Guidance document

Quick Guide to Bioprospecting and Biotrade Permit Applications

forestry, fisheries & the environment
Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

2030 NDP

BIO INNOVATION AFRICA

german cooperation
DEUTSCHE ZUSAMMENARBEIT

Implemented by:
giz Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

Imprint

This document is part of a series of knowledge products produced by the BioInnovation Africa (BIA) project in South Africa. Other BIA knowledge products and biotrade resources can be found on the joint website of BIA, ABioSA and the ABS Capacity Development Initiative.

Kruger Swart Associates (KSA) was commissioned to develop and publish this knowledge product as part of the collaborative initiative Access & Benefit Sharing Collaboration and Support, between the Department for Forestry, Fisheries and the Environment (DFFE), Southern African Essential Oil Producers' Association and BIA project in South Africa.

This knowledge product is endorsed by the DFFE. The BIA project is funded by the German Federal Ministry for Economic Cooperation and Development (BMZ) and implemented by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH. Although every effort has been made to provide complete and accurate information, KSA and GIZ make no representations or warranties, express or implied, as to its accuracy at the time of use.

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1. Introduction

This guide shares practical information and good practise to be considered in the completion of biotrade and bioprospecting permit application and in navigating the administrative processes.

2. Checkpoints in the application

With the completion of applications, the following considerations and checkpoints should be kept in mind.

2.1 Administrative considerations

- Permit application must be submitted to the BABS unit two weeks prior to the BAC sitting so that the unit has sufficient time for the implementation of due diligence processes. Submitting the application one week before the BAC sitting increases the chances of the application being considered at that sitting.
- The BABS Regulation states that once the DFFE has provided feedback on a permit application received, the applicants have 20 working days to respond to feedback. If this period is not observed, the DFFE may view the application as withdrawn based on the Regulation. Currently the DFFE implements flexibility in implementing this requirement, but it is good for applicants to be aware of this allowed time period.
- When a business with active permits is bought by a third party, the permits are not transferable, but new applications will need to be submitted due to new legal entity, business and contact person information

2.2 Good practises

- Be transparent, truthful and accurate in the permit application. Remember that the DFFE can always visit the site to verify the information shared in permit applications and then it is important that they see onsite what was reflected in the permit application. If they find misalignment between the application and what is observed in the site visit, the application will be referred back for adjustment and the permitting process delayed.
- Information must be shared as comprehensively as possible. This will prevent the DFFE or the BAC returning the application with requests for more information.
- Consistency between Annexes 5, 11 and 12 is very important. For example, the same details for the permit applicant, the access provider and the traditional knowledge holders must be reflected in all the documents. The volumes reflected in Annexes 11 and 12 must be collectively indicated in Annex 5.
- All pages of the application must be initialled and signed as required.
- In the case where scans are submitted this must be legible

2.3. Guidance on Annexure 5

Section	Guidance
Kind of permit	• Here it is important to select the correct one: › Select Biotrade permit if the company is only involved in trading semi-finished products from indigenous biological resources to local or international market. i.e. Extracts, Essential oil, Crystals and others. › Select Bioprospecting permit if the company is involved in the utilisation of indigenous biological resources in the manufacturing and production of finished commercial products i.e. Skin care products, Emulsifiers, Cosmetic, Fragrance and others. Note that this kind of permit also allows ones to export finished commercial products internationally. › Select integrated biotrade and bioprospecting permit if the company is involved both producing of semi-finished products (essential oil) and finished commercial products (Body care products, Fragrances). • If the business is registered as an exporter or for value added tax (VAT) include the correct numbers
A: Applicant information	• Include the details of the correct contact person in A1 • If the permit applicant is a company, include the details of the company and importantly the registration number of the company in Section A3
B: Collaborators	• In Section B4 reference is made to collaborators. Collaborators are other parties that the applicant works with who play a key role in manufacturing that allows the permit applicant to bring their product to market. • For example if someone distils oil on behalf of the applicant, if someone packs the final product sold by the applicant, etc. • Also remember that when a collaborator is indicated here, their role should be clearly included in Section G14 for the Business Plan or Project summary.
C: Discovery Phase Bioprospecting	Section C is only applicable and should only be completed if the business has a Discovery Phase permit
D: Indigenous genetic and biological resources	Section D9 must be carefully completed since unclear or incomplete information in this section is often why applications are returned: • Scientific and common names: indicate both the scientific and common name, for example Agathosma betulina and Buchu • Part of resource to be utilised: Clearly indicate which part of the resource you intend to use e.g. leaves, roots or the whole plant • Physical state of resource: this is the commercial form of the resource for example, essential oil, dried leaf, powder, extract, etc. • Quantity: this is the volume of the commercial form of the resource and will be indicated on the permit • Locality / source information: give the name of the closest town and the specific GPS Coordinates where the resource is located • Traditional Knowledge: If the project was informed by traditional knowledge, select yes and the application must be accompanied by a benefit sharing agreement for the traditional knowledge • Applicants must only indicate species that they currently work with on the application and not species that they intend to work with. The DFFE will verify species present at the premises through a site visit and if all species indicated are not observed, the application will need to be adjusted and the process for awarding the permit will be delayed.

E: Applications for other permits	• If the applicant holds any other permits, this must be indicated in Section E and copies of the permits must be attached to the application • Apart from the TOPS and CITES permits indicated here, this can also include harvesting permits from provincial authorities, etc.
F: Stakeholders	• If the business buys resource from an access provider, the details of the access provider must be included here, and the Material Transfer Agreement (Annex 11) and the Benefit Sharing Agreement (Annex 12) must be attached to the application • If the business does not source the resource from outside of the business, but cultivate or harvest it from their own premises, no BSA or MTA is required • If the project was informed by Traditional Knowledge, the name of the traditional knowledge holder must be indicated here, and the Benefit Sharing Agreement (Annex 12) must be attached to the application
G: Traditional Knowledge	• Include a brief description of the TK associated with the use of the resources. This information can be obtained from literature review, journals, desktop research etc. Please also provide source of information provided. • Applicants can also visit PlantzAfrica (PlantZAfrica | (sanbi.org)) - which is a SANBI website and type in the name of the species.
H: Recipients of indigenous genetic and biological resources	• Here the names of clients that the resource is sold to should be indicated • Some companies see this as confidential information in which case permission can be asked from the DFFE to only give a list of countries where the resource is sold or exported to
I: List of Annexes	Here all documents referred to in the application must be indicated and then attached. This can include, but is not limited to: • The certified identity document of the applicant • All permits listed • All MTAs and BSAs referred to • Any relevant documents that support the information shared in the Business Plan/Project Summary section (G14)

2.4. Additional supporting documentation

Area	Guidance
Community engagement	• In cases where the access provider or the traditional knowledge holder is a community, a Community Resolution must be submitted • The Community Resolution must be stamped and signed by the Chief • The Community Resolution must be accompanied by minutes of the meetings with the communities
Material Transfer Agreements: Annex 11 & Benefit Sharing Agreements: Annex 12	• In the case where applications are submitted in the hard copy templates or when supporting documentation such as the MTAs and BSAs are submitted as supporting documentation on the online system, all documents must be recently dated and signed. • When the applicants complete the table in the BSA, it is advisable to only indicate a few options and importantly that these options are feasible for the applicant. In cases where the BAC believes that the options indicated are too ambitious, they will request a review of the BSA. • Where difficulty is experienced with negotiation and conclusion of MTAs and BSAs, the DFFE is able to assist and facilitate. In this case the applicant needs to confirm a meeting with the Traditional Authorities and invite the DFFE to attend the meeting to share information and motivate for the completion of the needed documentation. The DFFE must be informed of the need for support and related meetings in a timeous manner.
Provincial harvesting and collection permits	• When provincial harvesting/collection or cultivation permits are required, it is good practise to get this in place prior to the applications stage and ensure that all necessary permits are submitted with the application.

2.5. The business plan/project summary

This is a very important part of the application since here the story of the business is told and will enable the DFFE and the BAC to understand the nature and activities of the business. Try to be comprehensive and succinct reducing unnecessary detail or explanations. Applicants can also refer to the template answers developed and provided by the DFFE.

Question	Explanation
Provide information on the project title	Include an overview of the company and the activities of the company here. The DFFE did share that it is good practise to include the intention to develop and cultivate additional resources in the business plan/project description, since then the DFFE is aware for future reference.
Provide the objectives of the project	Give information on the objectives of the company. For most this will be to produce either ingredients or finished product from indigenous biological resources and sell this to either the local or international market or both.
What are the desired outcomes of the biotrade/bioprospecting/ integrated biotrade and bioprospecting project?	Here the outcomes of business activities can be summarised, for example to provide employment, to contribute to livelihoods in rural areas, to continue to run a successful business, etc.
The proposed methodology and timeframes of the activities:	Here a comprehensive overview of the activities of the company must be given, for example when do you plant, how long does the plant take to mature, when do you harvest, how does the processing work, where do you wild harvest, etc. Applicants need to describe all the activities and processes from the resource in field to the final products that they sell be this an ingredient or a final product.
List benefits for the conservation of South African biodiversity that may result from the biotrade /bioprospecting/integrated biotrade and bioprospecting	Here the applicant can share information on beneficial environmental aspects. For example if the resource is wild harvested mentioned the training of harvesters and that harvesting is done in a sustainable manner with care for the environment. In the case where the resource is cultivated refer to what environmentally friendly practises are used, how water is responsibly used, how soil health is ensured, etc.
List benefits for the South African economic development that may result from the biotrade/bioprospecting/ integrated biotrade and bioprospecting	Here economic benefits such as employment creation, poverty alleviation, bursary funds, attracting both local and foreign income can be mentioned. Businesses active in the biotrade sector also contribute to the growth of the biotrade sector in SA which can be mentioned. In the case where businesses are in rural areas, much needed employment and income is brought to these areas where economic opportunity is scarce.
List any other benefits that are in the interest of the public that may result from the biotrade /bioprospecting/integrated biotrade and bioprospecting	Here any other important information can be shared such as how the practise of the business contributes to conservation as a whole, how the business working with indigenous biological resource creates awareness of the value of these resources by bringing it to both local and export markets. If the business collaborates with academics or is part of an industry organisation working for the good of the sector, this can also be mentioned.
Provide details of the likely impact of the collection and utilization of the indigenous biological resources in its natural environment?	Most biotrade businesses conduct their activities in an environmentally responsible manner. Here it is important to not only indicate not applicable for example, but to explain why the business does not have any negative impacts and if there are some risks mention this and explain in the following point how these risks are mitigated.
What are the proposed steps to minimise or remedy the impacts listed in question 14.8?	If there are any impacts, explain here what is done to minimize the effects.
Describe how any unused/ discarded materials are or would be disposed.	This can be resource not used or byproducts from processing. Mostly this is used for fertilisation by businesses, but there are also now some businesses looking at how waste products from processing, such as hydrosol from essential oils distillation can be marketed and sold to bring income into the business.

3. Maintaining the permit

It is important to know that once the permit is issued, the applicant still has responsibilities to maintain their permitted status. Permitted biotrade businesses need to ensure that:

- They are aware of the expiry date of the permit and ensure that they start the process for renewal application at least 6 months before the expiry date
- They complete and submit the Annual Reporting Template on time every year.

Apart from permitting responsibilities, the DFFE also has the responsibility to monitor that biotrade businesses are indeed compliant and that what is included in the permit application is a true reflection of the reality at business level. To ensure that this monitoring function is fulfilled, the DFFE compliance and enforcement unit may from time to time visit businesses. These visits may be announced or unannounced. During these visits the unit will check on information included in the applications and the responsibility of businesses is simply to illustrate this through physical visits to sites and supplying supporting documentation as requested.

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