

PARLIAMENT OF INDIA

RAJYA SABHA

DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE ON SCIENCE & TECHNOLOGY, ENVIRONMENT & FORESTS

NINETY - FIFTH REPORT ON THE BIOLOGICAL DIVERSITY BILL, 2000

(PRESENTED TO THE RAJYA SABHA ON THE 4TH DECEMBER, 2001)
(LAID IN THE LOK SABHA ON THE 4TH DECEMBER, 2001)

RAJYA SABHA SECRETARIAT
NEW DELHI

DECEMBER, 2001/AGRAHAYANA, 1923 (SAKA)

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COMPOSITION OF THE DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE ON SCIENCE AND TECHNOLOGY, ENVIRONMENT AND FORESTS (YEAR 2001)

1. Shri C. Ramachandraiah — *Chairman*

RAJYA SABHA

2. Shri Debabrata Biswas
- #3. Smt. S. Gokula Indira
4. Shri Yusuf Sarwar Khan *alias* Dilip Kumar

5. Shri K. C. Kondaiah
6. Smt. Chandresh Kumari
7. Shri Sukhdev Singh Libra
8. Shri Lalitbhai Mehta
9. Prof. (Smt.) Bharati Ray
10. Smt. Savita Sharda
11. Shri Birabhadra Singh
12. Shri Lachhman Singh
13. Shri B.P. Singhal
14. Shri Prakanta Warisa
15. Shri Ranjan Prasad Yadav

LOK SABHA

16. Shri Bhan Singh Bhaura
17. Shri Nihal Chand Chauhan
18. Shri Vishvendra Singh
19. Smt. Bhavana Chikhaliya
20. Dr. (Smt.) Beatrix D' Souza
21. Shri Laxman Giluwa
22. Shri Gordhanbhai Javiya
23. Shri Bali Ram Kashyap
24. Shri Hassan Khan
25. Dr. Charan Das Mahant
26. Shri S. Murugesan
27. Shri E.M. Sudarsana Natchiappan
28. Shri Ali Mohd. Naik
29. Shri A. Venkatesh Naik
30. Shri B.K. Parthasarathi
31. Shri Suresh Pasi

Nominated *w.e.f.* 14th August, 2001 *vice* Dr. D. Masthan ceased to be a Member of the Committee *w.e.f.* 25th July, 2001 on expiry of his term in Rajya Sabha.

32. Dr. Ashok Patel
33. Shri Prahlad Patel
34. Prof. R.R. Pramanik
35. Shri Naresh Puglia
36. Shri Y.S. Vivekananda Reddy
37. Prof. I.G. Sanadi
38. Shri Lakshman Seth
39. Shri Ram Prasad Singh
40. Shri V.S. Sivakumar
41. Shri Vaiko
42. Shri V. Vetriselvan
44. Dr. (Smt.) Rajeswaramma Vukkala
45. Shri Balram Singh Yadav
- *45. Shri Akhilesh Yadav

SECRETARIAT

Shri Satish Kumar, Additional Secretary
 Shri H. K. Chanana, Joint Secretary
 Shri Mom Raj Singh, Under Secretary
 Shri A. K. Gandhi, Committee Officer
 Shri Triloknath Mishra, Research Officer

* Nominated *w.e.f.* 12th September, 2001 *vice* Shri Ramsagar Rawat ceased to be a Member of the Committee *w.e.f.* 12th September, 2001.

INTRODUCTION

I, the Chairman of the Department-related Parliamentary Standing Committee on Science & Technology, Environment & Forests, having been authorised by the Committee to present the Report on its behalf, present this Ninety-Fifth Report of the Committee, which relates to the Biological Diversity Bill, 2000

2. In the meetings of the Committee held on the 18th July, 15th & 16th September, 17th & 18th October, 2000 and 10th, 11th, 30th & 31st January, 18th & 19th June, 10th, 11th, 12th, 13th & 14th September, 2001 the Secretaries / representatives of the Ministry and various other organizations / experts / individuals etc. having knowledge and expertise in the field tendered oral evidence on the various aspects related to the Biological Diversity Bill, 2000.
3. The Committee expresses its thanks to the Officers of the Ministries / Departments and representatives of the various organizations for rendering their valuable views / clarification sought by the Members of the Committee.
4. The Committee considered and adopted the draft Report at its meeting held on 28th November, 2001.

NEW DELHI:
November 28, 2001

C. RAMACHANDRAIAH
Chairman,
Parliamentary Standing Committee on
Science & Technology, Environment & Forests.

R E P O R T

1. The Chairman Rajya Sabha in pursuance of the rules relating to the Department-related Parliamentary Standing Committee referred*the Biological Diversity Bill, 2000**as introduced in the Lok Sabha on 15th May, 2000 and pending therein to the Standing Committee on Science & Technology Environment & Forests for examination and report.
2. At their first meeting held on 18th July, 2000, the Committee held general discussion on the various provisions of the Bill and referred to the importance and urgency of the task before the Committee. The Committee had also the benefit of presentation on the subject by the Secretary and other Officers of the Ministry of Environment & Forests on the Bill under reference and the need to bring the proposed legislation. The Committee observed that the Bill dealt with an important issue and required a thorough study. The Committee then considered its future course of action and decided that a press Communique might be issued in all the national dailies both in English and Hindi versions inviting therein memoranda on the subject matter of the Bill from the interested organizations/institutions/individuals having knowledge and expertise in the field or otherwise interested in the subject. The Committee also desired that the contents of the Press Communique be given wide publicity through All India Radio and Doordarshan. The Chairman also requested the Members to suggest the names of organisations, individuals, etc. from whom memoranda might be invited. Besides, the Committee directed the Secretariat to request the Ministry of Environment & Forests to forward to this Secretariat a list of Organizations/Experts/ Individuals in the field along with their complete addresses. The Committee also desired that they might undertake an on-the-spot study visit to various parts of the country to elicit the views of the representatives of various organisations, associations and general public on the subject matter of the Bill.

Accordingly, a press communiqué inviting memoranda etc. was issued on 18th August 2000.

As per decision taken by the Committee letters inviting Memoranda containing comments/suggestions on the provisions of the Bill were also issued to Organizations/Experts/ Individuals in the field whose names were furnished by the Ministry of Environment & Forests.

3. In all 35 Memoranda containing comments/suggestions on the various provisions of the Bill were received by the Committee from various associations/organizations and individuals etc. which were sent to the Ministry of Environment & Forests for their Comments/observations (Annexure-II).
4. Biodiversity or the variety of living organism is the foundation on which life on earth sustains itself. This variety among living

organisms extends to both variety within each species, between different species and ecosystems, which support them. Biodiversity is a fundamental necessity of nature to maintain the ecological balance on the planet. No single organism can exist on its own; each one depends on numerous others in myriad ways to sustain itself and its kind. This interdependence between organisms, often referred to as the web of life, is greatly endangered today as a result of our insensitive tampering with the nature's well-preserved checks and balances.

5. Scientists and conservationists all over the world agree that life on Earth faces enormous risks due to rapid and large-scale loss of bio-diversity, unprecedented in the history of humankind.

* Rajya Sabha Parliamentary Bulletin Part II dated the 28th June, 2000.

** Annexure-I

Moreover, diversity has an insurance value, for it widens the range of environmental conditions under which different species can perform key ecological and economic functions. India is endowed with a rich biodiversity, as the country is well spread out in a wide variety of climatic zones and habitats that range from tropical rainforests to alpine vegetation, and from temperate forests to coastal wetlands. Eastern Himalayas and Western Ghats are two of world's 18 biodiversity hotspots, where bulk of Earth's plants and animals are found. India is one of the twelve mega-biodiversity areas of the world with over 45,000 wild species of plants and 77,000 wild species of animals on record.

6. India's rich biodiversity that exists today is estimated to be the result of over three and half million years of evolution, which involved speciation, migration, plate tectonics, natural holocausts, extinction and of late the human influences, interventions and disturbances. But during the last century, biodiversity has been drastically falling due to indiscriminate rise in human activities in and around forests, wetlands, rivers and oceans.

7. There are fewer varieties of wild plants and animals today than a few decades before, and the lost varieties are gone forever. A high degree of endemism makes the Indian biodiversity particularly vulnerable to extinction. In last few decades, at least 50 percent of India's forests have been cut down, 70 percent of its water bodies have been polluted, its grasslands cultivated and its coasts degraded. In addition, hunting, overexploitation, poisoning by pesticides, excessive botanical and zoological collection, displacement by exotic varieties and a host of other activities have taken a heavy toll of biodiversity. Already, 23 species, which include cheetah, the lesser one-horned rhino, and pink-headed duck, have become extinct in India, and many more species of plants and animals might have vanished without anyone noticing them. Nearly 750 species of plants and animals appear to be on the verge of extinction and the Gangetic river dolphin, Red Panda, Lion tailed macaque and the Bengal tiger are some of the highly endangered animals in the country today.

8. Indiscriminate and illegal trade in wild plants and animals, combined with ecologically insensitive development projects, explosive growth in human population and the resultant pressure on the natural resources, are the main reasons of chronic biodiversity loss in India during last few decades. Specific causes have always varied with ecosystems. Even after independence, forests continued to be plundered in the country on a large-scale by the industries in construction, furniture making, paper & pulp, mining and textiles, until very recently when most of the remaining forest cover in India has come under the protection of national parks and wildlife sanctuaries. An important cause of habitat destruction in the Eastern Himalayan states like Sikkim and Arunachal Pradesh is jhum, or shifting cultivation, which is practised in 70% of the land in the region. Some experts believe that given sufficient area to operate, and long enough fallow periods, jhum cultivation can be sustainable. However, population pressures have led to a shortening of the fallow cycle, which has made this form of cultivation totally unsustainable. The Forest Survey of India has recently estimated that 57% of the forests have been lost due to shifting cultivation.

9. Human interference has intensified a natural process like siltation to a degree where it has become a major threat to the wetlands in India. The Dal lake receives 80 000 tonnes of silt from Talbal Nalla every year, while the Chilka lake has been shrinking by roughly 1.5 square kilometres every year since 1925 because of siltation and the reclamation of marginal areas. Another process affecting wetlands is eutrophication the process by which a body of water becomes either naturally or by pollution, rich in dissolved nutrients and often shallow with a seasonal deficiency in dissolved oxygen. Chilika lake in Orissa, for instance, is infested with the weed *Potamogeton pectinatus* as a result of eutrophication of its water from the fertilizer run-offs regularly flowing in from the surrounding farmlands. Further, intensive fishing in rivers, lakes and seas can reduce fish populations to such an extent that they are no longer able to regenerate a viable number for their continued survival. The best example of this is the whale shark, which is now being mercilessly caught in most coastal regions of India for both eating and its fins, which command a huge price in the international markets.

10. Biodiversity is India's real wealth and its resource base determines and ensures this country's survival and growth. Therefore, conserving and protecting this natural endowment is our primary necessity. Historically, our culture and civilization evolved and edified around this immense natural wealth. Our present population, with nearly 80% still directly dependent on agriculture and forests, cannot afford to be different.

11. All India Ayurvedic Congress Manufacturers Association, New Delhi in their representation to the Committee submitted that the definition of " commercial utilization" should be added as follows:

"Commercial utilization means end uses of biological researches for commercial utilization such as drug, industrial enzymes,

food flavours, fragrance, cosmetics, emulsifiers, oleoresins, colours, extracts and genes used from improving crops and livestock through breeding or genetic interaction and shall not include traditional practices in use in any agriculture, horticulture, poultry, dairy farming or animal husbandry and beekeeping.

They stated that the definition of value added products should also be added as follows:

Value added products/means “Product which may contain portions/extracts of plants in recognizable and physically inseparable form”.

They were of the view that the definition of “Biological researches” should also be incorporated in the Bill as follows, “Bio resources means plants, animal and micro-organism and parts thereof, their by products excluding value added products with actual or potential use or value but does not include human genetic material”.

12. Dr. Ranjitsinh of Indian National Trust for Art and Cultural Heritage (INTACH), New Delhi in his presentation on 19th June 2001 expressed concern over the provisions of the Bill which were in conflict with certain existing laws particularly those dealing with conservation of Biological Diversity in the field such as, Wild Life (Protection) Act, 1972, Indian Forest Act, 1927, the Forest Conservation Act, 1980 and the Environment (Protection) Act, 1986 and suggested that this Bill instead of overlapping should complement the existing laws. He also expressed his concern over non-inclusion of Biological components from the Agriculture, Forestry or Fishery in the Bill. He was of the view that the Bill did not answer as to who decides as to what was sustainable? The National Biodiversity Authority (NBA) couldn't decide for every area. So State Biodiversity Board (SBB) should be empowered to decide in consultation with the Biodiversity Management Committee (BMC) created by local bodies i.e. panchayats, municipalities etc. what was sustainable. The question then arose whether BMCs would be technically qualified to decide what was ecologically sustainable use of biodiversity and whether it would be able to enforce that sustainable use and in the process forego revenue and also earn the ire of their own people who would be out to exploit the biological resources for not just personal bonafide use but for commercial purposes? If not, what could be the safeguards? “Sustainable use” means the use of biological resources after ascertaining on a scientific basis the harvestable surplus of biological resources in a given ecosystem after ensuring that the productivity and ecological security of the said ecosystem, biome and biological resources were maintainable at the optimum level on a long term basis and also ensure that in the harvesting and removal of such harvestable surplus no adverse impact was caused on other biota or the land in terms of Clause 7 of the Bill. He submitted before the Committee that it should be omitted. It was a totally impracticable and indeed an absurd provision. As agriculture, fisheries, horticulture, animal husbandry etc. were also commercial utilization of biological resources as defined under Clause (2)b, no person who was not a local could cultivate crops, grow fruit, do animal husbandry or commercial fishing, establish an atta chakki or do any research in biological sciences without giving prior intimation to the concerned State Biodiversity Board. This section was not simply implementable but would also cause hardship and corruption.

13. Arya Vaidya Sala, Kottakkal, Kerala made following suggestions for consideration of the Committee that Clauses 7, 8, 17, 18, 22 and 40 be modified in view of giving sufficient protection to Ayurveda and its practitioners and also by ensuring trouble free access and availability of biological resources for activities related to people's health. They had submitted that the provisions of the Bill should earmark financial support from the Consolidated Fund for the development and maintenance of biological resources.

14. All India Biotech Association, New Delhi made following suggestions for consideration of the Committee:-

- (i) The proposed Bill should concentrate on Sustainable Use of Biological Resources and formulate the policy for replenishment of Biological Resources used. Guidelines for Sustainable Uses of Biological Resources and for replenishment of Biological Resources could be administered by the NBA.
- (ii) Reaffirming the ownership of the entire Nation as such over the Biological Resources, Equitable Sharing of Benefits should be restricted only to royalty payments for commercialisation of Biological Resources.
- (iii) Proposals for transfer of technology and joint ownership and relocation of production facilities should be dropped.
- (iv) The Biotech industry be granted representation in the NBA and the State Biodiversity Board.
- (v) No prior approvals should be required to be taken for commercialisation of a Biological Resource. In the present competitive scenario confidentiality of research and development should be granted highest priority.
- (vi) NBA should be empowered to sponsor scientists for generating intellectual wealth from the Biological Resources and create healthy competition for research and development.
- (vii) While fixing rates of royalties, due consideration should be given to R&D efforts put in by various commercial players in developing a commercial product from the Biological Resources. This would avoid the cascading of costs making the end products out of reach of the common man.
- (viii) Companies with minority foreign equity or foreign management should be treated as Indian Companies under the Bill. This is essential to ensure technical advancement of the country, which could then be used for commercial good of all.

15. The Committee undertook study visits to Bangalore, Goa, Pune, Mumbai, Ahmedabad from 15th to 26th September,

2000; Andaman & Nicobar Islands from 3rd to 7th November, 2000; Bhopal, Raipur (Durg), Nagpur from 17th to 21st January, 2001 and Srinagar & Jammu from 18th to 23rd May, 2001.

16. In the course of discussions with the representatives of Government of Karnataka on 16.09.2000 the Committee was requested that the Bill should establish proper cross linkages and synergies with other laws like Forest and Wild Life Laws, Plant Varieties Bill, Farmer's Rights, Patent Laws and Environmental Laws etc. Since the Bill overrides all other laws on the subject, there was a need to evolve tools, techniques and procedures to harmonise the working of all concerned agencies. A mechanism should also be provided in the Bill to document the traditional folk knowledge, to pass on the knowledge from one generation to another. The Bill should provide for prohibition of any patents and other monopoly rights in cases where source of material has not been disclosed. The Committee was also informed that the export from the universities and research institutions who are interested in commercial utilization of Bio-diversity resources should be encouraged. The State Bio-diversity Board should be vested with the functions of policy implementation, licensing powers, coordination in the working of social management Committees.

17. In the course of discussions with the representatives of Government of Madhya Pradesh on 18.1.2001 the Committee was informed that Madhya Pradesh was one of the most bio-diverse regions of the country and its tribal communities in particular have a great deal of traditional knowledge regarding varieties of plants and animals species. Therefore, the Bill should address the concern of traditional knowledge being appropriated by more powerful, commercial and industrial interests both at national and international level. The Bill should contain specific provision relating to the scientific management of the biological resources to avoid regulatory complications. Besides, Clause 37 needed to be reviewed dispassionately for deletion, since many heritage sites fall within the existing protected areas and archaeological sites. In light of the experience of the State with regard to establishment of national parks and sanctuaries vis-à-vis rehabilitation and payment of compensation to the people. As it is the Clause appeared unrealistic and it might not be possible to implement this clause thus leading to dilution of the proposed legislation. If at all this clause is to be retained, specific provisions for "public hearing" and "Budgetary Allocations" for rehabilitating and compensating the people need to be inserted. There was also a need to make the provisions more explicit by granting recognition to the rights of the local communities.

18. Dr. Ram Prasad, Director, Indian Institute of Forest Management (IIFM), Bhopal informed the Committee that under clause 8(4) (a) the person who have knowledge of Intellectual Property Rights (IPR) should be included as member. Further, Clause 18 must provide for creation of center of excellence in biodiversity with a view to establish synergy between WTO/TRIPS and CBD. This center would impart training/diplomas in bio-diversity, legal issues, IPR, obligations under WTO participatory mechanism. Clause 27(2) may provide for incentives for outstanding contribution in conservation of Biodiversity.

19. On 19th January, 2001, the Committee held discussion with representatives of Government of Chhatisgarh. It was informed that there was no representative from the State in the N.B.A. Therefore, it was suggested that at least five (5) major bio-diversity rich States should be nominated to N.B.A. Besides, the definition of equitable benefit sharing has been left to NBA without recognizing the rights of local people and communities as traditional benefit claimers, who were curators, conservers, holders and innovators of biodiversity knowledge. It was also suggested that the responsibility for bio-safety should also be shared by the State Governments and communities with the Central Government.

20. The Committee took oral evidences of the representatives of various organisations/experts/individuals etc., having knowledge and expertise in the field or otherwise interested in the subject and a list of organisations/experts/individuals etc., who tendered oral evidence before the Committee is enclosed (Annexure-III).

21. The Committee considered the Biological Diversity Bill, 2000 in its meeting held on 18th July, 15th & 16th September, 17th & 18th October 2000 and 10th, 11th, 30th & 31st January and 18th & 19th June 2001.

22. The Committee had the benefit of the presentation of Dr. M.S. Swaminathan, Chairman, M.S. Swaminathan Research Foundation, Chennai on 31st January 2001. He laid emphasis on creating public awareness of the importance of Biological diversity and was of the opinion that the Biodiversity Board Fund should be used exclusively to recognise, revitalize and reward community conservation. He suggested that a representative of women's organisation be included among the members of National Biodiversity Authority. He also emphasised on defining *ex situ* & *in situ* conservation.

Dr. M.S. Swaminathan informed the Committee that the Biological Diversity Bill, 2000 has addressed three of the current major challenges in the biodiversity areas, namely:

- (i) Conservation through *in situ*, *ex situ* and community conservation;
- (ii) Sustainable use – leading to our rich bioresearch becoming important sources of income, livelihoods and jobs; and
- (iii) Equitable sharing of benefits with primary concerns of biological diversity and holders of traditional knowledge and know how.

The most urgent tasks facing the country are: conservation and sustainable use and equitable use and this Bill would become a powerful instrument for achieving these objectives.

He was also of the view that there should be step up in our research and development efforts designed to convert our bio

resources into jobs and wealth on the ecologically sustainable and socially equitable basis. Regarding Clause 7 of the Bill, he observed that the commercial use could not often be anticipatory. The University research would suffer, if such provisions were blindly enforced. He suggested that there should be a special provision for conservation in disaster prone areas.

23. On 15th September, 2000, Ms Vandana Shiva of Research Foundation for Science and Technology and Ecology, New Delhi expressed her concern over the definition of 'benefit claimers' as the present definition alienates the biological resources from the people and puts them into the hands of international commercial interests who got the patents. She expressed the need for rephrasing of the said Clause (Clause 2). Clause 3, which requires the prior approval of National Biodiversity Authority to obtain any biological resource in India, needs to be re-examined. She was of the view that law should not over regulate Indian people in terms of access to their own resources whereas no regulation is there for agro-business and global corporations. She also desired that the Head office of National Biodiversity Authority to be at Delhi where all the agencies, which need to coordinate, are located. If the biodiversity resources were not preserved perhaps it would not be possible to save the future generations and then two-third of the nation would come on the streets because they would have no other alternative. One of the most significant changes has already taken place, which was a change in the definition of knowledge, in terms of who would be primary regulator over biodiversity. The immediate questions were: whom does biodiversity belong to; who would regulate it to ensure its sustainable and just use and conserve; where it needed to be conserved; how its benefits would be shared; and how would adverse impacts like threat of genetic engineering to biodiversity be prevented?

24. The Committee also had the benefit of hearing Dr. Rajeev Dhawan of Public Interest Legal Support And Research Centre (PILSARC), New Delhi on 19th June 2001. He emphasised the inclusion of specific provisions in section 3A to be added to incorporate 'Public Trust Doctrine' in the Legislation. He also raised the issue of devising the method of controlling and regulating introduction of genetically modified organisms into our ecosystems. According to him the existing provision in Clause 1(3) of the Bill regarding coming into force of the Act would render the court entirely powerless. The provision allows a scope for confusion with regard to the entire Bill. Therefore, the Bill as a whole, when passed, should come into force on a uniform date as suggested by the Central Government.

Clause 2(b) regarding definition of Biological Diversity, it was suggested, should explicitly mention marine and other aquatic organism and ecocytes. It should also include about the genetic diversity. The definition of biological diversity should be as given by the Law Commission in its Alternate Bill on the line of Convention on Biological Diversity, 1992 which read as follows:

"Means the variability among living organism from all sources including terrestrial, marine and other aquatic ecosystem and ecological complexes of which they are a part and includes diversity within species or between species and of ecosystem including genetic diversity".

In protecting Biodiversity from predatory mechanism such as IPR, it was suggested that it should be mandatory for the applicant, under patents, to obtain prior approval from N.B.A. before making such an application to any patent authority. There was no justification for treating applications for patent differently from other IPRs. Provisions of Clause 6(3) of the Bill laid down that the provision of Clause 6 shall not apply to any person making an application for any right under any law relating to the protection of plant variety enacted by the Parliament. It was therefore, suggested that this clause should be mandatory for even a person applying for any rights under the protection Plant Variety Bill, i.e. it should be made mandatory to take prior approval from the N.B.A. The inclusion of sub-Clause 6(3) would defeat the entire spirit of the Bill, which aimed at the conservation and protection of our valuable biodiversity.

25. The representatives of Ayurvedic Drug Manufacturers Association, Mumbai submitted that Clause 3 (1) which requires the prior approval of the National Biodiversity Board to obtain any biological resource would be deterrent for research as well as Ayurvedic industry as raw herbs would not be available without NBA's approval. Besides, the Bill deters the foreign joint ventures as well as collaboration with foreign scientists.

26. The Committee then took up Clause-by-Clause consideration of the Biological Diversity Bill, 2000, in its meetings held on 10th, 11th, 12th, 13th and 14th September, 2001.

27. The observations of the Committee with regard to the principal changes proposed in the Bill are as follows:

Preamble

27.1 In the Preamble, the Committee considered (i) **insertion** of the words 'fair and' after the words 'use of its components and' (line 1-2). (ii) **insertion** of the word 'knowledge' after the word 'biological resources' (line 2). (iii) **substitution** of the word 'Fifty- first' by 'Fifty- second' (line 17).

The Committee agreed to **insert/substitute** as above in the Preamble.

The Preamble as amended was adopted.

Clause 1

27.2 In Clause 1(1), the Committee considered the **substitution** of the figure '2000' by '2001'.

The Committee agreed to **substitute** the figure '2000' by '2001'.

Clause 1 as amended was adopted.

Clause 2

27.3 (i) The Committee considered **insertion** of the words ‘**excluding value added products**’ after the words “by products” in clause 2 (c) (line 17).

The Committee agreed to **insert** the words ‘**excluding value added products**’ after the word ‘by-products’ in clause 2 (c) (line 17).

The Committee then considered the **insertion** of a definition of ‘**Value Added Products**’ which means “**Product which may contain portions / extracts of plants and animals in unrecognizable and physically inseparable form**”.

After some discussion, the Committee agreed to provide for the definition of, ‘**Value Added product**’ which means ‘**Product, which may contain portions/ extracts of plants and animals in unrecognizable and physically inseparable form**’.

(ii) In Sub-Clause (f), the Committee considered the **insertion** of the words ‘**fair and**’ before the words ‘equitable benefit sharing’.

The Committee agreed to **insert** the words ‘**fair and**’ before the words ‘equitable benefit sharing’.

(iii) The Committee considered **insertion** of following Sub-Clause to provide for definition of the term ‘**Commercial Utilisation**’.

‘**Commercial utilisation means end uses of biological resources for commercial utilization such as drugs, industrial enzymes, food flavours, fragrance, cosmetics, emulsifiers, oleoresins, colours, extracts and genes used for improving crops and livestock through breeding or genetic intervention and shall not include traditional practices in use in any agriculture, horticulture, poultry, dairy farming or animal husbandry and bee keeping**’ after Sub-Clause 2 (e) and renumber the existing Sub-Clauses (f) to (n).

The Committee agreed to **insert** the Sub-Clause.

Clause 2, as amended, was adopted

Chapter II

27.4 In the title, the Committee considered **insertion** of the words ‘**ACCESS TO**’ after the words ‘REGULATION OF’.

The Committee agreed to the **insertion** and adopted the title, as amended.

Clause 4

27.5 In Clause 4 the Committee considered the **insertion** of the words ‘**or citizen of India who is non-resident as defined in clause (30) of section 2 of Income Tax Act, 1961**’ after the words ‘citizen of India’ (line 17).

After some discussion the Committee agreed to **insert** the words, ‘**or citizen of India who is non-resident as defined in clause (30) of section 2 of Income Tax Act, 1961**’ after the words ‘citizen of India’ (line 17).

Clause 4, as amended was adopted.

Clause 6

27.6 In sub-clause (1), the Committee considered **insertion** of following provision namely ‘**Provided further that the National Biodiversity Authority shall dispose of such application made to it within a period of 90 days from date of receipt thereof**’, after the existing proviso’.

The Committee agreed to **insert** the proviso namely ‘**provides further that National Bio-diversity Authority shall dispose of such application made to it within a period of 90 days from the date of receipt thereof**’, after the existing proviso.

Clause 6, as amended was adopted.

Clause 7

27.7 Some Members felt that in order to protect the interests of growers & cultivators of bio-diversity it was necessary to provide safeguards in the Bill. Accordingly, on the advice of Ministry of Environment & Forests the Committee considered **insertion** of the words, “**growers and cultivators of bio-diversity, and**”, after the word, ‘including’ (line 11).

After some discussion the Committee agreed to **insert** the words, ‘**growers and cultivators of bio-diversity, and**’ after the word, ‘including’ (line 11).

Clause 7, as amended, was adopted.

Clause 8

27.8 (i) In Clause 8(3) the Committee considered **substitution** of the word ‘Chennai’ with the word ‘**Delhi**’ (line 22).

The Committee agreed to **substitute** the word ‘Chennai’ with ‘**Delhi**’.

(ii) In Clause 8(4)(c) the Committee considered **substitution** of the word ‘five’ with the word ‘**seven**’ before the word ‘members’ (line 35).

After some discussion the Committee agreed to **substitute** the word ‘five’ with the word ‘**seven**’ before the word ‘members’ (line 35).

(iii) In Clause 8(4)(c) the Committee then considered **insertion** of following sl. nos. and words, namely,

(vi) Science & Technology;

(vii) Scientific & Industrial Research

After some discussion the Committee agreed to **insert** the following sl. nos. and words, namely.

(vi) Science & Technology;

(vii) Scientific & Industrial Research

Clause 8, as amended was adopted.

Clause 18

27.9 In sub-Clause (1) the Committee considered **insertion** of the words ‘**for fair and**’ before the word ‘equitable’ (line 31).

After discussion the Committee agreed to **insert** the words ‘**for fair and**’ before the word ‘equitable’ (line 31).

Clause 18, as amended was adopted.

Clause 19

27.10 (i) In Sub-Clause (2) the Committee considered **insertion** of the words ‘**under sub-section (1) of section 6**’ after the words “outside India” (line 12).

After some discussion the Committee agreed to **insert** the words ‘**under sub-section (1) of section 6**’ after the words ‘outside India’ (line 12).

(ii) In sub-clause (3), the Members felt that the sub-clause should provide for publication of applications received by the National Bio-diversity Authority in the Gazette and their display on website of the Ministry/National Bio-diversity Authority. The Members also suggested that the sub-clause should provide a time limit for disposal of the applications received by National Bio-diversity Authority.

The Committee observed that the Government may make necessary provision in this regard in the rules to be framed under the Act.

Clause 19, as amended was adopted.

Clause 22

27.11 In Clause 4(b) the Committee considered **insertion** of the word “**concerned**” after the word “represent the” (line 43).

After some discussion the Committee agreed to **insert** the word “**concerned**” after the words, “represent the” (line 43)

Clause 22 as amended was adopted.

Clause 24

27.12 The Committee considered **insertion** of following new sub-clause (3) namely, “**Information provided in Forms submitted for prior intimation to procure biological resource shall be kept confidential and shall not be shared either intentionally or unintentionally with any unauthorized person.**”

After some discussion, the Committee agreed to **insert** the new sub-clause.

Clause 24 as amended, was adopted.

Clause 27

27.13 In sub-clause (2)(b) the Committee considered **insertion** of the words ‘**and promotion**’ after the word ‘conservation’ (line 1).

After some discussion, the Committee agreed to **insert** the words ‘**and promotion**’ after the word ‘conservation’ (line 1).

Clause 27, as amended, was adopted.

Clause 32

27.14 In sub-clause (2)(c) the Committee considered **insertion** of the words ‘**and promotion**’ after the word ‘conservation’ (line

46).

The Committee agreed to **insert** the words **‘and promotion’** after the word ‘conservation’ (line 46).

Clause 32, as amended was adopted.

Clause 36

27.15 In Sub-Clause (1) the Committee considered **insertion** of the :

(i) words **‘and promotion’** after the word ‘conservation’ (line 13).

(ii) word **‘of’** after the word ‘monitoring’ (line 14).

After some discussion, the Committee agreed to **insert** the words **‘and promotion’** after the word ‘conservation’ (line 13) and **‘of’** after the word ‘monitoring’ (line 14).

The Committee then considered **substitution** of the **‘,(Comma)’** with the word ‘and’ after the word ‘training’ (line 15).

The Committee agreed to **substitute** the **‘,(Comma)’** with the word ‘and’ after the word ‘training’ (line 15).

27.16 The Committee considered **deletion** of the word **‘conservation’** after the word *‘insitu’* (line 14).

After some discussion, the Committee agreed to **delete** the word ‘conservation’ after the word *‘insitu’* (line 14).

27.17 The Committee then considered the **insertion** of following new sub-clause 36 (1A), namely, **“Where the Central Government has reasons to believe that any area rich in biodiversity, biological resources or species and their habitats is being threatened by overuse, abuse or neglect, it shall issue directives to the concerned State Government to take immediate ameliorative measures, offering it any technical and other assistance that is possible or needed”**.

The Committee agreed to insert the Sub-clause.

27.18 In Sub-Clause (2), the Committee considered **insertion** of the word **‘promotion’** after the word ‘conservation’.

The Committee agreed to the **insertion** of the word **‘promotion’**, after the word ‘conservation’ (line 18).

Clause 36 as amended, was adopted.

Clause 38

27.19 In Clause 38, the Committee considered **insertion** of the words **‘in consultation with State Government concerned’** after the words ‘Central Government’ (line 2).

The Committee agreed to **insert** the words **‘in consultation with State Government concerned’** after the words ‘central government’ (line2).

Clause 38 as amended, was adopted.

Clause 41

27.20 In Clause 41, the Committee considered **addition** of the following **‘Explanation’** for the terms ‘land races’, ‘folk varieties’ and ‘cultivars’, namely [line 21 & 22 of Sub-clause (1)].

Explanation – For the purpose of this section –

- a) *Cultivar means a variety that has originated and persisted under cultivation or was specifically bred for the purpose of cultivation.*
- b) *‘Folk variety’ means cultivated variety of plants that was developed, grown and exchanged informally among farmers.*
- c) *‘Landrace’ means primitive cultivar of crop plants that was grown by ancient farmers and their successors.*

In Clause 41(3) the Committee considered the **insertion** of the words **‘for commercial purposes’** after the word ‘biological resource’ (line 29).

After some discussion, the Committee agreed to **insert** the words **‘for commercial purposes’** after the word ‘biological resource’ (line 29).

Clause 41 as amended, was adopted.

Clause 44

27.21 In Sub-Clause (2) the Committee then considered the **insertion** of the words **‘and promotion’** after the word ‘conservation’ (line 4).

The Committee, after discussion, agreed to **insert** the words **‘and promotion’** after the word ‘conservation’ (line 4).

Clause 44 as amended, was adopted.

Clause 47

27.22 The Committee considered the **deletion** of the Clause. After some discussion, the Committee decided to rephrase the clause, as follows;

The local bodies shall cause the annual reports and auditors' reports of the Biodiversity Management Committees, submitted to the District Administration.

Clause 47 as amended, was adopted.

Clause 51

27.23 The Committee considered **insertion** of following new clause, namely,

51A. **No foreign court shall have any jurisdiction to entertain any dispute relating to any provision of this Act or rules or regulations made thereunder.**

Explanation: For the purpose of this section 'foreign court' means a court situated outside India and not established or constituted by the authority of the Central Government.

After some discussion the Committee decided to **insert** the above new clause.

Clause 51 as amended was adopted.

Clause 52

27.24 The Committee considered **insertion** of new clauses **52 and 53** on **Appeals, namely;**

Clause 52 — Any person aggrieved by any determination of benefit sharing or order of the National Biodiversity Authority or a State Biodiversity Board may file an appeal to the High Court within thirty days from the date of communication of the determination or order of the National Biodiversity Authority or the Biodiversity Board, as the case may be, to him.

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days'.

Clause 53 — Every determination of benefit sharing or order made by the National Biodiversity Authority or a State Biodiversity Board under this Act or the order made by the High Court in any appeal against any determination or order of the National Biodiversity Authority or a State Biodiversity Board shall, on a certificate issued by any officer of the National Biodiversity Authority or a State Biodiversity Board or the Registrar of the High Court, as the case may be, be deemed to be decree of the civil court and shall be executable in the same manner as a decree of that court.

After some discussion the Committee decided to **insert** the new clauses **52 and 53** after clause 51, and renumber the existing clauses 52 to 63.

Clause 53 (existing)

27.25 The Committee considered **substitution** of existing clause 53 with the following clause, namely,

“Clause 53 — Civil penalties be enhanced in situations wherein the offender is a body corporate or a company as on a cost-benefit analysis, the long term benefit that accrue from the utilization of bioresources would far outweigh the monetary penalties imposed by this clause”.

After some discussion the Committee felt that the punishment, fine and compensation for contravention of the provisions of section 3, section 4 or section 6 should be commensurate with the damage caused. Accordingly, the Committee agreed to **substitute** the clause with the following clause namely **‘whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 3, section 4 or section 6 shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to ten lakh rupees, or compensation commensurate with the damage caused, or with all these’** as the case may be.

The Committee agreed to **insert** the clause, namely **‘whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 3, section 4 or section 6 shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to ten lakh rupees, or compensation commensurate with the damage caused, or with all these’** as the case may be.

Clause 57(existing)

27.26 The Committee considered **rephrasing** the existing Clause 57 as follows with a view to bring the provision in conformity with the extant provisions in Indian Forest Act 1927; The Wildlife (Protection) Act 1922 and Forests Conservation Act, 1980.

‘The provisions of this Act shall be in addition to and not in contravention of the provisions in any other law; for the

time being in force, relating to forests or wildlife’.

The Committee agreed to amend the clause as above.

Clause 57 as amended was adopted.

Clause 59 (existing)

27.27 The Committee considered **substitution** of the existing Clause with the following, namely,

‘No Court shall take cognizance of any offence under this act except on a complaint made by: –

- a) **the Central Government or any authority or officer authorized in this behalf by that Government; or**
- b) **any benefit claimer who has given notice of not less than thirty days in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority or officer authorized as aforesaid.**

The Committee agreed to the **substitution** as above.

Clause 59 as amended was adopted.

28. The Committee recommends that the Bill be passed after incorporating the amendments suggested by it.

29. The Committee considered and adopted the report in its sitting held on the 28th November, 2001.

As introduced in Lok Sabha

Bill No. 93 of 2000

THE BIOLOGICAL DIVERSITY BILL, 2000

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THE BIOLOGICAL DIVERSITY BILL, 2000

A

BILL

To provide for conservation of Biological Diversity, sustainable use of its components and equitable sharing of the benefits arising out of the use of biological resources and for matters connected therewith or incidental thereto.

WHEREAS India is rich in biological diversity and associated traditional and contemporary knowledge system relating thereto;

AND WHEREAS India is a party of the United Nations Convention on Biological Diversity signed at Rio de Janeiro on the 5th day of June 1992;

AND WHEREAS the said Convention came into force on the 29th December, 1993;

AND WHEREAS the said Convention reaffirms the sovereign rights of the State over their biological resources;

AND WHEREAS the said Convention has the main objective of conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of utilization of genetic resources;

AND WHEREAS it is considered necessary to provide for conservation, sustainable utilization and equitable sharing of benefits arising out of utilization of genetic resources and also to give effect to the said Convention;

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:

CHAPTER I
PRELIMINARY

1. (1) This Act may be called the Biological Diversity Act, 2000.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. In this Act, unless the context otherwise requires -

(a) "benefit claimers" means the conservers of biological resources their by-products, creators and holders of knowledge and information relating to the use of such biological resources, innovations and practices associated with such use and application;

(b) "biological diversity" means the variability among living organisms from all sources and the ecological complexes of which they are part and includes diversity within species or between species and of eco-systems;

(c) "biological resources" means plants, animals and micro organisms or parts thereof, their genetic material and by-products with actual or potential use or value but does not include human genetic material;

(d) "bio-survey and bio-utilization" means survey or collection of species, sub-species, genes, components and extracts of biological resource for any purpose and includes characterization, inventorisation and bioassay;

(e) "Chairperson" means the Chairperson of the National Biodiversity Authority or, as the case may be, of the State Biodiversity Board;

(f) "equitable benefit sharing" means sharing of benefits as determined by the National Biodiversity Authority under section 21;

(g) "local bodies" means Panchayats and Municipalities, by whatever name called, within the meaning of clause (1) of article 243B and clause (1) of article 243Q of the Constitution and in the absence of any Panchayats or Municipalities, institutions of self-government constituted under any Central Act or State Act;

(h) "member" means member of the National Biodiversity Authority or a State Biodiversity Board and includes the Chairperson;

(i) "National Biodiversity Authority" means the National Biodiversity Authority established under section 8;

(j) "prescribed" means prescribed by rules made under this Act;

(k) "regulations" means regulations made under this Act;

(l) "research" means study or systematic investigation of any biological resource or technological application, that uses biological systems, living organisms or derivatives thereof to make or modify products or processes for any use;

(m) "State Biodiversity Board" means the State Biodiversity Board established under section 22;

(n) "sustainable use" means the use of components of biological diversity in such manner and at such rate that does not lead to the long-term decline of the biological diversity thereby maintaining its potential to meet the needs and aspirations of present and future generations.

CHAPTER II REGULATION OF BIOLOGICAL DIVERSITY

3. (1) No person referred to in sub-section (2) shall without previous approval of the National Biodiversity Authority obtain any biological resource occurring in India or knowledge associated thereto for research or for commercial utilization or for bio-survey and bio-utilization.

(2) The persons who shall be required to take the approval of the National Biodiversity Authority under sub-section (1) are the following, namely: -

(a) person who is not a citizen of India;

(b) citizen of India, who is a non-resident as defined in clause (30) of section 2 of the Income-tax Act, 1961;

(c) a body corporate, association or organization –

(i) not incorporated or registered in India; or

(ii) incorporated or registered in India under any law for the time being in force which has any non-Indian participation in its share capital or management.

4. No person shall without the previous approval of the National Biodiversity Authority, transfer

the results of any research relating to any biological resources occurring or obtained from India for monetary consideration or otherwise to any person who is not a citizen of India or a body corporate or organization which is not registered or incorporated in India or which has any non-Indian participation in its share capital or management.

Short title, extent and commencement

Explanation- For purposes of this section, “transfer” does not include publication of research papers or dissemination of knowledge in any seminar or workshop, if such publication is as per the guidelines issued by the Central Government.

5. (1) The provisions of sections 3 and 4 shall not apply to collaborative research projects involving transfer or exchange of biological resources or information relating thereto between institutions, including Government sponsored institutions of India, and such institutions in other countries, if such collaborative research projects satisfy the conditions specified in sub-section (3).

Definition

(2) All collaborative research projects, other than those referred to in sub-section (1) which are based on agreements concluded before the commencement of this Act and in force shall, to the extent the provisions of agreement are inconsistent with the provisions of this Act or any guidelines issued under clause (a) of sub-section (3), be void.

(3) For the purposes of sub-section (1) collaborative research projects shall,

(a) confirm to the policy guidelines issued by the Central Government in this behalf;

(b) be approved by the Central Government.

6. (1) No person shall apply for any intellectual property right by whatever name called in or outside India for any invention based on any research or information on a biological resource obtained from India without obtaining the previous approval of the National Biodiversity Authority before making such applications:

Provided that if a person applies for a patent, permission of the National Biodiversity Authority may be obtained after the acceptance of the patent but before the sealing of the patent by the patent authority concerned.

(2) The National Biodiversity Authority may, while granting the approval under this section, 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.

(3) The provisions of this section shall not apply to any person making an application for any rights under any law relating to protection of plant varieties enacted by Parliament.

(4) Where any rights is granted under sub-section (3), the concerned authority granting such right shall endorse a copy of such document granting the right to the National Biodiversity Authority.

7. No person who is a citizen of India or a body corporate, association or organization which is registered in India shall obtain any biological resource for commercial utilization or bio-survey and bio-utilization except after giving prior intimation to the State Biodiversity Board concerned:

Provided that the provisions of this section shall not apply to the local people and communities of the area, including *vaid*s and *hakims*, who have been practising indigenous medicine.

Certain persons not to undertake Biodiversity related activities without approval of National Biodiversity Authority

CHAPTER III

NATIONAL BIODIVERSITY AUTHORITY

8. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established for the purposes of this Act, a body to be called the National Biodiversity Authority.

(2) The National Biodiversity Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The head office of the National Biodiversity Authority shall be at Chennai and the National Biodiversity Authority may, with the previous approval of the Central Government, establish offices at other places in India.

(4) The National biodiversity Authority shall consist of the following Members, namely:-

(a) a Chairperson, who shall be an eminent person having adequate knowledge and experience in the conservation and sustainable use of biological diversity and in matters relating to equitable sharing of benefits, to be appointed by the Central Government;

Results of research not to be transferred to certain persons without approval of National Biodiversity Authority

(b) three members *ex officio* to be appointed by the Central Government, one representing the Ministry of Tribal Affairs and two representing the Ministry of Environment and Forests of whom one shall be the Additional Inspector General of Forests or the Inspector General of Forests;

Certain persons not to understand Biodiversity related activities without approval of National Biodiversity Authority.

Sections 3 and 4 not to apply to certain collaborative research projects

(c) five members *ex officio* to be appointed by the Central Government to represent respectively the Ministries of the Central Government dealing with –

(i) Agricultural Research and Education;

(ii) Biotechnology;

(iii) Ocean Development;

(iv) Agriculture and Cooperation;

(v) Indian Systems of Medicine and Homeopathy.

(d) five non-official members to be appointed from amongst specialists and scientists having special knowledge of, or experience 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, representatives of industry, conservers, creators, and knowledge holders of biological resources.

Application for intellectual property rights not to be made without approval of National Biodiversity Authority

43 of 1961

9. The term of office and conditions of service of the Chairperson and the other members other than *ex officio* members shall be such as may be prescribed by the Central Government.

10. The Chairperson shall be the Chief Executive of the National Biodiversity Authority and shall exercise such powers and perform such duties, as may be prescribed.

11. The Central Government may remove from the National Biodiversity Authority any member who, in its opinion has,-

(a) been adjudged as an insolvent; or

(b) been convicted of an offence which involves moral turpitude; or

(c) become physically or mentally incapable of acting as a member; or

(d) so abused his position as to render his continuance in office detrimental to the public interest; or

(e) acquired such financial or other interest as is likely to affect prejudicially his functions as a member.

12. (1) The National Biodiversity Authority shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as may be prescribed.

(2) The Chairperson of the National Biodiversity Authority shall preside at the meetings of the National Biodiversity Authority.

(3) If for any reason the Chairperson is unable to attend any meeting of the National Biodiversity Authority, any member of the National Biodiversity Authority chosen by the

members present at the meeting shall preside at the meeting.

(4) All questions which come before any meeting of the National Biodiversity Authority shall be decided by a majority of the votes of the members present and voting and in the event of equality of votes, the Chairperson or, in his absence, the person presiding, shall have and exercise a second or casting vote.

(5) Every member who is in any way, whether directly, indirectly or personally, concerned or interested in a matter to be decided at the meeting shall disclose the nature of his concern or interest and after such disclosure, the member concerned or interested shall not attend the meeting.

(6) No act or proceeding of the National Biodiversity Authority shall be invalidated merely by reason of –

- (a) any vacancy in, or any defect in the constitution of the National Biodiversity Authority; or
- (b) any defect in the appointment of a person acting as a member; or
- (c) any irregularity in the procedure of the National Biodiversity Authority not affecting the merits of the case.

13. (1) The National Biodiversity Authority may constitute a committee to deal with agro-biodiversity.

Explanation.- For the purposes of this sub-section “agro-biodiversity” means biological diversity of agriculture related species and their wild relatives.

(2) Without prejudice to the provisions of sub-section (1), the National Biodiversity Authority may constitute such number of committees as it deems fit for the efficient discharge of its duties and performance of its functions under this Act.

(3) A committee constituted under this section, shall co-opt such number of persons, who are not members of the National Biodiversity Authority, as it may think fit and the persons so co-opted shall have the rights to attend the meetings of the committee and take part in its proceedings but shall not have the right to vote.

(4) The persons appointed as members of the committee under sub-section (2) shall be entitled to receive such allowances or fees for attending the meetings of the committee as may be fixed by the Central Government.

Prior intimation to State Biodiversity Board for obtaining biological resource for certain purposes

14. (1) **The National Biodiversity Authority may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.**

(2) **The terms and conditions of service of such officers and other employees of the National Biodiversity Authority shall be such as may be specified by regulations.**

Establishment of National Biodiversity Authority

15. All orders and decisions of the National Biodiversity Authority shall be authenticated by the signature of the Chairperson or any other member authorised by the National Biodiversity Authority in this behalf and all other instruments executed by the National Biodiversity Authority shall be authenticated by the signature of an officer of the National Biodiversity Authority authorised by it in this behalf.

16. The National Biodiversity Authority may, by general or special order in writing, delegate to any member, officer of the National Biodiversity Authority or any other person subject to such conditions, if any, as may be specified in the order, such of the powers and functions under the Act (except the power to settle disputes under section 50 and the power to make regulations under section 62) as it may deem necessary.

17. The salaries and allowances payable to the members and the administrative expenses of the National Biodiversity Authority including salaries, allowances and pension payable to, or in respect of, the officers and other employees of the National Biodiversity Authority shall be defrayed out of the Consolidated Fund of India.

Condition of service of Chairperson and Members

Chairperson to be Chief Executive of National Biodiversity Authority

CHAPTER IV
FUNCTIONS AND POWERS OF THE NATIONAL BIODIVERSITY AUTHORITY

18. (1) It shall be the duty of the National Biodiversity Authority to regulate activities referred to in section 3, 4 and 6 and by regulations issue guidelines for access to and equitable benefit sharing.

(2) The National Biodiversity Authority may grant approval for undertaking any activity referred to in sections 3, 4 and 6.

(3) The National Biodiversity Authority may: -

- (a) advise the Central Government on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of benefits arising out of the utilization of biological resources;
- (b) advise the State Governments in the selection of areas of biodiversity importance to be notified as heritage sites and measures for the management of such heritage sites;
- (c) perform such other functions as may be necessary to carry out the provisions of this Act.

Meetings of National Biodiversity Authority

(4) The National Biodiversity Authority may, on behalf of the Central Government, take any measures necessary to oppose the grant of intellectual property rights in any country outside India on any biological resource obtained from India or knowledge associated with such biological resource which is derived from India.

CHAPTER V
APPROVALS BY THE NATIONAL BIODIVERSITY AUTHORITY

19. (1) Any person referred to in sub-section (2) of section 3 who intends to obtain any biological resource occurring in India or knowledge associated thereto for research or for commercial utilization or for bio-survey and bio-utilization or transfer the results of any research relating to biological resources occurring in, or obtained from, India, shall make application in such form and payment of such fees as may be prescribed, to the National Biodiversity Authority.

(2) Any person who intends to apply for a patent or any other form of intellectual property protection whether in India may make an application in such form and in such manner as may be presented to the National Biodiversity Authority.

(3) On receipt of an application under sub-section (1) or sub-section (2), the National Biodiversity Authority may, after making such enquiries as it may deem fit and if necessary after consulting an expert committee constituted for this purpose, by order, grant approval subject to any regulations made in this behalf and subject to such terms and conditions as it may deem fit, including the imposition of charges by way of royalty or for reasons to be recorded in writing reject the application.

Provided that no such order for rejection shall be made without giving an opportunity of being heard to the person affected.

(4) The National Biodiversity Authority shall give public notice of every approval granted by it under this section.

Committees of National Biodiversity Authority

20. (1) No person who has been granted approval under section 19 shall transfer any biological resource or knowledge associated thereto which is the subject matter of the said approval except with the permission of the National Biodiversity Authority.

(2) Any person who intends to transfer any biological resource or knowledge associated thereto referred to in sub-section (1) shall make an application in such form and in such manner as may be prescribed to the National Biodiversity Authority.

(3) On receipt of an application under sub-section (2), the National Biodiversity Authority may, after making such enquiries as deemed fit and if necessary after consulting an expert committee constituted for this purpose, by order, grant approval subject to such terms and

conditions as it may deem fit, including the imposition of charges by way of royalty or for reasons to be recorded in writing reject the application:

Provided that no such order for rejection shall be made without giving an opportunity of being heard to the person affected.

(4) The National Biodiversity Authority shall give public notice of every approval granted by it under this section.

21. (1) The National Biodiversity Authority shall while granting approvals under section 10 or section 20 ensure that the term and conditions subject to which approval is granted secures equitable sharing of benefits arising out of the use of accessed biological resources, their by-products, innovations and practices associated with their use and applications and knowledge relating thereto in accordance with mutually agreed terms and conditions between the person applying for such approval, local bodies concerned and the benefit claimers.

(2) The National Biodiversity Authority shall subject to any regulations made in this behalf determine the benefit sharing which shall be given effect in all or any of the following manner, namely: -

(a) grant of joint ownership of intellectual property rights to the National Biodiversity Authority, or where benefit claimers are identified, to such benefit claimers;

(b) transfer of technology;

(c) location of production, research and development units in such areas which will facilitate better living standards to the benefit claimers;

(d) association of Indian scientists, benefit claimers and the local people with research and development in biological resources and bio-survey and bio-utilization;

(e) setting up of venture capital fund for aiding the cause of benefit claimers;

(f) payment of monetary compensation and other non-monetary benefits to the benefit claimers as the National Biodiversity Authority may deem fit.

(3) Where any amount of money is ordered by way of benefit sharing, the National Biodiversity Authority may direct the amount to be deposited in the National Biodiversity Fund:

Provided that where biological resource or knowledge was a result of access from specific individual or group of individuals or organizations, the National Biodiversity Authority may direct that the amount shall be paid directly to such individuals or groups of individual or organisations in accordance with the terms of any agreement and in such manner as it deems fit.

(4) For the purposes of this section, the National Biodiversity Authority shall, in consultation with the Central Government, by regulations, frame guidelines.

CHAPTER VI

STATE BIODIVERSITY AUTHORITY

22. (1) With effect from such date as the State Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established for the purposes of this Act, a Board for the State to be known as the (name of the State) Biodiversity Board.

(2) Notwithstanding anything contained in this section, no State Biodiversity Board shall be constituted for a Union territory and in relation to a Union territory, the National Biodiversity Authority shall exercise the powers and perform the functions of a State Biodiversity Board for that Union territory:

Provided that in relation to any Union territory, the National Biodiversity Authority may delegate all or any of its powers or functions under this sub-section to such person or group of persons as the Central Government may specify.

Officers and employees of National Biodiversity Authority

Authentication of orders and decisions of National Biodiversity Authority

(3) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(4) The Board shall consist of the following members, namely: -

(a) a Chairperson who shall be an eminent person having adequate knowledge and experience in the conservation and sustainable use of biological diversity and in matters relating to equitable sharing of benefits, to be appointed by the State Government;

(b) not more than five *ex officio* members to be appointed by the State Government to represent the Departments of the State Government;

(c) not more than five members to be appointed 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.

Delegation of powers

(5) The head office of the State Biodiversity Board shall be at such place as the State Government may, by notification in the Official Gazette, specify.

23. The functions of the State Biodiversity Board shall be to,-

(a) advise the State Government, 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 utilization of biological resources;

(b) regulate by granting of approvals or otherwise requests for commercial utilization or bio-survey and bio-utilization of any biological resources by Indians;

(c) perform such other functions as may be necessary to carry out the provisions of this Act or as may be prescribed by the State Government.

Expenses of National Biodiversity Authority to be defrayed out of the Consolidated Fund of India

Approval by National Biodiversity Authority for undertaking certain activities

Functions of National Biodiversity Authority

24. (1) Any citizen of India or a body corporate, organization or association registered in India intending to undertake any activity referred to in section 7 shall give prior intimation in such form as may be prescribed by the State Government to the State Biodiversity Board.

(2) On receipt of an intimation under sub-section (1), the State Biodiversity Board may, in consultation with the local bodies concerned and after making such enquires as it may deem fit by order, prohibit or restrict any such activity if it is of opinion that such activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or equitable sharing of benefits arising out of such activity.

Provided that no such order shall be made without giving an opportunity of being heard to the person affected.

25. The provisions of sections 9 to 17 shall apply to a State Biodiversity Board and shall have effect subject to the following modifications, namely: -

(a) references to the Central Government shall be construed as references to the State Government.

(b) references to the National Biodiversity Authority shall be construed as references to the Board;

(c) reference to the Consolidated Fund of India shall be construed as reference to the Consolidated Fund of the State

Transfer of Biological resource or knowledge

CHAPTER VII

FINANCE, ACCOUNTS AND AUDIT OF NATIONAL BIODIVERSITY AUTHORITY

26. The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the National Biodiversity Authority by way of grants or loans such sums of money

as the Central Government may think fit for being utilized for the purposes of this Act.

27. (1) There shall be constituted a Fund to be called the National Biodiversity Fund and there shall be credited thereto-

(a) any grants and loans made to the National Biodiversity Authority under section 26;

(b) all charges and royalties received by the National Biodiversity Authority under this Act; and

(c) all sums received by the National Biodiversity Authority from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied to-

(a) channeling benefits to the benefit claimers;

(b) conservation of biological resources and development of areas from where such biological resources or knowledge associated thereto has been accessed;

(c) socioeconomic development of areas referred to in clause (b) in consultation with the local bodies concerned.

Determination of equitable benefit sharing by National Biodiversity Authority

28. The National Biodiversity Authority shall prepare, in such form and at such time each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and furnish, to the Central Government, before such date as may be prescribed, its audited copy of accounts together with auditors' report thereon.

29. (1) The National Biodiversity Authority shall prepare a budget, maintain proper accounts and other relevant records (including the accounts and other relevant records of the National Biodiversity Fund) and prepare an annual statement of account in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the National Biodiversity Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the National Biodiversity Authority to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the National Biodiversity Authority shall have the same rights and privileges and authority in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the National Biodiversity Authority.

(4) The accounts of the National Biodiversity Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government.

30. The Central Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before each House of Parliament.

CHAPTER VIII

FINANCE, ACCOUNTS AND AUDIT OF STATE BIODIVERSITY AUTHORITY

31. The State Government may, after due appropriation made by the State Legislature by law in this behalf, pay to the State Biodiversity Board by way of grants or loans such sums of money as the State Government may think fit for being utilized for the purposes of this Act.

32. (1) There shall be constituted a Fund to be called the State Biodiversity Fund and there shall be credited thereto-

(a) any grants and loans made to the State Biodiversity Board under section 31;

(b) any grants or loans made by the National Biodiversity Authority;

(c) all sums received by the State Biodiversity Board from such other sources as may be decided upon by the State Government.

(2) The State Biodiversity Fund shall be applied for –

- (a) the management and conservation of heritage sites;
- (b) compensating or rehabilitating any section of the people economically affected by restriction imposed under section 37;
- (c) conservation of biological resources;
- (d) socio-economic development of areas from where such biological resources or knowledge associated thereto has been accessed subject to any approval granted under section 24, in consultation with the local bodies concerned;
- (e) meeting the expenses incurred for purposes authorized by this Act.

33. The State Biodiversity Board shall prepare, in such form and at such time each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government.

34. The accounts of the State Biodiversity Board shall be maintained and audited in such manner as may, in consultation with the Accountant-General of the State, be prescribed and the National Biodiversity Authority shall furnish, to the State Government, before such date as may be prescribed, its audited copy of accounts together with auditor's report thereon.

35. The State Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before the House of State Legislature.

CHAPTER IX

DUTIES OF THE CENTRAL AND STATE GOVERNMENTS

36. (1) The Central Government shall develop national strategies, plans, programmes for the conservation and sustainable use of biological diversity including measures for identification and monitoring areas rich in biological resources, promotion of *insitu* conservation and *exsitu* conservation of biological resources, incentives for research, training, public education to increase awareness with respect to biodiversity.

(2) The Central Government shall, as far as practicable wherever it deems appropriate, integrate the conservation and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programmes and policies.

(3) Central Government shall undertake measures:-

(i) wherever necessary, for assessment of environmental impact of that project which is likely to have adverse effect on biological diversity, with a view to avoid or minimise such effects and where appropriate provide for public participation in such assessment;

(ii) to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology likely to have adverse impact on the conservation and sustainable use of biological diversity and human health.

(4) The Central Government shall endeavour to respect and protect the knowledge of local people relating to biological diversity, as recommended by the National Biodiversity Authority through such measures, which may include registration of such knowledge at the local, state or national levels, and other measures for protection, including *sui generis* system.

Establishment of State Biodiversity Board

Functions of State Biodiversity Board

Explanation.- For the purposes of this section,-

- (a) "*exsitu* conservation" means the conservation of components of biological diversity outside their natural habitats;
- (b) "*insitu* conservation" means the conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural

surroundings and in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.

37. (1) Without prejudice to any other law for the time being in force, the State Government may from time to time in consultation with the local bodies, notify in the Official Gazette, areas of biodiversity importance as biodiversity heritage sites under this Act.

Power of State Biodiversity Board to restrict certain activities violating the objectives of conservation, etc.

(2) The State Government in consultation with the Central Government, may frame rules for the management and conservation of all the heritage sites.

(3) The State Government shall frame schemes for compensating or rehabilitating any person or section of people economically affected by such notification.

38. Without prejudice to the provisions of any other law for the time being in force, the Central Government may from time to time notify, any species which is on the verge of extinction or likely to become extinct in the near future as a threatened species and prohibit or regulate collection thereof for any purpose and take appropriate steps to rehabilitate and preserve those species.

39. (1) The Central Government may in consultation with the National Biodiversity Authority designate institutions as repositories under this Act for different categories of biological resources.

Provision of sections 9 to 17 to apply with modifications to State Biodiversity Board

(2) The repositories shall keep in safe custody the biological material including voucher specimens deposited with them.

(3) Any new taxon discovered shall be notified to the repositories or any institution designated for this purpose and deposit the voucher specimens with such repository or institution.

40. Notwithstanding anything contained in this Act, the Central Government may in consultation with the National Biodiversity Authority, by notification in the Official Gazette, declare that the provisions of this Act shall not apply to any items, including biological resources normally traded as commodities.

CHAPTER X BIODIVERSITY MANAGEMENT COMMITTEES

National Biodiversity Fund

41.(1) Every local body shall constitute a Biodiversity Management Committee within its area for the purpose of promoting conservation, sustainable use and documentation of biological diversity including preservation of habitats, conservation of land races, folk varieties and cultivars, domesticated stocks and breeds of animals and micro-organisms and chronicling of knowledge relating to biological diversity.

Application of National Biodiversity Fund

(2) The National Biodiversity Authority and the State Biodiversity Boards shall consult the Biodiversity Management Committees while taking any decision relating to the use of biological resources and knowledge associated with such resources occurring within the territorial jurisdiction of the Biodiversity Management Committee.

(3) The Biodiversity Management Committees may levy charges by way of collection fee from any person for accessing or collecting any biological resource from areas falling within its territorial jurisdiction.

CHAPTER XI LOCAL BIODIVERSITY FUND

42. The State Government may, after due appropriation made by State Legislature by law in this behalf, pay to the Local Biodiversity Funds by way of grants or loans such sums of money as the State Government may think fit for being utilised for the purposes of this Act.

43. (1) There shall be constituted a Fund to be called the Local Biodiversity Fund at every area notified by the State Government where any institution of self-government is functioning and there shall be credited thereto-

- (a) any grants and loans made under section 42;
- (b) any grants or loans made by the National Biodiversity Authority;
- (c) any grants or loans made by the State Biodiversity Board;
- (d) fee referred to in sub-section (3) of section 41 received by the Biodiversity Management Committee;
- (e) all sums received by the Local Biodiversity Fund from such other sources as may be decided upon by the State Government.

44. (1) Subject to the provisions of sub-section (2), the management and the custody of the Local Biodiversity Fund and the purposes for which such Fund shall be applied as may be prescribed by the State Government.

(2) The Fund shall be used for conservation of biodiversity in the areas falling within the jurisdiction of the concerned local body and for the benefit of the community in so far such use is consistent with conservation of biodiversity.

45. The person holding the custody of the Local Biodiversity Fund shall prepare, in such form and during each financial year at such time as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government.

46. The accounts of the Local Biodiversity Fund shall be maintained and audited in such manner as may, in consultation with the Accountant – General of the State, be prescribed and the person holding the custody of the Local Biodiversity Fund shall furnish, to the State Government, before such date as may be prescribed, its audited copy of accounts together with auditor's report thereon.

47. The State Government shall cause the annual report and auditor's report to be laid as soon as may be after they are received, before the House of State Legislature.

CHAPTER XII MISCELLANEOUS

48.(1) Without prejudice to the foregoing provisions of this Act, the National Biodiversity Authority shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time.

Provided that the National Biodiversity Authority shall, as far as possible, be given opportunity to express its views before the any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

49. (1) Without prejudice to the foregoing provisions of this Act, the State Biodiversity Board shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the State Government, may give in writing to it from time to time:

Provided that the State Biodiversity Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the State Government whether a question is one of policy or not shall be final.

Annual report
of National
Biodiversity Authority

50.(1) If a dispute arises between the National Biodiversity Authority and a State Biodiversity Board, the said Authority or the Board, as the case may be, may prefer an appeal to the Central Government within such time as may be prescribed.

Budget
accounts and audit

(2) Every appeal made under sub-section (1) shall be in such form as may be prescribed by the Central Government.

(3) The procedure for disposing of an appeal shall be such as may be prescribed by the Central Government:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

(4) If a dispute arises between the State Biodiversity Boards, the Central Government shall refer the same to the National Biodiversity Authority.

(5) While adjudicating any dispute under sub-section (4), the National Biodiversity Authority shall be guided by the principles of natural justice and shall follow such procedure as may be prescribed by the Central Government.

(6) The National Biodiversity Authority shall have, for the purposes of discharging its functions under this section, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of following matters, namely: -

(a) summoning and enforcing the attendance of any person and examining him an oath;

Annual report of State Biodiversity Board

(b) requiring the discovery and production of documents;

(c) receiving evidence of affidavits;

Audit of accounts of State Biodiversity Board

(d) issuing commissions for the examination of witnesses or documents;

(e) reviewing its decisions;

(f) dismissing an application for default or deciding it *ex parte*;

(g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*;

Annual report of State Biodiversity Board to be laid before State Legislature

(h) any other matter which may be prescribed.

(7) Every proceeding before the National Biodiversity Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code and the National Biodiversity Authority shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

Annual Report to be Laid before Parliament

Grant of money by State Government to State Biodiversity Board

State Biodiversity Fund

51. All members, officers and other employees of the National Biodiversity Authority or the State Biodiversity Board shall be deemed , when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

Central Government to develop National strategies, plans, etc., for conservation, etc., of Biological Diversity

52. No suit, prosecution or other legal proceedings shall lie against the Central Government or the State Government or any officer of the Central Government or the State Government or any member, officer or employee of the National Biodiversity Authority or the State Biodiversity Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

53. (1) Whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 3, section 4 or section 6 shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to ten lakh rupees, or with both.

(2) Whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 7 or any order made under sub-section (1) of section 24 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five lakh rupees, or with both.

54. If a person contravenes any direction given or order made by the Central Government, the State Government, the National Biodiversity Authority or the State Biodiversity Board for which no punishment has been separately provided under this Act, he shall be punished with a fine which may extend to one lakh rupees and in case of a second or subsequent offence, with time which may extend to two lakh rupees and in the case of continuous contravention with additional fine which may extend to two lakh rupees everyday during which the default continues

55. (1) Where an offence or contravention under this Act has been committed by a company, every person who at the time the offence or contravention was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the

company, shall be deemed to be guilty of the offence or contravention and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence or contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence or contravention.

(2) Notwithstanding anything contained in sub-section (1), where an offence or contravention under this Act has been committed by a company and it is proved that the offence or contravention has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence or contravention and shall be liable to be proceeded against and punished accordingly.

Biodiversity heritage sites

Explanation.- For the purposes of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

56. The offences under this Act shall be cognizable and non-bailable.

57. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

58. The Central Government may give directions to any State Government as to the carrying into execution in the State of any of the provisions of this Act or of any rule or regulation or order made thereunder.

59. No court shall take cognizance of any offence under this Act or rules and regulations made thereunder save on a complaint made by the National Biodiversity Authority or State Biodiversity Board, as the case may be.

60. (1) The Central government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matter, namely: -

(a) terms and conditions of service of the Chairperson and member under section 9;

(b) powers and duties of the Chairperson under section 10;

(c) procedure under sub-section (1) of section 12 in regard to transaction of business at meetings;

(d) form of application and payment of fees for undertaking certain activities under sub-section (1) of section 19;

(e) form of application and the manner for transfer of biological resource or knowledge under sub-section (2) of section 20.

(f) form in which and the time of each financial year at which, the annual report shall be prepared under section 28.

(g) form in which the annual statement of account shall be prepared under section 29.

(h) the time within which and the form in which, an appeal may be preferred, the procedure for disposing of an appeal and the procedure for adjudication, under section 50;

(i) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

(3) Every rule made under this section and every regulation made under this Act shall be laid, as

soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

61. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -

(a) the form in which the prior intimation shall be given under sub-section (1) of section 24;

(b) the form in which, and the time of each financial year at which, the annual report shall be prepared under section 33;

(c) management and conservation of national heritage sites under section 37;

(d) the purposes for which local Biodiversity Fund shall be applied under sub-section (1) of section 44;

(e) any other matter which is to be, or may be, specified.

Power of Central Government to notify threatened species

Power of Central Government to designate repositories

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

62. The National Biodiversity Authority shall with the previous approval of the Central Government by notification in the Official Gazette, make regulations for carrying out the purposes of this Act.

Power of Central Government to exempt certain biological resources

63. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government, may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

Constitution of Biodiversity Management Committees

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Application of Local Biodiversity Fund

STATEMENT OF OBJECTS AND REASONS

Biodiversity encompasses the variety of all life on earth. India is one of the 12 mega biodiversity countries of the world. With only 2.5% of the land area, India already accounts for 7.8% of the recorded species of the world. India is equally rich in traditional and indigenous knowledge, both coded and informal.

Annual report of Biodiversity Management Committees

2. India is a Party of the Convention on Biological Diversity (1992). The main objectives of the Convention are:

Audit of accounts of Biodiversity Management Committees

(i) Conservation of biological diversity;

(ii) Sustainable use of its components;

(iii) Fair and equitable sharing of benefits arising out of utilisation of genetic resources.

Annual report of Biodiversity Management Committee to be laid before State Legislature

3. Recognizing the sovereign rights of States to use their own biological resources, the Convention expects the Parties to facilitate access to genetic resources by other Parties for environmentally sound purposes subject to national legislation and on mutually agreed upon terms (Articles 3 and 15). Article 8(j) of the Convention recognizes contributions of local and indigenous communities to the conservation and sustainable utilisation of biological diversity

Grants to Local Biodiversity Fund

through traditional knowledge, practices and innovations and provides for equitable sharing of benefits with such people arising from the utilization of their knowledge, practices and innovations.

Constitution of Local Biodiversity Fund

4. Biodiversity is a multi-disciplinary subject involving diverse sectoral activities and actions. The stakeholders in biological diversity include the Central Government, State Government, institutions of local self-government, scientific and technical institutions, experts, non-governmental organizations, industry, etc. One of the major challenges before India lies in adopting an instrument which helps realise the objectives of equitable sharing of benefits enshrined in the Convention on Biological Diversity.

National Biodiversity Authority to be bound by the directions given by Central Government

5. After an extensive and intensive consultation process involving the stakeholders, the Central Government has decided to bring a legislation with the following salient features: -

(i) to regulate access to biological resources of the country with the purpose of securing equitable share in benefits arising out of the use of biological resources; and associated knowledge relating to biological resources;

(ii) to conserve and sustainably use biological diversity;

(iii) to respect and protect knowledge of local communities related to biodiversity;

(iv) 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;

(v) conservation and development of areas important from the standpoint of biological diversity by declaring them as biological diversity heritage sites;

(vi) protection and rehabilitation of threatened species;

(vii) involvement of institutions of self-government in the broad scheme of the implementation of the Act through constitution of committees.

Power of State Government to give directions

6. The proposed legislation primarily addresses the issue concerning access to genetic resources and associated knowledge by foreign individuals, institutions or companies, and equitable sharing of benefits arising out of the use of these resources and knowledge to the country and the people. In order to safeguard the interests of the local people, *vaid* and hakims and to allow research by Indian citizens within the country, the following exceptions are proposed: -

Settlement of disputes between State Biodiversity Boards

(i) Free access to biological resources for use within India for any purpose other than commercial use for Indian people.

(ii) Use of biological resources by v aids and hakims.

(iii) Free access to the Indian citizens to use biological resources within the country for research purposes.

(iv) Collaborative research through government sponsored or government approved institutions subject to overall policy guidelines and approval of the Central Government.

7. It is proposed to have National Biodiversity Authority, State Biodiversity Boards and Biodiversity Management Committees.

(a) The National Biodiversity Authority will deal with 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; imposition of terms and conditions to secure equitable sharing of benefits and approval for seeking any form of Intellectual Property Rights (IPRs) in or outside India for an invention based on research or information pertaining to a biological resource obtained from India.

(b) State Biodiversity Boards will deal with matters relating to access by Indians for commercial purposes and restrict any activity which violates the objectives of conservation, sustainable use and equitable sharing of benefits.

(c) Biodiversity Management Committees will be set up by institutions of self-government in their respective areas for conservation, sustainable use, documentation of biodiversity and chronicling of knowledge relating to biodiversity. Biodiversity Management Committees shall be consulted by the National Biodiversity Authority and State Biodiversity Boards on matters related to use of biological resources and associated knowledge within their jurisdiction.

8. It is proposed to set up Biodiversity Funds at Central, State and local levels. The monetary benefits, fees and royalties received as a result of approvals by National Biodiversity Authority will be deposited in National Biodiversity Fund. The Fund will be used for conservation and development of areas from where resources have been accessed.
9. Normally traded commodities may be exempted by the Central Government, by notification and in consultation with the National Biodiversity Authority, from the purview of the proposed legislation.
10. Traditional knowledge is proposed to be protected. It is also proposed that the State Governments notify National Heritage Sites which are important from the standpoint of biodiversity, in consultation with institutions of local self government.
11. The notes on clauses explain in detail the various provisions contained in the Bill.
12. The Bill seeks to achieve the above objectives.

NEW DELHI

T. R. BAALU

The 20th April, 2000

**PRESIDENT'S RECOMMENDTION UNDER ARTICLE 117 OF THE CONSTITUTION
OF INDIA**

[Copy of letter No. J-22018/11/2000-CSC (BC) dated 8 May 2000 from Shri T. R. Baalu,
Minister of Environment and Forests to the Secretary-General, Lok Sabha]

The President, having been informed of the proposed Bill to protect India's rich biodiversity and associated knowledge against their use by foreign individuals and organisations without sharing the benefits arising out of such use, has given his recommendation for introduction of the Bill under article 117(1) and for consideration of the Bill under article 117(3) of the Constitution.

Notes on Clauses

Clause 1 – This clause gives the short title of the Bill, the area of its operation and the date of commencement of the Act and its various provisions. As adequate steps have to be taken for administering the provisions of the proposed legislation, provision has been made that different dates may be appointed for the different provisions of the Act.

Clause 2 – This clause contains definitions of various statements used in the Bill, such as “Benefit claimers”, “Biological Diversity”, “bio-survey and bio-utilisation”, “Equitable benefit sharing”, “National Biodiversity Authority”, “State Biodiversity Board”, and “Sustainable use”, etc.

Clause 3 – This clause specified that certain persons such as non-Indian citizens, NRIs, body corporate associations or organisations not incorporated/ registered in India or registered in India but have non-Indian citizen participation in its share capital or management cannot undertake biodiversity related activities without approval of National Biodiversity Authority.

Offences by companies

Clause 4 – This clause provides that no person who intends to transfer the results of research relating to biological resources occurring or obtained from India to non-Indian citizens; any body corporate association or organisations; any body corporate registered in India but has non-Indian participation in share capital or management, shall do so without obtaining approval of National Biodiversity Authority. Publication of research papers or dissemination of knowledge through seminars or workshops is exempted provided such publications, etc. are as per the policy guidelines of the Central Government.

Clause 5 – Under this clause collaborative research projects are exempted from the provisions of clauses 3 and 4 if such collaborative research projects are approved by the Central Government and are drawn up as per the policy guidelines specified by the Central Government. Collaborative research projects based on agreements concluded before the commencement of this Act are required to make appropriate amendments to conform to the provisions of this Act.

Members, officers etc., of National Biodiversity Authority and State Biodiversity Board deemed to be public servants

Clause 6 – This clause provides that any person seeking any kind of intellectual property rights in or outside India for any invention based on any biological research or information on a biological resource obtained from India, is required to obtain prior permission of the National Biodiversity Authority. In case of persons applying the Patents, prior permission of the National Biodiversity Authority is required after the acceptance of the Patent but before sealing of the Patent by the concerned patent authority. It provides for the National Biodiversity Authority to impose for benefit sharing fee or royalty or both or impose conditions for sharing of financial benefits arising out of the commercial utilization of such rights.

Protection of action taken in good faith
Penalties

Clause 7 – This clause provides that Indian citizens, body corporate, association or organizations registered in India are required to give prior intimation to the State Biodiversity Boards about obtaining biological resources for commercial utilization. However, local people and communities of the area including *vaid*s and *hakims* who have been practicing indigenous medicine are exempted from the provisions of this clause.

Offences to be cognizable and non-bailable

Clause 8 – This clause provides for the establishment of an Authority to be called 'The National Biodiversity Authority'. The head office of the Authority shall be located at Chennai. The Authority shall consist of a Chairperson, eight *ex officio* members and five non-official members. The Chairperson shall be an eminent person in the field of conservation and sustainable use of biological diversity and in matters relating to equitable sharing of benefits. The *ex officio* members include representatives of the Ministries dealing with Environment and Forests, Agricultural Research and Education, Ocean Development, Agriculture and Cooperation, Indian Systems of Medicine and Homoeopathy, and Tribal Affairs. The non-official members include specialists and scientists in the field of biological diversity, representatives of industry, conservers and knowledge holders of biological resources.

Act to have overriding effect

Penalty for contravention of directions or orders of Central Government, State Government, National Biodiversity Authority and State Biodiversity Board

Power of Central Government to give directions to State Government

Cognizance of offences

Clause 9 - This clause specifies that the term of office, and service conditions of the non-official members will be laid down in the rules.

Power of Central Government to make rules

Clause 10 – This clause specifies that the Chairperson of the Authority shall be the Chief Executive of the Authority. His detailed powers and functions will be laid down in the rules.

Clause 11- This clause lays down the conditions for removing the members from the National Biodiversity Authority.

Clause 12- This clause lays down detailed procedure for convening the meetings of the Authority.

Clause 13 – This clause seeks to provide for the appointment of various committees by the Authority for efficient discharge of its duties. One such committee will be on agro-biodiversity.

Clause 14 - This clause seeks to provide for the appointment of various officers and employees of the Authority for efficient performance of its functions. It also enables the Central Government to lay down rules governing the method of appointment, salary and other terms and conditions of the officers and employees.

Clause 15 – This clause provides that all orders and decisions of the Authority shall be authenticated by the signature of the Chairperson or any member authorised by the National Biodiversity Authority.

Clause 16 - This clause enables the Authority to delegate its power (except the power to settle disputes under section 50 and the power to make regulations under clause 62) by order in writing to the Chairperson or any members or officer of the National Biodiversity Authority subject to such conditions or limitations.

Clause 17- This clause provides the salaries and allowances payable to members, officers and other employees of the National Biodiversity Authority shall be defrayed out of the Consolidated Fund of India.

Clause 18- This clause lays down the detailed functions of the Authority which include granting of approvals for undertaking any activity referred to in clauses 3, 4 and 6, framing guidelines for access and equitable sharing of benefits; advising the Central Government on matters relating to conservation and sustainable use of biological diversity; advise the state Governments in the selection of areas to be notified as heritage sites. This clause also provides that the National Biodiversity Authority may take necessary measures to oppose grant of Intellectual Property Rights in any country outside India on any biological material obtained from India or associated knowledge which is derived from India.

Clause 19 – This clause provides for making application to the Authority for undertaking activities referred to in clause 3, 4 and 6. This clause specifies that after receiving of application, the National Biodiversity Authority shall make an appraisal of the case and either grant approval subject to terms and conditions and reject the application giving reasons.

Clause 20 – This clause stipulates that persons granted approvals under section 19 are required to obtain approval by the Authority for third party transfer.

Clause 21 – This clause deals with determination of equitable sharing of benefits by the Authority while granting approvals under clauses 19 and 20. It stipulates that the Authority in consultation with local bodies impose terms and conditions for securing equitable sharing of benefits; depositing of monetary benefits into the National Biodiversity Fund except in cases where biological resources and knowledge are accessed from specific individual or group of individuals, in which case the monetary benefits will be directly made to the providers.

Clause 22 – This clause provides for the establishments of Biodiversity Boards by the State Governments to be called “State Biodiversity Board”. The Board shall consist of a Chairperson, five *ex officio* members representing various departments of the State Governments and five non-official members.

Clause 23- This clause specifies the general functions of the State Biodiversity Board.

Clause 24- This clause provides that the State Biodiversity Board may regulate the activities of Indian citizens, body corporate, organisation or association registered in India, relating to obtaining of biological resources for commercial utilisation. Indian citizens, body corporate, association, etc., are required to give prior intimation to State Biodiversity Board about obtaining biological resources for commercial utilization. The State Biodiversity Board, in consultation with local bodies and after making enquiries, restrict such activity if it is contrary to the objectives of conservation or sustainable use of biodiversity or equitable sharing of benefits.

Clause 25- This clause provides that clauses 9 to 17 will apply to State Biodiversity Board with certain modifications.

Clause 26 – This clause enables the Central Government to provide grants and loans to the National Biodiversity Authority for the implementation of the various provisions of the proposed legislation after due appropriation by Parliament.

Clause 27 – This clause provides for constitution of a National Biodiversity Fund, grants and loans to the Authority, all charges and royalties received by the Authority, etc., shall be credited into this Fund. The Fund shall be utilised for channeling benefits to the benefit claimers, conservation of biological resources and development of areas from where biological resources and knowledge have been accessed.

Clause 28 – This clause deals with the preparing of the Annual Report by the National Biodiversity Authority giving full account of its activities including audited statement of accounts.

Clause 29 – This clause provides that the accounts of National Biodiversity Authority will be audited by the Comptroller and Auditor General of India and a copy of audited statement of accounts will be furnished to the Central Government.

Clause 30 – This clause provides that the Annual Report and Auditor’s Report of the National Biodiversity Authority will be laid before the Parliament.

Clause 31 – This clause enables the State Governments to provide grants and loans to the State Biodiversity Boards, after due appropriation by the State Legislatures.

Power of State Government to make rule

Clause 32 – This clause provides for constitution of State Biological Diversity Fund, grants or loans to the State Biodiversity Boards, and any grants or loans made by the National Biodiversity Authority and from other sources shall be credited into the State Biodiversity Fund. The Fund shall be utilised for conservation of biological resources, management and conservation of Heritage sites, socio-economic development of areas from where biological resources and knowledge have been accessed, subject to any approval granted by the State Board under clause 24.

Clause 33 - This clause deals with the preparing of the Annual Report by the State Biodiversity Boards.

Clause 34- This clause provides that the accounts of the State Biodiversity Board will be audited by the Accountant General of the State and a copy of the audited statement will be furnished to the State Government.

Clause 35 – This clause provides that the Annual Report and Auditor’s Report of the State Biodiversity Board will be laid before the State Legislature.

Clause 36 - Under this clause the Central Government shall develop national strategies, plans and programmes for conservation and sustainable use of biodiversity; as far as practicable and wherever appropriate integrate the conservation and sustainable use of biodiversity into relevant sectoral or cross-sectoral plans, programmes and policies; take measures – (i) for assessment of environmental impact of projects, wherever necessary, and with public participation where appropriate; and (ii) to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology and endeavour to respect and protect knowledge of local people relating to biodiversity through measures such as registration and *sui generis* system as per the recommendations of the National Biodiversity Authority.

Power to make regulations

Clause 37 – This clause provides that the State Government may, in consultation with the local bodies, notify areas of biodiversity importance as biodiversity heritage sites under this Act; in consultation with the Central Government frame rules for the management and conservation of heritage sites; and framing of schemes for compensating or rehabilitating people economically affected by such notification.

Power to remove difficulties

Clause 38 – This clause empowers the Central Government to notify threatened species, prohibit or regulate their collection, and take steps to rehabilitate and preserve these species.

Clause 39 - This clause provides that the Central Government in consultation with the National Biodiversity Authority may designate institutions as Repositories under this Act for different categories of biological resources; the Repositories to keep in safe custody the biological materials including voucher specimens deposited with them; and that any new taxon discovered shall be notified to the Repositories or any other institutions designated for this purpose and its voucher specimen deposited with such Repository or institution.

Clause 40 – This clause provides that the Central Government may in consultation with the National Biodiversity Authority exempt, the notification biological resources normally traded as commodities from the provisions of this Act.

Clause 41 - This clause stipulates that every local body shall constitute a Biodiversity Management Committee for conservation, sustainable use and documentation of biodiversity; the National Biodiversity Authority and the State Boards will consult the Biodiversity Management Committees while taking any decision relating to the use of biological resources and associated knowledge occurring within their jurisdiction; and the Biodiversity Management Committee may impose collection fees for collecting biological resources from their territory.

Clause 42 – This clause enables the State Government to provide grants or loans to Local Biodiversity Funds after due appropriation by the State Legislature.

Clause 43- This clause provides for constitution of a Local Biodiversity Fund in areas where institutions of self-government are functioning. Grants or loans made by the National Authority, any grants or loans made by the State Biodiversity Boards, collection fees received by the Biodiversity Management Committee, and other sources shall be credited into such Fund.

Clause 44- This clause provides that the Local Biodiversity Fund shall be used for conservation of biodiversity in the jurisdiction of the local self-governments.

Clause 45- This clause provides for preparing the Annual Report of the Biodiversity Management Committee and accounts for submission to the State Governments.

Clause 46- This clause provides that the accounts of the Local Biodiversity Fund shall be maintained and audited in consultation with the Accountant General of the State.

Clause 47- This clause provides that the Annual Report and the Auditor's Report of the Local Biodiversity Fund will be laid before the State Legislature.

Clause 48- This clause stipulates that the National Biodiversity Authority in discharge of its functions and duties shall be bound by the directions of the Central Government.

Clause 49- This clause stipulates that the State Biodiversity Board in discharge of its functions and duties shall be bound by the directions of the State Government.

Clause 50 - This clause sets out the detailed procedure for settlement of disputes between State Biodiversity Boards; proceedings before the National Authority shall be deemed to be a judicial proceeding for the purpose of section 196 of the Indian Penal Code and the National Authority shall be deemed to be a Civil Court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

Clause 51- This clause states that the members, officers and other employees of the National Authority or State Biodiversity Boards shall be deemed to be public servants.

Clause 52- This clause provides for protection of action taken in good faith by the Central Government or the State Government officers and employees of the said governments, members, officers or employees of the National Biodiversity Authority or the State Biodiversity Board, from any suit, prosecution or other legal proceedings.

Clause 53 – This clause provides for penalties for contravening clauses 3, 4 and 6. The penalty will be imprisonment for a term which may extend to 5 years or fine which may extend to Rs. 10 lakhs or both; and that penalty for contravention of the provisions of clause (7) and sub-clause (1) of clause 24 shall be imprisonment for a term which may extend to three years or fine which may extend to Rs. 5 lakhs or both.

Clause 54 - This clause provides for penalty for contravention of directions or orders of the Central Government, the State Government, the National Biodiversity Authority and the State Biodiversity Boards.

Clause 55 – This clause contains provisions for offences by companies. This clause seeks to provide that where a person committing offence is a company, every person responsible in the company for the conduct of its business will be liable; where a person accused proves that the offence was committed without his knowledge he will not be liable. However, where it is proved that an offence has been committed with the consent or connivance or is attributable to the neglect of any director, manager, secretary or any other officer of the company, he shall be deemed to be guilty of the offence.

Clause 56- This clause provides that the offences under this Act shall be recognizable and non-bailable.

Clause 57- This clause states that the provisions of the proposed legislation shall have overriding effect on all other laws for the time being in force or anything inconsistent with the proposed legislation contained in any instrument.

Clause 58- This clause stipulates that the Central Government may give directions to the State Governments for execution any of the provisions of this Act.

Clause 59- This clause provides that no court shall take cognizance of any offence under this Act or rules/ regulations made thereunder except for complaints made by National Biodiversity Authority or State Biodiversity Boards.

Clause 60 – This clause empowers the Central Government to make rules to carry out the

provisions of the proposed legislation; enumerates the various matters in respect of which such rules may be made; and seeks to provide that every rule made shall be laid before Parliament.

Clause 61- This clause empowers the State Government to make rules to carry out the provisions of the proposed legislation, enumerates the various matters in respect of which such rules may be made, and seeks to provide that every rule made shall be laid before the State Legislature.

Clause 62- This clause empowers the National Biodiversity Authority to make regulations consistent with the provisions of the proposed legislation and the rules made thereunder. Such regulations are required to be made with the previous approval of the Central Government and by notification in the Official Gazette.

Clause 63- This clause empowers the Central Government to remove difficulties which may arise in giving effect to the provisions of the proposed legislation by order published in the Official Gazette. Such order shall not be inconsistent with the provisions of the proposed legislation. This power can be exercised only within two years from the commencement of the proposed legislation. Every such order shall be required to be laid before Parliament.

FINANCIAL MEMORANDUM

Clause 8 provides for setting up of a Statutory Authority to be known as the National Biodiversity Authority at Chennai. The Authority may decide in the future to establish offices in other places in India as envisaged under clause 8(3) of the Bill. The recurring expenditure towards salary, allowances and other expenditure relating to Chairperson, members and other officers and employees of the Authority appointed under Clause 14 will be of the order of Rs. 10 lakhs per annum. The other recurring expenditure by way of rent, maintenance, meetings, office expenses and contingency etc, will be of the order of Rs. 80 lakhs per annum. Non-recurring expenditure on establishment, office equipment, vehicles, etc. will be approximately of the order of Rs. 50 lakhs.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 60 of the Bill empowers the Central Government to make rules by notification in the official Gazette for carrying out the purposes of the proposed legislation. Sub-clause (2) of that clause enumerates the matters with respect to which rules may be made under the proposed legislation. These matters *inter-alia* relate to the terms of office; the salary and allowances and conditions of the Chairperson and members of the National Biodiversity Authority; powers and duties of Chairperson, transaction of business of the National Biodiversity Authority, form of application and payment of fees for undertaking certain activities; the procedure for adjudication, etc.

2. Clause 61 of the Bill empowers the State Governments to make rules by notification in the official Gazette for carrying out purposes of this proposed legislation. Sub-clause (2) of that clause enumerates the various matters with respect to which rules may be made under this legislation. These matters *inter alia* relate to the form in which the prior intimation shall be given; rules for the management and conservation of heritage sites; management of the Local Biodiversity Fund, etc.
3. Clause 62 of the Bill empowers the National Biodiversity Authority to make regulations with the previous approval of the Central Government by notification in the Official Gazette.
4. The rules and regulations made under the proposed legislation shall be required to be laid before Parliament.
5. The aforesaid matters in respect of which rules, regulations may be made or framed relate to matters of procedure or administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore of a normal character.

LOK SABHA

to provide for conservation of Biological Diversity, sustainable use of its components and equitable sharing of the benefits arising out of the use of biological resources and for matters connected therewith or incidental thereto.

Shri T.R. Baalu (Minister for Environment and Forests)

ANNEXURES

Annexure - II

List of Experts/Agencies/Department who sent their suggestions/observations on Biological Diversity Bill, 2000 & the same were forwarded to Ministry of Environment & Forests for their comments

1. Shri N.R. Krishnan, Chennai
2. Dr. G. Sreekandan Nair – Tropical Botanic Garden & Research Institute, Thiruvananthapuram
3. Dr. V.V. Ramamurthy – Indian Agriculture Research Institute, New Delhi
4. Ayurvedic Drug Manufacturers Association, Mumbai
5. Shri B.R. Anantha Rao, Bangalore
6. Indian Institute of Forest Management, Bhopal
7. Shri Rajeev Dhavan, Public Interest Legal Support And Research Centre, New Delhi
8. Shri Ashish Kothari, Kalpavriksh, Pune
9. Department of Forests, Ecology & Environment, Govt. of Karnataka
10. Indian Forest Service Association, Karnataka
11. Andaman and Nicobar Administration
12. Shri Prosenjit Das Gupta, Calcutta
13. Government of Madhya Pradesh
14. Government of Chattisgarh
15. A.P. Coalition in Defence of Diversity, Hyderabad
16. Dr. M.D. Nair, Chennai
17. Dr. J.R.B. Alfred, Zoological Survey of India, Calcutta
18. Dr. P. Pushpangadan, Director, National Botanical Research Institute, Lucknow
19. Dr. Rajendra Dhabol, Madhya Pradesh Council for Science & Technology, Bhopal
20. Dr. M.S. Swaminathan, Chairman, MSSRF, Chennai
21. Dr. Vandana Shiva, Research Foundation for Science Technology and Ecology, New Delhi.
22. All India Biotech Association, New Delhi
23. Dr. Ranjitsinh, Indian National Trust for Art & Cultural Heritage (INTACH), New Delhi.
24. Indian Forest Service Association, Dehradun
25. Dr. A. K. Damodharan, Indian Institute of Plantation Management, Bangalore
26. Prof. R.S. Rana, National Bureau of Genetic Research, New Delhi
27. All India Ayurvedic Congress Manufacturers Association, New Delhi
28. Mr. Dwijen Rangnekar, School of Public Policy, University College, London

29. Arya Vaidya Sala, Kottakkal, Kerala
30. Shri B.K. Keayla, National Working Group Patent Laws, New Delhi
31. Prof. Madhav Gadgil, Centre for Ecological Sciences, Bangalore
32. DARE / Indian Council of Agricultural Research / NBPGR, New Delhi
33. Farmers Federation, New Delhi
34. Prof. R.R. Pramanik, M.P., Member, Committee on S&T, E&F
35. Shri Debabrata Biswas, M.P., Member, Committee on S&T, E&F

Annexure - III

List of Experts/Agencies/Department who gave oral evidence before the Committee on the Biological Diversity Bill, 2000

1. Ayurvedic Drug Manufacturers Association, Mumbai
2. Prof. Shekhar Singh, Indian Institute of Public Administration, New Delhi
3. Dr. V.V. Ramamurthy, Division of Entomology, Indian Agricultural Research Institute, New Delhi
4. Dr. C. R. Babu, Department of Botany, University of Delhi
5. Dr. Vandana Shiva, Research Foundation for Science Technology & Ecology, New Delhi
6. Prof. M. S. Swaminathan, MSSRF, Chennai, M. S. Swaminathan Research Foundation.
7. Ministry of Tribal Affairs, Government of India
8. Dr. R. S. Rana, (Retd.) Director, National Bureau of Plant Genetic Resources, New Delhi
9. Prof. Madhav Gadgil, Centre for Ecological Sciences, Bangalore
10. Shri B. K. Keayla, National Working Group on Patent Laws, New Delhi
11. Shri P. Pushpangadan, National Botanical Research Institute, (CSIR) Lucknow
12. Shri V. Raghraman, Confederation of Indian Industry, New Delhi
13. Shri U. N. Malik, All India Biotech Association, New Delhi
14. Dr. Rajeev Dhawan, Public Interest Legal support and Research Centre (PILSARC), New Delhi
15. Dr. Ranjitsinh, Indian National Trust for Art & Cultural Heritage (INTACH), New Delhi
16. Shri G. G. Gangadharan, V.P. Arya Vaidya Pharmacy Ltd. Coimbatore
17. Shri Prithi Singh Vats and Prof. K. R. Sharma (Bhartiya Kisan Sangh, Delhi)

MINUTES

XXV

TWENTY-FIFTH MEETING

The Committee met at 3.00 P.M. on Thursday the 6th July, 2000 in Committee Room 'E', Basement, Parliament House Annexe, New Delhi.

PRESENT

1. Shri C. Ramachandraiah — *Chairman*

RAJYA SABHA

2. Shri Birabhadra Singh
3. Shri Debabrata Biswas
4. Shri Sukhdev Singh Libra
5. Shri Lalitbhai Mehta
6. Shri Lachhman Singh
7. Shri B.P. Singhal
8. Shri Ranjan Prasad Yadav

LOK SABHA

9. Shri Bhan Singh Bhaura
10. Smt. Bhavana Chikhaliya

11. Shri Gordhanbhai Javiya
12. Shri Bali Ram Kashyap
13. Dr. Charan Das Mahant
14. Shri S. Murugesan
15. Shri Ali Mohd. Naik
16. Shri B. K. Parthasarthi
17. Shri Suresh Pasi
18. Dr. Ashok Patel
19. Shri Prahlad Patel
20. Prof. R. R. Pramanik
21. Shri Naresh Puglia
22. Shri Y. S. Vivekananda Reddy
23. Prof. I. G. Sanadi
24. Shri Ram Prasad Singh
25. Shri V.S. Sivakumar
26. Shri Vaiko
27. Shri V. Vetriselvan
28. (Dr.) Smt. Rajeswaramma Vukkala
29. Shri Balram Singh Yadav

SECRETARIAT

Shri H. K. Chanana, Director
 Shri D. P. Ahuja, Under Secretary
 Shri A. K. Gandhi, Committee Officer

2. * * *
3. * * *

4. The Chairman informed the Members that the Hon'ble Chairman has referred the "Biological Diversity Bill, 2000" to the Committee for examination & report. After some discussion, the Committee decided to have the benefit of the view of the Secretary in the Ministry of Environment & Forests on the subject matter of the Bill at its meeting to be held on 18th July, 2000.

5. The Committee then adjourned at 4.10 P.M. to meet again at 11.00 A.M. on the 18th July, 2000.

*** Relates to other matters.

XXVI

TWENTY-SIXTH MEETING

The Committee met at 11.00 A.M. on Tuesday the 18th July, 2000 in Room No. 139, First Floor, Parliament House Annexe, New Delhi.

PRESENT

1. Shri C. Ramachandraiah — *Chairman*

RAJYA SABHA

2. Shri Birabhadra Singh
3. Shri Debabrata Biswas
4. Smt. Chandresh Kumari
5. Shri Sukhdev Singh Libra
6. Shri Lalitbhai Mehta
7. Prof. (Smt.) Bharati Ray
8. Smt. Savita Sharda
9. Shri Lachhman Singh
10. Shri B.P. Singhal

LOK SABHA

11. Smt. Bhavana Chikhaliya
12. Shri Gordhanbhai Javiya
13. Shri E. M. Sudarsana Natchiappan
14. Shri Ali Mohd. Naik
15. Shri Suresh Pasi
16. Dr. Ashok Patel
17. Shri Prahlad Patel
18. Shri Naresh Puglia
19. Shri Y. S. Vivekananda Reddy
20. Prof. I. G. Sanadi
21. Shri Ram Prasad Singh
22. Shri Vaiko
23. Shri Balram Singh Yadav

SECRETARIAT

Shri Satish Kumar, Additional Secretary
 Shri H. K. Chanana, Director
 Shri D. P. Ahuja, Under Secretary
 Shri A. K. Gandhi, Committee Officer

REPRESENTATIVES OF THE MINISTRY OF ENVIRONMENT AND FORESTS

Shri Vishwanath Anand, Secretary
 Dr. A. K. Kundra, Special Secretary
 Shri C. P. Oberai, Inspector General of Forests & Special Secretary
 Shri S. C. Sharma, Additional Inspector General of Forests
 Shri R. H. Khwaja, Joint Secretary
 Shri G. A. Patel, Principal Chief Conservator of Forests, Gujarat
 Shri A. N. Prasad, DIG (FC)
 Shri Aseem Srivastava, DIG (Wildlife)
 Shri Anmol Kumar, DIG (Wildlife)
 Shri G. V. Sarat Babu, Joint Director (CS)
 Mrs. Sujata Arora, Deputy Director (CS)

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4. The Secretary thereafter made an oral as well as visual presentation on the subject matter of the "Biological Diversity Bill, 2000". The Members then sought clarifications, which were answered by the Secretary of the Ministry.

5. The Committee directed the Secretariat to obtain from the Ministry of Environment & Forests a list of the Organisations/Experts/Individuals in the field of biodiversity, whom the committee may like to call for their views/oral evidence on the Biological Diversity Bill, 2000. The Committee also directed the Secretariat (i) to invite memoranda from the list of witnesses that may be supplied by Ministry (ii) to issue a Press Advertisement in leading dailies/Doordarshan/TV channels for eliciting views from the Public on the various provisions of the Bill.

The witnesses then withdrew.

A verbatim record of the proceedings, was kept.

6. The Committee then adjourned at 1.40 P.M.

*** Relates to other matters.

XXX

THIRTIETH MEETING

The Committee met at 11.00 A.M. on Friday the 15th September, 2000 in Room No.62, First Floor, Parliament House, New

Delhi.

PRESENT

1. Shri C. Ramachandraiah — *Chairman*

RAJYA SABHA

2. Shri Birabhadra Singh
3. Shri Debabrata Biswas
4. Smt. Chandresh Kumari
5. Shri Sukhdev Singh Libra
6. Dr. D. Masthan
7. Shri Lalitbhai Mehta
8. Prof. (Smt.) Bharati Ray
9. Shri Lachhman Singh
10. Shri B.P. Singhal
11. Shri Ranjan Prasad Yadav

LOK SABHA

12. Shri Bhan Singh Bhaura
13. Shri Nihal Chand Chauhan
14. Dr. (Smt.) Beatrix D'Souza
15. Shri Gordhanbhai Javiya
16. Shri Bali Ram Kashyap
17. Hassan Khan
18. Shri E. M. Sudarsana Natchiappan
19. Shri A Venkatesh Naik
20. Shri Suresh Pasi
21. Dr. Ashok Patel
22. Shri Prahlad Patel
23. Prof. R. R. Pramanik
24. Shri Naresh Puglia
25. Prof. I. G. Sanadi
26. Shri Ram Prasad Singh
27. Dr. (Smt.) Rajeswaramma Vukkala

SECRETARIAT

Shri H. K. Chanana, Director
Shri A. K. Gandhi, Committee Officer

REPRESENTATIVES OF THE MINISTRY OF ENVIRONMENT AND FORESTS

Shri G. V. Sarat Babu, Joint Director (CS)
Smt. Sujata Arora, Deputy Director (CS)
Shri K.S. Achar, Under Secretary

REPRESENTATIVE OF THE MINISTRY OF LAW JUSTICE & COMPANY AFFAIRS (Legislative Department)

Shri S.D. Ahuja, Deputy Legislative Counsel

REPRESENTATIVES OF RESEARCH FOUNDATION FOR SCIENCE, TECHNOLOGY & ECOLOGY

Dr. Vandana Shiva
Shri Afsar H. Jafri

REPRESENTATIVES OF AYURVEDIC DRUG MANUFACTURERS ASSOCIATION

Shri Kishor D. Shroff, President ADMA and Charak Pharmaceuticals, Mumbai
 Shri R.K. Agarwal, Chairman, Natural Remedies, Bangalore
 Shri Amit Agarwal, Director- R&D, Natural Remedies, Bangalore
 Dr. S. Farooq, The Himalaya Drugs Company
 Dr. G. Ganga Raju, Director, Laila Group, Vijayawada
 Dr. D.B. Anatha Narayana, Gen. Manager (R&D), Dabur Research Foundation, Ghaziabad
 Dr. C.K. Katiyar, Dy. General Manager, Medical Services & Clinical Research, Dabur India Limited, Ghaziabad.

2. Dr. Vandana Shiva from Research Foundation for Science, Technology & Ecology and her colleague gave a presentation on the subject matter of the Biological Diversity Bill, 2000. The Members then sought clarifications.

3. The Committee thereafter had the benefit of presentation by Shri Kishor D. Shroff, President, Ayurvedic Drug Manufacturers Association and his colleagues on various provisions in the Bill. The Members then sought clarifications.

The witnesses then withdrew.

A verbatim record of the proceedings was kept.

4. * * *

5. The meeting of the Committee then adjourned at 12.40 P.M.

*** Relates to other matters.

XXXII THIRTY SECOND MEETING

The Committee met at 11.00 A.M. on Tuesday the 17th October, 2000 in Room No.139, First Floor, Parliament House Annexe, New Delhi.

PRESENT

1. Shri R. R. Pramanik — **In the Chair*

RAJYA SABHA

2. Shri Birabhadra Singh
3. Shri Debabrata Biswas
4. Shri Lalitbhai Mehta
5. Smt. Savita Sharda
6. Shri Lachhman Singh
7. Shri B. P. Singhal

LOK SABHA

8. Shri Bhan Singh Bhaura
9. Shri Nihal Chand Chauhan
10. Dr. (Smt.) Beatrix D'Souza
11. Shri Gordhanbhai Javiya
12. Shri Bali Ram Kashyap
13. Dr. Charan Das Mahant
14. Shri E. M. Sudarsana Natchiappan
15. Shri B. K. Parthasarathi
16. Dr. Ashok Patel
17. Shri Prahlad Patel
18. Shri Naresh Puglia
19. Shri Y. S. Vivekananda Reddy
20. Shri Ram Prasad Singh
21. Shri Balram Singh Yadav

SECRETARIAT

Shri Satish Kumar, Additional Secretary
Shri H. K. Chanana, Director
Shri A. K. Gandhi, Committee Officer

*In the absence of the Chairman, Prof. R. R. Pramanik was voted to the Chair.

REPRESENTATIVE OF THE MINISTRY OF ENVIRONMENT AND FORESTS

Dr. G. V. Sarat Babu, Additional Director (CS)

REPRESENTATIVE OF THE INDIAN INSTITUTE OF PUBLIC ADMINISTRATION, NEW DELHI

Prof. Shekhar Singh

REPRESENTATIVE OF THE PATENT INFORMATION CENTRE, M.P. COUNCIL OF SCIENCE & TECHNOLOGY, BHOPAL

Dr. Rajendra Dobhal, Incharge

2. Prof. Shekhar Singh from Indian Institute of Public Administration, New Delhi gave a presentation on the subject matter of the Biological Diversity Bill, 2000. The Members then sought clarifications.

3. The Committee thereafter had the benefit of presentation by Dr. Rajendra Dobhal, Incharge Patent Information Centre, M. P. Council of Science & Technology, Bhopal on various provisions in the Bill. The Members then sought clarifications.

The witnesses then withdrew.

The verbatim record of the proceedings was kept.

4. * * *

5. The Committee then adjourned at 1.10 P.M. to meet again at 11.00 A.M. on 18th October, 2000.

*** Relates to other matters.

XXXIII

THIRTY THIRD MEETING

The Committee met at 11.00 A.M. on Wednesday the 18th October, 2000 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

1. Shri R. R. Pramanik — **In the Chair*

RAJYA SABHA

2. Shri Birabhadra Singh
3. Shri Debabrata Biswas
4. Shri Sukhdev Singh Libra
5. Shri Lalitbhai Mehta
6. Smt. Savita Sharda
7. Shri B. P. Singhal
8. Shri Ranjan Prasad Yadav

LOK SABHA

9. Shri Bhan Singh Bhaura
10. Shri Nihal Chand Chauhan
11. Dr. (Smt.) Beatrix D'Souza
12. Shri Gordhanbhai Javiya
13. Shri Bali Ram Kashyap

14. Shri Suresh Pasi
15. Dr. Ashok Patel
16. Shri Prahlad Patel
17. Shri Y. S. Vivekananda Reddy
18. Shri Ram Prasad Singh
19. Shri V. Vetriselvan
20. Shri Balram Singh Yadav

SECRETARIAT

Shri Satish Kumar, Additional Secretary
 Shri H. K. Chanana, Director
 Shri A. K. Gandhi, Committee Officer

REPRESENTATIVE OF THE MINISTRY OF ENVIRONMENT AND FORESTS

Dr. G. V. Sarat Babu, Additional Director (CS)

* In the absence of the Chairman, Prof. R. R. Pramanik was voted to the Chair.

REPRESENTATIVES OF DIVISION OF ENTOMOLOGY, INDIAN AGRICULTURAL RESEARCH INSTITUTE, NEW DELHI

Dr. V. V. Ramamurthy, Senior Scientist
 Shri V. K. Sehgal, Scientist

REPRESENTATIVE OF DEPARTMENT OF BOTANY, DELHI UNIVERSITY, DELHI

Prof. C. R. Babu, Department of Botany,

2. Dr. V. V. Ramamurthy, Senior Scientist from Division of Entomology, Indian Agricultural Research Institute, New Delhi and his colleague gave a presentation on the subject matter of the Biological Diversity Bill, 2000. The Members then sought clarifications. Dr. Ramamurthy and his colleague invited Members of the Committee to visit the Division of Entomology, Indian Agricultural Research Institute, New Delhi which has a large repository of Biological Museum containing Species of insects from all over India.

3. The Committee thereafter had the benefit of presentation by Prof. C. R. Babu, Department of Botany, Delhi University, Delhi subject matter of the Bill. The Members then sought clarifications.

The witnesses then withdrew.

The verbatim record of the proceedings was kept.

4. The Committee then adjourned at 12.40 P.M.

II SECOND MEETING

The Committee met at 11.00 A.M. on Wednesday the 10th January, 2001 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

1. Shri C. Ramachandraiah — *Chairman*

RAJYA SABHA

2. Shri Birabhadra Singh
3. Shri Debabrata Biswas
4. Shri K. C. Kondaiah
5. Smt. Chandresh Kumari
6. Shri Sukhdev Singh Libra

7. Shri Lalitbhai Mehta
8. Prof.(Smt.) Bharati Ray
9. Smt. Savita Sharda
10. Shri Ranjan Prasad Yadav

LOK SABHA

11. Shri Bhan Singh Bhaura
12. Dr.(Smt.)Beatrix D'Souza
13. Shri Bali Ram Kashyap
14. Dr. Charan Das Mahant
15. Shri S. Murugesan
16. Shri E. M. Sudarsana Natchiappan
17. Shri A. Venkatesh Naik
18. Shri B. K. Parthasarathi
19. Shri Suresh Pasi
20. Dr. Ashok Patel
21. Shri Prahlad Patel
22. Prof. R. R. Pramanik
23. Shri Naresh Puglia
24. Prof. I. G. Sanadi
25. Shri Ram Prasad Singh
26. Shri Balram Singh Yadav

SECRETARIAT

Shri Satish Kumar, Additional Secretary
Shri H. K. Chanana, Director
Shri A. K. Gandhi, Committee Officer

REPRESENTATIVE OF THE MINISTRY OF ENVIRONMENT AND FORESTS

Dr. G. V. Sarat Babu, Additional Director (CS)

REPRESENTATIVES OF THE MINISTRY OF TRIBAL AFFAIRS

Shri S. K. Naik, Secretary
Shri S. Chatterjee, Joint Secretary
Shri Tarun Coomar, Director
Shri R. M. Dubey, Director

REPRESENTATIVE OF THE INDIAN INSTITUTE OF SCIENCE, BANGALORE

Prof. Madhav Gadgil, IISc., Bangalore

REPRESENTATIVES OF THE BHARTIYA KISHAN SANGH, DELHI

Shri Pirthi Singh Vats
Prof. K. R. Sharma

2. The Secretary, Ministry of Tribal Affairs and other officers gave a presentation on the subject matter of the Biological Diversity Bill,2000. The Members then sought clarifications.
3. The Committee thereafter had the benefit of presentation by Prof. Madhav Gadgil, Director, Centre for Ecological Sciences, Indian Institute of Sciences, Bangalore on various provisions in the Bill. The Members then sought clarifications.
4. The Committee then heard Shri Pirthi Singh Vats and his colleague Prof. K.R. Sharma representative of Bhartiya Kisan Sangha, Delhi Pradesh on various provisions in the Bill. The Members then sought clarifications.

The witnesses then withdrew.

A verbatim record of the proceedings was kept.

- The Committee then adjourned at 04.00P.M.

III THIRD MEETING

The Committee met at 11.00 A.M. on Thursday the 11th January, 2001 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

- Shri C. Ramachandraiah — *Chairman*

RAJYA SABHA

- Shri Birabhadra Singh
- Shri Debabrata Biswas
- Shri K. C. Kondaiah
- Smt. Chandresh Kumari
- Shri Sukhdev Singh Libra
- Prof.(Smt.) Bharati Ray
- Smt. Savita Sharda
- Shri Lachhman Singh
- Shri Ranjan Prasad Yadav

LOK SABHA

- Dr.(Smt.)Beatrix D'Souza
- Shri Baliram Kashyap
- Shri S. Murugesan
- Shri E. M. Sudarsana Natchiappan
- Shri A. Venkatesh Naik
- Shri B. K. Parthasarathi
- Shri Suresh Pasi
- Dr. Ashok Patel
- Shri Prahlad Patel
- Prof. R. R. Pramanik
- Shri Ram Prasad Singh
- Shri V. Vetriselvan
- Shri Balram Singh Yadav

SECRETARIAT

Shri Satish Kumar, Additional Secretary
Shri H. K. Chanana, Director
Shri A. K. Gandhi, Committee Officer

REPRESENTATIVE OF THE MINISTRY OF ENVIRONMENT AND FORESTS

- Dr. G. V. Sarat Babu, Additional Director (CS)

REPRESENTATIVES OF NATIONAL WORKING GROUP ON PATENT LAWS, NEW DELHI

Shri B. K. Keayla,, Convenor,

DIRECTOR (RETD.) NATIONAL BUREAU OF PLANT GENETIC RESOURCES, NEW DELHI

Dr. R.S. Rana

- Shri B. K. Keayla,, Convenor, National Working Group on Patent Laws, New Delhi gave a presentation on the subject matter of the Biological Diversity Bill,2000. The Members then sought clarifications.

- The Committee thereafter had the benefit of presentation by Dr. R. S. Rana, Director (Retd.), National Bureau of Plant Genetic Resources, New Delhi on various provisions in the Bill. The Members then sought clarifications.

A verbatim record of proceedings was kept.

- The Committee then adjourned at 4.00 P.M.

V FIFTH MEETING

The Committee met at 03.00 P.M. on Tuesday the 30th January, 2001 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

- Prof. R. R. Pramanik — ** In the Chair*

RAJYA SABHA

- Shri Birabhadra Singh
- Shri Sukhdev Singh Libra
- Shri Ranjan Prasad Yadav

LOK SABHA

- Shri Bali Ram Kashyap
- Shri Hassan Khan
- Dr. Charan Das Mahant
- Shri Ali Mohd. Naik
- Shri Suresh Pasi
- Dr. Ashok Patel
- Shri Ramsagar Rawat
- Prof. I. G. Sanadi
- Shri Ram Prasad Singh
- Dr. (Smt.) Rajeswaramma Vukkala

SECRETARIAT

Shri Satish Kumar, Additional Secretary
Shri H. K. Chanana, Director
Shri Mom Raj Singh, Under Secretary
Shri A. K. Gandhi, Committee Officer

REPRESENTATIVE OF THE MINISTRY OF ENVIRONMENT & FORESTS

Shri G. V. Sarat Babu, Additional Director

REPRESENTATIVE OF THE NATIONAL BOTANICAL RESEARCH INSTITUTE, LUCKNOW

Dr. P. Pushpangadan, Director

* In the absence of the Chairman Prof. R. R. Pramanik was voted to the Chair.

- Dr P. Pushpangadan, Director, National Botanical Research Institute, Lucknow gave a presentation on the subject matter of the Biological Diversity Bill, 2000. The Members then sought clarifications.

The witness then withdrew.

A verbatim record of the proceedings was kept.

- The Committee then adjourned at 04.10 P.M.

VI

SIXTH MEETING

The Committee met at 11.00 A.M. on Wednesday the 31st January, 2001 in Committee Room 'E', Basement, Parliament House Annexe, New Delhi.

PRESENT

1. Shri Ali Mohd. Naik — * *In the Chair*

RAJYA SABHA

2. Shri Birabhadra Singh
3. Shri Sukhdev Singh Libra
4. Prof. (Smt.) Bharati Ray
5. Shri Ranjan Prasad Yadav

LOK SABHA

6. Shri Bhan Singh Bhaura
7. Shri Bali Ram Kashyap
8. Shri Hassan Khan
9. Dr. Charan Das Mahant
10. Shri Suresh Pasi
11. Dr. Ashok Patel
12. Shri Naresh Puglia
13. Shri Ramsagar Rawat
14. Prof. I. G. Sanadi
15. Shri Ram Prasad Singh
16. Dr. (Smt.) Rajeswaramma Vukkala

SECRETARIAT

Shri Satish Kumar, Additional Secretary
Shri H. K. Chanana, Director
Shri Mom Raj Singh, Under Secretary
Shri A. K. Gandhi, Committee Officer

REPRESENTATIVE OF THE MINISTRY OF ENVIRONMENT & FORESTS

Shri G. V. Sarat Babu, Additional Director

REPRESENTATIVE OF THE ARYA VAIDYA PHARMACY LTD., COIMBATORE

Dr. G. G. Gangadharan, Vice President

REPRESENTATIVE OF M. S. SWAMINATHAN RESEARCH FOUNDATION, CHENNAI

Shri M.S. Swaminathan, Chairman

* In the absence of the Chairman Shri Ali Mohd. Naik was voted to the Chair.

2. Dr. G. G. Gangadharan, Vice President, the Arya Vaidya Pharmacy Limited, Coimbatore gave a presentation on the subject matter of the Biological Diversity Bill, 2000. The Members then sought clarifications.

The Committee adjourned at 12.20 P.M. to meet again at 3.00 P.M..

3. The Committee again met at 3.00 P.M. and had the benefit of presentation by Shri M. S Swaminathan, Chairman, M.S. Swaminathan Research Foundation on various provisions in the Bill. The Members then sought clarifications.

The witnesses then withdrew.

A verbatim record of the proceedings was kept.

3. The Committee then adjourned at 4.00 P.M.

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FIFTEENTH MEETING

The Committee met at 03.00 P.M. on Monday the 18th June, 2001 in Room No.63, First Floor, Parliament House, New Delhi.

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PRESENT

1. Shri C. Ramachandraiah — *Chairman*

RAJYA SABHA

2. Shri Birabhadra Singh
3. Smt. Chandresh Kumari
4. Shri Sukhdev Singh Libra
5. Shri Lalitbhai Mehta
6. Shri B. P. Singhal
7. Shri Ranjan Prasad Yadav

LOK SABHA

-
8. Shri Bhan Singh Bhaura
 9. Shri Nihal Chand Chauhan
 10. Shri Gordhanbhai Javiya
 11. Shri Bali Ram Kashyap
 12. Shri E.M. Sudarsana Natchiappan
 13. Shri Ali Mohd. Naik
 14. Dr. Ashok Patel
 15. Shri Prahlad Patel
 16. Prof. R.R. Pramanik
 17. Shri Naresh Puglia
 18. Shri Y.S. Vivekananda Reddy
 19. Prof. I.G. Sanadi
 20. Shri Lakshman Seth
 21. Shri Ram Prasad Singh
 22. Shri V.S. Sivakumar
 23. Shri Balram Singh Yadav

SECRETARIAT

Shri Satish Kumar, Additional Secretary
Shri H. K. Chanana, Joint Secretary
Shri Mom Raj Singh, Under Secretary
Shri Triloknath Mishra, Research Officer

REPRESENTATIVES OF THE CONFEDERATION OF INDIAN INDUSTRY

Shri V. Raghuraman, Senior Advisor
Mrs. Sandhya Tiwari, Deputy Director
Shri N. B. Mathur, Adviser

REPRESENTATIVE OF ALL INDIA BIO-TECH ASSOCIATION (AFFILIATE OF CII)

Shri U.N. Malik, Secretary General

2. * * *

3. The Committee thereafter welcomed the representatives of the Confederation of Indian Industry, New Delhi who gave oral evidence on the subject matter of the Biological Diversity Bill, 2000. The Members then sought clarifications on the points related to Section 3,4,5,6, and 7 of Chapter-II of the Bill.

Witnesses then withdrew.

Verbatim record of the proceedings was kept.

4. The Committee then adjourned at 05.00 P.M. to meet again at 3.00 P.M on 19th June, 2001.

*** Relates to other matters.

XVI SIXTEENTH MEETING

The Committee met at 03.00 P.M. on Tuesday the 19th June, 2001 in Room No.63, First Floor, Parliament House, New Delhi.

PRESENT

1. Shri C. Ramachandraiah — *Chairman*

RAJYA SABHA

2. Shri Birabhadra Singh
3. Smt. Chandresh Kumari
4. Shri Sukhdev Singh Libra
5. Shri Lalitbhai Mehta
6. Shri B. P. Singhal

LOK SABHA

7. Shri Bhan Singh Bhaura
8. Shri Nihal Chand Chauhan
9. Dr. (Smt.) Beatrix D' Souza
10. Shri Bali Ram Kashyap
11. Shri Ali Mohd. Naik
12. Shri A. Venkatesh Naik
13. Shri Suresh Pasi
14. Shri Prahlad Patel
15. Prof. R.R. Pramanik
16. Shri Naresh Puglia
17. Shri Y.S. Vivekananda Reddy
18. Prof. I.G. Sanadi
19. Shri Lakshman Seth
20. Shri Ram Prasad Singh
21. Shri V.S. Sivakumar
22. Shri Balram Singh Yadav

SECRETARIAT

Shri Satish Kumar, Additional Secretary
 Shri H. K. Chanana, Joint Secretary
 Shri Mom Raj Singh, Under Secretary
 Shri Anil Kumar Gandhi, Committee Officer
 Shri Triloknath Mishra, Research Officer

ENVIRONMENTAL EXPERT

Dr. M. K. Ranjitsinh, Former Secretary, Department of Environment, Government of Madhya Pradesh.

REPRESENTATIVES OF PUBLIC INTEREST LEGAL SUPPORT & RESEARCH CENTRE, NEW DELHI

Shri Rajiv Dhavan, Director
 Dr. Savyasaachi
 Ms. Yamini Mobai
 Ms. Jyoti Dutt
 Shri Amit Gupta
 Shri Shailender Naryal
 Shri Vinod C. B.

2. At the outset the Chairman welcomed Dr. Ranjitsinh, former Secretary, Department of Environment, Government of Madhya Pradesh. The Committee heard the oral evidence tendered by him on the subject matter of the Bill. Members then sought clarifications.
3. Thereafter the Committee welcomed Shri Rajiv Dhavan, Director, Public Interest Legal Support and Research Centre, New Delhi and heard the oral evidence tendered by him on various provisions of the Bill. Members then sought clarifications.
Witnesses then withdrew.
Verbatim record of the proceedings was kept.
4. The Committee then adjourned at 04.50 P.M. to meet again at 3.00 P.M. on 4th July 2001.

**XX
TWENTIETH MEETING**

The Committee met at 3.00 P.M. on Monday the 10th September, 2001 in Room No. 53, First Floor, Parliament House, New Delhi.

PRESENT

1. Shri C. Ramachandraiah — *Chairman*

RAJYA SABHA

2. Shri Debabrata Biswas
3. Smt. S. Gokula Indira
4. Shri Sukhdev Singh Libra
5. Shri Lalitbhai Mehta
6. Prof. (Smt.) Bharati Ray
7. Smt. Savita Sharda
8. Shri Lachhman Singh
9. Shri B. P. Singhal
10. Shri Ranjan Prasad Yadav

LOK SABHA

11. Shri Nihal Chand Chauhan
12. Shri Gordhanbhai Javiya
13. Shri S. Murugesan
14. Shri E.M. Sudarsana Natchiappan
15. Shri Ali Mohd. Naik
16. Shri Suresh Pasi
17. Dr. Ashok Patel
18. Shri Prahlad Patel
19. Prof. R.R. Pramanik
20. Shri Ram Prasad Singh
21. Shri Balram Singh Yadav

SECRETARIAT

Shri Satish Kumar, Additional Secretary
Shri H. K. Chanana, Joint Secretary
Shri Mom Raj Singh, Under Secretary
Shri Anil Kumar Gandhi, Committee Officer

REPRESENTATIVES OF THE MINISTRY OF ENVIRONMENT & FORESTS

Dr. G. V. Sarat Babu, Additional Director
Dr. Sujata Arora, Joint Director

REPRESENTATIVE OF THE MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS (DEPARTMENT OF LEGAL AFFAIRS)

Shri K.D. Singh, Additional Secretary

REPRESENTATIVE OF THE MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS (LEGISLATIVE DEPARTMENT)

Shri S.D. Ahuja, Deputy Legislative Counsel

REPRESENTATIVE OF THE MINISTRY OF COMMERCE

Shri Manoj Joshi, Deputy Secretary

REPRESENTATIVE OF THE MINISTRY OF AGRICULTURE

Shri R.K. Trivedi, Additional Commissioner (Seeds)

2. The Committee took up for consideration the Biological Diversity Bill, 2000 Clause-by-Clause, as follows. The observations of the Committee with regard to the Principal changes proposed in the Bill are as follows:

Preamble

- 2.1 In the Preamble, the Committee considered (i) **insertion** of the words 'fair and' after the words 'use of its components and' (line 1-2). (ii) **insertion** of the word 'knowledge' after the word 'biological resources' (line 2). (iii) **substitution** of the word 'Fifty- first' by 'Fifty- second' (line 17).

The Committee agreed to **insert/substitute** as above in the Preamble.

The Committee considered **insertion** of the following words;

“ And whereas it is essential to ensure that no exclusive monopoly rights are created on Biological Diversity; And whereas large amount of Biodiversity in India and knowledge related thereto is with the local people and indigenous communities”.

After some discussion the Committee decided not to insert the same.

The Preamble as amended was adopted.

Clause 1

- 2.2 In Clause 1(1), the Committee considered the **substitution** of the figure '2000' by '2001'.

The Committee agreed to substitute the figure '2000' by '2001'.

Clause 1 as amended was adopted.

Clause 2

- 2.3 (i) In Sub-Clause (c) Committee considered **insertion** of the word '**derivative**' after the word 'material and' (line17).

The Committee decided to take up consideration of the amendment at the time of consideration of clause 7 (line17).

- (ii) In Sub-Clause (f), the Committee considered the **insertion** of the words '**fair and**' before the words 'equitable benefit sharing'.

The Committee agreed to insert the words '**fair and**' before the words 'equitable benefit sharing'.

The Committee considered **insertion** of the words '**judiciously or logically**' before the word 'determined' (line 25).

After some discussion the Committee decided not to insert the words 'judiciously or logically' before the word 'determined'.

- (iii) In Sub-Clause (g), the Committee considered **substitution** of the words 'Panchayats and Municipalities' with the words 'Panchayats, Municipalities and Municipal Corporations' (line 27).

The Committee did not agree for the **substitution** of the words 'Panchayats and Municipalities' with the words 'Panchayats, Municipalities and Municipal Corporations' (line 27).

- (iv) In Sub-Clause (I), the Committee considered **insertion** of the word '/and' after the word 'or' (line 36).

After some discussion the Committee decided not to insert the expression and word '/and' after the word 'or'.

(v) The Committee considered **insertion** of following Sub-Clause to provide for definition of the term ‘**Commercial Utilisation**’.

‘**Commercial utilisation means end uses of biological resources for commercial utilization such as drugs, industrial enzymes, food flavours, fragrance, cosmetics, emulsifiers, oleoresins, colours, extracts and genes used for improving crops and livestock through breeding or genetic intervention and shall not include traditional practices in use in any agriculture, horticulture, poultry, dairy farming or animal husbandry and bee keeping**’ after Sub-Clause2 (e) and renumber the existing Sub-Clauses (f) to (n).

The Committee agreed to insert the Sub-Clause.

(vi) In Clause (n) the Committee considered **substitution** of the words ‘long term’ by the word ‘**ultimate**’ after the words ‘lead to the’.

The Committee deferred consideration of the proposed substitution.

(vii) The Committee considered **insertion** of the following new sub-clause to provide for definition of ‘value added product’.

‘Value added product means ‘Product which may contain portions/ extracts of plants and animals in unrecognizable and physically inseparable form’.

After some discussion the Committee decided not to insert the sub-clause.

3. The Committee then adjourned at 6.00 P.M. to meet again at 11.00 A.M. on the 11th September, 2001.

XXI TWENTY-FIRST MEETING

The Committee met at 11.00 A.M. on Tuesday the 11th September, 2001 in Room No. 62, First Floor, Parliament House, New Delhi.

PRESENT

1. Shri C. Ramachandraiah — *Chairman*

RAJYA SABHA

2. Smt. S. Gokula Indira
3. Shri Sukhdev Singh Libra
4. Shri Lalitbhai Mehta
5. Prof. (Smt.) Bharati Ray
6. Smt. Savita Sharda
7. Shri Lachhman Singh
8. Shri B. P. Singhal
9. Shri Ranjan Prasad Yadav

LOK SABHA

10. Shri Nihal Chand Chauhan
11. Smt. Bhavana Chikhaliya
12. Shri Gordhanbhai Javiya
13. Shri S. Murugesan
14. Shri E. M. Sudarsana Natchiappan
15. Shri Ali Mohd. Naik
16. Shri Prahlad Patel
17. Prof. R. R. Pramanik
18. Shri Naresh Puglia
19. Shri Ram Prasad Singh
20. Shri Balram Singh Yadav

SECRETARIAT

Shri H. K. Chanana, Joint Secretary
Shri Mom Raj Singh, Under Secretary
Shri Anil Kumar Gandhi, Committee Officer

REPRESENTATIVES OF THE MINISTRY OF ENVIRONMENT & FORESTS

Dr. G. V. Sarat Babu, Additional Director
Dr. Sujata Arora, Joint Director

REPRESENTATIVE OF THE MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS (DEPARTMENT OF LEGAL AFFAIRS)

Shri K.D. Singh, Additional Secretary

REPRESENTATIVE OF THE MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS (LEGISLATIVE DEPARTMENT)

Shri S.D. Ahuja, Deputy Legislative Counsel

REPRESENTATIVE OF THE MINISTRY OF COMMERCE

Shri Manoj Joshi, Deputy Secretary

REPRESENTATIVE OF THE MINISTRY OF AGRICULTURE

Shri R.K. Trivedi, Additional Commissioner (Seeds)

2. The Committee resumed consideration of the Biological Diversity Bill, 2000 Clause-by-Clause.

Clause 2

- 2.1 Sub-clause (c), the Committee considered the **insertion** of the word 'derivative' after the word 'material and' (line 17).
The Committee deferred consideration of the proposed insertion.

In sub-clause (d), the Committee considered **insertion** of the word 'detailed' before the word 'study' (line 36).

After some discussion the Committee decided not to insert the word 'detailed' before 'study'.

In Clause (n) the Committee considered **substitution** of the word '**long term**' by the word '**ultimate**' after the words 'led to the' (line 43).

The Committee deferred consideration of the proposed insertion.

Chapter II

- 2.2 In the title, the Committee considered **insertion** of the words '**ACCESS TO**' after the words 'REGULATION OF'.
The Committee agreed to the insertion and adopted the title, as amended.

Clause 3

- 2.3 The Committee considered **insertion** of the following new sub-clause 3A on '**Public Trust Doctrine**'.

'All biodiversity shall be held by the Union of India in trust for the people of India to be conserved, used and sustained in the public interest consistent with principles of sustainable development and equitable sharing, especially for local groups and communities and to enhance community control over biodiversity resources'.

In the view of the advice tendered by the Ministry of Law & Justice (Department of Legal Affairs) the Committee discussed the matter and decided not to insert the clause.

- 2.4 In Clause 3(1) the Committee considered **insertion** of the words '**or value added products produced through biotechnology**' after the word 'bio-utilisation' (line 4).

The Committee deferred consideration of the proposed insertion.

- 2.5 In Clause 3(2) the Committee considered **insertion** of the word '**previous**' before the word 'approval' (line 5).

The Committee discussed the matter at length on the **insertion** of the word '**previous**' before the word 'approval' (line 5).

The Committee deferred consideration of the amendment.

3. The Committee then adjourned at 1.35 P.M. to meet again at 11.00 A.M. on the 12th September, 2001.

XXII
TWENTY-SECOND MEETING

The Committee met at 11.00 A.M. on Wednesday the 12th September, 2001 in Room No. 62, First Floor, Parliament House, New Delhi.

PRESENT

1. Shri C. Ramachandraiah — *Chairman*

RAJYA SABHA

2. Smt. Chandresh Kumari
4. Shri Sukhdev Singh Libra
4. Shri Lalitbhai Mehta
5. Prof. (Smt.) Bharati Ray
6. Smt. Savita Sharda
7. Shri Lachhman Singh
8. Shri B. P. Singhal
9. Shri Ranjan Prasad Yadav

LOK SABHA

10. Shri Nihal Chand Chauhan
11. Shri E. M. Sudarsana Natchiappan
12. Shri Ali Mohd. Naik
13. Prof. R. R. Pramanik
14. Shri Naresh Puglia
15. Dr. (Smt.) Rajeswaramma Vukkala
16. Shri Balram Singh Yadav

SECRETARIAT

Shri Satish Kumar, Additional Secretary
Shri H. K. Chanana, Joint Secretary
Shri Mom Raj Singh, Under Secretary
Shri Anil Kumar Gandhi, Committee Officer

REPRESENTATIVES OF THE MINISTRY OF ENVIRONMENT & FORESTS

Dr. G. V. Sarat Babu, Additional Director
Dr. Sujata Arora, Joint Director

REPRESENTATIVE OF THE MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS (DEPARTMENT OF LEGAL AFFAIRS)

Shri K.D. Singh, Additional Secretary

REPRESENTATIVE OF THE MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS (LEGISLATIVE DEPARTMENT)

Shri S.D. Ahuja, Deputy Legislative Counsel

REPRESENTATIVES OF THE DEPARTMENT OF INDUSTRIAL POLICY & PROMOTION

Shri Vinod Kumar, Under Secretary
Shri K. S. Kardam, Asstt. Controller of Patents

2. The Committee resumed further consideration of the Biological Diversity Bill, 2000 Clause-by-Clause.

Clause 3

2.1 The Committee reconsidered the amendments adopted in Clause 3 in view of the apprehensions expressed that it might affect exports of biological resources adversely and that the Clause 3 could not be considered in isolation.

The representatives of Ministry of Environment & Forests pointed out that Clause 40 of the Bill provides for exemption of normally traded commodities from the provisions of the Bill. Some Members felt that it was necessary to define the words 'normally traded commodities'. However, in view of the undertaking given by the representative of the Ministry that the Act will come into force only after the issue of requisite notification as mentioned in Clause 40, the Committee decided to reconsider the Clause with Clause 40 of the Bill.

Clause 4

2.2 In Clause 4 the Committee considered the **insertion** of the words '**or citizen of India who is non-resident as defined in clause (30) of section 2 of Income Tax Act, 1961**' after the words 'citizen of India' (line 17).

After some discussion the Committee agreed to **insert** the words, '**or citizen of India who is non-resident as defined in clause (30) of section 2 of Income Tax Act, 1961**' after the words 'citizen of India' (line 17).

Clause 4, as amended was adopted.

Clause 5

2.3 Clause 5 was adopted without any change.

Clause 6

2.4 In sub-clause (1), the Committee considered **insertion** of following provision namely '**Provided further that the National Biodiversity Authority shall dispose of such application made to it within a period of 90 days from date of receipt thereof**', after the existing proviso'.

The Committee agreed to insert the proviso namely '**provided further that National Bio-diversity Authority shall dispose of such application made to it within a period of 90 days from the date of receipt thereof**', after the existing proviso.

Clause 6, as amended was adopted.

Clause 7

2.5 The Committee considered **insertion** of the words 'or, National Bio-diversity Board, as the case may be', after the words, 'State Biodiversity Board'.

After some discussion the Committee decided not to insert the words 'or, National Bio-diversity Board, as the case may be', after the words, 'State Biodiversity Board'.

Clause 7 was adopted without any change.

Clause 8

2.6 In Clause 8(3) the Committee considered **substitution** of the word 'Chennai' with the word '**Delhi**' (line 22).

The Committee agreed to substitute the word 'Chennai' with '**Delhi**'.

In Clause 8(4)(c) the Committee considered **substitution** of the word 'five' with the word '**seven**' before the word 'members' (line 35).

After some discussion the Committee agreed to substitute the word 'five' with the word '**seven**' before the word 'members' (line 35).

In Clause 8(4)(c) the Committee then considered **insertion** of following sl. nos. and words, namely,

(vi) Science & Technology;

(vii) Scientific & Industrial Research

After some discussion the Committee agreed to insert the following sl. nos. and words, namely.

(vi) Science & Technology;

(vii) Scientific & Industrial Research

In sub-clause 8 (d), a Member suggested inclusion of the representation of women from among five non-official Members of the National Bio-diversity Authority.

After some discussion the Committee did not agree with the suggestion.

Clause 8, as amended was adopted.

Clauses 9,10,11,12,13,14,15,16 and 17

2.7 Clauses 9,10,11,12,13,14,15,16 and 17 were adopted without any change.

Clause 18

2.8 In sub-Clause (1) the Committee considered **insertion** of the words '**for fair and**' before the word 'equitable' (line 31). After discussion the Committee agreed to **insert** the words '**for fair and**' before the word 'equitable' (line31). Clause 18, as amended was adopted.

Clause 19

2.9 In Sub-Clause (2) the Committee considered **insertion** of the words '**under sub-section (1) of section 6**' after the words "outside India" (line 12).

After some discussion the Committee agreed to **insert** the words '**under sub-section (1) of section 6**' after the words 'outside India' (line 12).

In sub-clause (3), the Members felt that the sub-clause should provide for publication of applications received by the National Bio-diversity Authority in the Gazette and their display on website of the Ministry/National Bio-diversity Authority. The Members also suggested that the sub-clause should provide a time limit for disposal of the applications received by National Bio-diversity Authority.

The Committee observed that the Government may make necessary provision in this regard in the rules to be framed under the Act.

Clause 19, as amended was adopted.

Clauses 20 and 21

2.10 Clauses 20 and 21 were adopted without any change.

3. The Committee then adjourned at 1.05 P.M. to meet again at 11.00 A.M. on the 13th September, 2001.

XXIII TWENTY-THIRD MEETING

The Committee met at 11.00 A.M. on Thursday the 13th September, 2001 in Room No. 63, First Floor, Parliament House, New Delhi.

PRESENT

1. Shri Ali Mohd. Naik — *In the Chair*

RAJYA SABHA

2. Smt. Chandresh Kumari
3. Shri Birabhadra Singh
4. Shri Sukhdev Singh Libra
5. Shri Lalitbhai Mehta
6. Prof. (Smt.) Bharati Ray
7. Shri Lachhman Singh
8. Shri B. P. Singhal
9. Shri Ranjan Prasad Yadav

LOK SABHA

10. Shri Bhan Singh Bhaura
11. Shri E. M. Sudarsana Natchiappan
12. Shri Suresh Pasi
13. Prof. R. R. Pramanik
14. Shri Naresh Puglia
15. Prof. I. G. Sanadi
16. Shri Ram Prasad Singh
17. Dr. (Smt.) Rajeswaramma Vukkala

18. Shri Balram Singh Yadav

SECRETARIAT

Shri Satish Kumar, Additional Secretary
 Shri H. K. Chanana, Joint Secretary
 Shri Mom Raj Singh, Under Secretary
 Shri Anil Kumar Gandhi, Committee Officer

REPRESENTATIVES OF THE MINISTRY OF ENVIRONMENT & FORESTS

Dr. G. V. Sarat Babu, Additional Director
 Dr. Sujata Arora, Joint Director

REPRESENTATIVE OF THE MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS (DEPARTMENT OF LEGAL AFFAIRS)

Shri K.D. Singh, Additional Secretary

REPRESENTATIVE OF THE MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS (LEGISLATIVE DEPARTMENT)

Shri S.D. Ahuja, Deputy Legislative Counsel

REPRESENTATIVE OF THE DEPARTMENT OF INDUSTRIAL POLICY & PROMOTION

Shri K. S. Kardam, Asstt. Controller of Patents

REPRESENTATIVE OF THE MINISTRY OF AGRICULTURE

Shri R. K. Trivedi, Additional Commissioner (Seeds)

2. In the absence of the Chairman , Shri Ali Mohd. Naik was voted to the chair.
3. The Committee took up for further consideration of the Biological Diversity Bill, 2000 Clause-by-Clause.

Clauses 22

- 3.1 In Clause 4(b) the Committee considered **insertion** of the word **“concerned”** after the words “represent the” (line 43). After some discussion the Committee agreed to insert the word **“concerned”** after the words, “represent the” (line 43) Clause 22 as amended was adopted.

Clauses 23

- 3.2 Clauses 23 was adopted without any change.

Clause 24

- 3.3 The Committee considered **insertion** of following new sub-clause (3) namely, **“Information provided in Forms submitted for prior intimation to procure biological resource shall be kept confidential and shall not be shared either intentionally or unintentionally with any unauthorized person.”**

After some discussion, the Committee agreed to insert the new sub-clause.

Clause 24 as amended, was adopted.

Clauses 25 and 26

- 3.4 Clauses 25 and 26 were adopted without any change.

Clause 27

- 3.5 In sub-clause (2)(b) the Committee considered **insertion** of the words **‘and promotion’** after the word ‘ conservation’ (line 1).

After some discussion, the Committee agreed to insert the words **‘and promotion’** after the word ‘conservation’ (line1).

Clause 27, as amended, was adopted.

Clauses 28, 29, 30 and 31

3.6 Clauses 28, 29, 30 and 31 were adopted without any change.

Clause 32

3.7 In sub-clause (2)(c) the Committee considered **insertion** of the words '**and promotion**' after the word 'conservation' (line 46).

The Committee agreed to insert the words '**and promotion**' after the word 'conservation' (line 46).

Clause 32, as amended was adopted.

Clauses 33, 34 and 35

3.8 Clauses 33, 34 and 35 were adopted without any change.

Clause 36

3.9 In Sub-Clause (1) the Committee considered **insertion** of the :

(i) words '**and promotion**' after the word 'conservation' (line 13).

(ii) word '**of**' after the word 'monitoring' (line 14).

After some discussion, the Committee agreed to **insert** the words '**and promotion**' after the word 'conservation' (line 13) and '**of**' after the word 'monitoring' (line 14).

The Committee then considered **substitution** of the ',(Comma)' with the word 'and' after the word 'training' (line 15).

The Committee agreed to substitute the ',(Comma)' with the word 'and' after the word 'training' (line 15).

3.10 The Committee considered **deletion** of the word '**conservation**' after the word '*insitu*' (line 14).

After some discussion, the Committee agreed to **delete** the word '**conservation**' after the word '*insitu*' (line 14).

3.11 The Committee then considered the **insertion** of following new sub-clause 36 (1A), namely, "**Where the Central Government has reasons to believe that any area rich in biodiversity, biological resources or species and their habitats is being threatened by overuse, abuse or neglect, it shall issue directives to the concerned State Government to take immediate ameliorative measures, offering it any technical and other assistance that is possible or needed**".

The Committee agreed to insert the Sub-clause.

3.12 In Sub-Clause (2), the Committee considered **insertion** of the word '**promotion**' after the word 'conservation'.

The Committee agreed to the **insertion** of the word '**promotion**', after the word 'conservation' (line 18).

Clause 36 as amended, was adopted.

Clause 37

3.13 Clause 37 was adopted without any change.

Clause 38

3.14 In Clause 38, the Committee considered **insertion** of the words '**in consultation with State Government concerned**' after the words 'Central Government' (line 2).

The Committee agreed to insert the words '**in consultation with State Government concerned**' after the words 'central government' (line2).

Clause 38 as amended, was adopted.

Clause 39

3.15 Clause 39 was adopted without any change.

Clause 40

3.16 In Clause 40 the Committee considered **insertion** of the words '**and all value added products produced through Biotechnology**' after the word 'commodities' (line 17)

After some discussion the Committee decided not to insert the words '**and all value added products produced through Biotechnology**' after the word 'commodities' (line 17).

Some Members felt that instead of amending clause 40, it would be better to sub-clause (c) of clause 2 (Definitions). The Committee then considered **insertion** of the words '**excluding value added products**' after the word "by-products" in sub-clause (c) of clause 2 (Definitions) (line 17).

The Committee agreed to **insert** the words '**excluding value added products**' after the word 'by-products' in clause 2 (c)

(line 17).

The Committee then considered the **insertion** of a definition of ‘**Value Added Products**’ which means “**Product which may contain portions / extracts of plants and animals in unrecognizable and physically inseparable form**”.

After some discussion, the Committee agreed to provide for the definition of, ‘**Value Added product**’ which means ‘**Product, which may contain portions/, extracts of plants and animals in unrecognizable and physically inseparable form**’.

Clause 40 was adopted without any change.

Clause 2, as further amended, was adopted.

Clause 41

3.17 In Clause 41, the Committee considered **addition** of the following ‘**Explanation**’ for the terms ‘land races’, ‘folk varieties’ and ‘cultivars’, namely [line 21 & 22 of Sub-clause (1)].

Explanation – For the purpose of this section –

- b) Cultivar means a variety that has originated and persisted under cultivation or was specifically bred for the purpose of cultivation.*
- c) ‘Folk variety’ means cultivated variety of plants that was developed, grown and exchanged informally among farmers.*
- d) ‘Landrace’ means primitive cultivar of crop plants that was grown by ancient farmers and their successors.*

In Clause 41(3) the Committee considered the **insertion** of the words ‘**for commercial purposes**’ after the word ‘biological resource’ (line 29).

After some discussion, the Committee agreed to **insert** the words ‘**for commercial purposes**’ after the word ‘biological resource’ (line 29).

Clause 41 as amended, was adopted.

Clauses 42 and 43

3.18 Clauses 42 and 43 were adopted without any change.

Clause 44

3.19 In Sub-Clause (2) the Committee then considered the **insertion** of the words ‘**and promotion**’ after the word ‘conservation’ (line 4).

The Committee, after discussion, agreed to **insert** the words ‘**and promotion**’ after the word ‘conservation’ (line 4).

Clause 44 as amended, was adopted.

Clauses 45 and 46

3.20 Clauses 45 and 46 were adopted without any change.

Clause 47

3.21 The Committee considered the **deletion** of the Clause. After some discussion, the Committee decided to rephrase the clause, as follows;

The local bodies shall cause the annual reports and auditors’ reports of the Biodiversity Management Committees, submitted to the District Administration.

Clause 47 as amended, was adopted.

4. The Committee then adjourned at 01.35 P.M. to meet again at 11.00 A.M. on the 14th September, 2001.

XXIV TWENTY-FOURTH MEETING

The Committee met at 11.00 A.M. on Friday the 14th September, 2001 in Room No. 62, First Floor, Parliament House, New Delhi.

PRESENT

1. Shri C. Ramachandraiah — *Chairman*

RAJYA SABHA

2. Shri Birabhadra Singh
3. Shri Sukhdev Singh Libra
4. Shri Lalitbhai Mehta
5. Prof. (Smt.) Bharati Ray
6. Shri Lachhman Singh
7. Shri B. P. Singhal
8. Shri Ranjan Prasad Yadav

LOK SABHA

9. Shri Bhan Singh Bhaura
10. Shri E. M. Sudarsana Natchiappan
11. Shri Ali Mohd. Naik
12. Shri Suresh Pasi
13. Dr. Ashok Patel
14. Shri Naresh Puglia
15. Prof. I. G. Sanadi
16. Shri Ram Prasad Singh
17. Dr. (Smt.) Rajeswaramma Vukkala
18. Shri Balram Singh Yadav

SECRETARIAT

Shri Satish Kumar, Additional Secretary
 Shri H. K. Chanana, Joint Secretary
 Shri Mom Raj Singh, Under Secretary
 Shri Anil Kumar Gandhi, Committee Officer

REPRESENTATIVES OF THE MINISTRY OF ENVIRONMENT & FORESTS

Dr. G. V. Sarat Babu, Additional Director
 Dr. Sujata Arora, Joint Director

REPRESENTATIVE OF THE MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS (DEPARTMENT OF LEGAL AFFAIRS)

Shri K.D. Singh, Additional Secretary

REPRESENTATIVE OF THE MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS (LEGISLATIVE DEPARTMENT)

Shri S.D. Singh, Deputy Legislative Counsel

REPRESENTATIVE OF THE DEPARTMENT OF INDUSTRIAL POLICY & PROMOTION

Shri K. S. Kardam, Asstt. Controller of Patents

2. * * * * * 3. *
- * * * * * 4. *

5. The Committee re-considered some of the provisions of the Biological Diversity Bill,2001.

Clause 2

- 5.1 In Sub-clause(c), the Committee considered **insertion** of the word '**derivative**' after the word 'material and' (line 17).

After some discussion Committee decided not to **insert** the word ‘derivative’ after the word ‘material and’ (line 17).

In sub-clause (n) the Committee considered **substitution** of the word ‘long term’ by the word ‘ultimate’ after the words ‘led to the’ (line 43).

After some discussion Committee decided not to **substitute** the word ‘long term’ after the word ‘led to the’ (line 43).

Clause 3

5.2 In clause 3(1) the Committee considered **insertion** of the words ‘or value added products produced through biotechnology’ after the word ‘bio-utilisation’ (line 4).

After some discussion the Committee decided not to **insert** the words ‘or value added products produced through biotechnology’ after the word ‘bio-utilisation’ (line 4).

In clause 3(2) the Committee considered **insertion** of the word ‘previous’ before the word ‘approval’ (line 5).

After some discussion the Committee decided not to **insert** the word ‘previous’ before the word ‘approval’ (line 5).

6. The Committee then resumed further consideration of the Biological Diversity Bill, 2000 Clause-by-Clause.

Clause 48 and 49

6.1 Clauses 48 and 49 were adopted without any change.

*** Relates to other matters.

Clause 50

6.2 In sub-clause (7) the Committee considered **insertion** of words ‘under this section’ after the words ‘Every proceeding’ (line 14).

After some discussion the Committee decided not to insert the words ‘under this section’ after the words ‘Every proceeding’.

6.3 The Committee considered **insertion** of following new sub-clause (8), namely,

- (a) **Appellate Board-An Appellate Board constituted by Government of India, comprising a Chairman, three judicial members of known expertise to hear any appeal against the decision of National Biodiversity Authority.**
- (b) **Such appeal may be heard by a two member Bench of the Board, constituted by the Chairman of whom one must be a judicial member.**
- (c) **Appeal against decision or order of Appellate Authority shall lie to the Supreme Court.**

The Committee did not agree to the **insertion**.

Clause 50 was adopted without any change.

Clause 51

6.4 The Committee considered **insertion** of the words ‘or Biodiversity Management Committee’ after the word ‘State Biodiversity Board’ (line 20).

After some discussion the Committee did not agree to the insertion.

6.5 The Committee considered **insertion** of following new clause, namely,

51A. No foreign court shall have any jurisdiction to entertain any dispute relating to any provision of this Act or rules or regulations made thereunder.

Explanation: For the purpose of this section ‘foreign court’ means a court situated outside India and not established or constituted by the authority of the Central Government.

After some discussion the Committee decided to **insert** the above new clause.

Clause 51 as amended was adopted.

Clause 52

6.6 (i) Some Members felt that in order to protect the interests of growers & cultivators of bio-diversity it was necessary to provide safeguards in the bill. Accordingly, on the advice of Ministry of Environment & Forests instead of amending clause 52, the Committee considered **insertion** of the words, “**growers and cultivators of bio-diversity and**”, after the word, ‘including’ (line 11) in Clause 7.

After some discussion the Committee agreed to **insert** the words, ‘**growers and cultivators of bio-diversity, and**’ after the

word, 'including' (line 11) in clause 7.

Clause 7, as amended, was adopted.

- (ii) The Committee considered **insertion** of the words 'or Bio-diversity Management Committee' after the words 'State Biodiversity Board' (line 26).

After some discussion the Committee did not agree to the **insertion**.

The Committee considered **insertion** of new clauses **52 and 53** on **Appeals and renumber the existing clause 52 and subsequent clauses, namely;**

Clause 52 — Any person aggrieved by any determination of benefit sharing or order of the National Biodiversity Authority or a State Biodiversity Board may file an appeal to the High Court within thirty days from the date of communication of the determination or order of the National Biodiversity Authority or the Biodiversity Board, as the case may be, by him.

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days'.

Clause 53 — Every determination of benefit sharing or order made by the National Biodiversity Authority or a State Biodiversity Board under this Act or the order made by the High Court in any appeal against any determination or order of the National Biodiversity Authority or a State Biodiversity Board shall, on a certificate issued by any officer of the National Biodiversity Authority or a State Biodiversity Board or the Registrar of the High Court, as the case may be, be deemed to be decree of the civil court and shall be executable in the same manner as a decree of that court.

After some discussion the Committee agreed to **insert** after Clause 51 the aforesaid new clauses 52 and 53 and renumber the existing clauses 53 to 63.

The Committee adopted the **insertion** of new clauses 52 and 53.

Clause 52 (existing) was adopted, as renumbered.

Clause 53 (existing)

- 6.7 The Committee considered **substitution** of existing clause 53 with the following clause, namely,

“Clause 53 — Civil penalties be enhanced in situations wherein the offender is a body corporate or a company as on a cost-benefit analysis, the long term benefits that accrue from the utilization of bioresources would far outweigh the monetary penalties imposed by this clause”.

After some discussion the Committee felt that the punishment, fine and compensation for contravention of the provisions of section 3, section 4 or section 6 should be commensurate with the damage caused. Accordingly, the Committee agreed to **substitute** the clause with the following clause namely **‘whosoever contravenes or attempts to contravene or abets the contravention of the provisions of section 3, section 4 or section 6 shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to ten lakh rupees, or compensation commensurate with the damage caused, or with all these’** as the case may be.

The Committee agreed to **insert** the clause, namely **‘whosoever contravenes or attempts to contravene or abets the contravention of the provisions of section 3, section 4 or section 6 shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to ten lakh rupees, or compensation commensurate with the damage caused, or with all these’** as the case may be.

Clauses 54, 55 and 56

- 6.8 Clauses 54, 55 and 56 were adopted without any change.

Clause 57(existing)

- 6.9 The Committee considered **rephrasing** the existing Clause 57 as follows with a view to bring the provision in conformity with the extant provisions in Indian Forest Act 1927; The Wildlife (Protection) Act 1922 and Forests Conservation Act, 1980.

‘The provisions of this Act shall be in addition to and not in contravention of the provisions in any other law; for the time being in force, relating to forests or wildlife’.

The Committee agreed to amend the clause as above.

Clause 57 as amended was adopted.

Clause 58

- 6.10 Clause 58 was adopted without any change.

Clause 59

6.11 The Committee considered **substitution** of the Clause with the following, namely,

‘No Court shall take cognizance of any offence under this act except on a complaint made by: –

- a) **the Central Government or any authority or officer authorized in this behalf by that Government; or**
- b) **any benefit claimer who has given notice of not less than thirty days in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority or officer authorized as aforesaid.**

The Committee agreed to the substitution as above

Clause 59, as amended was adopted.

Clauses 60, 61, 62 and 63

6.12 Clauses 60, 61, 62 and 63 were adopted without any change.

7. The Committee then adjourned at 1.45 P.M.

XXVI TWENTY-SIXTH MEETING

The Committee met at 10.00 A.M. on Wednesday the 28th November, 2001 in Room No. 63, First Floor, Parliament House, New Delhi.

PRESENT

1. Shri C. Ramachandraiah — *Chairman*

RAJYA SABHA

2. Shri Birabhadra Singh
3. Shri Lalitbhai Mehta
4. Smt. Savita Sharda
5. Shri B.P. Singhal
6. Shri Sukhdev Singh Libra

LOK SABHA

7. Shri Bhan Singh Bhaura
8. Smt. Bhavana Chikhaliya
9. Dr. (Smt.) Beatrix D' Souza
10. Shri Laxman Giluwa
11. Shri E.M. Sudarsana Natchiappan
12. Shri Ali Mohd. Naik
13. Shri Suresh Pasi
14. Prof. R.R. Pramanik
15. Prof. I.G. Sanadi
16. Shri Lakshman Seth
17. Shri Ram Prasad Singh
18. Shri V.S. Sivakumar
19. Dr. (Smt.) Rajeswaramma Vukkala

SECRETARIAT

Shri Satish Kumar, Additional Secretary
 Shri H. K. Chanana, Joint Secretary
 Shri Mom Raj Singh, Under Secretary
 Shri Anil Kumar Gandhi, Committee Officer

REPRESENTATIVES OF THE MINISTRY OF ENVIRONMENT & FORESTS

Shri D. D. Verma, Joint Secretary
Dr. Sujata Arora, Joint Director

REPRESENTATIVE OF THE LEGISLATIVE DEPARTMENT

Dr. S. D. Singh, Dy. Legislative Counsel

2. * * *
3. The Committee then took up consideration of Draft 95th Report on the Biological Diversity Bill, 2000. The Committee considered and adopted the report.
4. The Committee authorised the Chairman and in his absence Shri B.P. Singhal and Shri Lalitbhai Mehta to present the Reports to the Rajya Sabha & Prof. R.R. Pramanik and in his absence Shri.E.M.S. Natchiappan to lay the Reports on the table of the Lok Sabha.
5. * * *
6. The Committee decided that two sets of evidence tendered before the Committee on the subject matter of the bill may also be placed in the Library.
7. The Committee then adjourned at 10.35 A.M.

*** Relates to other matters.