingshib & its surroundings	Tripura	North District
32	Amarkantak	Madhya Pradesh	Anuppur
33	Hajong Tortoise Lake	Assam	Dima Hasao
34.	Borjuli Wild Rice Site	Assam	Sonitpur
35	Arittapatti Biodiversity Heritage Site	TamilNadu	Madurai

36.	Mahendragiri hill Biodiversity Heritage Site	Odisha	Gajapati
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Based on ENVIS, Data taken on 07.05.2023

10. Biological Diversity

(Amendment) Bill, 2021

10.1. Introduction

- The Bill amends the Biological Diversity Act, 2002 to simplify compliance requirements for domestic companies.
- It seeks to streamline research and patent applications, encourage cultivation of wild medicinal plants, and practice of indigenous medicine.

10.2. Objectives of the Biological Diversity (Amendment) Bill, 2021

- Reduce the pressure on wild medicinal plants by encouraging cultivation of medicinal plants.
- 3) • Encourage the Indian system of medicine.
- 4) • Facilitate fast-tracking of research, patent application process, transfer of research results while utilising the biological resources available in India without compromising the objectives of United Nations Convention on Biological Diversity and its Nagoya Protocol.

- 5) ✓ • Decriminalise certain provisions.
- 6) ✓ • Bring more foreign investments in the chain
of biological resources, including research,
patent and commercial utilisation, without
compromising the national interest.

10.3. Key amendments proposed by the Biological Diversity (Amendment) Bill, 2021

Proposed Changes	Biological Diversity Act, 2002	Changes made by the Biological Diversity (Amendment) Bill, 2021
Access to biological resources and Intellectual Property Rights (IPR)	<ul style="list-style-type: none"> • Certain entities must seek approval from the NBA for obtaining biological resources, and before applying for IPR. • These entities are: (i) non-citizens, (ii) non-resident citizens, (iii) organisations not registered in India, and (iv) 	<ul style="list-style-type: none"> • Amends the last category to any foreign-controlled company registered in India. • The Bill also provides that these four categories of applicants must obtain NBA's approval before the grant of IPR.

	<p>organisations registered in India, with any non-Indian shareholding or management.</p>	
Exemptions	<ul style="list-style-type: none"> Certain communities (local people and practitioners of indigenous medicine) are exempted from intimating the SBB before obtaining any biological resource for commercial utilisation. 	<ul style="list-style-type: none"> Extends the <u>exemption to registered AYUSH</u> (Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homeopathy) <u>practitioners, and cultivated medicinal plants</u> and their products.
Composition of National Biodiversity Authority	<ul style="list-style-type: none"> Provides for a 16-member National Biodiversity Authority. 	<ul style="list-style-type: none"> Provides for 11 additional members in the Authority. The Member-Secretary will be the chief coordinating officer of the NBA.

Threatened species	<ul style="list-style-type: none"> Empowers the central government to notify any species which is near-extinction as a threatened species, in consultation with the concerned state government. 	<ul style="list-style-type: none"> Allows the central government to delegate this power to the state government.
Biodiversity Management Committee (BMC)	<ul style="list-style-type: none"> Local bodies need to constitute a BMC for promoting conservation of habitats. 	<ul style="list-style-type: none"> State government will prescribe the composition of these BMCs. Constitute BMCs at the intermediate or district Panchayat level.
Offences	<ul style="list-style-type: none"> Cognizable and non-bailable. 	<ul style="list-style-type: none"> Deletes this provision.