

Standard Operating Procedure (SoP) for commercial users of “biological resources” (Access and Benefit Sharing)

1. Indian entities intending to obtain any “biological resource” for commercial utilization or bio-survey and bio-utilization for commercial utilization must give **prior intimation** to the concerned State Biodiversity Board. **[Sec 7 of Biological Diversity Act, 2002].**
2. **“Biological Resources”** means plant animals and micro-organism or parts thereof, their genetic material and by-products (excluding value added products) with actual or potential use or value, but does not include human genetic material. **[Sec 2(c) of the act]**
3. **“Value added products”** means products which may contain portion or extracts of plants and animals in unrecognizable and physically inseparable form. Any product for qualifying as value added product must satisfy two conditions – (i) It is unrecognizable and (ii) physically inseparable. **[Sec 2(p) of the act].**
4. **“Commercial utilization”** 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 genetic intervention (excluding conventional breeding or traditional practises). **[Sec 2 (f) of the act]**
5. Prior intimation should be given in prescribed form (Form-I and Form-A) along with the fee of Rs10,000/- as Demand Draft in favour of Member-Secretary, Uttarakhand Biodiversity Board, Dehradun. **[Sec 7 & 24 of the act]**
6. On receipt of an intimation, 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 **[Sec 24 of the Biological Diversity Act, 2002].**
7. No order of restriction/prohibition shall be passed without giving reasonable opportunity of being heard to the affected person. **[Sec 24 of the act]**
8. The access and benefit sharing (ABS) amount is calculated on the basis of the access and benefit sharing regulations/guidelines 2014 notified by National Biodiversity Authority/Govt. of India on 21.11.2014 named as “Guidelines on Access to Biological Resources and Associated knowledge and Benefit Sharing Regulations, 2014”. **[Notified by NBA in exercise of its powers conferred under Sec 21(4) of the act]**
9. After the calculation of ABS as per act/rules/guidelines, the commercial users of “biological resource” are invited for ABS negotiation. Every effort is made to address and resolve the objections raised by the commercial users (traders/manufacturers) as per the existing provisions of act/rules and regulations/guidelines.
10. The order pertaining to the calculated ABS amount by the commercial users (calculated on the basis of guidelines) is communicated and the objections are invited. After removal of objections, request for payment of ABS is made as per mutually agreed terms.
11. An agreement of ABS (prescribed format) is signed between the authorized representative of commercial user and the State Biodiversity Board after the payment of calculated ABS amount. This agreement duly signed is deemed as approval for access to the biological resource and a valid document of ABS compliance.
12. The above procedure is followed for every financial year starting 2014-15 onwards.