

**THE PROTECTION, CONSERVATION AND EFFECTIVE MANAGEMENT OF
TRADITIONAL KNOWLEDGE RELATING TO BIOLOGICAL DIVERSITY
RULES, 2009**

In exercise of the powers conferred under sections 36(5) and 62 of the Biological Diversity Act, 2002 and on the recommendations of the National Biodiversity Authority, the Central Government, hereby, makes the following rules, namely:--

1. Short Title and Commencement.--

- (1) These rules may be called the Rules for Protection, Conservation and Effective Management of Traditional Knowledge Relating to Biological Diversity, 2009.
- (2) They shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions. –In these rules, unless the context otherwise requires, --

- (a) “Abuse” means use or application of the traditional knowledge or one or more of its components, by any person, including a member of the traditional community or a traditional practitioner, in a manner that is in contravention of their traditional beliefs and practices, or which is against public order and morality, or against the interests of the traditional communities or, any action in contravention to these Rules;
- (b) “Accessor” means a person who accesses traditional knowledge for commercial gain and /or for research, and includes members of traditional communities who access traditional knowledge of any other community for commercial gain and /or research;
- (c) “Act” means the Biological Diversity Act, 2002 (18 of 2003)
- (d) “Authority” means the National Biodiversity Authority established under subsection (1) of section 8 of the Act;
- (e) “Benefit” means gains that can be monetary, non-monetary, welfare-based and any other form that comes out of an agreement between the accessor and the traditional community and / or National Biodiversity Authority, as the case may be, upon access of traditional knowledge or a component thereof and shall include
 - i. access fee determined by the National Biodiversity Authority or the State Biodiversity Board as the case may be, in consultation with the

- traditional community at the time of accessing the traditional knowledge;
- ii. benefits as described under section 27(2) of the Act; and
 - iii. milestone payments where applicable.
- (f) “Biodiversity Management Committee” means a Biodiversity Management Committee established by a local body under sub-section (1) of section 41 of the Act;
 - (g) “Chairperson” means the chairperson of the National Biodiversity Authority;
 - (h) “Collective rights” mean the rights which the traditional community as a group has been enjoying over the particular traditional knowledge for generations;
 - (i) “Commercial gain” means commercialization of a component or components of traditional knowledge or derivatives thereof, in a way that is not being practised by the community which owns the said knowledge;
 - (j) “Fee” means any fee stipulated in the Schedule;
 - (k) “Informed consent” means consent to be obtained from the traditional community or the National Biodiversity Authority, as the case may be, in case where the traditional knowledge is already under access and use before the notification of this Act;
 - (l) “Intellectual Property Rights” mean intellectual property rights including, copyrights, designs, geographical indications, patents and trademarks;
 - (m) “License of Use” means the permission granted to the applicant by the National Biodiversity Authority for accessing the traditional knowledge;
 - (n) “Livelihood” means the financial and/or other traditional / customary means for subsistence;
 - (o) “Milestone payments” means periodic payments made to the traditional knowledge fund by the accessor which shall not be less than 10% of the gross revenue realized from the commercialization of products using traditional knowledge or derivatives thereof;
 - (p) “Misappropriation of traditional knowledge” means any form of appropriation, monopolisation, including claims of private ownership and/or intellectual property rights, and such other acts which deprive the traditional community whose traditional knowledge it is, from using, conserving and protecting the said knowledge, and from equitable benefit sharing arising out of any commercial utilization of said traditional knowledge and /or derivatives thereof, and also unsustainable utilisation of the genetic resources relating to that traditional knowledge;

- (q) “Misuse of traditional knowledge” means access to and/or use of traditional knowledge by persons not belonging to the traditional community whose traditional knowledge it is, without License to Use or against the terms and conditions of License to Use;
- (r) “National Standing Committee” means a committee set up by the Authority to examine and advise the Authority on applications for access to traditional knowledge;
- (s) “Prior-informed Consent” means a written authorisation given by the traditional community to an applicant in the prescribed manner, in consultation with the Biodiversity Management Committee and facilitated by the State Biodiversity Board, for the conduct of a particular activity that entails access to and use of the said traditional knowledge, based on an access application submitted in the prescribed manner containing complete and accurate access information on the purposes, risk, implications and environmental impact of the said activity, including any use that might be made of the said knowledge, and, wherever applicable, on its commercial value;
- (t) “State Standing Committee” means a committee set up by the State Biodiversity Board to examine and advise the Board on applications for access to traditional knowledge;
- (u) “Traditional community” means a community holding traditional knowledge including families, people belonging to Scheduled Tribes as per Article 342 of the Constitution of India, and other notified tribal groups including nomadic tribes, and shall be represented by their representative bodies;
- (v) “Traditional Knowledge” means the collective knowledge of a traditional community including of a group of families, on a particular subject or a skill and passed down from generation to generation, either orally or in written form, relating to properties, uses and characteristics of plant and animal genetic resources; agricultural and healthcare practices, food preservation and processing techniques and devices developed from traditional materials; cultural expressions, products and practices such as weaving patterns, colors, dyes, pottery, painting, poetry, folklore, dance and music; and all other products or processes discovered through a community process including by a member of the community individually but for the common use of the community; and
- (w) “Traditional Practitioner” means person(s) who are members of a traditional community and have been practising traditional knowledge including healing

and/or rendering medical service based on traditional knowledge and customary practice.

3. Measures to be taken by National Biodiversity Authority for protection and promotion of traditional knowledge.--

(1) The National Biodiversity Authority shall recognize existing traditional forms of representative organizations of the traditional community, including family / community based organisations;

Provided that, where there are no representative bodies representing the said traditional community, the National Biodiversity Authority shall, through State Biodiversity Boards and Biodiversity Management Committee enable traditional communities to set up representative bodies keeping in view their customary practices and traditional forms of organization;

Provided also that where there is more than one representative organization representing a traditional community, the National Biodiversity Authority shall refer the matter to the Biodiversity Management Committee through the State Biodiversity Board for identifying the representative organization(s).

(2) A traditional community shall, for the implementation of these Rules, be represented by its traditional representative body and that body shall be the authorised body for all matters pertaining to the implementation of these rules with reference to that community.

(3) National Biodiversity Authority shall facilitate the traditional communities to exercise their collective rights to their own access and use, and to regulate access by others including fair and equitable benefit sharing for such access and relief on abuse and/or misuse and/or misappropriation and/or infringement of the traditional knowledge.

(4) National Biodiversity Authority shall ensure that members of any traditional community shall be allowed to access or practice the traditional knowledge of another traditional community for the purpose of earning their livelihood and not for commercial gain.

(5) The National Biodiversity Authority shall take steps to prevent abuse and/or misuse and/or misappropriation of traditional knowledge; and where such abuse, misuse

or misappropriation has taken place, the NBA shall institute proceedings in the appropriate forum.

(6) The National Biodiversity Authority shall ensure that the traditional communities make sustainable use of the resources on which their traditional knowledge is based; and that the traditional community shall protect, conserve and practice the traditional knowledge for the continued good of the traditional community.

(7) The National Biodiversity Authority shall set up a fund called the Traditional Knowledge Fund under Section 27 of the Act and there shall be credited thereto all charges, fees, royalties and all sums received by the National Biodiversity Authority in the administration of these Rules.

(8) The said Fund shall be applied for the benefit of the traditional communities and in the protection, conservation and continued practice of traditional knowledge, by way of monetary and non-monetary as well as welfare based measures that shall include but not be restricted to incentives for continuing use and public service, direct income supports, registration and accreditation of such practices, etc.

(9) The National Biodiversity Authority shall take initiatives to introduce traditional knowledge education including local traditional knowledge in the formal and non-formal systems of education and shall involve knowledgeable members of traditional community for the same.

(10) The National Biodiversity Authority shall maintain a Traditional Knowledge Register to register Traditional Knowledge as described in these rules.

4. Traditional Knowledge Register.--

(1) There shall be kept at the National Biodiversity Authority, a Traditional Knowledge Register wherein shall be entered the name, location, description of the traditional knowledge, as is revealed by the traditional community, or in the already documented system, along with the names of the practising traditional community(ies) in the prescribed format, as and when such information regarding the concerned TK is intimated to the National Biodiversity Authority by the traditional community or by the *suo motu* efforts of the Authority or any of the State Biodiversity Boards or the Biodiversity Management Committee upon an application for access;

Provided that the traditional community concerned has permitted the documentation and the form of documentation of the said traditional knowledge;
Provided also that such permission is not needed in case of traditional knowledge that is already in the public domain and/ or the traditional community concerned is not identifiable.

(2) On registering the traditional knowledge, the National Biodiversity Authority shall mark such knowledge as either “PUBLIC” or “CONFIDENTIAL,” depending on whether the components of traditional knowledge are of confidential nature and are so indicated by the traditional community that applies for registration, or if the National Biodiversity Authority deems so.

(3) The name and address of the accessor, if any, accessing the said traditional knowledge, along with the nature of use of the accessed traditional knowledge and benefit sharing mechanism, and of amendments, extension and revocation of access shall also be entered in the said Register.

(4) The Traditional Knowledge Register shall be maintained in electronic or paper form or in any other form that captures the essence of the traditional knowledge.

(5) All existing and future databases pertaining to traditional knowledge relating to genetic resources under the control of the Central or State governments, including the Traditional Knowledge Digital Library and the People's Biodiversity Register(s) shall form part of the Traditional Knowledge Register.

(6) Subject to the superintendence and direction of the Central Government the Register shall be kept under the control and management of the Chairperson.

(7) The contents of the Traditional Knowledge Register shall not be disclosed without authorisation of the Chairperson.

(8) No application for access of any Traditional Knowledge shall be allowed if the said traditional knowledge is not registered in the Traditional Knowledge Register;
Provided that where traditional knowledge has already been accessed without obtaining prior informed consent the accessor shall approach the appropriate forum under Rule 5.

5. Regulation of access to traditional knowledge and informed consent.--

(1) Any person desirous of accessing traditional knowledge or any component thereof shall apply to the National Biodiversity Authority in the prescribed form with the prescribed fee.

(2) On receiving the application for access, the National Biodiversity Authority shall examine the application for compliance of formalities and refer the same to the National Standing Committee; whereupon said committee shall examine the application to check for registration of the traditional knowledge in the Traditional Knowledge Register.

(3) Where the traditional knowledge is found to be registered in the Traditional Knowledge Register, then the National Standing Committee shall refer the said application to the appropriate State Biodiversity Board (s);

Provided that if the traditional knowledge is registered in the name of one more traditional communities from at least three different states, then the process for obtaining informed consent and negotiation shall be initiated by the National Biodiversity Authority, in consultations with all the State biodiversity Boards concerned.

(4) Where there are no State Biodiversity Boards and / or Biodiversity Management Committee, the National Biodiversity Authority shall direct the State(s) concerned to set up the State Biodiversity Board(s) and / or Biodiversity Management Committee(s) within 6 months from the date of such direction;

Provided that where the state fails to comply within the stipulated time, the State may request an additional time of a period no greater than 6 months to set up the State Biodiversity Committee and / or the Biodiversity Management Committee;

Provided further that where the State fails to comply altogether, the National Standing Committee shall facilitate the consultation between the traditional community(ies) and the applicant for issuance of the prior informed consent and negotiations for the access and benefit sharing agreement.

(5) On receiving the application, the State Biodiversity Boards shall refer the said application to the appropriate Biodiversity Management Committees and traditional communities.

(6) On receiving the application the traditional communities shall inform the State Biodiversity Board of their willingness or unwillingness to participate in consultation on prior informed consent.

(7) Where the traditional communities communicates their unwillingness to participate in consultation on prior informed consent to the State Biodiversity Board the said Board shall communicate the same to the National Biodiversity Authority through the NSC; whereupon the NBA shall communicate denial of access to the applicant.

(8) Where the traditional communities communicates their willingness to participate in consultation on prior informed consent to the State Biodiversity Boards, the State Biodiversity Board concerned shall refer the application to the State Standing Committee.

(9) The State Standing Committee shall in consultation with the said traditional community and the Biodiversity Management Committee, conduct a comprehensive assessment including assessment on sustainability of the resources, social and environmental implications and potential value of the traditional knowledge, and produce a report along with recommendations and a resource management plan;

Provided that where the State Standing Committee requires any further information, it may require the applicant to provide further details regarding the proposed use of the traditional knowledge.

(10) On receiving the comprehensive assessment report of the State Standing Committee, the State Biodiversity Board shall facilitate consultation(s) among the applicant, the traditional community(ies) and the Biodiversity Management Committee(s) at the location(s).

(11) Where there is no agreement on granting access to the applicant, the same shall be communicated by State Biodiversity Board to the National Biodiversity Authority through the National Standing Committee, who shall then communicate the denial of the access to the applicant.

(12) Where there is a consensus on the granting of access to TK(s), the SBB shall initiate the process for negotiating the terms and conditions of the access, use and benefit sharing of the TK(s), taking into account the recommendations of the State Standing Committee;

Provided that if there are more than one State Biodiversity Board, the same shall be communicated to the National Biodiversity Authority through the National Standing Committee, and the process for negotiating shall be initiated by the National Biodiversity Authority.

(13) On agreement between the applicant and the traditional community, the latter shall affix their signatures on the prior informed consent form, and thereafter both parties shall affix their signatures on the agreement for access and benefit sharing.

(14) Copies of the prior informed consent, agreement on access and benefit sharing and the Report of the State Standing Committee shall be submitted to the National Standing Committee by the State Biodiversity Board.

(15) On receiving the prior informed consent, the access and benefit sharing agreement and the report of the State Standing Committee, if any, the National Standing Committee shall refer the same to the National Biodiversity Authority with appropriate recommendations for issuance of the “licence of use” incorporating the prior informed consent and the terms and conditions of the access and benefit sharing agreement.

(16) The Authority shall issue the “License of Use” after being satisfied that due processes under the law have been complied with, and the issuance of said “License of Use” shall not be against the national interest.

6. Regulation of access to traditional knowledge in the public domain not owned by any specific traditional community or owned by traditional community(ies) in more than three states.

(1) Where the traditional knowledge is already in the public domain and is not specifically owned by any particular traditional community or if the traditional community(ies) is/are spread in more than three states, then the willingness to issue a prior informed consent and negotiating an access and benefit sharing agreement shall be done by the National Standing committee in consultation with the respective State Biodiversity Boards, Biodiversity Management Committees and traditional communities, wherever possible and recommendations made to the National Biodiversity Authority.

(2) The National Standing Committee shall, in consultation with the respective State Biodiversity Boards, Biodiversity Management Committees and traditional communities,

wherever possible, conduct a comprehensive assessment including assessment on sustainability of the resources, social and environmental implications and potential value of the traditional knowledge, and produce a report along with recommendations, resource management plan along with an access and benefit sharing plan;

Provided that where the National Standing Committee requires any further information, it may require the applicant to provide further details regarding the proposed use of the traditional knowledge.

(3) The National Biodiversity Authority shall exercise its discretionary powers with regard to the allowance of access to particular traditional knowledge on the basis of report(s) submitted by the National Standing Committee.

(4) Where allowance of access to said traditional knowledge is granted by the National Biodiversity Authority, the prior informed consent along with access and benefit sharing agreement shall be signed between the National Biodiversity Authority and the applicant; whereupon the National Biodiversity Authority shall issue the license of use.

(5) Where allowance of access to said traditional knowledge is refused by the National Biodiversity Authority, the same shall be communicated to the applicant within reasonable time.

7. Regulation of access to non-registered traditional knowledge.

(1) Where an application is received under rule 5(2), and the traditional knowledge is not registered, the National Standing Committee shall evaluate the traditional knowledge for its availability in public domain.

(2) Where the said traditional knowledge is found to be in public domain, the National Standing Committee shall conduct an assessment of the said traditional knowledge including sustainability of the resources, social and environmental implications and the current and potential value of the traditional knowledge, and recommend the said traditional knowledge to the National Biodiversity Authority for registration in the Traditional Knowledge Register as PUBLIC traditional knowledge, along with the said assessment report;

Provided that if the said traditional knowledge is not in public domain, the National Standing Committee shall refer the application to all / relevant State Biodiversity Board(s).

(3) On receiving the recommendation for registration of traditional knowledge in public domain and the assessment report under Rule 7(2), the National Biodiversity Authority shall register the said traditional knowledge in the Traditional Knowledge Register and commence negotiations as specified in Rule 6.

(4) On receiving the referral from the National Standing Committee under Rule 7(2), the State Biodiversity Board(s) shall identify the appropriate traditional community(ies) practising the said traditional knowledge through the Biodiversity Management Committee(s) and communicate the same to the National Standing Committee for registration of the traditional knowledge as either “PUBLIC” or “CONFIDENTIAL”;

Provided that such information shall be registered only with the consent of the traditional community.

(5) Where the traditional knowledge is PUBLIC and is identified with one or more traditional community(ies) of more than three states, the National Standing Committee shall conduct an assessment as stated in rule 7(2) and refer the application to the National Biodiversity Authority along with the assessment report, whereupon the National Biodiversity Authority shall start proceedings as in rule 6(2);

Provided that where the traditional knowledge is CONFIDENTIAL, the National Standing Committee shall recommend to the National Biodiversity Authority to register the said traditional knowledge as CONFIDENTIAL in the Traditional Knowledge Register, and shall refer the application back to the concerned State Biodiversity Board for obtaining prior informed consent and access and benefit sharing agreement under Rule 6(4).

(6) Any third party including a civil rights group may approach the chairperson with information of a traditional knowledge or a component thereof which may include information about its abuse and /or misuse and /or misappropriation, whereupon the Chairperson shall refer the matter to the National Standing Committee to investigate the accuracy of such information, evaluate the so identified traditional knowledge and register the same, after obtaining the required consent from the traditional community concerned if so identifiable, and after appropriate classification as “PUBLIC”, “CONFIDENTIAL” and/or recommend action in case of abuse and/or misuse and/or misappropriation.

8. Licence to Use.--

(1) The National biodiversity Authority may issue a non assignable and non-transferable licence to use to an applicant, in response to a written application only and after following the prescribed procedures, to access a specified traditional knowledge, subject to the conditions stipulated in the said licence for a period not less than 1 year and not greater than 3 years, the said licence may be renewed for a further period not exceeding 3 years.

(2) The Licence to Use issued to an accessor shall be published in the Official Journal and along with the supporting documents, including the prior informed consent, various assessment reports and the agreement between the parties concerned shall be published on the website of the National Biodiversity Authority as soon as possible.

(3) Any person who has an interest in the traditional knowledge concerned may, within six months of the publication of the agreement on the website of the National Biodiversity Authority, make an application for opposition or revocation of the agreement and the licence to use, to the National Biodiversity Authority in the prescribed manner.

(4) On receipt of such notice of opposition / revocation, the National Biodiversity Authority shall refer the matter to the National Standing Committee for re-examination of the Agreement and the grant of licence.

(5) The National Standing Committee shall re-examine the agreement taking into consideration all information made available to it by both parties, in writing and orally, and after detailed hearing of both parties, submit a report with recommendations to the National Biodiversity Authority.

(6) On receipt of the re-examination report of the National Standing Committee and after giving the accessor and the opponent an opportunity of being heard, the Chairperson shall pass an order to maintain or amend or revoke the agreement and or the licence to use.

(7) The accessor has the responsibility to inform the National Biodiversity Authority of any change in address and/or in his legal status, if any, within two weeks of such an event.

(8) In case of misuse of Traditional Knowledge, the Licence to Use shall be revoked by the Authority and the accessor shall be liable under Rule 18 herein.

9. Sharing of Benefits.--

(1) Sharing of all benefits arising out of the access to the traditional knowledge and /or its consequential commercial use shall be as negotiated between the traditional community and the applicant and facilitated by the State Biodiversity Board through the Biodiversity Management Committee(s).

(2) All benefit share shall directly be paid to the traditional community by the applicant and shall be reported annually to the State Biodiversity Board, concerned and the National Biodiversity Authority by both the applicant and the traditional community;

Provided such benefits that arise from an agreement between the National Biodiversity Authority and the applicant shall accrue to the Traditional Knowledge Fund.

(3) Details of all the reported benefits shall be published in the website of the National Biodiversity Authority as soon as possible.

10. Access Fee.--

(1) The National Biodiversity Authority shall, at the time of approving the license to use, impose an access fee based on the negotiations between the traditional community and the accessor.

(2) The access fee shall be deposited by the accessor at the Traditional Knowledge Fund established under rule 11.

11. Constitution of Traditional Knowledge Fund.--

(1) There shall be constituted a fund to be called the Traditional Knowledge Fund and there shall be credited thereto –

- (a) any grants and loans made to the National Biodiversity Authority for specific needs of the implementation of the Rules;
- (b) all charges and access fees received by the National Biodiversity Authority;

- (c) all monetary benefits that accrue to the National Biodiversity Authority upon an agreement signed for access between National Biodiversity Authority and the applicant; and
 - (d) 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 used for the protection, conservation and development of traditional knowledge and the traditional communities which shall include –
- (a) channeling benefits to the benefit claimers;
 - (b) conservation and sustainability of traditional resources, welfare and livelihood support for traditional communities and traditional practitioners;
 - (c) ecological and cultural restoration programmes specifically related to traditional knowledge practices and such regions / sectors such as traditional medicine, health and educational practices, farming and other traditional livelihoods; and
 - (d) socio-economic, ecological and cultural development of areas referred to in sub-rule (b) in consultation with the State Biodiversity Board(s), Biodiversity Management Committee(s) and traditional community (ies) concerned;
 - (e) recognition and accreditation of traditional practitioners;
 - (f) promoting the use and practice of common public domain traditional knowledge such as home remedies, customary healing and agricultural practices etc especially in formal and non-formal educational systems and among traditional communities.

12. National Strategies, Plans, etc., for Conservation, Development, etc., of Traditional Knowledge and Resources.--

(1) The National Biodiversity Authority shall develop national strategies, plans, programmes for the conservation, development and sustainable use of traditional knowledge including (a) measures for identification and monitoring of areas rich in traditional knowledge, (b) incentives and support systems for traditional communities and traditional practitioners, and (c) incentives for training and public education to increase awareness with respect to traditional knowledge.

(2) Where the National Biodiversity Authority has reason to believe that any area or traditional community rich in traditional knowledge and resources is being threatened by overuse, abuse or neglect, it shall issue directives to the State Government concerned to

take immediate ameliorative measures and also offer the State Government concerned technical and other assistance that is possible to be provided.

(3) The National Biodiversity Authority shall recommend, as far as practicable wherever it deems appropriate, the integration, conservation, promotion and sustainable use of traditional knowledge and resources into relevant sectoral or cross-sectoral plans, programmes and policies.

(4) The National Biodiversity Authority shall undertake measures wherever necessary,

(a) for assessment of socio-cultural, economic and environmental impact of that project which is likely to impact or have adverse effect on traditional knowledge, traditional practices and biological diversity, with a view to avoiding or minimizing such effects and provide for public participation in such assessment; and

(b) to prevent the risks associated with the use of any technology or process or introduction of alien species that is likely to impact the conservation and continuum of the use and practice of traditional knowledge and/or its related biotic and abiotic resources.

13. Traditional Knowledge Facing Extinction.--

(1) Without prejudice to the provisions of any other law for the time being in force, the National Biodiversity Authority, in consultation with the State Biodiversity Board concerned, may from time to time notify any traditional knowledge or resource which is on the verge of extinction or likely to become extinct in the near future on account of (a) depletion of resources to sustain the traditional knowledge, (b) unwillingness of the traditional community to practise the traditional knowledge due to lack of opportunities, and (c) usurpation of the traditional knowledge for commercial gains, and prohibit or regulate access thereto for any purpose and take appropriate steps to preserve and ensure continuum of the same

(2) The National Biodiversity Authority shall facilitate development of plans in consultation with traditional communities to protect, regenerate and propagate the traditional knowledge facing extinction, along with detailed conservation measures for the biological resources. The National Biodiversity Authority will also earmark dedicated funds to ensure that the continued practice of the traditional knowledge facing extinction.

14. Traditional Knowledge Heritage Zones.--

(1) Without prejudice to any other law for the time being in force, the National Biodiversity Authority, in consultation with the State Biodiversity Board concerned, and on application from a Biodiversity Management Committee, notify in the Official Gazette, areas of importance as traditional knowledge heritage zones under the Act.

(2) The National Biodiversity Authority, in consultation with the State Biodiversity Board concerned, shall prescribe regulations and guidelines for the management and conservation of all the traditional knowledge heritage zones.

15. Standing Committees.--

(1) The National Biodiversity Authority shall constitute a National Standing Committee with a Presiding Member and not more than six other members of whom, one shall be a member from a civil society who is knowledgeable and experienced in matters of traditional knowledge practices and conservation, and at least three shall be representatives of traditional communities of India, provided that women shall constitute at least 30% of the total members.

(2) The State Biodiversity Board shall set up a State Standing Committee with a Presiding Member and not more than six other members of whom, one shall be a member from a civil society who is knowledgeable and experienced in matters of traditional knowledge practices and conservation of the State, and at least three shall be representatives of traditional communities of the State concerned, provided that women shall constitute at least 30% of the total members.

(3) The meetings of the National Standing Committee and the State Standing Committees shall be convened by the respective Presiding Member.

(4) The duties and functions of the National Standing Committee and the State Standing Committees shall be as specified in these rules and as assigned by the National Biodiversity Authority or the State Biodiversity Board, as the case may be.

(5) All decisions of the National Standing Committee and the State Standing Committees shall be taken by a majority of the membership.

(6) The expenditure of the National Standing Committee shall be debitable to the same budget head to which the expenditure of the National Biodiversity Authority is debited and that of each State Standing Committee to the same budget head to which the expenditure of the State Biodiversity Board concerned is debitable.

16. Budget, Accounts and Audit.--

The National Biodiversity Authority shall prepare a separate budget, maintain proper accounts and other relevant records, including the accounts and other relevant records of the Traditional Knowledge 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

17. Documents open to public inspection.--

(1) The following documents, subject to such conditions as may be prescribed, shall be open to public inspection at the National Biodiversity Authority, namely:-

- (a) the register and any document upon which a public entry in the register is based;
provided, the entries marked in the Register as “CONFIDENTIAL” shall not be made available to the public;
- (b) all documents pertaining to an application for access, the reports of the National Standing Committee, State Biodiversity Boards and State Standing Committees and the prior informed consents, agreements, and Licences to Use;
- (c) every notice of opposition to the registration of a traditional knowledge, application for rectification before the chairperson, counterstatement thereto, and any affidavit or document filed by the parties in any proceedings before the chairperson; and
- (d) such other documents as the Central Government may, by notification in the Official Gazette, specify.

(2) Any person may, subject to such conditions as may be prescribed, on an application to the Chairperson and on payment of such fee as may be prescribed, obtain a certified copy of any entry in the register or any document referred to in sub-rule (1).

18. Offences and Penalties:-

(1) Whoever contravenes or attempts to contravene or abets the contravention of any of the provisions of these Rules, shall be deemed to have committed an offence and shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to ten lakh rupees and where the damage caused exceeds ten lakh rupees such fine may commensurate with the damage caused, or with both.

(2) Notwithstanding anything contained in Rule 18(1) whoever misappropriates and/or misuses and/or abuses traditional knowledge shall be deemed to have committed an offence and shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to ten lakh rupees and where the damage caused exceeds ten lakh rupees such fine may commensurate with the damage caused, or with both.

(3) **Protection of action taken in good faith:** No suit, prosecution or other legal proceedings shall lie against any Authority in respect of anything which is in good faith done or intended to be done under this Act or the rules or regulations made there under.

(4) **Cognizance of offences:** 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 prescribed manner, of such offence and of his intention to make a complaint, to the Central Government or the authority or officer authorized as aforesaid.

19. Appeal.--

Any person, aggrieved by any proceeding or order of the National Biodiversity Authority under these Rules, may file an appeal in the Supreme Court within thirty days from the date of communication to him, of the proceeding or order of the National Biodiversity Authority, as the case may be;

Provided that the Supreme 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.

20. Execution of Proceeding or Order.--

Every proceeding or order made by the National Biodiversity Authority as per these Rules shall, on a certificate issued by any officer of the National Biodiversity Authority in the same manner as a decree of a court.

21. Annual Report of National Biodiversity Authority.--

(1) 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 relating to the traditional knowledge 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.

(2) 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.

22. Power to make regulations.--

The National Biodiversity Authority may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations for implementing these Rules.
