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BIOLOGICAL DIVERSITY (AMENDMENT) BILL, 2023

Why in the news?

- Recently, both houses of Parliament passed the Biological Diversity (Amendment) Bill, 2023,

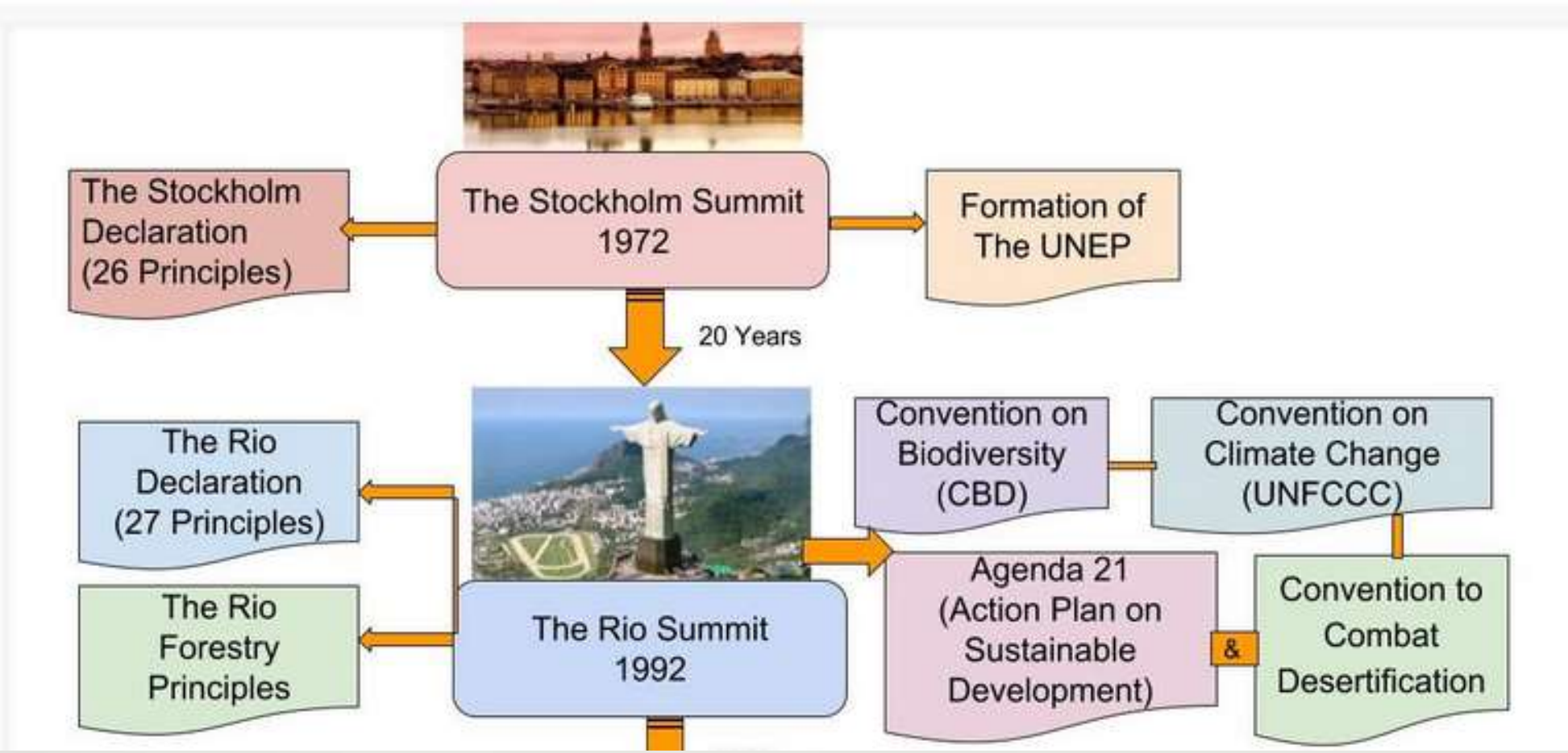
- amending the Biological Diversity Act of 2002

Biological Diversity Act 2002

- The Act was implemented to help India meet the objectives of the United Nations CBD-(Convention on Biological Diversity) 1992.

Biodiversity Act, 2002

Convention on Biological Diversity (CBD) 1992



United Nations Convention on Biological Diversity (CBD)

Convention on Biological Diversity

Secretariat Montreal

About: **An internationally legally binding** multilateral treaty.

Objectives: **Drafted in 1992 with 3 Goals-**

- Conservation of biological diversity.
- Sustainable use of its components.
- Fair and equitable sharing of benefits arising from genetic resources.

Membership: **196 parties, including India.**

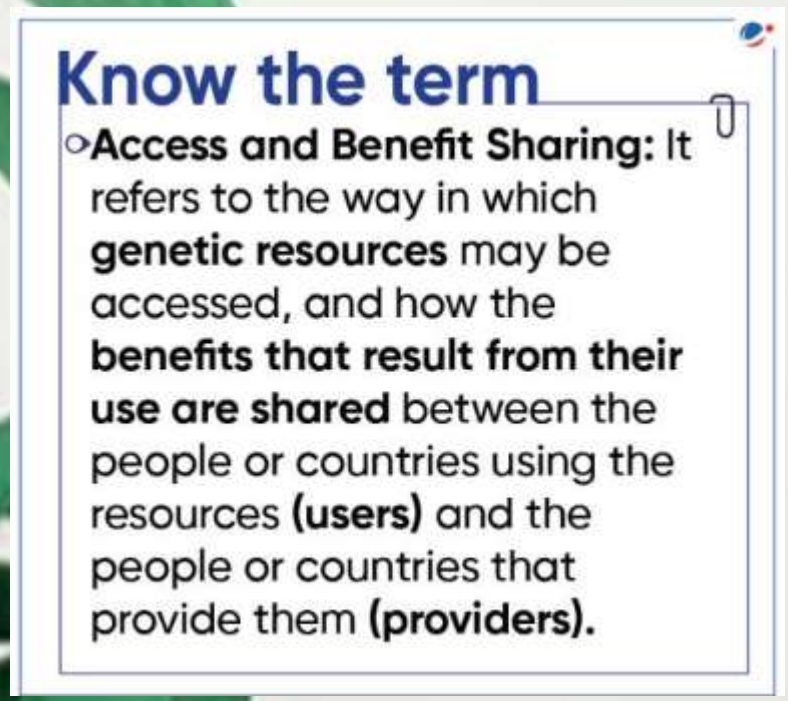
Member

Core Agreements: **India has ratified all 3 Protocols-**

- Nagoya Protocol on Benefit Sharing
- Cartagena protocol on Biosafety

Other Key Information:

- CBD's governing body is **the Conference of the Parties (COP meets every 2 years).**
- Convention covers biodiversity at all levels: **ecosystems, species and genetic resources.**



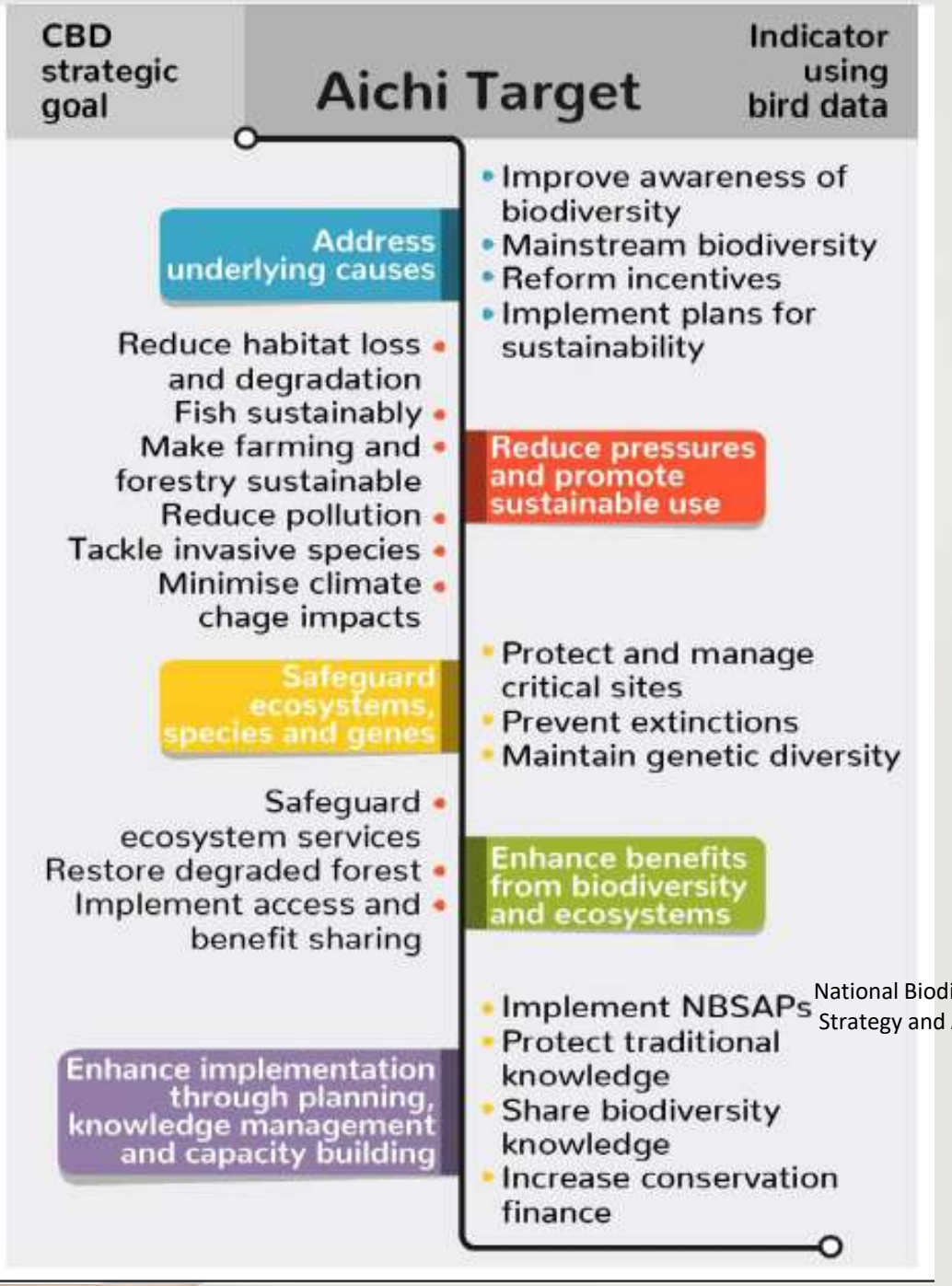
CBD has two supplementary protocols –

Cartagena (Columbia) Protocol on Biosafety (2000) governing the movements of Living Modified Organisms.

- **It is legally binding and India is signatory to it.**

Nagoya (Japan) Protocol (2010): on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (ABS).

- **It is legally binding and India is signatory to it.**

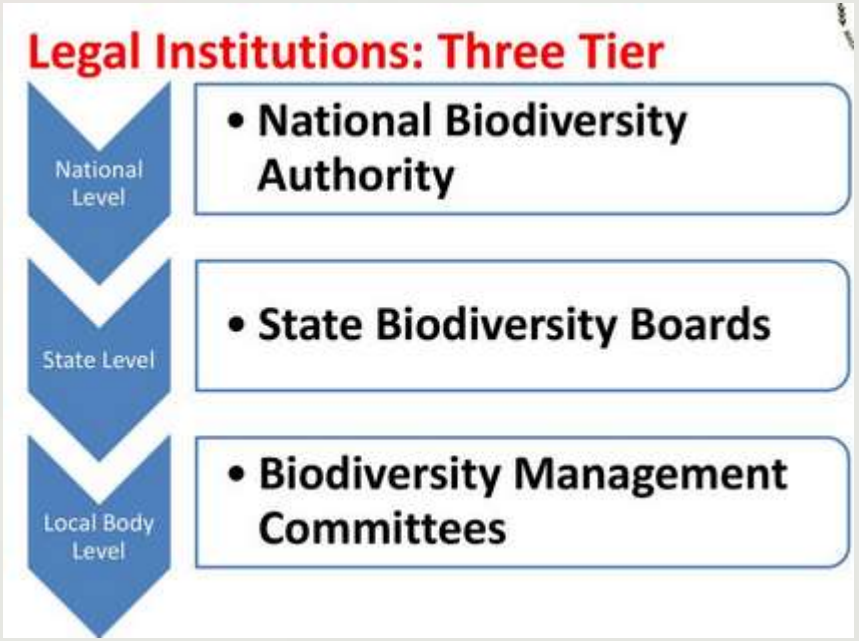


National Biodiversity Strategy and Action Plan

- **Aichi (Japan) Targets under Nagoya protocol-2010**
- **In 2010, at Nagoya, Parties to CBD adopted the Strategic Plan for Biodiversity 2011–2020, a ten-year framework for action by all countries and stakeholders to safeguard biodiversity and the benefits it provides to people.**
- **20 ambitious but realistic targets, known as the Aichi Biodiversity Targets, were adopted.**

Biological Diversity Act 2002 provides for a three-tiered mechanism for regulation.

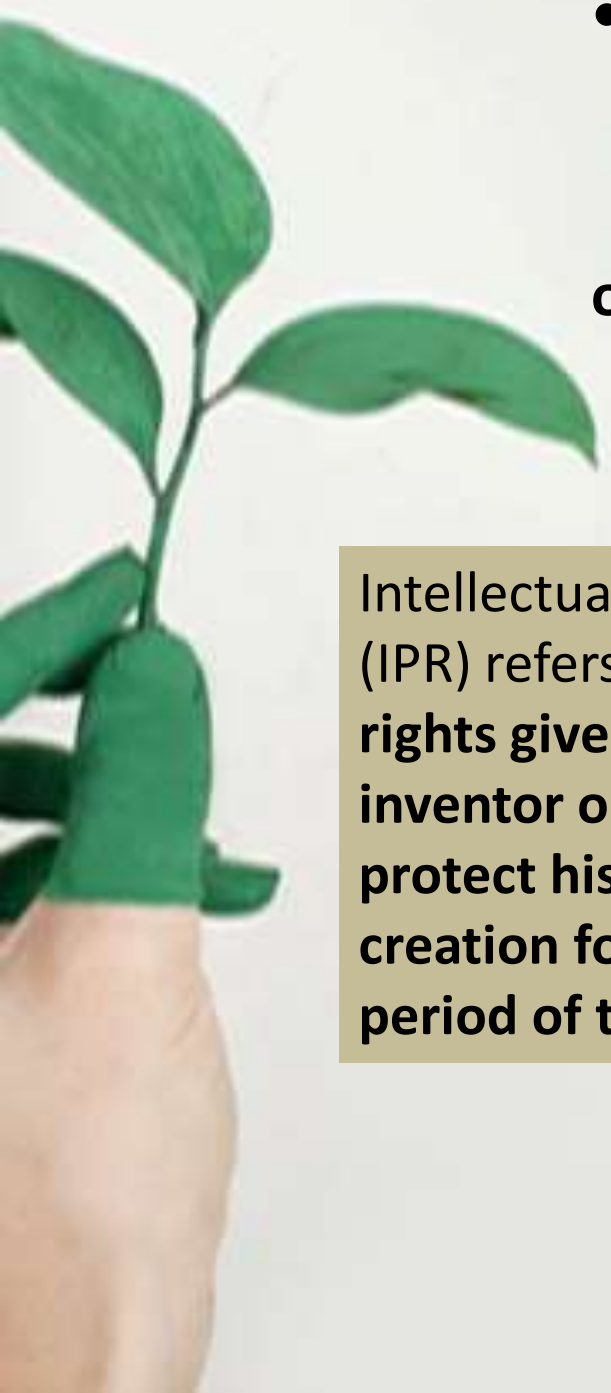
- **National Biodiversity Authority (NBA) at the national level,**
- **State Biodiversity Boards (SSB) at the state level, and**
- **Biodiversity Management Committees (BMC) at the local body level.**



Biological Diversity Act 2002

The Law was enacted with the aim to:

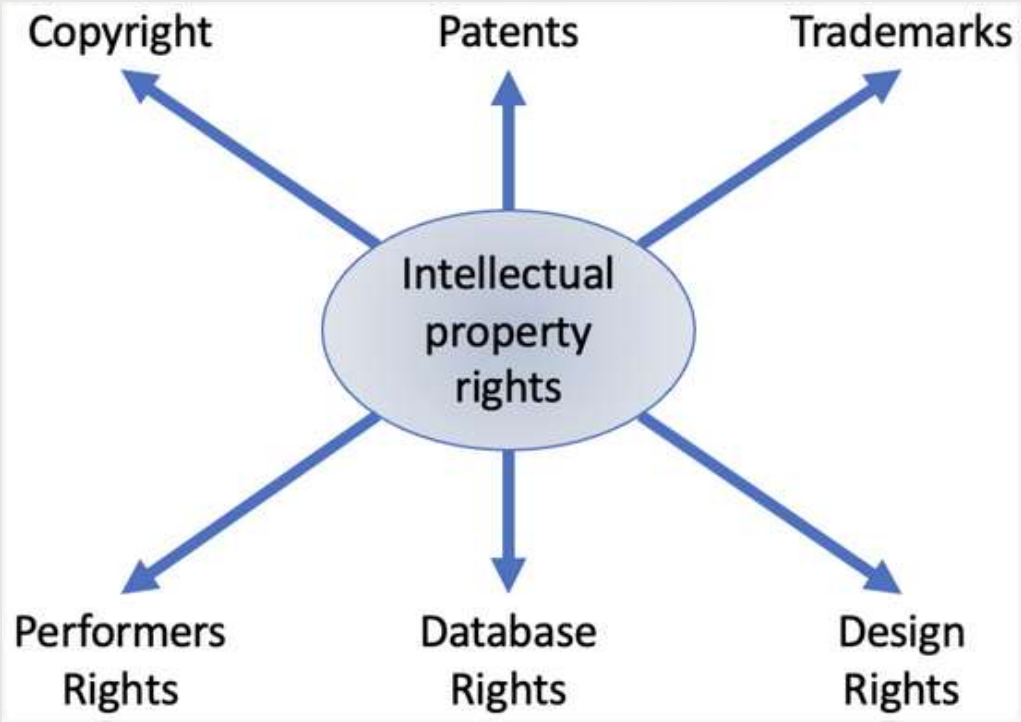
- **Conserve biodiversity.**
- **Promote the sustainable utilisation of its elements.**
- **Ensure just and fair distribution of the advantages arising from the use of biological resources.**



- **Biological Diversity Act 2002 provides for sharing benefits with biodiversity conservers and holders and creators of associated knowledge.**

o **Benefits may be shared in various forms, such as monetary compensation, sharing of intellectual property rights, or technology transfer.**

Intellectual property rights (IPR) refers to **the legal rights given to the inventor or creator to protect his invention or creation for a certain period of time**



Key Provisions of the Biodiversity (Amendment) Bill

Provisions	The Biological Diversity Act, 2002	Amendments to the 2002 Act
Access to Biological Resources	The Act requires **anyone seeking to access biological resources or associated knowledge in India** to obtain prior approval or inform the regulatory authority about their intent.	The Bill modifies the classification of entities and activities that require intimation, while also introducing exemptions to certain cases.
Intellectual Property Rights	Concerning **Intellectual Property Rights (IPR)**, the Act currently demands NBA approval before applying for IPR related to biological resources from India.	The Bill suggests that approval will be required before the actual grant of the IPR, not during the application process.
Exempting AYUSH Practitioners		It seeks to exempt registered **AYUSH** medical practitioners and people accessing codified traditional knowledge, among others, from giving prior intimation to State biodiversity boards for accessing biological resources for certain purposes.

Benefit Sharing	The Act mandates **benefit sharing, which involves sharing both monetary and non-monetary** benefits with those who conserve biodiversity or hold traditional knowledge associated with it. NBA determines **the terms of benefit sharing** when granting approvals for various activities.	The Bill **removes the applicability of benefit sharing** requirements from research, bio-survey, and bio-utilisation.
Criminal Penalties	The Act imposes **criminal penalties,** including imprisonment, for offenses such as not obtaining approval or intimation for specific activities.	The Bill, on the other hand, **decriminalizes these offenses** and introduces fines ranging from one lakh to fifty lakh rupees instead.

Significance of Bill

Reduce the pressure on wild medicinal plants by encouraging cultivation of medicinal plant

Encourage Indian system of medicine

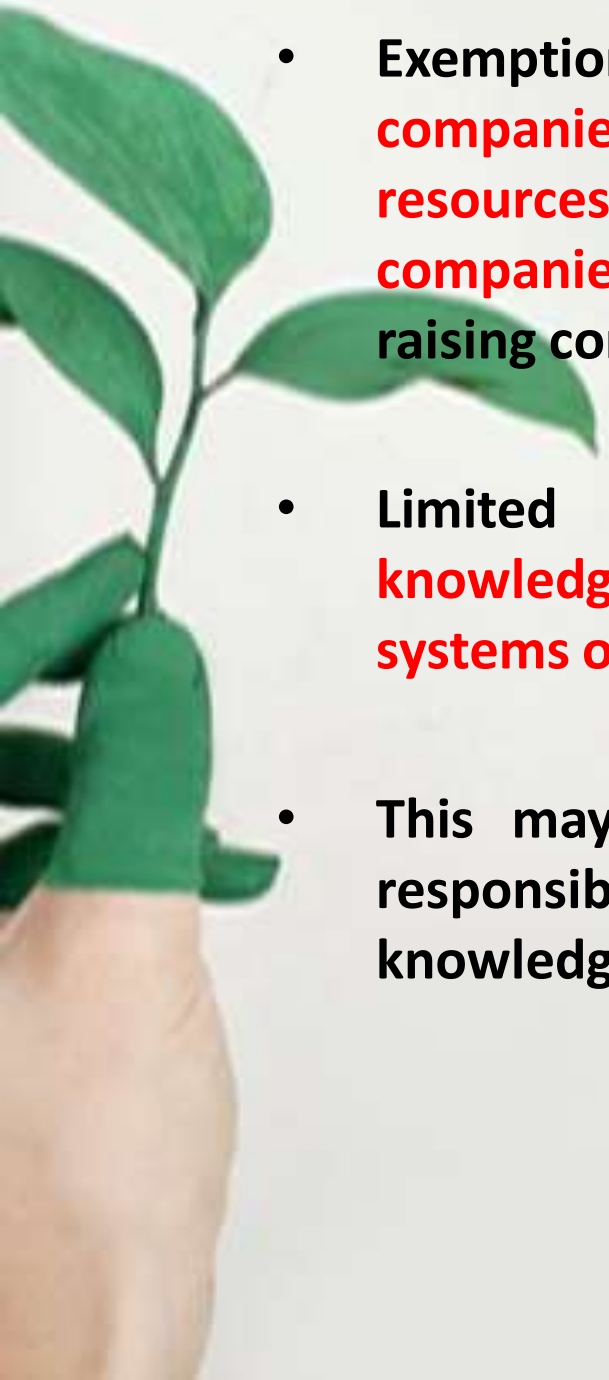
Facilitate fast-tracking of **research, patent application process,transfer of research results**

Bring more foreign investments in the chain of biological resources without compromising the national interest.

Concerns Related to the Biological Diversity (Amendment) Bill

- **Favouring Industry over Conservation:**
  - **amendments seem to prioritize industry interests** rather **than focusing on biodiversity conservation**, which goes against the spirit of the CBD.
  - The **CBD emphasizes sharing benefits** **from biodiversity use** **with the communities** that have conserved it for generations.
  - The **amendments** may **weaken the framework for benefit-sharing and community involvement.**

- **Decriminalization of Violations:**
  - The **Bill proposes to decriminalize violations, removing** the **power of the NBA to file FIRs against parties that do not comply** with regulations.
  - This may **weaken the enforcement of biodiversity protection** laws and hinder efforts to deter illegal activities.



- **Exemption for Domestic Companies: Only "foreign-controlled companies" would need to seek permission for using biodiversity resources. This could potentially create loopholes for domestic companies with foreign shareholding to bypass the approval process, raising concerns about unchecked exploitation of biodiversity.**

- **Limited Benefit Sharing: The inclusion of "codified traditional knowledge" exempts certain users, including practitioners of Indian systems of medicine, from the need to share benefits.**

- **This may lead to profiteering domestic companies avoiding their responsibility to share profits with the communities holding traditional knowledge.**

- **Ignoring Conservation Issues: the amendments do not adequately address the challenges faced by biodiversity conservation in India.**

- **The Bill appears to focus more on reducing regulations and facilitating business interests, raising concerns about the potential negative impact on biodiversity and traditional knowledge holders.**

Way Forward

- There is a need to strike a balance between promoting economic development and sustainable conservation of India's biodiversity.
- There is a need to engage in transparent and inclusive consultations with various stakeholders, including local communities, indigenous people, conservationists, scientists, and industry representatives.
- It will ensure that all perspectives are considered in the decision-making process and that the amendments align with the principles of biodiversity conservation.

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