

**Regulation of Collection
Transit and Trade
of
Medicinal Plants
and other
Non Timber Forest Products
in India**

A Compendium

Ashok K. Jain



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Regulation of Collection Transit and Trade of Medicinal Plants and Other Non-Timber Forest Products in India

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Best efforts have been made to remain true to the original text of the Acts, rules, orders etc. Excerpts from these are only indicative. A user is advised to refer to the original text of these for any interpretation.

The designation of geographical entities in this publication and the presentation of the material, do not imply the expression of any opinion whatsoever on the part of WWF-India or TRAFFIC India, concerning the legal status of any country, territory, or of its authorities, or concerning the delimitation of its frontiers or boundaries.

About the book

Research for this book was undertaken by the author working as a consultant for TRAFFIC India.

Published literature on the trade and utilization of medicinal plants in the country is not extensive. Much has been mentioned about the ruthless exploitation of wild medicinal plants by medicinal plants collectors and traders. However, there are very few works which refer to the trade in medicinal plants, traders' *modus operandi* for obtaining medicinal plants, and various other trade related issues including legal aspects.

The available literature deals mostly with Indian Systems of Medicine, plant identification, survey, enumeration and ethno-medico-botanical utilization of wild medicinal plants by various tribes and other ethnic groups in the country. Reports and studies done by few agencies provide some information on the commercial activities related to medicinal plants. Hence the *secondary* sources of information available for this study were: Books, articles in Journals/ Magazines, central Forest Acts and Rules, and the states' Forest Acts and Rules.

Information was collected from states' Forest Departments via informal interviews (both in person and via telephone). Information was also collected from the Ministry of Environment & Forests, New Delhi, the Supreme Court and the High Court libraries, law bookshops, and Research institutes and organizations. While every effort has been made to procure and incorporate the required and latest information, there might be some rules and regulations especially at the forest circle/ division (administrative units in the field) level which could not be accessed and thus do not form part of this book.

It was found that regulation of medicinal plants is generally incorporated into that of Non-timber forest produce (NTFP) and it is rare when a medicinal plant specific legislation had been attempted in the country.

The *Scheme* of the book in brief is as follows: The main Introduction given at the beginning of the book contains an overview of the legal scenario in the country, the findings of this research, and recommendations. The book is divided into two parts: Part I contains Central and States' Forest Acts and Export-Import Policy. Part II contains States' and Union Territories' Acts and Rules related to the Medicinal Plants and Other Non-Timber Forest Produce (NTFPs). The State-wise legal scenario starts with a one-page summary (containing trade and legal framework in the State), followed by a discussion of the legal provisions, summing up, and relevant extracts from the bare Acts and Rules. Abbreviations, Glossary and a list of References are given at the end of the book.

It is visualized that the book will provide a reader an in-depth knowledge on the legal framework relating to the medicinal plants and other NTFP in the country. The book will hopefully be found useful by forest officers, administrators, planners, policy-makers, legal authorities and personnel, environmentalists, anthropologists, progressive farmers and individuals, pharmaceutical industries, universities and other research organizations (including NGOs) interested in the field of medicinal plants and other NTFP.

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INTRODUCTION

Geography of India combined with climatic conditions varying from tropical to alpine, result in an enormously rich biodiversity. It is amongst the twelve mega biodiversity countries of the world.

Of the total land area (328 million hectare), about 22 per cent (74.74 million hectare) comprises the notified forest area in India, which is only one per cent of the productive forest area of the world while these forests have to support 15 per cent of the world's human population and massive livestock population. On the world map of forest resources, India is classified as a forest deficit zone. Out of 74.74 million hectare, 25 million hectare contains only sparse growth and 14.74 million hectare is unproductive. Thus, only 35 million hectare forest is well wooded (Shukla, 2000). In ancient (3000 B.C.) India, 80 per cent of the total geographical area was under forest cover (Mukhopadhyay, 1998).

Non-Timber Forest Produce (NTFP) in India

'Non-timber forest produce' (NTFP) or 'Non-wood forest produce' (NWFP) is "the forest produce other than timber (wood), which can be harvested on a non-destructive basis" [Expert Committee, Ministry of Environment & Forests, Government of India, 1997]. NTFP includes all goods of biological origin other than wood in all its forms, as well as services derived from forests. They include a number of goods such as fodder, fibres, flosses, food and food additives, fertilizer (bio-mass), medicinal plants and herbal potions, phyto-chemical and aromatic chemicals, fatty oils, latex, gum, resin and other exudates, and different kinds of animal products (honey, wax, lac, silk, etc.). They also include services such as grazing, and raw material for several village/cottage industries.

The term 'Minor Forest Produce' (MFP) has been used in respect of forest produce other than the timber. The traditional timber-orientation of forest management, rooted in colonial history, has regarded NTFP as "minor, residual, and, of lower value".

In India, millions of people residing in and around forests rely on NTFP for their subsistence and more than half of the employment generated in the forestry sector is through NTFP. Studies in the Rajasthan State of India, have indicated that approximately 5 million tribals sustain themselves through collection, processing and marketing of forest produce, supplementing their income from harvest and that NTFP

amounts to nearly 80 per cent of the total forest revenue. In another State, Gujarat, 27% adults and 72% children and women collect NTFP in forest regions, while in Madhya Pradesh more than 35% of the forest revenue is from NTFP (World Bank, 1993).

Medicinal Plants

Medicinal plants are among the most important NTFPs in India. According to WHO, 80 per cent of the people in developing countries rely on traditional natural medicines and 85% of the traditional medicines involves the use of plant extracts (Mukhopadhyay, 1998). The ancient Indian classical Ayurvedic texts, Charaka Samhita, Susruth Samhita and Ashtanga Hridaya Samhita, mention of a large number of medicinal plants for curing different ailments.

Medicinal plants grow in about 80% of forest in India. Around 70% of India's medicinal plants are found in tropical areas - dry and moist deciduous vegetation viz. Western and Eastern Ghats, Aravalis and sub-tropical regions of Himalayas. Although less than 30% of the medicinal plants are found in the evergreen and temperate habitats, they include species of high medicinal value. Majority of the medicinal plants are higher flowering plants. A very small proportion of the medicinal plants are lower plants like lichens, ferns, algae, etc. One third of the medicinal plants are trees and an equal portion shrubs/ climbers, and the remaining one third herbs/ grasses (Task Force on Conservation & Sustainable Use of Medicinal Plants, Planning Commission of India, March 2000).

Threats to wild medicinal plant population have been categorized into seven categories: Human interference (7.8%), Fragmentation (5%), Loss of habitat (18.7%), Over exploitation (17%), Harvest (19.8%), Trade (24.6%) and Others (Anon. (1998) CAMP Report, 1998; BCPP, India, Endangered Species Project).

As the demand of several medicinal plants has been increasing at a very fast rate, several species have become threatened or endangered. Threat status of some Indian medicinal plants is given in Table 1.1.

TABLE 1.1 Threat Status of Selected Medicinal Plants of Northern, North-eastern and Central India	
SPECIES	IUCN CATEGORIES
<i>Aconitum balfourii</i>	CR
<i>Aconitum deinoarrhizum</i>	CR
<i>Aconitum falconeri</i>	CR

SPECIES	IUCN CATEGORIES
<i>Aconitum ferox</i>	CR
<i>Aconitum heterophyllum</i>	CR
<i>Aconitum violaceum</i>	CR
<i>Acorus calamus</i>	VU
<i>Angelica glauca</i>	CR
<i>Aquilaria malaccensis</i>	CR
<i>Antehia benthamii</i>	CR
<i>Atropa acuminata</i>	CR
<i>Baliospermum montanum</i>	LRnt
<i>Berberis aristata</i>	EN
<i>Berberis chitria</i>	EN
<i>Berberis kashmirana</i>	CR
<i>Berberis lycium</i> var. <i>simlensis</i>	EN
<i>Berberis petiolaris</i> var. <i>garhwalana</i>	CR
<i>Bergenia ciliata</i>	VU
<i>Bunium persicum</i>	EN
<i>Butea monosperma</i> var. <i>lutea</i>	DD
<i>Celastrus paniculata</i>	LRnt
<i>Cinnamomum tamala</i>	LRnt
<i>Clerodendrum colebrookianum</i>	VU
<i>Clerodendrum serratum</i>	VU
<i>Coptis teeta</i>	CR
<i>Cordia rothii</i>	LRnt
<i>Costus lacerus</i>	DD
<i>Craterostigma plantagineum</i>	CR
<i>Curculigo orchitoides</i>	VU
<i>Curcuma angustifolia</i>	LRnt
<i>Curcuma caesia</i>	CR
<i>Dactylorhiza hatagirea</i>	CR
<i>Delphinium denudatum</i>	CR
<i>Dioscorea deltoidea</i>	CR
<i>Drymia indica</i>	VU
<i>Evolvulus alsinoides</i>	LRnt
<i>Fritillaria roylei</i>	CR
<i>Gastrochilus longiflora</i>	CR
<i>Gentiana kurroo</i>	CR
<i>Gloriosa superba</i>	EN
<i>Gymnema sylvestre</i>	VU
<i>Hedychium coronarium</i>	EN
<i>Hedychium spicatum</i>	VU

Species	IUCN Categories
<i>Heracleum candicans</i>	EN
<i>Hydnocarpus kurzii</i>	EN
<i>Ilex khasiana</i>	CR
<i>Inula racemosa</i>	CR
<i>Jurinea dolomiaea</i>	LRnt
<i>Lavatera cashmeriana</i>	EN
<i>Luvunga scandens</i>	CR
<i>Meconopsis aculeata</i>	CR
<i>Nardostachys jatamansi</i>	CR
<i>Nepenthes khasiana</i>	CR
<i>Opreculina turpethum</i>	VU
<i>Paeonia emodi</i>	VU
<i>Panax pseudo ginseng</i>	CR
<i>Picrorhiza kurroo</i>	EN
<i>Podophyllum hexandrum</i>	CR
<i>Polygonatum verticillatum</i>	EN
<i>Prezalskia tangutica</i>	CR
<i>Rauvolfia serpentina</i>	EN
<i>Rheum australe</i>	VU
<i>Rheum nobile</i>	EN
<i>Rhododendron anthopogen</i>	VU
<i>Rhus semialata</i>	VU
<i>Saussurea costus</i>	CR
<i>Saussurea gossypiphora</i>	CR
<i>Saussurea obvallata</i>	EN
<i>Saussurea simpsoniana</i>	EN
<i>Swertia angustifolia</i> var. <i>angustifolia</i>	EN
<i>Swertia chirayita</i>	CR
<i>Taxus wallichiana</i>	CR
<i>Thalictrum foliolosum</i>	VU
<i>Tylophora indica</i>	VU
<i>Valeriana jatamansi</i>	CR

[Abbreviations: CR - Critically Endangered, VU - Vulnerable, LRnt - Lower Risk-near Threatened, EN - Endangered, DD - Data Deficient]

[Source: Report of BCPP, Conservation Assessment and Management Plan (CAMP) Workshop on selected medicinal plants of northern, northeastern and central India, 1998.]

NATIONAL FOREST POLICY

India's National Forest Policy is a broad guide for planners and administrators. It lays down the general objectives and its execution is left to the Government officials. The *National Forest Policy 1988* besides emphasizing the conservation of total biodiversity, stresses upon the intrinsic as well as the symbiotic relationship between the forests and the people inhabiting in and around them. It emphasizes the involvement and empowerment of communities for conservation and sustainable development of forests through sharing the authority and responsibility to augment the productivity of degraded forests and to protect the natural heritage for posterity.

The policy includes, inter alia, "meeting the requirements of fuelwood, fodder, minor forest produce, etc. of the rural and tribal populations" in the basic objectives. The policy lays down "essentials of forest management" as the protection, improvement and enhancement of production of minor forest produce which provides sustenance to tribal population in view of the potential of NTFPs in the generation of employment and income for the tribals. The policy declares that the life of tribal and other poor living within and near forests, revolves around forests and the rights and concessions enjoyed by them should be fully protected.

System of Trade of NTFPs

The *National Forest Policy 1988* prescribes that protection, regeneration and optimum collection and marketing of NTFP should be provided through institutional arrangements. In India, the following three systems of trade (legally permissible) of NTFP including medicinal plants exist.

Private Trading

In many States, the collection of some NTFP are leased out to private traders, contractors or industrialists. The State forest department lease out the right to collect the NTFP in a certain area every season (in some cases for more than one season) to the highest bidder through a system of auctions or through invitation of bids in a tender system.

State Trading

In order to have adequate and sustained supply of NTFP to village/cottage, small and medium scale industries and, at the same time, to ensure fair rates to tribals for collection, trade of a few NTFP items (including some medicinal plants) in some States was nationalized (at the State level). Through suitable legislation, the States acquired monopoly rights to procure nationalized items. They also fixed minimum prices of non-timber forest produce.

Cooperatives' Trading

In some States, collection and procurement of some of the items of NTFP (including medicinal plants), whether nationalized or not, is being undertaken through cooperatives of tribals. Some such cooperatives are LAMPS (Large Scale Multi Purpose Society), STDCCs (State Tribal Development Cooperative Corporations), TRIFED (Tribal Cooperative Marketing Development Federation of India Limited - a national level apex body), etc. These cooperatives pay attractive prices to the tribals in respect of collection of NTFP items.

LEGAL FRAMEWORK IN INDIA

Constitutional Provisions

To protect and improve the environment is a constitutional mandate. The Indian Constitution contains specific provisions for the protection of environment and forests under the chapters of Directive Principles of State Policy and Fundamental Duties. Article 48-A of the Constitution obligates the State "to protect and improve the environment and safeguard the forests and wildlife of the country". A similar responsibility is imposed on every citizen in the form of Fundamental Duties - Article 51(A)(g)- "to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures".

Legal Provisions

In India, there are various Union (Central), State and local laws with direct and indirect relevance to the non-timber forest produce including medicinal plants.

Union/ Central Laws

Forest legislation dates back to 1865 when the Indian Forest Act was enacted for the first time. It was replaced by a more comprehensive *Indian Forest Act* in 1927. The preamble of the Act indicates that the Act is meant to consolidate the law relating to forest produce, the transit thereof and the duty leviable thereon. The Act deals specifically with Reserved, Protected and Village Forests, the preamble and other provisions of the Act are being wide enough to cover all categories of forests including forests and lands not being the property of Government (Private Forests).

The *Indian Forest Act, 1927*, has been adopted by most of the States of India. The primary object of a Forest law is to protect the forests from criminal activities. The various provisions of Indian Forest Act aim at this. However, with increased accessibility to forests and demand for forest produce, smuggling from forests has increased several-fold. The Acts in force in the States have under-gone several amendments to strengthen the provisions to meet local needs.

The *Indian Forest Act* empowers State Governments to regulate the transit of forest produce (Section 41), e.g. via requiring the issue of passes, the payment of fees and the establishment of such depots which would regulate the above activities outside the forest.

Another Central legislation, the *Forest (Conservation) Act, 1980*, has three major objectives: to check deforestation, to check diversion of forest land for "non-forest" purpose, and afforestation of the waste lands. Under the Act, prior approval of the Central Government is a mandatory condition before State Government can make an order de-reserving any reserved forest or portion thereof or allow any body to use reserved forest for "non-forest" purpose.

A 1988 amendment to the aforesaid Act made it clear that the assignment of forest land by lease to any private person or agency or destruction of natural growth of trees for the purpose of re-afforestation requires prior approval of the Central Government. The "non-forest" purpose defined to mean the clearing of forests for raising commercial crops, and, a purpose other than re-afforestation, but does not include any work relating to or ancillary to conservation, development and management of forests and wildlife, e.g. establishment of check-posts, construction of bridges, pipelines, etc.

The *Forest (Conservation) Act, 1980*, regulates breaking up or clearing of any forest lands other than for afforestation. The Indian Forest Act, 1927, also, empowers the State Government to regulate or prohibit in any forest or waste land, the clearing of the vegetation (Section 35).

Thus both the Indian Forest Act and the Forest (Conservation) Act provide certain amount of legal protection to medicinal plants. These Acts also empower the State Governments to take effective measures to conserve various threatened species.

The *Wildlife (Protection) Act, 1972*, yet another Central legislation, was a bold step towards further strengthening the conservation of fauna and flora including medicinal plants. The 1991 amendment to the Act included the word 'Plants' along with protection of 'wild animals' and 'birds'. Under Section 17, the collection, cultivation, dealing, etc. of 'specified plants' without licence is banned. The Act incorporates a Schedule VI mentioning specified medicinal plants, viz. *Cycas beddomei*, *Vanda coerulea*, *Saussurea costus*, *Paphiopedilum* spp., *Nepenthes khasiana*, and *Renanthera imschootiana*.

State Laws

As noted above, the Indian Forest Act, 1927, has been applicable to many States and all Union Territories of India. Also, some States have enacted their own Forest Acts (based on the Indian Forest Act) and locally amended them to suit their needs. Various State Governments have framed Rules under the Indian Forest Act or State's Forest Act to protect and preserve the forest wealth of their respective States. The Union Territories, being under direct control of the Central Government, follow the Indian Forest Act. Though the local rules have also been framed in these territories.

The States and Union Territories in India are outlined in the Map below:

Section 2(4) of the *Indian Forest Act, 1927*, defines "forest-produce", which includes -

- (a) the following whether found in, or brought from a forest or not i.e. timber, charcoal, caoutchouc (latex of rubber trees), catechu (*Acacia catechu*), wood-oil, resin, natural varnish, bark, lac, mahua (*Madhuca latifolia*) flowers and seeds, kuth (*Saussurea lappa*) and myrobalans (*Terminalia* spp.), and
- (b) the following when found in or brought from a forest, i.e.
 - (i) trees and leaves, flowers and fruits, and all other parts or produce not here in before mentioned, of trees;
 - (ii) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants.

Most medicinal plants are covered under Section 2(4)(b), and are not subject to regulations unless extracted from the forests. However, some items such as bark, wood-oil, kuth, mahua flowers and seeds, myrobalans, etc. are covered under Sec. 2 (4)(a); and subsequent State amendments to the Act have added several medicinal plants to this sub-section, as shown in Table 1.2, the following subject to significant regulation regardless of origin.



Not to Scale.

TABLE 1.2
Medicinal Plants included by State Amendments in Sec. 2(4)(a) of Indian Forest Act, 1927

State	Species
Gujarat -	<i>Rauvolfia serpentina</i> , Karaya gum (<i>Sterculia urens</i>)
Maharashtra & Andhra Pradesh -	Rosha (<i>Cymbopogon martinii</i>) grass and oil, <i>Rauvolfia serpentina</i>
Tamil Nadu -	Sandalwood (<i>Santalum album</i>)
Keralam -	Gums, Sandalwood, Rosewood
Orissa -	Gums, Sandalwood, Tamarind (<i>Tamarindus</i> spp.), Patal garuda (<i>Corallocarpus epigaea</i>) roots
Uttar Pradesh -	Gums, Chironji (<i>Buchanania latifolia</i>)
Jammu & Kashmir -	Krench lobidwola (<i>Dioscorea deltoidea</i>)
Karnataka -	Sandalwood oil, Rosha grass and oil, <i>Phyllanthus emblica</i> , Lootikai (<i>Capparis mooni</i>), Myrobalans (<i>Terminalia chebula</i> , <i>Terminalia belerica</i>)

In addition, various State legislations have incorporated certain medicinal plants in the Schedule to the Acts/ Notifications issued under the Acts/ Reserved trees specified in the Acts, thus providing for the regulation of collection, trade, etc. of those medicinal plants. A summary of various types of States' legislations in India is as follows.

(1) Acts providing for State Monopoly

Various State Governments have enacted Acts which seek to regulate the trade and other related matters of certain 'forest produce' by creation of a State monopoly in such trade (nationalisation) in the respective States, viz. *Bihar Forest Produce (Regulation of Trade) Act, 1984*; *Himachal Pradesh Forest Produce (Regulation of Trade) Act, 1982*; *Orissa Forest Produce (Control of Trade) Act, 1981*; *Gujarat Minor Forest Produce Trade Nationalisation Act, 1979*; *Kerala Forest Produce (Fixation of Selling Price) Act, 1978*; etc.

Under these Acts, only the Government or an authorised Agent shall purchase, transport, import or export specified forest-produce. For each calendar year, the State Government shall create an Advisory Committee for the purpose of advising the Government in the matter of fixation of fair and reasonable price of each specified forest-produce at which produce may be purchased from a primary collector by the Government or Agent. A compulsory registration of manufacturers, traders, and cultivators is provided for under these Acts to help control trade. A licence is also required for the retail sale of specified forest produce. All forest-produce collected from the forest or the State or purchased by the Government or Agent shall be disposed by public auction or in such manner as the State Government may direct.

(2) NTFP- specific Acts/ Rules

Some State Governments have also enacted special Acts/ Rules with reference to important NTFP in that particular State, viz. *Uttar Pradesh Tendu Leaves (Regulation of Trade) Act*, 1972; *Uttar Pradesh Resin and Other Forest Produce (Regulation of Trade) Act*, 1976; *Tamil Nadu Sandalwood Possession Rules*, 1970; *Jammu & Kashmir Kuth Act*, 1978; *Tamil Nadu Rosewood Trees (Conservation) Act*, 1994; *Andhra Pradesh Sandal Wood and Red Sanders Wood Transit Rules*, 1969; etc.

(3) Transit Rules

Various States have framed 'Transit Rules' in respect of forest-produce, viz. *Rajasthan Forest Produce (Transit) Rules*, 1957; *Himachal Pradesh Transit of Timber and Other Forest Produce Rules*, 1978; *West Bengal Forest Produce Transit Rules*, 1959; *Orissa Timber and Other Forest Produce Transit Rules*, 1980; etc. These rules basically provide that no forest produce shall be removed or transported into or from or within any area in the State except with a 'pass' / 'transit-permit' to be issued by a forest officer. The forest produce in transit is liable to inspection by a forest/ police officer, at a checking station or 'depot'. This is to ensure that the forest produce has been legally procured and that any money due to be paid to Government has been paid or not.

(4) Private / Protected Forests Rules

Some States have framed Acts/ Rules in respect of 'Private' and 'Protected' Forests, viz. *Uttar Pradesh Private Forests Act*, 1948; *West Bengal Private Forests Act*, 1948; *Tamil Nadu Preservation of Private Forests Act*, 1949; *Andhra Pradesh Protected Forests Rules*, 1970; etc.

The Acts/ Rules in respect of 'private' forests provide for the conservation of private forests. Every owner of a private forest is required to submit a "working plan" (a scheme for the management and treatment of a forest) for the approval of specified forest officer. If he fells or removes from such forest any tree in contravention of the terms and conditions of such plan, he shall be punished. For a second or subsequent offence, the State Government may direct that the control of such forest shall be vested in specified forest officer.

(5) Preservation of Trees' Acts/ Rules

Various State Governments have framed Acts/ Rules in respect of preservation of specified trees, viz. *Uttar Pradesh Protection of Trees in Rural and Hill Areas Act*, 1976; *Tamil Nadu Hill Areas (Preservation of Trees) Act*, 1955; *Jammu & Kashmir Preservation of Specified Trees Act*, 1969; *Kerala Preservation of Trees Act*, 1986; *Karnataka Preservation of Trees Act*, 1976; *Maharashtra Felling of Trees (Regulation) Act*, 1964; *Delhi Preservation of Trees Act*, 1994; etc.

Under these Acts, no person shall fell, cut, remove, etc. a tree, unless he obtains permission of the Competent/ Tree Authority to fell or remove trees. In addition, 'Reserved Trees' have been specifically mentioned in the various States' Acts/ Rules. For instance, under the *Manipur Forest Rules*, 1971, various trees of medicinal value in protected forests are put into 'reserved' category.

(6) Forest Corporation Act

Some States have also framed Acts to establish a State Forest Corporation, viz. *Uttar*

Pradesh Forest Corporation Act, 1974; *Jammu & Kashmir Forest Corporation Act*, 1978; etc. These Acts provide for the establishment of a State Corporation for better preservation, supervision and development of forests and better exploitation of forest produce within the State.

(7) *Forest Development Fund Acts*

Some States have framed Acts providing for funds or taxes in respect of Forest Development. Thus, the *Maharashtra Forest Development (Tax on Sale of Forest Produce by Government/ Forest Corporation) Act*, 1983, is an Act to levy and collect "forest development tax" on sale of forest produce by or on behalf of the State Government. The Government shall collect the tax on every sale of forest-produce from the purchaser, at the rate of 5% of the sale price of such produce sold to him. The *Kerala Forest Resources Development Fund Rules*, 1989, provides for the establishment of a 'Forest Resources Fund' which shall be utilised for increasing the productivity of forests, proper maintenance of forests, etc.

FINDINGS

Some of the major *findings* of the present research are as follows:

- * Generally medicinal plants in the Central and State Forest Acts and Rules are clubbed with NTFPs. The specified plants mentioned in the Acts/ Rules of some States do contain medicinal plants. Thus the trade in such specified medicinal plants in these States has been regulated.
- * Many State Forest Acts/ Rules are not properly drafted. For example, the botanical names of the medicinal plants and other NTFPs are missing in several Acts/ Rules leading to a confusion about the identity of plants. The definition part of the Acts/ Rules is inadequate, e.g. the terms 'Reserved Tree', 'Protected Tree', 'Restricted Tree', 'Protected Forest', etc. are widely used but hardly defined in the Acts/ Rules.
The terminology used in certain Acts/ Rules has resulted in anachronism. For example, the words like 'British villages' in Khasi-Jaintia Hills' Rules (North-East States), 'Sikkim Darbar' in Sikkim State Rules, etc.
- * In some States, focus on 'major' NTFP (due to higher economic returns) apparently results in neglect of medicinal plants (e.g. 'Tendu' leaves in M.P. State).
- * Rules/ regulations related to the utilization of medicinal plants and other NTFP exist at the State/ District/ Forest Circle level. However there is lack of awareness about them among the primary collectors of forest produce (e.g. tribals/ villagers) and other concerned people.
- * Inadequate and ineffective organization of collection, resulting not only in unsustainable harvest but also very low price being paid to the collectors (hardly one-sixth of the final price) (Verma, 1993).
- * Millions of collectors have little incentive or skill to practice scientific and sustainable harvesting e.g. de-barking of *Terminalia arjuna* in India (Lal, 1998).

- * In Andhra Pradesh, although price differentials exist for quality; NTFP collectors tend to be unresponsive to this for lack of knowledge or lack of confidence (Shukla, 2000).
- * A number of studies have shown that only a fraction of harvestable NTFPs are being collected. In the Kerala portion of the Western Ghats, for example, only 50 out of 229 species are being harvested. In the Keonjhar district of Orissa, only 27-34% of NTFP species are collected, while the rest remain unexploited. In many parts of West Bengal's Midnapore district, even commercially important NTFP such as 'Sal' (*Shorea robusta*) seeds and 'Tendu' (*Diospyros melanoxylon*) leaves are unutilized because of weak links in the marketing channel (Capistrano, 1998).
- * The system of auctioning the rights for NTFPs over a specified area for a specified period, with very little control over the right-holder, has resulted in unsustainable harvesting practices or over-exploitation of resources. In Orissa, the monopoly exists for a tree called *Oroxylon indicum* the bark of which is used for making 'agarbattis' (Incense sticks). The traders who enjoys the monopoly of entering forest does not only remove the bark, but often cuts the entire tree. Several cases of injury to forests caused by the trader's men have been reported by the Forest Department itself, but the lease still continues (Shukla R.S., 2000).
- * Low price of wild harvested material has made cultivation financially unattractive. The process of registration and certification for cultivation provided under the State Forest Acts/ Rules, in view of its cumbersome nature, has turned out to be counter productive as cultivators tend to give up cultivation rather than go for them.
- * Many forest officials express ignorance about any illegal trade in medicinal plants. Few seizures of illegally traded medicinal plants have been reported.
- * Many medicinal plants of high economic value are often transported in the name of some other species with less commercial value.
- * The nationalization measure (at the State level) has restricted the market. Often traders need licenses to purchase from primary collectors, which are not easy to procure. The limited number of buyers thus operate in monopolistic conditions.
- * The *Wildlife Protection Act, 1972*, do not contain adequate provisions related to the medicinal plants; only six plants have been mentioned in the Schedule VI of the Act of which only one, i.e. 'Kuth' (*Saussurea lappa*) is a medicinal plant.
- * Different States have different laws to govern the collection and marketing of NTFPs. 'Mahua' (*Madhuca indica*) is nationalized in Gujarat but in its border States - M.P., Maharashtra and Rajasthan, it is non-nationalized. This results in lot of theft causing enormous difficulties to

traders, who adopt fair practice. Thus there is an incompatibility in forest laws among the States (Misra, 1998).

- * The Transit Rules are lacking in some parts of the country (e.g. Delhi). This means that forest produce brought illegally from other States is not subject to any transit regulations in the National Capital Territory of Delhi.
- * The penal provisions are also not uniformly stringent. In respect of the same 'forest offence', some States have provided for a six-month imprisonment while others one-year imprisonment and still others two-year imprisonment. Encroachment is a bailable offence in some States, while in others it is non-bailable. In relation to the smuggling of Sandalwood, in the States of their origin, laws provide for deterrent punishments, but not across the State borders. As such, smuggling thrives.

RECOMMENDATIONS

Some of the major *recommendations* of the present research are:

- * Medicinal plants be specifically included or mentioned in the Central and State Forest Acts, so as to ensure regulation of trade and conservation of medicinal plants. For instance, in the State of Himachal Pradesh the trade in threatened/ endangered species has been restricted/ banned, viz. *Angelica glauca* ('Chora'), *Atropa acuminata* (Belladonna), *Berberis aristata* ('Rasaunt'), *Berberis lycium* ('Kashmal'), *Dioscorea deltoidea* ('Singhli-Mingli'), *Picrorhiza kurroo* ('Kuroo'), *Podophyllum hexandrum* ('Ban kakri'), etc.
- * The State Acts/ Rules need proper drafting viz. botanical names of medicinal plants and other NTFPs to be necessarily mentioned, definition part to be made exhaustive, and re-wording of old terminology used in the Acts/ Rules.
- * Cultivation of commercially useful medicinal plants be promoted. The rules are to be simplified in this respect. For instance, cultivation of *Plantago ovata* ('Isabgol') and *Rauvolfia serpentina* ('Sarpagandha') has achieved some success in the country.
- * The ignorance among tribals and other rural communities regarding destructive and unsustainable practice of collection of NTFPs needs to be removed. In the State of Madhya Pradesh, Gum karaya (*Sterculia urens*) collection is banned in many districts inspite of the fact that this item has an export market, on the ground that the tribals' practice of stripping the bark from the tree is destructive. Attention in such cases needs to be paid to promote sustainable practices among tribals through training and extension (Ramji & Bhatnagar, 2000).
- * Sensitization and training programme for the forest field staff on regulation and identification of medicinal plants and other NTFPs.

- * Adoption of a system of declaration of "minimum prices" for all major NTFPs (including medicinal plants) by a designated autonomous agency as practised for major agricultural products and encouragement of the designated cooperatives and other agencies particularly the SFDCs, STDCCs and TRIFED to take up price support operations for NTFPs (Ranjji & Bhatnagar, 2000).
 - * A fair price to the primary collectors and adequate revenue to the Government, can be ensured by encouraging a healthy competition among the Government agencies, middlemen, businessmen and traders in NTFPs.
 - * 'Promotional marketing boards' be set up, different from commercial corporations - for dissemination of information to the grassroot level about market and prices of the product. A market oriented research on "value addition" of the products and in creating markets for new products need be promoted (COMFORPTS, 1998).
 - * The Gram Sabha/ Panchayats should be endowed with "usufructory rights" rather than ownership or lease rights of NTFPs [the ownership rights conferred on the Panchayats as per 73rd amendment of Constitution via Panchayats (Extension to the Scheduled Areas) Act, 1996], available from all lands except Protected Areas like National parks, Wildlife sanctuaries and Biosphere reserves. Out of the net surplus revenue available from all the NTFPs at least 25% should be transferred back to the Gram Sabhas through the agency responsible for NTFP trade for the development of NTFPs, another 25% should be utilized for community development and the balance 50% should be given to individual collectors in proportion to the value of the produce collected by them.
- The conferring of unbridled rights of ownership of NTFPs to the Panchayats may lead to exploitation of the poor by the vested interests as was the case before nationalization/ regulation of the NTFP trade process began in the seventies. Further it may lead to the destructive exploitation of forest resources. The purpose of social security and economic upliftment of the tribals can be conveniently served by giving usufructs and revenue therefrom (as envisaged by the JFM programme), rather than unbridled ownership over NTFPs available from the Government forests (Gangopadhyay & Mullick, 1998). Recently, the Forest Protection Committees formed under the JFM programme have been conferred a legal standing (registered as societies under the relevant Act).
- * Gender issue also needs to be addressed properly as women are the major collectors of forest-produce. The constitution of the VFC stipulates that there must be a minimum of three women members in the VGC (Village Governing Council). However, this is not favoured in the more conservative villages, where the women are made to sit on the floor at the back of the meeting group and not allowed to deliberate in the proceedings. With the help of the field staff executing Women in

Development (WID) programme, in some villages, women are continuously encouraged to participate fully (Dadhich L.K., 1998).

- * 'In-situ' conservation of medicinal plants in India can be accomplished through the active support and participation of forest dwellers/ tribals. Involving the local mass in all phases of conservation programmes, such as planning, policy-decision process, implementation, etc. will be a significant component in achieving effective management and utilization of medicinal plant resources. A few such areas have been marked and declared as medicinal plant 'in-situ' conservation areas in the forests of three southern States of Kerala, Tamil Nadu and Karnataka by the joint efforts of the forest departments of these States and Foundation for Revitalization of Local Health Traditions (FRLHT), Bangalore.
- * The forest law should be founded on the multi-dimensional approach of the national forest policy with proper balancing of the necessary ideals - preservation, development, harvesting of resources and employment of rural and tribal people. A Draft Bill which seeks to amend the 73-year-old Indian Forest Act, 1927 has been approved by the Union Environment Ministry in February 2000. The aim is to consolidate forest and related laws- a "uniform" law to conserve and develop forests. In "bold" amendment is a suggestion for giving village communities greater say in managing forests to meet their requirements - a change from the "colonial" law which "alienated" communities (Mago, C., 2000).

Some of the important *amendments* are as follows:

- The definition of 'village forest' would include community and institutional land, village common land and wasteland.
- Tree plantation on private land will be actively encouraged; a land owner who does this could register himself as a tree grower.
- State Governments will be empowered to relax curbs, especially on felling and transport of certain species from private land, to encourage social and farm forestry.

But States may restrict removal of any kind of tree, or all trees. A 'tree authority' has been suggested for urban areas, and in parts of rural areas, to mobilise support for plantation and preservation.

- Under the proposed rules, States would also get the power to levy a 'forest development tax' on sale of forest produce.
- There will be controls on forest-based industries and provision for the Government to fix a "support price" for any forest produce to save farmers from exploitation.
- Protection measures are to be made more effective and penal provisions uniformly more stringent. Encroachment would become a non-bailable offence. Forest officials would be able to confiscate seized forest produce, including equipment used in committing offences [Realising the legal and physical

inadequacies of the Forest Department to deal with organized smugglers of forest resource, the Jammu & Kashmir State Government drastically amended the J & K Forest Act, 1987 (via Act XXIV of 1997), and raised Forest Protection Force. The Forest Protection Force along with its mobility, arms, ammunition, wireless and communication networking is meant to support the Forest Department in implementation of this Act].

- * There should be uniformity in forest law so that incompatibility in forest laws among the States is removed. For example, regulatory provisions relating to the intra and inter-State movement of NTFPs need to be streamlined so that unfair trade practices be checked. It should be possible to tackle specific problems in different parts of the country through subsidiary rules and regulations.
- * Adequate attention be given to protect Intellectual Property Rights (IPRs). The benefit sharing mechanism experimented by the Tropical Botanical Garden and Research Institute (TGBRI), Kerala, recognizing the resource right of the Kani tribal community (in respect of development of a drug from the plant *Trichopus zeylanicus travancoricus*; TGBRI decided to share the licence fee and royalty with the Kani tribe on a 1:1 ratio, i.e. 50% of the commercial returns to the tribe) can well be a forerunner model to develop a foolproof Intellectual Property Right of the indigenous knowledge of the tribal communities of India. Such steps will go a long way in improving the income of the tribals and bring out their partnership in 'ex-situ' and 'in-situ' conservation of such endangered medicinal species.

In this direction efforts are being made for common plants like *Nothapodytes nimmoniana* ('Amruta') of Bastar region (Madhya Pradesh), which possess Camptothecine (anti-cancer property), and seeds of *Strychnos potatorum*, which possess ingredients useful in removing toxic effects of Cadmium, Mercury and industrial effluents (Shiva V., *et al.*, 1997).

- * Though too many legal enactments and authorities is not a desirable step; but sometimes a specific measure becomes necessary to remedy a specific problem. Species-specific legislations have been enacted in the various States of India, e.g. Kuth Act in J & K, Tendu Leaves Act in U.P., Redsanders wood and Sandalwood Rules in southern States, etc. Such Acts/ Rules are very much desirable in the case of medicinal plants and other important NTFPs. The medicinal plants and other NTFPs representative of a particular State could be suitably 'regulated' by such legislations. The J & K State Government has rightly extended the application of Kuth Act to certain economic plants, viz. *Atropa belladonna*, *Aconitum heterophyllum*, *Colchicum luteum*, *Podophyllum emodi*, *Dioscorea deltoidea*, *Lavetra kashmiriana*, *Hyoscyamus niger*, *Artemisia maritima* and *Inula racemosa*.

- * There is need to include more medicinal plants species under the Schedule VI of the Wildlife (Protection) Act, 1972; especially the medicinal plants mentioned in Negative List of Exports (EXIM policy, Government of India), viz. *Saussurea costus*, *Rauvolfia serpentina*, *Dioscorea deltoidea*, *Podophyllum hexandrum*, *Pterocarpus santalinus* (Red sanders), *Aquilaria malaccensis* (Agar wood), *Taxus wallichiana* (Common Yew or 'Birmi' leaves), *Aconitum* spp., *Coptis teeta*, *Gentiana kurroo*, *Nardostachys grandiflora* ('Jatamansi'), *Panax pseudo-ginseng*, *Picrorhiza kurrooa* and *Santalum album*.



PART - I

1. *Central and States' Forest Acts*
2. *Export-Import Policy and Regulations*



Central and States' Forest Acts

[I.] INDIAN FOREST ACT, 1927

[A] Introduction

The Indian Forest Act, 1927 (16 of 1927) was enacted to consolidate the law relating to forests, the transit of forest produce and the duty leviable on timber and other forest produce. Although the Act deals specifically with (i) Reserved forests, (ii) Village forests, viz. reserved forests which have been assigned to any village community, and (iii) Protected forests, the Preamble and the other provisions of the Act are wide enough to cover all categories of forests.

Chapter V deals with control over forests and lands not being the property of Government.

Chapter VI deals with duty on timber and other forest produce. Chapter VII deals with control over timber and other forest produce in transit. Section 41 confers on the State Government the power to make rules to regulate the transit of forest produce. The power conferred under this section is merely of *regulatory* nature in respect of transit of timber and other forest produce.

[B] Forest-Produce

Sec. 2 (4) of the Indian Forest Act, 1927 defines forest-produce.

"Forest-produce" includes-

- (a) the following whether found in, or brought from, a forest or not, i.e.,
- timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers, mahua seeds, kuth and myrobalans, and
- (b) the following when found in, or brought from, a forest, i.e.,
 - (i) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned, of trees;

("tree" includes palms, bamboos, stumps, brushwood and canes).

- (ii) plants not being trees (including grass, creepers, reeds and moss; kuth added by J & K Forest Amendment Act XXIV of 1997), and all parts or produce of such plants;
- (iii) wild animals and skins, tusks, horns, bones, silk cocoons, honey and wax, and all other parts or produce of animals, and
- (iv) peat, surface soil, rock and minerals.
- (iv-a) cocoa beans or pods, garcinia fruits, thornless bamboos, halmaddi, raldhupa and kaidhupa (Inserted by the Karnataka Forest Amendment Act, 1998)

State Amendments

<i>Madhya Pradesh :</i>	In Sec. 2 (4) (a), after the words "mahua seeds", the words "tendu leaves" shall be inserted.
<i>Maharashtra :</i>	In Sec. 2 (4) (a), after the word "Kuth", the words "apta, temburni leaves, rosha grass and its oil, <i>Rauvolfia serpentina</i> " shall be inserted.
<i>Gujarat :</i>	For the words " <i>Rauvolfia serpentina</i> ", the words " <i>Rauvolfia serpentina</i> , Karaya gum" should be substituted.
<i>Tripura :</i>	After the words "myrobalans", the words "gum seeds, sal leaves, kendu leaves" shall be inserted.
<i>Andhra Pradesh :</i>	After the words "myrobalans", the words "tumaki leaves, rosha grass, <i>Rauvolfia serpentina</i> " shall be inserted.

The definition of "forest-produce" only includes articles which are normally found in the forest and which are the spontaneous and wild growth in the forest. Thus the products which are the result of plantation, agriculture and cultivation are not included. Thus definition is not exhaustive, instead it is inclusive.

It has been held by the Supreme Court of India that "sandalwood oil" is "wood oil" within the meaning of Sec. 2 (f) (i) of the Kerala Forest Act. Therefore it is a forest-produce [*Forest Range Officer v P.M. Mohammed Ali*, 1993 Cr. L.R. (SC)].

[C] Power to constitute Reserve Forests

Sec. 3 of the Indian Forest Act, 1927 lays down that the State Government may constitute any forest-land or waste-land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest produce of which the Government is entitled, a reserved forest.

By the notification under Sec. 4, the "Forest Settlement Officer" is appointed to inquire into and determine the existence, nature and extent of any right alleged to exist in favour of any person in or over any land comprised within such limits, or in or over any forest produce.

After the issue of notification under Sec. 4, no right shall be acquired in or over the land comprised in such notification *except* by succession or under a grant or contract in writing made or entered into by or on behalf of the Government or some person in whom such right was vested when the notification was issued; and no fresh clearings for cultivation or for any other purpose shall be made in such land except in accordance with such rules as may be made by the State Government in this behalf [Sec. 5- 'Bar of accrual of forest rights'].

Sec. 10 of the Act deals with a 'claim relating to the practice of shifting cultivation' in which case the Forest Settlement Officer is required to record a statement setting forth the particulars of the claim and of any local rule or order under which the practice is allowed or regulated, and submit the statement to the State Government together with his opinion as to whether the practice should be permitted or prohibited wholly or in part. The claimant may be permitted to practise shifting cultivation under such conditions as may be prescribed. The practice of shifting cultivation shall in all cases be deemed a privilege, subject to control, restriction and abolition by the State Government.

Analogous provisions are contained in the *State Forest Acts/Regulations*, viz. Assam Forest Regulations, 1891, Andhra Pradesh Forest Act, 1967, Kerala Forest Act, 1961, Rajasthan Forest Act, 1953, Orissa Forest Act, 1972, Nagaland Forest Act, 1972, Bihar Private Forests Act, 1947.

Rights of Pasture or to Forest Produce

Under Sec. 12 of the Indian Forest Act, in the case of a claim to right of pasture or to forest produce, the Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part. If the Officer admits in whole or in part any such claim, he shall also record the extent to which the claim is so admitted, specifying the number and description of the cattle which the claimant is from time to time entitled to graze in the forest, the season during which such pasture is admitted, the quantity of timber and other forest produce which he is from time to time authorised to take or receive, etc. He shall also record whether the timber or other forest produce obtained by the exercise of the rights claimed may be sold or bartered [Sec. 14].

Sec. 15 of the Act provides that after making such record the Forest Settlement Officer shall having due regard to the maintenance of the reserved forest in respect of which the claim is made, pass such orders as will ensure the continued exercise of the rights so admitted. The order is to be made under such rules, as may be made in this behalf, by the State Government. However, Sec. 16 lays down that in case the Officer finds it impossible to make such settlement he shall, subject to such rules as the State Government may make in this behalf, *commute* such rights, by the payment to such persons of a sum of money in lieu thereof, or by the grant of land, or in such other manner as he thinks fit.

Analogous provisions are contained in the *State Forest Acts/Regulations*, viz. Andhra Pradesh Forest Act, 1967, Assam Forest Regulations, 1891, Karnataka Forest Act, 1963, Kerala Forest Act, 1961, Nagaland Forest Act, 1968, Orissa Forest Act, 1972, Rajasthan Forest Act, 1953, Tamil Nadu Forest Act, 1882, U.P. Private Forests Act, 1948, and U.P. Forest Manual.

Acts Prohibited in Reserved Forests

Sec. 26 of the Indian Forest Act specifies the various acts prohibited in a reserved forest. It also lays down punishment for contravention of the provisions contained in the section.

Sec. 26 (1) lays down that any person who-

- (a) makes any fresh clearing prohibited by Sec. 5, or
- (b) sets fire to a reserved forest, or in contravention of any State rules, kindles any fire or leaves any fire, burning, in such manner as to endanger such a forest,
or who, in a reserved forest-
- (c) kindles, keeps or carries any fire except at such seasons as the Forest Officer may notify in this behalf,
- (d) trespasses or pastures cattle, or permits cattle to trespass,
- (e) causes any damage by negligence in felling any tree or cutting/ dragging any timber,
- (f) fells, girdles, lops or burns any tree or strips off the bark or leaves from, or otherwise damages, the same,
- (g) quarries stone, burns lime or charcoal, or *collects*, subjects to any manufacturing process, or *removes any forest-produce*,
- (h) clears or breaks up any land for cultivation or any other purpose,

shall be punishable with imprisonment up to six months, or with fine upto Rs. 500, or with both in addition to such compensation for damage done to the forest as the convicting court may direct to be paid.

Sec. 26(2), however, lays down that nothing in this section shall be deemed to prohibit-

- (a) any act done by permission in writing of the Forest Officer, or under any rule made by the State Government, or
- (b) the exercise of any right continued under Sec. 15, or created by grant or contract in writing made by or on behalf of the Government under Sec. 23.

Sec. 26(3) provides that whenever fire is caused wilfully or by gross negligence in a reserved forest, the State Government may (notwithstanding that any penalty has been inflicted under this section) direct that in such forest or any portion thereof the exercise of all rights of pasture or to *forest-produce* shall be suspended for such period as it thinks fit.

State Amendments

Bihar :

Analogous provision provides for a minimum imprisonment of six months which may extend to two years or minimum fine of Rs. 1000 which may extend to Rs. 5000 or with both in addition to such compensation as the court may direct to be paid. Further,

the offence under this section shall be cognizable and non-bailable (vide *Bihar Act No. 9 of 1990*).

Further, whenever in a reserved forest *theft* of forest-produce occurs and such theft is, in the opinion of the State Government on such a scale as to be likely to imperil the future yield of such forest, the State Government may suspend the exercise of all rights of pasture or to forest produce for a period not exceeding four years (vide *Bihar and Orissa Act No. 9 of 1935, Sec. 2*).

Haryana : Analogous provision provides for an imprisonment up to one year or fine up to Rs. 5000 (vide *Haryana Act No. 31 of 1973, Sec. 2*).

Himachal Pradesh : Analogous provision provides for an imprisonment up to two years or fine up to Rs. 5000 (vide *Himachal Pradesh Act No. XV of 1991, Sec. 3*).

Madhya Pradesh : Analogous provision provides for an imprisonment up to one year or fine up to Rs. 1000 (vide *M.P. Act No. 9 of 1995, Sec. 4*).

Gujarat : When a person is convicted under Cl. (d) or (h) of sub-sec. (1)-

- (a) a Forest Officer not below the rank of a Ranger,
- (b) a Police Officer not below the rank of a sub-inspector, or
- (c) a Revenue Officer not below the rank of a *Mahalkari*,

may evict him from the forest or land in relation to which he has committed the offence (vide *Gujarat Act No. 15 of 1960, Sec. 6*).

Maharashtra : Same as in Gujarat (vide *Maharashtra Act No. VI of 1961, Sec. 7*). Further, an imprisonment up to one year or fine up to Rs. 2000 is provided (vide *Maharashtra Act No. VII of 1985, Sec. 3*).

West Bengal : The Forest Officer may evict from a reserved forest or from any land in a reserved forest any person who, in such forest, trespasses or pastures cattle or permit cattle to trespass, or clears or breaks up such land for cultivation or any other purpose.

Further, an imprisonment up to one year or fine up to Rs. 1000 is provided (vide *West Bengal Act No. 22, Sec. 3*).

Note: Provisions similar to Sec. 26 of the Indian Forest Act are contained in the following State Forest Acts-

Andhra Pradesh Forest Act, 1967 (Sec. 20); Assam Forest Regulations, 1891 (Sec. 25); J & K Forest Act, 1987 (Sec. 6); Karnataka Forest Act, 1963 (Sec. 24); Kerala Forest Act, 1961 (Sec. 27); Nagaland Forest Act, 1968 (Sec. 24); Rajasthan Forest Act, 1958 (Sec. 26); Tamil Nadu Forest Act, 1882 (Sec. 21).

[D] Village-Forests

Sec. 28 provides that the State Government may assign to any village community the rights of Government to or over any land which has been constituted a reserved forest, and may cancel such assignment. All forests so assigned shall be called village-forests. The State Government may make rules for regulating the management of village-forests, prescribing the conditions under which the community to which any assignment is made may be provided with timber or other *forest-produce* or pasture, and their duties for the protection and improvement of such forest.

Sec. 28 further provides that all the provisions of this Act relating to reserved forests shall (so far as they are not inconsistent with the rules so made) apply to village-forests.

State Amendments

Maharashtra : After the words, "reserved forest", the words "or called a protected forest" shall be inserted. Further, after the words "village community", the words "Village Panchayat or Co-operative society" shall be inserted (vide *Bombay Act No. 62 of 1948, Sec. 2 and Bombay Act No. XXIV of 1955, Sec. 3*).

Uttar Pradesh : After the words, "reserved forest", the words "or declared a protected forest or is a forest belonging to the Government" shall be inserted (vide *U.P. Act No. 21 of 1960*).

Note : Analogous provisions are contained in the State Forest Acts, viz. Assam Forest Regulation Act, 1891, Jammu & Kashmir Forest Act, 1987, Karnataka Forest Act, 1963, Kerala Forest Act, 1961, Nagaland Forest Act, 1968, Orissa Forest Act, 1972 and Rajasthan Forest Act, 1953.

[E] Protected Forests

Sec. 29 empowers the State Government to declare any forest land or waste-land which is not included in a reserved forest as a "protected forest". The State Government is further empowered to make rules to regulate cutting, sawing, conversion or removal

of trees or other forest-produce, etc. Penalties are prescribed for acting in contravention of the prohibitions contained in the earlier part of the Act.

Sec. 30 empowers the State Government to issue notification declaring trees in a protected forest as 'reserved'. The Government may declare that any portion of such forest shall be closed for such term, not exceeding 30 years as the State Government thinks fit, and that the rights of private persons, if any, over such portion shall be suspended during such term provided that the remainder of such forest be sufficient and in a locality reasonably convenient, for the due exercise of the rights suspended in the portion so closed. The State Government may prohibit the collection or subjection in to any manufacturing process, or removal of any *forest produce* in such forest.

Sec. 31 provides that the Collector shall cause a translation into the local vernacular of every notification issued under Sec. 30 to be affixed in a conspicuous place in every town and village in the neighbourhood of the forest comprised in the notification.

Note: Analogous provisions are contained in the State Forest Acts, viz. Assam Forest Regulations, 1891, Orissa Forest Act, 1972, Rajasthan Forest Act, 1953, Andhra Pradesh Forest Act, 1967.

Power to Make Rules for Protected Forests

Sec. 32 of the Indian Forest Act confers power on the State Government to frame statutory rules for 'protected forests'. The State Government may make rules to regulate the following matters, namely:

- (a) the cutting, sawing, conversion and removal of trees/timber, and the collection, manufacture and removal of *forest produce*, from protected forests;
- (b) the granting of *licences* to inhabitants of towns and villages in the vicinity of protected forests to take trees, timber or other forest produce for their "own use" and the production and return of such licences by such persons;
- (c) the granting of *licences* to persons felling or removing trees/ timber or other forest produce from such forests for the purposes of "trade", and the production and return of such licences by such persons;
- (d) the *payments*, if any, to be made by the persons mentioned in Cls. (b) and (c) for permission to cut such trees, or to collect and remove such timber or other forest produce;
- (e) the *other payments*, if any, to be made by them in respect of such trees, timber and produce, and the places where such payment shall be made;
- (f) the *examination* of forest produce passing out of such forest;
- (g) the clearing and breaking up of land for cultivation or other purposes in such forest; etc.

Note: Analogous provision is contained in the State Forest Acts, viz. Andhra Pradesh Forest Act, 1967, Assam Forest Regulations, 1891, Karnataka Forest Act, 1963, Kerala Forest Act, 1961, Nagaland Forest Act, 1968, Orissa Forest Act, 1972, Rajasthan Forest Act, 1953, Tamil Nadu Forest Act, 1882, U.P. Private Forests Act, 1948.

Penalties

Sec. 33 of the Indian Forest Act specifies the various acts prohibited in a protected forest. The provision is quite similar to Sec. 26 of the Act ('Acts prohibited in Reserved Forests'). The *State Amendments* are also the same as given under Sec. 26.

Sec. 34 of the Act lays down that nothing in this Chapter shall be deemed to prohibit any act done with the permission in writing of the Forest Officer, or in accordance with rules made under Sec. 32, or except as regards any portion of a forest closed under Sec. 30, or as regards any rights the exercise of which has been suspended under Sec. 33, in the exercise of any right recorded under Sec. 29.

[F] Protection of Forests in Private Lands for Special Purposes

Chapter V consisting of Secs. 35 to 38 deals with control over forests and lands *not* being the property of Government.

Sec. 35 provides that the State Government may, by notification in the Official Gazette, regulate or prohibit in any forest or waste-land -

- (a) the breaking up or clearing of land for cultivation,
 - (b) the pasturing of cattle, or
 - (c) the firing or clearing of the vegetation,
- when such regulation or prohibition appears necessary for any of the following purposes:
- (i) for protection against storms, winds, floods, etc.,
 - (ii) for the preservation of soil on the ridges and slopes and in the valleys or hilly tracts, the prevention of landslips or of the formation of ravines and torrents, or the protection of land against erosion, etc.
 - (iii) for the maintenance of a water supply in springs, rivers, etc.,
 - (iv) for the protection of roads, bridges, railway and other lines of communication,
 - (v) for the preservation of public health.

State Amendments

Delhi :

For Cls. (b) and (c), the following clauses shall be substituted,

- (b) the cutting of trees and timber,
- (c) the disposal of any forest produce,
- (d) the firing and clearing of vegetation,
- (e) the cutting, storage and conservation of grass or leaf fodder, or
- (f) the admission, herding or pasturing of cattle.

After Cl. (v), the following clause shall be added,

- (vi) for any other purpose conducive to public welfare (vide *Delhi Act No. 66 of 1948*).

Gujarat : Sec. 35 of the Forest Act shall stand repealed (vide *Gujarat Act No. 14 of 1973, Sec. 23*).

Haryana and Chandigarh: After Sec. 35 of the principal Act, the following new Sec. 35-A shall be inserted, namely-

35-A. Power to regulate preservation of trees in private lands- The State Government may, by rules made under Sec. 76, regulate the preservation and disposal of trees standing on lands belonging to or in the occupation of private persons, in respect of which permission to remove is required under the record of rights prepared under any law relating to land revenue (vide *Haryana Act No. 31 of 1966*).

Madhya Pradesh: After Cl. (c), the following new Cl. (d) shall be inserted, "(d) the cutting of plants and trees".

After Cl. (iv), the following new Cl. (iv-a) shall be inserted, "(iv-a) for preventing destruction and for promoting conservation and development of forest" (vide *M.P. Act No. 26 of 1950*).

Punjab: Same as Haryana and Chandigarh (vide *Punjab Act No. 13 of 1962*).

Maharashtra : Sec. 35 repealed (vide *Maharashtra Act No. 29 of 1975*).

West Bengal : Sec. 35 repealed (vide *W.B. Act No. 14 of 1948, Sec. 63*).

Rajasthan : The following clauses shall be inserted, namely-

"(d) unregulated felling of trees."

"(vi) for the preservation of denudation of forests". (*Rajasthan Forest Act, 1953, Sec. 35*).

Karnataka : The State Government may regulate or prohibit in any forest- (vii) the collection or removal of any forest-produce or its subjection to any manufacturing process [Sec. 39(1)(a)],

(b) regulate in any forest the regeneration of forests and their protection from fire,

(c) regulate the exercise of customary and prescriptive rights in such forest or forests.

When such regulation or prohibition appears necessary, the State

Government may provide- (a) for the conservation of trees and forests [Sec. 39(2)] (*Karnataka Forest Act, 1963*).

Assam and Nagaland:

Sec. 36-A of the Assam Forest Regulations, 1891 is analogous to Sec. 35 of the Central Act and is similar to Sec. 39 of the Karnataka Act. Similar provision is contained in the Nagaland Forest Act, 1968.

Kerala :

Sec. 33 of the Kerala Forest Act, 1961, is analogous to Sec. 35 of the Central Act.

Tamil Nadu:

Sec. 29 of the Tamil Nadu Forest Act, 1882 is analogous to Sec. 35 of the Central Act.

Power to Assume Management of Forests

Sec. 36 provides that in case of neglect or wilful disobedience to any regulation or prohibition under Sec. 35, the State Government may, after notice in writing to the owner of such forest or land and after considering his objections, if any, place the same under the control of forest officer, and may declare that all or any of the provisions of this Act relating to reserved forests shall apply to such forest or land. The net profits, if any, arising from the management of such forest or land shall be paid to the said owner.

State Amendments

Madhya Pradesh:

In Sec. 36 of the principal Act, the following sub-sections shall be inserted, namely-

(3) For the purpose of calculating the net profits the total expenditure incurred on the working and management of the forest shall be adjusted against the total income from the working and management up to the date of account.

(4) For the purpose of sub-section (3)-

(a) the total income shall include the proceeds of confiscation or forfeitures for forest offences not committed by the owner in respect of the forest or the forest produce thereof after deducting from such proceeds the rewards paid to informers and officers out of such proceeds,

(b) the total expenditure shall include-

- (i) an amount equal to 20% of total income in lieu of supervision charges payable to Government,
- (ii) the value of any forest produce removed or any advantage gained by the owner after the date on which such forest or land is taken under management by Government,
- (iii) cost of management incurred on the pay and allowances of the Forest Department staff, and

- (iv) other incidental expenses (vide M.P. Act No. 26 of 1950).

Karnataka: Sec. 43 of the Karnataka Forest Act, 1963 is analogous to Sec. 36 of the Central Act, and similar to that in the M.P. Act.

Note: Analogous provision is contained in the State Forest Acts, viz. Assam Forest Regulations, 1891, Kerala Forest Act, 1961, Nagaland Forest Act, 1968, Orissa Forest Act, 1972, Rajasthan Forest Act, 1953, Tamil Nadu Forest Act, 1882.

Expropriation of Forests in Certain Cases

Sec. 37 lays down that in any case under this Chapter in which the State Government considers that, in lieu of placing the forest/ land under the control of a forest officer the same should be acquired for public purposes, the State Government may proceed to acquire it in the manner provided by the Land Acquisition Act, 1894.

Protection of Forests at Request of Owners

Sec. 38 provides that the owner of any land may, with a view to the formation or conservation of forests thereon, represent in writing to the Collector their desire (a) that such land be managed on their behalf by the Forest Officer as a reserved or a protected forest on such terms as may be mutually agreed upon, or (b) that all or any of the provisions of the Act be applied to such land.

State Amendments

Uttar Pradesh:

After Chapter V, the following new Chapter V-A shall be added, namely- 'Of the Control over Forests of Claimants'.

"Claimant" as respects any land means a person claiming to be entitled to the land or interest therein acquired, owned, settled or possessed, through or by any lease or licence executed prior to the commencement of the U. P. Zamindari Abolition & Land Reforms Act, 1950, or under and in accordance with any provision of any enactment including the said Act.

"38-B"-

'Power to regulate or prohibit breaking or clearing, etc.'- similar to Sec. 35 of the Central Act.

"38-F"-

'Penalty'- same as provided under Sec. 33 of the Central Act.

"38-H"-

'Power to take over management'.

"38-K"-

'Permission to cultivate areas lying within a forest/ land'.

"38-L"-

'Release of a forest/ land from management.

[vide *Indian Forest (U.P.) Amendment Act, 1960*].

[G] Duty on Timber and Other Forest-Produce

Sec. 39 of the Forest Act deals with the powers to impose duties on timber and other forest-produce. The Central Government may levy a duty in such manner, at such places and at such rates as it may declare by notification in the Official Gazette on all timber or other forest-produce-

- (a) which is produced in the territories to which this Act extends, and in respect of which the Government has any right,
- (b) which is brought from any place outside the territories to which this Act extends.

In every case in which such duty is directed to be levied *ad valorem*, the Central Government may fix by like notification the value on which such duty shall be assessed (sub-sec. 2). All duties on timber or other forest-produce which, at the time when this Act comes into force in any territory, are levied therein under the authority of the State Government shall be deemed to be and to have been duly levied under the provisions of this Act (sub-sec. 3).

Notwithstanding anything in this section, the State Government may, until provision to the contrary is made by the Parliament continue to levy any duty which it was lawfully levying before the commencement of the Constitution, under this section as then in force:

Provided that nothing in this sub-section authorizes the levy of any duty which as between timber or other forest-produce of the State and similar produce of the locality outside the State, discriminates in favour of the former, or which, in the case of timber or other forest-produce of localities outside the State discriminates between timber or other forest-produce of one locality and similar timber or other forest-produce of another locality (sub-sec.4).

Sec. 39 is not clear on the point as to who is to pay the duty. But clearly, in the case of timber or other forest-produce falling under Cl. (a), the duty would be leviable from the person, who first acquires the timber or other forest-produce and removes it from the forest where it has been produced. The clause contemplates Government having certain rights in respect of such produce. When some person buys or otherwise acquires a right to possess and control it, then obviously the duty would be taken from such a person. Then coming to Cl. (b), the ordinary interpretation would be that the duty is to be levied from the person who actually brought the timber or other forest-produce from some place outside British India to the place where, on its importation, the duty becomes leviable.

Sec. 39 does not deal with the imposition of royalty. Sub-secs. (3) and (4) of Sec. 39 saved the duties imposed on timber and other forest-produce by the State Government before the Indian Forest Act came into force.

Note: Analogous provision under the Assam Forest Regulations, 1891- Secs. 37 and 38 of the Regulations are analogous to Sec. 39 of the Central Act. However, Sec. 38 of the Regulations provides for 'Power to exempt forest-produce from duty'- The Central or the State Government may exempt any forest-produce from the duty to which it is liable under the last foregoing section and revoke such exemption.

Analogous provision under the Rajasthan Forest Act, 1953- Sec. 39 of the Rajasthan Forest Act, 1953 is analogous to Sec. 39 of the Central Act.

Limit Not to Apply to Purchase-money or Royalty

Royalty is dealt with under Sec. 40 of the Indian Forest Act. Royalty is *not* a duty. It is, in fact, the value of the timber extracted from Government forest and may be treated as purchase-money, which is quite different from duty.

Sec. 40 states that nothing in Chapter VI of the Indian Forest Act shall be deemed to limit the amount, if any, chargeable as purchase-money or royalty on any timber or other forest-produce, although the same is levied on such timber or produce while in transit, in the same manner as duty is levied.

Note: Analogous provision is contained in the Assam Forest Regulations, 1891, and Rajasthan Forest Act, 1953.

[H] Control of Timber and Other Forest-Produce in Transit

Chapter VII of the Indian Forest Act gives the power to the State Government to make rules regulating the *transit* of timber or other forest-produce. The power to frame rules is with regard to timber and forest-produce which are being conveyed from one place to another. Once that timber or other forest produce ends its journey finally and reaches a depot, an establishment dealing with its sale, timber or other forest-produce cannot be said to be in transit.

Sec. 41(2) provides that rules made by the State Government may-

- (a) prescribe the routes by which alone timber or other forest-produce may be imported, exported or moved into, from or within the State;
- (b) prohibit the import or export or moving of such timber or other produce without a *pass* from an officer duly authorized to issue the same, or otherwise than in accordance with the conditions of such pass;
- (c) provide for the issue, production and return of such passes and for the payment of fees therefor;
- (d) provide for the stoppage, reporting, examination and marking of timber or other forest-produce in transit, in respect of which there is reason to believe that any money is payable to the Government on account of the price thereof, or on account of any duty, fee, royalty or charge due thereon, or to which it is desirable for the purposes of this Act to affix a mark;
- (e) provide for the establishment and regulation of *depots* to which such timber or other produce shall be taken by those incharge of it for examination, or for the payment of such money, or in order that such marks may be affixed to it; and the conditions under which such timber or other produce shall be brought to, stored at and removed from such depots;
- (f) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest-produce, and the throwing of grass, brushwood, branches or leaves into any such river or any act which may cause such river to be closed or obstructed.

Sec. 41(3) lays down that the State Government may direct that any rule made under this section shall *not* apply to any specified class of timber or other forest-produce or to any specified local area.

State Amendments

Uttar Pradesh:

After Sec. 41 (2), the following new sub-secs. shall be added:

(2-A)-

The State Government may by notification in the Gazette delegate, either unconditionally or subject to such conditions as may be specified in the notification, to any Forest Officer, not below the rank of Conservator, the power to prescribe fees under Cl. (c) of sub-sec. (2).

(2-B)-

Notwithstanding any judgement, decree or order of any Court, any rule purported to have been made by a Conservator before the commencement of the *Indian Forest (U.P.) Amendment Act, 1965*, prescribing fees to be paid in respect of passes specified in Cl. (b) of sub-sec. (2) shall be deemed to have been made under a power delegated under sub-sec. (2-A) as if the provisions of sub-sec. (2-A) were always in force and the Conservator were duly authorised thereunder, and shall be deemed to be always to have been valid, and shall continue in force until altered, repealed or amended by the State Government or a duly authorised Conservator, as the case may be (vide *U. P. Act No. 23 of 1965, Sec. 13*).

West Bengal:

Besides transit, the W.B. Act also provides for the "control of trade and possession of timber and other forest-produce". The regulation is by the licence or permit and the levy of fees for such licence or permit (vide *W. B. Act No. 22 of 1988, Sec. 6*).

Andhra Pradesh:

Sec. 29 of the *Andhra Pradesh Forest Act, 1967* is analogous to Sec. 41 of the Central Act.

The Government may make rules to regulate the possession of "red sanders wood" by any person residing in any village within a radius of 15 kms of such reserved forest as may be specified in this behalf.

The rules made by the Government may provide for the setting up of *check post* or the erection of a barrier or both at such places as the Government may specify with a view to prevent or check the carrying of smuggled forest-produce.

Provision is also made for *penalties* for breach of the

rules. Sec. 29(4)(a) provides that whoever contravenes any rule shall be punishable in a case where such contravention relates to sandalwood/ red sanders wood with minimum imprisonment for three months which may extend to one year and with fine up to Rs. 10,000; in every other case, with imprisonment for a term up to one year or with fine up to Rs. 2000 or with both.

Sec. 29(4)(b) lays down that if an offence is committed under this section, after sunset and before sunrise or after preparation for resistance to lawful authority or where the offender has been previously convicted of a like offence, the Magistrate may *double* the penalty prescribed for such offence.

- Assam:* Sec. 40 of the *Assam Forest Regulations, 1891*, is analogous to Sec. 41 of the Central Act. The rules also provide for regulating the "collection" of forest-produce. Thus, no forest-produce is to be collected without a pass.
- J & K:* Sec. 15 of the *Jammu and Kashmir Forest Act, 1987*, is analogous to Sec. 41 of the Central Act.
- Karnataka:* Sec. 50 of the *Karnataka Forest Act, 1963*, is analogous to Sec. 41 of the Central Act. The rules also provide for regulating the "collection" of forest-produce; establishment of *check-posts*; and, *penalties* (imprisonment up to 6 months, or with fine up to Rs. 500, or with both; the penalty is doubled under certain circumstances, *see* Sec. 29 (4)(b) of the A.P. Forest Act, 1967, above).
- Note:* Analogous provision is contained in the other State Forest Acts, viz. Kerala Forest Act, 1961, Nagaland Forest Act, 1968, Orissa Forest Act, 1972, Rajasthan Forest Act, 1953, Tamil Nadu Forest Act, 1882.

Transit Passes are Not Transferable

The authority before issuing the permit is to see that the persons to whom the transit passes are issued are genuine persons and they are not likely to do mischief regarding the forest-produce and for that purpose transit passes are necessary to transport forest-produce from one place to another. Therefore, it cannot be said that a person having sold the forest-produce can also transfer the transit passes to the purchaser [*Md. Jinant Goni v Chief Conservator of Forests*, 1995 (2) Cr. L.R. 23].

Powers of Central Government as to Movement of Forest-Produce

Sec. 41-A provides that notwithstanding anything in Sec. 41, the Central Government may make rules to prescribe the route by which alone timber or other forest-produce may be imported, exported or moved into or from the territories to which this Act extends across any custom frontier as defined by the Central Government, and any rules made under Sec. 41 shall have effect subject to the rules made under this section.

Penalty for Breach of Rules made under Sec. 41

Sec. 42 provides that the State Government may by such rules prescribe as penalties for the contravention thereof imprisonment for a term which may extend to six months, or fine which may extend to Rs. 500, or both. Such rules may provide that penalties which are double of those mentioned above may be inflicted in those cases where the offence is committed after sunset and before sunrise or after preparation for resistance of lawful authority, or where the offender has been previously convicted of a like offence.

State Amendments

<i>Bihar:</i>	Imprisonment (from minimum of 6 months to 2 years) and/ or fine (minimum Rs. 1000 and maximum Rs. 5000). Further, the offence under this section shall be cognizable and non-bailable (vide <i>Bihar Act No. 9 of 1990, Sec. 4</i>).
<i>Goa:</i>	Imprisonment up to 1 year and/ or fine up to Rs. 1000 (vide <i>Goa Act No. 15 of 1989, Sec. 3</i>).
<i>Himachal Pradesh:</i>	Imprisonment up to 2 years and/ or fine up to Rs. 5,000 (vide <i>H.P. Act No. 15 of 1991, Sec. 3</i>).
<i>Maharashtra:</i>	Imprisonment up to 1 year and/ or fine up to Rs. 2,000 (vide <i>Maharashtra Act No. VIII of 1985, Sec. 6</i>).
<i>U.P.:</i>	Imprisonment up to 1 year and/ or fine up to Rs. 1,000 (vide <i>U.P. Act No. 9 of 1965, Sec. 7</i>).
<i>W.B.:</i>	Imprisonment up to 1 year and/ or fine up to Rs. 1,000 (vide <i>W.B. Act No. 22 of 1988, Sec. 7</i>).
<i>Tamil Nadu:</i>	Sec. 36 of <i>T.N. Forest Act, 1882</i> is analogous to Sec. 42 of the Central Act. It provides for an imprisonment up to one month or fine up to Rs. 200 or both. For <i>sandalwood</i> , penalties are- imprisonment up to one year and fine up to Rs. 10,000.

Non-liability of Government and Forest Officers

Sec. 43 of the Indian Forest Act lays down that the Government shall not be responsible for any loss or damage which may occur in respect of any timber or other forest-produce while at a depot established under a rule made under Sec. 41, or while detained elsewhere for the purposes of this Act; and no Forest Officer shall be responsible for such loss or damage, unless he causes loss or damage negligently, maliciously or fraudulently.

Sec. 44 lays down that every person employed at such depot, whether by the Government or by any private persons, is bound to render assistance to any Forest/ Police Officer demanding his aid in averting such danger or securing such property

from damage or loss in case of any accident or emergency involving danger to any property at such depot.

Note: Analogous provision is contained in the State Forest Acts, viz. Andhra Pradesh Forest Act, 1967, J & K Forest Act, 1987, Karnataka Forest Act, 1963, Orissa Forest Act, 1972, Rajasthan Forest Act 1953, Assam Forest Regulations, 1891, Nagaland Forest Act, 1968.

[I] Regulation of Preparations based on Forest-Produce

After Chapter VIII of the Indian Forest Act, as amended in its application to *Uttar Pradesh*, the following Chapter shall be inserted, namely-

Chapter VIII-A: Sec. 51-A. Power to Regulate Manufacture, etc. of Articles Based on Forest-produce

The State Government may make rules-

- (a) to provide for the establishment and regulation by licences, permits or otherwise (and payment of fees therefor) of saw mills and units including factories engaged in the manufacture or preparation of-
 - (i) *Katha* (catechu) out of Khair tree,
 - (ii) rosin, turpentine and other products out of resin,
 - (iii) plywood and match out of timber,
 - (iv) such other preparations based on forest-produce as the State Government may, by notification in the Official Gazette, from time to time specify;
- (b) to provide for the regulation by licences, permits or otherwise of the supply of raw materials relating to the preparations mentioned in Cl. (a), the payment of fees thereof, the deposit of such sum for due performance of the conditions of any such licence, permit or other document, the forfeiture of the sum so deposited or any part thereof for contravention of any such conditions, and the adjudication of such forfeiture by such authority as may by notification in the Official Gazette be specified by the State Government (vide *U.P. Act No. 13 of 1976*, Sec. 21).

Note: A similar amendment has been made in the State of Tripura (vide *Tripura Act No. 10 of 1984*, Sec. 4) and State of J & K (vide *J & K Act No. XXIV of 1997*, Sec. 45-A). It also provides for the preparation of *Kuth* out of Khair wood.

Penalties and Procedure

Chapter IX of the Indian Forest Act, 1927 deals with penalties and procedure. Sec. 52 empowers a Forest Officer/ Police Officer to seize *forest-produce* together with all tools, boats, carts or cattle used in committing a forest offence. In case the offender is unknown the seized property is liable to confiscation; the officer is required to make a report of the circumstances to his superior official. Under Sec. 53, the officer has been conferred power to release the "tools" seized with forest-

produce, but not the forest-produce.

Sec. 54 lays down that upon the receipt of a report under Sec. 52, the Magistrate shall take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law. It is specifically stated in Sec. 55 that the punishment of confiscation may be in addition to other punishment prescribed for such offence.

Sec. 56 lays down that when the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed shall, if it is the property of the Government or has been confiscated, be taken charge of by a Forest Officer, and in any other case, may be disposed of in such manner as the Court may direct.

Sec. 58 provides that the Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under Sec. 52 and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold.

Under Sec. 59 of the Act, an interested party has been given a substantive right to prefer an *appeal* against the order of forfeiture within one month, passed by a Magistrate. No bar has been created under Sec. 59 that no person would be entitled to prefer an appeal who has not extended his claim before a Magistrate. Sec. 60 further lays down that where no appeal has been preferred or preferred after the elapse of one month or where the appellate court confirms such order, such property shall vest in the Government free from all encumbrances.

Sec. 61 saves the power to release the property seized under Sec. 52. It reads: "Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the State Government from directing at any time the immediate release of any property seized under Sec. 52".

Note: Analogous provisions are contained in the various State Forest Acts.

Punishment for Wrongful Seizure

Sec. 62 provides that any Forest/ Police Officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act shall be punishable with imprisonment for a term which may extend to 6 months, or with fine which may extend to Rs. 500, or, with both.

Thus the discretion conferred on the authorised officer, under Sec. 52, to decide whether the property needs confiscation in a given situation, has to be exercised judicially.

Powers of a Forest Officer

A Forest Officer, under the scheme of the Indian Forest Act, has been conferred broad and wide powers to preserve the forest wealth. Thus under Sec. 64 of the Act, any Forest/ Police Officer may, without orders from a Magistrate and without a warrant arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offence punishable with imprisonment for one month or upwards. Thus the offences under the Act are cognizable offences. However, the arrestee has to be produced before the Magistrate without unnecessary delay.

Sec. 66 lays down that every Forest/ Police Officer shall prevent, and may

interfere for the purpose of preventing the commission of any forest offence.

Sec. 68 relates to power to compound offences and provides that the State Government may empower a Forest Officer (not below a Ranger) to accept a sum of money by way of compensation for any forest offence other than that specified in Secs. 62 and 63 which the person concerned is suspected to have committed and also to release the seized property where such property was seized as liable to confiscation, on payment of the value thereof as estimated by such officer. On payment of such sum of money or such value or both, the suspected person is required to be discharged and the seized property is also liable to be released, and in that case no further proceedings can be taken against such person or property.

The sum of money accepted as "compensation" under Sec. 68 shall in no case exceed the sum of Rs. 50. The *Goa* and *Gujarat* amendments have increased the compensation to Rs. 10,000 and Rs. 2,000 respectively. The *M.P.*, *Maharashtra*, *Haryana* and *Punjab* amendments have increased the amount to Rs. 500. The *Tripura* amendment- Rs. 5,000. The *West Bengal* amendment- Rs. 1,150; further, the amount required to be paid for the release of the seized property has been raised to double the market value of the property as estimated by the empowered officer. The *W.B.* amendment further provides that no such forest offence shall be compounded by a Forest Officer if the value of the forest produce seized exceeds Rs. 5,000 or if a cart or other vehicle has been used in committing the offence.

Presumption that Forest-Produce belongs to Government

Sec. 69 of the Indian Forest Act provides that when in any proceedings under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of the Government such produce shall be presumed to be the property of the Government, until the contrary is proved.

Note: Analogous provision is contained in the various State Forest Acts, viz. *Andhra Pradesh Forest Act, 1967*, *Assam Forest Regulations, 1891*, *J & K Forest Act, 1987*, *Karnataka Forest Act, 1963*, *Kerala Forest Act, 1961*, *Orissa Forest Act, 1972*, *Rajasthan Forest Act, 1953*, *Tamil Nadu Forest Act, 1882*.

Forest Officers Not to Trade

Sec. 75 of the Indian Forest Act provides that except with the permission in writing of the State Government no Forest Officer, shall, as principal or agent, trade in timber or other forest produce, or be or become interested in any lease of any forest or in any contract for working any forest.

Note: Analogous provision is contained in the various State Forest Acts, viz. *Assam, J & K, Karnataka, Kerala, Nagaland, Orissa, Rajasthan*.

Persons Bound to Assist Forest/ Police Officers

Sec. 79 of the Indian Forest Act lays down that every person who exercises any right in a reserved/ protected forest or who is permitted to take any forest-produce from or to pasture cattle in such forest, and every person who is employed by any such person in such forest, and every person in any village contiguous to such forest who is employed by the Government, or who receives emoluments from the Government for the services to be performed to the community, shall be bound to furnish without unnecessary delay to the nearest Forest/ Police Officer any information he may

possess respecting the commission of, or intention to commit, any forest offence.

Any such person shall assist any Forest/ Police Officer demanding his aid in preventing the commission in such forest of any forest offence, and when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender. If such person fails to do so, he shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to Rs. 200 or with both.

Recovery of Money due to Government

Sec. 82 of the Indian Forest Act lays down that all money payable to the Government under this Act, or on account of the price of any forest-produce, or of expenses incurred in the execution of this Act in respect of such produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land revenue.

Lien on Forest-Produce for such Money

Sec. 83 of the Indian Forest Act lays down that when any such money is payable for or in respect of any forest-produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Forest Officer until such amount has been paid. If such amount is not paid when due, the forest officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharge of such amount. the surplus, if any, if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to Government.

Note: Analogous provision is contained in the various State Forest Acts, viz. J & K Forest Act, 1987, Karnataka Forest Act, 1963, Kerala Forest Act, 1961, Orissa Forest Act, 1972, Rajasthan Forest Act, 1953, Tamil Nadu Forest Act, 1882.

SALIENT FEATURES OF STATES' FOREST ACTS*

In the paragraphs to follow, a simple projection has been attempted of the salient features of some of the States' Forest Acts. Stress has been laid on the striking differences between the State Acts and the Indian Forest Act, 1927. The *common* features such as provisions for constitution of reserved/ protected forests, offences relating to such forests, unclassified forests/ wasteland/ Government land, village forests, reserved trees, private forests, transit rules, general procedure and penalties have been already discussed above.

* The following States in India have made their own Forest Acts, based on Indian Forest Act, viz. Andhra Pradesh, J & K, Karnataka, Kerala, Mizoram, Orissa, Tamil Nadu, Nagaland, Rajasthan; State of Assam follows the Assam Forest Regulation, 1891; States of Bihar, U.P. and West Bengal have enacted Private Forest Acts.

been already discussed above.

Andhra Pradesh

Under Sec. 20(1) (d) of the *Andhra Pradesh Forest Act, 1967*, abetment of forest offences in respect of reserved forests is also punishable under the Act.

Sec. 28-A to 28-G provides for preservation of private forests. Action under these clauses, in general, requires previous sanction of the District Collector. Sec. 28-B(1) lays down that no owner of private forest shall, without the previous sanction of the District Collector sell, mortgage, lease or otherwise alienate the whole or any portion of the forest or the forest produce. However, the owner is not prevented from selling or otherwise dealing with the right to gather and remove forest produce (other than timber) in the usual or customary manner.

Sec. 28-B(2) provides that no owner of such forest shall, without the previous sanction of the District Collector, cut trees or to do any act likely to denude the forest or diminish its utility as a forest. Provided that nothing in this sub-section shall apply to the removal of dead or fallen trees, or to do any act for the usual or customary domestic purposes or for making agricultural implements.

Sec. 28-B(3) lays down that notwithstanding anything in sub-sec. (1) or (2), the Government may exempt any forest or class of forests or class of trees grown therein from all or any of the provisions of this section. Sec. 28-C provides for the remedy of *appeal* to an aggrieved person.

Under Sec. 28-D, the Government may prohibit or regulate the doing of any act likely to be detrimental to the preservation of such forest or forests, and regulate the exercise of customary or prescriptive rights in such forest or forests. Sec. 28-E lays down the *penalties*, viz. imprisonment up to two years or fine up to Rs. 5000 or with both.

Under Sec. 32, possession of Sandalwood by a person in excess of 10 kgs. is an offence, except under a licence granted by the Divisional Forest Officer. Any person aggrieved by the orders of the D.F.O. may appeal to the Conservator of Forests. The second appeal lies with the Chief Conservator of Forests. For offences involving red sanders and sandalwood, minimum prescribed punishment is for three months and fine up to Rs. 10,000.

Assam

Under Sec. 3(8) of the *Assam Forest Regulation, 1891*, "Land at the Disposal of the Government" has been defined as any land in respect of which no person has acquired any permanent, heritable, and transferable rights or any right created by Government lease or grant. This definition assumes significance in the light of Sec. 34 of the Regulation and the Rules made thereunder.

Sec. 34(1) prohibits use of forest produce from any land at the disposal of the Government except in accordance with rules made by the State Government. Under clause 1(a) of the Rules relating to the Unclassed State Forests in the plains districts of Assam and the north Cachar Hills, any land at the disposal of the Government is an Unclassed State Forest. Hence, any land at the disposal of the Government in Assam attracts the provisions of the Central Forest (Conservation) Act, 1980.

Sec. 34(2) provides that such rules may regulate or prohibit the issue of grants or leases on behalf of the State Government; regulate or prohibit the felling, cutting, etc., of any trees, and the collection and removal of forest produce; regulate the sale or free grant of forest produce; prescribe or authorise any Forest Officer to prescribe, subject to the control of the State Government, the fees, royalties or other payments for forest produce and the manner in which such fees, royalties or other payments are to be levied, in transit or partly in transit or otherwise.

Sec. 35 lays down that if any person infringes the above-mentioned provisions, he shall be punished with imprisonment for a term which is not less than one year but may extend to three years or with fine which may extend to Rs. 5,000, or with both.

Bihar

There is a special enactment governing the Private Forests in the State called the *Bihar Private Forests Act, 1947*. "Private forest" means forest which is not the property of the Government or over which the Government has no proprietary rights or to the whole or any part of the forest produce of which the Government is not entitled. Restrictions on the rights of owners/ landlords have been placed by the Act.

"Private protected forest" means a forest specified in notification issued under Sec. 30 of the Act. It provides for the manner of constitution of private protected forests. Such forests are private forests especially protected in the public interest. The net profit arising out of the management of such forests shall go to the owner/ landlord.

Jammu and Kashmir

Under Sec. 2 of the *Jammu and Kashmir Forest Act, 1987*, Demarcated Forests, and Undemarcated Forests are defined. Chapters II and III provide for the manner of constitution of the demarcated and undemarcated forests respectively.

"Demarcated forest" means forest land or waste land under the control of the Forest Department, of which the boundaries have already been demarcated by means of pillars of stone, etc., or, which may be constituted a demarcated forest under Sec. 3. "Undemarcated forest" means and include all forest land (other than demarcated forest) which is the property of the Government and is not appropriated for any specific purpose.

Sec. 3 lays down that the Government may, from time to time, make rules in accordance with which any forest land or waste land which is the property of Government or over which it has proprietary right, or to the whole or any part of the forest produce of which the Government is entitled, may be declared as demarcated forest. Provided that nothing in this section shall be deemed to apply to such Government waste land or forest berun line as is under the management and control of the Revenue Department.

Sec. 10 lays down that the management of undemarcated forests (except where such forests have been placed authoritatively under the control and management of any other Department or local authority) is vested in the Forest Department. Sec. 12

lays down that the Government may make rules to regulate the sale and removal of trees and other forest produce from the undemarcated forests.

The State Forest Act has been amended in 1997 (Act XXIV of 1997); the notable changes include provisions for confiscation of forest produce along with vehicles, tools, etc. used in forest offence, restriction of jurisdiction of courts and authority of police, mandatory police assistance, regulation of forest based industries, and summary trial of certain offences by designated magistrate.

Karnataka

Chapter IV of the *Karnataka Forest Act, 1963*, deals with "*District Forests*". Sec. 32 lays down that the State Government may, in any district forest, grant such privileges as it thinks fit in regard to the removal by cultivating *raiya*s or other classes of persons of forest produce required for prescribed purposes and may without assigning reason therefor, cancel such grant. Provided that the exercise of any privilege under this section shall be for the use of the person entitled thereto, and not for the purpose of export or merchandise, of such forest produce. Under Sec. 33, the State Government has the power to make rules for district forests, viz. to regulate the collection, disposal and use of forest produce, prescribe the fees, royalties or other payments for forest produce and the manner in which they shall be levied.

Sec. 71-A lays down that notwithstanding anything contained in any other provisions or any other law, where a forest offence is committed in respect of timber, Gulmavu (*Machilus marantha*) bark, Dalchini bark, Halmaddi (exudation of *Ailanthus malabaricum*), or sandalwood, the officer seizing the property shall, without any unreasonable delay produce it, before an authorized officer. Chapter X of the Act (Secs. 83-87) lays down the elaborate provisions relating to *Sandalwood*.

Sec. 101-A provides for the 'Grant of forest produce on seigniorage rate'. The State Government may grant to any person, any tree, wood or other forest produce in any district or reserved forest on payment by such person such seigniorage value, as may subject to general or special order of the State Government, be fixed by the Chief Conservator of Forests. The rates may be modified from time to time by the Chief Conservator of Forests. Provided that the Chief Conservator shall not enhance the rate or value in respect of any forest produce more than once during any period of two years.

Sec. 101-B provides for the '*Supply of forest produce under agreement by the State Government*'. No lease, agreement or any other document entered into by the State Government and providing for supply of timber or other forest produce by the State Government shall, at a time, be for a term exceeding 5 years and the supply under every such lease, agreement or other document shall be subject to the condition of availability of such tree, wood or other forest produce.

Sec. 104-C provides that the *abetment* of forest offences is also punishable under the Act. Any person including any forest officer, who abets the commission

of any act or offence punishable by or under this Act, shall be deemed to have committed such offence and shall be punishable with the punishment provided for such offence.

Kerala

Chapter III of the *Kerala Forest Act, 1961*, provides for protection of land at the disposal of the Government and not included in reserved forests, by empowering the Government to make rules to regulate certain activities and levy fee, royalties or other payments. This is in tune with the provisions under Secs. 33-34 of the Assam Forest Regulation, 1891 described earlier. Both the Acts do not have any provision for "protected forests".

Madhya Pradesh

The State enacted the *Madhya Pradesh (Form of Appeal) Rules, 1988*, under Sec. 52 of the Indian Forest Act, 1927 to streamline the confiscation proceedings. The Authorised Officer shall send an intimation of the proceedings of the confiscation to the trying Magistrate. The Appellate Authority for the confiscation proceedings is the Conservator of Forests.

Mizoram

The *Mizoram Forest Act, 1955*, extends to the State of Mizoram, except the areas under the jurisdiction of the Chakma, Lai and Mara District Councils. Sec. 11 lays down that the Government by notification in the *Official Gazette* constitute any forest which is not a Government Reserved Forest into "Town Forest Reserve". No trees within such Reserve shall be cut, felled, etc. without permission in writing, which will be subject to such condition as may be imposed by the State Government.

Sec. 18 lays down that the State Government shall appoint a Government Forest Tribunal who shall decide all claims of rights on land, all objections against the proposed Reserved Forest. Sec. 27 provides that the right to 'jhuming' or any shifting cultivation in the Unclassed (Government) Forests is conceded subject to any regulation, rules or orders that may be made or prescribed by a Village Council or any other body granted powers similar to a Village Council by the Government of Mizoram.

Orissa

The *Orissa Forest Act, 1972*, has awarded powers of confiscation to the Forest Officers. Under Sec. 85 of the Act, abetment of forest offences is punishable with punishment provided for the offence. Chapter VII-A (Secs. 55-A to 55-E) of the Act lays down elaborate provisions relating to *Sandalwood* (similar to those laid down in the Karnataka Forest Act, 1963).

Tamil Nadu

The *Tamil Nadu Forest Act, 1882*, under Chapter VI, provides for appointment and

constitution of "Forest Courts" comprising of the District Judge, the Collector (or any revenue officer of not less than 12 years of standing) and a person especially selected by the Government, not holding any office of profit in the Government. Any appeal under Secs. 11, 12 or 13, i.e., in matters of rights such as right of way, water-course, or pasture or forest produce in a reserved forest, arising out of an order passed by the Forest Settlement Officer (in course of constitution of reserved forests), lies with the Forest Courts (if so constituted).

Chapter V-A (Secs. 36-A to 36-E) lays down provisions regarding *Sandalwood*. Under Sec. 36-A of the Act, possession of sandalwood in excess of 5 kgs. without a licence granted by the District Forest Officer, is an offence. In event of cancellation or suspension of the licence by the District Forest Officer, an appeal lies with the Collector.

Under the *Tamil Nadu Grant of Rewards to Officers and Informers Rules, 1983* (framed under the Tamil Nadu Forest Act, 1882), any person who might have contributed to the conviction of the offence of offenders or to the seizure of the property confiscated may be awarded Rs. 1,000 by the Chief Conservator of Forests. Cash rewards shall be granted to informants and others at the rate of 5 per cent of the value of the sandalwood seized, subject to a maximum of Rs. 5,000. Officers of the Forest Department who successfully detect major cases of theft and smuggling of sandalwood will also be eligible for the grant of reward (a maximum of Rs. 1,000 for A and B grade officers).

In Chapter VI-A under Sec. 40-G, the Act declares teak, blackwood, ebony, sandalwood and ivory whether grown or found on Government land or not, to be *royalties* and prohibits trade in them unless duly allowed by the Government. If the Government removes or cuts any royalty tree from any private land, the owner shall be entitled to a payment known as *Kudivila*, at the Government rates. A joint report called *Mahazar*, is prepared by a Forest Officer, and local village officer in the presence of the owner or his agent, prior to the removal of the trees. A notice is also served on all to prefer their claims, if any, within 90 days of the publication of such a notice.

Uttar Pradesh

The *U.P. Private Forests Act, 1948*, defines "vested forests" under Sec. 3(22). The Government may constitute a vested forest under Sec. 16 by notifying any private area or forest to secure its protection in the public interest. Under Sec. 16(2), any wasteland of area, 50 acres or more, lying uncultivated for 7 years or more, if suitable for afforestation and the owner is either not willing or is unable to grow agricultural crops, may be constituted as a vested forest on such a report by a Forest Officer.

[III] THE FOREST (CONSERVATION) ACT, 1980

The Forest (Conservation) Act, 1980 (69 of 1980) was enacted to provide for the

conservation of forest and for matters connected therewith or ancillary or incidental thereto. The Act extends to the whole of India except the State of Jammu and Kashmir. The Act was in recognition of the awareness that deforestation and ecological imbalances as a result of deforestation have become social menaces and further deforestation and ecological imbalances should be prevented.

According to Section 2 of the Act, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing that any forest land or any portion thereof may be used for any non-forest purpose. According to the explanation to the said section, "non-forest purpose" means the breaking up or clearing of any forest land or portion thereof for (a) the cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticultural or medicinal plants; (b) any purpose other than re-afforestation, but does not include any work relating or ancillary to conservation, development and management of forests and wildlife, namely, the establishment of check-posts, firelines, wireless communication and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes. The expression "re-afforestation" means afforesting a land again which was cleared of afforestation once existed.

Section 2 opens with a *non-obstante* clause, i.e. the provision contained therein applies notwithstanding anything contained in any other law for the time being in force in a State. Thus a bar placed on power of the State Government to make order to dereserve a reserved forest or to grant lease of forest land to private individuals or Government institutions without the prior approval of the Central Government.

The term "forest land" mentioned in Section 2 of the Act refers to reserved forest, protected forest or any area recorded as forest in the Government records. Lands which are notified under Section 4 of the Indian Forest Act, 1927 would also come within the purview of the Act. All proposals for diversions of such areas to any non-forest purpose, even if the area is privately owned, would require the prior approval of the Central Government. The term "tree" for the purposes of this Act will have the same meaning as defined in Section 2 of the Indian Forest Act, 1927 or any other Forest Act which may be in force in the forest area under question.

Harvesting of fodder, grasses, legumes, etc. which grow naturally in forest areas, without removal of the tree growth, will not require prior approval of the Central Government. However, lease of such areas to any organisation or individual would necessarily require approval under the Act.

Under Section 3 of the Act, the Central Government may constitute a Committee to advise the Government with regard to the grant of approval under Section 2, and any other matter connected with conservation of forests which may be referred to it by the Central Government.

[III] THE WILDLIFE (PROTECTION) ACT, 1972

The Wildlife (Protection) Act was enacted to provide for the protection of wild

animals, birds and plants and for matters connected therewith or ancillary or incidental thereto. The Act has been made applicable to all States (except Jammu and Kashmir) and Union Territories in India. Chapter III-A of the Act (inserted by 1991 Amendment) contains provisions relating to 'Protection of Specified Plants'.

Section 17-A of the said Chapter lays down that no person shall, wilfully pick, uproot, damage, destroy, acquire or collect any specified plant from any forest land and any area specified, by notification, by the Central Government; possess, sell, offer for sale, or transfer by way of gift or otherwise, or transport any specified plant, or part or derivative thereof. Provided that nothing in this section shall prevent a member of a Scheduled Tribe from picking, collecting or possessing any specified plant or part or derivative thereof for his bonafide personal use.

However, a permit may be granted for picking, uprooting, etc. of specified plants for special purposes (education, scientific research, etc.), as laid down under Section 17-B. Section 17-C lays down that the cultivation of specified plants without licence is prohibited. Section 17-D lays down that no person shall, except under a licence granted by the Chief Wildlife Warden, commence or carry on business or occupation as a dealer in specified plants or part or derivative thereof. Section 17-E provides for the declaration of stock by every person cultivating, or dealing in, a specified plant or part or derivative thereof.

Section 17-G lays down that no person shall purchase, receive or acquire any specified plant or derivative thereof otherwise than from a licenced dealer. Section 17-H provides that every specified plant or part or derivative thereof, in respect of which any offence under this Act has been committed, shall be the property of the State Government, and, where such plant, etc. has been collected or acquired from a sanctuary or national park, such plant, etc. shall be the property of Central Government.

The Schedule VI to the Act contains six specified plants, viz. Beddome's cycad (*Cycas beddomei*), Blue vanda (*Vanda coerulea*), Kuth (*Saussurea lappa*), Ladies slipper orchid (*Paphiopedilum* spp.), Pitcher plant (*Nepenthes khasiana*) and Red vanda (*Renanthera imschootiana*). Only 'Kuth' is a medicinal plant.

Export-Import Policy and Regulations

Apart from requirement of medicinal plants for internal consumption, India is one of the major exporter of crude drugs. Various medicinal plants species like *Terminalia chebula*, *Saraca ashoka*, *Tinospora cordifolia*, *Digitalis purpurea*, *Cinchona* spp., *Emblica officinalis*, *Azadirachta indica*, *Cymbopogon* spp., *Rauvolfia serpentina*, *Taxus baccata*, *Acorus calamus*, *Adhatoda vasica*, etc. have shown increasing export prospects (Raychaudhuri, 1998).

Export-Import Policy (1997-2002)

In India, the Export-Import Policy (announced by Ministry of Commerce) is brought out under the provisions of the Foreign Trade (Development & Regulation) Act, 1992 and is enforced through the Customs Act, 1962. The Policy is decided in consultation with the Management Authority for CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) in India, viz. Director of Wildlife Preservation, Government of India. Export and Import of plants is subject to the provisions of CITES.

CITES establishes lists of endangered species for which international trade is either prohibited or strictly regulated. CITES has been ratified by more than 150 countries including India.

Section 3(2) of the Export-Import (Control) Act, 1947 provides that all items (including wild Fauna and Flora) covered in the Export-Import Policy will be deemed to be covered under Section 11 of the Customs Act, 1962. As a consequence, all cases of violation of the Export-Import Policy in general, and CITES in particular, constitute an offence under the Customs Act and are dealt with by the Custom officials.

The import of plant is also regulated under the provisions of the Destructive Insects and Pests Act, 1914 and the notifications issued thereunder (Quarantine regulations). Import of plants into India by means of a letter or sample post is not permitted.

The Central Government may in public interest, regulate the import or export of plants by means of a 'Negative List of Imports / Exports'. The Negative Lists may consist of plants, the import and export of which is either prohibited, restricted through licensing or otherwise, canalized (i.e. permitted through canalizing agencies).

The Negative List of Imports contains no 'prohibited' list of plant items, but enumerates 'restricted' items. Import of seeds, fruits and plants for consumption or other purposes is permitted against a licence provided CITES requirements are met. The Negative List of Exports contains 29 "prohibited" items many of which are important medicinal plants, viz. *Saussurea costus*, *Rauvolfia serpentina*, *Dioscorea deltoidea*, *Podophyllum hexandrum*, *Pterocarpus santalinus* (Red sanders), *Aquilaria malaccensis* (Agar wood), *Taxus wallichiana* (Common Yew or Birmi leaves), *Aconitum* spp., *Coptis teeta*, *Gentiana kurroo*, *Nardostachys grandiflora* ('Jatamansi'), *Panax pseudo-ginseng*, *Picrorhiza kurroo*, *Swertia chirayata*, etc.

The Export-Import Policy also contains several "restricted" items many of which are important medicinal plants, viz. 'Neem' (*Azadirachta indica*) seeds, *Strychnos nux-vomica* seeds/ bark/ leaves/ roots and powder thereof, Red sanders seeds, Sandalwood seeds, etc. The export of these seeds and planting material is permitted subject to licensing. The export of Sandalwood oil is allowed on the fulfilment of certain specified conditions.

It may be noted that India has banned the export of several wild species in the form of raw material, although the export of finished goods/ products containing the material is allowed. Thus the export of above-mentioned 29 plants, plant portions and their derivatives and extracts as such obtained from the wild is prohibited except the 'formulations' made therefrom. The export of plants and plant portions not listed in the list of 29 and obtained from the wild is permitted subject to the fulfilment of certain specified conditions.

The export-import policy has to be applied judiciously, it being dependent not only on the national trends and requirements but also the international trends and requirements. The following examples will make the issue clear (Misra, A.P., 1998):

* *Sterculia urens* (Gum karaya): TRIFED (Tribal Cooperative Marketing Development Federation of India) was exporting this gum to the USA and as per the requirement of TRIFED, this gum was collected and sold to TRIFED. The primary collectors were given adequate collection charges and therefore illegal supply to local traders almost stopped. Due to certain problems faced by the TRIFED, it stopped purchasing and the entire system got a shock. Tribals were again given low rates with the result production fell.

* *Prosopis juliflora* (Gum): It is a cheap gum and a source of revenue to poor villagers in non-agricultural season in Kutch region of Gujarat State. The Government of India allowed import of cheap gum from Ethiopia, and all of a sudden the selling rates had to be reduced to dispose off the stocks. The collection rates had also to be reduced which caused many problems. The primary collectors also became disillusioned.

* *Cassia tora* (puwad seeds): Initially due to export to Japan its sale price went up but later as China started supplying this commodity at lower rate, the exports to Japan dwindled. The stocks of Puwad had to be sold at lower rate. Revenue decreased and for next season, less collection targets were kept causing dissatisfaction to primary collectors.

EXTRACTS FROM EXPORT-IMPORT POLICY
(1st APRIL 1997 - 31st MARCH 2002)
Applicable from 1.4.99 to 31.3.2000

Chapter 3

Definitions

- (3.3) "Act" means the Foreign Trade (Development & Regulation) Act, 1992 (No. 22 of 1992).
- (3.38) "Policy" means the Export & Import Policy, 1997-2002 as amended from time to time.

Chapter 4

Para 4.2 Regulation

The Central Government may in public interest, regulate the import or export of goods by means of a Negative List of Imports or a Negative List of Exports as the case may be.

Para 4.3 Negative Lists

The Negative Lists may consist of goods the import or export of which is prohibited, restricted through licensing or otherwise, canalised. The Negative List of Imports and the Negative List of Exports shall be as contained in this Policy.

Para 4.4 Prohibited goods

Prohibited items in the Negative List of Imports shall not be imported and prohibited items in the Negative list of Exports shall not be exported.

Para 4.11 Procedure

The Director General of Foreign Trade may, in any case or class of cases, specify the procedure to be followed by an exporter or importer or by any licensing, competent or other authority for the purpose of implementing the provisions of the Act, the Rules and Orders made thereunder and this Policy.

Chapter 15
Negative List of Imports
Part I

15.2 Restricted Items

D. SEEDS, PLANTS AND ANIMALS

- | | |
|------------------------------|---|
| 4. Plants, Fruits
& Seeds | (a) Import of seeds of wheat, paddy, coarse
cereals, pulses, oilseeds and fodder for |
|------------------------------|---|

sowing is permitted without a licence subject to fulfilment of the provisions of the New Policy on Seed Development 1988 and in accordance with a permit for import granted under the Plants, Fruits and Seeds (Regulation of Import into India) Order, 1989.

- (b) Import of seeds of vegetables, flowers, fruits and plants, tubers and bulbs of flowers, cutting, sapling budwood, etc. of flowers and fruits for sowing or planting is permitted without a licence in accordance with a permit for import granted under the Plants, Fruits and Seeds (Regulation of Import into India) Order, 1989.
- (c) Import of seeds, fruits and plants for consumption or other purposes is permitted against a licence or in accordance with Public Notice in this behalf.
- (d) Import of plants, their products and derivatives shall also be subject to the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

Chapter 16

Negative List of Exports

PART I

16.1 Prohibited Items

- 3. All items of plants included in Appendix I and Appendix II of the CITES, wild orchid as well as plants specified in Schedule 2 Appendix 2 of the book titled "ITC (HS) Classification of Export and Import Items".
- 9. Sandalwood in any form but excluding:
 - (i) Finished handicraft products of sandalwood;
 - (ii) Machine finished sandalwood products;
 - (iii) Sandalwood oil subject to the conditions as specified in Schedule 2 Appendix 1 of the book titled "ITC (HS) Classification of Export and Import Items".
 - (iv) Sandalwood De-oiled Spent Dust subject to the conditions and procedures as specified in the public notice issued by the Director General of Foreign Trade; and
 - (v) Those forms of sandalwood as specified, subject to such conditions and procedures as may be laid down in this behalf in the public notice issued by the Director General of Foreign Trade from time to time.

10. Red sanders wood in any form, whether raw, processed or unprocessed but excluding such value added products of Red sanders wood as specified and subject to the conditions laid down in Schedule 2 Appendix 4 of the book titled "ITC (HS) Classification of Export and Import Items".

PART II

16.2 Restricted Items

(Export Permitted Subject to Licensing)

20. Seeds and planting materials, namely:-

Neem seeds, cotton seeds except such cotton seeds as are of varieties hybrids of other countries, grown under custom production; cashew seeds and plants; Egyptian clover (Barseem) - *Trifolium alatum* seeds; Fooder crop seeds; Green manure seeds other than Dhaincha; guar seeds (whole); jute seeds; linseeds; lucerne (alfalfa) - *medicago sativa*; mesta seeds; Nux-vomica seeds/ bark/ leaves/ roots and powder thereof; onion seeds; seeds of ornamental plants (wild variety); paddy seeds (wild variety); pepper cuttings or rooted cutting of pepper; Persian clover (*Snafel trifolium - resulinatum*) seeds; red sanders seed (*Pterocarpus santalinus*); rubber seeds; russa grass seeds and tufts; seeds of all forestry species; seeds of all oils and pulses; soyabean seeds; sandalwood seeds (*Santalum album*); saffron seeds or corms (planting material for saffron); wheat seeds (wild variety).

22. Sea weeds, all types including *G. edulis* but excluding brown sea weeds and agarophytes of Tamil Nadu Coast origin in processed form.

REGULATION OF EXPORT OF FAUNA AND FLORA ITC (HS)
Classification of Export & Import Items (1.4.99 - 31.3.2000)
Schedule 2 Appendix I

S. No.	Item	Export allowed on the fulfilment of following conditions specified
4.	Brown sea weeds and Agarophytes excluding <i>G. edulis</i> of Tamil Nadu coast origin, in processed form.	Export allowed subject to quantitative ceilings as may be notified by DGFT from time to time.
22.	Seeds of all trees (excluding seeds of all forestry species), hedges, ornamental plants and flowers and vegetable seeds flowers and vegetable seeds other than the onion seeds.	Export permitted subject to a declaration in the form of an affidavit from the exporter that the seed being exported is not Breeder or Foundation or Wild variety seed. In the event of the affidavit proving to be false on the basis of random sample tests, action would be initiated against the firm under the Foreign Trade (Development and Regulation) Act, 1992.
27.	Plants and plant portions obtained from the wild and their cultivated varieties not covered under Schedule 2 Appendix 2 of this book, except for the extracts and derivatives including value added herbal formulations, of such plants for which these conditions shall not apply.	<p>(i) Export of plants and plant portions obtained from the wild will be allowed on production of a Legal Procurement Certificate (LPC) from Regional Deputy Director (Wildlife) or Chief Conservator of Forests or Divisional Forest Officers of the State concerned from where these plants and plant portions have been procured.</p> <p>(ii) The export of plants and plant portions of the cultivated varieties will be allowed subject to production of a certificate of cultivation from the above authorised officers.</p> <p>(iii) In respect of plant species covered under CITES, a CITES Permit for export will also be required.</p> <p>(iv) Exports allowed only through the ports of Bombay, Calcutta, Cochin, Delhi, Madras, Tuticorin and Amritsar.</p>
33.	Sandalwood oil	<p>(i) Certificate of origin from the Principal/ Chief Conservator of Forests of the State concerned.</p> <p>(ii) No Objection Certificate from the Ministry of Environment & Forests, Government of India.</p> <p>(iii) Any other condition, including a ceiling, that may be imposed by the Director General of Foreign Trade.</p>

NEGATIVE LIST OF EXPORT - PLANTS
ITC (HS) Classification of Export Items
Schedule 2 Appendix 2

To be Published in the Gazette of India Extraordinary
Part II Section 3, Sub-Section (ii)

GOVERNMENT OF INDIA
MINISTRY OF COMMERCE
Notification No. 24 (RE-98) / 1997-2002
New Delhi, Dated the 14.10.98

S.O. (E) Attention is invited to para 4 of Notification No. 2 (RE-98) / 1997-2002 dated the 13th April, 1998 relating to export of plants, plant portions and their derivatives and extracts obtained from the wild.

2. In exercise of the powers conferred under Section 5 of the Foreign Trade (Development & Regulation) Act, 1992 (No. 22 of 1992) read with Paragraph 4.1 of the Export and Import Policy 1997-2002, the Central Government hereby makes the following amendment in the Schedule 2 Appendix 2 of the book titled "ITC (HS) Classification of Export and Import Items 1997-2002" relating to export of plants, plant portions and their derivatives and extracts, obtained from the wild.

(i) The export of under mentioned 29 plants, plant portions and their derivatives and extracts as such obtained from the wild except the formulations* made therefrom, is prohibited:-

1. Beddome's cycad (*Cycas beddomei*)
2. Blue Vanda (*Vanda coerulea*)
3. *Saussurea costus*
4. Ladies slipper orchids (*Paphiopedilium* species)
5. Pitcher plant (*Nepenthes khasiana*)
6. Red vanda (*Renanthera imschootiana*)
7. *Rauvolfia serpentina* (Sarpagandha)
8. *Ceropegia* species
9. *Frerea indica* (Shindal mankundi)

* The term "Formulation" used here shall include products which may contain portions/ extracts of plants on the prohibited list but only in unrecognizable and physically inseparable form.

10. *Podophyllum hexandrum* (emodi) (Indian podophyllum)
11. Cyatheaceae species (Tree ferns)
12. Cycadaceae species
13. *Dioscorea deltoidea* (Elephant's foot)
14. *Euphorbia* species (Euphorbias)
15. *Orchidaceae* species (Orchids)
16. *Pterocarpus santalinus* (Red sanders)
17. *Taxus wallichiana* (Common Yew or Birmi leaves)
18. *Aquilaria malaccensis* (Agarwood)
19. *Aconitum* species
20. *Coptis teeta*
21. *Coscinium fenestratum* (Calumba wood)
22. *Dactylorhiza hatagirea*
23. *Gentiana Kurroo* (Kuru, Kutki)
24. *Gnetum* species
25. *Kampheria galenga*
26. *Nardostachys grandiflora* (Jatamansi)
27. *Panax pseudo-ginseng*
28. *Picrorhiza kurrooa*
29. *Swertia chirata* (Chirayitah)

(ii) Plants and plant portions, derivatives and extracts of the cultivated varieties of the above plant species (excluding Sl. No. 16) will be allowed for export subject to production of a Certificate of Cultivation from the Regional Deputy Director (Wildlife), or Chief Conservator of Forests or Divisional Forest Officers of the State concerned from where these plants and plant portions have been procured. However, in respect of the cultivated varieties of the species as covered by Appendix 1 (Sl. No. 1 to 6 of Paragraph 2(i) above) and Appendix 2 (Sl. No. 7 to 18 and Sl. No. 26 & 28 of Para 2(i) above) of CITES, a CITES Permit for export will be required.

(iii) The value added formulations, as defined under sub-para (i) of paragraph 2 above, made out of imported species of plants and plant portions as specified in sub-para (i) of Paragraph 2 now will be allowed to be exported freely without any restriction subject to furnishing of an affidavit to the Customs authorities at the time of export that only the imported plant species as above have been used for the manufacture of value added formulations being exported. In the event of affidavit proving to be false, on the basis of random sample tests, action would be initiated against the firm under the Foreign Trade (Development & Regulation) Act, 1992.

- (iv) All formulations - herbal/ Ayurvedic medicines, where the label does not mention any ingredient extracted from these prohibited plants shall be freely exportable without the requirement of any certification from any authorities whatsoever.
 - (v) Export allowed only through the ports of Mumbai, Calcutta, Cochin, Delhi, Chennai, Tuticorin and Amritsar.
3. This issues in public interest.

EXPORT OF RED SANDERS

ITC (HS) Classification of Export & Import Items

Schedule 2 Appendix 4

Note: Please see the Item No. 10, Part I, Paragraph 16.1 (Prohibited Items) of Chapter 16, Negative List of Exports, of the Export & Import Policy, 1997-2002.

The conditions and procedures to be followed in respect of the export of Red Sanders wood in the form of value added products is specified as under:

- (i) Only value added products such as Extracts, Dyes, Musical Instruments and parts of Musical Instruments, made from Red Sanders wood, procured from legal sources, shall be allowed for exports against an export licence to be issued by Director General of Foreign Trade.
- (ii) Applications for grant of an Export Licence may be made in duplicate in the form given in Appendix 18A alongwith relevant documents to the Director General of Foreign Trade. Such applications should be accompanied by attested copies of certificate of origin issued by the Principal Chief Conservator of Forests of the State from where the stocks were procured, giving details of the date of procurement from legal sources and quantities procured. A Certificate of the current position of stocks so procured and available with the applicant given after physical verification of the stocks, by the authority nominated for the purpose by the Principal Chief Conservator of Forests, should also accompany application for export licence.
- (iii) The Export Licensing Committee at the Headquarters may consider such applications on merits for issue of Export Licence, which shall be subject to any other conditions such as MEP, quantity ceilings, requirements under CITES, etc. as may be prescribed by the Committee on the recommendations of Ministry of Environment & Forests from time to time.

INDIAN SPECIES IN THE APPENDICES OF CITES
APPENDIX I
FLORA

Family	Species	Common Names	Remarks
Compositae	<i>Saussurea costus</i>	Kuth	
Cycadaceae	<i>Cycas beddomei</i>	Beddomes' cycad	
Nepenthaceae	<i>Nepenthes khasiana</i>	Pitcher plant	
Orchidaceae	* <i>Renanthera imschooliana</i>	Red vanda	Tissue culture or seedlings excluded
	* <i>Vanda coerulea</i>	Blue vanda	
	* <i>Paphiopedilum</i> spp	Ladies slipper orchids	

APPENDIX II
FLORA

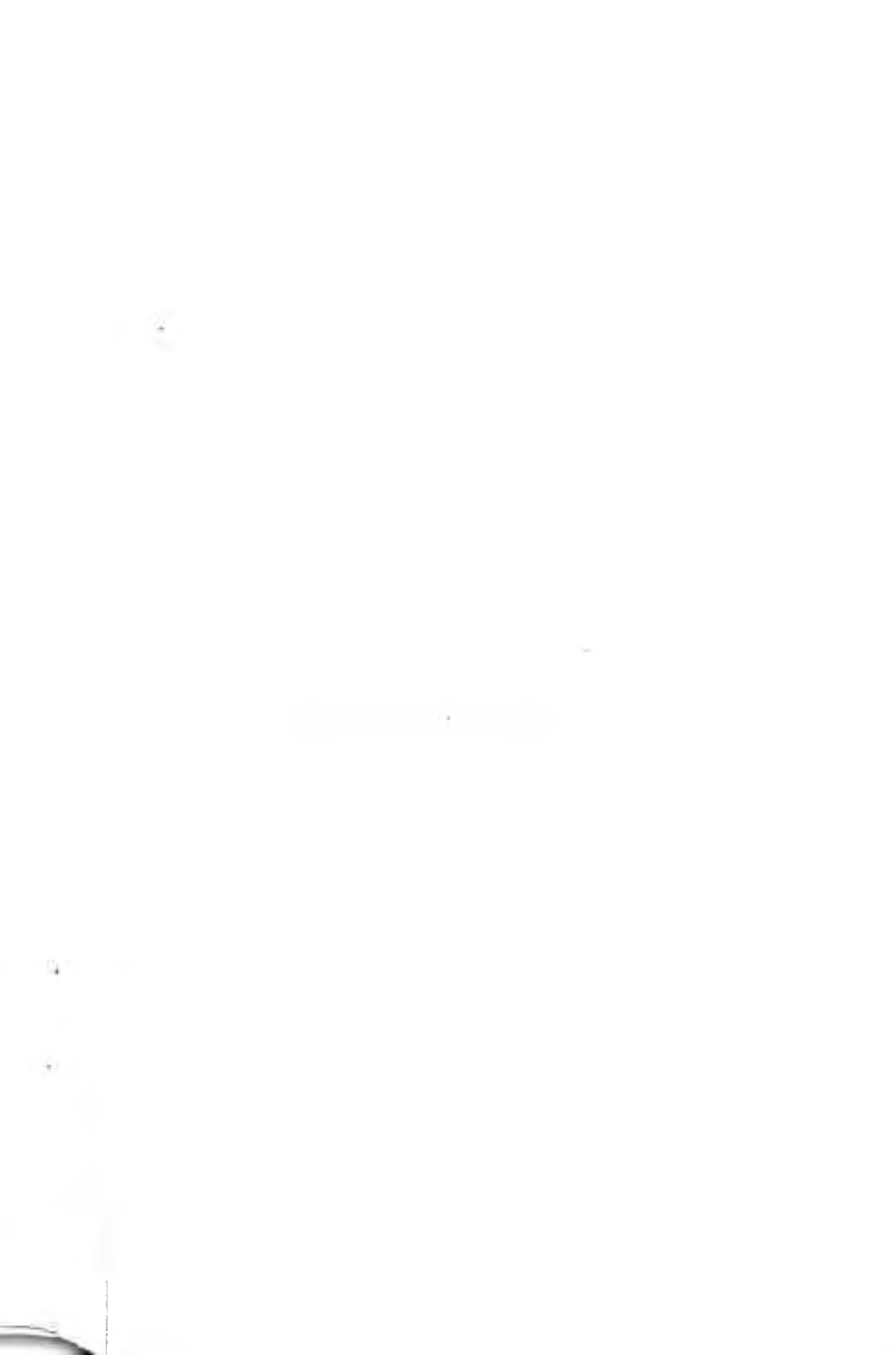
Family	Species	Common Names	Remarks
APOCYNACEAE	<i>Rauvolfia serpentina</i>	Sarpagandha	
ARAUCARIACEAE	<i>Araucaria araucana</i>	Monkey puzzle tree	
BERBERIDACEAE	<i>Podophyllum hexandrum (emodi)</i>	Indian podophyllum	
CACTACEAE	Cactaceae spp.	Cactus	Cultivated in India
CYATHEACEAE	Cyatheaceae spp.	Tree ferns	
CYCADACEAE	Cycadaceae spp.	Cycads	Excluding <i>cycas beddomei</i> which is in App. I
DIOSCOREACEAE	<i>Dioscorea deltoidea</i>	Elephant's Foot	
DROSERACEAE	<i>Dionaea muscipula</i>		
EUPHORBIACEAE	<i>Euphorbia</i> spp.	Euphorbias	
LILIACEAE	<i>Aloe</i> spp.	Aloes	<i>Aloe vera</i> also referred as <i>Aloe barbadensis</i> excluded from App. II
ORCHIDACEAE	Orchidaceae spp.	Orchids	Excluding Species covered in App. I

LEGUMINOSAE	<i>Pterocarpus santalinus</i>	Red sanders	16.2.95 onwards
TAXACEAE	<i>Taxus wallichiana</i>	Common yew or Birmi leaves	16.2.95 onwards
THYMELAEACEAE	<i>Aquilaria malaccensis</i>	Agarwood	16.2.95 onwards
SCROPHULARIACEAE	<i>Picrorhiza kurroa</i>	Purorhiza, kutki	18.9.97 onwards
VALERIANACEAE	<i>Nardostachys grandiflora</i>	Jatamansi Spikenard	18.9.97 onwards



PART - II

States' & Union Territories'
Acts and Rules Relating to NTFPs



STATE
OF
ANDHRA PRADESH

NTFP including Medicinal Plants

Acacia catechu ('Kachu'), *Calophyllum inophyllum* ('Pumagamu'), *Calycopteris floribunda* ('Bandimurududu'), *Cassia auriculata* ('Tangedu', 'Tarwar'), *Diospyros melanoxylon* ('Tendu' leaves), *Garcinia indica* ('Vempali'), *Madhuca indica* ('Ippa'), *Pterocarpus santalinus* (Red sanders, 'Rakta gandhamu'), *Santalum album* ('Gandhapu-chekka', 'Chandan'), *Strychnos nux-vomica* ('Mushti vittulu'); etc.

Nationalized NTFP Items

Mahua seed and flower, *Rauvolfia serpentina* roots, Myrobalan, Tendu leaves, and other NTFP items.

Monopoly Agency

- * State Forest Department for certain NTFP items.
- * Girijan (Tribal) Cooperative Corporation (GCC) for other NTFP items.

Price Fixation Method

- * Centralized commodities rates fixed by Chairman and MD of GCC.
- * Decentralized commodities rates fixed by the Divisional Managers of GCC.



Legal Framework

- (1) *Andhra Pradesh Forest Act, 1967* (Similar to the Indian Forest Act, 1927)
 - * Provisions relating to the transit of forest produce and duty leviable on forest produce.
 - * Special provisions relating to Sandalwood.
- (2) *Andhra Pradesh MFP (Regulation of Trade) Act, 1971*
 - * State monopoly in the trade in MFPs.
- (3) *Andhra Pradesh Scheduled Areas Minor Forest Produce (Regulation of Trade) Act, 1979*
 - * State monopoly in the trade in MFPs in Scheduled Areas for the economic benefit of tribal people.

(4) Andhra Pradesh Protected Forest Rules, 1970

- * Regulation of use of natural and forest produce in the protected forests.
- ### **(5) Andhra Pradesh Sandalwood and Red sanders wood Transit Rules, 1969**
- * A permit required in respect of import or export of Sandalwood and Red sanders wood.
- ### **(6) Andhra Pradesh Preservation of Private Forests Rules, 1978**
- * Rules regarding the 'Prohibited/Reserved Trees'.
- ### **(7) Andhra Pradesh Forest Produce Transit Rules, 1970**
- * A 'permit' required in respect of the transit of forest produce.

INTRODUCTION

The State of Andhra Pradesh forms the major link between the north and the south of India. The total land area of this hot and humid State is 2,75,068 sq. km. out of which the forest area comprises of about 63,814 sq. km. (23.2%). The forest types occurring in the state vary from Tropical Wet Evergreen to Tropical Dry Deciduous forest. The state possess a wide variety of NTFP including medicinal plants:

Botanical Names	Common Names
<i>Acacia catechu</i>	Kachu, Katha
<i>Acalypha paniculata</i>	Kuppichettu
<i>Alangium tomentosum</i>	Kudagu
<i>Caesalpinia sappan</i>	Bakaruchakka
<i>Calophyllum inophyllum</i>	Pumagamu, Sultan champa
<i>Calycopteris floribunda</i>	Bandimurududu
<i>Cassia auriculata</i>	Tangedu, Tarwar
<i>Datura alba</i>	Dhaturamu
<i>Diospyros melanoxylon</i>	Tendu
<i>Garcinia indica</i>	Vempali, Kokum butter
<i>Gymnema sylvestre</i>	Boda patra
<i>Madhuca indica</i>	Ippa
<i>Peganum harmala</i>	Shimagoranti vittulu
<i>Pterocarpus marsupium</i>	Peddagi, Bija sar
<i>Pterocarpus santalinus</i>	Red sanders, Rakta gandhamu
<i>Santalum album</i>	Gandhapu-chekka, Chandan
<i>Sapindus trifoliatu</i>	Soapnut, Kunkudu-chettu
<i>Strychnos nux-vomica</i>	Mushti vittulu
<i>Vitex peduncularis</i>	Nag bael

The State Government has enacted several Acts/ Rules to ensure a sustainable harvest of forest produce. The salient features of these legal provisions are discussed in brief below.

The Andhra Pradesh Forest Produce (Fixation of Selling Prices) Act, 1989, is an Act to provide for the supply of forest produce and the fixation of selling price in respect thereof. No lease, agreement, etc. entered into or made by the Government providing for the supply of forest produce by the Government shall be for a term exceeding ten years; the supply shall be subject to the condition of availability of such forest produce.

Under the Act, it shall be competent for the Government to fix sliding rates for each year effective for three years and also to enhance/ reduce such rates for the next three years in respect of the selling price of the forest produce to be supplied under any lease, agreement, etc. The Government may terminate any lease, agreement, etc. under certain conditions. Under the Act, there shall be constituted a fund called the

'Andhra Pradesh Industrial Plantation Fund'. The sums at the credit of the said Fund shall not be expended for any purposes not connected with the raising of industrial plantation or afforestation or purposes incidental thereto.

The Andhra Pradesh Protected Forest Rules, 1970, are meant for the regulation or use of natural and forest produce in the protected forests. No person shall except in accordance with the rules, attempt to do or cause to be done, in protected forests acts like the collection and removal of natural produce. The Scheduled Tribes are, however, permitted to remove forest produce from such forests for domestic and agricultural purposes on payment of seigniorage fees. Any individual or community claiming rights by law or custom or usage with respect to any protected forest may exercise such rights only after obtaining recognition from the Divisional Forest Officer.

The Andhra Pradesh Preservation of Private Forests Rules, 1978, lay down the rules regarding 'Prohibited/ Reserved Trees'. A previous permission is required for the cutting and removal of such trees. Where permission is granted, the cutting and transportation and sale of specified trees shall be done by the Divisional Forest Officer departmentally in such a manner as may be specified in an order of the State Government.

The "Prohibited trees" mentioned in the Schedule-I of the Rules include *Madhuca indica*, *Strychnos nux-vomica*, *Diospyros melanoxylon*, *Artocarpus hirsuta*, etc. The "Reserved trees" mentioned in the Schedule-II of the Rules include *Santalum album* (Sandal wood), *Pterocarpus santalinus* (Redsanders wood), *Pterocarpus marsupium* (Yegisa), etc.

The Andhra Pradesh Forest Produce Transit Rules, 1970, provides that no forest produce shall be moved into or from or within the state by land or water, unless such produce is accompanied by a permit therefor and produced for check immediately on demand. The Divisional Forest Officer may refuse to issue permits, if he has any doubt either of ownership or the existence of forest produce itself and, may withhold the issue of transit permits till it is proved to his satisfaction that the forest produce that exists lawfully belongs to the applicant.

Under the rules, the permit shall be considered invalid if the quantity and description of forest produce is not mentioned accurately. The Divisional Forest Officer shall set up check posts, erect barrier or to do both at all or any of the places given in the Sch. I with a view to stop, detain and examine the vehicles and secure compliance of the rules. Every person taking any forest produce in any vehicle shall stop at check post/ barrier for the purpose of inspection. These rules shall not apply to red-sanders and sandalwood and other specified forest produce.

The Andhra Pradesh Minor Forest Produce (Regulation of Trade) Act, 1971, is an Act to make provision for regulating in the public interest the trade of certain minor forest produce (MFP) by creation of a State monopoly in such trade in the State. The Act was enacted to eliminate the contractor agency system and with it the private monopoly; to check smuggling in the forest produce and with it the over-exploitation of the forest wealth; and, to give economic benefits to the tribals by the formation of cooperative societies of the tribal people in the State.

Some of the salient features of the Act are as follows:

- (i) *Appointment of agents*- Under the Act, only the State Government or an authorised officer or an agent shall sell or purchase or cure or otherwise process or collect or store or transport any minor forest produce. A permit is required for the commercial purchase or transport of the MFP.

A registered grower may collect any MFP from any land belonging to him and may transport the same to the nearest depot.

- (ii) *Constitution of Advisory Committee*- For each calendar year (1st July - 30th June), the Government shall constitute an advisory committee for the purpose of advising the Government in the matter of fixation of fair and reasonable price of each MFP at which produce may be purchased by the State Government or Agent.

The Committee is to consist of representative groups like the traders or manufacturers, and growers of MFP.

- (iii) *Government to Purchase the MFP*- The Government or Agent shall be bound to purchase at the price fixed (by the Committee) specified MFP offered for sale at the depot by the registered growers. Any person aggrieved by the refusal to purchase forest produce by an authorised officer or agent may refer the matter to the Divisional Forest Officer.
- (iv) *Registration of Growers*- Issuance of a certificate of registration to the growers specifying approximately the quantity of the MFP that would be available in a season from the land of the grower, ensures that there is no smuggling in the forest produce by the intending sellers.
- (v) *Registration of Manufacturers and Exporters*- Under the Act, every manufacturer of finished goods using MFP, and every exporter of MFP is required to get himself registered.
- (vi) *Disposal of MFP*- Any MFP purchased by the Government or authorised officer or agent shall be sold or otherwise disposed of in such manner as the Government may direct.

The Andhra Pradesh Scheduled Areas Minor Forest Produce (Regulation of Trade) Regulation, 1979, provides for regulating in the public interest, the trade of certain MFP by creation of a State monopoly in such trade in the Scheduled Areas of the State. The Regulation is for the economic benefit of tribal people in the State. The Government may for the purposes of and trade in any MFP on their behalf, appoint the Girijan Co-operative Corporation Ltd., Visakhapatnam, as an agent for any Scheduled Area. No person other than the Corporation shall sell or purchase or cure or otherwise process or collect or store or transport any MFP to which this regulation applies.

The price at which the MFP shall be purchased by the Corporation from growers shall be such as may be prescribed. The Corporation may, with a view to secure compliance with the provisions of this Regulation, direct the setting up of check posts, barriers, etc. Any person contravening the provisions shall be punishable with imprisonment upto one year or with fine up to Rs. 2,000, or with both.

Under Sec. 32 of the **Andhra Pradesh Forest Act, 1967**, possession of Sandalwood by a person in excess of 10 kgs. is an offence, except under a licence granted by the Divisional Forest Officer. Any person aggrieved by the orders of the D.F.O. may appeal to the Conservator of Forests. The second appeal lies with the Chief Conservator of Forests. For offences involving red sanders and sandalwood, minimum prescribed punishment is for three months and fine up to Rs. 10,000. The **Andhra Pradesh Sandal Wood and Red Sanders Wood Transit Rules, 1969**, provides that no person shall import sandalwood (including chips and powder) or red sanders wood (including chips and powder) into or export sandalwood or red sanders wood from, or move sandalwood or red sanders wood within any place in the State unless accompanied by a *permit* and unless such sandalwood or redsanders wood bears an authorised marking or seal of the Government.

All sandalwood or red sanders wood in transit shall be produced for examination at every checking station *en route* even without being asked by any officer for it or when called upon to do so. The quantity of sandalwood or red sanders wood should be noted in detail in the permit, namely, the number of pieces, measurement of each piece, quality according to the standard classification and weight of each piece/quality. All sandal wood or red sanders wood imported from other States and all Government sandalwood or red sanders wood disposed off locally shall bear the marks of the Government of origin (registered property mark).

Nothing contained in these Rules shall apply to Sandalwood not exceeding 10kgs. carried by any bonafide traveller or under his authority for his personal use; sandalwood (up to 10 kgs.) and red sanders wood cut and carried by a *ryot* for his personal use from the trees growing on the *patta* lands of the said *ryot*; red sanders/ sandal wood fashioned into dolls, idols, etc. up to 10 kgs. The District Forest Officer shall maintain an approved list of companies or persons engaged in the distillation of sandalwood or in the manufacture of any of its by-products.

Andhra Pradesh State Forest Act

Also see Part-I, 'Central and States' Forest Acts.'

Summing Up

In Andhra Pradesh, two regulations, viz., the *Andhra Pradesh Minor Forest Produce (Regulation of Trade) Act, 1971* and the *Andhra Pradesh Scheduled Areas MFP (Regulation of Trade) Act* declare that trade in NTFP is a State monopoly irrespective of land where they occur. The State has eliminated the contractor agency and replaced it by departmental working. The Forest Department has thus taken up State trading in 'Tendu' leaves.

However, in the State, the collection and marketing of NTFP is being undertaken through cooperatives of tribals on a monopoly basis. Thus the tribals have been conferred the right to collect, consume and sell NTFP items. The Girijan Cooperative Corporation (GCC) has monopoly rights over procurement and marketing of NTFP. The Corporation has to pay royalty to forest department @ 20 per cent over and above the previous year rental without reference to rise in the normal market rates though a part of the royalty is reimbursed by the State Government. In case of gum, the rentals are being fixed @ 50 per cent extra on the value of the previous year.

It is important that an effective pricing policy is evolved for NTFP including medicinal plants to be purchased by the cooperatives. In this connection the pricing policy adopted by the Girijan (Tribal) Corporation in the State of Andhra Pradesh seems to be desirable. The Government of Andhra Pradesh ordered that the Girijan Corporation should fix the price at which it will purchase NTFP from the tribals without asking any deduction on account of forest rentals and establishment charges.

If the corporation incurs loss on the transaction relating to NTFP and if the losses are the result of no deductions having been made on account of forest rentals, etc., the State Government will subsidize the Corporation to the extent of such losses.

The basic considerations underlying the pricing policy for NTFP should be:

- (a) the tribals should receive a remunerative price for the NTFP collected by them, and
- (b) the marketing of these products undertaken by the cooperatives for the benefit of tribals, should not undermine the economic viability of these organizations.

The price to the tribals should be derivative of, and depending on, the average market price of the commodities. In case the derivative price does not give a remunerative return to the tribals, if the entire overheads of the cooperatives due to forest rentals, etc. are included in the cost, then to the extent necessary, these overheads should not be taken into account for determining the price to the tribals. The State Government should agree to subsidize that part of the forest rentals, etc., which were not taken into account for determining the price to be paid to the tribals subject, however, to the extent of losses sustained by the cooperatives in the business of NTFP (Shukla, R.S., 2000).

THE ANDHRA PRADESH FOREST PRODUCE (FIXATION OF SELLING PRICES) ACT, 1989*

(Act No. 29 of 1989)

An Act to provide for the Supply of Forest Produce and the Fixation of Selling Price in respect thereof and the constitution of an Industrial Plantation Fund and for matters connected therewith or incidental thereto.

2. Definitions.-

- (b) 'forest produce' means such forest produce as may, from time to time, be specified by the Government by notification for the purposes of this Act.

3. Supply of forest produce under agreement, etc.-

- (1) No lease, agreement or any other arrangement entered into or made by the Government providing for the supply of forest produce by the Government shall be for a term exceeding ten years; and the supply under every such lease, agreement or other arrangement shall, notwithstanding anything to the contrary contained in such lease, agreement, or other arrangement, be subject to the condition of availability of such forest produce.
- (2) Notwithstanding anything contained in the Indian Contract Act, 1872 (Central Act 9 of 1872) or the Transfer of Property Act, 1882 (Central Act 4 of 1882), or any other law for the time being in force or any judgement, decree or order of any Court, Tribunal or authority to the contrary, every lease or agreement or any other arrangement providing for the supply of forest produce by the Government granted or entered into prior to the appointed date-
- (a) for a term exceeding ten years and in force on the appointed date, shall cease to be in force on the expiry of the period of ten years with effect from the date when such lease or agreement came into force; and
- (b) shall be always deemed to be subject to the condition of availability of such forest produce.

4. Fixation of selling price.- Notwithstanding anything contained in the Indian Contract Act, 1872 (Central Act 9 of 1872) or the Transfer of Property Act, 1882 (Central Act 4 of 1882), or any other law for the time being in force or any judgement, decree or order of any Court, Tribunal or other authority or in any lease, agreement or other arrangement, it shall be competent for the Government by notification to fix *sliding rates* for each year effective for three years and also to enhance or reduce

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such sliding rates for the next three years in respect of the selling price of the forest produce to be supplied under any lease, agreement, or other arrangement with effect from such date as may be specified in the notification, having due regard to such principles as may be prescribed.

5. Termination of lease and contract.- Notwithstanding anything contained in the Indian Contract Act, 1872 (Central Act 9 of 1872), the Transfer of Property Act, 1882 (Central Act 4 of 1882); and any other law for the time being in force it shall be lawful for the Government to terminate any lease, agreement or any other arrangement granted or entered into before or after the appointed date, in case,-

- (a) the price for the produce sold has not been paid to the Government in accordance with the terms of the lease, agreement or any other arrangement;
- (b) the negligent operations of the lease resulted in depletion of the forest produce.

6. Recovery of amount due under the Act.- If the selling price payable under any lease, agreement or any other agreement has not been paid within the time specified therefor to the Government, the Chief Conservator of Forests may if the amount continues to be due, issue a certificate to the District Collector who shall proceed to recover the same as arrears of land revenue.

8. Act to override other laws.- The provisions of this Act and the rules made thereunder shall have effect, notwithstanding anything inconsistent therewith in any other law for the time being in force, or any custom, usage or agreement, or decree or order of a Court, Tribunal or other authority.

9. Constitution of Industrial Plantation Fund.-

- (1) There shall be constituted in the manner prescribed a fund called the Andhra Pradesh Industrial Plantation Fund.
- (2) From out of the selling price payable by the allottees of forest produce under Sec. 4, each sum or sums as may be prescribed in this behalf shall, first be credited to the Consolidated Fund of the State, and thereafter under appropriation duly made by law in this behalf, form part of, and be transferred to the Andhra Pradesh Industrial Plantation Fund.
- (3) Any sum or sums transferred to the said Fund under sub-section (2) shall be charged upon the Consolidated Fund of the State.
- (4) The sums at the credit of the said Fund shall not be expended for any purposes not connected with the raising of industrial plantation or afforestation or purposes incidental thereto.

10. Power to make rules.- The Government may, by notification, make rules for carrying out all or any of the purposes of this Act.

THE ANDHRA PRADESH FOREST OFFENCES (COMPOUNDING AND PROSECUTION) RULES, 1969*

2. In these rules unless the context otherwise requires:-

- (a) "accused" means any person who committed or in respect of whom it may be reasonably inferred that he has committed a forest offence;
- 3. (1) When a forest offence is booked it shall be dealt with in the manner hereinafter provided.
- (2) The Forest produce seized may be kept in the safe custody of the Forest Guard or Forest Watcher and a certificate to that effect shall be obtained in Form-C.
- (3) The report of seizure of forest produce shall be submitted immediately, to the next superior officer as well as Divisional Forest Officer as prescribed in Form-B.

4. An enquiry into a forest offence shall be held by an Officer not below the rank of a Ranger.

5. Every accused who expressed his willingness to have the offence compounded as provided in rule 4 shall forthwith give a written undertaking in that regard in Form D.

6. If, immediately after the offence is detected or at the time of enquiry, the accused is willing to pay in advance any amount towards compensation to be fixed under Sec. 59 of the Andhra Pradesh Forest Act, 1967, any Forest Officer not below the rank of a Forester, may accept such amount and shall issue a receipt duly signed by him for the amount so received:

Provided that the acceptance of any amount as aforesaid shall be without prejudice to any decision that may be taken by the competent authority under these rules in regard to the quantum of compensation or the necessity or otherwise to compound the offence.

7. Any property seized from an accused shall not be released immediately on receipt of the amount of advance compensation paid by him under rule 6 but shall be retained with the forest officer concerned until an order in this behalf issued by the competent authority under rule 8, is received by him.

8. Where the accused gives an undertaking as specified in rule 5, in the case of:-

- (i) all the forest offences, to the Divisional Forest Officer or the Sub-Divisional Forest Officer;
- (ii) all the forest offences where the value of the forest produce involved does not exceed Rs. 500, the Ranger shall be competent to compound the offence under Sec. 59 of the Andhra Pradesh Forest Act, 1967,

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by passing an order in this behalf. Every order so passed shall be in Form-E and shall be communicated to the accused immediately on such passing.

- (iii) However, Forest Range Officers shall *not* compound any offence involving fast moving motorised vehicles, Sandal wood and Red Sanders.

9. Every Officer competent to compound the offence may refuse to compound an offence in any particular case without assigning any reasons;

Provided that where the competent officer refuses to compound an offence, the amount that has been received towards advances compensation from the accused under the rule 6 shall be arranged to be refunded to him by such officer by passing a suitable order in this behalf.

10. Any person aggrieved by an order passed by an officer under rule 8 may prefer an appeal, within fifteen days from the date of receipt of such order, to the Sub-Divisional Forest Officer and where there is no such Sub-Divisional Forest Officer, to the Divisional Forest Officer, in case such order is passed by a Ranger and to the Conservator, in case such order is passed by Sub-Divisional Forest Officer or Divisional Forest Officer, and the order passed thereon by the appellate authority shall be final.

12. In case the value of forest produce, seized is less than Rs. 7,500 and where the accused does not opt for compounding the offence, or the competent authority does not choose to compound the offences the Forest Range Officer may order the prosecution of the accused. In all other cases, where the accused does not opt for compounding the offence or the competent authority does not choose to compound the offence, the Sub-Divisional Forest Officer, Managers of Primary Marketing Societies under the administrative control of Girijan Co-operative Corporation Limited or the Divisional Forest Officer may order the prosecution of the accused.

THE ANDHRA PRADESH PROTECTED FOREST RULES, 1970*

[Framed under Secs. 27(1) and 68(1) of the Andhra Pradesh Forest Act, 1967]

Rules for the Regulation or Use of Natural and Forest Produce in the Protected Forests.

2. (1) No person shall except in accordance with the rules do, attempt to do, or cause to be done, in protected forest any of the following acts:-

- (a) clearing, ploughing or breaking-up of land for cultivation or any other purpose;
- (b) kindling of fire;
- (c) cutting, sawing, conversion and removal of trees and timber and collection and removal of natural produce.

(2) Nothing in sub-rule (1) shall be deemed to prohibit any act done in accordance with any order issued by the Government or with permission of the Chief Conservator of Forests, Conservator of Forests, Divisional Forest Officer, or any officer authorised to grant such permission.

3. Persons belonging to *Scheduled Tribes* are eligible for the following concessions, namely:-

- (i) the removal of timber, bamboos, and forest produce from the protected forests for domestic and agricultural purposes from time to time on payment of seigniorage fees fixed thereof;
- (ii) to graze their own cattle in the protected forests without payment of any fee.

4. The Ranger shall be the competent authority to issue the seigniorage permits, on payment of the specified fees, to the tribals.

5. (1) Any individual or community claiming rights by law or custom or usage having force of law with respect to any protected forest may exercise such rights only after obtaining recognition from the Divisional Forest Officer:

Provided that the Divisional Forest Officer may by order refuse such recognition, if the claims are not established.

(2) Any person aggrieved by an order of the Divisional Forest Officer under sub-rule (1) may prefer an appeal, within thirty days of the receipt thereof, to the Conservator of Forests who shall after holding an enquiry pass an order thereon which shall be final.

(3) The Conservator of Forests may, on his motion for sufficient and valid

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reasons, revise or cancel the recognition granted by Divisional Forest Officer under sub-rule (1).

(4) Any person aggrieved by the decision of the Conservator of Forests under sub-rule (3) may prefer an appeal to the Chief Conservator of Forests within thirty days of receipt of the decision of the Conservator of Forests and the decision of the Chief Conservator of Forests thereon shall be final.

THE ANDHRA PRADESH FOREST DEPARTMENT REWARD RULES, 1970*

[Framed under Sec. 68(2) of the Andhra Pradesh Forest Act, 1967]

3. Rewards to informers.- Any person or persons furnishing information leading to or otherwise contributing to the detection of forest offence and/or successful penal action against the offenders may be granted rewards by the Chief Conservator of Forests, Conservator of Forests, Divisional Forest Officer or Forest Range Officer.

4. Conditions for grant of reward.- (1) The reward made under rule 3 shall be in cash and shall be in accordance with the following terms.

Name of the Officer competent to grant reward	Extent of rewards that may be granted
Chief Conservator of Forests	Rupees ten thousand or 15% of the value (whichever is less) of the seized forest produce or compounding fees collected.
Conservator of Forests	Rupees one thousand or 15% of the value (whichever is less) of the seized forest produce or compounding fees collected.
Divisional Forest Officer	Rupees five hundred or 15% of the value (whichever is less) of the seized forest produce or compounding fees collected.
Forest Range Officer	Rupees one hundred or 15% of the value (whichever is less) of the seized forest produce or compounding fees collected.

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THE ANDHRA PRADESH PRESERVATION OF PRIVATE FOREST RULES, 1978*

[Framed under Sec. 28-G of the Andhra Pradesh Forest Act, 1967]

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

(a) "*Prohibited Trees*", shall mean the trees specified in Sch. I.

(b) "*Reserved Trees*", shall mean the trees specified in Sch. II.

6. No permission shall be required for the cutting and removal in head loads or cart-loads of trees other than reserved or prohibited trees by the local tribals for their bonafide domestic needs.

8. Where permission is granted, the cutting and transportation and sale of specified trees shall be done by the Divisional Forest Officer departmentally in such a manner as may be specified in an order by the State Government.

SCHEDULE-I

[See rule 2 (a)]

1. Vepa	(<i>Azadirachta indica</i>)
2. Ippa	(<i>Madhuca indica</i>)
3. Mamidi	(<i>Mangifera indica</i>)
4. Kunkudu	(<i>Sapindus emarginatus</i>)
5. Mushti	(<i>Strychnos nux-vomica</i>)
6. Chinta	(<i>Tamarindus indica</i>)
7. Panasa	(<i>Artocarpus integrifolia</i> and <i>Artocarpus hirsuta</i>)
8. Karaka	(<i>Terminalia chebula</i>)
9. Tuniki	(<i>Diospyros melanoxylon</i>)
10. Kaniga	(<i>Pongamia glabra</i>)

SCHEDULE-II

[See rule 2 (b)]

1. Bandaru	(<i>Adina cordifolia</i>)
2. Billudu	(<i>Chloroxylon swietenia</i>)

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3.	Jittegi	...	(<i>Dalbergia latifolia</i>)
4.	Yepi	...	(<i>Hardwickia binata</i>)
5.	Raktachandanam	...	(<i>Pterocarpus santalinus</i>)
6.	Yegisa	...	(<i>Pterocarpus marsupium</i>)
7.	Chandanam	...	(<i>Santalum album</i>)
8.	Salwa	...	(<i>Shorea robusta</i>)
9.	Kusum	...	(<i>Schleichera trijuga</i>)
10.	Teku	...	(<i>Tectona grandis</i>)
11.	Maddi	...	(<i>Terminalia tomentosa</i>)
12.	Konda Tangedu	...	(<i>Xlyla dolabriformis</i>)

THE ANDHRA PRADESH FOREST PRODUCE TRANSIT RULES, 1970*

[Framed under Secs. 29(1) and 68 (1) of the Andhra Pradesh Forest Act, 1967]

2. In these rules-

- (3) "Forest produce in transit" includes forest produce found, stored in any place or in the margin of any public road or cart track or footpath whether or not loaded in carts or other vehicles and forest produce found in any river, canal or watercourse whether in rafts or not.

3. No forest produce shall be moved into or from or within the State by land or water, unless such produce is accompanied by a *permit* therefor issued under rule 5 and produced for check immediately on demand:

Provided that where the forest produce is imported into the State from any other State it is enough if such produce is accompanied by a permit issued by the Government of the State from where such produce is imported and the said permit shall be valid only for the transport of such produce and such quantity and the destination specified therein.

5. (1) The Divisional Forest Officer or an officer or person duly authorised by him in this behalf shall, subject to the provisions of the rules, issue permit in Form-I in respect of forest produce to be removed from the forest areas or Government Timber Depots, and in Form-II in all other cases. The Divisional Forest Officer may refuse to issue such permits, if he has any doubt either of ownership or the existence of forest produce itself and, may withhold the issue of transit permits till it is proved to his satisfaction that the forest produce that exists lawfully belongs to the applicant.

(2) The Divisional Forest Officer may satisfy himself about the presence of forest produce to be removed and shall determine the number of permits required, keeping in view the estimated quantity of the forest produce.

(3) The Divisional Forest Officer may, for the purpose of issue of permits in Form II for the forest produce to be removed from private lands, ascertain about the rights and title over the forest produce from such Revenue Officer of the district, as may be specified by the Conservator of Forests.

(5) For the supply of Form-I and Form-II permits in triplicate a rate of Rs. 2.00 per 100 permits in triplicate shall be charged if printed permits are not in stock, the Divisional Forest Officer may permit the person requiring the permits to print the permits and charge at the rate of Rs. 10.00 per 100 permits or less in triplicate for affixing his seal of authority before allowing the use of such permits.

(6) The permit shall be in triplicate duly filled in and signed by the issuing authority. The original shall be delivered to the person moving the forest produce,

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the duplicate shall be sent to the Range Officer concerned and the triplicate shall be retained as counterfoil for record of the issuing authority.

(8) In the event of the Divisional Forest Officer authorising any person not being a Forest Officer to issue the permits, as specified in sub-rule (1), he may, if considered expedient in the interests of safeguarding forest produce belonging to the Government lay down conditions for such authorisation and also collect a reasonable sum of money as security for the fulfilment of such conditions.

9. The permit shall be considered invalid if the quantity and description of forest produce is not mentioned accurately.

10. Save as otherwise provided in rule 8, the permit shall be considered invalid if there is erasure, overwriting or if there is alteration in anything printed or written on the permit and if any column is left unfilled.

11. The forest produce in transit shall be of the description mentioned in the permit and it shall be transported within the time allowed in the permit accompanying the produce on the route and to the destination mentioned therein.

12. Any Forest Officer, any officer of the Police Department not below the rank of a Sub-Inspector or any officer of the Revenue Department not below the rank of Mandal Revenue Officer or any Task Force Officer of the Department of Vigilance and Enforcement not below the rank of Revenue Inspector may, with a view to securing compliance with these rules or to satisfying himself that these rules have been complied with, stop, detain and examine at any place any vehicle in respect of which he has reason to believe that contravention of any of the provisions of these rules has been, is being or is about to be committed.

13. The Divisional Forest Officer shall set up check posts, erect barrier or do both at all or any of the places given in the Sch. I with a view to stop, detain and examine the vehicles and secure compliance of the rules. The Chief Conservator of Forests may, from time to time, amend the Sch. I by adding new check posts in or shifting or deleting the existing posts from the Sch. I.

14. Every person taking any forest produce in any vehicle shall stop at any check post or barrier specified in rule 13 for the purpose of inspection.

15. The officer in charge of the check post or barrier shall, after satisfying himself that the forest produce is genuinely covered as per rules by the permit in Form No. I or Form No. II and that in case of timber such timber bears the Government transit mark, endorse on the said permit, the fact of checking and indicate the date and time of check before allowing the vehicle to proceed further as expeditiously as possible.

16. These rules shall not apply to red-sanders and sandalwood and such classes of timber, firewood and other forest produce and in such areas as are specified in Schs. II and III.

**THE ANDHRA PRADESH MINOR FOREST PRODUCE
(REGULATION OF TRADE) ACT, 1971***
(Act No. 4 of 1971)

An Act to make provision for regulating in the public interest the trade of certain minor forest produce by creation of a State monopoly in such trade in the State of Andhra Pradesh.

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

(4) “grower” means -

- (i) in respect of any minor forest produce grown in any land constituted as reserved forest or in any forest of waste land declared as protected forest under the Andhra Pradesh Forest Act (Act 1 of 1967), the Government; and
- (ii) in respect of any minor forest produce grown in any other land
 - (a) the Government, where the minor forest produce is grown on unoccupied land which is the property of the Government or which is placed under their control and management,
 - (b) the owner, occupier, tenant, lessee or other person having right to the possession and enjoyment of the land included in a unit, on which the minor forest produce is grown and includes every person, who, from time to time, claims title to such produce through him;

(5) “minor forest produce” means any forest produce other than timber, trees (excluding bamboos) and charcoal, specified in the Schedule.

3. Constitution of units.- The Government may, from time to time, divide every specified area into such number of units as they may deem fit in respect of each minor forest produce.

4. Appointment of agents.- The Government may, for the purpose of purchase of and trade in, any minor forest produce on their behalf appoint an agent for each unit;

Provided that nothing in this sub-section shall prevent the appointment of the same person as agent for more than one unit.

5. Restriction on purchase or transport of minor forest produce.-

- (1) Upon the issue of a notification in respect of an area, no person other than—
 - (a) the Government, or

* The complete Act is not reproduced. Only the relevant sections have been extracted.

- (b) an officer of the Government authorised in writing by them in that behalf (hereafter in this Act referred to as the authorised officer), or
- (c) an agent appointed for a unit;

shall sell or purchase or cure or otherwise process or collect or store or transport any minor forest produce to which this Act applies.

Explanation : Any sale to or purchase from the Government, the authorised officer or the agent of a minor forest produce shall not be deemed to be a sale or purchase in contravention of the provisions of this section.

(2) Notwithstanding anything in sub-section (1):-

- (a) a registered grower may collect any minor forest produce from any land belonging to him on which such produce is grown and may transport the minor forest produce so collected from such land to the nearest depot within the unit in which the said land is included; and
- (b) minor forest produce purchased from the Government or from any authorised officer or agent by any person for manufacture of finished goods within the State using such produce or by any person for sale of such produce outside the State may be cured or otherwise processed or stored or transported by such person within or outside the unit in accordance with the terms and conditions of a permit to be issued in that behalf by such authority and in such manner as may be prescribed.

Explanation.- For the purpose of this clause, the expression "transport by such person within or outside the unit" means the transport of minor forest produce at all stages including the transport to any subsidiary distribution centre situated at a place of work or manufacture.]

- (3) Any person desiring to sell any minor forest produce may sell the produce to the Government or the authorised officer or agent in such form and in such manner as may be prescribed.

(4) No grower shall carry on

- (a) any trade or business in,
- (b) any industry with the use of,

the minor forest produce to which this Act applies except in accordance with the provisions of this Act or the rules made thereunder.

6. Constitution of Advisory Committee.-

- (1) The Government shall for each year commencing on the 1st day of July and ending on the 30th day of June next following, constitute, in respect of each minor forest produce, an Advisory Committee for one or more forest divisions in the State consisting of such number of members not less than six but not more than nine, as may be notified by the Government, from time to time, for the purpose of advising the Government in the matter of fixation from time to time, of a fair and reasonable price at which such produce, as is offered for sale in a

division or divisions, may be purchased by the Government or their authorised officer or agent in accordance with the provisions of this Act.

Provided that two of the members shall be from amongst the traders of the respective minor forest produce, or manufacturers of finished goods using such produce; and four members shall be from amongst the growers of the respective minor forest produce other than the Government.

- (5) The Committee shall tender its advice to the Government within such period as the Government may specify in this behalf.

7. Government to fix price in consultation with Committee.- The Government shall, by notification and after consultation with the Committee, fix the price at which any particular minor forest produce shall be purchased by them or by any authorised officer or agent, from growers of that produce registered under section 10 and the price so fixed shall also be published in such other manner as may be prescribed, not later than the 31st day of December; and the price so fixed shall not be altered during the year to which the price relates.

Provided that if the Committee fails to tender its advice in regard to the fixation of such price within the period specified under sub-section (5) of section 6, or such further period, not exceeding fifteen days, as the Government may allow, the Government may proceed to fix the price without further consultation with the Committee.

Provided further that different prices may be fixed in relation to different units, and in so doing regard shall be had amongst other things, to

- (a) prices of the respective minor forest produce obtained or fixed under this Act, or any enactment during the preceding three years in respect of the area comprised in the unit,
- (b) the quality of the minor forest produce grown in the unit;
- (c) transport facilities available in the unit;
- (d) the cost of transport, and
- (e) the general level of wages for unskilled labour prevalent in the unit.

8. Opening of depots and Publication of price list etc., at depots.- There shall be set up in each unit such number of depots and at such places, as the Government may, taking into consideration the convenience of the growers of the respective minor forest produce, direct. A price list of such produce fixed by the Government under section 7 and the hours of business shall be prominently displayed on a notice-board kept for the purpose at every such depot.

9. Government authorised officer or agent to purchase minor forest produce.-

- (1) The Government or authorised officer or Agent shall be bound to purchase the minor forest produce offered for sale at the depot during the hours of business in the raw form, from all the growers registered under Section 10 at the price fixed under Section 7.

Provided that it shall be open to the Government or authorised officer or agent to refuse to purchase any minor forest produce which, in the opinion of the

Government or authorised officer or agent, as the case may be, is not fit for the purpose of manufacture of finished goods using such produce or for any other commercial purpose.

- (2) Any person aggrieved by the refusal to purchase the minor forest produce by an authorised officer or agent under the proviso to sub-section (1) may, within fifteen days therefrom, prefer an appeal to the Divisional Forest Officer, or such other officer as may be empowered by the Government in this behalf, having jurisdiction over the unit.
- (3) On receipt of an appeal under sub-section (2), the Divisional Forest Officer or other officer, as the case may be, shall hold an inquiry, on the spot or at any convenient place, in the prescribed manner and after hearing the parties concerned or their representatives, shall pass such order as he may deem fit, and in case he finds the refusal to purchase the minor forest produce to be improper, he may -
 - (a) Where he considers the minor forest produce in question still suitable for the manufacture of finished goods or for any other commercial purpose, direct the authorised officer or agent, as the case may be, to purchase the same at the price fixed for it and may also award to the person aggrieved such further compensation not exceeding twenty per centum of the price of the produce payable to him, as he may deem fit;
 - (b) Where he considers that the minor forest produce in question has since become unsuitable for manufacture of finished goods or for any other commercial purpose, direct the payment to the person aggrieved of any amount not less than the price of such minor forest produce payable to him under sub-section (1) and such further compensation not exceeding twenty per centum of such price, as he may deem fit by way of damages for the loss suffered by such person.
- (4) Nothing in this section shall be construed as to debar the appropriation of any minor forest produce offered for sale, if the Government or authorised officer or agent has reason to believe that such produce appertains to forest or lands belonging to or under the control of the Government, and paying only such collection charges, if any, as the Government may, from time to time, determine:

Provided that in the case of any dispute in the matter, the Divisional Forest Officer or other Officer, as the case may be, shall hear and dispose of the same in the manner provided in sub-section (3).

- (5) Any person aggrieved by the decision referred to in the proviso to sub-section (4) may, within a period of thirty days from the date of receipt of such decision, prefer an appeal to the Government; and the decision of the Government on such appeal shall be final.

10. Registration.-

- (1) Every grower, other than the Government, shall if the quantity of the minor forest produce grown by him during a year is likely to exceed such

quantity as may be prescribed get himself registered in such manner as may be prescribed.

- (2) As soon as may be after a grower applies for registration under sub-section (1) the Divisional Forest Officer, shall after making such enquiry and verification as he deems fit, issue a certificate of registration to the grower specifying the approximate quantity of the minor forest produce that would be available in a season from the lands of the grower.

11. Registration of manufacturers of finished goods using minor forest produce and exporters of minor forest produce.-

- (1) Every manufacturer of finished goods using minor forest produce, and every exporter of minor forest produce shall get himself registered within such period, on payment of such fee, and in such manner, as may be prescribed.
- (2) Every such manufacturer and exporter registered under sub-section (1) shall furnish a declaration in such form, by such date, and in such manner, as may be prescribed.

12. Disposal of minor forest produce.- Any minor forest produce purchased by the Government or authorised officer or agent under this Act shall be sold or otherwise disposed of in such manner as the Government may direct.

13. Delegation of powers.- The Government may, by notification, delegate any of their powers or functions under this Act, or the rules made thereunder to any officer not below the rank of an Assistant Conservator of Forests, or to any authority, who shall exercise or perform the same, subject to such conditions and restrictions as the Government may specify in the notification.

14. Power of entry, search, seizure, etc.-

- (1) Any forest officer or police officer not below the rank of a Sub-Inspector, or any other person authorised by the Government in this behalf may, with a view to securing compliance with the provisions of this Act, or the rules made thereunder or to satisfying himself that the said provisions have been complied with —
 - (i) stop and search any person, boat, vehicle or receptacle used or intended to be used for the transport of a minor forest produce;
 - (ii) enter and search any place; and
 - (iii) where there is reason to believe that an offence punishable under this Act or any rule made thereunder has been committed in respect of any minor forest produce, seize such minor forest produce together with the receptacles, if any, in which it is contained and all tools, ropes, chains, boats, vehicles or cattle used in committing any such offence.
- (2) Every officer seizing minor forest produce and other property under clause (iii) of sub-section (1) shall place on such produce or other property a mark indicating that the same has been so seized and shall, except where the offender agrees in writing forthwith to get the offence

compounded in the manner prescribed, make a report of such seizure to the Magistrate.

- (5) The minor forest produce and other property seized under clause (iii) of sub-section (1) shall be kept in the custody of the forest officer not below the rank of the forest guard or village headman until the compensation for compounding the offence is paid or until an order of the Magistrate directing its disposal is received.

15. Penalty.- If any person contravenes any of the provisions of this Act or the rules made thereunder -

- (a) he shall be punished with imprisonment which may extend to one year or with fine which may extend to two thousand rupees, or with both;
- (b) the minor forest produce in respect of which such contravention has been made or such part thereof as the court may deem fit, and any boat, vehicle other than a cart drawn by animals, vessel or other conveyance or any other articles used in committing such offence, shall be liable to confiscation:

Provided that if the court is of the opinion that it is not necessary to direct confiscation in respect of the whole, or as the case may be, any of the minor forest produce or other property, it may for reasons to be recorded, refrain from doing so.

16. Attempts and abetment.- Any person who attempts to contravene, or abets the contravention of, any provision of this Act or the rules made thereunder shall be deemed to have contravened such provisions.

19. Power to make rules.- The Government may, by notification and subject to the condition of previous publication, make rules to carry out all or any of the purposes of this Act.

20. Act 1 of 1967 not to apply to minor forest produce.- Nothing in the Andhra Pradesh Forest Act, 1967, shall apply to minor forest produce in respect of matters for which provisions are contained in this Act.

SCHEDULE

[See Sections 1(4) and 2(5)]

Abnus (or Tuniki or Tendu) Leaves

**THE ANDHRA PRADESH SCHEDULED AREAS MINOR
FOREST PRODUCE (REGULATION OF TRADE)
REGULATION, 1979***
(Regulation 1 of 1979)

A Regulation to make provision for regulating in the public interest, the trade of certain minor forest produce by creation of a State monopoly in such trade in the Scheduled Areas of the State of Andhra Pradesh.

2. Definitions.- In this Regulation, unless the context otherwise requires,-

- (b) 'Corporation' means the Girijan Co-operative Corporation Limited, Visakhapatnam;
- (e) 'minor forest produce' means any forest produce other than timber, trees and charcoal, as may be notified by the Government in this behalf;
- (h) 'Scheduled Areas' means the areas which have been or may be declared to be Scheduled Areas by the President under sub-paragraph (1) of paragraph 6 of the Fifth Schedule to the Constitution of India.

3. Appointment of Corporation as Agent.-

- (1) The Government may for the purposes of purchase of and trade in any minor forest produce on their behalf, appoint the Corporation as an agent for any Scheduled Area.
- (2) The terms and conditions of appointment and the manner of the purchase of, and trade in, any minor forest produce by the Corporation and the price at which such minor forest produce shall be purchased by the Corporation from growers shall be such as may be prescribed.

4. Restriction on purchase or transport of minor forest produce.-

- (1) Upon the issue of a notification in respect of any Scheduled Area, no person other than the Corporation shall sell or purchase or cure or otherwise process or collect or store or transport any minor forest produce to which this Regulation applies.

Explanation.- Any sale to or purchase from the Corporation of a minor forest produce shall not be deemed to be a sale or purchase in contravention of the provisions of this section.

- (2) Any person desiring to sell any minor forest produce may sell the produce to the Corporation in such form and in such manner as may be prescribed.
- (3) No grower shall carry on-

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- (a) any trade or business in,
- (b) any industry in the case of,

the minor forest produce to which this Regulation applies, except in accordance with the provisions of this Regulation or the rules made thereunder.

5. Opening of purchase centres and publication of price list at depots, etc.-

- (1) There shall be set up by the Corporation such number of purchase centres and at such places, as it may, taking into consideration the convenience of the growers of the respective minor forest produce, deem fit. A price list of such produce and the hours of business shall be prominently displayed on a notice board kept for the purpose at every such price centre.
- (2) The Corporation shall be bound to purchase the minor forest produce offered for sale at the purchase centre during the hours of business in the raw form from all the growers of the price fixed.
- (3) Any person aggrieved by the refusal to purchase the minor forest produce by the Corporation may prefer an appeal to such authority, in such manner and within such time as may be prescribed. The appellate authority shall dispose of the appeal in such manner as may be prescribed and its decision thereon shall be final.

6. Act of 1971 not to apply to the Scheduled Areas.- Nothing in the Andhra Pradesh Minor Forest Produce (Regulation of Trade) Act 1971, shall apply to minor forest produce in the Scheduled Areas in respect of which the provisions of this Regulation apply.

7. Establishment of check post or barrier and search and seizure, etc.-

- (1) The Corporation may, with a view to secure compliance with the provisions of this Regulation, direct the setting up of check posts or erection of barriers or both wherever deemed necessary.
- (2) Any officer authorised by the Corporation in this behalf may, with a view to securing compliance with the provisions of this Regulation or the rules made thereunder or to satisfying himself that the said provisions have been complied with:
 - (i) stop and search any person, boat, vehicle or receptacle used or intended to be used for the transport of a minor forest produce;
 - (ii) enter and search any place; and
 - (iii) where there is reason to believe that an offence punishable under this Regulation or any rule made thereunder has been committed in respect of any minor forest produce, seize such minor forest produce together with the receptacles, if any, in which it is contained and all tools, ropes, chains, boats, vehicles or cattle used in committing any such offence.

8. Penalty.- If any person contravenes any of the provisions of this Regulation or the rules made thereunder:

- (a) he shall be punished with imprisonment which may extend to one year or with fine which may extend to two thousand rupees, or with both;
- (b) the minor forest produce in respect of which such contravention has been made or such part thereof as the court may deem fit, and any boat, vehicle other than a cart drawn by animals, vessel or other conveyance or any other articles used in committing such offence, shall be liable to confiscation;

Provided that if the court is of the opinion that it is not necessary to direct confiscation in respect of the whole or as the case may be, any part of the minor forest produce or other property, it may, for reasons to be recorded, refrain from doing so.

10. Regulation to override other laws etc.- The provisions of this Regulation shall have effect notwithstanding anything inconsistent therewith in any other law, custom, usage or agreement for the time being in force or any judgement, decree or order of a Court, Tribunal or other authority.

11. Power to make rules.- The Government may, by notification, make rules to carry out all or any of the purposes of this Regulation.

THE ANDHRA PRADESH SANDAL WOOD AND RED SANDERS WOOD TRANSIT RULES, 1969*

In exercise of the powers conferred by Section 29 read with Section 68 of the Andhra Pradesh Forest Act, 1967 (Act I of 1967) and of all other powers hereunto enabling and in supersession of all previous notifications and rules on the subject, the Governor of Andhra Pradesh hereby makes the following rules to regulate the transit of sandalwood and red sanders wood in the State.

3. Conditions for Import, Export and Movement.-

- (1) No person shall import sandalwood, sandal wood chips, sandal wood powder or red sanders wood, red sanders wood chips, red sanders wood powder into, or export sandal wood, sandal wood chips, sandal wood powder or red sanders wood, red sanders wood chips, red sanders wood powder from, or move sandal wood or red sanders wood within, any place in the whole of the State, unless such sandal wood or red sanders wood is accompanied by a permit prescribed in rule 4.
- (2) No piece of the wood and other materials specified in sub-rule (1) or bags containing saw dust or chips of such wood shall be transported unless they bear an authorised marking or seal of the Government as provided in rule 7.

4. Form of permits.-

- (1) In the case of sandal wood or red sanders wood purchased from Government, the permit shall be in Form I.
- (2) In the case of sandal wood or red sanders wood purchased at the Government sale depots in any other State and imported into this State, the permit shall be that used by the Government of that State or any authority in that State responsible for the sale of sandal wood or red sanders wood in that State and such permit shall be valid only for transport of the sandal wood or red sanders wood to the destination specified therein.
- (3) In the case of sandal wood or red sanders wood other than that referred to in sub-rule (1) and (2) or in the case of subsequent movement of the same sandal wood or red sanders wood referred to in sub-rules (1) and (2) the permit shall be in Form II.
- (4) The quantity of sandal wood would be noted in detail in the permit, namely, the number of pieces, measurement of each piece, quality according to the standard of classification and weight of each piece/quality.

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

5. Issue of permits.-

- (1) Permits in Form-I shall be in quadruplicate and shall have all columns filled up by the Divisional Forest Officer or a subordinate officer duly authorised by him in this behalf. The Divisional Forest Officer or the subordinate officer so authorised, as the case may be, shall hand over the original permit to the purchaser, send the duplicate to the Range Officer and the triplicate to the concerned Divisional Forest Office at destination by registered post with acknowledgement due before movement of the consignment and retain the quadruplicate as counterfoil for record in his office.
- (2) Permits in Form-II shall be in quadruplicate and shall have all columns filled up by the Divisional Forest Officer or a subordinate officer duly authorised by him in this behalf. The Divisional Forest Officer or the subordinate officer so authorised shall handover the original to the purchaser to remove the sandal wood or red sanders wood, send the duplicate to the Range Officer and the triplicate to the Divisional Forest Officer at destination by registered post with acknowledgement due before movement of the consignment and retain the quadruplicate as counterfoil for record in his office.
- (3) For supply of Form-I or II permits in quadruplicate, a rate of Rs. 10.00 per 100 permits shall be charged. All permits so issued shall bear the seal of Divisional Forest Officer.

6. Checking of permits.-

- (1) All sandal wood or red sanders wood, as the case may be, in transit shall be produced for examination at every checking station en route even without being asked by any officer for it or when called upon to do so.
- (2) The Officer-in-charge of the checking station shall, after satisfying himself that the sandal wood or the red sanders wood, as the case may be, has actually come from the place and is of the kind, stated in the permit issued by the concerned State Government or by any authority empowered in this behalf, and the permit is in Form I or Form II, as the case may be, and is not in excess of the quantity specified therein, endorse on the permit suitably in token of having passed the consignment and also make necessary entries in the register maintained at the checking station for this purpose. If the officer-in-charge of the checking station is not so satisfied and refuses to endorse in token of passing the consignment, he shall retain the sandal wood or the red sanders wood, as the case may be, and the permit of the concerned State Government or the permit in Form I or Form II, as the case may be, and report the case for orders of the Divisional Forest Officer having jurisdiction over the area stating clearly his reasons for the action taken.
- (3) The quantity of sandal wood or red sanders wood, as the case may be, in transit shall not be more than that entered in the permit and if it is less, the same permit shall not be used again to cover the deficiency.

- (4) The permits referred to in the preceding rules shall, in the case of the imported sandal wood or red sanders wood and sandal wood or red sanders wood for export, be produced with the sandal wood or the red sanders wood, as the case may be, for examination at every checking station en route which the sandal wood or the red sanders wood may be taken.

7. Use and Registration of property marks.-

- (1) All sandal wood or red sanders wood imported from other States and all Government sandal wood or red sanders wood disposed of locally shall bear the marks of the Government of origin in the following manner:
- (a) Every piece of sandal wood or red sanders wood shall bear Government mark at the both ends and in the case of chips and saw dust carried in bags, the latter shall be closed and the fastening sealed with the above mark.
- (2) (a) The ownership of all sandal wood or red sanders wood grown and moved within any area in the State shall be indicated by a property mark affixed in the manner provided in clause (b).
- (b) All such property marks shall be registered at a Divisional Forest Office -
- (i) in accordance with the provisions of sub-rule (3) if the marks relate to sandal wood or red sanders wood extracted from private lands within the area; and
- (ii) in accordance with the provisions of sub-rule (4) if the marks relate to sandal wood or red sanders wood, as the case may be, other than that extracted from private lands within the area.
- (c) A fee of Rs. 25 shall be charged in respect of registration or renewal of a property mark.
- (3) (iii) Every uprooted sandal wood tree, bearing heart wood shall be cleaned upto its heart wood limits. In so cleaning the uprooted sandalwood tree, the departmental hammer mark at the breast height shall be left intact and ring of bark and sapwood 5 to 7 centimeters wide surrounding the departmental hammer mark shall be left uncut.
- (iv) Red sanders wood tree shall be felled so as to retain the hammer mark on the stool.
- (v) Every sandal wood tree so uprooted and cleaned and every red sanders wood tree so cut shall bear its distinct serial number which shall be written legibly in tar anywhere on it if it has not been cut up into pieces or when it has been cut up into roots and pieces or billets, all parts of such tree so cut shall bear in their cut ends, the original serial number assigned to the tree so as to admit of identification and check subsequently by the Divisional Forest Officer or his subordinate, authorised by him in this behalf.
- (vi) The exact situation of the land where each of the sandalwood trees containing heart wood was extracted shall be indicated on the

ground by a stout numbered Peg which shall be well-driven home in the pit formed in the process of uprootal; the number on the Peg being the same as that written on the wood concerned. Such Pegs shall be retained until such time as the Divisional Forest Officer or his subordinate authorised by him checks the sandalwood and verifies the locality of the fellings.

- (vii) (a) The heart wood obtained from each of the sandalwood trees shall thereafter be weighed and the result recorded in the statement in Form VI with an abstract in the remarks column showing the total number of sandal-wood trees extracted and cleaned, their total out-turn expressed in number of pieces (roots, billets separately), and the aggregate of all pieces in respect of which the registration of the property mark is desired.
- (b) the midgirth measurement and the length of each stem and billet obtained from each red sanders wood tree so cut shall be recorded in the statement in Form VII indicating the number of billets obtained from each of such red sanders wood trees with an abstract in the remarks column showing the total number of trees extracts and their total out-turn expressed in number of billets as well as in cubical contents in respect of which the registration mark is desired.
- (viii) (a) The Divisional Forest Officer shall, subject to provisions of sub-clause (b), grant a certificate of registration in Form V with as little delay as possible.
- (b) The Divisional Forest Officer or subordinate authorised by him may require from any person, either when presenting a property mark for registration or at any subsequent time, information as to the source of origin and the quantity of sandalwood or red sanders wood, period of felling, agency, routes, depots, destination and such other details regarding his method of felling, trading or working as the Divisional Forest Officer may think necessary. The Divisional Forest Officer may, after giving a reasonable opportunity, by order, refuse registration or cancel the registration of any property mark if the information required is not given or if he considers that such property mark cannot easily be distinguished from a Government mark, or from a property mark used by another person or if he has reason to believe that the person using the property mark is or has been concerned in any illegal practice with regard to the sandal wood or red sanders wood or for any other good and sufficient reason. The reason for such refusal or cancellation shall in every case be recorded by the Divisional Forest Officer. An appeal against any such order of the Divisional Forest Officer may be preferred to the Conservator of Forests concerned within thirty days from the date of receipt of such orders by the aggrieved party and the decision of the Conservator of Forests shall be final.

- (4) (a) Every application for the registration of property mark in respect of sandal wood or red sanders wood other than that extracted from private land shall be accompanied by fascimiles of the marks proposed.
 - (b) After the receipt of the application, the Divisional Forest Officer or the subordinate authorised by him, shall check such sandalwood or red sanders wood, as the case may be, and if the result of checking is satisfactory, the Divisional Forest Officer shall subject to the provisions of sub-clause (b) of clause (vii) of sub-rule (3) grant a certificate of registration in Form V with as little delay as possible.
 - (c) All the sandalwood or the red sanders wood, as the case may be, in respect of which a property mark is registered under this sub-rule shall be marked with the Divisional Pass Hammer by the Divisional Forest Officer or by the subordinate authorised by him to do so.
- (4-A) The pass hammer used on the sandal wood or red sanders wood timber is to be clearly indicated on the permits.

9. Exemption of small quantities of sandal wood or red sanders wood carried by a bonafide traveller, or cut and carried by ryots for their own use.- Nothing in these rules shall apply to -

- (a) Sandal wood not exceeding 10 kgs. in weight carried by any bonafide traveller or under his authority, or his personal use; or
- (b) Sandal wood cut and carried by a *ryot* for his personal use from trees growing on the *patta* lands of the said *ryot* or of any neighbouring *ryots* from whom title to such sandal wood is derived, provided that he obtains a certificate of title from the village munsiff or village patwari and that the quantity cut and carried on each occasion does not exceed 10 kgs. in weight;
- (c) Red sanders wood and sandal wood fashioned into dolls, images, toys and vessels and idols of worship, provided the weight does not exceed 10 kgs;
- (d) Red sanders wood cut and carried by a *ryot* for own use from trees growing on the *patta* lands of the said *ryot* or of any neighbouring *ryots* from whom title to such red sanders wood is derived; provided that he obtains a certificate of title from the village munsiff and that the quantity cut and carried on each occasion does not exceed one log 4.50 metres in length 40 cms. in girth at the buttend.

10. Special facilities for companies and persons engaged in the Distillation of Sandal wood.- The Divisional Forest Officer may, in his discretion, include the name of any company or person engaged in the distillation of sandal wood or in the manufacture of any of its by-products, in an approved list to be maintained by him and he may also at his discretion remove the name of any such company or person from such list. The Divisional Forest Officer, may, by written order, exempt any company or person, whose name is included in the approved list from the provisions of sub-rule (2) of rule 5 in so far as it relates to the retention of sandal wood in custody for purpose of check and from the provisions of clause (b) and (c) of sub-rule (4) of rule 7 and may cancel any such order, after giving opportunity to a person or company in this regard.

THE ANDHRA PRADESH RED SANDERS WOOD POSSESSION RULES, 1989*

3. No person shall possess red sanders heart wood or a piece of wood containing both sapwood and heart wood at which the heart wood does not exceed 10 cm. in diameter at thickest end, in excess of 20 kgs. in any shape or indulge in manufacture or trade except under a licence issued in this behalf in Form-II by a Divisional Forest Officer and except in the circumstances mentioned hereunder.

4. Every application for grant of licence shall be in Form-I and accompanied by authenticated documents and other material in support of origin of procurement of red sanders wood and a fee of Rs. 1000. The Divisional Forest Officer may grant or reject the licence depending upon the circumstances, without assigning any reasons.

5. Any persons aggrieved by an order of the Divisional Forest Officer under rule may appeal to the Conservator of Forests, within a period of fifteen days from the date of receipt of cancellation order, whose decision shall be final.

6. On the licence so granted under Rule 4 the owner or the stockist shall not at any one time possess over and above one metric tonne of red sanders wood in any form or shape obtained from *patta* lands or otherwise except with the written permission of the Divisional Forest Officer concerned. Licence once granted under Rule 4 shall not be transferable and no person shall hold power of attorney on behalf of licensee.

8. The Divisional Forest Officer may on an application made by the licensee, renew his licence, or reject his licence without assigning any reasons therefor.

11. (1) If at any time, it appears to the Divisional Forest Officer that the licensee has contravened any of the provisions of these rules or failed to comply with any of the conditions laid down on the grant of licence he may cancel or suspend the licence after giving the said licensee fifteen days' notice in writing for making his representation against such cancellation or suspension.

(2) Any person aggrieved by the orders of Divisional Forest Officer passed under sub-rule (1) may within fifteen days from the date of receipt of such order prefer an appeal to the Conservator of Forests who may pass such orders as he deems fit after recording the reasons therefor.

(3) Any person aggrieved by the orders of Conservator of Forests passed under sub-rule (2) may within 30 days from the date of receipt of the orders, prefer a second appeal to Chief Conservator of Forests; who may pass such order as he deems fit, after recording the reasons therefor, and whose orders shall be final.

12. (1) Every owner, or stockist who intends to possess any consignment of red sanders wood, shall immediately inform the Divisional Forest

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Officer in writing of the actual source from which he intends to obtain such red sanders wood and supply such information as the Divisional Forest Officer may require to satisfy himself about bonafide of such red sanders wood.

- (2) The owner or stockist who comes into possession of a consignment of red sanders wood shall within 24 hours of such possession, intimate the Divisional Forest Officer about the fact of actual possession and the same shall be inspected by an officer not below the rank of Forest Range Officer without any delay; and till such inspection is over the owner or stockist shall not tamper with the identification marks that may have been already placed on such red sanders wood.
 - (3) An owner or stockist shall not convert such red sanders wood as he may have come into possession in accordance with sub-rule (2) except in accordance with orders in writing of the Divisional Forest Officer.
13. (1) Every owner or stockist storing red sanders wood or its products obtained by manufacture or conversion shall furnish the Divisional Forest Officer full particulars of the place of storing together with a certified sketch of the premises. The premises should be distinguishable by a Notice Board conspicuously displayed. Any change in such place shall be made only after giving prior intimation to Divisional Forest Officer.
- (2) Every owner or stockist shall maintain a stock register showing receipts and issues of red sanders wood or all its products.
 - (3) A true extract of stock register in Form-III shall be submitted to Divisional Forest Officer before 10th of every month. In the event of failure to furnish the return he shall be liable for a penalty which shall not be less than Rs. 1000/- but shall not exceed Rs. 2500/- and in the event of failure to pay the penalty so levied, the licence shall stand automatically cancelled.
14. (1) The stock register and stock of red sanders wood shall be kept open for inspection at any time by any Forest Officer not below the rank of Forester having jurisdiction over the area concerned.
- (2) The inspecting officer, if he has reason to believe that the terms of licence has been contravened, seize any or all records, stocks of red sanders wood, vessels and conveyance used in such contravention. This seizure may be removed by the inspecting officer for safe custody and produce in the Court having jurisdiction over the area within a week.

16. Nothing in these rules shall apply to red sanders wood put in actual domestic use. Whether an article made of red sanders wood is put for domestic use or not would be decided by the Divisional Forest Officer concerned, and his decision shall be final.

STATE
OF
BIHAR

NTFP including Medicinal Plants

Acacia catechu ('Katha'), *Curculigo orchioides* ('Kali musli'), *Diospyros melanoxylon* ('Tendu'/'Kendu' leaves), *Hemidesmus indicus* ('Magrabu', 'Salsa'), *Madhuca indica* ('Mahua'), *Pterocarpus marsupium* ('Bija sar'), *Rauvolfia serpentina* ('Sarpangandha', 'Dhan marna'), *Shorea robusta* ('Sal' seed), *Terminalia arjuna/belerica/chebula* ('Arjun'/'Bahera'/'Harra'), *Vanda tessellata* ('Rasna'), *Vitex peduncularis* ('Nag bail', 'Bhadu'), etc.

Nationalized NTFP Items

Tendu leaves, Sal seed, Mahua seed, Karanj and Kusum seeds.

Monopoly Agency

- * Territorial Circles of Forest Department (Tendu leaves).
- * M/s Bihar State Forest Development Corporation (Sal seed, Mahua, Tendu leaves, Harra, Bahera, Palas, etc.).
- * State Tribal Cooperative Development Corporation (few NTFP items).

Price Fixation Method

- * By High Power State Committee for Sal seed, Tendu leaves & Mahua seeds.



Legal Framework

(1) Indian Forest Act, 1927

- * Applicable to the State, contains provisions relating to the transit of forest produce and duty leviable on forest produce.

(2) Bihar Private Forests Act, 1947

- * Provides for the conservation of private forests.
- * Regulation of the removal of forest produce from private forests.

(3) Bihar Forest Produce (Regulation of Trade) Act, 1984 and Rules, 1993

- * Regulate the trade and other related matters of certain forest produce by creation of a State monopoly in such trade.

- * The Schedule to the Act contains medicinal plants like *Rauvolfia serpentina*, *Andrographis paniculata*, *Terminalia chebula*, *Terminalia belerica*, etc.

- * State Government to fix the price in respect of each class of NTFP.

- * State Government to set up purchasing centers or depots in each unit.

- * Forest/ Police Officer may enter and search any place, and seize NTFP with a view to secure compliance with the provisions of this Act.

INTRODUCTION

The State of Bihar, stretching from the Himalayan foothills in the north to Orissa in the south, has a total land area of 1,73,877 sq. km. out of which the forest area comprises of about 29,226 sq. km. (16.8%). Tropical Moist/ Dry Deciduous forests are predominantly found in the State. The State of Bihar, a mineral-rich State, also possess a variety of NTFP including medicinal plants:

Botanical Names	Common Names
<i>Acacia catechu</i>	Katha
<i>Alstonia scholaris</i>	Chhatim
<i>Aristolochia bracteata</i>	Kiramar, Worm-killer
<i>Aristolochia indica</i>	Isharmul
<i>Asteracantha longifolia</i>	Gokshura
<i>Curculigo orchioides</i>	Kali musli
<i>Diospyros melanoxylon</i>	Tendu/ Kendu
<i>Hemidesmus indicus</i>	Magrabu, Salsa
<i>Madhuca indica</i>	Mahua
<i>Pterocarpus marsupium</i>	Bija sar
<i>Rauvolfia serpentina</i>	Sarpangandha, Dhan marna
<i>Shorea robusta</i>	Sal
<i>Sterculia urens</i>	Gulu, Gum karaya
<i>Strychnos nux-vomica</i>	Kuchla
<i>Symplocos racemosa</i>	Lodh
<i>Terminalia arjuna/</i> <i>belerica/ chebula</i>	Arjun/ Bahera/ Harra
<i>Urginea indica</i>	Jangli-piyaz
<i>Vanda tessellata</i>	Rasna
<i>Vitex peduncularis</i>	Nag bael, Bhadu

Some of the above-mentioned NTFP are specifically mentioned in the *Schedule* to the Bihar Forest Produce (Regulation of Trade) Act, 1984. The Act seeks to regulate the trade and other related matters of certain "forest-produce" by creation of a State monopoly in such trade in the State of Bihar. The term "forest produce" means any forest produce as specified in the Schedule.

It may be noted that the State decided to eliminate the contractor system by 1982-83. Departmental working was introduced in the State. One of the important policies of the State Government was the formation of cooperative societies of the tribal people with the sole purpose of giving them economic benefit.

Under the Act, the Bihar State Tribal Co-operative Development Corporation, the Bihar State Forest Development Corporation, LAMPS (Large Scale Multi Purpose Society), etc. could be appointed as an *agent* to deal in specified forest-produce.

Some of the other important features of the Act are as follows:

- (i) *Restriction on purchase or transport of specified forest-produce* (Sec. 5) - Only the Government or an agent shall purchase or transport or import or export a specified forest-produce. However, a primary collector, or any person having the right in any forest in respect of any forest-produce may transport the forest-produce not exceeding the prescribed quantity for his *bona fide* use or consumption. For commercial purchases or transport, a *permit* is required.
- (ii) *Constitution of Advisory Committee* (Sec. 6) - For each calendar year, the Government shall constitute an Advisory Committee for the purpose of advising the Government in the matter of fixation of fair and reasonable price of each specified forest-produce at which produce may be purchased from a primary collector by the Government or Agent.

The Committee is to consist of various representative groups or sections of the society, viz. traders, manufacturers, primary collectors, members of State Legislature and Parliament, etc.

- (iii) *Government to purchase the specified forest produce* (Sec. 9) - The Government or the Agent shall be bound to purchase at the price fixed (by the Advisory Committee) specified forest-produce offered for sale at the depot.
- (iv) *Registration of manufacturers, traders, etc.* (Sec. 10) - A compulsory registration is provided for under the Act.
- (v) *Disposal of specified forest-produce* (Sec. 11) - All forest produce collected or to be collected from the forest or the State or purchased by the Government or Agent shall be disposed of by public *auction* every year.
- (vi) *Retail sale of specified forest produce* (Sec. 12) - A compulsory *licence* is required.
- (vii) *Enforcement provisions* - The Forest/ Police Officer has been provided with the power to enter, search and seizure (Sec. 15), viz. to seize the specified forest-produce in respect of which he suspects that any provision of this Act, or the rules made thereunder has been, is being or is about to be contravened.

A person contravening any of the provisions of this Act or rules made thereunder shall be punished with imprisonment which may extend to one year or fine upto Rs. 2,000, or both.

The Bihar Forest Produce (Regulation of Trade) Rules, 1993 lays down the duties and liabilities of an Agent (*Form B-1*) appointed under the Act. An overriding power has been conferred on the Government, viz. the Government shall have the right to purchase and collect produce in the unit by itself and the liability of the agent, shall to that extent be reduced. The Rules provide for issuance of various *transit permits* for transportation of the produce (*Form B-2*).

Form-C under the Rules provide for 'Declaration by manufacturer, trader, industrialist of specified forest-produce'. *Form-D* provides for 'Application form for

registration of manufacturer, trader, industrialist, etc.'. *Form-E* provides for 'Certificate of registration as manufacturer, trader, etc.'. *Form-F* provides for 'Sales certificate'. *Form-G* provides for 'Application form for the grant of licence to licence holder of specified forest-produce'. *Form-H* provides for 'Licence for the retail sale of specified forest produce'.

Bihar Private Forests Act

Also see Part-I, 'Central and States' Forest Acts'.

Summing Up

In Bihar, 'Tendu' leaves and oilseeds (Sal, Karanj, Mahua and Kusum) are "nationalized" items. 'Tendu' leaves collection is being undertaken departmentally by the State Forest Department. The Forest Development Corporation has monopoly over oilseeds of tree origin, viz. Sal, Mahua, Kusum, Karanj, Palas and Harra, Bahera and Aonla, and their procurement is being done by involving LAMPS and other agencies. The State Tribal Cooperative Development Corporation has confined its activity mainly to procurement of Barbatti (Beans), tassar cocoons and few other NTFP items through LAMPS. Other NTFP items, viz., leaves, grass, medicinal plants, gums, etc., are purchased directly by contractors.

An ordinance to regulate the trade of 34 NTFP items was issued in 1977 (followed by the Act in 1984), but it has not been possible to organize State trading in all the 34 NTFP items. The *agents* appointed by the State are generally, contractors or industrialists, described as purchasers in law. This system make the problems of collection, handling, etc., easier or otherwise they would be the responsibility of the Department. The agents purchase produce formally on behalf of the Department, but the collection is channelled to the final purchaser in reality. The State becomes entitled to the difference between the agreed sale price and the collection charges. Thus, the primary objective of removing the middlemen and passing on the maximum benefit to the primary collector is defeated (Shukla, R.S., 2000).

The system also suffers from the defects of non-collection of material from the more interior areas, over-exploitation of accessible areas, low payment for collection to tribals and declaration of quantities less than actually collected. Delays in payments by the legally appointed agents/buyers disrupts the basic ideology, viz. sustainable supply of NTFPs.

Because of poor bargaining power and ignorance of prices, alternative markets and premium for quality, the collector has to settle for whatever meagre cash he gets as a price for his collection of NTFPs from the traders and his agents. From the point of view of most of the collectors/ gatherers, the 'markets' are the middlemen (agents) and/ or the Government buying organisation. In case of some non-nationalised NTFPs, the local administration and the State Governments do announce attractive purchase prices, which gets diluted as the practices of wrong deductions on account of weight, quality and unit rate are commonplace. The trader does not purchase NTFPs unless market conditions are favourable, whereas the collector cannot hold on to his collected or harvested stock for long due to poverty (Ramji & Bhatnagar, 2000).

Definite, specific and stringent rules are needed regarding the cultivation, collection, processing and marketing of medicinal plants. Further, there is a need to augment cultivation of medicinal plants, viz. *Rauvolfia serpentina*. Alleviation of poverty and empowerment of the tribals/ villagers regarding the collection and marketing of NTFP is the need of the hour as they (tribals) have little incentive or skill to practice controlled and sustainable harvesting. Village Forest Protection and Management Committees (VFPMCs) formed under the Joint Forest Management (JFM) scheme is a step in this direction.

**THE BIHAR FOREST PRODUCE (REGULATION OF TRADE)
ACT, 1984***
(Act No. 12 of 1984)

An Act to provide for regulating in the public interest the trade and other related matters of certain forest produce by creation of a State monopoly in such trade in the State of Bihar.

2. Definitions.-

- (4) "Forest Produce" means any forest-produce as specified in the Schedule (hereinafter called the specified forest-produce);

3. Constitution of units.- The Government may divide as provided in the rules every specified area in such number of units as it may deem fit.

4. Appointment of agents.-

- (1) The State Government may, for the purchase and trade in specified forest-produce on its behalf, appoint one or more agents in respect of different units for all or any specified forest-produce and any such agent may be appointed in respect of more than one unit.
- (2) A Gram Panchayat, LAMPS, PACs (Protected Area Committees), Vyapar Mandal or the Bihar State Tribal Co-operative Development Corporation Ltd., or the Bihar State Forest Development Corporation Ltd. or any similar Corporation dealing in specified forest-produce shall be appointed as an agent under sub-section (1) above for one or more units.

5. Restriction on purchase or transport of specified forest-produce.-

- (1) On the issue of a notification with respect to any area, no person other than-
- (i) The Government;
 - (ii) The officer of the Government authorised in writing in this behalf;
 - (iii) An agent in respect of the unit in which the specified forest-produce is grown or found;

shall purchase or transport or import or export such specified forest-produce in and from such area.

Explanation I.- Purchase of specified forest-produce from the State or the State Government or the aforesaid Government Officer or agent or a licensed vendor shall not be deemed to be a purchase in contravention of this Act.

Explanation II.- A person having no interest in the holding who has acquired the right to collect the specified forest-produce grown or found on such land shall

* The complete Act is not reproduced. Only the relevant sections have been extracted.

be deemed to have purchased such produce in contravention of the provisions of this Act.

(2) Notwithstanding anything contained in sub-section (1)-

- (i) A primary collector of a specified forest-produce may transport the specified forest-produce from any place within the unit wherein such specified forest-produce is grown or is found in any other place in that unit;
 - (ii) any person may transport the specified forest-produce not exceeding the quantity as may be prescribed, from the place of purchase of such produce to place where such produce is required for his bonafide use or for consumption;
 - (iii) specified forest produce purchased from the Government or any Officer or Agent specified in the said sub-section by any person for industrial purposes or manufacture of goods within the State in which such specified forest-produce is used, as raw material or by any person for sale or consumption outside the State or for import in this State or transport through this State or by the licensed vendor may be transported by such person in accordance with the terms and conditions of a *permit* to be issued in that behalf by such authority and in such manner as may be prescribed; and
 - (iv) any person having the right in any forest in respect of any specified forest produce under any law for the time being in force, may transport such produce for his domestic use or consumption in such quantity and subject to such terms and conditions as may be prescribed.
- (3) Any person desiring to sell the specified forest produce may sell them to the aforesaid Government Officer or Agent at any depot situated within the said unit:

Provided that the Government, the Government Officer or Agent shall not be bound to repurchase the specified produce once sold.

6. Constitution of Advisory Committee.- The Government shall, by a notification in the Official Gazette, constitute for each calendar year commencing from 1st January and ending on the 31st December an Advisory Committee (hereinafter referred to as the Committee) for the whole State for the purpose of advising the Government in the matter of fixation of fair and reasonable price of each specified forest produce at which produce may be purchased from a primary collector by the Government or its authorised Officer or Agent, as are offered for sale in accordance with the provisions of this Act. The Committee shall consist of not less than nine and not more than thirteen members and shall submit its report to the Government within such time as may be specified therein. The Government may constitute separate committee for separate specified forest produce:

Provided that-

- (i) one member shall be from amongst the traders of such specified forest produce or manufacturer of goods in which the specified forest produce is used as raw material;

- (ii) one member shall be other than Government from amongst the primary collectors of such specified forest produce;
- (iii) there shall be three members from Assembly, one from Council and one from Parliament of which one would be compulsorily from Scheduled Caste and one from Scheduled Tribe. Normally all the members would be from predominantly forest areas;
- (iv) two Government Officers nominated by the Government;
- (v) the Forest Minister will be President of this Committee and Vice-President of the Committee will be nominated amongst the members nominated under Sec.6(iii).
- (vi) two members shall be from the local Munda, Manki and Pramukh (Headman) of Chhota Nagpur and Santhal Praganas areas.

7. State Government to fix price in consultation with Committee- The Government shall, after considering the recommendation of the Committee constituted under Sec.6, fix the price at which specified forest produce shall be purchased by it or by any authorised officer or agent from primary collectors of specified forest produce in the specified area and shall publish the same in the official Gazette and in such other manner as may be prescribed on such date or dates as may be specified by Government in this behalf.

The price so fixed shall remain in force up to the end of the calendar year and shall not be altered during that year:

Provided that if the committee fails to tender advice within the period specified under Sec. 6, the Government may fix the price without such advice.

8. Opening of depots, display of price lists, etc. at the depots.- There shall be set up such number of depots and at such places as the Government may taking into consideration the convenience of primary collectors of specified forest produce direct and a price list of specified forest produce fixed by the Government under Sec. 7 and the hours of business shall be prominently displayed on the notice-board kept for the purpose at every such depots.

9. Government to purchase the specified forest produce.- The Government or any authorised officer or agent shall be bound to purchase at the price fixed under Sec. 7 specified forest produce offered for sale at the depot during the hours of business.

10. Registration of manufacturers, traders and industrialists.-

- (1) Every manufacturer who uses any specified forest produce as a raw material and every trader and every industrialist whose annual requirement or consumption as the case may be, exceeds such quantity, as may be prescribed, shall get himself registered within such period, on payment of such fee in such manner as may be prescribed.
- (2) Every such manufacturer or trader or industrialist shall submit such declarations, accounts and returns and such forms to such officer and at such intervals as may be prescribed.

11. Disposal of specified forest produce.- All forest produce collected or to be collected from the forest or the State or purchased or to be purchased by the Government

or by its agent unless otherwise directed, shall be disposed of by public *auction* every year preferably before the end of April.

It shall be permissible to sell produce in anticipation of collection or purchase by or on behalf of Government on the basis of estimate.

12. Retail sale of specified forest produce.-

- (1) No person shall engage himself in retail sale of a specified forest produce except under a *licence* granted under this section.
- (2) The Government may, for the purpose of facilitating retail sale of specified forest produce within the State, grant licence to as many persons as it may deem fit.
- (3) Any person who desires to engage himself in retail sale of a specified forest produce shall make an application in such form to such authority and in such manner as may be prescribed.
- (4) The prescribed authority may, on receiving such application and on payment of such fee as may be prescribed, grant or renew a licence under such terms and conditions as may be prescribed.

13. Delegation of powers.- The Government may by order delegate any or all powers or functions under this Act or the rules made thereunder, to any Forest Officer not below the rank of an Assistant Conservator of Forests who shall exercise or perform the same, subject to such conditions and restrictions as the Government may specify in the order.

15. Power to enter, search and seizure, etc.-

- (1) Any Forest Officer not below the rank of a Range Officer of Forest or Police Officer not below the rank of a Sub-Inspector, or any other person authorised by the Government in this behalf may with a view to securing compliance with provision of this Act or the rules made thereunder, or to satisfying himself that the said provisions has been complied with -
 - (i) stop and search any person, boat, vehicle or receptacle used or intended to be used for the transport of specified forest produce;
 - (ii) enter and search any place;
 - (iii) seize the specified forest produce in respect of which he suspects that any provision of this Act, or the rules made thereunder has been, is being or is about to be contravened along with the receptacles, containing such produce and all tools, ropes, chain, boats or/and vehicles used in committing any such offence.
- (2) Every Officer seizing specified forest produce and other property under Cl. (iii) of sub-section (1) above shall place on such produce, if physically possible, a property mark indicating that the same has been seized and shall, except when the offender agrees in writing forthwith to get the offence compounded in the manner prescribed, make report of such seizure to the Magistrate.

16. Government and authorised officer not liable for damages to forest produce at depot or under custody.- The Government or authorised officer shall not be

responsible for any loss or damage which may occur in respect of any specified forest produce or property seized in respect of Cl.(iii) of sub-section (1) of Sec. 15, or taken possession of under Sec. 31, while lying in depot or in custody of a forest officer or an authorised officer, and no forest officer or authorised officer shall be responsible for any loss or damage unless he causes such loss or damage negligently, maliciously or fraudulently:

Provided further if the seized forest produce is of a perishable nature whose quality may deteriorate on storage, the same may be sold by public auction or by tender by a Forest Officer not below the rank of Assistant Conservator of Forests, or any other officer as may be empowered by the Government in their behalf and deposit the sale proceeds in the Government Treasury.

18. Custody of seized property during pendency of cases.- The specified forest produce and property seized under Cl. (iii) of sub-section (1) of Sec. 15 shall be kept in the custody of the Forest Officer not below the rank of a Forest Guard or a village headman or any other person considered suitable by the officer seizing the forest produce until the compensation for compounding the offence is paid or until an order of the Magistrate directing its disposal is received.

20. Penalty- If any person contravenes any of the provisions of this Act or rules made thereunder-

- (1) he shall be punished with imprisonment which may extend to one year or fine which may extend to two thousand rupees, or both:

Provided that penalties which are double of those mentioned above may be inflicted in case where the offence is committed after preparation for resistance to lawful authority or where the offender has been previously convicted of a like offence;

- (2) the specified forest produce in respect of which such contravention has been made or such part thereof as the Court may deem fit, any boat, tools, vehicles, animal, vessel or other conveyances or any other articles used in committing such offence, shall be forfeited to the Government and shall vest in Government free from encumbrances;
- (3) Such forfeiture may be in addition to any other punishment prescribed for such offence.

21. Disposal of produce and other seized property on conclusion of trial.- On the conclusion of the trial of the offence any specified forest produce in respect of which such offence has been committed, if it is the property of Government or has been confiscated, and other forfeited property shall be taken charge of by a Forest Officer, in any other case, may be disposed of in such manner as the Court may direct.

23. Compounding of offences.-

- (1) State Government may, by notification in the Official Gazette, empower Forest Officer to-
 - (i) accept from any person against whom a reasonable suspicion exists, that he has committed any offence punishable under this Act, a sum of money by way of compensation for the offence which such person is suspected to have committed; and

- (ii) when any specified forest produce has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.
- (2) On payment of such sum of money or such value or both, as the case may be, to such officer the suspected person shall be discharged, the specified forest produce and other property, if any, seized, shall be released and no further proceedings shall be taken against such person or property.
- (3) A Forest Officer shall not be empowered under this section unless he is a Forest Officer of a rank not inferior to that of an Assistant Conservator of Forests and the sum of the money accepted as compensation under Cl. (i) of sub-section (1) shall in no case exceed the sum of one thousand rupees.

24. Saving of power to release property seized.- Nothing hereinbefore contained shall be deemed to prevent any forest officer empowered in this behalf by the State Government from directing at any time the immediate release of any property and produce seized under Sec. 15 of this Act.

28. Presumption that specified forest produce belongs to Government.- When in any proceeding taken under this Act or in consequence of anything done under this Act, a question arises as to whether any specified forest produce is the property of the Government such produce shall be presumed to be property of the Government, until the contrary is proved.

29. Power to make rules.- The Government may subject to the condition of the previous publication, make rules to carry out all or any of the provisions of the Act.

31. Lien on specified forest produce for such money.-

- (1) When any such money is payable for or in respect of any specified forest produce, the amount thereof shall be deemed to be a first charge on such specified forest produce and such specified forest produce may be taken possession of by a Forest Officer until such amount has been paid.
- (2) If such amount is not paid when due, the Forest Officer may sell such specified produce by public auction or tender and the proceeds of the sale shall be applied first in discharging such amount.
- (3) The surplus, if any, if not claimed within two months from the date of sale by the person entitled thereto, shall be forfeited to the State Government.

32. Limitation of applicability of Indian Forest Act, 1927 and any other law or order.-

- (1) Nothing contained in the Indian Forest Act, 1927 (XVI of 1927), shall apply to specified forest produce in respect of matters for which provisions are contained in this Act.
- (2) Nothing contained in any other thing having force of law in any region of the State shall apply to the specified forest produce in respect of matters for which provisions have been made in this Act.

SCHEDULE

[See Section 2(4)]

I. Timber of following species-

(i)	Sal	...	(<i>Shorea robusta</i>)
(ii)	Asan	...	(<i>Terminalia tomentosa</i>)
(iii)	Kadam	...	(<i>Adina cordifolia</i>)
(iv)	Bija sar	...	(<i>Pterocarpus marsupium</i>)
(v)	Sagwan	...	(<i>Tectona grandis</i>)
(vi)	Sisham	...	(<i>Dalbergia sissoo</i>)
(vii)	Sidha	...	(<i>Lagerstroemia parir flos</i>)
(viii)	Dhup	...	(<i>Pinus roxburghii</i>)
(ix)	Eucalyptus	...	(<i>Eucalyptus</i> spp.)
(x)	Ghora karanj	...	(<i>Ailantus excelsa</i>)
(xi)	Harra	...	(<i>Terminalia chebula</i>)
(xii)	Bahera	...	(<i>Terminalia belericia</i>)
(xiii)	Satsal	...	(<i>Dalbergia latifolia</i>)
(xiv)	Ghogar	...	(<i>Garuga pinnata</i>)
(xv)	Karanj	...	(<i>Pongamia pinnata</i>)
(xvi)	Kusum	...	(<i>Schleichera oleosa</i>)
(xvii)	Bhulan	...	(<i>Hymenodictyon excelsum</i>)
(xviii)	Salai	...	(<i>Boswellia serrata</i>)
(xix)	Champa	...	(<i>Michelia champaca</i>)
(xx)	Semal	...	(<i>Salmelia malabaricum</i>)
(xxi)	Arjun	...	(<i>Terminalia arjuna</i>)
(xxii)	Dhaura	...	(<i>Anogeissus latifolia</i>)
(xxiii)	Siris	...	(<i>Albizzia chinensis</i>)
(xxiv)	Khaja	...	(<i>Bridelia retusa</i>)
(xxv)	Gambhara	...	(<i>Gmelina arborea</i>)
(xxvi)	Toon	...	(<i>Cedrela toona</i>)
(xxvii)	Chhatim	...	(<i>Alstonia scholaris</i>)
(xxviii)	Palas	...	(<i>Butea monosperma</i>)
(xxix)	White siris	...	(<i>Albizzia procera</i>)
(xxx)	Sandam	...	(<i>Ougeinia oogeinensis</i>)
(xxxi)	Phaldu	...	(<i>Mitragyna parvifolia</i>)
(xxxii)	Kendu / Tendu	...	(<i>Diospyros melanoxylon</i>)

II. Fruits and Seeds of-

(i)	Sal	...	(<i>Shorea robusta</i>)
(ii)	Kusum	...	(<i>Schleichera oleosa</i>)
(iii)	Mahua	...	(<i>Madhuca indica</i>)
(iv)	Karanj	...	(<i>Pongamia pinnata</i>)
(v)	Palas	...	(<i>Butea monosperma</i>)
(vi)	Maula	...	(<i>Butra parviflora</i>)
(vii)	Kamala	...	(<i>Mallotus philippinensis</i>)
(viii)	Chiraunjee	...	(<i>Buchanania lanzan</i>)
(ix)	Harra	...	(<i>Terminalia chebula</i>)
(x)	Bahera	...	(<i>Terminalia belericica</i>)

- | | | | |
|-------|-------------|-----|---------------------------------|
| (xi) | Amla/ Aonla | ... | (<i>Emblica officianalis</i>) |
| (xii) | Kachnar | ... | (<i>Bauhinia tomentosa</i>) |

III. Flowers of Mahua (*Madhuca indica*)

IV. Gums and Resins of-

- | | | | |
|-------|-------------|-----|-------------------------------------|
| (i) | Gum Karaya | ... | (<i>Sterculia urens</i>) |
| (ii) | Gum Katila | ... | (<i>Cocolospermum religiosum</i>) |
| (iii) | Gum Dhaura | ... | (<i>Anogeissus latifolia</i>) |
| (iv) | Sal resin | ... | (<i>Shorea robusta</i>) |
| (v) | Salai resin | ... | (<i>Boswellia serrata</i>) |

V. Grasses of-

- | | | |
|-------------|-----|-------------------------------|
| Sabai grass | ... | (<i>Eulaliopsis binate</i>) |
|-------------|-----|-------------------------------|

VI. Lac

VII. Tassar (Cocoon)

VIII. Medicinal plants-

- (i) *Rauvolfia serpentina*
- (ii) *Rauvolfia tetraphylla* synopsis *R. canescent*
- (iii) *Costus speciosus*
- (iv) *Oroxylum indicum*
- (v) *Andrographis paniculata*

IX. Fibre yielding plants-

- | | | |
|-------|-----|---------------------------|
| Sisal | ... | (<i>Agave sisalana</i>) |
|-------|-----|---------------------------|

X. Leaves-

- | | | | |
|------|-------|-----|----------------------------|
| (i) | Mahul | ... | (<i>Bauhinia vahili</i>) |
| (ii) | Sal | ... | (<i>Shorea robusta</i>) |

XI. Bamboos-

- (i) *Dendrocalamus* spp.
- (ii) *Bambusa* spp.

XII. Katha-

- | | | |
|-------|-----|---------------------------|
| Khair | ... | (<i>Acacia catechu</i>) |
|-------|-----|---------------------------|
-

BIHAR FOREST PRODUCE (REGULATION OF TRADE) RULES, 1993*

3. Constitution of Units.-

- (1) The State Government may divide, any specified area in relation to a specified forest produce from time to time in such number of units as it deems fit by issuing notification in the Official Gazette;
- (2) The Government may also notify the entire State as one unit, for one or more produce.

4. Appointment of Agent after inviting applications- The Government shall publish notice in the Official Gazette giving terms and conditions of agency to invite application for appointment of agent for the unit for all or any produce for a specified time.

Provided that the Government may consider to appoint the Bihar State Tribal Co-operative Development Corporation or the Bihar State Forest Development Corporation Limited or any other Government undertaking (as an agent for one or more than one produce and for one or more than one unit) even without publication of notice inviting application for such appointments.

6. Appointment of agents without inviting applications- Notwithstanding anything contained in these rules, the Government may appoint if it deems fit and necessary, without inviting application but after recording reasons in writing to appoint any Co-operative Society, Gram Panchayat, VFPMC (Village Forest Protection and Management Committee), Bihar State Tribal Co-operative Development Corporation Ltd. or any Government undertaking as its agent for one or more than one of the produce in respect of one or more units.

7. Execution of agreement.- After appointment as an agent such appointed agent shall execute an agreement in Form- B-"1" within 15 days of the issue of the order of appointment.

8. To make good of the loss-

- (i) The Agent shall be liable to make good of the loss if any, sustained by the Government due to the cancellation of appointment.
- (ii) The amount of loss shall be calculated in the following manner :-

$L = D \times R$: where L- loss to the Government

D- The difference of the quantity of the specified forest produce notified for the unit and the total quantity which is collected and delivered.

R- Rate per unit of quantity at which Government sells the specified forest produce *minus* all expenses per unit of quantity incurred by the Government till delivery of the specified forest produce to the purchaser.

* The complete Rules are not reproduced. Only the relevant parts have been extracted

- (iii) The loss shall be equal to the amount obtained by multiplying the quantity which is collected and delivered short of the quantity notified for the unit and the figure which is the difference between the rate of sale per unit of quantity and all expenses incurred by the Government till delivery of the specified forest produce to the purchaser.
- (iv) The loss aforesaid shall be recoverable as arrears of land-revenue including the amount of interest, if any.

9. Purchase and collection of produce by agent- The agent shall purchase and collect the produce of only such quality which is fit for the purpose of consumption or is used as raw material for manufacture or trade and is described to the trade of the produce within the unit in accordance with the instructions issued for the purpose.

10. Agents to be responsible for protection and storage of produce- The agent shall for proper protection and storage of purchased and collected produce be responsible and as such, shall take all precautionary measures to prevent any loss to the quantity till the whole collected stock is disposed off to such officer or person, as the Government may direct and in such manner as prescribed in the order of appointment and shall also be responsible for any loss or damage in quality and quantity during his charge and liable to compensate such loss to the Government as may be fixed in this regard.

11. Purchase of specified forest produce by the Agent- The agent shall purchase the specified forest produce from such primary collectors collecting the specified forest produce from the specified areas, at the rate fixed by the Government.

13. Over-riding power of the Government- Nothing contained in the foregoing provisions shall confer on the agent an exclusive right to purchase and collect specified forest produce in the unit for which he is appointed and the Government shall have the right to purchase and collect produce in the unit by itself or by an officer authorised by it and the liability of the agent, shall to that extent be reduced.

16. Transportation of specified forest produce for *bona fide* use or for consumption or disposal-

- (1) Any person under Cl. (ii) of sub-section (2) of Sec. 5 of the Act may transport the specified forest produce from the place of purchase to a place where such produce is required for its *bona fide* use or for consumption not exceeding the quantity to be specified and notified by Government from time to time.
- (2) Any person having a right on forest produce in any forest in respect of specified forest produce may under Cl. (iv) of sub-section (2) of Sec. 5 of the Act transport such produce for his domestic use or consumption the quantity of which will be notified by Government from time to time.

17. Transit permit-

- (1) Under the provisions of Cls.(ii), (iii) and (iv) of sub-section (2) of Sec. 5, transportation of the produce shall be regulated by issue of following types of transit permit issued by the Divisional Forest Officer or other officers as notified by State Government from time to time. The Divisional

Forest Officer or other officers so notified may authorise any other officer under him to issue the permits on his behalf but such officer shall not be below the rank of Range Officer of forests. But no such delegation shall be done in respect of TP 3 and TP 4.

Sl. No.	Type of Transportation	Proforma of Transit Permit
1.	From the collection depot of the Government agent to the storage godown	T.P. 1
2.	For the transportation from one storage godown to another godown/distribution centre	T.P. 2
3.	For the transportation of the sold produce from one place to another inside the State	T.P. 3
4.	For the transportation of the sold produce outside the State:	T.P. 4

Provided that the officer so notified shall if he has reason to believe that the officer authorised by him for issuing permit is not appropriate cancel such authority immediately.

- (2) Application form for issuing any type of transit permit under Cl. (iv) shall be in Form B-2 and shall be submitted for issue of transit permit:

Provided that the authorised officer may if he has reason to believe that the produce for which application form has been submitted has been obtained illegally or has been collected improperly reject the said application form by order in writing after giving the applicant reasonable opportunity of being heard as he may think fit in the circumstances.

- (3) All types of transit permit shall, be issued under the following conditions:-

- (i) Concerned transit permit for transporting each consignment of the produce at the time of transportation shall, by a registered transport only, be for any mode of transportation.
- (ii) The produce shall only be transported by such routes as specified in the permit and the permit shall be produced for inspection at such places as specified therein.
- (iii) The produce shall not be transported from the forest between sunset and sunrise except with the permission of the Divisional Forest Officer or any other officer notified by Government or an officer duly authorised by him in writing in his behalf.
- (iv) The permit shall be valid for such period as specified therein.
- (v) Transit permit may be cancelled by the officer issuing such permit or by an officer above his rank if there are reasons to believe that it has been misused or there is possibility of its being misused.

18. Registration of manufacturers/traders and industrialist of the forest produce-

- (1) Every manufacturer who uses any produce as raw material and every trader or industrialist as the case may be whose annual consumption or requirement is more than the quantity specified by Government from time to time shall as required under Sec. 10, declare his stock in Form "C" and after payment of annual registration fee to be specified by Government from time to time get himself registered individually for each produce in the manner hereinafter provided.
- (2) (i) The application form for registration under Sec.10, shall be in Form "C" to be obtained on payment of requisite fee from the office of the Divisional Forest Officer and be submitted to the Divisional Forest Officer under whose jurisdiction the place of business of manufacturer/trader/industrialist is situated or any other officer who may be notified by Government or who is authorised as such to do after depositing in advance the annual registration fee to be fixed and notified from time to time by Government and a copy of receipt shall be attached with the application form.
- (ii) The Divisional Forest Officer or any officer notified by Government or any other officer authorised by him may after investigation in such manner as he thinks necessary either issue the registration certificate in Form "E" or cancel the application mentioning the reasons, therefor.
- (3) The registration shall be valid only for the calendar year for which the certificate is issued.
- (4) Every registered manufacturer/trader or industrialist of the produce shall keep a register (stock) and the particulars of the stock in such form and for such period as may be prescribed by the Government, be submitted to the Divisional Forest Officer or any other officer with whom he is registered.
- (6) The registration certificate of such manufacturer/trader or industrialist who has violated any provision of the Rule or Act, or condition of agreement made with the Government, or has been punished under Sec. 20 or an action has been taken against him under Sec. 15, shall be liable to be cancelled by the Divisional Forest Officer or any other officer notified by State Government after giving the manufacturer/trader or industrialist of an opportunity of being heard as he may think proper under the circumstances by an order in writing for such period of time which may extend up to three years.

19. Appeal.- The concerned manufacturer/trader or industrialist of the produce who is aggrieved by the aforesaid order, may appeal within thirty days from the date of the order to concerned Conservator of Forests or any other officer to be notified by the Government to be an appellate officer.

20. Sale Certificate, seizure and release of produce.- The Government or its authorised officer or Agent shall give sale certificate in Form "F" to the purchaser

of the produce, who shall produce such certificate in support of his claim of purchasing the produce if any Forest or Police Officer so demands and in case of not producing the same his claim shall not be accepted and such stock shall be, deemed to be the property of the Government and shall be seized by the Forest or the Police Officer as the case may be:

Provided that the stock may if the purchaser produces the evidence before the Divisional Forest Officer or any officer notified for the purpose within fifteen days from the date of seizure of such produce, be released by the Forest Officer or the Police Officer.

21. Grant of licence for retail sale of forest produce-

- (1) Any person, who desires to engage himself in retail sale of a produce shall obtain a *licence* in the manner hereinafter provided.
- (2) The application form for licence under Sec. 12 shall be in Form "G" which may be obtained from the office of the Divisional Forest Officer notified by the Government on payment of requisite fee to be prescribed and for each produce separate application form shall be required.
- (3) Application form shall be submitted to the Divisional Forest Officer or any other officer notified by the Government who may after such enquiry as he may think fit, cancel or may direct the applicant to deposit annual fee for licence prescribed under these rules.
- (4) Annual fee for licence based on expected quantity of the produce for trading by the applicant during the calendar year and the maximum quantity of the produce allowed for trading shall be notified by the Government.
- (5) The applicant shall pay the annual fee as directed by the Divisional Forest Officer or by any other officer notified for this purpose and produce the deposit certificate within seven days of the direction.
- (6) The Divisional Forest Officer or any other officer notified for the purpose shall grant a licence for one or more produces in Form "H" on producing the deposit certificate.
- (7) Every licence holder shall keep the Books of Accounts of the produces and shall produce the particulars of the stock to the concerned Divisional Forest Officer or any other officer notified for the purpose in such form and within such period as may be prescribed by the Government.
- (9) The licence of such licence-holder of the produce who has contravened any of the provisions of the Act or the rules or conditions of the agreement, made with the Government, or has been punished under Sec.20, or an action has been taken against him under Sec.15, shall be liable to be cancelled by the officer issuing the licence after giving such person an opportunity of being heard, as he may think proper under the circumstances by an order in writing and such person may be refused licence for the period which may extend up to three years.
- (10) The concerned licence holder of the produce if aggrieved by aforesaid order may appeal to the concerned Conservator of Forests or any other

officer notified by the Government in this behalf who will be an appellate officer, within thirty days from the date of the order.

- (12) Licence-holder shall purchase the quantity of required produce for retail sale from the Government or from the officer authorised by the Government or from the authorised agent.
- (13) Licence-holder will sell the produce in retail for personal use or for consumption upto the quantity as specified by the Government from time to time.

23. Publication of price of the produce- The Government shall under Sec. 7 apart from publication in the Official Gazette, get the price of the produce published from time to time locally and by distribution of pamphlets and by beating of drums and by such other manner, it may deem fit.

BIHAR FOREST PRODUCE (REGULATION OF TRADE) RULES, 1993
FORM B-1
(See Rule 7)

This agreement has been executed on between Governor, of Bihar (hereinafter called Government and the post which has its successor, representative and and M/s S/o P.S. Dist. (hereinafter called agent and the post which has its heir, necessary representative and).

Because the trade of the said Forest Produce is regulated by the provisions under Sec. 2(4) of Bihar Forest Produce (Regulation of Trade) Act, 1984 and Rules made under this;

And because on the request of the agent Government has agreed to appoint agent for the unit or herein given terms and conditions:

So this agreement paper is witness to this effect and hence both sides mutually agree on the following terms:

- (1) Government hereby appoints Shri M/s as agent of the unit (hereinafter called unit) for the heresaid purposes.
- (2) This agreement is valid from date to until it is being terminated by the Government prior to this date according to the terms and conditions of the agreement paper.
- (3) Terms and conditions of the notice issued for invitation of application form for appointment of agent under Bihar Forest (Regulation of Trade) Act, 1984 (Bihar Act 12, 1984), Bihar Forest Produce (Regulation of Trade) Rules, 1993 and Notification No. dated will be the part of this agreement paper and it will be deemed to be inserted as if it has been inserted specifically in this agreement paper.
- (4) The agent will be paid Rs. in the form of wages for the whole season at the end of season in the unit (name of the forest produce) for collection and quantity of unit for the purpose of delivery but-
 - (i) the agent will be eligible to get extra wages for collection and delivery more than mentioned above @ Rs. per (quantity of unit).
 - (ii) a calculated amount @ Rupees per (quantity) of unit from wages will be deducted for collection and delivery less than above-mentioned number.
- (5) If the agent has given written notice to Government 15 days prior to the end of reserved working period in which he desired for the renewal of the agency and in which he has followed and executed terms and conditions in whole as framed by the Government and if Government has every reason to believe that he has tried his best for maximum collection of the said forest produce from the unit, then the Government may agree on yearly renewal of this agreement with agent on the terms and conditions for the year concerned, although Government is not bounded in any respect to do so.

(6) The agent hereby clearly agrees with the State Government on the following points:

- (i) That the agent will work in his transaction for the forest produce for and on behalf of Government. Every cost and expenditure desired under this agreement paper i.e., trimming, storage, transportation and shifting will not exceed the rate fixed by Government. Above-mentioned investment and expenditure of following parts (4) and (5) does not include compensation for the punishment due to ignorance or malpractices of the agent. He is to finish the work from the advance money on his account and after that from the amount he receives according to conditions of the agreement and whole amount of expenditure done by him for and on behalf of Government will be adjusted at the time of part or final accounting.
- (ii) The agent would purchase the said forest produce from the producer and/or collect from the land of the State and if the Forest Officer of the area or the officer so authorised by the Government orders in writing, then he would tie the produce, would pack, in the sack, would transport it to the desired place accordingly. The purchased and collected forest produce would not be less than the quantity.....
- (iii) The agent would collect or purchase forest produce of such quality which is for the purpose of consumption and which is fit for trade as raw material and if there is any doubt regarding the quality of the produce, the decision of the Divisional Forest Officer will be final:
Provided that the agent will be responsible for the rejected said forest produce if found correct on the basis of quality and the loss suffered by the Government will be realised from the security deposit of the agent and also as revenue arrear.
- (iv) The agent will give purchase rate as fixed under Sec. 7 of the Act by the Government to the authorised collector.
- (v) The agent will give collection expenditure as notified in the Notification of the Government Gazette to these persons who will collect forest produce from Government land and other land.
- (vi) The agent will purchase and collect forest produce in such quantity from appointed lawyer for the unit or such officer division (hereinafter said as Forest Officer) from time to time.
- (vii) The agent will purchase or collect forest produce for the Government and on behalf of the Government until the said Forest Officer does not direct him to handover the forest produce to the distributor or to other persons.
- (viii) The agent will open such collection depot from his own expenditure inside the unit and will construct storage godown on such centres as directed by the said Forest Officer. The agent will neither relax nor stop the purchase or collection work in any depot until he gets the direction in writing from Divisional Forest Officer or the Officer authorised by the Divisional Forest Officer.

- (ix) The agent will not remove the forest produce neither from collection depot nor from storage godown without written permit of the said Forest Officer.
- (x) The agent will specially display in the branch of that area on every collection depot, the forest produce centre and rate of collection as notified by the Government.
- (xi) The agent will obey such instructions in the execution of the agreement as directed in writing by the Forest Officer from time to time.
- (xii) The agent will keep books of accounts in form as directed under rules from time to time.
- (xiii) The agent will present such statements in such duration to Divisional Forest Officer as directed by Divisional Forest Officer. The agent will present the statement of collected and delivered forest produce in whole calendar year and financial year to Forest Officer on 31st December and on 31st March in every calendar year.
- (xiv) The agent will facilitate to inspect the accounts and stock kept in collection depot and storage godown to the said officer and by officer authorised by the said Forest Officer.
- (xv) The agent would be held responsible for any damage occurred due to his negligence or mistake during his work in any Government forest. The said Forest Officer will fix compensation for such damage. The decision which will be according to the appeal to its immediate superior will be final and will be binding to both parties. But the compensation for the damage would not be finalised without giving the proper chance of hearing to the agent.
- (xvi) The agent will observe all rules and regulations, upto date revision and orders made and issued with immediate effect under Indian Forest Act, 1927 and Bihar Forest Produce (Regulation of Trade) Act, 1984. If the agent receives any information regarding violation of the rules, regulations and orders by any person or persons then he would inform at once the information of such violation to the nearest Forest Officer and make all out-efforts to locate such concerned person or persons and if so necessary, in order to make the person and persons arrested and to make person or persons faulty he will help the particular concerned officer.
- (xvii) The agent hereby is committed to execute all desired works and duties being done by him and not to be done and not to be executed which is prohibited by said Act and said Rules under it. And he himself mortgages the amount as security for observance and compliance in totality of the terms and conditions of this agreement. Its counting is thus-

$$KA = \frac{BHA (MA - YA) \times 20}{100}$$

where-

BHA = Assumed number of units of quantity of forest produce in concerned unit fixed by Government or any authorised Forest Officer.

MA = Purchase rateper (unit of quantity) approved by State Government for concerned unit under rules for the concerned forest produce.

YA = Collection expenses per unit of quantity as fixed by the State Government for concerned forest produce in given unit.

KA = Security deposit.

This security deposit will be deposited in favour of Divisional Forest Officer. The agent is also agreed to give the amount of minimum of Rs. 1000 (one thousand) and maximum of Rs. 2000 (two thousand) to the Government for the coverage of every such act or work done by him or the persons appointed by him which violates the said Act, said Rules and the conditions of the agreement.

- (xviii) If the agent does not purchase and collect the forest produce and or does not deliver in such quantity as the provision is in sub-part (ii) and (iii) of the above stated part (6) then it would be deemed that he has violated his duties as an agent and he is liable to pay Rs. (unit of quantity) which would be fixed by Government or Divisional Forest Officer.
- (xix) The agent will present accounts of all the expenses done by him on behalf of Government and remuneration and the amount given by State Government or Divisional Forest Officer for the fulfilment of the amount received for purchase and collection after the delivery of any lot or loss of forest produce and balance amount payable to him, if any, will be paid according to rules. During doing so the said Forest Officer will deduct such amount after justified hearing of the agent which is payable to Government due to any compensation/ reimbursement or any other cost of charge and which is recoverable as per agreement from the agent or which has the possibility of recovery.
- (xx) Any such amount will be recovered from the agent which is to be paid as compensation to the primary collectors of forest produce notified under Sec. 8 of the Act due to the illegal refusal of notified forest produce by the agent.
- (7) The agent hereby clearly declares that he will be responsible for the safety and storage of the notified forest produce in his control and he will take every necessary step for safety of the stock of the notified forest produce from fire and air or rain after lapse of time or otherwise till end of the date of the agreement.
- (8) If the agent does not observe the provisions of the agreement the Government will terminate the agreement after carefully considering the matter without casting any negative effect on any other powers and

compensation due to it which the Government has. After the termination of the agreement, the Government-

- (a) shall confiscate the security deposit;
 - (b) shall recover all amount of compensation reimbursement dues as revenue arrears from the agent which is recoverable or can be recovered as per the agreement, and
 - (c) shall have the power to blacklist the agent for not more than three years.
- (9) Any amount recoverable from the agent under the agreement will be recovered as revenue arrears.
- (10) Any dispute, dissension or question related with the agreement or its subject-matter will be directed to the immediate higher officer or Divisional Forest Officer for single point arbitration and the decision of such arbitrator would be final and binding on both the parties. The arbitrator has power to increase the time in respect of giving decisions and publishing them from time to time.

In witness whereof and in favour of his agreement the said have signed on this agreement paper on the day and year written above.

Signature, name and address of witnesses.

- 1.
- 2.

Signature, full name and address of the agent and date.

Signature for and on behalf of Governor, Bihar.

BIHAR FOREST PRODUCE (REGULATION OF TRADE) RULES, 1993 FORM "B-2"

[See Rule 17(2)]

Proforma of application for issue of Transit Permit

- (a) Name of applicant.
- (b) Name and quantity of purchased specified forest produce.
- (c) Name of Unit/Units from which specified forest produce purchased.
- (d) Place(s) where specified forest produce is collected and stored, if stored at more than one place give quantity at each place.
- (e) Type of permit required.
- (f) Quantity for which permit is required.
- (g) Time period for which validity of permit is required.
- (h) Place from where to where specified forest produce is to be transported. From to
- (i) Mode of transportation (Land/Water/Air).
- (j) Routes through which specified forest produce is to be transported.
- (k) Places where specified forest produce is to be produced for verification.
- (l) Name of godown(s) where transported specified forest produce is to be stored.
- (m) Quantity to be stored at each godown is to be mentioned.
- (n) Mention the quantity and name of purchaser to whom sold.
- (o) Number of packages (certificate of sale to be enclosed).
- (p) Declaration by applicant.

I/We declare that I/we have no objection to the inspection of the specified forest produce by any concerned Divisional Forest Officer or any Forest staff authorised by him to do so during transportation and storage of aforesaid forest produce.

Place.....

Date.....

Signature of applicant

Note.- Separate application is made for each specified forest produce. Strike off which is not applicable.

BIHAR FOREST PRODUCE (REGULATION OF TRADE) RULES, 1993
FORM "C"
 [See rule 18 (1)]

Declaration by Manufacturer/Trader/Industrialist of Specified Forest Produce

I/We..... hereby declare that I/we are the actual Manufacturer/Trader/Industrialist of Specified Forest Produce (.....). Details of my/our business is as follows:-

1. Name of person or firm or company in whose name business is transferred.....
2. Registration number of firm or company.....
3. Name of centres of business where office or godown is situated.
Office.....

Office

Godown

1.

1.

2.

2.

3.

3.

4.

4.

4. Present stock of specified forest produce in each godown at the time of declaration.

.....
 Name and address of Godown

.....
 Name and quantity of Specified
 Forest Produce

1.

2.

3.

4.

5. Name of trade in which specified forest produce (.....) is being utilised as a raw material or used otherwise.
6. Name of such finished products in which specified forest produce (.....) has been used as a raw material in the previous two years and quantity of such used specified forest produce:-

Year

Particulars of finished products

Quantity of used Specified
 Forest Produce (.....)

Types of finished products

1

2

3

4

7. Estimated quantity of yield of ready finished material for the calendar year 19..... and estimated requirement of specified forest produce (.....) for the same,-

- (a) Estimated yield of finished materials
- (b) Estimated quantity of specified forest produce required:

8. Quantity of specified forest produce exported year-wise during last two years-

Year	Where exported	To whom exported or sold	Particulars of specified forest produce	
			Place	quantity
1	2	3	4	5

1.

- (1)
- (2)
- (3)

2.

- (1)
- (2)
- (3)

9. Estimated (quantity) to be exported during next year ...

I/We declare that I/we read and understood the provisions of the Bihar Forest Produce (Regulation of Trade) Act, 1984 and rules made thereunder.

The particulars given below are true to the best of my/our belief and knowledge and I/we shall produce evidence in support for the same as and when required.

Signature of Manufacturer/Trader/Industrialist

Date of submission of.....

Place.....

Declaration :-

Produced in duplicate to (officer)at

(Place)on (Date)

Signature of Manufacturer/Trader/Industrialist

BIHAR FOREST PRODUCE (REGULATION OF TRADE) RULES, 1993 FORM "D"

[See rule 18 (2)]

Application form for Registration of Manufacturer/Trader/Industrialist of
Specified Forest Produce under Sec.10

1. Name of applicant, his father's name and Address

In case of Registered Firm or Company-

- (a) Name of Firm or Company.
- (b) Registration No. and year.
- (c) Name and address of authorised person (attorney) (one copy of power of attorney be enclosed).

2. Place(s) of business and situation of Head Office.

Name and address of place(s) of business. Address of Head Office.

(a)

(b)

(c)

(d)

3. Description of trade of (.....) specified forest produce-

- (a) Quantity of utilised forest produce as raw material specified per year.....

- (b) Quantity exported outside the State Year Quantity
during last three years.

19

19

19

Total

Average

- (c) Name of place(s) where specified forest produce is specified.

- (d) Estimated quantity of specified forest produce-

- (i) As raw material for manufacturing.
- (ii) For the purpose of trading.
- (iii) For the purpose of export.

Grand Total

Name Address Capacity

- (e) Description of godown where specified Forest produce is stored.

- (1)
- (2)
- (3)
- (f) Mode of procurement of required quantity in past.
- (g) Registration number and date of Central Excise Duty.
- (h) Registration number of Sales Tax-State and Central and No-Dues Certificate.
- (i) Application since when working as a -
 - (i) Manufacturer, or
 - (ii) Trader, or
 - (iii) Industrialist.
4. Name and address of two respectable persons, other than own relation-
 - (a)
 - (b)
5. Particulars of Registration-
 - (a) Year for which registration is required.
 - (b) Quantity of specified forest produce.
 - (c) Had the applicant been registered previously?
 - (d) If yes, mention the year and for which specified forest produce?
6. For what quantity?
In which Forest Division?
7. Any other information or evidence in support of the fact that the applicant is a Manufacturer/Trader/Industrialist.
8. Evidence supporting deposit of Registration fee.

Place.....

Date.....

Signature of Applicant

STATE
OF GOA

NTFP including Medicinal Plants

Asparagus racemosus ('Satavari'),
Boerhaavia diffusa ('Punnarva'),
Cassia occidentalis ('Kasaundi'),
Citrullus colocynthis ('Indrayan'),
Datura metel ('Dhatura'), *Holarrhena*
antidysenterica ('Kurchi'), *Saraca*
indica ('Ashoka'), *Salvia plebia*
('Samunder sok'), *Santalum album*
('Sandal'), *Strychnos nux-vomica*
('Kuchla'), etc.

Monopoly Agency

- * State Forest Department.

Price Fixation Method

- * By State Forest Department.

Goa

Legal Framework

(1) Indian Forest Act, 1927

- * Contains provisions relating to the transit of forest produce and the duty leviable on forest produce.

(2) Goa, Daman and Diu Forest Rules, 1964

- * Rules framed under the Indian Forest Act, 1927.
- * A 'pass' required in respect of transit of forest produce.
- * All forest produce imported into the State to be covered by a 'foreign pass'.
- * Examination of forest produce in transit by forest officers.
- * Rules also provides for the preservation, protection and exploitation of Reserved and other trees in occupied lands.

(3) Goa, Daman and Diu Preservation of Trees Act, 1984 and Rules

- * Establishment of the Tree Authority, which shall be responsible for the preservation of all trees within its jurisdiction.
- * No person shall fell or remove or dispose of any tree or forest produce in any land, except with the previous permission of the Tree Officer.
- * All owners to effectively protect all the trees growing in the lands/ areas under their control.
- * Imprisonment upto one year provided under the Act for violations of the prohibitions.

INTRODUCTION

Goa, a part of the Union Territory of Goa, Daman and Diu, became the twenty-fifth State in the Indian Union in 1987. Goa (including Daman and Diu), possess a forest area of about 1,424 sq. km. (38.4%) out of the total land area of 3,702 sq. km. Some of the important NTFP including medicinal plants in the State are:

Botanical Names	Common Names
<i>Asparagus racemosus</i>	Satavari
<i>Boerhaavia diffusa</i>	Punnarva
<i>Cassia occidentalis</i>	Kasaundi
<i>Citrullus colocynthis</i>	Indrayan
<i>Datura metel</i>	Dhatura
<i>Holarrhena antidysenterica</i>	Kurchi
<i>Saraca indica</i>	Ashoka
<i>Salvia plehia</i>	Samunder sok
<i>Santalum album</i>	Sandal
<i>Strychnos nux-vomica</i>	Kuchla

The State Government has enacted Acts/ Rules to ensure a sustainable harvest of forest produce. The Indian Forest Act, 1927 is applicable to Goa. The Goa, Daman and Diu Forest Rules, 1964, framed under the Indian Forest Act, 1927, lays down rules regarding the transit of forest produce. No forest produce shall be moved into, or from, or within the State, except with a 'pass' from some officer or person duly authorized. Provided that no pass shall be required for the removal of any forest produce which is being removed for the private consumption by any person, in exercise of a privilege granted in this behalf by the Government, or of a right recognized under the Act, within the limits of a village. All forest produce imported into the State otherwise than by sea shall be covered by a 'foreign pass'.

Under the rules, forest produce in transit may be stopped and examined by forest officers, if they have reasonable grounds for suspecting that any money which is due to the Government in respect thereof has not been paid, or that any forest offence has been or is being committed in respect thereof. The rules also provide for the preservation, protection and exploitation of reserved and other trees in occupied lands. Every person seeking to obtain permission for cutting or uprooting any trees shall apply in writing to the Divisional Forest Officer.

The Goa, Daman and Diu Preservation of Trees Act, 1984, is an Act to provide for the preservation of trees in the State. The Act provides for the establishment of the Tree Authority for each revenue district in the State. Notwithstanding anything contained in any other law for the time being in force, the Tree Authority shall be responsible for the preservation of all trees within its jurisdiction.

The Act also provides for the appointment of Tree Officers for the purposes of this Act. No person shall fell or remove or dispose of any tree or forest produce in any land, whether in his ownership or occupancy or otherwise, except with the previous permission of the Tree Officer. Every person, who is granted permission under this Act to fell or dispose of any tree, shall be bound to plant trees.

The Act provides that all the owners shall effectively protect all the trees growing in the lands or the areas under their control and where the Tree Officer is of the opinion that adequate measures have not been taken to protect the trees from any damage, he may direct the owner to take such measures as are considered necessary to protect trees from damage. The Act also provides for the adoption of trees.

Any person who contravenes any of the provisions of the aforesaid Act or rules or orders made thereunder shall, on conviction, be punished with imprisonment, which may extend to one year or with fine, which may extend to Rs. 1,000 or with both. The **Goa, Daman and Diu Preservation of Trees Rules** have been framed under the Act.

THE GOA, DAMAN AND DIU FOREST RULES, 1964*

In exercise of the powers conferred by Sections 26, 32, 41, 42, 51 and 76 of the Indian Forest Act, 1927 (XVI of 1927), and of all other powers enabling it in this behalf and in supersession of all previous rules made in this behalf, the Government of Goa, Daman and Diu is pleased to make the following rules:-

2. Interpretation.- In these rules, unless there is anything repugnant in the subject or context-

- (a) "Act" means the Indian Forest Act, 1927;
- (c) "Section" means a section of the Act.

Chapter V Transit of Forest Produce "Section 41" A. Forest Passes

22. Regulation of Transit of Forest Produce by means of passes.-

- (1) The routes by which alone timber or other forest produce shall be imported, exported or moved into, from or within the Union Territory shall be those passing through Dodamarg, Patradevi, Molem, Polem and Mormugao.
- (2) No forest produce shall be moved into, or from, or within the territory of Goa, Daman and Diu, except as hereinafter provided, without a pass from some officer or person duly authorized by or under these rules to issue such pass, or otherwise than in accordance with the conditions of such pass or by any route or to any destination other than the route or destination specified in such pass:

Provided that no pass shall be required for the removal-

- (a) except to a bunder, landing place or railway station-
 - (i) of any forest produce which is being removed for private consumption by any person, in exercise of privilege granted in this behalf by the Government, or of a right recognized under the Act, within the limits of a village;
 - (ii) of twigs, leaves, brushwood and grass intended solely for conversion into ash-manure.
- (b) of firewood not exceeding three inches in diameter at the thickest part, grass or leaves, the property of one person or the joint property of two or more persons, which is conveyed in quantities not exceeding one headload once in 24 hours unless it be brought to a bunder, landing place or railway station or to any areas to which the

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

Government may from time to time declare by notification in Government Gazette that this exemption shall not extend, or

- (c) of such forest produce as may be exempted by the Government from the operation of the rules in this Chapter by notification in the Government Gazette:

Provided further that no pass as required under sub-rule (2) shall be issued for import or export or moving into, from or within the Union Territory of timber or other forest produce except by the routes prescribed in sub-rule (1).

23. Officers and persons to issue passes.-

- (1) The following officers and persons shall have power to issue passes under these rules (namely):-

Officers

- (a) for forest produce from land which is not included in a reserved or protected forest and is more than ten miles distance from a reserved or protected forest, the revenue patel, or the police patel of the village if the revenue patel is illiterate, or village accountant, and
- (b) for forest produce from land other than that described in clause (a), the Conservator of Forests, the Divisional Forest Officer, the sub-Divisional Forest Officer or any other officer including a revenue patel or a police patel or village accountant, authorized in this behalf in writing by the Conservator of Forests, Divisional Forest Officer or Sub-Divisional Forest Officer;

Other Persons

- (c) for forest produce owned by any person or his agent, if so authorized in writing by the Conservator of Forests, or by any Divisional Forest Officer or Sub-Divisional Forest Officer specially empowered in this behalf in writing by the Conservator of Forests; provided that such authorization shall specify the period during which it shall remain in force.

25. Separate passes for each load.- No forest pass shall ordinarily cover more than one load, whether such load be carried by a person, any animal or in a vehicle. But the Divisional Forest Officer, subject to the control of the Conservator of Forests, may, whenever he deems fit, order that one pass may cover any number of headloads or animal loads not exceeding 50 and any number of cart loads not exceeding 10 for journey not exceeding 15 miles from and to the same place and undertaken at one and the same time.

28. Foreign pass.- All forest produce imported into the territory of Goa, Daman and Diu otherwise than by sea shall be covered by a foreign pass registered under rule 29 and, in the case of timber exceeding the dimensions mentioned in rule 38 and of scented sandalwood, bear a foreign property mark registered under rule 29.

29. Form, etc. of foreign passes must be registered in the Conservator's Office.- Every foreign pass must be in a form which, and must be signed by an official whose designation, have been registered in the office of the Conservator of Forests of Goa, Daman and Diu into which it is sought to import forest produce thereunder, and every foreign property mark must be of a description which has been registered in the said office:

Provided that, at the request of any State, the forest produce from such State may be allowed to be imported in the Union Territory of Goa, Daman and Diu,

- (i) if the import of such forest produce is covered by foreign pass signed by a contractor or his agent whose specimen signature shall have been registered in the Office of the Divisional Forest Officer in charge of the Division in which the forest produce is sought to be imported, and
- (ii) if the office stamp of the official of the State, who shall have been authorized by the State to issue books of foreign passes to contractors for the export of forest produce, shall have been affixed to or imprinted on the pass under which the forest produce is sought to be imported.

D. Saving of Recognized Privileges

33. Saving of recognized privileges.- Nothing in rules 22 to 32 inclusive shall be deemed to require or to have required the possession of a pass in cases where exemption from such possession for enjoyment of certain privileges recognized by the Government of Goa, Daman and Diu have been granted before the passing of the rules.

E. Forest Depots

34. Depots and their purposes.- The Conservator of Forests may establish at such places as he shall think fit, depots to which forest produce shall be taken-

- (a) for examination previous to the grant of a pass in respect thereof under these rules; or
- (b) for determining the amount of money if any, payable on account thereof to Government; and for the payment of any money so found to be due; or
- (c) in order that any mark required by law or by these rules to be affixed thereto, may be so affixed.

37. Vessels conveying forest produce by river to call at depot on banks.- The person in charge of any vessel which carries forest produce on a river, on the banks of which one or more depots established under these rules are situated, shall call and stop his vessel at every such depot which he has to pass, in order that the forest produce may be examined, if necessary, under the provisions of rule 41 and the person in charge of such vessel shall not proceed with such vessel past any such depot without the permission of the forest officer in charge of such depot.

G. Stoppage in Transit**41. Forest produce in transit may be stopped and examined by certain officers.-**

- (1) Forest produce in transit may be stopped and examined at any place by any forest or police officer if such officer have reasonable grounds for suspecting that any money which is due to the Government in respect thereof has not been paid, or that any forest offence has been or is being committed in respect thereof:

Provided always that no such officer shall vexatiously or unnecessarily delay the transit of any forest produce which is lawfully in transit, nor vexatiously or unnecessarily unload any such forest produce, or cause the same to be unloaded for the purpose of examination.

- (2) The person in charge of such forest produce shall furnish to any such officer all the information which he is able to give regarding the same, and if he is removing the same under a pass shall produce such pass, on demand, for the inspection of such officer, and shall not in any way prevent or resist the stoppage or examination of the said forest produce by such officer.
- (3) Movement of vehicles loaded with forest produce is prohibited between 8 p.m. to 6 a.m. in the State of Goa.

J. Exclusion of local areas from applicability of rules

45. Local areas to which the rules are not applicable to be published.- The Government may by notification in the Government Gazette exempt from the operation of the rules contained in this Chapter any local area specified in such notification.

Chapter VI**Trees in Occupied Lands****"Sections 41 and 76"****A. Preservation, protection and exploitation of reserved and other trees in occupied lands**

46. Mode of application for permission to cut and remove trees or timber.- Every person seeking to obtain permission for cutting or uprooting any tree or removing any timber shall apply in writing to the Divisional Forest Officer. Every such application shall clearly specify the survey numbers, the names of the villages, the name of the taluka and the number and kinds of trees sought to be cut or uprooted or the kind and quantity of the timber sought to be removed from each survey number. In case the survey numbers containing the trees or timber are held by a number of persons, a joint application shall be made by all the occupants, if however one of the occupants applies for permission, the written consent of the remaining occupants to allow the applicant to cut or uproot the trees or remove the timber shall be appended to the application.

47. Enquiries to be made by the Divisional Forest Officer and grant of

permission.- On receipt of an application under rule 46, the Divisional Forest Officer shall make enquiry as he deems necessary regarding the title of the applicant to the trees or timber, and on the conclusion of such enquiry he shall, unless there is any reason to the contrary give the permission in writing applied for.

48. Conditions of the permission to be observed by the applicant.- Every applicant shall be bound by the conditions contained in the permission granted under rule 47. Such permission shall specify inter alia the name of the officer to whom the permit is to be shown by the applicant prior to the cutting or uprooting of the trees or removal of the timber and the period within which the trees are to be cut or uprooted or the timber is to be removed.

Chapter X

Penalties and Rewards

"Sections 42, 51 and 76(b)"

66. Penalties for breach of certain rules.- Whoever contravenes the provisions of rules 22, 26, 27(3) to (7), 28, 31, 32, 36 to 38, 40, 41(2), 42, 44, 51, 53 to 55 or 59 shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

**THE GOA, DAMAN AND DIU
PRESERVATION OF TREES ACT, 1984***

(Act No. 6 of 1984)

*An Act to provide for the preservation of trees in the Union territory of Goa,
Daman and Diu.*

3. Establishment of the Tree Authority.-

- (1) The Government shall, by notification, constitute a Tree Authority for each revenue district in the Union Territory of Goa, Daman and Diu.
- (2) The Tree Authority shall consist of the following members, namely-
 - (i) Development Commissioner or any other officer not below the rank of Secretary to the Government nominated by the Government – Chairman;
 - (ii) Collector of the concerned revenue District – Member;
 - (iii) Two Members of the Legislative Assembly nominated by the Government – Members;
 - (iv) Two Representatives of the local bodies nominated by the Government – Members;
 - (v) Conservator of Forests or his nominee – Member-Secretary.
- (3) The Tree Authority may co-opt as members in such manner and for such period as it may determine not more than three representatives of non-official organizations and Government Departments having special knowledge or practical experience in the preservation of trees.

5. Appointment of Tree Officer.- The Conservator of Forests may, appoint one or more Forest Officers of a rank not below that of a Deputy Conservator of Forests, as Tree Officers for the purposes of this Act.

7. Duties of Tree Authority.- Notwithstanding anything contained in any other law for the time being in force, the Tree Authority shall, subject to any general or special order of the Government, be responsible for-

- (a) the preservation of all trees within its jurisdiction;
- (b) carrying out census of the existing trees and obtaining, whenever considered necessary, declarations from all owners or occupants about the number of trees in their lands;
- (c) specifying standards regarding the number and kind of trees which each locality, type of land and premises shall have and which shall be planted subject to a minimum of five trees per hectare in the case of rural areas.

* The complete Act is not reproduced. Only the relevant sections have been extracted.

8. Restriction on felling and removal of trees.- Notwithstanding anything contained in any other law for the time being in force or in any custom or usage or contract and except as provided in this Act or the rules made thereunder, no person shall fell or remove or dispose of any tree or forest produce in any land, whether in his ownership or occupancy or otherwise, except with the previous permission of the Tree Officer:

Provided that if the tree is not immediately felled, there would be grave danger to life or property or traffic, the owner of the land may take immediate action to fell such tree and report the fact to the Tree Officer within twenty-four hours of such felling.

9. Procedure for obtaining permission to fell, cut, remove or dispose of a tree.-

- (1) Any person desiring to fell or remove or otherwise dispose of by any means a tree, shall make an application to the concerned Tree Officer for permission and such application shall be accompanied by attested copies of the documents as may be prescribed in support of ownership over the land, the number and kind of trees to be cut, their girth measured at a height of 1.85 metres from ground level and the reasons therefor, survey sketch showing clearly the site and survey numbers of the property.
- (2) On receipt of the application, the Tree Officer may, after inspecting the tree and holding such enquiry as he may deem necessary, either grant permission in whole or in part or for reasons to be recorded in writing refuse permission:

Provided that such permission shall not be refused if the tree-

- (i) is dead, diseased or wind-fallen; or
- (ii) is silviculturally mature provided it does not occur on a steep slope; or
- (iii) constitutes a danger to life or property; or
- (iv) constitutes obstruction to traffic; or
- (v) is substantially damaged or destroyed by fire, lightning, rain or other natural causes; or
- (vi) is required in rural areas to be cut with a view to appropriating the wood or leaves thereof or any part thereof for bonafide use for fuel, fodder, agricultural implements or other domestic use.

10. Obligation to plant trees.- Every person, who is granted permission under this Act to fell or dispose of any tree, shall be bound to plant such number and kind of trees in the area from which the tree is felled or disposed of by him under such permission, as may be directed by the Tree Officer:

Provided that the Tree Officer may, for reasons to be recorded in writing, permit lesser number of trees to be planted or trees to be planted in any different area or exempt any person from the obligation to plant or tend any tree.

12. Preservation of trees.-

- (1) Subject to the provisions of section 14, it shall be the duty of the owner of the land to comply with an order made under section 9, or a direction

issued under section 10 or section 11 and to plant trees in accordance with such an order or direction and to ensure that they grow well and are well preserved.

- (2) All the owners shall effectively protect all the trees growing in the lands or the areas under their control and where the Tree Officer is of the opinion that adequate measures have not been taken to protect the trees from any damage, he may direct the owner to take such measures as are considered necessary to protect trees from damage. In case of default, the tree officer may himself arrange such measures and recover the expenditure thereon from the owner in the prescribed manner.

14. Adoption of trees.- Notwithstanding anything contained in this Act or in any other law for the time being in force, the Tree Authority may, subject to such terms and conditions as it may specify in that behalf, after giving notice to the owner of the tree to show cause, if any, as to why the tree should not be given in adoption, allow, by a written permission, any body corporate or institution to adopt the tree for such period as may be specified in the permission and during such period, the said body corporate or institution shall be responsible for the maintenance and preservation of the said tree.

25. Penalty.-

- (1) Any person who contravenes any of the provisions of this Act or rules or orders made thereunder shall, on conviction, be punished with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.
- (2) Every Forest Officer or Police Officer who vexatiously and unnecessarily arrests or seizes any property on pretence of such property being liable to forfeiture under this Act, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

30. Act not to apply to certain areas.- Nothing in this Act shall apply to the Government, a Government forest under the control of the Forest Department, a forest or forest land notified under the Indian Forest Act, 1927.

31. Power of the Government to exempt.- Subject to such conditions, if any, as may be imposed, the Government may, if it considers it necessary so to do in the public interest, by notification, exempt any area or any species of trees from all or any of the provisions of this Act.

32. Power of the Government for Preservation of trees.-

- (1) The Government may in the interest of general public, declare by notification that any class of trees shall not be felled for such period as is specified in that notification.
- (2) The management of such trees shall be regulated in the prescribed manner.

34. Transit of felled material.- The provisions of Section 41 of the Indian Forest Act, 1927 and Chapter V of the Goa, Daman and Diu Forest Rules, 1964 shall *mutatis mutandis*, apply to the transit of the felled trees under this Act.

STATE
OF
GUJARAT

NTFP including Medicinal Plants

Acacia senegal ('Khair'), *Aloe barbadensis* ('Ghikanvar', 'Kumari', 'Kunvar'), *Argyrea speciosa* ('Samudra shokha'), *Madhuca indica* ('Mahua'), *Commiphora mukul* ('Gugul'), *Diospyros melanoxylon* ('Timru' or 'tendu' leaves), *Holarrhena antidysenterica* ('Kurchi'), *Plantago ovata* ('Uthamujcerum'), *Salvadora persica* ('Peelu'), *Sterculia urens* (Gum 'Karaya'), *Tacoma undulata* ('Rohara'); etc.

Nationalized NTFP Items

Tendu leaves, Mahua flower, Mahua seeds (dole), and Gum karaya.

Monopoly Agency

- * GSFDC (Gujarat State Forest Development Corporation).
- * Collecting Agency - Village Panchayat.

Price Fixation Method

- * State Government to fix the price of each NTFP item after consultation with advisory committee consisting of various representative groups.



Legal Framework

(1) Indian Forest Act, 1927

- * Applicable to the State, contains provisions relating to the transit of forest produce and duty leviable on forest produce.

(2) Gujarat Minor Forest Produce Trade Nationalisation Act, 1979

- * Act seeks to regulate the sale, purchase or transport of minor forest produce via State monopoly.
- * State Government to fix the price in respect of each class of NTFP.
- * State Government to set up purchasing centers or depots in each unit.
- * Registration of growers.

- * Forest/ Police Officer may enter and search any place, and seize NTFP with a view to secure compliance with the provisions of this Act.

(3) Gujarat Government's Notification No. GHKH-19-84-MFP-1683-4736-V3 (143)

- * Fixation of price of certain minor forest produce by the Government (the price at which the produce shall be purchased by the Government/ Agent).
- * The Minor Forest Produce mentioned includes: Tendu leaves, Mahua seeds and flowers, Karaya gum (*Sterculia urens*), Dhavada gum (*Anogeissus latifolia*), Baval gum (*Acacia arabica*), Salai gum (*Boswellia serrata*), Gugul gum (*Commiphora mukul*), etc.

INTRODUCTION

The State of Gujarat lying in the central-west corner of India, and famous for the Ranns (desert) of Kutch, has a total land area of 1,96,024 sq. km. out of which forest area comprises only of about 19,393 sq. km. (9.89%). Tropical thorn forest predominates in the arid regions of the state. The State of Gujarat possess some useful NTFP including medicinal plants:

Botanical Names	Common Names
<i>Acacia senegal</i>	Khair
<i>Aloe barbadensis</i>	Ghikanvar, Kumari, Kunvar
<i>Argyrea speciosa</i>	Samudra shokha
<i>Aristolochia bracteata</i>	Gudhatee
<i>Azadirachta indica</i>	Neem
<i>Chlorophytum tuberosum</i>	Safed musli
<i>Citrullus colocynthis</i>	Indrayan
<i>Commiphora mukul</i>	Gugul
<i>Curculigo orchioides</i>	Kali musli, Musalikand
<i>Diospyros melanoxylon</i>	Timru or tendu
<i>Gloriosa superba</i>	Khadyanag
<i>Holarrhena antidysenterica</i>	Kurchi, Indrajavanu
<i>Madhuca indica</i>	Mahua
<i>Pedaliu murex</i>	Bara gokhru
<i>Plantago ovata</i>	Uthamujeerum
<i>Salvadora persica</i>	Peelu
<i>Tacoma undulata</i>	Rohara

The State Government has enacted Acts/ Rules to ensure a sustainable harvest of forest produce. The **Gujarat Minor Forest Produce Trade Nationalisation Act, 1979**, seeks to provide for the nationalisation of trade in certain minor forest produce in the State of Gujarat. The term "Minor Forest Produce" (MFP) has been defined under the Act to include timru leaves, mahua flowers and seeds, and any other class of forest produce which the State Government may notify.

The Act seeks to regulate the sale, purchase or transport of minor forest produce. Only the State Government, an authorised officer or an agent (to be appointed by the Government) shall sell, purchase or transport specified MFP. However, subject to the provisions of Bombay Prohibition Act, 1949, any person may sell any MFP to, or purchase any MFP from the State Government, authorised officer or an agent. Further, a grower may transport any MFP grown by him to a purchasing centre or depot. Moreover, any person who has purchased any MFP from the State Government or an agent, etc. may transport the same, in accordance with the terms and conditions

of a *permit*, for the purpose of being used in the manufacture of finished goods within the State or for the purpose of sale outside the State.

Under the Act, the State Government is required to fix the price in respect of each class of MFP, after consultation with an *Advisory Committee* consisting of various representative groups or sections of the society, viz. traders, growers and Scheduled Tribes (STs). The price so fixed shall not be altered during the year to which it relates.

The State Government shall, having regard to the convenience of growers and collectors of MFP, set up purchasing centres or depots. The State Government or the authorised officer or agent shall be bound to purchase at the fixed price, any MFP offered for sale at such centre or depot, unless the produce is unfit for commercial purpose. Any person aggrieved by the refusal of the authorised officer or the agent to purchase any MFP may make a *complaint* to a superior officer.

Under the Act, the State Government or the authorised officer or an agent may *appropriate* any MFP offered for sale, if it has reason to believe that such produce pertains to forest/ land belonging to the State Government, and pay only the collection charges for such produce to the person so offering such produce for sale. The aggrieved person may make a complaint to the competent officer.

Every grower (not being the State Government) who has grown any MFP exceeding such quantity as may be prescribed shall get his name and address *registered* in a register, together with the particulars regarding the quantity of the MFP grown by him and the land in which such produce is grown.

Under the Act, any Forest Officer (not below the rank of a Range Officer) or Police Officer (not below the rank of a Sub-Inspector) may, with a view to securing compliance with the provisions of this Act, enter and search any place, and seize MFP. The seized produce shall not be released until an order of its disposal is received. Any person contravening the provisions of Sec. 3 or Sec. 11 or of any of the terms and conditions of a permit is liable to be punished with imprisonment which may extend to one year or with a fine up to Rs. 1,000, or with both. It has been provided under the Act that the provisions of Indian Forest Act, 1927 shall *not* apply to any MFP in respect of matters for which provisions are contained in this Act.

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Training to Field Staff and Tribals: A Case-study of Gujarat

The Gujarat State Forest Development Corporation Limited (GSFDC) has undertaken a programme of collection, processing and marketing of NTFP since its inception in 1976. It recently initiated an intervention mechanism to impart training to the field staff. There are 8 Project Offices (covering the entire State) headed by Project Managers who are the officers on deputation from the Forest Department and they supervise the activities of collection and marketing of the NTFP. The field staff consists of 32 Assistant Project Managers, 44 Project Supervisors and 36 Assistant Project Supervisors.

At present, the field staff has gained the knowledge by field experience only and it needs to be supplemented by a regular training programme (with the help of training aids like the video films, slides and training literature). A training model as detailed in the ensuing Table is proposed to be implemented (Misra, A.P., 1998).

Statement showing Details of Training to Field Staff					
Project Divisions	Field Staff structure of GSFDC	Details of training	No. of camps/ trainees	Duration of training	Total expenditure for trainee
8	Project Managers (8), Asst. Project Managers (32), Project Supervisors (44), Asst. Project Supervisors (36)	(1) Forest nurseries, plantations, identification of species and their products. (2) Identification of NTFP/ Medicinal plants and tree species and uses of their products. (3) Knowledge of Indian Forest Act, State Nationalisation Act, etc.	3/ 120	7 days	Rs. 150/- per trainee per day

Training to Tribals

GSFDC has also initiated a programme to train the tribals for the improvement in collection and storage techniques of NTFPs. A 'one-day training programme' will be conducted which is as follows:

- * Every year 1,000 tribals will be trained for 'Timru' leaves (*Diospyros melanoxylon*) in respect of collection, drying and storage.
- * Every year 1,000 tribals will be trained for 'Mahua' flowers (*Madhuca indica*), 'Doli' (Mahua seeds) in respect of collection, drying and storage.
- * Every year 2,000 tribals will be trained for Gums and other NTFP collection, drying and storage.

Further, it is proposed to construct three 'Training-cum-Demonstration Centres' in each project where the NTFPs will be displayed and with the help of charts and through audio-visual aids, programmes will be held to educate the tribals in the different aspects of NTFP activity. A total amount of Rs. 8.8 lacs is envisaged to be spent over a period of 5 years.

Consequent to the establishment of GSFDC, the NTFP collection rates paid to the tribals collectors have increased rapidly, as middlemen were eliminated. During the 20 years period, the price of 'Mahua' flower increased by about 900% after adjusting for inflation; price of 'Doli' (Mahua seeds) increased by about 286%. GSFDC has been thus successful in passing on benefits to tribal collectors. However, there are concerns raised against the unsustainable level of extraction of many NTFPs.

For instance, CIPLA (a drug manufacturing company) used to purchase 'Gugul' gum (*Commiphora mukul*) in bulk. The primary collectors were paid adequate collection charges. Later, the production fell as due to excessive collection of gum the plants died. Also, CIPLA started substitution process. At present GSFDC is having its own Ayurvedic medicine manufacturing unit which uses this gum. Further, about 20 Ayurvedic drugs are made under brand name of "Dhanvantari" and are quite popular due to genuineness of material used. About 1650 agents of the Corporation which include tribal and non-tribal agents, Societies, etc., collect the NTFP collected by about 1.5 lacs primary collectors (Misra, A.P., 1998).

Summing Up

The State of Gujarat has established the Gujarat Forest Development Corporation which procures NTFP items like Timru leaves, Mahua flowers and seeds, Puwad seed (*Cassia tora*), Gums (Kadaya gum - *Sterculia urens*, Salai gum - *Boswellia serrata*, Gugul gum - *Commiphora mukul*) and other items on monopoly basis. The Corporation has started scientific collection of NTFP by training tribals in the methods of collection and processing. The Corporation has identified wholesalers and actual users of NTFP.

However, the system of State monopoly has some weaknesses. For instance, the women living in the desert area of Santalpur Taluka of Banaskantha district, Gujarat survive mainly on gathering gum from the 'Babul' (*Acacia arabica*) trees planted by Forest Department. The Department insists on licences for gum collection, and since the women had no licences, they used to collect gum 'illegally' and sell to private traders. After joining SEWA they formed DWORA groups and demanded licences, so that they could 'legally' sell the gum to the Forest Corporation.

The rates for gum are fixed by the Forest Corporation, and to the women's dismay, their legality has resulted in getting poorer rates from the Forest Corporation than what they could get from the open market. The tragedy is that women can get a better rate for gum in the open market, but the Forest Corporation will not allow the gum pickers to enter the open market, and they have to sell their gum for 1/3rd to 1/4th of the market price. This will promote 'illegal' collections and thus affect the sustainable harvest of NTFP (Shukla, R.S., 2000).

The medicinal plants need special attention in view of the fact that over exploitation has resulted in evidence of disappearance of some plants, viz. *Gloriosa superba*, *Aloe barbadensis*, *Plantago ovata*, etc. Thus a recommendation has been made to 'cultivate' the medicinal plants in the State. The cultivation of 'Isabgol' (*Plantago ovata*) is a success story.

Joint Forest Management (JFM), a programme of people's participation in forestry, has been adopted in the State. The Village Forest Protection and Management Committees (VFPMCs) have been constituted for protection and rehabilitation of degraded forests. The area of operation of the Committees covers all NTFPs including medicinal plants.

**THE GUJARAT MINOR FOREST PRODUCE TRADE
NATIONALISATION ACT, 1979***
(Act No. 7 of 1979)

*An Act to provide for the nationalisation of trade in certain minor forest
produce in the State of Gujarat.*

2. Definitions.-

- (9) "minor forest produce" means any of the following classes of forest produce-
- (a) timru leaves,
 - (b) mahua flowers,
 - (c) mahua fruits, seeds and dolo,
 - (d) any other class of forest produce which the State Government may, by notification in the Official Gazette, declare to be a minor forest produce for the purposes of this Act.

3. Restriction on sale, purchase or transport of minor forest produce.-

- (1) Notwithstanding anything contained in any law for the time being in force or in any settlement, grant, agreement, usage, custom, or any decree or order of a Court or any Tribunal or any document having the force of law, no person other than the State Government, an authorised officer or an agent shall sell, purchase or transport-
- (i) with effect on and from the appointed day, any of the minor forest produce specified in sub-clauses (a), (b) and (c) of Cl. (9) of Sec. 2, and
 - (ii) with effect on and from the date of publication in the Official Gazette of a notification issued under sub-clause (d) of Cl. (9) of Sec. 2, the minor forest produce declared as such under such notification.
- (2) Subject to the provisions of Bombay Prohibition Act, 1949 (Bom. XXV of 1949), it shall be lawful for-
- (a) any person to sell any minor forest produce to, or purchase any minor forest produce from, the State Government, authorised officer or an agent;
 - (b) a grower to transport any minor forest produce grown by him from any place in a unit where such produce has been grown to a purchasing centre or depot set up in that unit under Sec. 8 or to any other place in that unit;

* The complete Act is not reproduced. Only the relevant sections have been extracted.

- (c) (i) any person who has purchased any minor forest produce from the State Government, or an authorised officer or an agent, and
- (ii) any person who has purchased any minor forest produce from another person under Cl. (e),
to transport the same, in accordance with the terms and conditions specified in a permit issued by such authority and in such manner as may be prescribed, for the purpose of being used in the manufacture of finished goods within the State or for the purpose of sale outside the State, or for the purpose of resale to the State Government, an authorised officer or an agent;
- (d) any person to import any minor forest produce or to transport the minor forest produce so imported in accordance with the terms and conditions of a *permit* issued by such authority and in such manner as may be prescribed; and
- (e) (i) any person, who has purchased any minor forest produce from the State Government or authorised officer, or an agent to sell such of the minor forest produce, as may be specified by the State Government by general or special order published in the Official Gazette, to any other person; and
- (ii) other person to whom the minor forest produce is so offered for purchase to purchase the same,

in accordance with the terms and conditions specified in permit issued to the seller for the purpose of sale and to the purchaser for the purpose of purchase, by such authority and in such manner as may be prescribed.

Explanation.- For the purpose of this section, a transfer of a right to collect any minor forest produce or an exchange of minor forest produce for some other thing shall be deemed to be a sale, and on acquisition of a right to collect any minor forest produce or an exchange of any thing for same minor forest produce shall be deemed to be a purchase.

4. Fixation of price by State Government in consultation with Committee.-

- (1) The State Government shall, after consultation with the Committee and having regard to the factors specified in sub-section (3), fix in respect of each class of Minor Forest Produce, the price at which such produce shall be purchased by it or by an authorised officer or by an agent, from growers of that produce in the year following the year in which the price is fixed:
- (2) The price fixed under sub-section (1) shall be published in the Official Gazette and in such other manner as may be prescribed, not later than the 31st day of December of the year in which it is fixed, and the price so fixed shall not be altered during the year to which it relates:

Provided that where the Committee fails to tender advice within the period specified under sub-section (3) of Sec.7 or such further period not exceeding fifteen days as the State Government may allow, the State Government may fix the price without such advice.

- (3) For the purpose of fixing the price of any minor forest produce under sub-section (1), the State Government shall have regard to the following factors, namely:
- (a) the price, if any, fixed under this Act or any other law for the time being in force, for the concerned minor forest produce in the unit during the preceding three or two years or one year, as the case may be, for which such price may have been fixed; and where no such price may have been fixed for any such year or years the price for the concerned minor forest produce prevailing in the year in which the price is fixed or such price as would have prevailed, in the unit during the next succeeding year,
 - (b) the quality of the minor forest produce,
 - (c) the transport facilities available,
 - (d) the cost of transport,
 - (e) the general level of wages for unskilled labour prevalent in the unit, and
 - (f) such other factors as may be prescribed.

5. Constitution of units.- The State Government may, in respect of any minor forest produce, by notification in the Official Gazette, divide the whole State into such number of units and each of them comprising such areas, as the State Government may deem fit.

6. Appointment of agents.-

- (1) The State Government may, for the purpose of selling, purchasing or transporting any minor forest produce on its behalf, appoint any person as an agent in charge of any unit and it shall be lawful to appoint the same person as an agent for more than one unit.
- (2) The terms and conditions of appointment of any agent shall be such as may be specified by the State Government in the order of appointment:

Provided that nothing contained in this section shall prevent the State Government from appointing the Corporation as the sole agent for the purpose of selling, purchasing or transporting any minor forest produce and such appointment shall be on such terms and conditions as may be determined by the State Government.

- (3) If the Corporation is appointed by the State Government as its sole agent under this section, it shall be lawful for the Corporation, to authorise any person including its officer for the purpose of selling, purchasing or transporting any minor forest produce on its behalf under the provisions of this Act.

7. Constitution of Advisory Committee.- The State Government shall, by notification in the Official Gazette, constitute an Advisory Committee for the purpose specified in sub-section (2):

Provided that-

- (i) atleast one member shall be from amongst the persons who, in the

opinion of the State Government are traders ordinarily carrying on the trade of buying or selling of some minor forest produce,

- (ii) at least one member shall be from amongst the persons who, in the opinion of the State Government, are growers, and
- (iii) atleast one member shall be amongst the persons belonging to the Scheduled Tribes, who are members of the Forest Labourers Co-operative Societies.

(2) The Committee shall advise the State Government in the matter of fixation under Sec. 4 of a fair and reasonable price at which any minor forest produce may be purchased by the State Government, an authorised officer or an agent, and in respect of such other matters relating to the administration of this Act as may be referred to it by the State Government.

(3) The Committee shall tender its advice to the State Government within such period as the State Government may specify in that behalf.

(6) The term of Committee shall be one year from the date on which it is constituted:

Provided that the State Government may extend the said term for a further period not exceeding one year.

8. Setting up purchasing centres and depots.-

- (1) The State Government shall, having regard to the convenience of growers and collectors of minor forest produce, set up at such places in each unit such number of purchasing centres or depots as it may think fit, for the purchase and sale of minor forest produce under the provisions of this Act.
- (2) At every such purchasing centre and depot, there shall be displayed prominently on a notice-board kept for the purpose a list showing, in Gujarati and in such other script or language as may be intelligible to the persons in that locality, the price of each of the minor forest produce fixed by the State Government under Sec. 4 and the hours at which any minor forest produce shall be purchased or sold at that centre or depot.

9. Purchase of minor forest produce.-

(1) The State Government or the authorised officer or agent shall be bound to purchase at the price fixed under Sec. 4 any minor forest produce offered for sale at the purchasing centre or depot during the hours notified for the purpose under Sec.8:

Provided that the State Government or the authorised officer or the agent may refuse to purchase any minor forest produce which, in the opinion of the State Government, authorised officer or, as the case may be, the agent is not fit for the purpose of manufacture of finished goods using such produce, or for any other commercial purpose.

(2) Any person aggrieved by the refusal of the authorised officer or the agent to purchase any minor forest produce may within fifteen days from the date of such refusal, make a complaint against such refusal to such officer superior in rank to the authorised officer, as the State Government may empower in this behalf for the purpose of hearing such complaints.

(3) On receipt of a complaint under sub-section (2), the officer empowered to hear complaints under sub-section (2) (hereinafter referred to as "the competent officer") may, after holding such inquiry as he thinks fit and after hearing the parties concerned, either allow or reject the complaint.

(4) Where the competent officer allows the complaint on the ground that refusal of the authorised officer or the agent to purchase the minor forest produce was not justified, he may direct the authorised officer or that agent, to purchase the same, and to pay to the aggrieved person such price for the minor forest produce so purchased by him as the aggrieved person would have been entitled to under sub-section (1) had the authorised officer or the agent, as the case may be, not refused to purchase it.

(5) Nothing in this section shall be construed to debar the State Government or the authorised officer or the agent from appropriating to the State Government any minor forest produce offered for sale, if the State Government or the authorised officer or the agent has reason to believe that such produce appertains to forest or land belonging to the State Government and paying to the person so offering such produce for sale only such charges, if any, as may have been incurred by such person in collecting such produce, subject to such rules, as the State Government may from time to time make.

(6) Where any person is aggrieved by the appropriation of the minor forest produce to the State Government under sub-section (5) by an authorised officer or an agent, he may make a complaint to the competent officer.

(7) On receipt of a complaint under sub-section (6), the competent officer may, after holding such inquiry as he thinks fit and after hearing the parties concerned, either allow or reject the complaint.

(8) Where the competent officer allows the complaint, he may direct the authorised officer or the agent to make payment to the aggrieved person of an amount not less than the price of such minor forest produce as would have been payable to him under this section at the time when such produce was appropriated to the State Government.

10. Appeal.- Any person including an authorised officer or an agent, aggrieved by the decision of the competent officer under sub-section (3), (4), (7) or (8) of Sec. 9, may, within a period of thirty days, from the date of communication to him of such decision, make an appeal to the State Government and the decision of the State Government on such appeal shall be final and shall not be called to question in any Court.

11. Registration.- Every grower, not being the State Government, who has, during the year immediately preceding the appointed day or the year preceding any subsequent day, grown any minor forest produce exceeding such quantity as may be prescribed shall, within thirty days after such day, on payment of such fees and in such manner as may be prescribed, get his name and address registered in a register to be kept by the prescribed officer, together with the particulars regarding the quantity of the minor forest produce grown by him and the land in which such produce is grown during such year.

12. Disposal of minor forest produce.- Any minor forest produce purchased by the State Government or by an authorised officer or an agent, under this Act shall

be sold or otherwise disposed of in such manner as the State Government may, by a general or special order, in writing direct.

13. Delegation of powers.- The State Government may, by an order published in the Official Gazette, delegate any of its powers to fix the price of minor forest produce under Sec. 4 and the power to make rules under Sec. 20 or functions under this Act or the rules made thereunder to any officer or authority not below the rank of a Range Forest Officer of the State Government or an Assistant Project Manager of the Corporation, who shall exercise or perform the same, subject to such conditions and restrictions as the State Government may specify in the order.

14. Power of entry, search, seizure, etc.-

- (1) Any Forest Officer not below the rank of a Range Officer or any Police Officer not below the rank of a Sub-Inspector or any other person authorised by the State Government in this behalf may, with a view to securing compliance with the provisions of this Act or the rules made thereunder or to satisfying himself that the said provisions have been complied with-
 - (i) stop and search any person, boat, vehicle or receptacle used or intended to be used for the transport of any minor forest produce;
 - (ii) enter and search any place;
 - (iii) seize minor forest produce in respect of which he suspects that any provision of this Act or the rules made thereunder has been, is being or is about to be, contravened, along with the receptacle containing such produce or the vehicle or boat used in carrying such produce.
- (2) Every person seizing any minor forest produce or other property under Cl. (iii) of sub-section (1) shall place on such produce or other property a mark indicating that the same has been so seized.
- (3) Any Forest Officer not below the rank of a Range Forest Officer who has seized any property other than a minor forest produce, under Cl. (iii) of sub-section (1) may release the same on the execution by the owner thereof of a bond for the production of the property so released, wherever required.
- (4) The minor forest produce and other property seized under Cl. (iii) of sub-section (1) shall be kept in the custody of the Forest Officer not below the rank of a Forest Guard or village headman until an order of its disposal is received.

15. Penalty.- If any person contravenes the provisions of Sec. 3 or Sec. 11 or of any of the terms and conditions of a permit issued under Cls. (c), (d) or (e) of sub-section (2) of Sec. 3-

- (a) he shall, on conviction, be punished with imprisonment which may extend to one year or with a fine which may extend to one thousand rupees or with both; and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period of the continuance of the offence;

- (b) the minor forest produce in respect of which such contravention has been made or such part thereof as the Court may deem fit shall be forfeited to the State Government;

Provided that if the Court is of the opinion that it is not necessary to direct forfeiture in respect of the whole or, as the case may be, any part of the minor forest produce, it may for reasons to be recorded refrain from doing so.

16. Attempts and abetment.- Any person who attempts to contravene, or abets the contravention of any of the provisions of Sec. 3 or 11 or of any of the terms and conditions of a permit issued under Cl. (c), (d) or (e) of sub-section (2) of Sec. 3, shall be deemed to have contravened that provision.

20. Power to make rules.- The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

21. Indian Forest Act not to apply to minor forest produce for purposes covered under this Act.- Nothing contained in the Indian Forest Act, 1927 (XVI of 1927), shall apply to any minor forest produce in respect of matters for which provisions are contained in this Act.

NOTIFICATION

Notification No. GHKH-19-84-MFP-1683-4736-V3 (143), dated 27th February, 1984.- In exercise of the powers conferred by sub-section (1) with sub-section (2) of Sec. 4 of the Gujarat Minor Forest Produce Trade Nationalisation Act, 1979 (Gujarat Act No. 7 of 1979), the Government of Gujarat hereby fixes the prices specified in column 3 of the Schedule annexed hereto to be the prices of which the Minor Forest Produce specified in column 2 of the said Schedule shall be purchased by State Government or by an authorised officer or by an agent from growers of any such Minor Forest Produce in the year commencing on the 1st January, 1984.

SCHEDULE

Sl. No.	Minor Forest Produce	Price
1	2	3
1.	Timru Leaves	Rupees seventy-two per bag containing 50,000 leaves in bundle of 50 each.
2.	Mahua Flowers	Rupees one hundred five per quintal.
3.	Mahua seeds (dole)	Rupees three hundred eighteen per quintal.
4.	Karaya Gum	
	Grade-I	Rupees one thousand two hundred per quintal.

1	2	3
	Grade-II	Rupees one thousand per quintal.
5.	Dhavda Gum	
	Grade-I	Rupees nine hundred fifty per quintal.
	Grade-II	Rupees six hundred fifty per quintal.
6.	Baval Gum	Rupees five hundred per quintal.
7.	Moina, Khakhru Gum	Rupees one hundred fifty per quintal.
8.	Salai Gum	Rupees four hundred per quintal.
9.	Gugal Gum	
	Grade-I	Rupees two thousand eight hundred per quintal.
	Grade-II	Rupees two thousand one hundred per quintal.
	Grade-III	
	(for Jamnagar)	Rupees one thousand nine hundred per quintal.
	Grade-III	Rupees one thousand one hundred per quintal.
10.	Ganda Bava Gum	
	Grade-I	Rupees five hundred fifty per quintal.
	Grade-II	Rupees four hundred fifty per quintal.
11.	Gorad Gum	Rupees one thousand per quintal.

STATE
OF
HIMACHAL PRADESH

NTFP including Medicinal Plants

Aconitum heterophyllum ('Atish', 'Patish'), *Berberis aristata* ('Rasaunt'), *Colchicum luteum* ('Surinjan'), *Dioscorea deltoidea* ('Singhli-Mingli'), *Ephedra gerardiana* ('Somlata'), *Girardinia heterophylla* ('Bichhu buti'), *Nardostachys grandiflora* ('Jatamansi'), *Picrorhiza kurrooa* ('Kurroo'), *Rhododendron campanulatum* ('Chimul'), *Swertia chirayita* ('Chirayata'), *Valeriana jatamansi* ('Mushak bala'); etc.

Nationalized NTFP-Items

Resin, Khair (*Acacia catechu*), Bamboo.

Monopoly Agency

- * Himachal Pradesh State Forest Corporation Limited.

Price Fixation Method

- * An Advisory Committee to advise the Government in the matter of fixation of fair and reasonable price of each specified forest produce.

Himachal Pradesh

Legal Framework

(1) Indian Forest Act, 1927

- * Applicable to the State, contains provisions relating to the transit of forest produce and duty leviable on forest produce.

(2) Himachal Pradesh Forest Produce (Regulation of Trade) Act, 1982 and Rules, 1982

- * State monopoly in the trade of certain specified forest produce.
- * The State Government/ Agent bound to purchase at the price fixed by the Advisory Committee for each specified forest produce.
- * A 'transit pass' is required for commercial purchases or transport.

(3) Himachal Pradesh Forest Produce Transit (Land Routes) Rules, 1977

- * A 'pass/challan' is required for the transport of forest produce by land routes.

- * Setting up of check posts along the roads for the purposes of check and examination of forest produce.

- * By a Notification in 1994, the State Government amended the aforesaid Rules and 'pass/export permit fee' laid down for specified medicinal plants. Also, trade in specified plants has been 'restricted' or 'banned'.

(4) Himachal Pradesh Resin and Resin Products (Regulation of Trade) Act, 1981

- * Regulation of the trade in resin and resin products.

INTRODUCTION

The mountainous State of Himachal Pradesh (H.P.), situated in the lap of the Himalayan ranges, has a total land area of 55,673 sq. km. out of which the forest area comprises of about 35,407 sq. km. (63.6%). The wide range of altitude, topography and climatic conditions have endowed Himachal Pradesh with a rich and diversified flora. The Himalayan Moist Temperate forests are predominantly found in major parts of the state. The State is very rich in medicinal plants. Some of these are:

Botanical Names	Common Names
<i>Abies webbiana</i>	Talis patra
<i>Aconitum heterophyllum</i>	Atish, Patish
<i>Artemisia brevifolia</i>	Senski
<i>Atropa acuminata</i>	Belladona
<i>Berberis aristata</i>	Rasaunt
<i>Cichorium intybus</i>	Chicori
<i>Colchicum luteum</i>	Surinjan
<i>Dioscorea deltoidea</i>	Singhli-Mingli
<i>Dryopteris</i> spp.	Ferns
<i>Ephedra gerardiana</i>	Somlata
<i>Euonymus tingens</i>	Kuranku
<i>Girardinia heterophylla</i>	Bichhu buti
<i>Heracelum candicans</i>	Patrala
<i>Indula racemosa</i>	Puskarmool
<i>Nardostachys grandiflora</i>	Jatamansi
<i>Parmelia</i> spp.	Lichens
<i>Peganum harmala</i>	Hurmāl
<i>Picrorhiza kurrooa</i>	Kuroo
<i>Pinus wallichiana</i>	Kail
<i>Pistacia integerrima</i>	Kakarsinghi
<i>Podophyllum hexandrum</i>	Ban kakri
<i>Rheum australe</i>	Revand chini
<i>Rhododendron companulatum</i>	Chimul
<i>Saussurea costus</i>	Kuth
<i>Sivertia chirayita</i>	Chirayata
<i>Orchis latifolia</i>	Salab misri
<i>Valeriana jatamansi</i>	Mushak bala
<i>Viola serpens</i>	Banafsha

Although, in Himachal Pradesh, the collection, extraction and marketing of crude drugs and their products was hitherto regulated under the provisions of the Forest/Revenue Settlement of erstwhile States or districts, yet these were not uniform in all the forest divisions. Eg. in Chamba and Mandi districts, the collection and export of medicinal plants was regulated under the Acts, i.e., *The Chamba Minor Forest*

Produce Exploitation and Export Act, 2003 Bikrami, and Mandi State Forest Produce Exploitation and Export Act, 1977 Bikrami.

Export royalty was prescribed for certain items under these Acts. In other parts of the State, collection was done on right holding basis and export permit was sanctioned by the concerned Divisional Forest Officer of the State Forest Department at a paltry sum of Rs. 5/- per item irrespective of the quantity. Due to inadequacy of these Acts, the State Government enacted State level Acts/ Rules to ensure a sustainable supply of NTFP including medicinal plants. These Acts/ Rules are discussed in brief below.

The Himachal Pradesh Forest Produce (Regulation of Trade) Act, 1982 and Rules, 1982, seek to regulate the trade and other related matters of certain forest-produce by creation of a State monopoly in such trade. Only the Government or an Agent shall purchase or transport or import or export a specified forest-produce. For commercial purchases or transport, a *transit permit* is required (to be issued by the Divisional Forest Officer). The Rules lay down that the owner shall apply to the Agent offering for sale the forest produce enclosing all documents in proof of his being owner of the forest produce ('Procedure for purchase of forest produce offered for sale by owners').

An Advisory Committee is to advise the Government in the matter of fixation of fair and reasonable price of each specified forest produce. The Committee is to consist of : Divisional Forest Officer, representatives of the Deputy Commissioner of the area, two *pardhans* (headmen) of the area, and representatives of the Agent. Various guidelines are laid down in the Rules (rule 5) for the Committee while fixing the price. The State Government, after consideration of the advice of the Committee, shall fix the price at which the forest produce shall be purchased at various places by it or its Agent from the owners of the forest produce.

Regarding the 'Disposal of the forest produce', the Rules lay down that the Agent shall sell the forest produce through its depots by open *auction* or by supplies to Government and other departments. The Agent shall also open depots for local sale of the forest-produce. The **Himachal Pradesh Resin and Resin Products (Regulation of Trade) Act, 1981** (6 of 1981), regulates the trade in resin and resin products. Resin means the secretion extracted by tapping Chir and Kail (*Pinus* spp.) trees.

The Himachal Pradesh Preservation of Forests and Maintenance of Supplies of Forest-based Essential Commodities Act, 1984, provides for "preventive detention" of suspected offenders in certain cases for the purpose of preservation of forests in the State, and maintenance of supplies in forest-based commodities essential to the community. The maximum period for which any person may be detained in pursuance of any detention order shall be *one year* from the date of detention.

The Himachal Pradesh Forest Produce Transit (Land Routes) Rules, 1977, provide that no person shall transport or cause to be transported any forest produce that does not bear the imprint of the registered mark (rule 5). No person shall transport or cause to be transported any forest-produce by land routes, without obtaining *pass/ challan* from the concerned Forest Officer. The authority issuing the pass shall prescribe the transport routes and other conditions (rules 11-12).

The Divisional Forest Officer may with the permission of the Conservator of Forests notify the setting up of a *check post(s)* at suitable point(s) along the roads for the purposes of check and examination of forest produce (rule 13). A Forest/Police Officer may at any time require any person transporting forest produce to produce the pass/ challan; on the failure to do so by such person, the officer may detain/ seize the forest produce (rules 14-15).

Notwithstanding anything contained in these Rules, a right-holder who has collected forest produce in exercise of his recorded rights may, without obtaining a pass, transport such forest produce within the revenue estate in which it has been so collected (rule 17). There is a bar on booking of forest produce by Rail (rule 18). Any person who contravenes these rules shall be liable to imprisonment up to 6 months or with fine up to Rs. 500, or with both. The penalties can be *doubled* under certain circumstances.

By a Notification in 1994, the State Government has amended the *H.P. Forest Produce Transit (Land Routes) Rules*. Rule 11 now specifically lays down the "pass/ export permit fee" for specified medicinal plants. The trade in some of the important and threatened medicinal plants of the State has been "restricted" or "banned", viz. *Angelica glauca* ('Chora'), *Atropa acuminata* (Belladonna), *Berberis aristata* ('Rasaunt'), *Berberis lycium* ('Kashmal'), *Dioscorea deltoidea* ('Singhli-Mingli'), *Picrorhiza kurroa* ('Kuroo'), *Podophyllum hexandrum* ('Ban kakri'), etc.

Summing Up

In Himachal Pradesh, the collection and trade of medicinal plants is informally carried out and the State has no market of its own. Villagers collect the drugs and sell these to the local shopkeepers at throw away prices in return for the items of their domestic needs. These village shopkeepers in fact act as agents of a few business parties from Delhi, Amritsar, Bombay, Dehradun, etc. The forest department permits the export of medicinal and aromatic plants and issues export permits after realising the licence fee specified for each item. The licencees of such forest produce are generally petty contractors who employ illiterate villagers for extracting useful parts of medicinal plants who often collect indiscriminately with little care for future.

It was, thus, necessary that concerted efforts were undertaken to protect, propagate and cultivate these valuable species on large scale. As per the State industrial policy, medicinal plants have been kept under first priority list and incentives have been provided to encourage entrepreneurship in the State. The State Khadi Board provides loans for collection, marketing and processing of medicinal plants ranging from Rs. 75,000/- to Rs. 10 lacs. The State Science, Technology & Environment Council has sanctioned small schemes to the NGOs functioning in Himachal Pradesh for documentation of traditional knowledge on medicinal plants.

As a step towards conservation of biological diversity of medicinal plants of Himalayan region, the Y.S. Parmar University of Horticulture and Forestry, Nauni-Solan has done systematic survey of medicinal plant wealth of the State to assess the quantity and quality of available and commercially viable species and their useful parts followed by 'ex-situ' conservation efforts by developing/ establishing Botanic/ Herbal Gardens in different agro-climatic zones of the State (Chauhan, 1999).

Joint Forest Management (JFM) programme has been adopted in the State. Under which, Village Development Committees (VDCs) and Women's groups have been formed in respect of Panchayat, Community and Undemarcated forests. They have been assigned the responsibility of protection of forests, grass distribution, dispute resolution, free labour, etc. The forest usufructs to be shared includes all NTFPs including medicinal plants.

THE HIMACHAL PRADESH FOREST PRODUCE (REGULATION OF TRADE) RULES, 1982*

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

- (1) 'Ordinance' means the *Himachal Pradesh Forest Produce (Regulation of Trade) Ordinance*¹, 1981;
- (4) 'Section' means a section of the Ordinance.

3. Procedure for issuance of transit permits [Sec. 4(c)].- Application for issue of permit under Cl. (c) of Sec. 4 shall be made in Form No. I and shall be submitted to the Divisional Forest Officer who shall, after making such inquiries as he deems fit, issue permit under Secs. 41 and 42 of the Indian Forest Act, 1927 and the rules made thereunder by the State Government:

Provided that where the Divisional Forest Officer has reasons to believe that-

- (a) the forest produce extracted is in excess of what should have been obtained from the number and volume of trees sold; or
- (b) the forest produce is from unauthorised source, he may reject the application partially or in *toto*.

4. Procedure for purchase of forest produce offered for sale by owners (Sec. 5).-

- (1) The owner shall apply in Form No. II in duplicate to the Agent offering for sale the forest produce enclosing all documents in proof of his being owner of the forest produce and specifying the year during which the area from which the forest produce is intended to be extracted and sold is due for felling under the felling programme.
- (2) The Agent, on receipt of application, shall forward the original to the Divisional Forest Officer concerned with a simultaneous reference to the Tehsildar and in the case of Sub-Tehsil to the Naib-Tehsildar of the area concerned for demarcation of the area in which the forest produce is intended to be sold by the owner and offered for sale to the agent. A copy of the request made to the Tehsildar/Naib-Tehsildar will also be endorsed to the owner with directions to get the area demarcated.
- (3) The demarcation of the area from which the forest produce is intended to be extracted and sold will be carried out by the Revenue Officer not below the rank of Naib-Tehsildar in the presence of Range Officer of the area concerned and nominee of the Agent:

Provided that where Naib-Tehsildars are not posted, the demarcation of the areas will be carried out by the Field Kanungos.

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

1. The Ordinance has been made the Act, viz. H.P. Forest Produce (Regulation of Trade) Act, 1982.

- (4) It will be the responsibility of the owner or his legally authorised representative to get the area demarcated expeditiously to enable the Agent to fell and convert the trees within time.
- (5) The trees will be marked silviculturally by the Range Officer/Deputy Ranger/ Forester as per instructions issued by the Divisional Forest Officer concerned, from time to time.
- (7) The Divisional Forest Officer on receipt of marking list, demarcation and marking certificates may, if he deems fit to do so, inspect the area and the marking for verification.
- (8) On satisfaction of the Divisional Forest Officer he may issue the felling order in the name of the owner in Form No. III with copies to the Range Officer concerned and the nominee of the Agent.
- (9) The prices of trees offered for sale will be paid by the Agent as per price fixed under Sec. 7 of the Ordinance.

5. Constitution and procedure for conducting the business of the Advisory Committee (Sec. 6).-

- (1) The State Government shall publish the names of the members of the Advisory Committee constituted under Sec. 6 in the Official Gazette. For each such committee, there shall be a Chairman-cum-Convenor.
- (2) The composition of the Committee shall be as under :-
 - (a) Divisional Forest Officer of the concerned Division... *Chairman-cum-Convenor.*
 - (b) Representative of Deputy Commissioner of the area...*Member.*
 - (c) two *pradhans* (headmen) of the area due for felling under the approved 10 years felling programme formulated under Sec. 4 of the Himachal Pradesh Land Preservation Act, 1978.] ...*Member*
 - (d) Representative of the Agent ...*Member*
- (7) The Committee, having regard to the following factors shall advise the State Government regarding the price at which the forest produce shall be purchased by the State Government or its Agent in each Division during each financial year, namely :-
 - (a) the weighted average of the last three years Government *auctions* of standing trees, if any, or rates charged in the Division concerned from the Himachal Pradesh State Forest Corporation Private Ltd., in respect of Government lots;
 - (b) the general trend of the market depending upon the latest auctions, if any;
 - (c) the price variation to be allowed *vis-a-vis* the basic rate calculated on above factors, depending upon the proximity of the area to road side, quality and quantity of the forest produce being offered for sale; the mode and cost of transportation; the cost of extraction of forest produce; and

(d) Any other factors which the Committee considers relevant.

- (8) A copy of the minutes of the meeting of the Committee shall be sent along with the advice to the Chief Conservator of Forests through the concerned Conservator of Forests of the Circle, who in turn shall forward the same to the State Government immediately.

6. Fixation of price by the State Government (Sec. 7).-

- (1) The State Government, after consideration of the advice of the Committee, shall fix the price at which the forest produce shall be purchased at various places by it or by its agent from the owners of the forest produce.
- (2) The price so fixed shall be published in the Official Gazette and shall remain in force unto the end of each financial year.

7. Payment of advances for areas covered by felling programme (Sec. 8).- In case where the area is due for felling during the subsequent years according to felling programme and the owner is in urgent need of money, he may offer for sale his forest produce to the Agent and may apply for advance of money in Form No. IV.

8. Disposal of forest produce (Sec. 9).-

- (1) The Agent shall sell the forest produce through its *depots* under sub-rule (2) by open auction or by supplies to Government and other Departments.
- (2) The Agent shall also open depots for local sale of the forest produce as may be specified by the State Government from time to time.

9. Terms and conditions for grant of permit (Sec. 19).-

- (1) The Divisional Forest Officer of the concerned Division will be the authorised officer for the issuance of a permit under sub-section (1) of Sec. 19.
- (2) The application in Form No. V for issue of *permit* under sub-section (1) of Sec. 19 of the Ordinance shall be submitted to the Divisional Forest Officer who shall after making such enquiries as he may deem fit, issue permit in Form No. VI:

Provided that where the Divisional Forest Officer has reason to believe:-

- (a) that the extracted forest produce purchased for the purpose of further sale before the commencement of the Ordinance is not genuine or *bona fide*;
- (b) that the forest produce procured by the applicant was from unauthorised source; and
- (c) that the orders for demarcation and marking for extraction of forest produce were not issued prior to the commencement of the Ordinance; he may reject the application.
- (3) The forest produce in respect of which application for permit under sub-rule (2) above has been rejected may, after opportunity of being heard has been given to the applicant, be *seized* by the Divisional Forest Officer concerned.

- (4) Any person aggrieved by the order of the Divisional Forest Officer made under sub-rule (2) may prefer an appeal to the Conservator of Forests of the Circle concerned within thirty days from the date of rejection order made under sub-rule (2) and the orders thereon by the Conservator of Forests shall be final.

**THE HIMACHAL PRADESH PRESERVATION OF FORESTS
AND MAINTENANCE OF SUPPLIES OF FOREST BASED
ESSENTIAL COMMODITIES ACT, 1984***

(Act No. 22 of 1984)

An Act to provide for preventive detention in certain cases for the purpose of preservation of forests in the Himachal Pradesh, and maintenance of supplies in forest-based commodities essential to the community and for matters connected therewith.

2. Definitions.-

- (d) "forest produce" has the meaning assigned to it in Cl. (4) of Sec. 2 of the Indian Forest Act, 1927 (16 of 1927).

3. Power to make orders detaining certain persons.- The State Government may, if satisfied with respect to any person that with a view to preventing him from action in any manner prejudicial to the preservation of the forests in the State and the maintenance of the forest based supplies and services essential to the community and for matters connected therewith it is necessary so to do, make an order directing that such person be detained.

Explanation- For the purposes of this section, the expression "acting" in any manner prejudicial to the preservation of the forests in the State and maintenance of forest based supplies of commodities essential to the community and matters connected therewith means-

- (a) committing or abetting or instigating any person to commit, any offence punishable under the Indian Forest Act, 1927 (16 of 1927), the Himachal Pradesh Land Preservation Act, 1978 (28 of 1978), the Himachal Pradesh Resin and Resin Products (Regulation of Trade) Act 1981 (6 of 1981) or the Himachal Pradesh Forest Produce (Regulation of Trade) Act, 1982 (5 of 1982), or under any other law for the time being in force, relating to the control, acquisition, supply or distribution of, or trade and commerce in, any forest produce; or
- (b) dealing in forest produce with a view to making gain in any manner which may directly or indirectly defeat or tend to defeat the enactments as are referred to in Cl. (a).

13. Maximum period of detention.- The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under Sec. 12, shall be one year from the date of detention:

Provided that nothing contained in this section shall affect the power of the State Government to revoke or modify the detention order at any earlier time.

* The complete Act is not reproduced. Only the relevant sections have been extracted.

THE HIMACHAL PRADESH FOREST PRODUCE TRANSIT (LAND ROUTES) RULES, 1977*

(Framed under Secs. 41, 41A and 42 of the Indian Forest Act, 1927)

5. Registration and property mark(s).- No person shall transport or cause to be transported any forest produce that does not bear the imprint of the registered mark.

6. All persons wishing to transport forest produce by land routes shall register at the office of the Divisional Forest Officer, the mark or marks which indicate their proprietary rights in such forest produce provided that no mark is required to be imprinted on any timber which is being transported within the concerned revenue estate only by a right-holder in consequence of a grant to that effect in his favour.

7. No person shall be allowed to register any mark(s) already registered in favour of other persons of the Government Departments. The Divisional Forest Officer may refuse registration of any mark(s) which according to him closely resemble(s) the mark(s) used by the Government Department or has/have been registered in favour of some other person(s).

8. Issue of Certificate of Registration.- A certificate showing the facsimile of the mark, the date of registration, the period for which it is valid and acknowledging the payment of fees shall be issued to every person registering his mark(s).

9. Validity period of Registration Certificate.- Every certificate of registration shall be valid for three years commencing from the 1st January of the year of registration. The registration fee in respect of each shall be Rs. 5 and if the number of marks to be registered in favour of one person exceeds three, the fee shall be Rs. 10 for each such mark. However no fee is payable by any Government Department.

10. Issue of pass for export or transport of forest produce.- No pass shall be issued for any unmarked timber or for such timber as bears the marks not registered as hereinafter provided:

- (i) The Divisional Forest Officer may refuse to issue a pass for export or transport if he has reasons to believe or for any other valid reasons that the forest produce has not been legally obtained by the applicant. However, the refusal to issue a pass shall be made in the shape of self-speaking written order.
- (ii) The person who has been refused to the issue of pass may within fifteen days of the date of refusal prefer an appeal to the Conservator of Forests incharge of the area concerned and his orders on appeal shall be final.

11. Prohibition on transport of forest produce.-

- (i) No person shall transport or caused to be transported any forest produce by land routes, without obtaining pass (Annexure 'A') from the concerned Divisional Forest Officer or any other officer so authorised.

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

- (3) *Transport routes and other conditions.*- The authority issuing the pass shall prescribe the route by which alone the forest produce may be transported and shall also determine the check post(s) where the forest produce should be compulsorily checked in detail.
- (4) The issuing authority shall also determine the other conditions subject to which the pass shall be issued and shall also determine the period for which the pass shall remain valid. However the validity of any pass shall under no circumstances exceed a period of six months including any extension(s) allowed. A fee of Rs. 5 shall be leviable for the issue of such a pass.

12. Issue of Challan(s).- The person in whose favour the pass has been issued or his authorised agent shall issue a challan (Annexure 'B') to accompany the forest produce in case all the forest produce cannot be transported at the same time and the pass cannot accompany the forest produce. The challan will be valid for a maximum of only 60 hours.

13. Setting up of check post(s).- The Divisional Forest Officer may with the permission of the Conservator of Forests notify the setting up of a check post or check posts at suitable point(s) along the roads for purposes of check and examination of forest produce.

At every check post, registers (Annexure 'C') to record the details of forest produce passing through the check post shall be maintained.

14. Production of pass /challan for examination.- A Forest Officer or Police Officer may at any time require any person transporting forest produce to produce the pass/challan as issued for the transportation of such produce. No person is entitled to transport forest produce by virtue of pass/challan which he does not himself hold but is or is stated to be in the hands of some other person.

15. Detention of forest produce and other articles, etc.- In the event of the pass/challan not being produced, the Forest Officer or Police Officer may detain the forest produce, vehicles, camels, mules, etc. by which it was being transported and cause the same not to move as long as may be reasonably necessary to examine the forest produce and/or till the valid pass/challan is produced.

16. Seizure of forest produce and other articles, etc.- In the event of the pass/challan being not produced in reasonable time, the Forest Officer or Police Officer shall further effect seizure of Forest produce and other measures of transport and other articles, in accordance with the law in force.

17. Exemption of right-holders from obtaining of pass.- Notwithstanding anything contained in these rules, a right-holder who has collected forest produce in exercise of his recorded rights may, without obtaining a pass, transport such forest produce within the revenue estate in which it has been so collected.

18. Bar on booking of forest produce by Rail.- No person shall offer any forest produce for export by rail on any railway station within Himachal Pradesh unless it is covered by a pass issued under these rules. Nor will the railway authorities accept any forest produce for transport by rail unless accompanied by a valid pass.

19. Bar on altering or defacing or obliterating of marks.- No person shall

without the written permission of the Divisional Forest Officer alter or deface or obliterate any mark placed on any forest produce while in transit.

20. Penalty, etc. for breach of rules.— Any person who contravenes these rules shall be liable to imprisonment for a term which may extend to six months or with fine which may extend to Rs. 500 or with both and the forest produce being transported may also be seized and dealt with under the provisions of the Indian Forest Act:

Provided that the penalties will be *doubled* in cases where the offence has been committed after sunset or before sunrise, or after resistance to the lawful authority or where the offender has been previously convicted of like offence.

[Annexures omitted.]

THE HIMACHAL PRADESH FOREST PRODUCE TRANSIT (LAND ROUTES) AMENDMENT RULES, 1994

In the amendment of rules 5, 6, 10, 11, 18 and 20 of the Himachal Pradesh Forest Produce Transit (Land Routes) Rules, 1977, after the words "any forest produce", the words "other than fuelwood, khair wood, bamboos, charcoal, *medicinal plants* and seeds" shall be inserted.

As per amendment of rule 11(4), a fee of Rs. 25/- shall be leviable for the issue of a pass except in case of medicinal plants for which the fee shall be charged as shown in the ensuing Table. Certain items which have been categorised as endangered have been restricted/ banned for collection and trade.

As per amendment of rule 18, no person shall offer any forest produce for export by rail, or any railway station, or by post at any post office, or by air or any airport within Himachal Pradesh, unless a pass has been issued under these rules and no railway, postal, airport authority shall accept for transport/ transmission, any forest produce by rail, post or air, unless it is accompanied by a valid pass. Fees at varying rates shall be leviable for the issue of such a pass as indicated in the succeeding Table.

Notification No. Fts (A) 3-1/77, dt. 9th March 1994, HP Forest Produce Transit
(Land Routes, Rules, Ordinary) 1994-Amendment [Rule 11]

Botanical name	Local name	Pass/export permit fee (in Rs./quintal)
<i>Abies webbiana</i>	Talis patra	85.00
<i>Aconitum heterophyllum</i>	Patish, Atish (Karvi patish)	7,500.00
<i>Aconitum violaceum</i>	Patish (Mithi)	1,500.00
<i>Acorus calamus</i>	Bach, Bare	130.00
<i>Adiantum lunulatum</i>	Dungtuli, Hansraj	80.00
<i>Ainslaea aptera</i>	Sathjalari	50.00
<i>Angelica glauca</i>	Chora	125.00
<i>Artemisia brevifolia</i>	Senski	50.00
<i>Atropa acuminata</i>	Belladona (Jharka)	60.00
<i>Berberis aristata</i>	Rasaunt	500.00
<i>B. asiatica</i>	Rasaunt	500.00
<i>B. lycium</i>	Kashmal	500.00
<i>Bunium persicum</i>	Kalajira	2,000.00
<i>Dactylorhiza hatagirea</i>	Salam panja	6,000.00
<i>Dioscorea deltoidea</i>	Singhli-Mingli	900.00
<i>Ephedra gerardiana</i>	Somlata	50.00
<i>Girardinia heterophylla</i>	Bichhu buti	150.00
<i>Hedychium acuminatum</i>	Kapoor kachri	70.00
<i>Heracelum candicans</i>	Padara, Patrala	25.00
<i>Hyoscyamus niger</i>	Khurasani ajwain	150.00
<i>Jurienea dolomiaea</i>	Dhoop	500.00
<i>Morchella esculenta</i>	Guchhi	10,000.00

<i>Nardostachys grandiflora</i>	Jatamansi	690.00
<i>Parmelia</i> spp.(Lichens)	Chharila	225.00
<i>Picrorhiza kurrooa</i>	Kuroo	540.00
<i>Pinus wallichiana</i>	Kail cones	1,000.00
<i>Pistacia integerrima</i>	Kakarsinghi	1,000.00
<i>Podophyllum hexandrum</i>	Bankakri	450.00
<i>Polygonatum verticilatum</i>	Salam Mishri	1,000.00
<i>Potentilla nepalensis</i>	Dori	40.00
<i>Rheum australe</i>	Rewand chini	110.00
<i>Rhododendron companulatum</i>	Kashmiri Patha	150.00
<i>Salvia moorcroftiana</i>	Thuth	180.00
<i>Saussurea costus</i>	Kuth	300.00
<i>Selium vaginatum</i>	Bhutkesi	400.00
<i>S. tenuifolium</i>	Muramansi	400.00
<i>Swertia chirayita</i>	Chirayata	700.00
<i>Taxus wallichiana</i>	Birmi, Talispatri	600.00
<i>Thalictrum foliolosum</i>	Mamiri	335.00
<i>Thymus serpyllum</i>	Banajwain	100.00
<i>Tinospora sinensis</i>	Giloye	100.00
<i>Valeriana jatamansi</i>	Mushak bala	590.00
<i>V. hardwickii</i>	Nihani	300.00
<i>Viola serpens</i>	Banafsha	2,250.00

STATE
OF
JAMMU & KASHMIR

NTFP including Medicinal Plants

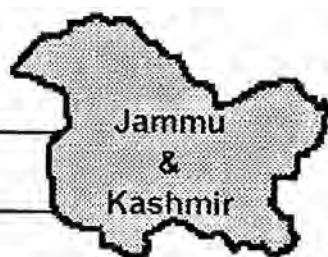
Aconitum chusmantium ('Mohri', 'Banbal nag'), *Althea officinalis* ('Gul khair'), *Artemisia brevifolia* ('Saisaki'), *Atropa acuminata* ('Jalla kaffal'), *Achillea millefolium* ('Rozmari'), *Colchicum luteum* ('Surajan talakh'), *Dioscorea deltoidea* ('Lobidwala'), *Hyssopus officinalis* ('Jufa'), *Inula racemosa* ('Pashkar'), *Lavetra kashmiriana* ('Resha khatmi'), *Orchis latifolia* ('Salevmisri'), *Pinus wallichiana* ('Kail'), *Pinus roxburghii* ('Chir'), *Saussurea lappa* ('Kuth'), *Swertia chirayita* ('Chirayata'), *Tribulus terrestris* ('Gokhru', 'Bakhra'), *Tussilago farfara* ('Vat pan'); etc.

Monopoly Agency

- * State Forest Corporation and State Forest Department.

Price Fixation Method

- * By State Forest Corporation/ Department.



Legal Framework

(1) *Jammu & Kashmir Forest Act, 1987*

(Similar to the Indian Forest Act, 1927)

- * Provisions relating to the transit of forest produce and duty leviable on forest produce.

(2) *Kuth Act, 1978 and Rules*

- * Conservation, preservation and protection of Kuth plant (*Saussurea lappa*).
- * To guard against illicit cultivation, possession and export of Kuth.
- * The State Government has extended the application of Kuth Act to certain economic plants, viz. *Atropa belladonna*, *Aconitum heterophyllum*, *Colchicum luteum*, *Podophyllum*

emodi, *Dioscorea deltoidea*, *Lavetra kashmiriana*, *Hyoscyamus niger*, *Artemisia maritima* and *Inula racemosa*.

(3) *Jammu & Kashmir Forest Corporation Act, 1978*

- * Establishment of a Corporation for better management and exploitation of forest produce.

(4) *Jammu & Kashmir Preservation of Specified Trees Act and Rules, 1969*

- * Preservation of certain species of trees and for regulation of felling thereof.

(5) *Jammu/ Kashmir Forest Notice*

- * Concessions of forest produce to villagers and others from the demarcated forests.

INTRODUCTION

The State of Jammu and Kashmir (J & K), endowed with lush-green valleys and coniferous forests, has a total land area of 2,22,235 sq. km. out of which the forest area comprises of about 20,182 sq. km. (9.08%). Himalayan Moist/ Dry Temperate and Alpine forests are found in the state. The State of J & K possess various medicinal plants of immense value:

Botanical Names	Common Names
<i>Abies webbiana</i>	Talishpatri
<i>Aconitum chusmanthum</i>	Mohri, Banbal nag
<i>Aconitum ferox</i>	Visha
<i>Aconitum heterophyllum</i>	Atis, Patis
<i>Althea officinalis</i>	Gul khair
<i>Artemisia brevifolia</i>	Saisaki
<i>Artemisia maritima</i>	Morin
<i>Atropa belladonna</i>	Indian belladonna
<i>Atropa acuminata</i>	Jalla kaffal
<i>Achillea millefolium</i>	Rozmari
<i>Angelica glauca</i>	Chork, Chora
<i>Asparagus adsendens</i>	Satavar, Safed musli
<i>Cichorium intybus</i>	Chicori
<i>Colchicum luteum</i>	Surajan talakh
<i>Delphinium denudatum</i>	Jadvar
<i>Dioscorea deltoidea</i>	Lobidwala
<i>Ephedra gerardiana</i>	Batsur
<i>Hyssopus officinalis</i>	Jufa
<i>Ipula racemosa</i>	Poshkar
<i>Lavetra kashmiriana</i>	Resha khatmi
<i>Marrubium vulgare</i>	Pahadi gandana
<i>Myrsine africana</i>	Baib rang
<i>Nardostachys jatamansi</i>	Balchad
<i>Orchis latifolia</i>	Salevmisri
<i>Peganum harmala</i>	Gandhya
<i>Pinus wallichiana</i>	Koil
<i>Pinus roxburghii</i>	Chir
<i>Podophyllum hexandrum</i>	Bankakri, Papra
<i>Rheum emodii</i>	Revand chini
<i>Saussurea lappa</i>	Kuth
<i>Swertia chirayita</i>	Chirayata
<i>Tribulus terrestris</i>	Gokhru, Bakhra
<i>Tussilago farfara</i>	Vat pan

Various Acts/ Rules enacted by the State Government to protect its vast wealth of medicinal plants, are discussed in brief below.

The **Kuth Act, 1978**, is an Act to provide for the conservation, preservation and protection of the 'Kuth' plant (*Saussurea lappa*) and its produce in State and to guard against illicit cultivation, extraction, possession and export thereof. A previous permission is required in regard to cultivation, extraction, possession, transport, export, sale and manufacture of any substance or preparation containing 'Kuth'. Stringent penalties are provided for under the Act - for *first* offence (an imprisonment up to 2 years or fine upto Rs. 5,000, or both) and for *subsequent* offence (an imprisonment upto 4 years or fine upto Rs. 10,000, or both). Also, if the offender uses any deadly weapon while committing 'Kuth' offence or with a view to avoid arrest after its commission, an imprisonment upto 10 years is provided.

The State Government has framed detailed **Rules for Retail Sale of Kuth Roots** within the State. Import of Kuth root into the State from any other part of India is prohibited. All Kuth roots must be purchased from a licensed seller or direct from the Divisional Forest Officer, Utilization Division at Baramulla. Any person desirous of selling Kuth root on retail for bonafide medicinal or religious purposes should apply to the Divisional Forest Officer for grant of a *licence* to sell Kuth root.

The State Government has also framed **Rules to Prevent Illicit Export of Kuth**. Under the rules, the control and management of traffic on all bridges on the Chenab river shall vest in the Forest Department. The official appointed at the bridge shall be competent to search for the illegal possession of Kuth by any person or loaded pack animal crossing it. A nominal penalty of Rs. 20/- has been provided for breach of these rules.

The State Government has extended the application of Kuth Act to certain economic plants, viz. *Atropa belladonna*, *Aconitum heterophyllum*, *Colchicum luteum*, *Podophyllum emodi*, *Dioscorea deltoidea*, *Lavetra kashmiriana*, *Hyoscyamus niger*, *Artemisia maritima* and *Inula racemosa*.

The State Government has also enacted the **Jammu and Kashmir Extraction of Resin Act, 1986**, which seeks to regulate the extraction of resin from coniferous trees in the State.

The **Jammu and Kashmir Forest Corporation Act, 1978**, is an Act to provide for the establishment of a Corporation for better preservation, supervision and development of forests and scientific exploitation of forest produce within the State. The Corporation shall undertake research programmes relating to forests and forest products. The Corporation shall have power to set up workshop or factories for processing forest raw materials; and, to enter into such contract/ arrangement with any person as it may deem necessary for performing its functions under the Act. In the discharge of its functions, the Corporation shall be guided by such directions on questions of policy as may be given to it by the Government.

The **Jammu and Kashmir Preservation of Specified Trees Act, 1969**, is an Act to make provision for the preservation of certain species of trees and for regulation of felling and export of timber thereof. No person shall fell any specified tree except under and in accordance with the terms and conditions of a *permit* granted by the prescribed authority. Any person who contravenes any of the provisions of this Act

or the rules made thereunder shall be punishable with a fine upto Rs. 1,000, in addition to such compensation for any loss or damage caused to the owner of the specified tree as the authority may determine.

It may be noted that under the Act "specified trees" means walnut and includes such other species of tree whether standing on the State land or private land as may be notified by the Government, but does not include such trees growing in a demarcated forest (as defined in Jammu and Kashmir Forest Act, 1987). Under the Act, detailed rules have been framed in regard to permits, vide **Jammu and Kashmir Preservation of Specified Trees Rules, 1969**. It may be noted that a 'demarcated forest' means a forest land or waste land under the control of the Forest department, of which the boundaries have already been demarcated by means of pillars of stone or masonry or by any other conspicuous mark, etc.

The **Kashmir Forest Notice**, concerns concessions of forest produce to villagers and others from the Demarcated Forests in Kashmir, as well as the regulation of the exercise of the same. The concessions are granted for the bonafide domestic and agricultural use of 'Zamindars' i.e. those who hold and cultivate land as land owners or assamis' or tenants in Kashmir including the usual artisans, and are not for sale, barter or transfer. Under the Notice, cutting of the following species is prohibited: *Acer* spp., *Corylus colurna*, *Parrotia jacquemontiana*, *Prunus armenica*, and *Ulmus wallichiana*.

Certain trees are also prohibited from lopping, as specified in the Notice. All minor forest products not excepted by any special order, and for the collection of which no contract has been given by the Forest Department, shall be allowed free. The **Jammu Forest Notice** contains similar provisions in respect of the province of Jammu. The lopping of following species is prohibited under the Notice, viz. *Acacia catechu*, *Acacia modesta*, *Acacia arabica*, *Olea cuspidata*, and *Pistacia integerrima*.

The **Plains and Pabbi Tract Rules** are applicable to demarcated forests in certain 'tehsils' in the provinces of Jammu and Kashmir. The object of the demarcation of waste lands to which these rules apply is to bring them under Forest conservancy with a view of protecting the country against excessive erosion; and, providing permanent supplies of forest produce for the use of the local villagers. The **Gulmarg/Pahalgam Forest Rules** provides that all trees and shrubs and forest produce in the demarcated forest area in Gulmarg/ Pahalgam, are the property of State Government and come under the provisions of the State Forest Act, 1987. Under the Rules, no ferns or wild flowers shall be uprooted and no one shall be permitted to trade in or to offer for sale any ferns or wild flowers.

The State Government has issued a Notification under Sec. 11(a) of the State Forest Act, 1987, declaring certain trees to be **Reserved Trees in Rakh Salal Forest**, viz. all trees classed as conifers, and all broad-leaved trees classed as Special, A, B and C. The Government has also declared all trees on the *Shankaracharya Hill* (a religious place, an undemarcated forest) to be 'reserved'. Further the collection or removal of any forest produce from the said area is prohibited.

An 'Undemarcated forest' under the State Forest Act, 1987, means and includes all forest land (other than demarcated forest) which is the property of the Government and is not appropriated for any specific purpose and further includes all the

undemarcated and berun line forest vested with the Forest Department under the provisions of section 48 of the J & K Village Panchayat Act, 1958 or any other law for the time being in force. The State Government has framed **Rules for the Management of Undemarcated Forests**. Certain trees are declared to be 'reserved' trees under the said rules. Certain concessions are also granted to the 'Zamindars' of the villages situated within five miles of the undemarcated forest, for the bonafide agricultural and domestic use. An *Annexure to Council Order No. 215-C of 1943*, has laid down the Statement showing revised classification of Broad-leaved species into Special, A, B, and C category.

Jammu and Kashmir State Forest Act

See Part-I, 'Central and States' Forest Acts'.

Summing Up

Various rules and regulations have been framed by the State Government to protect and conserve the NTFP including medicinal plants in the State. A special Act in respect of 'Kuth' plant (*Saussurea lappa*) has been enacted and detailed rules framed thereunder. The State Government has rightly extended the application of the Act to certain other economic plants, viz. *Atropa belladonna*, *Colchicum luteum*, *Podophyllum emodi*, etc. More medicinal plants are required to be brought under the protective cover of the Act, so as to check illegal exploitation of these plants. However, at the same time, the State Government has to ensure that the local people or villagers in the vicinity of forests are not deprived of their source of livelihood i.e. forest produce.

The State of Jammu and Kashmir has eliminated contractors and replaced them by departmental working. The State Forest Corporation has been established for the scientific exploitation of forest produce within the State (Shukla, R.S., 2000).

Realising the legal and physical inadequacies of the Forest Department to deal with organized smugglers of forest resource, the State Government drastically amended the J & K Forest Act, 1987 (via Act XXIV of 1997), and raised Forest Protection Force. The Forest Protection Force along with its mobility, arms, ammunition, wireless and communication networking is meant to support the Forest Department in implementation of this Act.

The State Government has initiated the 'Joint Forest Management' programme. The Village Forest Protection and Management Committees (VFPMCs) have been assigned the responsibility of protecting against grazing and cutting in Demarcated Forests. However, the area of operation of the Committees is rather limited being confined only to the fodder grass and fuelwood.

THE KUTH ACT, 1978 (1921 A.D.)*

(Act No.1 of 1978)

Preamble.- Whereas it is expedient to provide for the conservation, preservation and protection of the Kuth plant (*Saussurea lappa*) and its produce in Jammu and Kashmir State and to guard against illicit cultivation, extraction, possession and export thereof.

2. Interpretation Clause.- In this Act unless there be something repugnant in the subject or context, the expression "Kuth" includes the root, stem, leaves, flower and all other parts of the Kuth plant (*Saussurea lappa*) and also all substances manufactured therefrom, and all preparations or admixtures containing Kuth or substances manufactured therefrom:

"export" means to take out of the Jammu and Kashmir State territories to any place outside such territories;

"transport" means to remove Kuth from one place to another within the territories of the Jammu and Kashmir State.

3. Presumption that Kuth is State property.- All Kuth within the State territory, unless title to it is vested in any person in accordance with any rule made or permission granted under section 4 of this Act, shall be presumed to be the property of the State.

4. Acts prohibited.- Except in accordance with rules published with the previous sanction of the Government in the Jammu and Kashmir Government Gazette, no person shall, within the territories of the Jammu and Kashmir State, take part in -

- (a) the cultivation of Kuth,
- (b) extraction of Kuth,
- (c) the possession of Kuth,
- (d) the transport of Kuth,
- (e) the export of Kuth,
- (f) the sale of Kuth,
- (g) the manufacture of any substance or preparation containing Kuth.

Nothing in this Act to prohibit acts done by permission.- Nothing in this section shall be deemed to prohibit any act done by permission in writing of the Conservator of Forests or other Forest Officer authorised by him in this behalf.

5. Penalties for acts in contravention of Section 4.-

- (1) Whoever contravenes or abets, or attempts, or connives at the contravention of the provisions of section 4 of this Act shall, on conviction before a Judicial Magistrate be punished for each such offence with imprisonment of either description for a term which may

* The complete Act is not reproduced. Only the relevant sections have been extracted.

extend to 2 years or with the fine which may extend to Rs. 5,000 or with both.

- (2) Whoever having been convicted of an offence punishable under sub-section (1) shall be guilty of any offence punishable under the said sub-section, and shall be subject for every such subsequent offence to imprisonment of either description for a term which may extend to four years or with fine which may extend to Rs. 10,000 or with both.
- (3) If at the time of committing any Kuth offence or with a view to avoid arrest at any time after its commission, the offender uses any deadly weapon, the imprisonment with which he shall be punished may extend to 10 years.

6. Presumption that un-accounted for Kuth is the Kuth in respect of which offence committed.- In prosecution under section 5 it shall be presumed, until the contrary is proved, that all Kuth for which the accused person is unable to account satisfactorily is Kuth in respect of which he has committed a offence under that section.

7. Power to prevent commission of offence.- Every Forest officer, Police officer, Customs and Excise officer or Revenue officer, shall prevent and may interfere for the purpose of preventing the commission of any Kuth offence.

7-A. (1) Any Forest officer, or any other officer, specially appointed to protect Kuth from being smuggled, may arrest or cause to be arrested-

- (a) any person found taking precautions to conceal his presence within the Kuth area, under circumstances which afford reason to believe that he is taking such precautions with a view to committing an offence under this Act; or
- (b) any person who is by repute a habitual thief of Kuth or a habitual receiver of stolen Kuth knowing it to be stolen, or who by repute habitually smuggles Kuth.

8. Power to arrest without warrant.- When there is reason to believe that a Kuth offence has been committed, any Forest officer, Police officer, Customs and Excise officer or Revenue officer or other officer authorised by the Government in this behalf may, without order from a Magistrate and without a warrant-

- (a) seize any Kuth, together with all deadly weapons, materials, tools, boats, carts, motor vehicles and cattle believed to be used in committing any such offence;
- (b) detain, search or arrest any person against whom a reasonable suspicion exists of his being concerned in any Kuth offence. Every officer making any arrest under this Section shall, without unnecessary delay, take or send the person arrested before the Judicial Magistrate having jurisdiction in the case, or to the officer-in-charge of the nearest Police station.

12. Disposal on conclusion of trial for forest offence of produce in which it was committed.- When the trial of any Kuth offence is concluded any kuth, in respect of which such offence has been committed, shall, if it is the property of the State or has been confiscated, be taken charge of by a Forest officer and in any other case may be disposed of in such manner as the Court may direct.

20. Application of Act to other economic plants with sanction of Government.- With the previous sanction of the Government, the provisions of this Act may be made applicable, by notification in the Jammu and Kashmir Government Gazette, to any other economic plant or plants.

21. Power to make rules.- The Government may, from time to time, by notification in the Jammu and Kashmir Government Gazette, make rules, to prevent the illicit export of kuth from the State.

RULES FOR RETAIL SALES OF KUTH ROOTS

Revenue Secretariat No. R-II of 1991 dated 17th November, 1934.- His Highness' Government (vide the Hon'ble Prime Minister's endorsement No. GB-21 dated the 20th October, 1934) has accorded sanction to the following rules for retail sale of Kuth root within Jammu and Kashmir State (framed under section 4 of the Kuth Act No. 1 of 1978, with the previous sanction of His Highness the Maharaja Bahadur):

1. Import of Kuth root into the State from any other part of India is prohibited.
2. All kuth roots must be purchased from a licensed seller or direct from the Divisional Forest Officer, Utilization Division at Baramulla.
3. Any person desirous of selling Kuth root on retail for *bona fide* medicinal or religious purposes should apply to the Divisional Forest Officer in whose jurisdiction his place of business is situated for grant of a licence to sell Kuth root. On receipt of this application, the Divisional Forest Officer shall cause adequate inquiries to be made as to the *bona fides* of the applicant and if he is satisfied, the Divisional Forest Officer may issue to him a licence in the attached form, under his signature and seal of office.
4. The Divisional Forest Officer may refuse to grant the licence or may demand security up to Rs. 200/- in each case. This security, if demanded and taken, will be treated like other securities in contract cases.
5. A record of licences issued will be maintained in a register in the Divisional office concerned and in the office of the Utilization Division, Baramulla.
6. Every licence will be renewable once a year on the 1st April of each year. A fee of Re.1/- will be charged for issuing or renewing a Kuth root licence for one year or part thereof.
7. The licensee shall keep the register in the form prescribed by the Divisional Forest Officer to show the receipts and the disposals of Kuth roots on each date. This register shall be accurately posted up to date. The totals shall be struck monthly and the balance brought forward on the first day of each succeeding month. A copy of this register for each month shall be submitted by the licensee to the Divisional Forest Officer who granted him the licence before the 6th day of the ensuing month. This copy may be sent by post or handed over at the office.

8. The territorial Divisional Forest Officers will consolidate the monthly returns of the Kuth root into quarterly statements and forward them to the Conservator of their circle and the Divisional Forest officer, Utilization Division Baramulla. These consolidated statements for each quarter should reach the Conservator and the Divisional Forest officer, Utilization within the first fortnight of the following quarter.
9. Sale of not more than 4 seers at a time to any one individual or concern is permitted.
10. For infringement of any of the above rules the licence holder shall be liable to all or any of the following penalties:-
 - (i) Cancellation of his licence.
 - (ii) Forfeiture of the whole or part of his security money if deposited under the orders of the Divisional Forest officer.
 - (iii) Civil or Criminal action that the Divisional Forest officer may decide to take against the delinquent.

RULES TO PREVENT ILLICIT EXPORT OF KUTH

Revenue Secretariat No. 56 dated 30th May, 1934.- In exercise of the powers vested in him under section 21 of the Kuth Act, 1978, the Revenue Minister has with the previous sanction of His Highness the Maharaja Bahadur, (vide Hon'ble Prime Minister's endt. No. GB. 1952 dated 28th May, 1934), made the following rules to prevent illicit export of Kuth:-

1. The control and management of Traffic on all bridges and Jhulas on the Chenab river and its tributaries excepting that on the bridge at Ramban shall vest in the Forest Department.
2. No new bridge or Jhula or Trangri shall be constructed on Chenab river or any of its tributaries without previous permission of the Minister I/c of the Forest Department or such officer as may be authorised by him in writing in this behalf.
3. Any bridge, Jhula or Trangri may be provided with a gate and may under order of DFO I/c of the Division, be closed in the interest of the control of traffic.
4. The official appointed at a bridge, Jhula or Trangri shall be competent to search for the illegal possession of Kuth by any person or loaded pack animal crossing it.
5. For breach of these rules or for an attempt to force passage in contravention of any rules or orders a fine not exceeding Rs. 20 may be inflicted by the DFO or any other officer specially authorised in this behalf by the Chief Conservator of Forests.

APPLICATION OF THE PROVISIONS OF THE ACT TO CERTAIN PLANTS

Agriculture Department Notification SRO-336 dated: 13th May, 1972.- In exercise of the powers conferred by section 20 of the Jammu and Kashmir State Kuth

Act, Samvat 1978 (1 of 1978) and in supersession of Notifications Annexure to Cabinet order No. 562-C of 1949 and SRO-241, dated 14-7-1949 and 12-9-1962 respectively, the Government hereby accord sanction to the application of the provisions of the said Act to the following plants, namely:-

- | | |
|----------------------|---------------------------------|
| 1. Morin | <i>Artemisia maritima</i> |
| 2. Poshkar | <i>Inula racemosa</i> |
| 3. Belladonna | <i>Atropa belladonna</i> |
| (Jalla kaffat) | <i>Atropa accuminata</i> |
| 4. Patis | <i>Aconitum heterophyllum</i> |
| 5. Surajan Talakh | <i>Colchicum luteum</i> (corms) |
| 6. Resha Khatmi | <i>Lavetra kashmiriana</i> |
| 7. Bazar Bang | <i>Hyoscyamus niger</i> |
| 8. Bankakri | <i>Podophyllum emodi</i> |
| 9. Krench, Lobidwala | <i>Dioscorea deltoidea</i> |

RULES FOR CONTROL OF TRAFFIC ON FOREST DEPARTMENT BRIDGES

Notification No. 18 dated 18-1-1933.- His Highness the Maharaja Bahadur has been pleased to sanction (vide Prime Minister's endt. No. G.B. 79 dated the 5th January, 1933) revised rules for the control of traffic on the Forest Department bridges over the Kishanganga river which are given below:-

1. Cows, bullocks or buffaloes or any pack animal whether loaded or empty shall not cross the forest bridges which are under the control of Forest Department, provided that the DFO in charge of the Division may give permission for such crossing in case of particular animals.
2. Not more than one sheep or goat will be allowed to pass over the bridge at one time.
3. Not more than one man shall cross the bridge at one time.
4. Each bridge may be provided with a gate which may under the orders of DFO, be closed from sunset to sunrise, if necessary, in the interest of Kuth protection.
5. The bridge chowkidar shall control the traffic in accordance with the above rules.
6. For any breach of these rules, a fine not exceeding Rs.20 may be inflicted by the DFO or any other officer specially authorised in this behalf.

THE JAMMU AND KASHMIR STATE FOREST CORPORATION ACT, 1978*

An Act to provide for the establishment of a Corporation for better preservation, supervision and development of forests and better exploitation of forest produce within the State and for matters connected therewith.

3. Establishment of the Corporation.-

- (1) The Government shall by notification in the Government Gazette and with effect from a date to be specified therein, constitute a Corporation by the name of the Jammu and Kashmir State Forest Corporation.
- (2) The Corporation shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name and shall have the power to acquire, hold and dispose of property for the purposes of this Act.
- (3) The Corporation shall for all purposes be a local authority.
- (4) The Corporation shall have its head office at Srinagar and may have offices at such other places as it may consider necessary.

4. Constitution of the Corporation.-

- (1) The Corporation shall comprise-

- | | | |
|-----|---|-----------------------------|
| (a) | Minister Incharge of Forest | Ex-officio Chairman |
| (b) | Minister of State or Deputy
Minister of Forests, if any | Ex-officio
Vice Chairman |
| (c) | Seven members to be appointed by the Government, five from amongst its officers and two from the Legislature as Directors of the Corporation. | |

- (2) The Government may by notification in the Government Gazette, appoint one of the Directors as Managing Director of the Corporation.
- (3) The Chairman may invite any person having special knowledge and practical experience in matters relating to preservation, supervision and development of forests and better exploitation of forest produce to render advice to the Corporation with regard to any of such matters.

14. Functions of the Corporation.- Subject to the provisions of this Act, and to any general or special directions of the Government, the functions of the Corporation shall be,

* The complete Act is not reproduced. Only the relevant sections have been extracted.

- (a) to undertake removal and disposal of trees and exploitation of forest resources entrusted to it by the Government;
- (b) to undertake research programmes relating to forests and forest products and render technical advice to Government on matters relating to forestry;
- (c) to manage, maintain and develop such forests as are transferred or entrusted to it by the Government till these are handed back to the Government; and
- (d) to perform such functions as the Government may from time to time require.

15. Powers of the Corporation.-

- (1) The Corporation shall subject to the provisions of this Act, have power to do all such acts as may be necessary or expedient for carrying out its functions under this Act.
- (2) Without prejudice to the generality of the foregoing provisions such power shall include the power:-
 - (a) to set up workshop or factories for processing forest raw materials;
 - (b) to establish, maintain and operate laboratories and experimental and research stations;
 - (c) to enter into such contract or arrangement with any person as the Corporation may deem necessary for performing its functions under this Act;
 - (d) to borrow money, issue debentures, bonds or stocks and manage its funds; and
 - (e) to incur expenditure and grant advances for performing its functions under this Act.

16. Power of the Corporation to undertake projects at the instance of others.-

The Corporation may undertake the execution of any afforestation project at the request of the Government or, with the previous approval of the Government at the request of any other person on such terms and conditions as may be agreed upon.

24. Directions on the question of policy.-

- (1) In the discharge of its functions under this Act, the Corporation shall be guided by such directions on questions of policy as may be given to it by the Government.
- (2) If any question arises whether any matter is not a matter as respects which the Government may issue a direction under sub-section (1) the decision of the Government thereon shall be final.

26. Local Bodies to assist the Corporation.- Every local body shall render such assistance and furnish such information to the Corporation and make available for its inspection and examination such records, maps, plans and other documents as it may require in connection with the performance of its functions under this Act.

32. Government may invest the officers with powers of the Forest Officer.- The Government may invest the Managing Director or any employee of the Corporation

with any of the powers of the Forest Officer under the Jammu and Kashmir Forest Act, Samvat 1987 and the Managing Director or such employee in relation to such powers shall be deemed to be a Forest Officer within the meaning of section 2 of the Jammu and Kashmir Forest Act, Samvat 1987.

THE JAMMU AND KASHMIR PRESERVATION OF SPECIFIED TREES ACT, 1969*

(Act No. V of 1969)

An Act to make provision for the preservation of certain species of trees and for regulation of felling and export thereof.

WHEREAS certain species of trees growing in the State are the main sources of raw material for the specialized industries of Kashmiri Art, or are otherwise of vital importance for the economy, prosperity and welfare of a large section of citizens of the State; and

WHEREAS it is necessary in the public interest to make special provision for the growth, preservation and protection of such species of trees and for other matters connected therewith.

2. Definitions.-

- (e) "specified tree" means walnut and includes such other species of tree whether standing on the State land or private land as may be notified by the Government in the Government Gazette, but does not include such trees growing in a demarcated forest as defined in Jammu and Kashmir Forest Act, 1987.

3. Restriction on felling.- Notwithstanding anything contained in any other law for the time being in force, no person shall fell any specified tree except under and in accordance with the terms and conditions of a permit granted by the prescribed authority under this Act:

Provided that a permit granted under this section shall not authorise the felling of a specified tree by any person other than the owner thereof.

4. Application for permit.-

- (1) Every person desiring to obtain a permit under section 3 shall make an application in writing to the prescribed authority, in such form and containing such information, as may be prescribed.
- (2) On receipt of such application, the prescribed authority shall, subject to the provision of sections 5 and 6 by order in writing either:-
 - (a) grant the permit subject to such conditions, if any, as may be specified in the permit; or
 - (b) refuse to grant such permit.

3. Obligation to grant permit.- Subject to the provisions of section 6, the prescribed authority shall grant permit, if on inquiry, it is established that:-

* The complete Act is not reproduced. Only the relevant sections have been extracted.

- (a) the timber of a specified tree desired to be felled is required to be used for the manufacture of finished goods of Kashmir Arts; or
- (b) the felling of a specified tree is necessary for the prevention of danger or abatement of nuisance to life or property or for prevention of plant disease; or
- (c) the specified tree desired to be felled is completely dried up.

6. Obligation to refuse to grant permit.- The prescribed authority shall refuse to grant permit, if on inquiry, it is satisfied that-

- (a) the application for permit relates to a specified tree which is green, healthy or if it belongs to fruit-bearing species, is fruit bearing; or
- (b) the felling of the specified tree is likely to extinguish the species of the trees in the local area in which it grows; or
- (c) there is any other sufficient reason which he may record in writing to warrant refusal of permit.

7. Consultation.- In considering whether to grant or to refuse a permit the prescribed authority may in its discretion, and if so, required by a general or special order of the Government shall obtain the advice of any department of the Government or any officer thereof regarding any question of technical nature involved therein.

8. Export.- No person shall export or carry on the trade or business of exporting from the territories of the State timber of any specified tree or any species thereof.

9. Condition to be reasonable.- Where the prescribed authority grants a permit for felling a specified tree subject to any condition under the provisions of this Act, the condition so imposed shall be such as may be reasonable having regard to the circumstances of each case and the interest of the general public.

10. No compensation payable for loss or injury.- No person shall be entitled to claim compensation for any injury, damage or loss caused or alleged to have been caused by the refusal to grant permit or by any condition subject to which permit is granted under this Act.

13. Penalty.-

- (1) Any person who contravenes any of the provisions of this Act or the rules made thereunder or any term or condition of any permit granted under this Act, shall be punishable by the prescribed authority with a fine which may extend to one thousand rupees, in addition to such compensation for any loss or damage caused to the owner of the specified tree as the prescribed authority may determine, and where the contravention relates to felling of a specified tree, the timber of such tree shall also be liable to be confiscated by the prescribed authority.
- (2) Any amount of fine or compensation payable under sub-section (1) shall be recoverable as arrears of land revenue.

15. Effect of Act and rules, etc. inconsistent with other enactments.- The provisions of this Act or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

16. Power to make rules.-

- (1) The Government may make rules for purposes of carrying into effect the provisions of this Act.
- (2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-
 - (a) form of application for grant of permit authorising felling of a specified tree;
 - (b) form of permit to be granted by the prescribed authority authorising felling of a specified tree;
 - (c) information to be supplied by the applicant under section 4(1);
 - (d) fees chargeable in respect of a permit;
 - (e) manner and procedure for holding inquiry under sections 5 and 6 and the matters to be considered therein;
 - (g) period of validity of permits;
 - (h) form and manner in which accounts and registers relating to felling of specified trees shall be maintained by the prescribed authorities;
 - (i) form and manner in which appeals may be preferred against the orders of prescribed authority and the procedure for hearing appeals;
 - (k) the number of specified trees which a permit may authorise to fell at a time;
 - (m) any other matter which has to be or may be prescribed.

THE JAMMU AND KASHMIR PRESERVATION OF SPECIFIED TREES RULES, 1969*

2. Definitions.- In these Rules, unless the context otherwise requires:-

- (a) "Section" means the section of the Act viz. Jammu and Kashmir Preservation of Specified Trees Act, 1969.

3. Application for grant of permits.- An application for grant of permit for felling of a specified tree under section 4 shall be made in form A on stamp paper of Re. 1/-.

4. Permits.- The permits granted under sections 4 and 5 shall be issued in forms C & D respectively and maintained in a foil and counterfoil, the latter for delivery to the applicant and the former to be retained in the office of the issuing authority. Each permit shall bear the issue number at the top with the alphabets PST/ PA suffixed to it.

5. Fee chargeable on permits.- The fee chargeable on a permit issued under section 4 shall be Rs. 10/-

6. Enquiry.-

- (1) On receipt of an application for felling of a specified tree made under rule 3 the prescribed authority may call for a report from the Deputy Commissioner of the district in which the specified tree/ trees desired to be felled is/ are situated on any of the following points as he may specify namely:

- (a) whether the applicant is himself a dealer in or manufacturer of finished goods of Kashmir Art or wants to sell the timber to such dealer or manufacturer. In the second case, the particulars of the deal will require to be ascertained and verified;
- (b) if the applicant wants to sell the timber to any Government agency set up for purposes of exporting the timber outside the State;
- (c) the circumstances in which the tree/ trees sought to be felled endanger or cause nuisance to life or property;
- (d) whether the tree/ trees bear any fruit or are dried up completely or partially? If dried up completely, since when?

7. Consideration of special circumstances by and consultation with experts of the prescribed authority.-

- (1) The prescribed authority may require the Deputy Commissioner or an enquiry officer, from whom a report has been called for under rule 6 to explain the grounds which in his opinion justify the grant of permit being refused and consider such grounds at the time of making an order under Section 6.

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

- (2) Before making any order under section 5 or 6, the prescribed authority may, if he has any reason to believe that due to any cause the specified trees, for the felling of which an application for grant of permit is pending before him, are dwindling in number and it is likely that the species of such trees may, in course of time, get extinguished, in writing consult an officer of the Forest Department not below the rank of a Conservator of Forests and consider the advice so obtained at the time of making an order in the matter.

9. Validity of permits.-

- (1) Every permit for felling of a specified tree/ trees granted under section 4 shall remain in force for sixty days from the date of its issue.
- (4) There shall be no renewal of permits covered by sub-rule (1) where a specified tree/ trees has/ have not been felled during the period prescribed in the permit, a fresh application for grant of permit in accordance with these rules shall be made.

THE KASHMIR FOREST NOTICE*

Concerning concessions of forest produce to villagers and others from the Demarcated Forests in the province of Kashmir; as well as the regulation of the exercise of the same.

1. General.- (a) The concessions herein granted are for the *bona fide* domestic and agricultural use of Zamindars, i.e. those who hold and cultivate land as assamis or tenants in the province of Kashmir, and are not for sale, barter or transfer in any way whatsoever.

In addition, the usual artisans, permanently resident and employed in villages, are classed as Zamindars for the purpose of these rules.

SECTION A

Concessions to villagers, whose village boundary lies within three miles of the demarcated forest boundary, provided that the forest is not separated from the village by an unfordable stream at its winter level; and provided that the forests are capable of meeting the demand.

11. For the present the Conservator directs that the cutting of the following species is prohibited in these areas, in addition to those prohibited to lopping:-

Briari	(<i>Ulmus waltlichiana</i>)
Findak	(<i>Corylus colurna</i>)
Hari	(<i>Prunus armenica</i>)
Tilpatra, Kilu, Kanzal	(<i>Acer</i> spp.)
Pohu	(<i>Parrotia Jacquemontiana</i>)

15. The following trees cannot be lopped without the permission of the Conservator.-

1. Deodar, Paludar or Diar
2. Kairu or Biar
3. Chil
4. Budlu or Rewar
5. Tun or Tuni
6. Kachlu, Tung or Kachhal
7. Burj or Bojpatha
8. Hum or Sum
9. Akor, Akhort or Dun
10. Shisham or Tali

* The complete Notice is not reproduced. Only the relevant parts referred to. The Notice first issued in 1912 has been amended from time to time.

16. **Other Forest products.**— All minor forest products not excepted by any special order, and for the collection of which no contract has been given by the Forest Department, shall be allowed free.

SECTION B

Concessions to villagers whose village boundary coincides with the boundary of a demarcated forest, or to such villages as the Conservator may sanction.

19. All concessions are granted at the pleasure of the Government and may be withdrawn or be altered as they may deem expedient.

THE JAMMU FOREST NOTICE*

Concerning concessions of forest produce to villagers and others from the demarcated forests in the province of Jammu; as well as the regulation of the exercise of the same.

1. General.- The concessions herein granted are for the *bona fide* domestic and agricultural use of Zamindars i.e. those who hold and cultivate land as land-owners, assamis or tenants, in the province of Jammu; and are not for sale, barter or transfer in any way whatsoever.

In addition, the usual artisans permanently resident and employed in villages are classed as Zamindars for the purposes of these rules.

10. The following trees should not be felled under this rule unless marked for the purpose:-

Ambli	Dredtha, Batrin, Chelel
Bahera	Hari
Barachar, Moru	Jamun
Bami	Kam
Batang, Keint, Katani	Kamlan
Bani, Rin	Karik
Bankhor, Gugu	Kirshu, Heru, Kru
Bhata	Krangal, Kinjal, Kial, Amaltas
Bran, Bren, Mannu	Marna, Kanzal
Chikri	Salali, Sarol, Champ
Chinar	Sanan
Daruni	Siri
Dhaman	Zum

14. The lopping of the following trees is prohibited:-

Deodar	Diar
Silver Fir, Spruce	Re, Tos, Rewar, Tung
Blue pine	Biar, Kail
Chil	Chil, Chir
Chilgoza	Chilgoza
Birchi	Burj, Bhujpatra
Ash	Hum or sum
Walnut	Akhor
Tun	Tuni, Tun
Shisham	Thali
Bamboo	Bans
Kamila and Chikri	

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In addition, except in the following Tehsils, viz. Kishtwar Bhaderwah, Ramban, Gool (sub-Tehsil) and Rampur Rajouri, the lopping of the following species is also prohibited:-

Kahir	<i>Acacia catechu</i>
Phulai	<i>Acacia modesta</i>
Kikar	<i>Acacia arabica</i>
Kau	<i>Olea cuspidata</i>
Kakkar Kangar	<i>Pistacea integerrima</i>

16. Other Forest Produce.- All minor forest products, not excepted by a special order, and for the collection of which no contract has been granted by the Forest Department, shall be allowed free to Zamindars.

THE PLAINS AND PABBI TRACT RULES*

Applicable to the demarcated forests in the Kathua, Jasmirgarh, Samba, Jammu, Akhnoor, Bhimber and Mairpur Tehsils.

1. The object of the demarcation of the waste lands to which these rules apply is to bring them under Forest conservancy with a view of:-

- (a) protecting the country against excessive erosion;
- (b) providing permanent supplies of forest produce for the use of the local villagers.

3. The forests to which these rules apply will be divided into grazing units. A grazing unit will be the area allotted to a village, Mohra or group of villages or Mohras for grazing purposes.

4. Each grazing unit will be divided into 5 compartments, and each compartment will be closed in rotation for a period of eight years. Not more than one-fifth (i.e. one compartment) of the total area of a grazing unit will be closed at any time. After one compartment has been closed for 8 years, it will be opened and another compartment closed and so on, each compartment thus coming under closure for a period of eight years in rotation.

5. In the closed compartments the following acts are prohibited:

- (i) Felling of trees, shrubs and bushes.
- (ii) Lopping.
- (iii) Removal of timber, firewood or any other kind of forest produce except the cutting of grass, which shall be permitted free of charge without permit during the months of October-November only, provided that this concession may only be exercised by the permanent residents of villages whose village boundary is situated within three miles of the forest boundary.

6. In the open compartments the following rules apply:-

- (d) The collection and removal of minor forest products of all such kinds such as fruits, leaves, flowers, roots, honey etc. for sale is permitted, except such products as may be prohibited from sale by the Conservator.

7. The above concessions may only be exercised by residents of the villages whose village boundary is within three miles of the forest boundary

8. Any infringement of rule 5 and 6 will be punishable under Section 4 of the Forest Act.

9. These rules may be cancelled or altered at any time with the previous sanction of the Government.

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

GULMARG FOREST RULES*

3. All trees and shrubs etc. being property of Government.- All trees and shrubs, whether live or dead, and all forest produce growing upon or lying in the demarcated forest area or the Gulmarg Town Area as demarcated by means of pillars on the ground, are the property of Government of Jammu & Kashmir and for the purposes of these rules come under the provisions of the Forest Act, 1987 and under all regulations for the time being in force for the management and control of the forests of Government of Jammu and Kashmir.

13. Uprooting of ferns or wild flowers.- No ferns or wild flowers shall be uprooted and no one shall be permitted to trade in or to offer for sale any ferns or wild flowers.

* The complete Rules are not reproduced. Only the relevant parts have been extracted. The Rules first issued in 1921 has been amended from time to time.

RESERVED TREES IN RAKH SALAL FOREST

Notification under Section 11

The following class of trees will be considered as reserved under Section 11 (a) of the Jammu and Kashmir Forest Act, 1987 in the Rakh Salal Forest in the Reasi Division.-

(a) All trees classed as conifers.

(b) All broad leaved trees classed as Special, A, B and C.

2. All acts mentioned in Section 11 (b) of this Act are prohibited in the said forest from the date of publication.

3. Matters mentioned in clauses (a), (b) and (c) of Section 12 of the said Act will be regulated under the same rules as are applicable to Demarcated Forests under the said Act and the Jammu Forest Notice.

Shankaracharya Hill declared as reserved forest.

In exercise of the powers conferred by Section 11 of the Forest Act, 1987, the Government are pleased to declare all trees on the Shankaracharya Hill (an undemarcated forest) to be reserved with effect from the date of publication of this notification in the Government Gazette.

Government are further pleased to prohibit from the aforesaid said date, the quarrying of stones or the burning of lime or charcoal, or the collection or subjection to any manufacturing process, or removal of any forest produce, in the area known as the Shankaracharya Hill, and the breaking up or clearing for cultivation, for building for herding cattle, or for any other purpose any land in the said hill.

THE RULES FOR THE MANAGEMENT OF UNDEMARCATED FORESTS*

2. For the purpose of these rules.-

- 1) "Concessionists" means and include persons who have been granted concession under J & K Forests Notice;
- 2) "Zamindars" mean and include persons who hold and cultivate land as land owners, assaams or tenants and also include the usual artisans; provided they are permanently residing in villages within five miles of the undemarcated forests.
- 3) Trees are divided in the following classes.-
 - A. Deodar, Walnut, Hum, Chinar, Birdcherry, Pipal, Maple Bohar, Mulberry and Chikari;
 - B. All other conifers;
 - C. All other broad leaved trees.

3. The following trees are declared to be reserved trees.-

- A. All conifers.
- B. Chinar, Walnut, Hum, Chikari, Mulberry, Maple, Pipal and Bohar.

4. Subject to the restrictions laid down in these rules, trees of Class C and dead fallen timber of all classes except Chinar and Mulberry may be utilised by Zamindars of the villages situated within five miles of the undemarcated forests, free of charge, for their *bona fide* agricultural and domestic requirements only:

Provided that the Conservator of Forests in consultation with the Commissioner of the Province concerned may stop this concession by a notification in the Government Gazette in any area within his jurisdiction that requires protection on silvicultural grounds.

6. (a) Except as provided under Rules 4 and 5 above, no tree shall be cut, felled, barked, girdled, lopped or otherwise interfered with or without the permission in writing of the Divisional Forest Officer incharge of the Forest Division concerned.

7. No sale for commercial purposes of any class of trees shall be permitted unless the Conservator of Forests and the Provincial Commissioner are satisfied that no interference with the normal requirements of the concessionists is apprehended. Such sales will be allowed by the Chief Conservator of Forests on such terms and conditions as he considers necessary.

14. Any person who contravenes the provisions of rule 6 shall be liable to punishment under Sec. 6 of the Forest Act, 1987.

15. All concessions under these rules shall be for the *bona fide* agricultural and domestic use of Zamindars and are not for sale, barter, or transfer in any way whatsoever.

* The complete Rules are not reproduced. Only the relevant parts have been extracted. The Rules first issued in 1942 has been amended from time to time.

RULES REGARDING FREE GRANT OF TREES TO ZAMINDARS FROM UNDEMARCATED FORESTS AND PRIVATE LANDS IN THE JAMMU AND KASHMIR STATE*

1. Sum (Hum), Pipal and Bohar are hereby declared to be reserved trees under Section 47 of Land Revenue Regulation, 1980.

2. Undemarcated Forests.- Includes all areas except the following:-

- (a) Demarcated forests.
- (b) State lands under the control of Departments other than the Revenue and Forest Departments.
- (c) Private lands.

3. The Reserved trees, Mulberry (Tut) and Walnut (Akhrot) are subject to separate rules and are excluded from the operation of these rules.

For the purposes of these rules, trees are divided into the following classes.-

- (a) Chinar, Pipal and Bohar.
- (b) Deodar (Diar or Palunder).
- (c) All other Royal trees as specified in Section 46 of the Land Revenue Regulation, 1980 and also Sum (Hum).
- (d) All other trees except Mulberry and Walnut.

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ANNEXURE TO COUNCIL ORDER NO. 215-C OF 1943

Statement showing revised classification of Broad leaved species.

S. No.	Botanical Names	Local Names
Special Class		
1.	<i>Juglans regia</i>	Akhur, Akhort
2.	<i>Fraxinus excelsior</i>	Sum, Sinn, Hum
3.	<i>Buxus sempervirens</i>	Chikra
4.	<i>Acer</i> spp.	Trikana, Kanzal
5.	<i>Prunus padus</i>	Tarani zum, Bharat, Jamu
6.	<i>Cedrela</i> spp.	Tun, Tooni
7.	<i>Ulmus wallichiana</i>	Bran, Bari, Mannu.
'A' Class		
1.	<i>Dalbergia sisoo</i>	Tahli, shisham, Guzzu
2.	<i>Aesculus indica</i>	Bankhor, Coo
3.	<i>Ougeinia dalbergioides</i>	Sandan
4.	<i>Mangifera indica</i>	Aam
5.	<i>Olea cuspidata</i>	Kou
6.	<i>Terminalia chebula</i>	Hai, Harir, Haror
7.	<i>Prunus armenica</i>	Hari
8.	<i>Betula othis</i>	Bhojpatra, Burj
9.	<i>Celtis australis</i>	Kharok, Kharik
10.	<i>Augenia jainoorana</i>	Jaman
11.	<i>Bombax malabaricum</i>	Simbal
12.	<i>Salix alba</i> var. <i>coerulea</i>	Bed Angrizi
13.	<i>Corylus colurna</i>	Thangi, Findak Pinakooni
14.	<i>Terminalia belerica</i>	Bahera
15.	<i>Phyllanthus emblica</i>	Amila, Ambli
'B' Class		
1.	<i>Morus</i> spp.	Tut Krun
2.	<i>Rhus succedanea</i>	Arkun, Arkhar
3.	<i>Populus alba</i>	Sufeda Fraste
4.	<i>Populus ciliata</i>	Sifeda Sakki
5.	<i>Quercus</i> spp.	Hir
6.	<i>Acacia modesta</i>	Phulai
7.	<i>Acacia catechu</i>	Khair
8.	<i>Acacia arabica</i>	Kikar
9.	<i>Alnus nitida</i>	Sarol, Champ, kunis, Rajan
10.	<i>Parrotia jacquemontiana</i>	Hatab
11.	<i>Cassia fistula</i>	Amaltas, Kirangal

12.	<i>Grewia oppositifolia</i>	Pahari
13.	<i>Stephegyne parvifolia</i>	Kam
14.	<i>Ilex diphyrena</i>	Dratha
15.	<i>Bassia latifolia</i>	Mohwio
16.	<i>Aegle marmelos</i>	Bel, Billan
17.	<i>Ficus religiosa</i>	Pipal
18.	<i>Pyrus pashia</i>	Kaintha
19.	<i>Ficus indica</i>	Bar, Bor
20.	<i>Pyrus lanata</i>	Batta
21.	<i>Punica granatum</i>	Druni
22.	<i>Lannaea grandis</i>	Khaimbal khemal
23.	<i>Albizzia</i> spp.	Sarin

'C' Class

All other broad leaved trees.

STATE
OF
KARNATAKA

NTEP Including Medicinal Plants

Acacia catechu ('Cutch', 'Kachhu'),
Caesalpinia sappan ('Sappanga'),
Cassia auriculata ('Taravada gida'),
Hemidesmus indicus ('Namada beru'),
Naregamla alata ('Nela naringa',
'Nepanaringu'), *Phoenix sylvestris*
(Date palm), *Santalum album*
(Shrigandhada mara'), *Strychnos nux-
vomica* ('Kasarkana mara'),
Tamarindus indica (Tamarind),
Terminalia arjuna ('Billimatti',
'Holematti'), ; etc.

Nationalized NTEP Items

- * No NTEP is nationalised but the produce has to be traded in the regulated markets.

Monopoly Agency

- * State Forest Department & Tribal Cooperative Societies.
- * The three methods of selling the forest produce are:
 - Sale by auction or tender.
 - Sale at the sanctioned schedule of rate in depots.
 - Sale by issue of licences at the sanctioned seigniorage rates.

Price Fixation Method

- * Sale conducting officers to submit the 'upset price' in respect of the produce intended to be sold to the Conservator of Forests/ Divisional Forest Officer.

Karnataka



Legal Framework

(1) Karnataka Forest Act, 1963

(Similar to the Indian Forest Act, 1927)

- * Provisions relating to the transit of forest produce and duty leviable on forest produce.

- * Special provisions relating to the Sandalwood.

(2) Karnataka Forest Rules, 1969

- * Licences for forest produce on payment of seigniorage value.

- * A 'pass' required for the transit of forest produce.

(3) Karnataka Forest Code, 1976

- * A 'working plan' for the systematic treatment of a forest.

- * All Sandalwood trees to be exploited through Government agency only.

(4) Karnataka Preservation of Trees Act, 1976

- * Tree Authority and Tree Officers to regulate the felling of trees.

(5) Karnataka Supply of Forest Produce by Government (Revision of Agreements) Act, 1987

- * An Act to confer the State Government with powers to revise and cancel certain agreements relating to the supply of forest produce by it.

(6) Karnataka State Joint Forest Planning and Management (JFPM)

- * Involvement of Village Forest Committees (VFCs) along with the Forest Department.
- * Sharing of Forest usufructs between the Government, beneficiaries and VFCs.

INTRODUCTION

The State of Karnataka (formerly known as Mysore), situated on the western edge of the Deccan plateau (South India), has a total land area of 1,91,791 sq. km. out of which the forest area comprises of about 38,724 sq. km. (20.19%). Dry evergreen forests are typically found in the State. The other forest types occurring in the State are - Tropical Wet Evergreen, Tropical Dry Deciduous and Thorn forest. The State of Karnataka possess a wide variety of NTFP including medicinal plants:

Botanical Names	Common Names
<i>Acacia catechu</i>	Cutch, Kachu
<i>Acalypha paniculata</i>	Kuppigida
<i>Aloe barbadensis</i>	Kathaligida
<i>Anamirta cocculus</i>	Kakmari
<i>Caesalpinia sappan</i>	Sappanga
<i>Calycopteris floribunda</i>	Marsada baguli
<i>Cassia auriculata</i>	Taravada gida
<i>Cyperus rotundus</i>	Korai grass
<i>Garcinia morella</i>	Lamal
<i>Hemidesmus indicus</i>	Namada beru
<i>Naregamia alata</i>	Nela naringa, Nepanaringu
<i>Peganum harmala</i>	Harmal
<i>Pongamia glabra</i>	Hange mara
<i>Phoenix sylvestris</i>	Date palm
<i>Pterocarpus marsupium</i>	Hanemara
<i>Ribes grossularia</i>	Gooseberry
<i>Santalum album</i>	Shrigandhada mara
<i>Sapindus trifoliatus</i>	Kookatakayi
<i>Strychnos nux-vomica</i>	Kasarkana mara
<i>Tamarindus indica</i>	Tamarind
<i>Terminalia arjuna</i>	Billimatti, Holematti
<i>Terminalia chebula</i>	Gallnut, Alate huvru

The State Government has enacted a number of Acts/ Rules and Regulations, Code, etc. to ensure a sustainable harvest of forest produce. The salient features of these legal provisions, rules, etc. are discussed in brief below.

The Karnataka Forest Rules, 1969, are laid down by the State Government under the Karnataka Forest Act, 1963. Under these rules, no forest produce shall be removed from the "village forest" except under and in accordance with the permit issued by the Panchayat (village administrative body) either free or for a fixed fee. The Panchayat may sell by public auction all forest produce in the village forest except Sandalwood. In a "district forest", no person shall fell, remove, etc. any forest produce except with the written permission of the Divisional Forest Officer. The

collection or removal of the forest produce may be done by the officers of the Forest Department, or by persons holding permits (licences) duly issued under these rules, or by any person holding a right under a lease, contract or permit granted under these rules. Similar is the position in the "protected forests "

Some of the salient features of these Rules are:

- (i) *Licences for forest produce on payment of seigniorage value*- For all the forest produce sold on payment of seigniorage value, a pre-paid licence must be obtained from forest officers authorised by Chief Conservator of Forests. "Seigniorage value" means the royalty payable by consumers and purchasers for the collection and removal of forest produce from the forests on licences/ permits at the rates fixed by the Government. The seigniorage rates to be charged for each kind of forest produce granted on licences have been laid down in the *Schedule* (see Rule 83).
- (ii) *Sale of forest produce*- The three methods of selling the forest produce as laid down in the rules are: (a) sale by auction or tender or tender-cum-auction, (b) sale at the sanctioned schedule of rates in depots, and (c) sale by issue of licences at the sanctioned seigniorage rates (laid down in Schedule to rule 83). The sale is required to be notified by the State Government.

Subject to the recognised rights and privileges of private parties, the Divisional Forest Officer shall consider and decide each year before the collection season begins, which articles of 'minor forest produce' shall be exploited and in what localities, and what arrangements shall be made for their exploitation. The period of minor forest produce *leases*, ordinarily, shall not exceed three years, and the Chief Conservator of Forests shall fix the period of lease for each produce or group of produce, taking into consideration the kind of produce, its susceptibility to fluctuations in annual yields, the administrative convenience and the convenience of the lessees.

- (iii) *Provisions relating to Sandalwood*- Under the rules, a forest officer not below the rank of a Ranger may, after due notice to the owners, enter any private land and uproot/ remove any sandal tree growing on such land subject to such provisions as are laid down under these rules. No owner of land shall be entitled to receive the value of sandal trees in his land unless he makes the declaration of sandal trees existing on his land under Rule 104.

Under the rules, a licence is required for the possession, storage, sale and disintegration of sandalwood. Sandalwood will be sold to permit-holders in retail at the Government Sandalwood Depots in the State at the approved rates which are subject to revision by the Government from time to time. No permit shall be necessary for purchase of sandalwood not exceeding 3.17 kg for bonafide domestic use.

- (iv) *Provisions relating to Catechu trees*- A permit is required for the felling of catechu trees and sale of 'cutch'.
- (v) *Provisions relating to Date leaves/ wood*- No person shall cut or remove date wood or leaves except under and in accordance with 'licence' issued under these rules.

- (vi) *Transit of Forest Produce*- A 'pass' is required for the transport or movement of any forest produce into, within or outside the State. However, no pass is required for the removal of any forest produce for bonafide domestic consumption by any person in exercise of privileges granted in this behalf or of a right recognised under the Act. Further, the Government may exempt any forest produce from the operation of the rules.

The owner of any forest produce or his agent may be authorised for a specified period not exceeding a year, in writing by the forest officer (not below the rank of a Divisional Forest Officer) to issue 'way permit'. Further, no forest produce shall be brought into the State otherwise than by sea except under and in accordance with a pass/ permit issued by the State from which it is brought (*Import pass*). A 'pass' is required for the transport of sandalwood into, within or outside the State (except for the movement of sandalwood not exceeding 3.17 kg carried by persons for their bonafide personal use).

Regarding the exploitation of forest produce, the **Karnataka Forest Code, 1976**, lays down that all forest produce is either departmentally collected, stored and sold from sale depots or the removal and disposal is effected through private agency. In the latter case, the exploitations may be carried out under the 'Lease' or the 'Licence/ Permit' system. Minor forest produce may be exploited and disposed of through private agency, provided fair prices are secured. Leases of the forest produce shall not be sold otherwise than in tender-cum-auction.

The Code lays down that all Sandalwood trees whether growing in Government, private or Inam land will be exploited through the Government agency only. The value of sandalwood is so great, that it is of paramount importance to protect against loss of Sandalwood to Government at every stage of operations beginning with the enumeration of trees, marking, uprooting, rough dressing, transport to depots, final cleaning, classification and storage, until the wood is sold.

The **Karnataka Forest Manual**, lays down that all the sale conducting officers should submit the *upset price* in respect of the produce intended to be sold to the Conservator of Forests/ Divisional Forest Officer, and obtain the sanction prior to the date of sale. The upset price is merely an estimate of the price which the sale conducting officer expects to get. It is meant only for the use of the Department especially as a guide to such officer. It shall be worked on the basis of the current market value for similar commodity consistent with the quality, quantity and specifications. The average sale price realised in the three preceding sales can be taken as a guide by the officer in fixing as well as sanctioning the upset price.

The Manual also contains some provisions relating to *Sandalwood*. The Sandalwood is sorted under the various classes before being passed for sale (*See Rule 95*). The Manual lays down that the system of granting licences for the removal of forest produce on payment of 'seigniorage value' shall be applicable only to meet small local demands for forest produce, for their *bona fide* domestic use, by the local inhabitants, who normally enjoy certain privileges in these forests.

Regarding 'Forest privileges', the Manual lays down that the villagers in the vicinity of a forest will naturally depend more on the forest for their domestic and

agricultural needs. Such uses, however, should be properly regulated and in no event be permitted at the cost of national interests. The scientific conservation of forest inevitably involves the regulation of rights and restrictions of the privileges of the user, depending upon the value and importance of the forest.

The Karnataka Forest Act, 1963, lays down special provisions relating to *Sandalwood* [Chapter X, Secs. 83-87]. All Sandal trees growing or existing on any land shall be the exclusive property of the State Government. Every occupant or holder of land shall be responsible for the due preservation of Sandal trees growing thereon. The penalty prescribed for offence in regard to sandalwood is quite strict- Imprisonment upto 7 years and with a fine upto Rs. 25,000 (in the case of first offence, imprisonment shall not be less than 3 years and fine of Rs. 5,000; in the case of second or subsequent offence, imprisonment shall not be less than 5 years and fine of Rs. 25,000). A 'licence' is required for the sale and manufacture of sandalwood and sandalwood oil; however no such licence shall be necessary for possession of sandalwood upto 3 kg. and sandalwood oil upto 100 gms. for bonafide domestic use.

The State Forest Act also provides for special provisions relating to *Catechu* [Chapter XI, Secs. 88-98]. The felling, conversion or removal of catechu trees growing or existing on any land or manufacture of cutch shall not be effected by any person, other than the officers of the Forest/ Revenue Departments and by a person holding a permit granted by the Divisional Forest Officer. Provided that such permission shall not be necessary for purchase and transport of cutch upto seven pounds for bonafide domestic use. A person contravening the said provisions shall be punishable with imprisonment up to 6 months or with a fine upto Rs. 500 or with both.

The State Forest Act also provides for the levy of 'Forest Development Tax' (Sec. 98-A). The said tax is in respect of forest produce disposed of by the State Government or by a Corporation (owned or controlled by the Government) by sale or otherwise; there shall be levied and paid to the State Government a tax at the rate of 8% on the amount of consideration paid therefor. The tax so levied and collected shall form part of the Karnataka 'Forest Development Fund' (Sec. 98-B).

The Joint Forest Planning and Management (JFPM) is a comprehensive scheme of the Karnataka Forest department to involve local village communities in the conservation and sustainable management of forests. This involves the formation of Village Forest Committees (VFCs) to formally enter into partnership agreements with the Forest Department for planning and implementing various forest protection, utilisation and development programmes. The primary aim of this partnership is to satisfy the rural community's forest based needs by providing them access to forest resources such as fodder, grasses, leaves, fuelwood, minor forest produce (MFP), etc. The VFC and its individual members will obtain certain share of produce and benefits accruing from all JFPM activities. This is to motivate village communities to identify themselves with the protection and development of forests.

The total proceeds derived from the sale of Forest Produce at the notified (concessional) prices as well as in public auction shall be shared between the Government, beneficiaries and VFCs in the following ratio: 50% to the Government, 25% to the beneficiaries through VFCs, and 25% to a special fund called the 'Village Forest Development Fund'. The beneficiaries under the "Tree Patta Scheme" are

eligible for 100% usufructs. The final harvest shall be shared in the ratio of 75 : 25 between the beneficiaries and the Government.

The **Karnataka Preservation of Trees Act, 1976**, is an Act to make better provisions for preservation of trees in the State by regulating the felling of trees and for the planting of adequate number of trees to restore ecological balance and for matters connected therewith. Under the Act, the State Government shall constitute a *Tree Authority* and *Tree Officers* for each urban and rural area. Notwithstanding any custom, usage, contract or law for the time being in force, no person shall fell any tree or cause any tree to be felled in any land, whether in his ownership or occupancy or otherwise, except with the previous permission of the Tree Officer. A 'guilty' person shall be punishable with imprisonment upto 3 months or with a fine upto Rs. 1,000, or both.

The **Karnataka Supply of Forest Produce By Government (Revision of Agreements) Act, 1987**, is an Act to confer the State Government with powers to revise and cancel certain agreements relating to the supply of forest produce by it. The Act has been enacted to ensure the principles of scientific management of forests based upon the Working Plan prescriptions, and to ensure that the prices paid therefor are 'fair' and no loss of income is caused to the State, and to safeguard the forests in the State. The 'Agreement' shall include any contract, licence, bond, deed, grant, etc., whereby the Government agrees or has agreed to sell or supply any forest produce to any purchaser or to permit any forest produce to be collected and removed by any purchaser for consideration for a period exceeding twelve months. The Government may add to, substitute, delete, modify, or otherwise amend any of the terms and conditions of any such agreement for the purposes of revision of the price, quantity, etc. of the forest produce agreed to be sold or supplied. However, the price (revised) of forest produce shall not exceed the market value of the forest produce at the time of such revision.

Karnataka State Forest Act

Also see Part-I, 'Central and States' Forest Acts'.

Summing Up

The State of Karnataka has initiated the process of elimination of contractor agency. As a policy of State Government, tribal societies (LAMPS) are allotted NTFP leases at 17 per cent less than the estimated value of the produce (33 per cent exemption on total lease value). The Ceylonese Repatriated Plantation workers and contractors are allotted NTFP leases on tender or auction sale basis.

In the State, no NTFP is nationalised but the produce has to be traded in the regulated 'mandies' (markets). In the districts of Mysore, Kodagu, Dakshina Kannada and Chikmagalur, NTFP potential is good. Some tribal societies are reported to have done good work. There is need to encourage NTFP collection, processing and marketing in an organized manner to boost the economy of tribals and to ensure a sustainable harvest of NTFP in the State (Shukla, R.S., 2000).

'In-situ' conservation of medicinal plants can be accomplished through the active support and participation of forest dwellers/ tribals. Involving the local people

in all phases of conservation programmes, such as planning, policy-decision process, implementation, etc. will be a significant component in achieving effective management and utilization of medicinal plant resources. A few such 'in-situ' conservation areas have been marked and declared as medicinal plant 'in-situ' conservation areas in the forests of three southern States of Kerala, Tamil Nadu and Karnataka by the joint efforts of the forest departments of these States and Foundation for Revitalization of Local Health Traditions (FRLHT), Bangalore, Karnataka.

THE KARNATAKA FOREST RULES, 1969*

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

- (1) "Act" means the Karnataka Forest Act, 1963;
- (6) "Minor Forest Produce" means forest produce other than timber, sandalwood, firewood, charcoal, bamboos and minerals and includes forest produce such as myrobalans, barks, fibres, flosses, gums, resins, dyes, grass, leaves, roots, fruits, seeds, creepers, reeds, moss, lichens, wood-oil, honey, wax, lac, wild animals, wild birds, Government trophy, horns, hides, bones, tusks, etc.
- (7) "Section" means a section of the Act;
- (8) "Seigniorage value" means the royalty payable by consumers and purchasers for the collection and removal of forest produce from the forests on licences or permits at the rates fixed by the Government.

22. Management of village forests.- The management of village forests transferred to or vested in the Village Panchayat, under Sections 42 and 46 of Karnataka Village Panchayat and Local Boards Act, 1959 shall be governed by the following rules.-

- (4) No wood and other forest produce shall be removed from the village forest except under and in accordance with the permit issued by the Panchayat either free or for a fixed fee. The permit shall be in the form prescribed by the Divisional Forest Officer or supplied by the Divisional Forest Officer on payment of cost. The Panchayat shall determine what forest produce may be removed free, the purpose for which and the conditions under which it may be taken and may prescribe a scale of fees for the removal of produce which the Panchayat does not permit to be taken free of charge and the purpose for which it may be removed.
- (5) Permits, free or otherwise, may be issued by the Panchayat or any person authorised by it. The Panchayat may prescribe the check-posts at which the produce shall be brought for inspection and where permits shall be checked or recovered. The permit or licence shall be obtained before any felling, conversion, collection or removal is commenced. The permit holder must comply with the rules and conditions entered in the permit. The permit shall be valid only within the limits of the village panchayat.
- (6) The Panchayat may sell by public *auction* all forest produce in the village forest except Sandalwood, Rosewood and Teak, subject to confirmation by the Chairman of the Panchayat in consultation with the Range Forest Officer.
- (21) Sale proceeds of grass and other forest produce, compensation amounts recovered in the compounding of forest offences and all contributions

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

made shall be constituted into a 'Village Forest Fund' which should be deposited in the Government Savings Bank in the name of Panchayat. The funds shall be used solely for the purpose of protection and improvement of the village forest.

24. Privileges in district forests.- In all district forests, the grazing of cattle, the cutting and removal of grass, the collection and removal of dry firewood other than of the reserved kinds in head-loads, thorns*and leaves of trees and shrubs that are not reserved will be allowed, free of charge and without permit, provided that grass, firewood, thorns or leaves are required for the inhabitants of that or neighbouring village for agricultural or domestic use and not for sale or barter. The collection or removal of dry firewood (other than in head loads) and felling or removal of trees other than those included in the list of reserved trees for agricultural and domestic purposes other than house-building will also be allowed free of charge, but with permits to be issued by officers authorised in this behalf.

25. Acts prohibited in district forests.-

- (3) Save as provided in Rule 24, no person shall fell, remove, girdle, mark, lop, tap, uproot or burn or strip bark or leaves from or otherwise damage any tree in a district forest or use or injure or remove any forest produce found thereon, except with the written permission of the Divisional Forest Officer or any other Officer duly authorised in this behalf.

26. Grant of permits for removal of trees or other forest produce on payment of seigniorage fees.-

- (1) Permits for removal of trees or other forest produce on payment of seigniorage fees shall be granted only if the tree or other forest produce applied for is required for-
 - (a) *bona fide* agricultural or domestic use of the applicant; or
 - (b) works of public utility such as village chowkees, schools, dharmashalas, bridges, temples, etc.

Provided that in exceptional cases, the Chief Conservator of Forests may grant permission for the purposes of trade, manufacture, sale or barter.

- (2) The Chief Conservator of Forests or Conservator of Forests may for special reason prohibit grant of any unreserved tree or produce on seigniorage either for a term or altogether.

27. Felling and removal of trees and collection of other forest produce.- The felling, conversion and removal of trees and the collection or removal of other forest produce may be effected in one or other of the following ways, but in no other way.-

- (i) Departmentally, *i.e.*, by the Officers of the Forest Department having control over the produce, or by persons acting under the immediate superintendence, control or orders of such officers.
- (ii) By persons holding permits (licences) duly issued under these rules.
- (iii) By any person holding a right under a lease, contract or permit granted under these rules.

28. Privileges in protected forests.-

- (1) The privileges granted to raiyats and public in district forests shall be available in protected forests subject to the conditions that all removals shall be effected under permits, free or otherwise, as the case may be, issued by the Forest Officers authorised in that behalf by the Divisional Forest Officer.
- (2) Free permits for the removal of forest produce from protected forests by raiyats for their *bona fide* domestic and agricultural use wherever permissible shall be issued by Forest Officers duly authorised under sub-rule (1).

Cutting and Removal of Date Leaves and Date wood

34. Definition.- 'Date Tree', for the purpose of rules, includes *Phoenix sylvestris* (date or Ichal), *Borassus flabelliformis* (Palmyra) and *Caryota urens* (Bagani), but does not include Kir or Hulichal.

35. Cutting of date trees and leaves prohibited.-

- (1) No person shall cut or remove date wood or leaves except under and in accordance with licence issued under these rules.
- (2) No leaves shall be cut or removed from date groves set apart by the Deputy Commissioner to meet the requirements of toddy vend farmers.
- (3) No leaves shall be cut from any tree from which toddy is being actually drawn or which is marked for the purpose of toddy revenue.
- (4) No leaves shall be cut from young immature trees the trunks of which are less than 2 metres in height from the ground level to the point at which the leaves spring.
- (5) Only two leaves from each tree shall be removed in any one year.
- (6) The central shoot including the four tender leaves shall on no account be removed.

LICENCES FOR FOREST PRODUCE ON PAYMENT OF SEIGNIORAGE VALUE**71. Licences for forest produce sold on payment of seigniorage value.-**

- (1) For all timbers or other forest produce sold on payment of seigniorage value, a pre-paid licence in the form and colour specified below must be obtained from Forest Officers authorised by Chief Conservator of Forests to grant it, before any of the aforesaid produce can be cut, collected or removed.

Description	Colour	Standard form number
Licence for timber	... White	Form No. 7
Licence for firewood and charcoal	... Buff	Form No. 8

Licence for bamboos	...Blue	Form No. 8
Licence for minor forest products and other miscellaneous products	...Pink	Form No. 8

72. Issue of Licences.-

- (1) The Officer issuing licence shall issue the required licence on receipt of the seigniorage value either in cash or remitted challan from the applicant.
- (2) The maximum period allowed for each licence except timber licence shall not exceed two days if the forest is within 8 kilometres and four days if the forest is beyond that distance from the residence of the licence-holder; in case of timber licences, the maximum period allowed shall not exceed fifteen days if the forest is within 8 kilometres and thirty days if the forest is beyond that distance from the residence of the licence-holder.

77. Forfeiture of the produce collected, if not removed within the specified period.- If the licensee fails to remove the produce cut or collected by him in the forest within the period mentioned in the licence, such produce shall be forfeited to Government and the licensee shall have no claim over it and nor is he entitled to any refund of the fees paid by him.

78. Checking of the produce removed on licences.-

- (1) It shall be the duty of every licensee to call at all check posts, if any, on the route specified in the licence, get the produce under transit checked and the licence endorsed by the checking officer with the words 'checked and passed'. The officer in charge of the check-post shall do so if he finds the produce agreeing with the licence. Should the produce not agree in kind or quantity and the terms of the licence violated in any other way, it shall be detained and action taken in accordance with the provisions of the Act and these rules.
- (2) Village Officers may check every licence taken out in their villages, comparing the produce covered by them when such produce is removed into their villages and make an endorsement on them, if they find the produce agreeing with the licence. Should the produce not agree in kind or quantity and the terms of the licence violated in any other way, they shall detain the produce and report the matter to the nearest Forest Officer.

83. Seigniorage rates.- The seigniorage rates to be charged for each kind of tree or other forest produce granted on licences shall be as noted in the following schedule.*

* The complete Schedule is not reproduced. Only selected NTFPs are covered.

SCHEDULE

Sl. No.	Botanical name	Local name or Trade name	Rate (Per Cmt.) (with bark)
1.	<i>Pterocarpus marsupium</i>	Honne, Bijasal, Vengai, Venga	2,200
2.	<i>Artocarpus hirsuta</i>	Hebbalsu, Aini, Angili	1,485
3.	<i>Terminalia tomentosa</i>	Mathi, Nallamaddi, Laurel	1,188
4.	<i>Adina cardifolia</i>	Haladu, Yethiga, Heddi	1,188
5.	<i>Vateria indica</i>	Saldhupa, Vellapine, Dhupa, Guggula	675
6.	<i>Artocarpus integrifolia</i>	Halasu, Jackfruit, Fanasa	990
7.	<i>Terminalia paniculata</i>	Kindal, Hunal, Huluve, Pijamaradu	550
8.	<i>Tamarindus indica</i>	Hunsa, Amli, Imli	891
9.	<i>Michelia champaca</i>	Sampige, Champaka, Kolasampige	675
10.	<i>Hymenictyon excelsum</i>	Doddathoppe	405
11.	<i>Sapindus marginatus</i>	Soap-nut, Antwala	594
12.	<i>Ailanthus malabarica</i>	Halmaddi, Madidupa	540
13.	<i>Terminalia arjuna</i>	Holemathi, Thoremathi	693
14.	<i>Strychnos nuxvomica</i>	Marking-unit, Karja, Kasari	693
15.	<i>Alstonia scholaris</i>	Satwin, Kadusale, Maddale	405
16.	<i>Hardwickia pinnata</i>	Chonnappaini, Yennemara, oil tree	540
17.	<i>Terminalia chebula</i>	Hale, Galnut, Harda	594
18.	<i>Terminalia belerica</i>	Tare, Ghoting	425
19.	<i>Impomaea</i> spp.		225
20.	<i>Sterculia alata</i>	Kaithali	405
21.	<i>Sterculia villosa</i>	Bilinaru, Savige	405
22.	<i>Cinnamomum</i> spp.	Dalchini	445-50
23.	<i>Calophyllum tomentosum</i>	Poon, Surhonne	675
			Rs. P.
24.	<i>Acacia catechu</i>	Khair, Kagli, Catechu tree, Kachu	57-20 per tree (below 48 cms. girth) 185-80 per tree of (49 to 60 cms. girth) 128-70 per tree (above 60 cms. of girth)

Local/Trade name	Rate (Per Cmt.) (Rs. P.)
25. Bandarike, Bandurbi, Bondurgi and Devadari shrubs	0-55 per head load 5-50 per cart load
26. Hongarike barlu or shrubs	0-55 per head load 5-50 per cart load
27. Dadasalu twigs	0-55 per head load 5-50 per cart load
28. Turukabaralu	0-55 per head load 5-50 per cart load
29. Tallisarabu	0-55 per head load 5-50 per cart load
30. Thorns all kinds (excluding 0-55 per head load bamboos thorns)	5-50 per cart load.
31. Kirichalu and Hulichalu	0-55 per head load 5-50 per cart load.
32. Bhandari serabu	0-55 per head load 5-50 per cart load.
33. Damba kalli and Kanti kalli	1-10 per head load 5-50 per cart load.
34. Parka and Soppu (manurial purposes)	0-55 per head load 5-50 per cart load.
35. Palas or Muttaga (<i>Butea</i> <i>frondosa</i>)	1-10 per head load 11-00 per cart load.
36. Kamara chujjulu and other fodder leaves	0-55 per head load 5-50 per cart load.
37. Shivdu leaves	0-55 per head load 1-10 (Export)
38. Palm leaves	5-50 per cart load. 11-00 (Export)
39. Karvi	1-10 per head load 5-50 per cart load.
40. Climbers and Creepers	0-55 per head load 5-50 per cart load.
41. Lantana	0-55 per head load 5-50 per cart load.
42. Grass (Fodder)	2-20 per head load 11-00 per cart load
43. Broom grass	110-00 per lorry load 2-20 per head load
44. Grass thatching	16-50 per cart load 132-00 per lorry load
	2-20 per head load

		11-00 per cart load.
45.	Fibres	2-20 per head load
		11-00 per cart load.
46.	Barks	2-20 per head load
		55-00 per cart load.
47.	Uipi sticks and Sampige sticks	11-00 per head load
		55-00 per cart load.
48.	Wild ginger	5-50 per head load
		38-50 per tonne
49.	Rosa grass	137-50 per lorry load
50.	Noja grass	100-00 per lorry load
51.	Elephant grass	31-35 per M. Tonne.
52.	Lemon grass	38-50 per M. Tonne.
53.	Bursara husk	13-20 per Kg.
54.	Eucalyptus leaves (Pure as well as Mixed)	55-00 per Hectare for Eucalyptus leaves of pure plantation per ha. and mixed plantations with 1000 Eucalyptus stems as corresponding to one hectare of pure plantation.

Note.-(1) The seigniorage rates mentioned above will not apply to depot sales or to auction sales which are the other modes of disposal of forest produce under Rule 85 of the Karnataka Forest Rules, 1969.

(2) The Chief Conservator of Forests (G) shall not reduce the rates without specific orders of Government in this behalf.

SALE OF FOREST PRODUCE

85. Methods of selling forest produce.-

(1) No forest produce shall be sold by any method other than the following.-

- (i) Sale by auction or tender or tender-cum-auction;
- (ii) Sale at the sanctioned schedule of rates in depots;
- (iii) Sale by issue of licences at the sanctioned seigniorage rates:

Provided that any other method may be resorted to with the previous sanction of Government whenever the Chief Conservator of Forests considers it desirable to do so in the interest of the Department.

- (2) The rates referred to in clause (ii) of sub-rule (1) shall be the schedule of rates sanctioned by the Chief Conservator of Forests from time to time.
- (3) The rates referred to in clause (iii) of sub-rule (1) shall be those specified in Rule 83.
- (4) All important sales of timber and other forest produce shall generally be

held by open public auction, tender or tender-cum-auction:

Provided that the Chief Conservator of Forests may accept individual offers at his discretion in the interest of the Department.

86. Sale to be notified.-

- (1) A Notification of sale shall be published in Official Gazette along with conditions of sale of timber or any other forest produce either by auction or tender or tender-cum-auction, provided that in cases where estimated value is less than rupees five hundred, it would be sufficient if a local notification is issued and wide publicity is given locally.
- (2) The date or dates of sales of timber in major depots and other important sales of forest produce shall be fixed by the Conservator of Forests, in consultation with the other Conservators of Forests, well in advance.

87. Labelling of forest produce.- All forest produce offered for sale shall be classified and labelled according to the standard classification prescribed by the Department for each kind of forest produce.

88. Conduct of sale.-

- (1) All sales shall ordinarily be conducted by Divisional Forest Officer; but, they may, if necessary, be conducted by any other officer duly authorised by him for the purpose.
- (2) The date of first sale shall be so fixed as to give at least 3 months' time before the commencement of lease period.

89. Sale notification.- The sale notification and conditions of sale should refer among other points to:-

- (i) Situation and area to be leased out;
- (ii) Description and quantity of produce that will be exposed for sale; and in case of minor forest produce the several items of minor forest produce included in the lease;
- (iii) The period of lease;
- (iv) Particulars of areas and produce, if any, reserved and hence excluded from the sale;
- (v) The place where and the date and time when the sale is to be held.

89-A. Recovery of loss caused to Government on account of withdrawal of tender/bid before acceptance or rejection.- No tenderer or bidder shall withdraw his tender or bid before it is accepted or rejected.

If a tenderer or bidder withdraws his tender or bid before it is accepted or rejected:-

- (a) the earnest money deposited by him shall be forfeited to Government; and
- (b) where the tender or bid withdrawn is the highest bid or highest tender, and the amount realised by resale of forest produce is less than the amount specified in the highest tender or bid which was withdrawn, then the difference between the said amounts together with the costs

of the resale shall be recovered from such tenderer or bidder as an arrear of land revenue.

95. Additional rules regarding the sale of Minor Forest Produce.-

- (1) Subject to the recognised rights and privileges of private parties, the Divisional Forest Officer shall consider and decide each year before the collection season begins-
 - (i) which articles of minor forest produce shall be exploited and in what localities, having regard to local conditions and past results; and
 - (ii) what arrangements shall be made for their exploitation.
- (2) The period of minor forest produce leases, ordinarily, shall not exceed three years commencing from 1st July and the Chief Conservator of Forests shall fix the period of lease for each produce or group of produce, taking into consideration the kind of produce, its susceptibility to fluctuations in annual yields, the administrative convenience and the convenience of the lessees.
- (3) The Conservator of Forests may authorise Divisional Forest Officers to sell minor forest products of local importance and demand as separate items.
- (4) The produce may be disposed of in any convenient units as may be found convenient at the discretion of the Sale Conducting Officer.

96. Certain Forest Produce to be excluded.- The kinds of produce specified below found in the assessed waste, gomal, kharab lands, gavata and other lands set apart for communal purposes, which are sold separately by the Tehsildars, shall be excluded from the sale except in areas where such sales are conducted by the Forest Department-

1. Hunse
2. Hippe
3. Seege
4. Coconut
5. Mavu
6. Neralu
7. Halasu
8. Jali
9. Byala
10. Honge leaves and seeds:

Provided that the species mentioned above and the localities where found may be modified with the prior approval of the Conservator of Forests.

97. Supply of Sandalwood to Government Sandal Oil Factories.-

- (1) Supply of Sandalwood to Sandal Oil Factories shall be ex-depot and shall be at the rates sanctioned by Government which are subject to revision from time to time.
- (2) The Sandal Oil Factories obtaining supplies of Sandalwood shall at all times comply with the provisions of the Act and the rules thereunder regarding possession, storage, transit, sale, disintegration, etc., of

sandalwood and manufacture, distillation, sale, *etc.*, of oil obtained therefrom.

98. Supply of sandalwood to temples and Muzrai Institutions.- All supply of sandalwood to temples and Muzrai Institutions shall be at the sanctioned retail sale rates which are subject to revision by Government from time to time.

99. Rules for retail sale of sandalwood from Government Sandalwood Depots.-

- (1) Sandalwood will be sold to permit-holders in retail at the Government Sandalwood Depots in the Karnataka State at the approved rates which are subject to revision by Government from time to time. No permit shall be necessary for purchase of sandalwood not exceeding 3.17 kg. for *bona fide* domestic use.
- (2) Applications for permit to purchase sandalwood in retail sale from depots shall be made to the Chief Conservator of Forests, Conservator of Forests, Divisional Forest Officer or Officer-in-charge of Sandalwood Depot as the case may be.
- (3) The applicant should furnish the following particulars, *viz.*-
 - (i) The name of the depot from which he intends to purchase;
 - (ii) The kind and quantity of sandalwood;
 - (iii) Purpose for which wood sought for is required by him namely-
 - (1) *Bona fide* domestic and religious purposes.
 - (2) Carving or similar purposes.
 - (3) Distilling oil, manufacturing agarbattis, *etc.*
 - (4) Trade.
 - (iv) The date of previous purchase and the quantity purchased (in respect of applicants obtaining wood for trade).
 - (v) The number and date of the licence, the authority that has issued him the licence and the currency of the licence held by him, if any, for possession, storage, sale or disintegration of sandalwood or for the manufacture, distilling or sale of sandalwood oil (only in case of applicants seeking the purchase of sandalwood in excess of 3.17 kg).
 - (vi) The place to which the wood sought for is intended to be taken and the mode of transport.
 - (vii) Whether he has rendered the accounts of his stock to the Divisional Forest Officer? And if so, up to what period? (Only in cases of tradesmen).
 - (viii) The stock of sandalwood held by him on the date of application.
- (5) No purchaser shall remove the sandalwood from the depot except under and in accordance with a transit pass issued by a Forest Officer empowered to issue such pass and a licence from the Divisional Forest Officer for possession, storage, *etc.*, of sandalwood obtained in excess of 3.17 kg.

- (6) Persons intending to purchase sandalwood exceeding 5 quintals shall give at least 7 days' notice of their intention to take delivery of the sandalwood to the Divisional Forest Officer or Officer-in-charge of the depot.
- (9) No purchaser shall remove the sandalwood from the depot till every piece that can be stamped is marked by the Divisional sale hammer mark.
- (10) Weighment of sandalwood exceeding 50 kg. for the purpose of delivery to the purchasers, shall be made by the Divisional Forest Officer or any other Gazetted Officer, in the presence of the purchaser or his authorised agent. In all other cases, weighment may be made by the Officer in charge of the depot under similar terms.

SANDALWOOD

A. Declaration of Sandal trees grown on private lands

104. Declarations to be filed.-

- (1) All owners of private land shall file with the Divisional Forest Officer or any other officer duly authorised by him a declaration in Form 12 along with a certificate from Tahsildar regarding the ownership of the land and of right over the sandal trees existing on such land on the date of commencement of these rules within such date or extended date as may be notified in the Official Gazette by the Divisional Forest Officer.
- (2) Every owner of land shall thereafter report at intervals of not less than five years and when such information is called for by notification in the Official Gazette by the Divisional Forest Officer about all sandal trees that were declared as below 10 centimetres in girth at 1.37 metres from ground level at the time of first declaration and all sandal trees further recruited in the land when they attain a girth of 10 centimetres at 1.37 metres from ground level to the Range Forest Officer or any other Officer authorised in this behalf.

105. Acceptance of the declaration.- The Divisional Forest Officer or the Range Forest Officer or the officer authorised to receive such declaration shall, after a notice issued to the owner of the land, hold a spot inspection of the land and the sandal trees growing thereon in the presence of the owner of such land if he desires to be present and after satisfying himself about the correctness of the particulars furnished by the declarant, if necessary, in consultation with the concerned Revenue authorities, pass the declaration as accepted and give numbers to the trees the girth of which are 10 cms. or more at 1.37 metres from the ground level.

106. Forest Officer may remove sandal trees.- Any Forest Officer authorised by any officer not below the rank of a Ranger in this behalf may, after due notice to the owners, enter any private land and uproot or remove any sandal tree growing on such land subject to such provisions as are laid down under these rules. The land owner shall afford such Forest Officer necessary facilities in the discharge of such duties and shall not obstruct him in such work.

107. Failure to file declaration.- No owner of land shall be entitled to receive

the value of sandal trees in his land unless he makes the declaration of sandal trees existing on his land under Rule 104.

108. Exploitation of sandal trees from private lands the owners of which possess a right thereto.-

- (1) Any person who wants any of the sandal trees declared by him under Rule 114 extracted departmentally shall apply to the concerned Range Forest Officer in writing, furnishing particulars regarding the village, survey number or other particulars of the land, the serial number marked on the tree at the time of declaration, the approximate height, girth at 1.37 metres from ground level and the condition of the tree and the reasons for its removal.
- (2) On receipt of such application the Range Forest Officer shall, after such enquiry as he deems necessary, if satisfied about ownership of the applicant to the trees and that they have been declared by the applicant and are fit for exploitation, report the matter to the Divisional Forest Officer who after such further enquiry as he deems necessary is satisfied about the *bona fides*, order the removal of the trees. The trees thus permitted to be felled shall be noted in the register in Form 13.
- (7) The rates at which the value of sandalwood has to be paid to the owners of sandal trees shall be fixed by Government from time to time based on the average prices obtained for sandalwood in the auction sales held in the State or in the neighbouring States. After deducting the cost of extraction, transport, preparation, supervision and other incidental charges, as fixed by the Chief Conservator of Forests, the value of sandalwood shall be paid to the owner, as soon as possible, on bills countersigned by the Divisional Forest Officer.

B. Damage, destruction and theft of sandal trees belonging to Government in private lands

116. Damage or theft of sandal trees.- Every Forest, Police, Revenue or Village Officer shall report to the concerned Divisional Forest Officer every case of damage or theft of sandal tree belonging to Government in occupied land as soon as it comes to his knowledge.

C. Possession, storage, sale and disintegration of sandalwood; distillation and sale of sandalwood oil

118. Application for licence.-

- (1) All applications for grant or renewal of licences under Section 87 shall be made to the Divisional Forest Officer concerned, with the fees specified in sub-rule (2) furnishing the following and such other particulars as the Divisional Forest Officer may require-
 - (i) The kind and quantity of sandalwood for which the licence is sought for;
 - (ii) Licence for what purpose?

- (iii) Sandalwood wherefrom obtained and when? (necessary documents and passes to be enclosed);
 - (iv) Period for which the licence is sought;
 - (v) Particulars of the locality and place where the sandalwood is sought to be stored, sold, disintegrated or the oil distilled;
 - (vi) Nature of the mill, plant or other contrivance for disintegrating sandalwood or distilling oil from sandalwood;
 - (vii) Whether he holds a licence, if so-
 - (a) The previous licence number and date and the date of its expiry and return;
 - (b) Whether the applicant has maintained the stock accounts in the prescribed form and rendered them to the Divisional Forest Officer? If so, up to what period?
 - (c) The stock of sandalwood with the applicant on the date of application.
- (2) The fees specified in column (3) of the table below shall be charged for the grant or renewal of a licence specified in column (2) thereof-

Sl. No.	Nature of Licence	Fees	
(1)	(2)	(3)	
		Rs.	
1.	For possessing and storing of sandalwood not exceeding 1 quintal.	5	per year or fraction thereof
2.	For possessing and storing of sandalwood exceeding 1 quintal	10	-do-
3.	For possessing, storing and selling of sandalwood, or oil distilled from sandalwood.	100	-do-
4.	For running a disintegrator or any other contrivance for disintegrating sandalwood.	50	-do-
5.	For running a distillery or plant for distilling oil from sandalwood.	250	-do-

Provided that no fee shall be charged for the possession and storage of sandalwood by temples and Muzrai institutions and for disintegration of wood and distillation of oil by Government Departments.

CATECHU TREES

125. Application for permit for felling Catechu trees.-

- (1) Applications for grant or removal of permits under Section 91 shall be in Form 19. Forms of application may be obtained free of cost from the Deputy Commissioner.

- (3) A fee of rupees 10 shall be charged for each permit issued for the felling of catechu trees and manufacturing of cutch from them.
- (4) On receipt of the application and the fee, the Deputy Commissioner shall, after such enquiry as he deems necessary and after consulting the Divisional Forest Officer, if satisfied that there is no objection to grant the permit, having regard to the safeguarding of the Government catechu trees and the antecedents of the applicant, grant a permit subject to such conditions as may be specified therein.

126. Permit for purchase, sale or transport.- Applications for grant or renewal of permits under Section 93 shall be in Form 21 and be accompanied with a Treasury receipt for rupees ten for having remitted the amount in any Government Treasury towards the fee for the issue of permit or its renewal. Forms of application may be obtained from the Divisional Forest Officer, free of cost. Permit for the sale of cutch shall be in Form 22 and permit for transport shall be in accordance with the rules framed under Section 50 of the Act.

TRANSIT OF FOREST PRODUCE

143. Definition.- In this chapter, unless the context otherwise requires, "Forest produce in transit" includes forest produce found in or on the margin of any public road, whether loaded in any conveyance or not, forest produce found or being conveyed in any river, tank, lake, pond, reservoir or sea and forest produce lying in railway yards, ports or airports whether loaded or otherwise.

144. Transport or movement of forest produce.- Save as provided in Rules 154 and 155 no person shall transport or move or attempt or abet the transport or movement of any forest produce into, within or outside the State of Karnataka except under or in accordance with a *pass* issued by a Forest Officer duly authorised in this behalf by or under these rules to issue such pass:

Provided that no pass shall be required for the removal of-

- (a) except to a port, landing place or railway station-
 - (i) any forest produce which is being removed for *bona fide* domestic consumption by any person in exercise of privileges granted in this behalf or of a right recognised under the Act, within the limits of the village in which it is produced;
 - (ii) twigs, leaves, brushwood and grass intended solely for conversion into such manure;
 - (iii) thorns, whether removed from any forest under a permit, or from any place other than a forest;
- (c) forest produce in transit within a village, municipal or corporation limits removed for *bona fide* purposes;
- (d) forest produce other than timber in transit removed on prepaid licenses under the provisions in Chapter X (Rules 71-83);
- (e) forest produce in transit covered by a way permit issued by persons authorised under sub-rule (i) of Rule 149;

- (f) such forest produce as may be exempted by the Government from the operation of the rules in this Chapter by notification in the Official Gazette; or
- (g) forest produce in any specified areas to be notified by the Government.

145. Pass for transport or removal of forest produce.-

- (A) (1) Pass for transport or removal of forest produce, belonging to Government shall be white in colour and issued by Range Forest Officer or a subordinate officer duly authorised by him-
 - (i) in Form 25 if in respect of timber; and
 - (ii) in Form 26 if in respect of other forest produce.
- (2) purchased from Government forest or depots shall be blue in colour and issued by a Forest Officer duly authorised in this behalf by the Divisional Forest Officer in Form 27;
- (4) from private market or from outside the State shall be green in colour in Form 29 issued by a Forest Officer not below the rank of a Forester.
- (B) Application for a pass referred to in sub-rule (A) shall be accompanied by a fee of rupees five.

148. Transport pass.-

- (1) No forest pass shall cover more than one load, irrespective of the mode of conveyance, provided that the Divisional Forest Officer may permit one pass to cover head loads or animal loads not exceeding twenty, and cart loads not exceeding five, if the destination is not more than 25 kilometres from the starting point and all loads are taken at one and the same time.
- (2) The pass shall be in the possession of the person in charge of the produce in transit.
- (3) Every pass issued under the rules in this chapter shall be valid only during the period mentioned therein and shall bear the seal of the officer issuing the pass.

149. Authorisation to issue way-permit.-

- (1) The owner of any forest produce or his agent may be authorised for a specified period not exceeding a year, in writing in Form 30 by any Forest Officer not below the rank of a Divisional Forest Officer, to issue way-permits in Form 31 on his registering his property mark under Rule 153. Any authorisation so granted may be renewed or at any time be cancelled by the Officer granting it.
- (2) An application for such authorisation shall be in Form 32, and shall be accompanied by four specimen signatures of the person to be authorised to issue way-permits and a Treasury receipt (challan) for rupees five, being the fee for the issue of authorisation or its renewal. In the case of firms or companies, specimen signatures of the person to be authorised to issue way-permits shall be furnished along with the necessary powers of attorney issued by such concerns.

150. Import of forest produce.-

- (1) Save as provided in Rule 156, no forest produce shall be brought into the State otherwise than by sea except under and in accordance with a pass or permit issued by the State from which it is brought (hereinafter referred to as "Import pass" in this Chapter).
- (2) No forest produce shall be brought into the State by road or water except through routes notified for the purpose.

151. Import pass.-

- (1) Every import pass shall be in the form prescribed by the State from which it is sought to bring forest produce thereunder.
- (2) Every import pass shall bear the office stamp of the officer issuing the same.

152. Transport of imported forest produce after entry into the State.-

- (1) No forest produce brought into the State by road or water shall be conveyed within the limits of the State beyond the first check post after its entry into the State without a pass in Form 29 issued under Rule 145 after the surrender of the import pass.
- (3) No forest produce brought into the State by sea or rail shall be moved or transported from the place to which it is booked without a pass in Form 29 issued under Rule 145 after surrendering the import pass.

153. Registration of property marks.- Application for registration or renewal of property mark including import property mark in respect of timber or other forest produce except sandalwood shall be made to the Divisional Forest Officer furnishing full information regarding the locality where the produce is stocked, kind and quantity of produce in respect of which the registration of property mark is sought and as to how it is obtained and such other details as may be required by the Divisional Forest Officer accompanied by eight facsimiles of the property mark and a fee of rupees one hundred. The Divisional Forest Officer may, after such enquiry as he deems necessary, if satisfied about the *bona fide* of the produce, register such mark in his office and issue a certificate in Form 36. He shall also maintain a register in Form 37 of all property marks registered.

154. Transport of sandalwood.-

- (1) No person shall transport sandalwood into, within or outside the State of Karnataka except under and in accordance with a pass issued under Rule 155:

Provided that no such pass shall be required for the movement of sandalwood not exceeding 3.17 kg. in weight carried by persons for their *bona fide* personal use.

- (2) Every pass issued under these rules shall be valid only during the period mentioned therein and shall bear the seal of the officer issuing the same.

155. Pass for transport of sandalwood.-

- (1) Pass for removal of sandalwood from forest and other lands to Government Sandalwood Depots shall be pink in colour, in Form No. 38

and issued by the Range Forest Officer or a subordinate not lower in rank than that of a Forester duly authorised by him. The original shall be handed over to the Forest Guard escorting the Sandalwood to the depot, after obtaining his acknowledgement on the back of the duplicate. When the sandalwood reaches the depot, the original shall be handed over to the office-in-charge of the depot.

- (2) To cut ends of each piece of sandalwood shall be marked with the Government property mark and the number of the tree as well as the number of the root, stem or branch with its distinguishing letter, if any, should be written on each and every piece of sandalwood in transit to the depot. Every piece of sandalwood shall, in addition to Government transit mark at both end surfaces, bear distinguishing letters and numbers to indicate the name of the Range, felling series and coupe number, or the name of the village and the survey number of the land from which it is removed. The number of trees and the number of pieces obtained from those trees, classified under root-trees, stems, branches and roots, obtained during felling and rough conversion, shall be shown in the pass together with their dimensions. The chips and saw dust, if any, obtained during felling and conversion shall be sent in scaled gunny bags bearing Government transit marks.
- (3) Pass for removal of sandalwood by consumers and purchasers from Government Sandalwood depots shall be pink in colour, in Form 39 and issued by the officer-in-charge of the depot. The original shall be given to the person transporting the material and the duplicate forwarded to the concerned Divisional Forest Officer. The triplicate shall serve as counterfoil in the issuing office. The sandalwood so transported shall bear a Government hammer mark, as may be prescribed by the Chief Conservator of Forests, at both ends; provided no such mark shall be required for the removal of sandalwood chips and dust.
- (4) Pass for removal of sandalwood from private market or depot shall be in Form 40, pink in colour and issued by a Forest Officer not below the rank of Range Forest Officer, the original being handed over to the person transporting sandalwood, the duplicate forwarded to the concerned Divisional Forest Officer and the triplicate retained as counterfoil by the officer issuing the pass. Such sandalwood shall bear the registered property mark of the licensed dealer in addition to the prescribed Government hammer mark.
- (5) Pass for transport of sandalwood into or outside the State shall be pink in colour, in Form 41 and issued by the Conservator of Forests of the Circle into which or from which the sandalwood is sought to be imported or exported, or by the Chief Conservator of Forests. The original shall be handed over to the person transporting the sandalwood, the duplicate forwarded to the Divisional Forest Officer of the Division into which or from which the sandalwood is sought to be transported and the triplicate retained as counterfoil in the issuing office. The sandalwood shall bear the registered mark of the person transporting, in addition to the prescribed Government hammer mark, if any.

156. Transport of sandalwood into or outside the State.-

- (1) Application for issue of pass for the transport of sandalwood into or outside the State shall be made either to the concerned Conservator of Forests or to the Chief Conservator of Forests furnishing particulars regarding the locality, kind and quantity of sandalwood meant to be imported or exported, destination, routes and such other details as the above named Officer may require. The certificate of registration of property mark obtained in this behalf shall also be enclosed with the application.
- (4) No sandalwood shall be transported into the State by road or water beyond the first check post after its entry into the State without first having it stamped by a Government transit mark of such description as may be prescribed by the Chief Conservator of Forests.
- (5) No sandalwood imported from outside the State, by rail, shall be moved from the railway station at which it has reached by rail, without first having it subjected to check by local Range Forest Officer or any other Officer authorised for the purpose and without having it stamped by a Government transit mark of such description as may be prescribed by the Chief Conservator of Forests.

159. Checking of the forest produce.-

- (1) The owner or the person in charge of the forest produce in transit shall always accompany the produce when it moves on land or water, and it shall be his responsibility to stop and subject such produce for check at all notified check-posts or barriers on the prescribed route and get the pass or way-permit endorsed by the officer-in-charge of the check-posts or barriers.
- (2) The Forest Officer-in-charge of the check-posts or barriers shall, after satisfying himself that the forest produce is of the kind stated in the pass or way-permit and is not in excess of the quantity specified therein and is being transported within the period and along the route mentioned in the pass or way-permit and about the *bona fides* of the produce, return such pass or way-permit duly endorsed with the words 'Checked' and 'Passed', with necessary entry as to the kind and the quantity so checked under his signature, date and time. If the officer-in-charge of the check-post or barrier is not satisfied about the particulars stated above, he shall detain the forest produce and the pass or way-permit and report the case to the concerned Range Forest Officer or to the nearest Police Station for taking further action, stating clearly his reasons for the action taken. The person in charge of the forest produce shall not proceed with it without the permission of the officer-in-charge of the check-post or barrier.

160. Stoppage in transit.-

- (1) Any forest produce in transit may be stopped and examined at any place by any Forest, Police or Revenue Officer if such officer has sufficient reasons to believe.-

- (i) that any money due to the Government in respect thereof has not been paid; or
 - (ii) that any forest offence has been or is being committed in respect thereof; or
 - (iii) it is desirable to affix a mark on it for the purposes of the Act or rules.
- (2) Such officer may require the person in charge of the forest produce in transit to stop the conveyance and detain it as long as necessary, to examine the produce and inspect all records relating to it:

Provided always, that no such officer shall vexatiously or unnecessarily delay the transit of any forest produce which is lawfully in transit, or unload, or cause the same to be unloaded, for the purpose of examination.

- (3) The person in charge of such forest produce shall not move the forest produce and keep it stationary as long as it is required by the officer checking the produce mentioned in sub-rule (1) *supra* and furnish to any such officer all the information which he is able to give regarding the same and allow examination of the goods and inspection of all the records connected with the goods and shall not in any way prevent or resist the stoppage or examination of the said forest produce or records by such officer.

162. Transport of forest produce by sea or rail.- No forest produce shall be booked for transport by rail or sea unless the same is covered by a valid pass or way-permit. The booking authority shall affix his seal and note the number and date of the railway receipt or shipping bill, as the case may be, on the pass or way-permit and cancel it. The booking authority shall also note the number and date of the pass or way-permit in the railway receipt or shipping bill, as the case may be, and shall report to the nearest Police or Forest authorities about forest produce not covered by a valid pass or way-permit and brought for booking.

165. Penalty.- Whoever contravenes the provisions of Rule 144, clause (b) of sub-rule (1) and sub-rule (4) of Rule 146, Rule 147 and 148, sub-rules (5), (7), (8), (9) and (12) of Rule 149, Rule 150, sub-rules (1) and (2) of Rule 151, Rule 152, sub-rule (4) of Rule 153, Rule 154, sub-rules (3), (4), (5), (6), (7) and (8) of Rule 155, sub-rules (4) and (5) of Rule 156, sub-rule (3) of Rule 157, sub-rules (1), (2) and (3) of 159, Rules 160, 161 and 162, sub-rules (1), (2), (4) and (5) of Rule 163, Rule 164 and Rule 164-A shall, on conviction, be punishable with imprisonment for a term which may extend to six months or to a fine which may extend to five hundred rupees or to both; and where the contravention is committed after sunset or before sunrise, or after preparation for resistance to lawful authority, or where the offender has been previously convicted for a like offence, to imprisonment which may extend to one year or to a fine which may extend to one thousand rupees or to both.

THE KARNATAKA FOREST CODE, 1976*

CHAPTER II

Management and Working of the Forests

28. Reserved Forest Book.-

- (a) In the case of forests for which working plans have not yet been prepared, a separate "Reserved Forest" book will be maintained for each Reserved Forest. This book should be opened by the Divisional Forest Officer as well as the Range Forest Officer concerned as soon as the notification under Section 17, Karnataka Forest Act, 1963, is issued and should contain the Gazetted notification of Government sanctioning the constitution of the Reserved Forest under Section 17. No entry should be made except under the authority of the Divisional Forest Officer in each case. The 'Reserved Forest' book should contain the following information-
- (i) A descriptive analysis of the forests;
 - (ii) A record of forest produce exploited departmentally as well as by consumers and purchasers;
 - (iii) Any other information bearing upon the working of management of the Reserved Forest.
- (b) Several pages must be allotted for each of the above items to record entries for each year successively for a number of years, so that the 'Reserved Forest' book may, in course of time, contain a complete history of the forest and furnish all the information required for the compilation of a regular Working Plan.
- (c) Similar books must be kept, wherever practicable, for Protected Forests, District Forests, Private Forests, *etc.*, under the control and management of the Forest Department.
- (d) When once a Working Plan has been prepared and sanctioned, the Reserved Forest book need no longer be maintained as the Control book takes its place.

32. Divisional Forest Note-Books.- In each forest division, the Divisional Forest Officer will keep a permanent notebook in which he will, from time to time, record all noteworthy occurrences bearing on the management and improvement of the Forests of his division, and his suggestion for their future administration; the results of his observations regarding the habitats and wants of important species of trees and future matters which, in his opinion, it is desirable to record. This notebook will be styled the Divisional Forest Notebook.

* The complete Code is not reproduced. Only the relevant parts have been extracted.

35. Working Plans.— A 'Working Plan' is written scheme of management sanctioned by proper authority, for the systematic treatment of a forest, with the object of ensuring continuity of policy and action by Officers-in-charge and also to provide against the deterioration and for the improvement of the capital (or total growing stock) while working out what represents the interest (or average annual increase) in an orderly, useful and economic manner on the principles of sustained yield.

36. The necessity for, and the importance of, a carefully prepared working plan on a scientific basis for the proper management of a forest property are unquestionable. In the absence of such a definite scheme of operations founded on a careful examination and study of the growing stock, the annual increment inputs, there is a serious risk of the forest capital being either drawn upon unduly by excessive cutting being made or for the forest revenue being lost by working the forests below their capabilities.

B. Exploitation of Timber and Other Produce

- 54. (1)** The method of exploitation and disposal of timber, sandalwood and other forest produce will vary according to the special circumstances of each locality, but it may generally be stated that all forest produce is either departmentally collected, stored and sold from sale depots or the removal and disposal is effected through private agency. In the latter case, the exploitations may be carried out either under what is known as the 'Lease system' or under the 'License or Permit system'. Timber being a valuable commodity, it should be exploited, as far as possible, departmentally. Sandalwood and Rosewood shall always be exploited departmentally and by no other means.
- (2)** Firewood, bamboos and other minor forest produce may be exploited and disposed of through private agency, provided fair prices are secured. In all other cases, departmental exploitation should be resorted to when fair prices cannot be obtained at sale or where special products, not hitherto in demand in the market are to be exploited.

C. Forest Contracts

62. Contracts and other instruments in matters connected with the business of the Forest Department generally may be executed as shown below—

- (a)** Contracts under which revenue for timber, fuel and other forest produce and rent for cultivation in lands under the control of the Forest Department, is collected;
- (b)** Contracts of expenditure on conservancy and works and Development Plan Schemes.
- 63. (1)** Contracts under which revenue for timber, fuel and other forest produce and rent for cultivation in lands under the control of Forest Department is collected. These contracts may be divided into three classes namely—
- (i)** Those in which the Department engages to extract and supply certain produce to purchasers;

- (ii) those in which the Department sells to purchasers the right to extract certain produce for themselves; and
 - (iii) those in which the Department grants leases in the land under their control for cultivation.
- (2) Leases of timber, fuel and other forest produce shall not be sold otherwise than in tender-cum-auction. As a special concession however the lease may be sold by private negotiations to Co-operative Societies of Scheduled Castes and Scheduled Tribes and other forest tribes, and to industrial units at the discretion of the State Government, or the Chief Conservator of Forests when authorised. The lease register for forest lands and minor forest produce shall be in Forms 48-A and 48-B.

E. Exploitation of Sandalwood

77. (1) All Sandalwood trees whether growing in Government, private or Inam land will be exploited through the Government agency only.
- (2) The value of Sandalwood is so great, that it is of paramount importance to protect against loss of Sandalwood to Government at every stage of operations beginning with the enumeration of trees, marking, uprooting, rough dressing, transport to depots, final cleaning, classification and storage, until the wood is sold.
- (3) Exploitation of Sandal trees will generally be by selection felling, where only dead, dying spike-diseased and fallen trees including old stumps and roots are marked for extraction.
- (4) The unit of area for annual exploitation of Sandal trees will generally be the entire area of a Range and therefore the entire area of a Range will form the annual coupe and will have to be gone over every year for purposes of extraction of Sandal trees. This is because, the Sandal trees do die in appreciable numbers every year in forests and such trees cannot be left over unexploited for any length of time, on account of the value of the wood. However, this rule may be exempted in Ranges having extensive Sandal bearing zones where it may not be possible to go over the entire area of the Range every year for extracting Sandal trees. In such cases, the entire Range area may be divided into 2 or 3 blocks of convenient sizes and each block forming an annual coupe every second or third year in rotation.
- (5) Wherever Working Plans exist for the exploitation of Sandalwood, the area of coupe shall be as per the prescriptions of such plan.
78. (1) Before the end of each official year, the Range Forest Officer should submit an estimate to the Divisional Forest Officer for the selection and marking of Sandal trees in the coupe to be worked in the following year. The estimate should deal separately with the Government lands and private lands, and contain the details for each coupe. It should provide for marking the trees to be extracted, timber cutting and such other tending as may be prescribed in the Working Plan or Working Scheme, if there be one, or in any executive orders or instructions issued by the Divisional Forest Officer from time to time.

- (7) As soon as the enumeration, marking and tending work is completed, the Range Forest Officer should send a completion report to the Divisional Forest Officer together with an estimate for the extraction, rough dressing and transport of the wood to the Sandalwood Depot.

79. (2) Extraction.-

- (a) Extraction of Sandalwood should be taken up during early part of the year alone so as to fully utilise the entire monsoon period for extracting Sandal trees and to enable transporting the entire quantity extracted during the year to the Depot before the close of the year.
- (b) Trees should normally be extracted in serial order.
- (c) A responsible forest subordinate not below the rank of a Forester should be in charge of the sandal extraction work.

80. (3) As soon as the extraction is completed and the measurement recorded, the material may be collected at convenient centres of collection or forest depots, for subsequent despatch to Kotis. The subordinate in charge of the operation should stack the Sandalwood in forest depots in separate lots, each containing one cart or lorry load, as the case may be. Each such stack should have the full complement of the wood obtained from the trees concerned, so that each consignment of sandalwood to be despatched to the Depot may have the full compliment of the trees concerned to facilitate checking at the destination.

- (4) The Sandalwood collected in forest depots should not be allowed to accumulate unnecessarily, but should be sent to sales depots as soon as possible. Sandalwood extracted in any month should, as far as possible, be despatched to the Depot before the close of succeeding month. The subordinate in charge of extraction shall be responsible for the safety of the collected wood from fire or theft, till it is despatched to the Depot.

82. (a) Rules for the despatch of sandalwood from forests to Depots, issue of transit passes, checking and weighing the sandalwood at the Depot and the issue of a receipt for the wood received at the Depot are contained in Chapter XVI (Transit Rules) of the Karnataka Forest Rules, 1969 and Karnataka Forest Manual.

THE KARNATAKA FOREST MANUAL*

CHAPTER VII

Sale of Forest Produce

81. The details regarding the sale of forest produce, has been dealt with in the Karnataka Forest Rules, 1969 in Chapter XII, therefore, the Forest Rules under the Chapter have not been repeated in the Manual.

85. All the sale conducting officers should submit the *upset price* in respect of the produce intended to be sold to the Conservator of Forests or the Divisional Forest Officer as the case may be, and obtain the sanction prior to the date of sale.

- (1) The upset price is merely an estimate of the price which the sale conducting Officer expects to get, it being understood that, he will do his best to get much more than what is possible. The upset price is meant only for the use of the Department especially as a guide to the sale conducting officer, it shall be worked on the basis of the current market value for similar commodity consistent with the quality, quantity and specifications. The average sale price realised in the three preceding sales can be taken as a guide by the Officer in fixing as well as sanctioning the upset price. If the original sale proves abortive the highest bid obtained, in such a sale shall form the basis for revising the upset price for purposes of sale. This procedure shall be obtained for successive sales under which the material is disposed off.

87. Retail sales of timber or other forest produce already exposed for sale shall not be done.

92. On receipt of orders confirming the sale, the Divisional Forest Officer shall immediately communicate the confirmation orders to all the successful bidders or tenderers as the case may be, copying such confirmation order sent to the Range Forest Officer or Depot Officer as the case may be for taking further action.

93. Where the value of the produce to be sold is Rs. 500 and more, a local notification as prescribed in Rule 86 of the Karnataka Forest Rules, 1969, shall be issued provided the sales are conducted by the Assistant Conservator of Forests. Where the value of the produce is to be sold for more than Rs. 50 and less than Rs. 500, for this purpose the Range Forest Officer shall send a copy of the local sale notification along with the upset price to the Divisional Forest Officer well in advance. In case, where the value of the Forest Produce to be sold is less than Rs. 50 the Range Forest Officer can himself conduct the sale provided the price has been got sanctioned previously by the competent authority. The right of collecting minor forest produce, unless otherwise stipulated, should generally extend to all Reserved forests, Protected forests and Plantation under the control of the Forest Department. Also according

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to Rule of the Karnataka Land Revenue Rules, 1966 the produce of trees belonging to Government shall also be sold by auction annually by the Forest Department, which means even the minor forest produce in District Forest and all other unoccupied land under the control of the Revenue Department shall also be sold by the Forest Department. However, Rule 96 of the Karnataka Forests Rules, 1969 shall be consulted when disposing the Minor Forest Produce in lands set apart for communal purpose.

94. Retail sale of Sandalwood from Government Sandalwood Depots.- The following supplementary rules are made to regulate the retail sale of Sandalwood from Government Depots.

- (1) The Officer competent to sanction the retail sale of Sandalwood will specify the date before which the sale is to be effected. If the permit holder fails to draw the wood within that date, the permit becomes invalid.
- (2) The Officer in charge of the Sandalwood Depot should display a list showing the sanctioned schedule of rates for the different classes of Sandalwood in a prominent place at the Depot.

95. Classification of Sandalwood.- Sandalwood is sorted under the following classes before being passed for sale.-

- | | | |
|---|--|--|
| I. | First class billets
(or Vilayet budh) | Consists of thoroughly sound billets, weighing not less than 9 kgs. and not exceeding 112 pieces to the ton. |
| II. | Second class billets
(or China budh) | Consists of slightly inferior billets, weighing not less than 4-50 kgs. and not exceeding 224 pieces to the ton. |
| III. | Third class billets
(or Panjam) | Consists of billets having small knots, cracks and hollows, weighing not less than 2-20 kgs. and not exceeding 448 pieces to the ton. |
| IV. | Ghotla (or billets of short length) | Consists of short sound pieces, no limit as to weight or number. |
| V. | Ghat badala | Consists of billets with knots, cracks and small hollow at either end, weighing not less than 4.5 kgs. lbs. and not exceeding 240 pieces to the ton. |
| VI. | Bagardad | Consists of solid pieces without limit as regards dimensions, weight or number. |
| <p>N.B.- Billets of Classes V and VI are not planed nor are their edges rounded off.</p> | | |
| VII. | Roots (First class) | Consists of pieces weighing not less than 6-75 kgs. and not exceeding 150 pieces to the ton. |

VIII.	Roots (Second class)	Consists of pieces weighing not less than 2-25 kgs. and not exceeding 448 pieces to the ton.
IX.	Roots (Third class) Ghat	Consists of small and side roots below 2-25 kgs. in weight.
X.	Jajpokal (First class) or badala	Consists of hollow pieces weighing not less than 3-10 kgs. and not exceeding 320 pieces to the ton.
XI.	Jajpokal (Second class)	Consists of hollow pieces weighing not less than 1-3 kgs.
XII.	Ain bagar Psuedoghat	Consists of solid, cracked and hollow pieces weighing not less than 450 gms.
XIII.	Cheria (or large chilts) Sali	Consists of pieces and chips of heart wood weighing not less than 2-25 grams.
XIV.	Ain chilta	Consists of pieces and small chips of heartwood.
XV.	Hatri chilta	Consists of heartwood, chips and having obtained by planing billets with Hatri or Randha (Plane).
XVI.	Milva chiltsa	Consists of pieces and chips having in fair proportions heartwood and sapwood.
XVII.	Basola Bukni (Gamtitacha short chips)	Consists of small heartwood and sapwood chips.
XVIII.	Saw dust or powder	Obtained in sawing the Sandalwood.

96. Supply of Sandalwood to Government Sandal Oil Factories.- The following procedure and instructions shall be followed regarding the supply of Sandalwood to the Oil Factories in the State.

- (1) Officers in-charge of Sandalwood Depots should intimate the General Manager of the Sandalwood Oil Factory, from time to time, the stock of Sandalwood available with them for supply.
- (2) The General Manager of Sandalwood Oil Factory should give atleast a week's notice to the Divisional Forest Officer and the Depot Officer to his intention to take delivery of the Sandalwood.
- (3) The Sandalwood will be weighed and delivered at the Depot by the Sandal Koti Officer, if he is a Gazetted Officer otherwise by any other Gazetted Officer deputed by the Divisional Forest Officer in the absence

of the General Manager of the Sandalwood Oil Factory or any other Officer deputed by him.

- (6) Necessary transit pass for the transport of the Sandalwood supplied will be issued by the Officer-in-charge of the Depot. No Sandalwood shall be allowed to be removed from the Depot without a transit pass.
- (7) The General Manager of Sandal Oil Factory or the Officer deputed by him for taking delivery of the Sandalwood should acknowledge the quantity of Sandalwood taken delivery of by him before its removal.
- (8) Immediately after weighing, stamping and delivery of wood with the transit pass, the Officer of the Sandal Oil Factory taking delivery of the Sandalwood should arrange for its immediate removal from the Depot premises. The Sandalwood, so delivered, if not removed immediately, shall remain in the Depot at the risk of the Factory.

CHAPTER VIII

Licenses for Forest Produce on Payment of Seigniorage Value

98. **General.**— The system of granting licenses for the removal of forest produce on recovery of seigniorage value shall be applicable only to meet small local demands for forest produce, for their *bona fide* domestic use, by the local inhabitants, who normally enjoy certain privileges in those forests.

99. To prevent over-exploitation, it is very essential that the forests, where the system of disposal of forest produce on pre-paid licenses is in vogue, should be worked according to the prescriptions of a sanctioned Working Plan or a Working Scheme duly sanctioned by a competent authority.

These considerations should be borne in mind, while drawing a new Working Plan for a forest or while revising an existing Working Plan for a forest.

CHAPTER X

(i) Forest Privileges

120 (i) Preliminary.—

- (2) Village communities in the neighbourhood of a Forest will naturally depend more on the forest for their domestic and agricultural needs. Such uses however should be properly regulated and no event be permitted at the cost of National interests. The scientific conservation of forest inevitably involves the regulation of rights and restrictions of the privileges of the user, depending upon the value and importance of the forest, however irksome such restraint may be to the neighbouring communities.

121. The privileges sanctioned for the several districts of the State are grouped under—

- (i) Special privileges sanctioned for each district; and
- (ii) General privileges common to all districts.

122. Officers of the Forest and Revenue Departments serving in forest areas have to make it a point of satisfying themselves that villagers know and exercise their forest privileges properly.

123. The privileges are intended to be exercised as a matter of favour and not of right and are subject to withdrawal at any time by the State Government. It is also open to the State Government to modify, curtail or discontinue the privileges whenever considered necessary. Ordinarily revision of privileges will be done when it is held to be desirable. At that time the local Revenue and Forest Department Officers' shall submit to the Government through the Divisional Commissioner and Chief Conservator of Forests (General), detailing as to why such and what changes are proposed. The privileges can be suspended or withdrawn temporarily by either the Divisional Commissioner or the Chief Conservator of Forests (General) in consultation with the Divisional Commissioner.

124. With a view to guard against privileges developing into rights, it is desirable to permit privileges over a definite period at the end of which the question should be re-examined for continuance of the privileges for further period or otherwise.

125. The sanctioned privileges are to be enjoyed- (a) free of charge; (b) by forest villagers; (c) within limits of the forest villages; (d) in open forest; (e) without permit or special permission from forest officers, except where exceptions are mentioned under the respective privileges to be mentioned hereafter.

126. Produce removed in exercise of any privilege should not be sold or bartered.

127. Removal of forest produce under the privileges is restricted to the quantity which an individual can carry himself i.e, by headloads only, for which no permits are required except where specifically stated.

(ii) Special Privileges

130. (i) These privileges apply to the removal of the Forest Produce by cultivating ryots and villagers for their *bona fide* use and whose total annual income does not exceed Rs. 1,200.00 (Rupees One thousand two hundred) and who permanently reside in the areas specified in the districts.

(iii) General Privileges

142. The general privileges shall apply to the entire State, to all the Forest villages and as well as to the adjoining villages.

(11) The right of collecting the *minor forest produce* freely may be considered at the discretion of the Divisional Forest Officer to villagers for their own *bona fide* domestic uses, subject to withdrawal in case of any abuse of the concession from the District Forests.

(12) The villagers are entitled to receive freely seedlings of miscellaneous species including Sandal for purposes of planting in their farm lands and waste lands from the Range Forest Officers having jurisdiction.

THE KARNATAKA FOREST ACT, 1963*

(Act No. 5 of 1964)

2. Definitions.-

- (15) "Reserved Trees" means Teak or Sagavani (*Tectona grandis*), Black wood or Bite (*Dalbergia latifolia*), Kino or Honne (*Pterocarpus marsupium*), Myrobalan or Gall nut or Alale (*Terminalia chebula*), White cedar or Devagarge (*Dysoxylum malabaricum*), Jalari (*Shorea laccifera*), Benteak or Nandi (*Lagerstroemia lanceolata*), Satin wood or Huragalu (*Chloroxylon swetenia*), Soapnut or Antawala (*Sapindus emarginatus*), Karachi Kamara (*Hardwickia binata*), Oil tree or Yenne mara (*Hardwickia pinnata*), Hebbhalasu (*Artocarpus hirsuta*), Ebony or Karimara or Bale (*Diospyros benum*), Iron wood or Jambee (*Xylia xylocarpa*), Poonspar or Sura Honne (*Calophyllum elatum*), Chitagong wood (*Chickrassia tabularis*), Kiralbogi (*Hopea parviflora*), Kachu or Kaggali (*Acacia catechu*), Bore (*Zizyphus jujuba*), Sagade (*Schleichera triflora*), Yethaga (Vanteak) (*Adina cordifolia*), Tamarindus indica, Karimatti (*Terminalia tomentosa*), Mavu (*Mangifera indica*), Kasarka (*Strychnos nuxvomica*), Halasu (*Artocarpus integrifolia*), Bili Matti (*Terminalia arjuna*), Dhup (*Ailanthus malabarica*), and such other trees as the State Government may, by notification, declare to be reserved trees for the purposes of this Act;
- (18) "Sandalwood" means any portion of a sandal (*santalum album*) tree and includes bark, leaves and roots thereof, whether containing heartwood or not and whether in the form of roots, billets, pieces (sawn or otherwise), chips (whether coloured or not and whether mixed with other ingredients or not), sawdust, spentwood, flakes or pulp and sandalwood oil but does not include sandalwood manufactured in the form of sandalwood handicraft articles.

CHAPTER XI-A

Forest Development Tax

98-A. Levy of Forest Development Tax.-

- (1) Notwithstanding anything contained in this Act, in respect of forest produce disposed of by the State Government or by a corporation, owned or controlled by or a body notified by the State Government, by sale or otherwise, there shall be levied and paid to the State Government a tax at the rate of eight per cent on the amount of consideration paid therefor.

* The complete Act is not reproduced. Only the relevant sections have been extracted.

Provided that the tax levied and paid under this sub-section on the disposal of forest produce specified in column (2) of the Table below to the categories of persons or industries specified in column (3) thereof shall be twelve per cent on the amount of consideration.

TABLE

Sl. No. (1)	Forest produce (2)	When disposed of to (3)
1.	Timber, Firewood, Grass, Charcoal and Eucalyptus	Industries
2.	Bamboo, reeds and canes except Cottage Industries;	Pulp and Paper Industries
3.	Sandalwood	(a) Sandalwood Oil Factories; and (b) Others, except; (i) Artisans (ii) Religious Institution; and (iii) Cottage Industries
4.	Minor Forest produce as defined in the rule but not falling under Serial numbers 1 and 2	Industries except Large Scale Multipurpose Co-operative Societies (LAMPS).

Provided further that the tax under the above proviso in respect of Eucalyptus and Bamboos supplied as raw material for manufacture of news print shall be fifty per cent of the rates specified therein or a period of five years.

- (1-A) Notwithstanding anything contained in sub-section (1), no tax shall be payable to the State Government by a corporation, owned or controlled by the State Government to the extent of tax not levied and collected by it during the period from fourteenth day of February, 1978, till the commencement of the Karnataka Forest (Amendment) Act, 1988.
- (2) The said tax shall be collected along with such consideration.
- (3) It is hereby declared that the said tax shall be in addition to and not in lieu of any tax payable in respect of such produce under any other law in force.

GOVERNMENT OF KARNATAKA ORDER ON JFPM*

KARNATAKA GAZETTE, Thursday August 19, 1993

Animal Husbandry, Fisheries and Forest Secretariat

Sub:- Implementation of the Joint Forest Planning and Management (JFPM) Scheme, the Tree Patta Scheme and sharing of Forest Produce in Karnataka.

17. Disposal of Forest Produce and Sharing.-

- (i) The beneficiaries identified through the Village Forest Committee will be entitled to grasses, leaves and fuel-wood free of cost, from the JFPM areas of Forests as well as other non-forest lands, upon fulfilment of the prescribed conditions. The beneficiaries shall also be entitled for lops and tops and prunings free of cost. The distribution of such produce will be supervised by the Managing Committee of the Village Forest Committee. The Managing Committee shall ensure a fair and equitable distribution of the above forest produces to all the right holders. The Committee may work out its own principles and mechanism for distribution of produce with a view of meeting the needs of the local population.
- (ii) Regarding disposal of Minor Forest Produce/ Fruits, timber and final harvest, the requirements of the local villagers should be treated as a first charge on such final produce. The surplus, after meeting the demands of the concerned villages, shall be disposed of by the Village Forest Committee through open public auction.
- (iii) As it would be difficult to determine exactly the local needs of the villagers in absolute terms, 50% of the Minor Forest Produce, fruits, timber and final harvest shall until further orders be made available for local sale through Village Forest Committees to meet the needs of the local villagers at the rates to be fixed by the Forest Department from time to time. The balance 50% of the Minor Forest Produce, fruits, timber and final harvest will be disposed of through public auction.
- (iv) The proceeds arising from the local sale by the Village Forest Committee as well as those arising from the disposal through auction, after deducting all the expenditure incurred on the final harvest and auction, shall be shared between the Government, beneficiaries and the Village Forest Committee in the ratios mentioned below.

As far as the degraded forest lands and non-forest Government Waste lands belonging to the Revenue Department are concerned, the sharing would be on the following pattern:

50% to Government;

* The complete Order is not reproduced. Only the relevant parts have been extracted

25% to the beneficiaries through the Village Forest Committee as per the rules to be framed for the purpose; and

25% to a special fund to be called the "Village Forest Development Fund". This fund will be operated by the Village Forest Committees as per the rules to be framed by the Government in consultation with the Principal Chief Conservator of Forests.

20. Tree Patta Scheme.—The main features of the scheme and conditions stipulated under it are as follows:—

- (i) It is proposed to grant "Tree Pattas" to the adjoining land holders both in rural and urban areas. Where no private lands exist about the road side or canal side or where the private land holder is not willing, the tree pattas will be issued to other willing beneficiaries of the Village Forest Committee.
- (ii) If no individual is willing to avail the facility of "Tree Patta", the Village Forest Committee shall be given the responsibility of managing the same. In case the Village Forest Committee is also not willing, the Forest Department shall maintain the trees along roadsides/ canalsides. In urban areas, if individuals are not willing to avail of the scheme, the Forest Department will manage.
- (iii) A nominal rental of Re. One per tree per annum shall be charged from the Tree Patta holder/ Village Forest Committee.
- (iv) Usufructs and Minor Forest Produces/ Fruits from trees from roadsides/ canalsides shall be enjoyed by the Tree Patta holder free of cost provided he maintain the trees at his own cost after the 3rd year of its planting.
- (v) The trees along roads and canal side lands shall not be cut except with the prior permission of the Forest Department in writing. Upon such permission being granted, the produce shall be shared between the Tree patta holder and the Government in ratio of 75:25. The grant of permission will also be subject to the Tree Patta holder's agreeing to replant the area in the manner agreed upon between him and the Forest Department.
- (vi) Beneficiaries are entitled for 100% usufructs.
- (vii) The trees will be enumerated, listed and handed over to the Tree Patta holder under these schemes.

THE KARNATAKA SUPPLY OF FOREST PRODUCE BY GOVERNMENT (REVISION OF AGREEMENTS)

ACT, 1987*

(Act No. 26 Of 1989)

An Act to confer the Government of Karnataka with powers to revise and cancel certain agreements relating to the supply of forest produce by it and matters relating thereto.

WHEREAS, it is considered necessary that the State Government should have the powers to revise, alter or cancel, from time to time the terms of certain agreements relating to supply of forest produce to ensure the principles of scientific management of forest based upon the working plan prescriptions, working schemes or sequences revised from time to time and silvicultural requirements and to ensure that the prices paid therefor are fair and no loss of income is caused to the State and also that it should have the power to cancel agreements with a view to protect and maintain ecological balances and to protect and improve the environment and to safeguard the forests and the wildlife in the State of Karnataka and to provide for matters relating thereto.

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

- (a) "Agreement" shall include any contract, licence, bond, deed or grant or other document, whereby the Government agrees or has agreed to sell or supply any forest produce to any purchaser or to permit any forest produce to be collected and removed by any purchaser for consideration for a long term period on terms and conditions specified therein.
- (b) "Forest produce" shall have the meaning assigned to it in the Karnataka Forest Act, 1963 (Karnataka Act 5 of 1964);
- (c) "Long term period" means any period exceeding twelve months;
- (d) "Price" includes the price or rate or value paid or to be paid, whether as consideration or otherwise, to the State Government by any person for the sales or supply of forest produce;
- (e) "Purchaser" means any person, including any company or association or body of individuals whether incorporated or not, who purchases or is supplied or granted or obtains any forest produce from the State Government under any agreement and the word "purchaser" shall be construed accordingly.

3. Power of State Government to revise agreements for sale or supply of forest produce.- Notwithstanding anything contained in any law for the time being in force or in any agreement subsisting on the date of commencement of this Act or in any agreement which may be entered into by the State Government with any purchaser

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on or after the date of commencement of this Act, it shall be lawful for the State Government, by order published in the Official Gazette, to add to, substitute, delete, modify, or otherwise amend any of the terms and conditions of any such agreement, for one or more of the following purposes namely-

- (a) to provide for a revision or a periodical revision of the price of the forest produce agreed to be sold or supplied, where such agreement does not provide for any such revision or periodical revision, as the case may be, and, where such periodical revision is provided in the agreement, to provide for reducing or enhancing the period of revision:

Provided that the price once fixed shall not be liable to be revised by the State Government for a period at least for twelve months from the date on which such fixation has come into force;

- (b) to provide for modifying the quantity of forest produce agreed to be sold or supplied to the purchaser, having regard to the availability of such forest produce;
- (c) to provide for modifying, limiting, altering, shifting or cancelling the areas allotted to or permitted to be worked by, the purchaser, having regard to the availability of forest produce or to secure the principles of scientific management of forest based upon the working plan prescription, working schemes or sequences and silvicultural requirements;
- (d) to provide for the working of the forest or extraction of trees therefrom by the State Government or a corporation owned or controlled by it, instead of the purchaser or his agent with a view to ensure better working of forest and extraction of trees;
- (e) to protect and maintain ecological balance in the State of Karnataka;
- (f) to protect and improve the environment and to safeguard the forest and wild life in the State of Karnataka;

Provided that the State Government may, in furtherance of the purposes specified in clauses (e) and (f) cancel or modify any agreement subsisting on the date of commencement of this Act or entered into thereafter, after giving the purchaser a reasonable opportunity to show cause why the agreement should not be cancelled or modified and may pending the showing of such cause, stay the implementation or further implementation of any such agreement.

4. The price of forest produce sold or supplied to purchasers not to exceed market value.-

- (1) The price for sale or supply of the forest produce, to be fixed at the time of any revision of the price under Section 3 shall not exceed the market value of the forest produce at the time of such revision, as may be determined by the State Government in the prescribed manner.
- (2) Where the price is fixed at the time of revision for a period exceeding twelve months at a time, the State Government may provide for an annual increase in the price towards anticipated escalation in the market value of the forest produce during the period the revised price is to remain in force.

5. Power of Government to terminate agreements.-

- (1) Notwithstanding anything contained in any law for the time being in force or in any agreement subsisting on the date of commencement of this Act or in any agreement, which may be entered into by the State Government with any purchaser on or after the commencement of this Act, the State Government may terminate any such agreement at any time, for breach, by the purchaser, of any of the terms and conditions of the agreement, as amended from time to time, after giving him a reasonable opportunity to show cause why the agreement should not be terminated and after giving him a notice of one month for such termination.
- (2) The decision of the State Government in such cases shall be final.

6. Purchaser may terminate agreement after giving one month's notice.- If any amendment made in the terms and conditions of an agreement under Section 3 or any revision made in the price under that section, is not acceptable to the purchaser, he may, at his option, by giving to the State Government one month's notice in writing, within a period of three months from the date on which the amendment in the terms and conditions or the revision in the price, as the case may be, is communicated to him, terminate the agreement and accordingly the agreement shall stand terminated at the end of the notice period.

7. Effect of other laws.- Save as provided in this Act, the provisions of this Act, shall be in addition to and not in derogation of any other law.

8. Power to make rules.- The State Government may, subject to the condition of previous publication and by notification, make rules for carrying out the purposes of this Act.



STATE
OF
KERALA

NTFP including Medicinal Plants

Acalypha paniculata ('Kuppi'),
Ailantus malabaricum ('Matty'),
Alangium salvifolium ('Ankola'),
Caesalpinia sappan ('Bakum'),
Calycopteris floribunda ('Kohorunj'),
Dryopteris phillex (Fern), *Gymnema*
sylvestre ('Gurmar'), *Hydnocarpus*
laurifolia ('Kanti'), *Kydia calycina*
('Banda'), *Lobelia nicotianaefolia*
('Nala'), *Premna integrifolia* ('Arni'),
Rauvolfia serpentina ('Ashwagandha'),
Santalum album ('Sandalwood'),
Solanum trilobatum ('Tudavalli'),
Strychnos nux-vomica ('Kuchala'),
Terminalia belerica ('Thanni'), *Vateria*
indica ('Vellapine'); etc.

Monopoly Agency

- * Government of Kerala for 120 notified NTFP items.
- * Right to procurement and processing of all NTFPs given to the Girijan (Tribal) Service Cooperative Societies.
- * Marketing of NTFPs by the State Forest Department.

Price Fixation Method

- * Procurement price is being fixed for each collecting season by a committee constituted by State Government.
- * State Government fix the selling price of every specified forest produce for a financial year.

Kerala



Legal Framework

(1) *Kerala Forest Act, 1961*
(similar to the Indian Forest Act, 1927).

- * Provides for the protection and management of forests.
- * Provisions relating to the transit of forest produce and duty leviable on forest produce.

(2) *Kerala Forest Produce Transit Rules, 1975*

- * A "pass" required for import, export and transport of forest produce.

(3) *Kerala Forest Rules, 1975*

- * Provides for a Scheduled Rate - a uniform minimum price fixed by the Government for sale of forest produce in certain cases.

(4) *Kerala Forest Produce (Fixation of Selling Price) Act, 1978*

- * Fixation of selling price for every specified forest produce for a financial year by the Government.

(5) *Kerala Preservation of Trees Act, 1986*

- * Preservation of specified trees (including Sandalwood) in the State.

(6) *Kerala Forest Resources Development Fund Rules, 1989*

- * The Government shall constitute a fund called the 'Forest Resources Fund' which shall be utilised for increasing the productivity of the forests, and proper maintenance of forests, etc. The fund shall be administered by the Chief Conservator of Forests.

INTRODUCTION

The State of Kerala with an area of 38,863 sq. km. possess a forest area of 11,221 sq. km. (28.87%), comprising of Tropical Wet Evergreen and Wet Temperate forest types. A land of rivers and backwaters, the state possess a portion of the biodiversity rich Western Ghats and the famous 'Silent valley'. A wide variety of NTFP including medicinal plants exist in the State, viz.:

Botanical Names	Common Names
<i>Acalypha paniculata</i>	Kuppi
<i>Adina cordifolia</i>	Kadambu
<i>Ailantus malabaricum</i>	Matty
<i>Alangium salvifolium</i>	Ankola
<i>Alpinia galanga</i>	Kulanjan
<i>Alstonia scholaris</i>	Pala
<i>Caesalpinia sappan</i>	Bakum
<i>Calophyllum inophyllum</i>	Sultan champa
<i>Calycopteris floribunda</i>	Kohorunj
<i>Garcinia morella</i>	Kokum butter
<i>Gymnema sylvestre</i>	Gurmar
<i>Hydnocarpus laurifolia</i>	Kanti
<i>Kydia calycina</i>	Banda
<i>Lobelia nicotianaefolia</i>	Nala
<i>Palaquium elipticum</i>	Pali
<i>Peganum harmala</i>	Gandhya
<i>Premna integrifolia</i>	Arni
<i>Rauvolfia serpentina</i>	Ashwagandha
<i>Santalum album</i>	Sandalwood
<i>Sapindus trifoliatus</i>	Reetha
<i>Solanum trilobatum</i>	Tudavalli
<i>Strychnos nux-vomica</i>	Kuchala
<i>Terminalia belerica</i>	Thanni
<i>Vanda tessellata</i>	Rasna
<i>Vateria indica</i>	Vellapine

The State Government has enacted a number of Acts/ Rules to ensure a sustainable harvest of forest produce. The salient features of these Acts/ Rules are discussed in brief below.

The Kerala Forest Produce Transit Rules, 1975, are laid down by the State Government under the Kerala Forest Act, 1961. Under the rules, no person shall import, export and/ or transport forest produce without obtaining a *pass* in this regard. Any person desiring to export the forest produce outside India shall obtain a clearance order from the Divisional Forest Officer or Assistant Conservator of Forests.

Application for the issue of passes for transport of sandalwood from private lands shall be made to the Divisional Forest Officer of the concerned area.

Where any difficulty is experienced by forest subordinates (junior officials) or contractors in moving in one consignment all the forest produce covered by a single pass, the Divisional Forest Officer may issue to the subordinate on duty a numbered pass book, known as 'subsidiary pass book' and shall at the same time authorise the Forest subordinate to issue one of these as a subsidiary pass for each load.

Passes issued under these Rules must accompany the forest produce which is in transit and every vehicle containing such produce shall be stopped for inspection at all established Forest watch station/ checking stations on the routes. Whoever commits any contravention of the provisions of these Rules shall be punishable with imprisonment upto 6 months or with a fine upto Rs. 500, or both.

The Kerala Forest (Preservation, Reproduction and Disposal of Trees, etc. Belonging to Government but Grown on Lands in the Occupation of Private Persons) Rules, 1975. are laid down under the Kerala Forest Act, 1961. The Rules provide for a *Scheduled Rate*- a uniform minimum price fixed by the Government for sale of forest produce collected by the Department and sold from depots, etc., taking into consideration the seigniorage rate, the collection and transport charges, etc. The *seigniorage rate* ('Kuttikanam') means the rate fixed for the State as a whole by Government for each produce as the minimum rate, of amount, excluding working charges, that must be assured to the Government by the sale of trees and other forest produce collected from within the forest.

Under the rules, all species of trees other than teak, rosewood, ebony and sandalwood, may be sold to the occupants provided these trees are required for the bonafide domestic and cultivation purposes. The trees standing in the land of the occupant shall be *preserved* till they are sold under these rules to them or otherwise disposed of by the Government. Further, it shall be incumbent on the occupant to plant as many seedling of trees as possible to *regenerate* the trees lost by felling.

The Kerala Forest (Prohibition of Felling of Trees Standing on Land Temporarily or Permanently Assigned) Rules, 1995, lays down that all trees standing on land temporarily or permanently assigned shall be the absolute property of Government. A previous sanction of Divisional Forest Officer is required for the felling, lopping, etc. of trees.

The Kerala Forest Produce (Fixation of Selling Price) Act, 1978, was enacted to safeguard the forest wealth of the State. The Preamble to the Act lays down that the proper regeneration and maintenance of the forest in the State is not possible unless the forest produce is sold at reasonable rates and proceeds thereof are utilised for such purposes.

Under the Act, the Government shall fix the selling price of every specified forest produce for a financial year. Before fixing the selling price of any forest produce, the Government shall consult the expert committee (constituted for the purpose of recommending to the Government a fair and reasonable selling price for each forest produce). No forest produce is to be sold at a price less than the selling price of that forest produce.

However, the Government may, in the public interest, exempt the sale of any forest produce to a Government Company from the provisions of this Act, but subject to such conditions and restrictions as may be specified. Further, the provisions of this Act do not apply to the sale of forest produce to certain industrial establishments (Sec. 6). Ten per cent of the amount obtained by the sale of forest produce shall be set apart for being utilised for the development of forests (Sec. 7).

The Kerala Forest Resources Development Fund Rules, 1989, provides that the Government shall constitute a fund called the 'Forest Resources Fund' which shall be utilised for increasing the productivity of the forests, increasing the extent of plantations, and proper maintenance of forests, etc. The fund shall be administered by the Chief Conservator of Forests. The fund shall consist of 10% of the amount obtained by the sale of forest produce under the Kerala Forest Produce (Fixation of Selling Price) Act, 1978.

The Kerala Preservation of Trees Act, 1986, is an Act to provide for the preservation of trees in the State of Kerala. Trees like Sandalwood (*Santalum album*), Thempavu (*Terminalia tomentosa*), Kampakam (*Hopea parviflora*), Chempakam (*Michelia champaca*), etc. are specified under the Act. The Government may appoint such officers not below the rank of a Ranger as authorised officers for the purposes of this Act. No person shall, without the previous permission of the authorised officer, cut, uproot or burn, or cause to be cut, uprooted or burnt, any tree. No person shall cut or otherwise damage, or cause to be cut or otherwise damaged, the branch of any tree.

Kerala State Forest Act

See Part-I, 'Central and States' Forest Acts'.

Summing Up

The Government of Kerala has created monopoly for 120 notified items of non-timber forest products. The Scheduled Tribes and forest dwellers (who have a right to collect NTFP) have no right to make any direct sale to outside parties. They have to sell it to cooperative societies which auction the products gathered by the tribals. The right to procurement and processing of all NTFP has been given to the Girijan (Tribal) Service Cooperative Societies (GSCSs); so far 27 such societies have been established.

Earlier, the NTFP collected by these cooperative societies was marketed by the Kerala Pharmaceutical Corporation but now State Forest Department will take the delivery of collected NTFP. Procurement price is being fixed for each collecting season by a committee constituted by the State Government. Liberal advances were given to societies by Kerala Pharmaceutical Corporation for successful implementation of NTFP collection. However, much remains to be done about local processing of NTFP and replenishing the resource-base (Shukla, R.S., 2000).

In Kerala, Government monopoly is not only inefficient but also exploiting the tribals. In the absence of proper rules and implementation of policies, the biodiversity of the region is being plundered to subserve the financial interests of a select few (viz. brokers). GSCSs, under the Kerala Government's Department of Forests, is supposed to handle trade in medicinal plants. But tribals allege that the Cooperative is also involved in the illegal sale of the plants. In fact, the tribals say that the brokers

and the cooperatives are involved in a tussle to grab the lion's share of medicinal plants collected by the tribals. This would result in giving them extra leverage to arm-twist pharmaceutical companies into paying higher prices for the plants (*Down to Earth*, March 2000).

The Brokers advance money to the tribals in need. Medicinal plants are received in exchange for such loans taken by the tribals. Further, the sale price of medicinal plants is higher than the Government rates. A study calculated that the open market price was more than double the Government price. Thus a huge profit can be earned by the brokers by selling medicinal plants in the market.

The official version, however, contradicts this situation. "With the aim of eliminating brokers from the collection and marketing chains of non-wood forest products and ensuring a fair price to the gatherers, the Government established institutions such as tribal societies and an apex body of tribal societies like the Kerala State Scheduled Caste Scheduled Tribe Development Cooperative Federation Ltd.", says N. Sashidharan of the Taxonomy division of KFR! (Kerala Forest Research Institute, Kerala) (*Down to Earth*, March 2000).

Whichever version is correct, the biodiversity of the State is at stake requiring proper rules and implementation of the policies. The empowerment and cooperation of the tribals could go a long way in ensuring a sustainable harvest of the forest produce. A beginning has been made in the State, where Tropical Botanical Garden and Research Institute (TBGRI), Kerala has evolved a drug 'Jeevani' (anti-fatigue and immunoenhancing) based on the local knowledge of species- *Trichopus zeylanicus travancoricus* ('Arogyappacha'). The Institute has promised to give 50 per cent of the commercial returns to the Kani-tribe, which first provided information about the properties of the plant. The Institute is ploughing the same for the indigenous knowledge available to tribals regarding that herb (Kurup, A.M., 2000). Such steps will go a long way in improving the income of the tribals and result in partnership in 'ex-situ' and 'in-situ' conservation of such medicinal plant species.

THE KERALA FOREST PRODUCE TRANSIT RULES, 1975*

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

- (a) "Act" means The Kerala Forest Act, 1961 (4 of 1962);
- (b) "Form" means Form appended to these Rules;
- (c) forest produce in transit includes 'forest produce' as defined in sub-clause (f), 'timber' as defined in sub-clause (k), and 'tree' as defined in sub-clause (i) of Section 2 of the Act found on or on the margin of any public road, whether loaded in carts or other vehicles or not and forest produce found in any river or stream whether tide into rafts or not.

3. Import, export and transport of timber and other forest produce.-

- (1) No person shall,
 - (i) import timber or other forest produce into the State; or
 - (ii) export timber or other forest produce from the State; or
 - (iii) transport timber or other forest produce by land, by rail or by water in any part of the State, unless such timber or forest produce is accompanied by a pass required by these rules, and unless the timber is stamped by the Government stamp or a stamp registered as laid down in Rule 11.
- (2) Government may by notification in Official Gazette exempt any species of trees or any area within the State from the operation of sub-rule (1) for the purpose of giving incentive to grow trees on private lands.
 - (a) Any person desiring to export timber or other forest produce outside India shall obtain a clearance order in Form No. 11 from the Divisional Forest Officer, or Assistant Conservator of Forests having jurisdiction over the area. For this purpose he shall put in an application in Form No. 1, at least 14 days before the proposed date of export to the Divisional Forest Officer or Assistant Conservator of Forests as the case may be.
 - (b) On receipt of an application under clause (a), the Divisional Forest Officer, or Assistant Conservator of Forests, as the case may be, shall issue a clearance order in Form No. 11 to the applicant, after satisfying himself of the genuineness of the produce intended for export.
 - (c) The Divisional Forest Officer or Assistant Conservator of Forests shall return the original records received along with the application under clause (a) to the party concerned after making necessary

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

endorsement thereon, to the effect that such and such logs or produce have been cleared for export.

4. Form and issue of passes.-

- (1) (a) All passes issued by the officers of the Forest Department, whether for export to place outside the State or for transport within the State, of timber and other forest produce shall, except as provided in Rules 5,6,7 and 8 be in Form III and shall be printed in triplicate, and shall have all the columns filled up by a duly authorised officer who shall sign and date each part, hand over the original to the applicant, send the duplicate to the officer-in-charge of the Division or Range, as the case may be, and keep the triplicate attached to the book as a counterfoil for record in his office.
- (b) Export passes shall be printed on red paper and marked "Export way permit" and shall be issued by the Divisional Forest Officer or other officers authorised in that behalf by the Chief Conservator of Forests on production of proof that the articles mentioned has been properly obtained and subject also to clause (iii) of Rule 3(1) wherever necessary.
- (c) Passes for timber and other forest produce belonging to the Government and purchased from Government land or from Government depot or elsewhere shall be printed on white paper and issued by the Range Officer or the Depot Officer or by any other officer authorised in that behalf by the Chief Conservator of Forests. The validity of passes issued under this clause shall be subject to the conditions under which the sale of the produce was effected.
- (d) Passes for timber and other forest produce collected from private lands shall be printed on yellow paper and be marked "Private". Such passes shall be issued by the Divisional Forest Officer or Forest Range Officer or by any other officer authorised in that behalf by the Chief Conservator of Forests on application and production of proof that the forest produce was obtained from the place mentioned in the application and subject to such procedure as may from time to time be prescribed by the Chief Conservator of Forests. Every applicant for a pass under this clause shall in the case of land laying contiguous to a Reserved Forest or to lands at the disposal of Government, have the surveyed boundaries cleared and correctly fixed or demarcated on the ground and a declaration by the applicant to that effect shall accompany every such application.
- (e) If the forest produce is sold from a sale depot situated within the limits of a town, it shall be enough if the forest produce be covered by a way permit in Form III-A in cases where the forest produce is not intended to be conveyed beyond the limits of the town in which the depot is situated and is for use within such limits.

- (3) (a) Application for the issue of passes for transport of *sandalwood* from private lands shall be made to the Divisional Forest Officer having jurisdiction over the area from which such produce is proposed to be removed.
- (b) Every application for a pass shall be accompanied by a copy of sanction order of the authorised officer issued under sub-rule (ii) of Rule 5 of the Kerala Restriction on Cutting and Destruction of Valuable Trees Rules, 1974.
- (c) On receipt of an application under clause (a), the Divisional Forest Officer shall inspect the area and verify the collections by re-forming each tree with reference to the dimensions of the corresponding pits and if he is convinced that the collections are genuine and the measurements and weights recorded are correct, he shall get the pieces stamped with the Division hammer at both ends in his presence and issue a pass for the pieces as well as for parts of sandalwood such as chips and dusts, if any. Every pass issued shall be valid till such date, not being a date beyond fourteen days from the date of issue of the pass, as may be specified therein.
- (4) (a) Application for the issue of passes for removing forest produce other than teak, sandalwood and ebony from private land shall be made to the Village Officer having jurisdiction over the area from which such produce is proposed to be removed

Provided that no pass shall be necessary for the removal of the following species of timber, namely:

SI. No. (1)	Common Name (2)	Scientific Name (3)
1.	Acacia	<i>Acacia auriculiformis</i>
2.	Ambazham	<i>Spondias mangifera</i>
3.	Anjily	<i>Artocarpus hirsuta</i>
4.	Aranamaram	<i>Polyathia longifolia</i>
5.	Arayal	<i>Ficus religiosa</i>
6.	Arecanut	<i>Areca cathu</i>
7.	Asokam	<i>Saraca indica</i>
8.	Athi	<i>Ficus glomerata</i>
9.	Badam	<i>Terminalia catappa</i>
10.	Cashew	<i>Anacardina occidenta</i>
11.	Casurina	<i>Casuarina equisetifolia</i>
12.	Chembakom	<i>Michelia champaca</i>
13.	Coconut	<i>Cocos nucifera</i>
14.	Elavu	<i>Bombax ceiba</i>
15.	Elenji	<i>Mimusops elenji</i>
16.	Ghnaval	<i>Syzygin cumini</i>
17.	Gulmohar	<i>Delonix regia</i>
18.	Ithy	<i>Ficus gibbosa</i>

(1)	(2)	(3)
19.	Jacaranua	<i>Jacaranda mimosaeiflia</i>
20.	Jack	<i>Artocarpus integrifolia</i>
21.	Jathi	<i>Myristic fragrans</i>
22.	Kadaplavu	<i>Artocarpus gomezianus</i>
23.	Kadukka	<i>Terminalia chebula</i>
24.	Kara	<i>Lannea coromandalica</i>
25.	Karingotta	<i>Quassia indica</i>
26.	Kariveppu	<i>Mujrraya koenigil</i>
27.	Kodam puli	<i>Garcinia cambogia</i>
28.	Konna	<i>Cassia fistula</i>
29.	Koovalam	<i>Aegle marmelos</i>
30.	Kunnivaha	<i>Albizzia odoratissima</i>
31.	Mahagony	<i>Swietenia macrophylla</i>
32.	Mandaram	<i>Bauhinia spp.</i>
33.	Mangium	<i>Acacia mangium</i>
34.	Mango	<i>Mangifera indica</i>
35.	Manimaruthu	<i>Lagerstroemia folsreginae</i>
36.	Manjakonna	<i>Cassia siamea</i>
37.	Marotti	<i>Hydnocarpus pentandra</i>
38.	Matti	<i>Ailantus malabaricum</i>
39.	Muringa	<i>Moringa pterygosperma</i>
40.	Murukku	<i>Erythrina indica</i>
41.	Neem	<i>Azadirachta indica</i>
42.	Nelli	<i>Emblia officinalis</i>
43.	Nenmeni vaha	<i>Albizzia lebbeck</i>
44.	Pala	<i>Alstonia scholaris</i>
45.	Peeli vaha	<i>Albizzia falcataria</i>
46.	Peltophorum	<i>Peltophorum pterocarpum</i>
47.	Peral	<i>Ficus bengalensis</i>
48.	Perumaram	<i>Ailantus excelsa</i>
49.	Ponthan vaha	<i>Albizzia chinensis</i>
50.	Poovarasu	<i>Thespesia populnea</i>
51.	Rain tree	<i>Samanea saman</i>
52.	Rubber	<i>Hevea brasiliensis</i>
53.	Seemakonna	<i>Glyricedia maculata</i>
54.	Silk cotton tree	<i>Ceiba pentandra</i>
55.	Spathodia	<i>Spathodea companulata</i>
56.	Tamarind	<i>Tamarindus indica</i>
57.	Thanni	<i>Terminalia belerica</i>
58.	Ungu	<i>Pongamia pinnata</i>
59.	Vella vaha	<i>Albizzia procera</i>
60.	Vellappine	<i>Vateria indica</i>

- (b) Every application for a pass shall specify the Survey No., the Sub-division No., if any, and the approximate area of land and shall be accompanied by a list showing the details of the produce such as

quantity of the produce, measurements of timber proposed to be removed.

- (c) On receipt of an application under clause (a), the Village Officer shall personally inspect the land and the produce and if he is satisfied that the particulars furnished in the application are correct, forward the record to the Forest Range Officer having jurisdiction over the area with a certificate in the following form:

"Certified that the produce as per the accompanying list has been collected from the areas specified in the application."

- (d) The Forest Range Officer or any other officer specially authorised by the Government in this behalf shall on receipt of the records from the Village Officer, issue the pass in Form III. Every pass issued, shall be valid till such date, not being a date beyond three months from the date of issue of the pass, as may be specified therein:

Provided that in the case of areas falling within the limits of villages in which Reserved Forests are situated or in villages adjoining Reserved Forests, the Forest Range Officer or any other officer specially authorised by Government to issue pass shall inspect the area and the produce.

- (e) The passes issued under this sub-rule are intended only for transport of forest produce within the State and when the produce has to be exported, export passes should be obtained from the concerned Divisional Forest Officer on the strength of the passes issued under this sub-rule.
- (f) Every application for extension of the period of validity of a pass shall be treated as an application for a new pass and shall be dealt with accordingly.
- (5) If the satisfactory conduct of the inspection under clause (d) of sub-rule (2) or under clause (c) of sub-rule (4) or under clause (d) of sub-rule (4) involves the clearance of the surveyed boundaries of the private lands concerned, the applicant or his agent shall on being called upon by the inspecting officer in writing, clear such boundaries and if he fails to do so within a reasonable time, the application shall be rejected.
- (6) The entire procedure in each case shall be completed within one month from the date of receipt of the application for a pass, but if the applicant or his agent fails to fulfil any of its conditions obligatory on him within a reasonable time, the application shall be rejected and the applicant shall be given an immediate intimation rejecting the application with reasons therefor. If the intimation cannot be delivered personally to the applicant or his agent, it shall be sent to the applicant by registered post and a notice thereof made in the concerned office records.
- (7) (a) The validity of a pass issued under sub-rule (2) or sub-rule (3) may be extended by the Divisional Forest Officer on an application from the pass holder and on production of original pass with the actual removal noted on the reverse of the pass and certified by the

Foresters or Forest Guards who checked the removals at the place of loading or at which station or checking stations through which they were removed.

- (b) Every application for extension of the period of validity of a pass issued under sub-rule (2) or sub-rule (3) shall be made to the Forest Range Officer concerned, who shall, after verifying the balance of the forest produce left unremoved at site, submit the same with his remarks within a fortnight to the Divisional Forest Officer, who shall grant such extension within a fortnight from the date of receipt of the remarks of the Range Officer.
- (c) Nothing contained in this sub-rule shall be deemed to authorise the Divisional Forest Officer to extend the period of validity of a pass issued under sub-rule (2) or sub-rule (3) beyond six months from the date on which it was first issued.
- (d) Every application for extension of the period of validity of a pass issued under sub-rule (2) or sub-rule (3) beyond six months from the date on which it was first issued shall be treated as an application for a new pass and shall be dealt with accordingly.

5. Passes for import or transport.-

- (1) In the case of the forest produce imported from other States the pass shall be in Form IV printed on red paper. In the case of timber transported from place to place within the State by merchants or others who have registered their property marks, the pass shall be in Form IV printed on white paper, the forms being obtained from the Forest Department. The language used in this case must be English, Malayalam, Tamil or Canarese.
- (2) Passes in Form IV (white) shall be in triplicate and shall have all the columns filled up by the owner of the depot or his authorised agent, the original shall be handed over to the person authorised to move the timber and the triplicate shall be kept as a counterfoil for at least one year from the date of issue, and shall be produced for inspection at any time within that period on demand by any Forest Officer not below the rank of a Forester. The duplicate shall be sent to the Divisional Forest Officer in whose jurisdiction the depot is situated.
- (3) Passes issued by Officers and Merchants of the other States shall be honoured till the consignments covered by such passes reach the first Forest Watch Station/ Checking Station on the route of transport. On reaching the station the passes shall be surrendered to the Officer in charge of the Station who shall then issue a pass in Form IV in red paper in lieu of the pass surrendered and stamp the timber with his mark before the consignment leaves his station. The pass in Form IV (red) shall be in duplicate, the original to be handed over to the person transporting the produce and the duplicate to be kept as counterfoil at the watch station.

6. Passes for transport of Government timber and other Forest Produce.-

Passes for transport of Government timber and other forest produce, from a forest to a sale depot or from one sale depot to another or from one place to another within the State shall be in Form V in quadruplicate, and issued by the Range Officer, Depot Officer or other Officer authorised by the Divisional Forest Officer whether such timber is worked down by Forest subordinates or by contractors employed by the Forest Department for the purpose.

7. Issue of subsidiary pass book.-

- (1) Where any difficulty is experienced by forest subordinates or contractors in moving in one consignment all the timber and other forest produce covered by a single Form No. V pass, the Divisional Forest Officer may issue to the subordinate on duty a numbered pass book, known as subsidiary pass book in Form VI and shall at the same time authorise the Forest subordinate to issue one of these as a subsidiary pass for each load or raft. Form VI passes shall be in quadruplicate and shall be printed on white paper. The original and the duplicate should accompany each consignment of forest produce transported, the triplicate shall be sent to the Forest Officer, who issued the main pass and quadruplicate kept as counterfoil. When the produce is received in the depot, the Depot Officer shall acknowledge the receipt of forest produce in the duplicate copy indicating difference if any and return the same to the Forest Officer who issued the main pass. These passes will take the place of the main pass. The main pass shall, however, be surrendered to the Depot Officer, along with the subsidiary pass for the last consignment.
- (2) Where any difficulty is experienced by contractors in moving in one consignment all the timber and other forest produce purchased from Government land and covered and Form III pass, the Divisional Forest Officer may issue to his subordinate on duty a numbered pass book, known as subsidiary pass book in Form VI after realising the value of the pass book from the contractor concerned, and shall at the same time authorise the forest subordinate to issue one of these as a subsidiary pass for each load or raft. The Form VI passes for this purpose shall be in triplicate and shall be printed on yellow paper. The original should accompany each consignment of forest produce transported, the duplicate shall be sent to the Forest Officer who issued the Form III pass and the triplicate kept as counterfoil.
- (3) Passes in Form VI shall have all the columns filled up by the forest subordinate and the passes shall be signed and dated by him. Every such pass shall bear the number and date of the main pass under which it is granted.

8. Passes for removal of fuel, charcoal, etc.-

- (1) Passes for the removal of fuel wood, charcoal, bamboos, reeds, incha and other forest produce, purchased from reserved forests or unreserved Government land on payment of the prescribed seigniorage fees, shall

be in Form VII printed in triplicate, and shall be issued by the Range Officer of the range or any other Officer specially authorised in this behalf by the Conservator of Forests.

- (2) In Divisions where transport of reeds is effected by land in head loads, head load passes shall be issued in Form VIII whenever necessary. Passes for head loads of reeds shall be in the form of tickets printed on card board or otherwise and shall have the description of produce and value entered on them, in print, besides the passes being consecutively numbered, on both their right and left hand edges in print and perforated in the middle. Each pass shall be printed in the same denomination, namely for one head load of thirty reeds valued at Rupees one only and shall be current or valid only for any one day of 24 hours.
- (3) Fees paid as seigniorage for articles of minor forest produce including reeds and bamboos shall not be refunded on any account.

10. Passes to accompany the timber or forest produce, etc.-

- (1) Passes issued under these rules shall invariably accompany the timber and other forest produce which is in transit and every vehicle carrying such timber or other produce shall be stopped for inspection at all established Forest Watch Station/ Forest Checking Stations on the routes and also when demanded by any Forest Officer in uniform so as to make it possible for him to check the produce in transit.
- (2) It shall not be lawful to take any timber or other forest produce by any route other than that mentioned in the pass or to take any timber or other forest produce off any road or river on the prescribed route on which a watch station or checking station has been placed, with intention to evade the production of the article at the watch station or checking station. The quantity of timber or forest produce must not be greater than or different from that entered in the pass and if it is less, the quantity actually passed every time shall be entered on the back of the pass and the entry signed and dated by the checking officer and the pass returned to the person producing it to cover the forest produce during further transit till it reaches its destination provided that the total quantity removed does not exceed that entered in the pass and that the last removal is effected within the time noted in the pass.

11. Passes in general and checking.-

- (1) A pass issued under these rules shall not be for more than one unit of transport, for example, one raft, one cartload, one boat-load, one lorry-load, one wagon-load, etc.
- (2) All passes shall be written in ink or copying pencil using carbon paper.
- (3) Copies of passes prescribed by these rules to be sent to the Depot Officer, Range Officer and Divisional Forest Officer shall be despatched by post or messenger within 24 hours of issue.
- (4) Supply of forms of subsidiary passes will be on realisation of value that may be fixed by the Government from time to time from the party at whose instance such passes are issued.

22. Storing on and transport across private lands.-

- (1) Any Officer of the Forest Department may store timber or other forest produce which is the property of the Government on private lands or transport such timber or other forest produce across such land if such a step is necessary, and if any damage or loss is caused by such storage or transport, fair compensation shall be paid for the same.
- (2) The compensation to be paid under sub-rule (1) shall be assessed by the Divisional Forest Officer.

23. Penalties.-

- (1) Whoever commits any contravention of any of the provisions of these rules shall on conviction by a Magistrate be punished with imprisonment for a term which may extend to six months or with a fine which may extend to rupees five hundred or both.
- (2) In cases where any offence was committed after making preparation for resistance to the execution of any law or any legal process or where the offender has been previously convicted of a like offence, the convicting Magistrate may impose *double* penalty specified in sub-rule (1).

**THE KERALA FOREST (PRESERVATION, REPRODUCTION
AND DISPOSAL OF TREES AND TIMBER BELONGING TO
GOVERNMENT BUT GROWN ON LANDS IN THE
OCCUPATION OF PRIVATE PERSONS) RULES, 1975***

2. Definitions.- In these Rules, unless the context otherwise requires:

- (a) "Act" means Kerala Forest Act, 1961 (4 of 1962);
- (b) "Occupant" means a person in possession of Reserved Forest land which has been ultimately decided to be assigned to him or already assigned to him but pending dis-reservation;
- (c) "Scheduled rate" means a uniform minimum price fixed by the Government by notification in the Gazette from time to time for the sale of timber or other forest produce collected by the Department and sold from depots or other places, taking into consideration the seigniorage rate, the collection and transport charges and other incidental expenses;
- (d) "Seigniorage rate" ('Kuttikanam') means the rate fixed for the State as a whole from time to time by Government for each produce as the minimum rate, of amount, excluding working charges, that must be assured to the Government by the sale of trees and other forest produce collected from within the forests;
- (e) "Working charges" means the cost of felling, conversion, classification, loading, transport, unloading and stacking of timber and/ or firewood available from a tree from its site to the nearest depot.

3. Trees excluded from sale.- Teak, Rosewood, Ebony and Sandalwood shall be excluded from being sold to the occupants.

4. Trees liable to be sold.- All species of trees other than those mentioned in Rule 3 may be sold to the occupants provided these trees are required for the bona fide purpose of cultivation like growing pepper vines, etc. and for the construction of houses for them.

6. Procedure for sale of trees to the occupants.- A notice shall be published by the Divisional Forest Officer having jurisdiction over the land in two dailies having wide circulation in the locality inviting applications for the sale of trees to the occupants. The occupants may be required to apply for the trees within a month from the date of publication of the notice in the dailies. Applications received after the due date shall be summarily rejected. However, the Conservator of Forests may consider such belated applications on its merits and the decisions of the Conservator of Forests, shall be final and binding on the applicants. On receipt of applications, the Range Officer having jurisdiction over the area shall mark the trees and measure them

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

fresh. The Divisional Forest Officer or his Gazetted Assistant shall checkmeasure after the trees to the extent of not less than 10 per cent.

7. Value of the produce sold.- The value of the depot delivery species shall be Schedule rate minus Working charges. For inferior species, seigniorage rate shall be charged. Firewood, if any, shall also be charged at seigniorage rate.

8. Permits not to be issued.- In order to avoid purchase of trees by third parties from the occupants, after the trees are purchased from the Department, no permit shall be issued for transport of timber or converted timber or firewood obtained from such trees.

10. Disposal of trees by the Forest Department in certain other cases.- The species of Teak, Rosewood, Ebony, Sandalwood and other species which have not been applied for by the occupant or for which after submitting the application the occupant fails to remit the value in time as prescribed under rules, shall be disposed of by the Forest Department following the usual procedure.

11. Preservation of trees standing in the occupied lands.- The trees standing in the land of the occupants shall be preserved till they are sold under these rules to them or otherwise disposed of by the Government. The occupant shall not lop the branches of the trees, kill or maim the trees or kindle fire endangering the trees standing in his lands. The tree and seedling of teak, rosewood, sandalwood and ebony shall be nursed and protected by occupants.

12. Value to be recovered in the case of damage or missing of trees.- If any tree belonging to the Government and standing in the occupied land is killed or maimed or otherwise damaged or is found missing due to an act or omission on the part of the occupant, the Divisional Forest Officer concerned shall pass an order fixing the value of tree so killed, maimed or otherwise damaged or found missing, to be recovered from the occupant and shall proceed against the occupant under the provisions of the Act and shall recover from him the value so fixed of the trees specified under Rule 7:

Provided that no order fixing the value of the tree to be recovered from the occupant under this rule shall be passed without giving him an opportunity of being heard.

14. Appeal.- Any person aggrieved by an order of the Divisional Forest Officer under Rule 12, may within sixty days from the date of communication to him of such order appeal to the Chief Conservator of Forests who shall, after giving an opportunity to the appellant to be heard, pass such order as he may think fit confirming, modifying or annulling the order appealed against.

17. Reproduction of trees.- It shall be incumbent on the occupant to plant as many seedling of trees as possible to regenerate the trees lost by felling.

KERALA FOREST DEVELOPMENT FUND RULES, 1989*

G.O. (P) No. 96/89/F & WLD.
1989

Dated: Trivandrum, 6th September

S.R.O. No. 1541/89.- In exercise of the powers conferred by sub-section (5) of Section 75 B of the Kerala Forest Act, 1961 (4 of 1962), the Government of Kerala hereby make the following rules, namely-

2. Constitution of the fund.-

- (1) The Government shall constitute a fund called 'The Kerala Forest Development Fund' hereinafter referred to as 'Development Fund' for the development of Forest and for Forest Research. The fund shall consist of the tax at the rate of five per cent of the amount of consideration paid, as provided in sub-section (1) of Section 75 A of the Kerala Forest Act, 1961.
- (2) The amount so collected as Forest Development Tax shall be accounted for in the receipt head "0406 Forestry & Wild Life- 101 Sale of Timber and Other Forest Produce-05 Receipts from Forest Development Tax".

3. Administration of Fund.-

- (1) The fund referred to in Rule 2 shall be administered by the Chief Conservator of Forests and the Senior Finance Officer to Chief Conservator of Forests who shall be the Treasurer of the Fund and who shall cause separate accounts to be maintained in respect of Receipts and Expenses.
- (2) The transaction under the Development Fund shall be exhibited in the Public Accounts under the Head of Account "8229-Development and Welfare Funds-120 Other Development and Welfare Funds- 05 Kerala Forest Development Fund".
- (3) The Development Fund shall be passed on the consolidated fund of the State and after deducting the expenses for collection, the remaining amount shall be entered into and transferred to the Development Fund as provided in sub-section (2) of Section 75(B) of the Act. For the purpose, new Heads of accounts incorporated in the Budget are "and" 2406-01-001-797 Transfer to/from Reserve Funds and Deposit Account "and" 2406-01-001-08 Collection Charges of Additional Tax on Sale of Forest Produce".

4. Utilisation of the Development Fund.-

- (1) The Development Fund shall be utilised in the following manner, namely-
 - (a) Sixty per cent for planning and maintenance of softwood and other species of trees which form raw materials for industries, and

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

- (b) forty per cent for forest research.
- (2) The utilisation of the development fund mentioned as item (a) of sub-rule (1) of Rule 4 shall include-
 - (i) expenses for raising man-made forest or for promoting regeneration in natural forest of species utilised by wood based industries;
 - (ii) expenses for survey, demarcation, erection of cairns planting and maintenance till harvest, in the case of such plantations;
 - (iii) expenses for regeneration of such existing plantations, if part or whole of the growing stock is beneficial to industries;
 - (iv) expenses for fire protection works in plantations and natural forests;
 - (v) expenses for providing facilities such as residential quarters, offices, vehicles and telecommunication systems to staff engaged in management of such forests and plantations.
- (3) The utilisation of the Development Fund under item (b) of sub-rule (1) of Rule 4 shall include-
 - (i) Financial assistance to agencies like Kerala Forest Research Institute and any other competent agency for implementation of schemes approved by the Administrator of the Fund. The research programme will be planned, discussed and decided by a Committee consisting of Conservator of Forests, Working Plan and Research Director of Kerala Research Institute and the Chief Conservator of Forests (Development). The quantum of assistance for each scheme/ programme may be for one year or more as may be decided by the Committee.
 - (ii) The research agency which receives assistance from the fund shall render account duly audited and certified by their auditors.
 - (iii) Expenses for forest resources survey as well as expenses relating to data collection of such survey.
 - (iv) The periodical review of the research scheme or programme shall be done by the said committee at least twice in a year.
- (4) The Administrator of the Development Fund may make available financial assistance from the Fund for research work undertaken by the Forest Department as per approved schemes.
- (5) The expenses for planting and maintenance of plantation of raw materials to Industries and Research may include the expenses for-
 - (i) establishment charges for the staff engaged or connected with implementation of the schemes and the programme in this regard;
 - (ii) training of personnel for the effective implementation of the schemes;
 - (iii) purchase of equipments, vehicles, etc. felt necessary for implementation of such schemes;
 - (iv) construction of infrastructure like buildings, roads etc. necessary to implement the scheme;

- (v) collection of data and evaluation of the programmes and schemes;
- (vi) any other item of work in the interest of effective implementation of the schemes.

5. Report and Review.- The Administrator of the Development Fund shall furnish to Government every year, a report on the receipt and expenditure as regards the Development Fund and schemes and programmes implemented during the year under review. The Government may review the administration of the Development Fund and take action as may be necessary.

KERALA FOREST (PROHIBITION OF FELLING OF TREES STANDING ON LAND TEMPORARILY OR PERMANENTLY ASSIGNED) RULES, 1995*

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

- (a) "Act" means the Kerala Forest Act, 1961 (4 of 1962);
- (b) "assignee" means a person in whose name the land has been temporarily or permanently assigned.

3. Trees to be absolute property of Government.- All trees standing on lands temporarily or permanently assigned, the right of Government over which has been expressly reserved in the deed of grant or order of assignment of such land, shall be the absolute property of Government.

4. Sanction of Divisional Forest Officer to fell, lop, etc. of trees.- No person shall fell, lop, cut or main or otherwise maltreat any tree which is the property of Government without prior sanction in writing granted by the Divisional Forest Officer having jurisdiction over the area:

Provided that in cases where the assignee is allowed under the deed of grant or order of assignment to lop, or fell any such tree, such lopping or felling may be done by him in the manner and subject to such conditions and on payment of such sum as specified in the deed of grant or order of assignment in that behalf.

6. Collector to forward statement showing full details of the trees.- The Collector of each district shall forward to the Chief Conservator of Forests, a statement showing the full details of the trees standing on lands at the disposal of the Government which may hereafter be granted for permanent cultivation under the rules in force. On receipt of such statement and the application referred to in Section 82 of the Act, the Chief Conservator of Forests shall take appropriate action for the disposal of such tree growth within the period specified under Section 32 of the said Act.

7. Penalties.- Whoever commits an infringement of the provisions in Rule 4 of these rules shall, on conviction before a Magistrate, be liable to imprisonment for a term which may extend to six months or fine which may extend to one hundred rupees or both.

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

**THE KERALA FOREST PRODUCE
(FIXATION OF SELLING PRICE) ACT, 1978***
(Act 29 of 1978)

An Act to provide for the fixation of the selling price of certain important Forest Produce, for the prohibition of the sale of such Forest Produce at less than the price so fixed for matters incidental or ancillary thereto

Preamble.- WHEREAS it is necessary to safeguard the forest wealth of the State to the maximum extent possible;

AND WHEREAS the proper regeneration and maintenance of the forest in the State is not possible unless the forest produce is sold at reasonable rates and proceeds thereof are utilised for such purposes;

AND WHEREAS the very existence of the forest depends on the proper regeneration and maintenance thereof;

AND WHEREAS it is necessary for the conservation of the forests to provide for the fixation of the selling price of certain important forest produce, for the prohibition of the sale of such produce at less than the price so fixed and for matters incidental or ancillary thereto;

2. Definitions: In this Act, unless the context otherwise requires:

- (a) "committee" means the expert committee constituted under Section 4;
- (c) "forest produce" means bamboos, reeds, eucalyptus, *Vateria indica* (vellapine), *Dipterocarpus* species (kalpine), *Calophyllum* species (punna), *Cedrela toona* (chandana vembu), *Palaquium ellipticum* (pali), *Ailantus malabaricum* (matty), *Bombax malabaricum* (elavu), *Evodia roxburghiana* (kampli), *Diospyros malabaricum* (vellaki), *Adina cordifolia* (kadambu), *Anogeissus latifolia* (vekkalee), *Kydia calycina* (banda), *Macaranga peltata* (uppathy or vatta), *Alstonia scholaris* (pala) and *Terminalia belerica* (thanni);
- (e) "selling price" with reference to any forest produce means the price of that forest produce fixed by the Government under S.3.

3. Government to notify selling price of forest produce -

- (1) The Government shall, before the end of each financial year, by notification published in the Gazette, fix the selling price of every forest produce for the following financial year.
- (2) Notwithstanding anything contained in sub-section (1), the Government shall, as soon as may be after the commencement of this Act, by notification published in the Gazette, fix the selling price of every forest produce for the period commencing on the date of publication of such notification and ending with the 31st day of March 1979.

* The complete Act is not reproduced. Only the relevant sections have been extracted.

- (3) Before fixing the selling price of any forest produce under sub-section (1) or sub-section (2), the Government shall consult the committee and consider its recommendations.
- (4) Notwithstanding anything contained in the foregoing provisions of this section, the Government may, if they decide that it is necessary so to do, re-fix the selling price of any forest produce during the course of a financial year.

Provided that before re-fixing the selling price under this sub-section, the Government shall consult the Committee and consider its recommendations.

4. Constitution of Expert Committee.-

- (1) The Government shall as soon as may be after commencement of this Act, by notification in the Gazette, constitute an expert committee for the purpose of recommending to the Government a fair and reasonable selling price for each forest produce.
- (2) The Committee shall consist of the following members, namely:
 - (a) the Agricultural Production Commissioner, ex-officio: who shall be the Chairman of the Committee;
 - (b) the Chief Conservator of Forests, ex-officio;
 - (c) the Secretary to Government, Industries Department, ex-officio;
 - (d) the Secretary to Government, Finance Department, ex-officio;
 - (e) the Director of Statistics, ex-officio;
 - (f) the Director, Kerala Forest Research Institute, ex-officio;
 - (g) the Joint Secretary to Government in charge of Forests, ex-officio who shall be the Secretary of the Committee.
- (3) The Committee shall, in making its recommendations, have regard *inter alia* to the following matters, namely:
 - (a) the market price of the forest produce;
 - (b) the cost of regenerating and maintaining the forest produce in cases where regeneration is necessary after selling the forest produce; and
 - (c) such other matters as may be prescribed.
- (4) The Committee shall follow such procedure as may be prescribed.

5. Forest produce to be sold at price not less than the selling price. -

- (1) After the date of publication of the notification under sub-section (2) of S. 3 no forest produce shall be sold by the Government or any forest officer at a price which is less than the selling price of that forest produce.
- (2) The sale of any forest produce in contravention of sub-section (1) shall be null and void and shall not be enforceable in a court of law.

5-A. Exemption.- The Government may, in the public interest, by notification in the Gazette, exempt the sale of any forest produce:

- (a) to any company owned by the Central Government or the Government of Kerala,
- (b) not exceeding ten cubic metres. to any co-operative society registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969),

from the provisions of S. 5, subject to such conditions and restrictions as may be specified in the notification.

6. Sections 5 and 5-A not to apply to sale of forest produce to certain Industrial establishment.- Nothing contained in Section 5 or Section 5-A shall apply to the sale of forest produce as raw material by the Government to any industrial establishment in pursuance of a contract executed by it with the Government where -

- (a) the total quantity of the forest produce to be sold to the industrial establishment per year under such contract exceeds fifty thousand tonnes;
- (b) such forest produce is used as raw material by that industrial establishment; and
- (c) the number of persons employed in or, under such industrial establishment is not less than one thousand workers:

Provided that the above provision shall not apply to the sale of the forest produce as raw materials to any industrial establishment the price of which raw materials has been fixed at a rate less than Rs. 250 per tonne, including sales tax and additional sales tax.

7. Ten percent of selling price to be utilised for forest development.- Ten percent of the amount obtained by the sale of forest produce after the commencement of this Act shall, subject to such rules as may be made under this Act, be set apart for being utilised for the development of forests.

8. Power to make rules.- The Government may, by notification in the Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

THE KERALA FOREST PRODUCE (FIXATION OF SELLING PRICE) RULES, 1978*

S.R.O. No. 1217/78 - In exercise of the powers conferred by Section 8 of Kerala Forest Produce (Fixation of Selling Price) Act, 1978 (29 of 1978) the Government of Kerala hereby make the following Rules, namely: Kerala Forest Produce (Fixation of Selling Price) Rules, 1978.

2. Definitions.- In these Rules, unless the context otherwise requires:

- (a) "Act" means the Kerala Forest Produce (Fixation of Selling Price) Act, 1978.
- (b) "Market Price" of any forest produce means the average value per cubic metre or per tonne, as the case may be, of any particular forest produce for a quarter of a year as collected and computed by the Bureau of Economics and Statistics.

3. The Committee constituted under Section 4 of the Act shall meet at least twice every year. The meetings shall normally be held during the months of January February and June-July of every year. The quorum of the meeting shall be five and the decision of the majority shall be treated as the recommendation of the Committee.

4. The Committee shall consider the following while recommending to Government the selling price of any forest produce, namely:

- (i) the market rate for each forest produce at the important timber market of the State where such forest produce is sold, namely, Quilon, Kottayam, Ernakulam and Kozhikode and also the rates for each forest produce prevailing in the neighbouring States, for a period of six months immediately preceding the meeting of the Committee or the seigniorage rate on the date of the meeting of the Committee;
- (ii) in the case of forest produces having no market rates, the highest rates obtained in the auction sales conducted by the Forest Department of the Government during a period of six months immediately preceding the meeting of the Committee;
- (iii) the average expenditure required for bringing the forest produces to the markets mentioned in clause (i) above from the source of procurement near about, that is to say, Government timber sales Depots or Transit Depots, as the case may be;
- (iv) the average expenditure required for cutting, collection, transport and delivery of the forest produce to the Government timber sales Depots.

6. The Committee may recommend to the Government prices for each size and/ or quality/ class of forest produce, if the circumstances so demand.

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

7. The unit for the recommendation of selling price be one cubic metre in the case of timber, one tonne in the case of bamboos and reeds and one stacked tonne in the case of billets.

8. The Government shall after considering the recommendations of the Committee fix the selling price of every forest produce and publish the same in the Gazette.

9. The Government shall be the authority competent to interpret any or all of the provisions in these rules and such interpretations shall be final.

THE KERALA PRESERVATION OF TREES ACT, 1986*

(Act 35 of 1986)

An Act to provide for the preservation of trees in the State of Kerala

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

- (e) "tree" means any of the following species of trees, namely:

Sandalwood (*Santalum album*), Teak (*Tectona grandis*), Rosewood (*Dalbergia latifolia*), Irul (*Xylia xylocarpa*), Thempavu (*Terminalia tomentosa*), Kampakam (*Hopea parviflora*), Chempakam (*Michelia chempaca*), Chadachi (*Grewia tiliaefolia*), Chandana vempu (*Cedrela toona*), Chenni (*Tetrameles nudiflora*).

3. Authorised officers and appellate authorities.-

- (1) The Government may, by notification in the Gazette, appoint such officers not below the rank of a Ranger as they think fit to be authorised officers for the purposes of this Act and may assign to them such local limits as the Government think fit.
- (2) The Government may, by notification in the Gazette, appoint such officers as they think fit to be appellate authorities for the purposes of this Act and may assign to them such local limits as the Government think fit.

4. Restriction regarding cutting, etc. of trees.-

- (1) No person shall, without the previous permission in writing of the authorised officer, cut, uproot or burn, or cause to be cut, uprooted or burnt, any tree.
- (2) The permission under sub-section (1) shall not be refused if -
- (a) the tree constitutes a danger to life or property; or
- (b) the tree is dead, diseased or windfallen.

Provided that where permission to cut a tree is granted on the ground specified in clause (a) or clause (b), the authorised officer shall impose as a condition for the grant of such permission the effective regeneration of an equal number of the same or other suitable species of trees.

- (3) No person shall cut or otherwise damage, or cause to be cut or otherwise damaged, the branch of any tree:

Provided that the provisions of this sub-section shall not be deemed to prevent the pruning of any tree as required by ordinary agricultural or horticultural practices.

5. Prohibition of cutting of trees in notified areas.-

- (1) Notwithstanding anything contained in any law for the time being in force, or in any judgment, decree or order of any court, tribunal or other authority, or in any agreement or other arrangement, the Government

* The complete Act is not reproduced. Only the relevant sections have been extracted.

may, with a view to preserving the tree growth in private forests, or in the Cardamom Hills Reserve or in any other areas cultivated with cardamom, by notification in the Gazette, direct that no tree standing in any such area specified in the notification shall be cut, uprooted, burnt or otherwise destroyed except on the ground that -

- (a) the tree constitutes a danger to life or property; or
- (b) the tree is dead, diseased or windfallen;

Provided that the provisions of this sub-section shall not be deemed to prevent the pruning of any tree as required by ordinary agricultural or horticultural practices.

- (2) No person shall, without the previous permission in writing of the authorised officer, cut, uproot, burn or otherwise destroy or cause to be cut, uprooted, burnt or otherwise destroy any tree in any area specified in the notification under sub-section (1) on any of the grounds specified therein.

6. Application for permission.-

- (1) Every application for permission under Section 4 or Section 5 shall be in such form and shall contain such particulars as may be prescribed and shall be made to the authorised officer.
- (2) The procedure to be followed by the authorised officer in granting or refusing permission under section 4 or Section 5 shall be such as may be prescribed.

7. Appeal.- Any person aggrieved by an order refusing to grant permission under Section 4 or Section 5 may, within ninety days of the receipt of such order, prefer an appeal to the appellate authority:

Provided that the appellate authority may admit an appeal preferred after the expiry of the said period of ninety days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

9. Penalties.- Whoever contravenes any of the provisions of Section 4 or sub-section (2) of Section 5 or a direction contained in a notification under sub-section (1) of Section 5 or any of the terms and conditions subject to which a permission has been granted under this Act shall be punishable -

- (a) in the case of first offence, with imprisonment for a term which shall not be less than six months but which may extend to two years, and with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees; and
- (b) in the case of a second or subsequent offence, with imprisonment for a term which shall not be less than one year but which may extend to three years, and with fine which shall not be less than one thousand rupees but which may extend to five thousand rupees.

12. Powers of entry and inspection.- The authorised officer or any other officer generally or specially authorised by the Government in this behalf may, with such assistants, if any, being persons in the service of the Government, as he thinks fit at all reasonable times enter upon any land for the purpose of ascertaining whether any of the provisions of this Act or any of the terms and conditions subject to which any permission has been granted under this Act has been contravened.

STATE
OF
MADHYA PRADESH

NTFP including Medicinal Plants

Abrus precatorius ('Gunchli'), *Andrographis paniculata* ('Mahatita'), *Bauhinia vahili* ('Mahul'), *Chlorophytum tuberosum* ('Tholi musli'), *Diospyros melanoxylon* ('Tendu'), *Gloriosa superba* ('Kalihari'), *Madhuca indica* ('Mahua'), *Nyctanthes arbortristis* ('Har singhar'), *Rauwolfia serpentina* ('Sarpa gandha'), *Shorea robusta* ('Sal'), *Sterculia urens* ('Karaya'), *Terminalia chebula* ('Hara'), *Vitex peduncularis* ('Boruna'), *Withania somnifera* ('Aswagandha'), etc.

Nationalized NTFP Items

Tendu leaves, Gum karayn, Sal seed, Myrobalans.

Monopoly Agency

- * Madhya Pradesh MFP Federation in respect of nationalised items.
- * Contractor agency in respect of other NTFP items.

Price Fixation Method

- * Price fixation committee constituted by the State Government.



Madhya Pradesh

Legal Framework

(1) Indian Forest Act, 1927

- * Applicable to the State, contains provisions relating to the transit of forest produce and duty leviable on forest produce.

(2) Madhya Pradesh Forest Rules, 1960

- * Conditions for exploitation of Protected Forests, use of forest produce, etc.

(3) Madhya Pradesh Forest Produce (Regulation of Trade) Act, 1969

- * State monopoly in the trade of certain specified forest produce.
- * The State Government/ Agent bound to purchase at the price fixed by the Advisory Committee for each specified forest produce.

- * A 'transit pass' is required for commercial purchases or transport.
- * Registration of growers, manufacturers, traders and consumers.
- * A compulsory 'licence' is required for the retail sale of the specified forest produce.

(4) Madhya Pradesh Forest Produce (Revision of Agreements) Act, 1987

- * An Act to take power to revise certain agreements to get fair price for forest produce sold or supplied by Government to purchasers for long-term period.

INTRODUCTION

Madhya Pradesh (M.P.) is situated in the centre of the country and is the largest state with a geographical area of 443,446 sq. km. This includes a forest area of 154,497 sq. km. which constitute 35 per cent of the total land area and about 22 per cent of the total forest area in the country. Tropical Moist/ Dry Deciduous forests are mainly found in the State. The State also has the largest population of Scheduled Tribes (STs) in the country and a high proportion of Scheduled Castes (SCs). A large number of non-timber forest produce including medicinal plants are found in the natural forests, significant among these being:

Botanical Names	Common Names
<i>Abrus precatorius</i>	Gunchi, Ghumachi
<i>Acacia catechu</i>	Katha
<i>Acacia senegal</i>	Khair
<i>Acorus calamus</i>	Bach
<i>Aloe barbadensis</i>	Ghikanvar, Kumari
<i>Andrographis paniculata</i>	Kiryat, Mahatita
<i>Bauhinia vahili</i>	Mahul
<i>Cannabis sativa</i>	Bhang, Ganja
<i>Cassia fistula</i>	Amaltas
<i>Chlorophytum tuberosum</i>	Tholi musli
<i>Costus speciosus</i>	Keu, Kust
<i>Curculigo orchoides</i>	Musalikand
<i>Curcuma angustifolia</i>	Tikora
<i>Cymbopogon martinii</i>	Rosha grass
<i>Diospyros melanoxylon</i>	Tendu
<i>Emblica officinalis</i>	Aoula, Avla
<i>Gardenia gummifera</i>	Dikamali, Gandharaj
<i>Gloriosa superba</i>	Kalihari
<i>Hemidesmus indicus</i>	Magrabu
<i>Lobelia nicotianaefolia</i>	Nala
<i>Madhuca indica</i>	Mahua
<i>Mallois phillippinensis</i>	Kamala
<i>Nyctanthes arborescens</i>	Har singhar
<i>Psoralea corylifolia</i>	Babchi
<i>Pterocarpus marsupium</i>	Bija sar
<i>Rauvolfia serpentina</i>	Sarpagandha
<i>Shorea robusta</i>	Sal
<i>Sida cordifolia</i>	Bariar, Kharenti
<i>Sterculia urens</i>	Karaya
<i>Strychnos nuxvomica</i>	Kuchla
<i>Swertia angustifolia</i>	Pahari kiretta
<i>Terminalia chebula</i>	Harra
<i>Tinospora cordifolia</i>	Gulanha

The State Government has enacted Acts/ Rules to ensure a sustainable harvest of forest produce. The **Madhya Pradesh Forest Rules, 1960**, define "Nistar", "Paidawar", and "Occupation Nistar" respectively (*Nistar* and *paidawar* include timber and certain other forest produce). Under Sec. 5(b) of the Rules, the Divisional Forest Officer issues "Nistar pass" to be carried by every person entering a protected forest to obtain "Nistar" from it (*Nistar* or *paidawar* is for bona fide domestic consumption, or for occupational purposes only and not for barter or sale or export or for wasteful use).

The Forest Rules lay down the conditions for exploitation of protected forests, use of bamboo, tapping of 'Khajur' (*Phoenix* spp.) and other forest produce. The Conservator of Forest, from time to time fix rates payable for each kind of forest produce removed from protected forest. The collection, manufacture and removal of forest produce are regulated in accordance with the provisions of the "working plans/ schemes" duly approved by the State Government.

The **Madhya Pradesh Van Upaj Kararon Ka Punrikshan Adhiniyam, [Forest Produce (Revision of Agreements) Act] 1987**, is an Act to revise certain agreements, from time to time, to get fair price for forest-produce sold or supplied by Government to purchasers for long-term period and to prevent loss of income and to enforce the revised agreements, etc.

The **Madhya Pradesh Van Upaj (Vyapar Viniyaman) Adhiniyam, [Forest Produce (Regulation of Trade) Act] 1969**, seeks to regulate in the public interest the trade of certain forest produce by creation of State monopoly in such trade. The term "forest produce" means 'Khair', 'Katha', 'Cutch', 'Dhawara' gum, 'Babool' gum, 'Sal' resin, 'Roshia' grass, 'Mahua' flowers, 'Sal' seed, 'Harra', 'Kacharia', 'Mahul' leaves, etc. [Sec. 2(d)]. The State Government may, for the purchase of and trade in, specified forest produce on its behalf appoint agents (viz. a Co-operative Society, a Gram Panchayat, etc.).

Some of the other important features of the Act are as follows:

- (i) *Restriction on purchase or transport of specified forest-produce* (Sec. 5)- Only the Government or its authorised officer or an agent shall purchase or transport or import or export a specified forest-produce. However, a grower of forest produce or any person having the right of *nistar* in any forest in respect of any specified forest produce may transport the forest produce not exceeding the prescribed quantity for his bonafide use or consumption. For commercial purchases or transport, a "transit pass" is needed.
- (ii) *Constitution of Advisory Committee* (Sec. 6)- For each calendar year, the Government shall constitute an Advisory Committee for the purpose of advising the Government in the matter of fixation of fair and reasonable price of each specified forest-produce at which produce may be purchased by the Government or Agent.

The Committee is to consist of various representative groups or sections of the society, viz. traders, manufacturers, growers of forest produce, members of State Legislaturc/ Parliament belonging to Scheduled Tribes.

- (iii) *Government to purchase the specified forest-produce* (Sec. 9)- The Government or Agent shall be bound to purchase at the price fixed (by the Advisory Committee) specified forest-produce offered for sale at the depot.

The Government or Agent may refuse to purchase any specified forest-produce which in their opinion is not fit for the purpose of consumption or use as raw material for manufacture or for trade. Any person aggrieved by rejection of his specified forest-produce refer the matter to the Divisional Forest Officer. The Government may appropriate the produce offered for sale if it has reason to believe that the produce appertain to forests or lands belonging to the State Government and pay only the collection charges.

- (iv) *Registration of growers, manufacturers, traders and consumers* (Secs. 10-11)- A compulsory registration is provided for under the Act.
- (v) *Disposal of specified forest-produce* (Sec. 12)- Specified forest-produce purchased by the Government or Agent shall be sold or otherwise disposed of in such manner as the State Government may direct. Sec. 12-A provides for the 'Re-sale of excess specified forest-produce by manufacturer, trader or consumer'.
- (vi) *Retail sale of specified forest-produce* (Sec. 13)- A compulsory 'licence' is required.
- (vii) *Enforcement provisions*- The Forest/ Police Officer has been provided with the power to enter, search or seizure (Sec. 15), viz. to seize the specified forest produce in respect of which he suspects that any provision of this Act is being or is about to be contravened.

Any person aggrieved by any order of confiscation may appeal to the Conservator of Forests (Sec. 15-A). A revision lies before the Court of Sessions against the order of appellate authority (Sec. 15-B). A person contravening any of the provisions of this Act or rules made thereunder shall be punished with imprisonment which may extend to two years or fine up to Rs. 10,000, or both.

- (viii) *Applicability of Indian Forest Act, 1927*-For the matters relating to the specified forest-produce not provided for in the State Act, the provisions of Indian Forest Act shall apply; while for the matters provided for in the State Act, the provisions of Indian Forest Act shall not apply.

Summing Up

In the State, some important NTFP have been nationalised recognising their significance in employment generation and rural economy, as well as their economic role in industry, while others continue to be in the informal sector. Tendu leaves, Sal seed, Harra, Gums (five types), Khair wood and Bamboo are nationalised items for monopoly state trading. The remaining NTFP items, including medicinal plants, are handled via contractor agency. The State has now created the NTFP Federation for eliminating contractor agency.

Tendu leaves, Sal seed and Harra were largely being dealt with through purchaser-agent system, till recently. The State Government has now switched over to direct

tender system. However, in the districts of Bastar, Bilaspur and Mandla, MARKFED (Marketing Federation of India Limited) has been appointed as the purchaser through LAMPS (Large Scale Multi Purpose Society) as agents (Shukla, R.S., 2000).

The system of 'private monopoly' (e.g. awards of right to collect to the highest bidder) hardens the inherent inequity and imperfections of the market for NTFPs. This system of granting leases on the basis of maximisation of revenue criterion, is however, inimical to the scheme of enlisting the tribals/ villagers' participation in NTFP marketing - a concept emphasised in government's policy announcements and also a recurring prescription by most experts on the subject.

Except for certain NTFP, which are nationalised and managed by M. P. Minor Forest Produce (Trade and Development) Federation under a cooperative structure, the trade in other products (including medicinal plants) is not regulated. In the State, during the season of 'Tendu' leaves (*Diospyros melanoxylon*), used for manufacturing 'bidis' (an Indian cigarette), the whole Forest Department get engrossed in collection of Tendu leaves, thus neglecting the other NTFP including medicinal plants. This is in view of the fact that the collection of Tendu leaves ensure a very handsome revenue for the State, running into crores of rupees.

In the Bastar region of M.P., an exploitative interlocking system of credit and the output of NTFPs ensures that the tribals sell to the traders on whatever terms, and prices, that are offered, in the first flush of the collecting season, as it often happens in case of Tamarind (*Tamarindus indica*). However, in the year 2000, TRIFED (Tribal Cooperative Marketing Development Federation of India - a national level apex body) has been able to play a positive role by procuring more than 10,000 MTs of Tamarind especially from the poorer tribal collectors extending to them in the process a reasonable price for their collection in the three districts of Bastar (Ramji & Bhatnagar, 2000).

MADHYA PRADESH FOREST RULES, 1960*

(Framed under Secs.32(d) and 76 of the Indian Forest Act, 1927)

1. Notification No. 8476-8414-X/60, dated 11th August, 1960- In these rules, unless there is anything repugnant in the subject or context:-

- (c) "Commutation" means the payment of a fixed sum once for the whole year in return for the privilege to obtain from the protected forest reasonable quantum of *Nistar* or *Paidawar* for bonafide domestic consumption, or for occupational purposes only and not for barter or sale or export or for wasteful use;
- (e) "Nistar" means and includes :
 - (i) timber of unreserved trees, or reserved trees where expressly sanctioned in that behalf, for agricultural implements, building new houses or repairing houses and cattle sheds of the agriculturists;
 - (ii) dry fallen wood not fit for timber;
 - (iii) dry bamboos and green bamboos where specifically mentioned;
 - (iv) grasses other than *Rosha*, *Khus* or *Sabai* grass;
 - (v) thorns except those of *Khair* and *Brushwood*;
 - (vi) leaves excluding *Tendu* leaves;
 - (vii) bark (*Bakhal*) of un-reserved trees.
- (f) "Paidawar" means and includes all edible roots, fruits and flowers, naturally extruded, gum except the gum from *Kulu* trees, honey and wax;
- (g) "Occupational *Nistar*" means *Nistar* required for the purpose of carrying on an occupation as a means of livelihood.

2. (1) Subject to the provisions of rules laid down hereinafter agriculturists residing within or owning land in a village or villages shall be permitted to obtain either free of charge or on payment their *nistar* and *paidawar* requirements from the protected forest to which they have been or may be attached according to the rules and orders for the time being in force.

(2) The quantum of *nistar*, *paidawar* requirements permitted under sub-rule (1) shall be subject to the actual requirements of each individual and limited to availability of *nistar* material. Where available *nistar* material falls short of the total requirement, the *nistar* material shall be equitably rationed.

(3) (a) The Divisional Forest Officer shall from time to time specify the area from which the *nistar* is to be obtained each year and the villagers shall obtain their *nistar* only from such areas.

(b) The Divisional Forest Officer shall from time to time specify and reserve a reasonable area for the exercise of occupational *nistar* and prescribe the quantum of

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

material which could be obtained from such area under exploitation limited to availability of material, after meeting the "*Nistar*" and "*Paidawar*" requirements of agriculturists under sub-rule (2).

(4) (a) The Collector shall in consultation with the Divisional Forest Officer from time to time and in accordance with the rules or orders for the time being in force specify the villages the residents of which shall be permitted to obtain their requirements of *nistar* and *paidawar* under commutation.

(b) Subject to sub-rule (a), commutation shall be permitted only to those residents of villages who obtain a commutation pass after payment of the commutation fees in accordance with the rules or orders for the time being in force.

(5) (a) No person shall take his *nistar* requirement from the protected forests without a pass or a valid licence unless exempted by the Divisional Forest Officer by specific or general order in writing in this behalf.

(b) The Divisional Forest Officer shall regulate the issue of passes.

(c) Unless exempted by the Divisional Forest Officer under sub-rule (a), every person entering a protected forest for taking *nistar* shall carry with him the *nistar* pass or a valid licence and shall obtain *nistar* from the forest in accordance with the provisions of these rules.

3. Exploitation of the protected forest shall be subject to the following conditions, namely:-

- (a) (i) No tree shall be girdled, pollarded or lopped off its branches.
- (ii) No tree shall be wounded for the collection of gum or resin.
- (iii) No tree shall be uprooted, burnt or injured in any other manner.
- (iv) No tree other than that specifically marked for felling or permitted to be removed by a general order of the Divisional Forest Officer shall be cut.
- (v) No tree under 22.5 cms. girth at breast height shall be cut.
- (vi) All trees permitted to be cut shall be cut as close to the ground as possible.
- (b) Roots of trees shall not be damaged except that *Palas* roots, may be dug for preparation of ropes but in no case more than one-third portion of the root shall be taken out leaving the remainder for the tree to survive.
- (c) No bark of trees shall be removed except that bark of Kahu (*Terminalia arjuna*) may be removed with the written permission of the Divisional Forest Officer in that behalf subject to the following conditions, namely:-
 - (i) the eastern portion of the stem of trees above 90 cms. in girth at breast height shall only be barked with a special cutter, bark shall not be peeled off chips of size 5 cms. x 2.5 cms. shall alone be cut without damaging the cambial layer on leaving an interspace of 5 cms. in between peeled lines;
 - (ii) the bark shall be removed between January and June;
 - (iii) a tree once barked shall not be re-barked during the next three years;

- (iv) the bark so removed shall be paid for at the concessional rate of Rs. five per cart-load or at such other rates as the State Government may fix from time to time;
- (e) Tapping of Khajur (*Phoenix* spp.) trees shall be done subject to the following conditions:-
 - (i) No Khajur tree shall be tapped if it is less than 180 cms. high from the ground to the base of the growing shoot (*gabha*).
 - (ii) The tree shall be tapped at one place on the stem in any one year and only at the base of growing shoot (*gabha*).
 - (iii) The leaves of a tree shall not be cut unnecessarily for tapping purposes and tapping incisions shall not be made so as to cause the death of the tree.
- (f) (i) Subject to the provisions of these rules or any other law for the time being in force, minor forest produce in a protected forest shall be disposed off by the Divisional Forest Officer in the same manner as in the case of reserved forest.
- (ii) All forest produce removed from a protected forest shall be covered with a *pass* issued under the authority of Divisional Forest Officer or a *licence* granted by an authority competent to issue such licence under these rules or under any other enactment for the time being in force.
- (iii) No forest produce shall be removed between sunset and sunrise.

4. Any person holding a pass or a licence for appropriation or removal of forest produce shall have in his possession the pass or the licence whenever he enters protected forests for any purpose connected therewith and shall produce the same whenever required to do so by a forest officer:

Provided that nothing in this rule shall apply in case of a person who is permitted to remove forest produce without the production of a pass in time of famine or scarcity or by any general or special orders of the State Government.

5. The Conservator of Forest, shall from time to time fix *rates* payable for each kind of forest produce removed from protected forest.

12. The cutting, sawing, conversion and removal of trees and timber, and the collection, manufacture and removal of forest produce and the cutting of grass and pasturing of cattle shall be regulated, as far as may be, in accordance with the provisions of the "working plans", "working schemes" approved by the State Government, in so far as they are not inconsistent with these rules.

**THE MADHYA PRADESH VAN UPAJ KARARON
KA PUNRIKSHAN ADHINIYAM, 1987***
(Act No. 32 of 1987)

An Act to take power to revise certain agreements, from time to time, to get fair price for forest-produce sold or supplied by Government to purchasers for long term period and to prevent loss of income and to enforce the revised agreements and to provide for certain other matters.

2. Definitions.-

- (a) "agreement" shall include any contract, licence, bond, deed or other document, whereby the State Government agrees to sell or supply any forest produce to any person or to permit any forest produce to be collected or removed by any person for consideration, for a long term period, on terms and conditions specified in such document;
- (b) "forest produce" shall have the meaning assigned to it in the Indian Forest Act, 1927 (No. 16 of 1927) in its application to the State of Madhya Pradesh.

3. Power of Government to revise agreements for sale or supply of forest produce- Notwithstanding anything contained in any law for the time being in force and in any agreement subsisting on the date of commencement of this Act, or in any agreement which may be entered into by the State Government with any purchaser on or after the date of commencement of this Act, it shall be lawful for the State Government, from time to time, by order published in the Gazette, to add to or to substitute, delete or otherwise amend any of the terms and conditions of any such agreement, for one or more of the following purposes, namely:-

- (a) to provide for a revision or a periodical revision of the price or rate for sale or supply of forest-produce to the purchaser, where such agreement does not provide for any such revision or periodical revision as the case may be, and where such periodical revision is provided in the agreement, to provide for reducing or enhancing the period of revision:
Provided that, the price or rate once fixed shall not be liable to be revised by the State Government for a period of at least twelve months from the date on which such price or rate has come into force;
- (b) to provide for the removal or any modification of any ceiling imposed in any such agreement on the increase, at the time of revision in the price or rate at which the forest-produce is to be sold or supplied to the purchaser;
- (c) to provide for the adjustment or change in the unit of weight or measure

* The complete Act is not reproduced. Only the relevant sections have been extracted.

in which the forest-produce is to be weighed, measured or counted, for the purpose of its sale or supply to the purchaser or for the purposes of charging or recovery of the price or rate therefor, without, however, materially or substantially changing the quantity of forest produce agreed to be sold or supplied to the purchaser;

- (d) to modify and re-allocate the quantity of the forest produce to be sold or supplied to the purchaser under agreement by suitable re-adjustment of catchment areas.

4. Price or rate of forest produce sold or supplied to purchasers not to exceed market value-

- (1) The price or rate for sale or supply of the forest produce, to be fixed at the time of any revision of the price or rate under Sec. 3 shall not exceed the market value of the forest produce at the time of such revision, as may be determined by the State Government in the prescribed manner.
- (2) Where the price or rate is fixed at the time of revision, for a period exceeding twelve months at a time, the State Government may provide for an annual increase in the price or rate towards the anticipated escalation in the market value of the forest produce during the period the revised price or rate is to remain in force.

5. Power of Government to terminate agreements for breach of terms and conditions-

- (1) Notwithstanding anything contained in any law for the time being in force and in any agreement subsisting on the date of commencement of this Act, or in any agreement which may be entered into by the State Government with any purchaser on or after the commencement of this Act, the State Government may terminate any such agreement at any time for breach by the purchaser, of any of the terms or conditions of the agreement as amended from time to time, after giving him a reasonable opportunity to show cause why the agreement should not be terminated and after giving him a notice of one month for such termination.
- (2) The decision of the State Government in such cases shall be final.

6. Purchaser may terminate agreement after giving one month's notice- If any amendment made in the terms and conditions of an agreement under Sec. 3, or any revision made in the price or rate for sale or supply of forest produce under that section, is not acceptable to the purchaser, he may, at his option, by giving to the State Government one month's notice in writing within a period of six months from the date on which the amendment in the terms and conditions or the revision in the price or rate, as the case may be, is communicated to him, terminate the agreement, and accordingly the agreement shall stand terminated at the end of the notice period.

7. Power to make rules- The State Government may, and subject to the condition of previous publication, make rules carrying out the purposes of this Act.

**THE MADHYA PRADESH VAN UPAJ (VYAPAR
VINIYAMAN) ADHINIYAM, 1969***

(Act No. 9 of 1969)

*An Act to make provisions for regulating in the public interest the trade of
certain forest produce by creation of State monopoly in such trade.*

2. Definitions-

- (d) "forest produce" means Kashtha (*Saussurea* spp.), Khair (*Acacia* spp.), Catechu (Katha), Catechin (Cutch), Kulu gum, Dhawara (*Anogeissus latifolia*) gum, Khair gum, Babool (*Acacia arabica*) gum, Sal (*Shorea robusta*) resin, Salai (*Boswellia serrata*) resin, Chir (*Pinus longifolia*) gum, Rosha (*Cymbopogon* spp.) grass, Rosha grass oil, Lac in all forms, Shellac, Mahua (*Madhuca indica*) flowers, Tori or Gulli (Mahua seeds), Chironji (*Buchanania lanzan*), Sal seed, Harra (*Terminalia chebula*) and Kachnar (*Bauhinia tomentosa*), Mahul (*Bauhinia vahili*) leaves and Mahul bark and Phool-bahari grass, and Bamboos of all species.**

3. Constitution of units.- The Government may divide every specified area in such number of units as it may deem fit:

Provided that a specified area may be divided into different units for different specified forest produce.

4. Appointment of agents.-

- (1) The State Government may, for the purchase of and trade in, specified forest-produce on its behalf appoint one or more agents in respect of different units for all or any specified forest-produce and any such agent may be appointed in respect of more than one unit.
- (2) A Co-operative Society, a Gram Panchayat or Janpada Panchayat may be appointed as an agent under sub-section (1) for one or more units and only in the event of none of the aforesaid forthcoming for appointment as agent an individual may be so appointed as agent.

5. Restriction on purchase or transport of specified forest-produce-

- (1) On the issue of a notification under sub-sections (3) of Sec.1 with respect to any area, no person other than-
- (a) the State Government;
- (b) an officer of the State Government authorised in writing in that behalf; or

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** For the sake of clarity, some of the botanical names have been added by the author.

- (c) an agent in respect of the unit in which the specified forest-produce is grown or found;

shall purchase or transport such specified forest-produce in such area.

Explanation I -Purchase shall include purchase by barter.

Explanation II -Purchase of specified forest produce from the State Government or the aforesaid Government Officer or Agent or a licensed vendor or purchaser under Sec. 12A shall *not* be deemed to be a purchase in contravention of provisions of this Act.

Explanation III -A person having no interest in the holding who has acquired the right to collect the specified forest produce grown or found on such holding shall be deemed to have purchased such produce in contravention of the provisions of this Act.

- (2) Notwithstanding anything contained in sub-section (1)-

- (a) a grower of forest produce other than Mahua (*Madhuca* spp.) may transport his produce from any place within the unit wherein such produce is grown or is found in any other place in that unit; and a grower of Mahua may possess and transport Mahua from any place within the district where such Mahua is grown or is found to any place within that district;
- (b) any person may transport the forest produce not exceeding the quantity as may be prescribed from the place of purchase of such produce to place where such produce is required for his bonafide use or for consumption;
- (c) specified forest produce purchased from the State Government or any Officer or Agent specified in the said sub-section by any person for manufacture of goods within the State in which such specified forest-produce is used as raw material or by any person for sale outside the State or by the licensed vendor may be transported by such person in accordance with the terms and conditions of a *transit pass* to be issued in that behalf by such authority in such manner and on payment of such fee as may be prescribed. Different rates of fee may be prescribed for different types of transport vehicle; and
- (d) any person having the right of *nistar* in any forest in respect of any specified forest produce under any law for the time being in force, may transport such produce for his domestic use or consumption in such quantity and subject to such terms and conditions as may be prescribed.
- (3) Any person desiring to sell the specified forest produce may sell to the aforesaid Government Officer or Agent at any depot situated within the said unit:

Provided that the State Government, the Government Officer or Agent shall not be bound to re-purchase the specified forest produce once sold.

6. Constitution of Advisory Committee- The State Government shall for each calendar year constitute in respect of each specified forest produce an Advisory Committee for each Revenue Commissioner's Division in the State consisting of not more than nine members as may be notified by the State Government from time to time for the purpose of advising the State Government in the matter of fixation of a fair and reasonable price of each specified forest produce at which such produce may be purchased by the State Government or its authorised officer or agent as are offered for sale in such division in accordance with the provisions of this Act:

Provided that-

- (i) two of the members shall be from amongst the traders of such specified forest produce or manufacturers of goods in which such specified forest produce is used as raw materials;
- (ii) at least two members shall be from amongst the growers of such specified forest produce other than the State Government;
- (iii) one member shall be amongst the members of Parliament representing the State, and belonging to Scheduled Tribes; and
- (iv) one member shall be from amongst the members of State Legislature belonging to Scheduled Tribes.

7. Government to fix price in consultation with Committee- The Government shall after consultation with the Committee constituted under Sec.6, fix the price at which specified forest produce shall be purchased by it or by any of its authorised officer or agent from grower of specified forest produce in the Revenue Commissioner's division and shall publish the same in the Gazette and in such other manner as may be prescribed not later than 30th day of June of the calendar year for which the Committee is constituted and the price so fixed shall remain in force up to the end of such calendar year and shall not be altered during that year:

Provided that if the Committee fails to tender advice within the period specified under Sec. 6 or such further period not exceeding fifteen days as the State Government may allow, the State Government may proceed to fix the price without consultation of the Committee:-

Provided further that different prices may be fixed for different units, and in so doing regard shall be had amongst other things to:-

- (a) prices of specified forest produce obtained or fixed under this Act or any other enactment during the preceding three years in respect of the area comprised in the unit;
- (b) quality of the specified forest produce in the unit;
- (c) transport facilities available in the unit;
- (d) the cost of transport; and
- (e) general level of wages for unskilled labour prevalent in the unit.

8. Opening of depots and publication of the price list, etc., at the depot- There shall be set up in each unit such number of depots and at such places as the State Government may, taking into consideration the convenience of the growers of specified forest produce, direct and a price list of specified forest produce fixed by the State

Government under Sec. 7 and the hours of business shall be prominently displayed on the notice board kept for the purpose at every such depot.

9. State Government or Agent to purchase the specified forest produce.-

- (1) The Government or any authorised officer or agent shall be bound to purchase at the price fixed under Sec. 7 for specified forest produce offered for sale at the depot during the hours of business:

Provided that it shall be open to the State Government or the authorised officer or the agent to refuse to purchase any specified forest produce which in their opinion is not fit for the purpose of consumption or use as raw material for manufacture or for trade.

- (2) Any person aggrieved by rejection of his specified forest produce by an authorised officer or agent under proviso to sub-section (1), may, within fifteen days therefrom, refer the matter to the Divisional Forest Officer, or such other officer who may be empowered by the State Government in this behalf, having jurisdiction over the unit in which the specified forest produce has been grown or found.
- (3) On the receipt of a complaint under sub-section (2), the Divisional Forest Officer or such other officer, as the case may be, shall hold an enquiry in the prescribed manner and after hearing the parties concerned shall pass such orders as he may deem fit and in case he finds the rejection of the specified forest produce to be improper, he may-
- (a) if he considers the specified forest produce in question still suitable for the manufacture in which such specified forest produce is used or for trade, direct the authorised officer or agent, as the case may be, to purchase the same and may also award to the person aggrieved such further compensation not exceeding twenty percent of the price of the specified forest produce payable to him as he deems fit,
- (b) if he considers that the produce in question has since become unsuitable for the manufacture in which such specified forest produce is used or for trade, direct the payment to the person aggrieved of any amount, not less than the price of such produce payable to him under sub-section (1) and such further compensation not exceeding twenty per cent of such price as he may deem fit by way of damages for the loss suffered by such person.
- (4) Nothing in this section shall be construed so as to debar the appropriation of the produce offered for sale if the State Government or their authorised officer or the agent has reason to believe that the produce appertain to forests or lands belonging to the State Government and paying only such collection charges, if any, as the State Government may from time to time determine:

Provided that in case of any dispute the Divisional Forest Officer or such other officer who may be specifically empowered in this behalf as specified in sub-section (2) shall hear and dispose of the same in the manner provided therein.

10. Registration- Every grower of specified forest produce shall if the quantity of a specified forest produce grown by him during a year is likely to exceed such quantity as may be prescribed, get himself registered in the prescribed manner.

11. Registration of manufacturers, traders and consumers of specified forest produce-

- (1) Every manufacturer who uses any specified forest produce as a raw material and every trader or a consumer whose annual use, requirement or consumption, as the case may be, exceeds such quantity as may be prescribed, shall get himself registered within such period, on payment of such fee and in such manner as may be prescribed.
- (2) Every such manufacturer or trader or consumer shall submit such declarations, accounts and returns and in such forms and to such officer and at such intervals as may be prescribed.

12. Disposal of specified forest produce- Specified forest produce purchased by the Government or by its officer or agent under this Act shall be sold or otherwise disposed of in such manner as the State Government may direct.

12-A. Re-sale of excess specified forest produce by manufacturer, trader or consumer-

- (1) Any manufacturer who uses any specified forest produce as a raw material or any trader or consumer of specified forest produce with whom such produce is left over in excess after his use, requirement or consumption, shall not re-sell the same without the permission of the State Government or any officer authorised by the State Government in this behalf (hereinafter referred to in this section as authorised officer). The manufacturer, trader or consumer intending to sell the specified forest produce left with him in excess shall apply in writing for permission, to the State Government or the authorised officer clearly stating therein-
 - (i) the quantity of specified forest produce intended to be sold;
 - (ii) the rate at which such produce is offered for sale; and
 - (iii) the person to whom, the offer is made.
- (2) Any registered manufacturer, trader or consumer of specified forest produce who intends to purchase such forest produce mentioned in sub-section (1) shall not purchase the same without the permission in writing of the State Government or the authorised officer. Such registered manufacturer, trader or consumer shall apply in writing for permission to State Government or the authorised officer clearly stating therein, the name of the seller, the quantity of such forest produce to be purchased and the rate agreed therefor.
- (3) On receipt of application under sub-section (1) for re-selling the specified forest produce and application under sub-section (2) for the purchase of such specified forest produce, the State Government or the authorised officer may, on payment of such consideration by the purchaser, as may be prescribed, grant the permission in writing to both of them.

13. Retail sale of specified forest produce-

- (1) No person shall engage himself in retail sale of a specified forest produce except under a *licence* granted under this section.
- (2) The Government may, for the purpose of facilitating retail sale of specified forest produce within the State, grant licences to as many persons as it may deem fit.
- (3) Any person who desires to engage himself in retail sale of a specified forest produce shall make an application in such form, to such authority and in such manner as may be prescribed.
- (4) The prescribed authority may, on receiving such application and on payment of such fee as may be prescribed, grant or renew a licence subject to such terms and conditions as may be prescribed.

14. Delegation of powers- The Government may by order delegate any of its powers or functions under this Act or the rules made thereunder, to any officer or authority not below the rank of an Assistant Conservator of Forests who shall exercise or perform the same, subject to such conditions and restrictions as the Government may specify in the order.

15. Search and seizure of property liable to confiscation and procedure therefor-

- (1) Any Forest Officer as may be notified by the State Government or any Police Officer not below the rank of an Assistant Sub-Inspector or any other person authorised by the State Government, may with a view to securing compliance with provisions of this Act or the rules made thereunder, or to satisfying himself that the said provisions have been complied with -
 - (i) stop and search any person, boat, vehicle or receptacle used or intended to be used for the transport of specified forest produce;
 - (ii) enter and search any place.
- (2) When there is reason to believe that any offence under this Act has been committed in respect of any specified forest produce, any Forest Officer as may be notified by the State Government or any Police Officer not below the rank of an Assistant Sub-Inspector or any person authorised by the State Government in this behalf may, seize such specified forest produce alongwith all tools, boats, vehicles, ropes, chains or any other article used in committing such offence under the provisions of this Act.
- (3) Any officer or person seizing any property under this section shall place on all such property a mark indicating that the same has been so seized and shall as soon as may be either produce the property seized before the officer not below the rank of an Assistant Conservator of Forests authorised by the State Government in this behalf by notification (hereinafter referred to as the authorised officer) or where it is having regard to quantity or bulk or other genuine difficulty, not practicable to produce the property seized before the authorised officer make a report about the seizure to the authorised officer or where it is intended to

launch criminal proceedings against the offender immediately make report of such seizure to the Magistrate having jurisdiction to try the offence on account of which seizure has been made:

Provided that, when the specified forest produce with respect to which such offence is believed to have been committed is the property of Government and the offender is unknown, it shall be sufficient if the officer makes as soon as may be a report of the circumstances to his official superior.

- (4) Subject to the provisions of sub-section (6), where the authorised officer upon production before him of the specified forest produce or upon receipt of report about the seizure as the case may be is satisfied that the offence has been committed in respect thereof, he may by order in writing and for reasons to be recorded confiscate the specified forest produce so seized together with all tools, vehicles, boats, ropes, chains or any other articles used in committing such offence. A copy of order of confiscation shall be forwarded without any undue delay to the Conservator of Forest of the circle in which the specified forest produce has been seized.

15-A. Appeal against order of confiscation-

- (1) Any person aggrieved by any order of confiscation may within thirty days of the order, or if fact of such order has not been communicated to him within thirty days of date of knowledge of such order prefer an appeal in writing accompanied by such fee and payable in such form as may be prescribed, and by certified copy of order of confiscation to the Conservator of Forest (hereinafter referred to as Appellate Authority) of the forest circle in which the forest produce has been seized.
- (2) The Appellate Authority referred to in sub-section (1), may where no appeal has been preferred before him, *suo motu* within thirty days of date of receipt of copy of order of confiscation by him, and shall on presentation of memorandum of appeal issue a notice for hearing of appeal or as the case may be of *suo motu* action to the officer or person effecting seizure and to any other person (including appellant, if any) who in the opinion of the Appellate Authority, is likely to be adversely affected by the order of confiscation and may send for the record of the case:

Provided that no formal notice of appeal need be issued to such amongst the appellant, officer or person effecting seizure and any other person likely to be adversely affected as aforesaid, as may waive the notice or as may be informed in any other manner of date of hearing of appeal by the Appellate Authority.

- (4) The Appellate Authority may, pass such orders of "interim" nature for custody, preservation or disposal (if necessary) of the subject-matter of confiscation, as may appear to be just or proper in the circumstances of the case.

15-B. Revision before Court of Sessions against order of Appellate Authority-Any party to the appeal, aggrieved by final order or by order of consequential nature

passed by the Appellate Authority, may within thirty days of the order sought to be impugned, submit a petition for revision to the Court of Sessions within the Sessions divisions whereof the headquarters of the Appellate Authority are situate.

15-D. Confiscation of property when the produce is not the property of Government- All specified forest produce which in either case is not the property of the Government and in respect of which a contravention of any provision of the Act or the rules made thereunder has been committed and all tools, boats, vehicles, ropes, chains or any other articles, in each case used in committing such contravention shall, subject to the provisions of Secs. 15, 15-A, 15-B, etc. be liable to confiscation upon conviction of the offender for such contravention.

20. Penalty- If any person contravenes any of the provisions of this Act or rules made thereunder-

- (1) he shall be punishable with imprisonment which may extend to two years or fine which may extend to ten thousand, or with both:
- (2) the specified forest produce in respect of which such contravention has been made or such part thereof as the Court may deem fit shall be forfeited to the Government:

Provided that if the Court is of the opinion that it is not necessary to direct forfeiture in respect of the whole, or as the case may be, any part of the specified forest produce it may for reasons to be recorded, refrain from doing so.

21. Power to make rules.- The State Government may, subject to the condition of previous publication, make rules to carry out all or any of the provisions of this Act.

22. For other matters the provisions of Indian Forest Act shall apply.-

- (1) The matters relating to the specified forest produce not provided for in the Act and provided in the Indian Forest Act, 1927 (No. 16 of 1927) shall be governed by the provisions of that Act.
- (2) Nothing contained in any other law, order or any other thing having a force of law in any region of the State shall apply to the specified forest produce in respect of matters for which provisions are contained in this Act.

22-A. Power to exclude specified forest produce from the operation of the Act.-

- (1) The State Government may, from time to time, by notification, direct that from a date specified therein, a forest produce specified in the notification mentioned in or issued under sub-section (3) of Sec. 1 shall cease to be a specified forest produce in relation to the area or areas as may be specified in the said notification.
- (2) The State Government may, from time to time, by a like notification direct that from a date specified therein the specified forest produce which ceased to be under sub-section (1) shall be specified forest produce in relation to the area or areas as may be specified in the said notification.



STATE
OF
MAHARASHTRA

NTFP including Medicinal Plants

Aristolochia indica ('Sapsanda'), *Calophyllum inophyllum* ('Nag champa'), *Cassia auriculata* ('Taravada'), *Garcinia morella* ('Kokum'), *Hedyotis auricularia* ('Dapoli'), *Lobelia nicotianaefolia* ('Dhavala'), *Madhuca indica* ('Mahua'), *Pterospermum acerifolium* ('Kanak champa'), *Rauvolfia serpentina* ('Harkai'), *Strychnos nuxvomica* ('Kuchala'), *Terminalia arjuna* ('Shardul'), *Vanda tessellata* ('Rasna'), etc.

Nationalized NTFP Items

Mahua flower and fruit, Hirda (*Terminalia chebula*), Neem seed, Amaltas seed, Tamarind seed, Guggul gum, etc. (33 items).

Monopoly Agency

- * Maharashtra State Cooperative Tribal Development Corporation in tribal areas.
- * State Forest Department (Tendu leaves).

Price Fixation Method

- * State Government to fix the price of each NTFP item after consultation with an advisory committee consisting of various representative groups.



Legal Framework

- (1) *Indian Forest Act, 1927*
 - * Applicable to the State, contains provisions relating to the transit of forest produce and duty leviable on forest produce.
- (2) *Maharashtra Forest Produce (Regulation of Trade) Act, 1969*
 - * State monopoly in the trade of certain specified forest produce.
- (3) *Maharashtra Felling of Trees (Regulation) Act, 1964*
 - * Regulates the felling of certain trees in the State, for the purpose of preservation thereof.
- (4) *Maharashtra Forest Development Act, 1983*
 - * An Act to levy and collect "forest development tax" on sale of forest

produce by or on behalf of State Government.

- (5) *Maharashtra Transfer of Ownership of MFP in the Scheduled Areas Act, 1997*
 - * Transfer of ownership of MFP to Gram Panchayats.
- (6) *Maharashtra Supply of Forest Produce by Government (Revision of Agreements) Act, 1982*
 - * An Act to take powers to revise certain agreements to get fair price for forest produce supplied by Government to purchasers for long-term periods.

INTRODUCTION

The State of Maharashtra, third largest State in India, has a total land area of 3,07,690 sq. km. out of which the forest area comprises of about 63,842 sq. km. (20.75%). Tropical Moist/ Dry Deciduous and Tropical Wet Evergreen/ Semi-Evergreen forests are found in the State. The State of Maharashtra possess some useful NTFP including medicinal plants:

Botanical Names	Common Names
<i>Acacia chundra</i>	Sundra
<i>Acacia senegal</i>	Khair
<i>Alstonia scholaris</i>	Chitwan
<i>Aristolochia bracteata</i>	Gandhani
<i>Aristolochia indica</i>	Sapsanda
<i>Calophyllum inophyllum</i>	Nag champa
<i>Cassia auriculata</i>	Taravada
<i>Commiphora mukul</i>	Guggul
<i>Diospyros melanoxylon</i>	Tendu or Temburni
<i>Garcinia morella</i>	Kokum
<i>Hedyotis auricularia</i>	Dapoli
<i>Hemidesmus indicus</i>	Upersari
<i>Lobelia nicotianaefolia</i>	Dhavala
<i>Madhuca indica</i>	Mahua
<i>Pedaliium murex</i>	Mothe gokhru
<i>Premna integrifolia</i>	Arni
<i>Pterocarpus marsupium</i>	Bibla, Chinai-gond, Gum
<i>Pterospermum acerifolium</i>	Kanak champa
<i>Rauvolfia serpentina</i>	Harkai
<i>Saraca indica</i>	Ashoka
<i>Sterculia urens</i>	Karaya, Pandruk, Gulu
<i>Strychnos nux-vomica</i>	Kuchala
<i>Tacoma undulata</i>	Rohara
<i>Terminalia arjuna</i>	Shardul
<i>Vanda tessellata</i>	Rasna
<i>Vateria indica</i>	Ral, Indian Copal tree

The State Government has enacted Acts/ Rules to ensure a sustainable harvest of forest produce. The salient features of these legal provisions are discussed in brief below.

The Maharashtra Forest Produce (Regulation of Trade) Act, 1969, is an Act for regulating in the public interest the trade of certain 'forest produce' (the word 'minor' before 'forest produce' deleted by Mah. Act No. 45 of 1997) by creation of a State monopoly in such trade in the State. Tendu leaves are mentioned in the

Schedule to the Act. Some of the important features of the Act are as follows:

- (i) *Appointment of agents*- Under the Act, only the Government or an authorised officer or an agent shall purchase or transport or import or export a specified forest produce. For commercial purchases or transport, a permit is required.
- (ii) *Constitution of Advisory Committee*- For each calendar year (1st July-30th June), the Government shall constitute an Advisory Committee for the purpose of advising the Government in the matter of fixation of fair and reasonable price of each specified forest produce at which produce may be purchased by the State Government or Agent.

The Committee is to consist of representative groups like the traders or manufacturers, growers of NTFP, etc.

- (iii) *Government to purchase the specified forest produce*- The Government or Agent shall be bound to purchase at the price fixed (by the Committee) specified forest produce offered for sale at the depot. Any person aggrieved by the refusal to purchase forest produce by an authorised officer or agent may refer the matter to the Divisional Forest Officer.
- (iv) *Registration of manufacturers, exporters, etc.* - A compulsory registration is provided for under the Act.
- (v) *Disposal of forest produce*- Any forest produce purchased by the State Government or by its officer or agent, shall be sold or otherwise disposed of in such manner as the State Government may direct.
- (vi) *Enforcement provisions*- The Police/ Authorised Officer has been provided with the power to enter, search and seizure regarding the specified forest produce. A person contravening any of the provisions of this Act or rules made thereunder shall be punished with imprisonment which may extend to one year or fine upto Rs. 1,000, or both.

The Maharashtra Felling of Trees (Regulation) Act, 1964, is an Act to make better provisions for regulating the felling of certain trees in the State of Maharashtra, for the purpose of preservation thereof. Under the Act, no person shall fell any tree or cause such tree to be felled in any land, whether of his ownership or otherwise except with the previous permission in writing of a Tree Officer duly empowered by the State Government in that behalf. The Schedule to the Act contains important trees like: *Terminalia chebula*, 'Mahua', Tamarind, 'Khair', Sandal, Mangroves, etc.

The Maharashtra Forest Development (Tax on Sale of Forest Produce by Government/ Forest Development Corporation) Act, 1983, is an Act to levy and collect "forest development tax" on sale of forest produce by or on behalf of the State Government or the Forest Development Corporation. Under the Act, there shall be levied and collected by the State Government the tax on every sale of forest produce from the purchaser, at the rate of 5%, of the sale price of such produce sold to him. The State Government may, if it is necessary so to do in the public interest, exempt any specified class of sales from payment of the whole or any part of the tax payable under this Act. The proceeds of the tax levied and collected under this Act shall (after crediting to the Consolidated Fund of the State) be expended only for purposes connected with forest development programmes and for the welfare of the people dwelling in the forests.

The Maharashtra Supply of Forest Produce by Government (Revision of Agreements) Act, 1982, is an Act to take powers to *revise* certain agreements to get fair price for forest produce supplied by Government to purchasers for long-term periods and for certain other matters. The price or rate for sale or supply of the forest produce, to be fixed at the time of any revision of the price/ rate, shall not exceed the market value of the forest produce at the time of such revision, as may be determined by the State Government in the prescribed manner.

Under the Maharashtra Supply of Forest Produce by Government (Revision of Agreements) Rules, 1983, before amending any agreement, the State Government shall give a written notice to the concerned purchaser in respect of the amendment proposed to be made in the agreement, calling upon the said purchaser to show cause against the proposed amendment. The market value of the forest produce shall be determined by the State Government, after taking into consideration, the various factors (as mentioned in the rule 4).

The Maharashtra Transfer of Ownership of Minor Forest Produce in the Scheduled Areas and the Maharashtra Minor Forest Produce (Regulation of Trade) (Amendment) Act, 1997, is an Act to make provisions for transfer of ownership of minor forest produce in the Scheduled Areas, and to amend the Maharashtra Minor Forest Produce (Regulation of Trade) Act, 1969. Under the Act, the ownership of minor forest produce found in the Government lands in the Scheduled Areas, excluding the national parks and sanctuaries, shall vest in the *Panchayat* (village administrative body) within whose jurisdiction such area falls.

The Act provides for a "Working/ Management Plan or Scheme" - a document of technical nature approved by a competent authority appointed by the State or Central Government, laying the prescriptions for scientific management of specified forest area. The Panchayats shall strictly adhere to the prescriptions contained in the Working/ Management Plan or Scheme with regard to the harvest of minor forest produce. Whoever contravenes or violates the said prescriptions shall, on conviction, be punished with fine upto Rs. 5,000 or with imprisonment up to one year or with both. The Schedule to the Act contains 33 MFP items.

Summing Up

As a result of the enactment of '*Maharashtra Tribal Economic Conditions Improvement Act, 1976*', trading of NTFP has been entrusted to the Maharashtra State Cooperative Tribal Development Corporation on a monopoly basis in tribal areas. This Corporation is at present trading in Gums, 'Mahua' (*Madhuca indica*), 'Harra' (*Terminalia chebula*), 'Chironji' (*Buchanania latifolia*), etc., by procuring these from tribals. For areas where the Tribal Development Corporation is not functioning, the contract of minor forest produce is offered to Forest Labour Cooperative Societies (FLCS), but if they are not able to handle it, it is auctioned to contractors. 'Tendu' leaf (*Diospyros melanoxylon*) has been nationalised in the State since 1969 and is being collected through departmental agency adopting purchaser-agent system.

The methodology of price fixation for collection by State agencies has been a subject of criticism from many quarters. Even after nationalization, the States have

adopted an advance purchase system for fixing rates. The prices fixed by Government officials with the approval of the political executive are decided upon through a backward calculation from the market price of the item. This method, while ensuring that the overheads of the State Forest Department Corporations are compensated, provides only a nominal sum for the group at the end of the chain, namely the tribal collector of NTFP. Sometimes attractive prices which are out of tune with the market are declared as a result of which the State monopolies come to grief (Ramji & Bhatnagar, 2000).

Adoption of a system of declaration of "minimum prices" for all major NTFPs (including medicinal plants) by a designated autonomous agency as practised for major agricultural products and encouragement of the designated cooperatives and other agencies to take up price support operations for NTFP seems to be required (Shukla, R.S., 2000).

MAHARASHTRA FELLING OF TREES (REGULATION)
ACT, 1964*
(Act No. 34 of 1964)

An Act to make better provisions for regulating the felling of certain trees in the State of Maharashtra, for the purpose of preservation thereof.

2. Definitions.-

- (e) "to fell a tree" includes burning or cutting or lopping a tree to cause substantial damage or destruction thereto;
- (f) "tree" means any tree specified in the Schedule; and the State Government may, by notification in the *official gazette*, add to or modify the Schedule, after considering the necessity for the protection of any variety of trees;
- (ff) "Tree Officer" means a "Forest Officer" not below the rank of a Range Forest Officer.

3. Restriction on felling of trees.-

- (1) Notwithstanding any custom, usage, or law for the time being in force, or the decree or order of a Court, or anything contained in any instrument to the contrary, no person shall fell any tree or cause such tree to be felled in any land, whether of his ownership or otherwise except with the previous permission in writing of a Tree Officer duly empowered by the State Government in that behalf.
- (1-A) If any person wishes to fell a tree, he shall apply in writing to the Tree Officer empowered under sub-section (1) for permission in that behalf.
- (1-B) The Tree Officer on receipt of an application-
 - (a) shall acknowledge the application within seven days;
 - (b) may, after due enquiry, either grant or refuse the permission applied for in accordance with the provisions of rules made under Sec. 15:

Provided that, no such permission shall be refused if the tree is dead, diseased or wind fallen, or if it has silviculturally matured, or if it constitutes obstruction to traffic, or if it is substantially damaged or destroyed by fire, lightning, rain or other natural causes, or if it constitutes an obstruction to efficient cultivation.

Provided further that such permission shall be granted subject to the condition that the applicant shall plant equal number of tree of the same or any other species

* The complete Act is not reproduced. Only the relevant sections have been extracted.

as the Tree Officer may direct on the same site or other suitable place in the vicinity in the ensuing planting season.

- (1-C) If the Tree Officer fails to inform the applicant of his decision within sixty days from the date of acknowledgment of the application, or from the date of receipt of the application if not acknowledged, the permission applied for shall be deemed to have been granted.
- (2) Any person aggrieved by an order of the Revenue Officer refusing to grant permission under sub-section (1-B) may, within thirty days of receipt of such order, appeal to the Collector. Subject to such rules of procedure as may be prescribed, the Collector may, after giving such person a reasonable opportunity of being heard, pass such order on the appeal as he thinks just and proper.

3-A. Power of Tree Officer to order planting of trees.-

- (1) If in the opinion of the Tree Officer the number of trees in any land (other than the land falling in any permanent drought prone area identified by the State Government) is not adequate according to the standards prescribed by rules made under Sec. 15, the Tree Officer may, by order, after giving a reasonable opportunity to the owner or occupier of the land of being heard, require him to plant such trees or additional trees, as the case may be, at such places in the land as may be specified in the order, and the owner or occupier of the land shall comply with the order by planting such trees or additional trees in the ensuing planting season.
- (2) It shall be the duty of the owner or occupier of the land who is required by an order made under sub-section (1) to plant a tree to ensure that they grow properly and are well preserved.
- (3) Where the owner or occupier fails to comply with an order made under sub-section (1) the Tree Officer may, after giving a reasonable opportunity to such owner or occupier of making representation and without prejudice to any other action which may be taken against the defaulter under this Act take necessary action himself and recover the expenditure incurred therefor from the owner or occupier, as the case may be, after giving a notice of demand for the amount payable by him. If the amount is not paid within the time specified by the Tree Officer in the notice, it shall be recovered alongwith interest at six per cent per annum and other incidental expenses, if any.

4. Penalty for felling trees in contravention of Sec. 3.- Any person who, without obtaining permission to fell any tree, fells any such tree or causes it to be felled, shall be liable to such penalty not exceeding one thousand rupees as the Tree Officer empowered under Sec. 3 may, after holding an inquiry and giving such person an opportunity of being heard, deem fit to impose; and the Tree Officer may further order that any such tree so felled which is not the property of Government shall be forfeited to the State Government along with the tools, boats, vehicles or other conveyances used in felling and removing, any such tree.

5. Contravention of Sec. 3 to be reported by certain officers.-

- (1) Every Revenue Officer, Forest Officer and Police Officer shall be bound-
 - (a) to give immediate information of any contravention of Sec. 3 to the officer empowered under that section, and of the intention or preparation to commit such contravention which may come to his knowledge;
 - (b) to take all reasonable measures in his power to prevent such contravention which he may know or have reason to believe is about or likely to be committed.
- (2) Any Revenue Officer, not below the rank of an Aval Karkun or Naib Tehsildar, Forest Officer not below the rank of a Range Forest Officer and Police Officer not below the rank of a Sub-Inspector may enter upon any land, where he has reason to believe that any tree has been or is being felled, in contravention of Sec. 3 and seize such felled tree or any loppings thereof, together with its produce and tools, boats, vehicles and other conveyances used in committing such contravention, place on such property a mark indicating that the same has been so seized and shall make a report of such seizure to the Tree Officer empowered under Sec. 3.

12. Exemption.- Subject to such conditions (if any) as may be imposed, the State Government may, if it is necessary so to do in the public interest, by notification in the *Official Gazette*, exempt any local area from all or any of the provisions of this Act.

13. Savings.- Nothing in Sec. 3 shall apply to the felling of any tree for preventing damage to person or property or for abating any nuisance on one's own land.

14. Provisions of this Act to be in addition to any law for the time being in force.- The provisions of this Act shall be in addition to the provisions of any other law for the time being in force prohibiting or regulating the felling of trees.

15. Power to make rules.- The State Government may, subject to the condition of previous publication, make rules to carry out the purposes of this Act.

SCHEDULE

[See Sec. 2(f)]

1. *Terminalia chebula* (Hirda).
2. Teak.
3. *Madhuca latifolia* [Mahua, Mhowra or Mahu].
4. *Tamarindus indica* [Tamarind, Clinch or Imli].
5. *Mangifera indica* (Mango).
6. *Artocarpus integrifolia* (Jack).
7. *Acacia catechu* (Khair).
8. *Santalum album* (Sandal).
9. *Pterocarpus marsupium* (Bija).

10. *Adina cordifolia* (Haldu).
11. *Ougeinia dalbergioides* (Tiwas).
12. *Terminalia tomentosa* (Ain).
13. *Terminalia paniculata* (Kinjal or Kindal).
14. *Hardwickia binata* (Anjan).
15. *Syzgium cumini* (Jambhul).
16. Mangrove.

Explanation.- For the purposes of this entry, "Mangrove" includes *Rhizophora mucronata* (Lamk), *Rhizophora piculata* (Bium), *Ceriops candolleana* (Am), *Kandelia rheedei* (Wight), *Bruguiera gymnorhiza* (Lamk), *Lumnitzera racemosa* (Willd), *Sonneratia apetala* (Buch Ham), *Sonneratia acida* (Dian), *Ruicenia officinalis* (Linn), *Aviceneae marina* (Linn), *Acanthus ilicifolius*, *Aegiceras majus*.

**THE MAHARASHTRA FOREST DEVELOPMENT TAX ON
SALE OF FOREST PRODUCE BY GOVERNMENT OR
FOREST DEVELOPMENT CORPORATION (CONTINUANCE)
ACT, 1983***
(Act No. XXII of 1983)

*An Act to levy and collect forest development tax on sale of forest produce by
or on behalf of the State Government or the Forest Development
Corporation.*

2. Definitions.-

- (d) "forest-produce" means forest-produce as defined in the Indian Forest Act, 1927 (16 of 1927) in its application to the State of Maharashtra;
- (e) "Recovery Officer", in relation to any sale of forest-produce, means the Forest Officer, or the officer of the Forest Development Corporation, or the officer of co-operative society, as the case may be, by whom the sale is effected, and if any question arises as to who is the Recovery Officer in respect of the sale, the same shall be referred to and decided by the Chief Conservator of Forests and his decision shall be final;
- (f) "sale" or "sale of forest-produce" means any sale of forest-produce by or on behalf of the State Government or the Forest Development Corporation, for cash or deferred payment or other valuable consideration, whether described as sale price, purchase price, or royalty, and includes any such of forest-produce by a co-operative society on behalf of the State Government or the Forest Development Corporation;
- (h) "tax" means the forest development tax on the sale of any forest-produce by or on behalf of the State Government or the Forest Development Corporation levied and collected under this Act.

3. Levy and collection of tax.-

- (1) Subject to the provisions of this Act, on and after the 7th December, 1982 there shall be levied and collected by the State Government the tax on every sale of forest-produce from the purchaser, at the rate of five per cent, of the sale price of such produce sold to him.
- (2) Notwithstanding anything contained in sub-section (1), where any sale is effected before the 7th December, 1982, and under the terms and conditions of such sale price is payable on or after the said date, no tax under this Act shall be levied and collected on the whole or part of the sale price so payable.

* The complete Act is not reproduced. Only the relevant sections have been extracted.

- (3) It is hereby declared that the tax levied and payable under this Act shall be in addition to, and not in lieu of tax levied and payable in respect of the sale or purchase of the same forest-produce under the Bombay Sales Tax Act, 1959 (Bombay 51 of 1959) or any other law for the time being in force.

4. Recovery of tax through Recovery Officer.- The amount of tax leviable under Sec. 3 on the sale of any forest-produce shall be collected by the Recovery Officer effecting the sale from the purchaser along with the sale price:

Provided that, where the sale price is payable in two or more instalments, the amount of tax shall also be recovered in instalments, in proportion to, and along with, the instalments of the sale price.

5. Appeal against amount of tax.-

- (1) Any person aggrieved by an order made by the Recovery Officer determining the amount of tax due from him or aggrieved by any other order made by the Recovery Officer, may, within thirty days from the date of receipt of intimation of any such order, appeal to the Appellate Authority. The Appellate Authority, on receipt of any such appeal, shall give a reasonable opportunity of being heard to the appellant and decide the matter.
- (2) Any order made by the Recovery Officer, subject to an appeal to the Appellate Authority, and the decision of the Appellate Authority on any such appeal, shall be final.

6. Utilisation of proceeds of tax.- The proceeds of the tax levied and collected under this Act shall first be credited to the Consolidated Fund of the State, and thereafter, after deducting from the proceeds such sum as the State Government may determine as expenses on collection, the remaining amount shall, under appropriation duly made by law in this behalf, be placed at the disposal of the Forest Department each year as additional budgetary resources to be expended only for forest plantations or other ancillary purposes connected with forest development programmes and for the welfare of the people dwelling in the forests and the weaker sections of the people dependent on forest-produce for their livelihood.

7. Exemption from payment of tax.- Subject to such conditions (if any) as it may impose, the State Government may, if it is necessary so to do in the public interest, by notification in the *Official Gazette*, exempt any specified class of sales from payment of the whole or any part of the tax payable under this Act, and such exemption shall take effect from the date of publication of the notification of the *Official Gazette*, or such other date as may be specified therein.

**MAHARASHTRA¹ [* * *]FOREST PRODUCE
(REGULATION OF TRADE) ACT, 1969***
(Act No. 57 of 1969)

An Act to make provision for regulating in the public interest the trade of certain [* *] forest produce by creation of a State monopoly in such trade in the State of Maharashtra.*

2. Definitions.-

- (e) "forest produce" means such forest produce as defined under the Indian Forest Act, 1927 (16 of 1927), as are specified in the Schedule appended in this Act, and the State Government may, from time to time, by notification in the *Official Gazette*, add to or modify the Schedule in the public interest.

3. Constitution of units.- The State Government may divide every specified area into such number of units as it may deem fit in respect of each forest produce.

4. Appointment of agents.-

- (1) The State Government may, for the purpose of purchase of, and trade in any forest produce on its behalf, appoint agents in respect of different units, and any such agent may be appointed in respect of more than one unit.
- (2) The terms, conditions and the procedure for appointment of agents shall be such as may be prescribed.

5. Restriction on purchase or transport of forest produce.-

- (1) On the issue of a notification in an area, no person other than,-
- (a) the State Government;
 - (b) an officer of the State Government authorised in writing in that behalf; or
 - (c) an agent in respect of the unit in which the forest produce has grown;

shall purchase or transport the forest produce to which this Act applies.

Explanation-I.- Purchase of forest produce from the State Government, or the aforesaid Government officer, or agent, shall not be deemed to be a purchase in contravention of the provisions of this Act.

1. The word "minor" deleted by Mah. Act No. 45 of 1997, Sec. 11 (w.e.f. 10th December, 1997).

* The complete Act is not reproduced. Only the relevant sections have been extracted.

Explanation-II.- A person having no interest in the holding who has acquired the right to collect any forest produce grown on such holding shall be deemed to have purchased such produce in contravention of the provisions of this Act.

(2) Notwithstanding anything contained in sub-section (1),

- (a) a grower of any forest produce may transport such produce belonging to him from any place within the unit wherein such produce has grown, to any other place in that unit; and
 - (b) forest produce purchased from the State Government or any officer or agent specified in the said sub-section by any person for manufacture of finished goods using such produce within the State or by any person for sale outside the State may be transported by such person outside the unit in accordance with the terms and conditions of a *permit*, to be issued in that behalf by such authority and in such manner as may be prescribed.
- (3) Any person desiring to sell forest produce may sell it to the aforesaid Government officer or agent at any depot situated within the said unit.

6. Constitution of Advisory Committee.-

- (1) The State Government shall, for each year commencing on the 1st day of July and ending on the 30th day of June next following, constitute, in respect of each forest produce, an Advisory Committee for one or more Revenue Commissioners' divisions in the State consisting of not more than nine members as may be notified by the State Government from time to time for the purpose of advising State Government in the matter of fixation, from time to time, of a fair and reasonable price at which such produce may be purchased by the State Government or its authorised officer or agent, as is offered for sale in such division or divisions in accordance with the provisions of this Act:

Provided that two of the members shall be from amongst the traders of the respective forest produce, or manufacturers of finished goods using such produce; and four members shall be from amongst the growers of respective minor forest produce other than the State Government.

- (2) It shall also be the duty of the Committee to advise the State Government on such matters as may be referred to it by the State Government.
- (5) The Committee shall tender its advice to the State Government within such period as the State Government may, for each Committee, specify in this behalf.

7. State Government to fix price in consultation with Committee.- The State Government shall, after consultation with the Committee, constituted under Sec. 6 in respect of any particular forest produce, fix the price at which such produce shall be purchased by it or by any of its authorised officer or agent, from growers of that produce and shall publish the same in the *Official Gazette* and in such other manner as may be prescribed not later than the 31st day of December, and the price so fixed shall not be altered during the year to which the price relates:

Provided that, if the Committee fails to tender advice within the period specified

under sub-section (5) of Sec. 6 (or such further period not exceeding fifteen days as the State Government may allow), the State Government may proceed to fix the price without consultation with the Committee:

Provided further that, different prices may be fixed for different units, and in so doing regard shall be had amongst other things, to-

- (a) prices of the respective forest produce obtained or fixed under this Act, or any enactment during the preceding three years in respect of the area comprised in the unit;
- (b) the quality of the forest produce grown in the unit;
- (c) transport facilities available in the unit;
- (d) the cost of transport; and
- (e) the general level of wages for unskilled labour prevalent in the unit.

8. Opening of depots and publication of price list, etc., at depot.- There shall be set up in each unit such number of depots, and at such places, as the State Government may, taking into consideration the convenience of the growers of the respective forest produce, direct; and a price list of such produce as fixed by the State Government under Sec. 7 and the hours of business shall be prominently displayed on a notice board kept for the purpose at every such depot.

9. State Government or agent to purchase forest produce.-

- (1) The State Government or its authorised officer or an agent shall be bound to purchase at the price fixed under Sec. 7 forest produce offered for sale at the depot during the hours of business:

Provided that, it shall be open to the State Government or its authorised officer or the agent to refuse to purchase any forest produce which in their opinion is not fit for the purpose of manufacture of finished goods using such produce, or for any other commercial purpose.

- (2) Any person aggrieved by the refusal to purchase forest produce by an authorised officer or agent under the proviso to sub-section (1), may within fifteen days therefrom, refer the matter to the Divisional Forest Officer, or such other officer who may be empowered by the State Government in this behalf, having jurisdiction over the unit in which the forest produce has grown.
- (3) On receipt of a complaint under sub-section (2), the Divisional Forest Officer or such other officer, as the case may be, shall hold an enquiry on the spot or at the head-quarters, in the prescribed manner; and after hearing the parties concerned or their authorised agent shall pass such orders as he deems fit; and in case he finds the refusal to purchase the forest produce to be improper, he may,-
 - (a) if he considers the forest produce in question still suitable for the manufacture of finished goods, or for any other commercial purpose direct the authorised officer or the agent, as the case may be, to purchase the same, and may also award the person aggrieved such further compensation not exceeding 20 per cent of the price of the forest produce payable to him, as he may deem fit;

- (b) if he considers that the forest produce in question has since become unsuitable for manufacture of finished goods or for any other commercial purpose, direct the payment to the person aggrieved of any amount not less than the price of such forest produce payable to him under sub-section (1) and such further compensation not exceeding twenty per cent of such price as he may deem fit by way of damages for the loss suffered by such person.
- (4) Nothing in this section shall be construed as to debar the appropriation of any forest produce offered for sale, if the State Government or its authorised officer or the agent has reason to believe that such produce appertains to forest or lands belonging to the State Government and paying only such collection charges, if any, as the State Government may from time to time determine:

Provided that, in the case of any dispute, the Divisional Forest Officer or such other officer who may be specifically empowered in this behalf as specified in sub-section (2), shall hear and dispose of the same in the manner provided therein.

- (5) Any person aggrieved by the decision of any officer referred to in the proviso to sub-section (4) may, within a period of thirty days from the date of receipt of such decision, prefer an appeal to the State Government, and the decision of the State Government on such appeal shall be final.

10. Registration.- Every grower of forest produce other than the State Government shall, if the quantity of such produce grown by him during a year is likely to exceed such quantity as may be prescribed, get himself registered in the prescribed manner.

11. Registration of manufacturers of finished goods using forest produce and exporters of forest produce.-

- (1) Every manufacturer of finished goods using forest produce, and every exporter of forest produce shall get himself registered within such period, on payment of such fee, and in such manner, as may be prescribed.
- (2) Every such manufacturer and exporter registered under sub-section (1) shall furnish a declaration in such form, by such date, and in such manner, as may be prescribed.

12. Disposal of forest produce.- Any forest produce purchased by the State Government or by its officer or agent, under this Act, shall be sold or otherwise disposed of in such manner as the State Government may direct.

13. Delegation of powers.- The State Government may, by order, in the *Official Gazette* delegate any of its powers or functions under this Act or the rules made thereunder to any officer or authority not below the rank of an Assistant Conservator of Forests who shall exercise or perform the same, subject to such conditions and restrictions as the State Government may specify in the order.

14. Power of entry, search, seizure, etc.- Any Police Officer not below the rank of a Sub-Inspector or any other person authorised by the State Government may, with a view to securing compliance with the provisions of this Act or the rules made thereunder or to satisfying himself that the said provisions have been complied with-

- (i) stop and search any person, boat, vehicle or receptacle used or intended to be used for the transport of a forest produce;
- (ii) enter and search any place;
- (iii) seize forest produce in respect of which he suspects that any provisions of this Act, or the rules made thereunder has been, is being or is about to be contravened along with the receptacle containing such produce or the vehicles or boats used in carrying such produce.

15. Penalty.- If any person contravenes any of the provisions of this Act or the rules made thereunder-

- (a) he shall be punished with imprisonment which may extend to one year or with fine which may extend to one thousand, or with both;
- (b) the forest produce in respect of which such contravention has been made or such part thereof as the Court may deem fit shall be forfeited to the State Government;

Provided that, if the Court is of the opinion that it is not necessary to direct forfeiture in respect of the whole, or as the case may be, any part of the forest produce, it may, for reasons to be recorded, refrain from doing so.

16. Attempts or abetment.- Any person who attempts to contravene or abets the contravention of any provision of this Act or the rules made thereunder shall be deemed to have contravened such provision.

19. Power to make rules.- The State Government may make, subject to the condition of previous publication, rules to carry out all or any of the provisions of this Act.

20. Act 16 of 1927 not to apply to forest produce for purposes covered under this Act.- Nothing contained in the Indian Forest Act, 1927 (16 of 1927), shall apply to forest produce in respect of matters for which provisions are contained in this Act.

SCHEDULE

[See Sec. 2(e)]

- I. Temburni (or tendu) leaves.

**MAHARASHTRA TRANSFER OF OWNERSHIP OF
MINOR FOREST PRODUCE IN THE SCHEDULED AREAS
AND THE MAHARASHTRA MINOR FOREST PRODUCE
(REGULATION OF TRADE) (AMENDMENT) ACT, 1997***

(Act No. XLV of 1997)

An Act to make provisions for transfer of ownership of Minor Forest Produce in the Scheduled Areas, and to amend the Maharashtra Minor Forest Produce (Regulation of Trade) Act, 1969.

CHAPTER II

Transfer of Ownership of Minor Forest Produce to Panchayats in Scheduled Areas

2. Application.- This Chapter shall apply to the *Panchayats* in the Scheduled Areas in the State of Maharashtra, referred to in Cl. (1) of Art. 244 of the Constitution of India.

3. Definitions.-

- (a) "minor forest produce" means forest produce specified in the Schedule appended to this Chapter;
- (d) "Working Plan" or "Management Plan" or "Working Scheme" means a document of technical nature approved by a competent authority appointed by the State Government or the Central Government, as the case may be, laying the prescriptions for scientific management of specified forest area.

4. Ownership of Minor Forest Produce to vest in Panchayat.-

- (1) The ownership of Minor Forest Produce found in the Government lands in the Scheduled Areas, excluding the National Parks and Sanctuaries, shall vest in the *Panchayat* within whose jurisdiction such area falls.
- (2) For removal of doubts, it is declared that the ownership of minor forest produce shall not include the ownership of land or trees in that *Panchayat* area and the same shall be governed by the provisions of the Indian Forest Act, 1927.
- (3) If any dispute arises regarding the ownership of minor forest produce among the *Panchayats*, the decision of the State Government shall be final.

* The complete Act is not reproduced. Only the relevant sections have been extracted.

5. Panchayats to adhere strictly to the Silvicultural prescriptions of Working Plan, Management Plan or Working Scheme.-

- (1) The *Panchayats* shall strictly adhere to the prescriptions contained in the Working Plan, Management Plan or Working Scheme with regard to the harvest of minor forest produce. However, in the areas not covered under the Working Plan, Management Plan or Working Scheme, the *Panchayats* shall adhere to the rules made, with regard to the harvesting of minor forest produce, under this Chapter, by the Conservator of Forest of the concerned Circle.
- (2) Whoever contravenes or violates the prescriptions contained in the Working Plan or Management Plan or the Working Scheme or the rules made by the Conservator of Forest of the concerned Circle shall, on conviction, be punished with fine which may extend to rupees five thousand or with imprisonment which may extend to one year or with both.

7. Offences by Panchayats and Provisions of Indian Forest Act, 1927 and Wild Life (Protection) Act, 1972, to apply.-

- (1) The provisions of this Chapter shall be in addition to and shall not be in derogation of, the provisions of the Indian Forest Act, 1927; and the Wild Life (Protection) Act, 1972, and all the penal provisions obtained in the said Act shall also apply to all the *Panchayats* to which this Chapter applies.
- (2) If the person committing an offence under this Chapter, is a *Panchayat*, every person who, at the time the offence was committed, was in charge of, and was responsible to, the *Panchayat* for the exercise of the powers and conduct of the functions and duties of the *Panchayat* shall also be liable to be proceeded against and punished accordingly.

SCHEDULE*

[See Sec. 3 (a)]

1. *Madhuca indica* (Mahua flower).
2. Mahua fruits.
3. Gum.
4. *Terminalia chebula* (Hirda).
5. *Buchanania lanzan* (Charoli).
6. *Emblica officinalis* (Awala).
7. *Terminalia belerica* (Bahera).

* For the sake of clarity, some of the botanical names have been added by the author.

8. Seeds of *Azadirachta indica* (Neem).
9. Seeds of *Pongamia pinnata* (Karanji).
10. Seeds of *Cassia fistula* (Amaltas).
11. *Tamarindus indica* (Tamarind seeds).
12. Lac of *Butea monosperma* (Palas Lac).
13. Lac of *Schleichera oleosa* (Kusum).
14. Seeds of *Jatropha carcus* (Vanerand).
15. *Rhus succedanea* (Takada)
16. *Clerodendron phlomoides*.
17. *Strychnos potatorum* (Nirmali).
18. *Commiphora mukul* (Guggul).
19. *Psoralea corylifolia* (Bavchi seed).
20. *Strychnos nux-vomica* (Kuchala).
21. *Acacia concina* (Shikakai).
22. *Sapindus trifoliatus* (Reetha).
23. *Semecarpus anacardium* (Bibba).
24. *Derris scandens* (Gunj seed).
25. Broom grass.
26. *Mangifera indica* (Mango seed).
27. *Embelia ribes* (Vavadinga).
28. *Corchorus antichorus* (Baphali).
29. Cut Grass and fodder.
30. Honey.
31. *Butea monosperma* (Palas leaves).
32. *Annona squamosa* (Sitaphal).
32. Cashew nuts- except those grown by Forest Development Corporation of Maharashtra Limited.

**THE MAHARASHTRA SUPPLY OF FOREST
PRODUCE BY GOVERNMENT (REVISION OF
AGREEMENTS) ACT, 1982***

(Act No. 16 of 1983)

An Act to take powers to revise certain agreements to get fair price for forest-produce supplied by Government to purchasers for long-term periods and for certain other matters.

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

- (a) "agreement" shall include any contract, licence, bond, deed or other document, whereby the State Government agrees to sell or supply any forest produce to any person or to permit any forest-produce to be collected and removed by any person for consideration, for a long-term period, on terms and conditions specified in such document;
- (b) "forest-produce" shall have the meaning assigned to it in the Indian Forest Act, 1927 (16 of 1927), in its application to the State of Maharashtra;
- (c) "long-term period" means any period exceeding twelve months;
- (d) "prescribed" means prescribed by rules made by the State Government under this Act;
- (e) "purchaser" means any person, including any company or association or body of individuals, whether incorporated or not, who purchases or is supplied or obtains any forest produce from the State Government under any agreement.

3. Power of Government to revise agreements for sale or supply of forest produce.- Notwithstanding anything contained in any law for the time being in force and in any agreement subsisting on the date of commencement of this Act, or in any agreement, which may be entered into by the State Government with any purchaser on or after the date of commencement of this Act, it shall be lawful for the State Government, from time to time, by order published in the *Official Gazette*, to add to, substitute, delete or otherwise amend any of the terms and conditions of any such agreement, for one or more of the following purposes, namely-

- (a) to provide for a revision or a periodical revision of the price or rate for sale or supply of forest-produce to the purchaser, where such agreement does not provide for any revision or periodical revision, as the case may be, and, where such periodical revision is provided in the agreement, to provide for reducing or enhancing the period of revision;

* The complete Act is not reproduced. Only the relevant sections have been extracted.

Provided that, the price or rate once fixed shall not be liable to be revised by the State Government for a period of at least twelve months from the date on which such price or rate has come into force;

- (b) to provide for the removal or any modification of any ceiling imposed in any such agreement on the increase, at the time of revision, in the price or rate at which the forest produce is to be sold or supplied to the purchaser;
- (c) to provide for the adjustment or change in the unit of weight or measure in which the forest-produce is to be weighed, measured or counted, for the purpose of its sale or supply to the purchaser or for the purpose of charging or recovery of the price or rate therefor, without, however, materially or substantially changing the quantity of forest-produce agreed to be sold or supplied to the purchaser.

4. Price or rate of forest-produce sold or supplied to purchasers not to exceed market value.-

- (1) The price or rate for sale or supply of the forest-produce, to be fixed at the time of any revision of the price or rate under Sec. 3, shall not exceed the market value of the forest-produce at the time of such revision, as may be determined by the State Government in the prescribed manner.
- (2) Where the price or rate is fixed, at the time of revision, for a period exceeding twelve months at a time, the State Government may provide for an annual increase in the price or rate towards the anticipated escalation in the market value of the forest-produce during the period of revised price or rate is to remain in force.

5. Power of Government to terminate agreements for breach of terms and conditions.-

- (1) Notwithstanding anything contained in any law for the time being in force and in any agreement subsisting on the date of commencement of this Act, or in any agreement, which may be entered into by the State Government with any purchaser on or after the commencement of this Act, the State Government may terminate any such agreement at any time for breach, by the purchaser, of any of the terms and conditions of the agreement, as amended from time to time, after giving him a reasonable opportunity to show cause why the agreement should not be terminated and after giving him a notice of one month for such termination.
- (2) The decision of the State Government in such cases shall be final.

6. Purchaser may terminate agreement after giving one month's notice.- If any amendment made in the terms and conditions of an agreement under Sec. 3, or any revision made in the price or rate for sale or supply of forest-produce under that section, is not acceptable to the purchaser, he may, at his option, by giving to the State Government one month's notice in writing, within a period of six months from the date on which the amendment in the terms and conditions or the revision in the price or rate, as the case may be, is communicated to him, terminate the agreement, and accordingly the agreement shall stand terminated at the end of the notice period.

**THE MAHARASHTRA SUPPLY OF FOREST PRODUCE BY
GOVERNMENT (REVISION OF AGREEMENTS)
RULES, 1983***

2. Definitions.-

- (a) "Act" means the Maharashtra Supply of Forest-produce by Government (Revision of Agreements) Act, 1982 (Mah. 16 of 1983).

3. Notice of amendment proposed in agreement.-

- (1) Before amending any agreement under Sec. 3, the State Government shall give a written notice to the concerned purchaser in respect of the amendment proposed to be made in the agreement, calling upon the said purchaser to show cause, within thirty days from the date of receipt of the notice, against the proposed amendment. The said notice shall also specify the proposed date of commencement of the amendment.
- (2) Where the amendment proposed to be made in the agreement relates to the revision of the price or rate for sale or supply of forest-produce fixed in an agreement, a note explaining the basis of determination of the market value under Sec. 4 shall be sent to the purchaser along with the notice.
- (3) The State Government shall consider the representation, if any, received by it from the purchaser within the stipulated period, in response to the show-cause notice under sub-rule (1), and decide whether the proposed amendment shall be effected with or without any modification:

Provided that no modification, which is more unfavourable to the purchaser than the amendment proposed under sub-rule (1) shall be made without giving him a reasonable opportunity of being heard.

4. Determination of market value under Sec. 4.-

- (1) The market value of the forest-produce shall be determined by the State Government, after taking into consideration, the following factors, namely-
- (a) the sale prices obtained in the open and negotiated sales of such forest-produce effected by or on behalf of the State Government or the Forest Development Corporation within the State during a period of twelve months preceding six months prior to the date of commencement of the supply year:

Provided that, where no such sale was held in the State of Maharashtra during the said period of twelve months, or the number, nature or magnitude of sales transactions that have taken place during that period is not, in the opinion of the State Government, adequate for the purpose of determining the market value, the State Government shall take into consideration the sale prices obtained in such sales

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

held during a period of twenty-four months preceding the period of six months prior to the date of commencement of the supply year:

Provided further that if, in the opinion of the State Government, the quantity of forest-produce involved in a sale is too small or insignificant to serve a representative instance for the determination of the market value, the State Government may, having regard to the facts and circumstances of the case, ignore such sale;

- (b) the weightage to be given to the quantities involved in the sales referred to in Cl. (a) where there is more than one sale;
 - (c) the general trend in the price of the forest-produce since the dates of sales referred to in Cl. (a);
 - (d) the weightage to be given to the proximity or otherwise of the areas, where the sales referred to in Cl. (a) have taken place, to the areas from where the supply of forest produce is to be made to the purchaser; and
 - (e) any other factor which, in the opinion of the State Government, is relevant to the determination of the market value.
- (2) Where no sale of forest-produce has taken place within the State, during the period referred to in Cl. (a) of sub-rule (1), the market value of the forest produce shall be determined by the State Government, taking into consideration the open and negotiated sales transactions of such forest produce effected in one or more of the States adjoining the State of Maharashtra but keeping in view, as far as possible, the factors mentioned in sub-rule (1).

Explanation.- For the purposes of this rule "open sales" shall include sales effected by public auctions or by inviting public or limited tenders, and "negotiated sales" shall exclude sales in which the price or the rate for sale or supply is fixed by the supplier under a pre-existing agreement.

NORTH-EASTERN STATES

Arunachal Pradesh

Assam

Manipur

Meghalaya

Mizoram

Nagaland

Tripura

NTFP including Medicinal Plants

Aconitum ferox ('Visha'), *Baliospermum montanum* ('Dantimool'), *Curculigo orchioides* ('Kali musli'), *Derris ferruginea* ('Aru'), *Eupatorium triplinerve* ('Aaya pana'), *Garcinia morella* ('Kokum butter'), *Panax pseudoginseng* ('Ginseng'), *Pinus khasya* ('Khasi chir'), *Pterospermum acerifolium* ('Moragos'), *Rauvolfia serpentina* ('Sarpagandha'), *Taxus wallichiana* ('Yew'); etc.

Nationalized NTFP Items

All NTFP items.

Monopoly Agency

- * State Government/ District Council.

Price Fixation Method

- * 'Mahal' system on yearly basis.

North-Eastern States



Legal Framework

(1) *Assam Forest Regulations (AFR), 1891*; *Mizoram Forest Act, 1955*; *Nagaland Forest Act, 1968*; etc. (similar to the Indian Forest Act, 1927).

- * Detailed rules under AFR, 1891 relating to import and transit of forest produce.

- * *Manipur Forest Rules, 1971* also contains similar rules.

(2) *Assam Sale of Forest Produce, Coupes & Mahal Rules, 1977*

- * Details with regard to the operation of 'mahal' system. The system also prevalent in other north-east States.

(3) *Arunachal Pradesh Anchal Forest Reserve Act, 1975*

- * Constitution of 'Anchal Forest Reserve' and 'Anchal Samiti'.

- * Anchal Samiti along with the Forest Department to manage the Reserved Forests.

(4) *Garo Hills Regulation, 1882*; *Khasi Hills Autonomous District Rules, 1984*; *United Khasi-Jaintia Hills Act, 1958*; etc.

- * District Councils vested with management and control of forests in certain districts.

(5) *Nagaland Rules to Regulate the Export of Forest Produce, 1969*

- * An export duty to be paid on all forest produce worked out from Nagaland Forests.

INTRODUCTION

The North-East region of India is mostly a conglomeration of undulating hills intercepted by the valleys of Brahmaputra and Barak. The vegetation cover of the Eastern Himalaya in the region is characterized by dense mixed evergreen, semi-evergreen, moist deciduous, coniferous and grassland type of forests owing mainly to the impact of heavy monsoon rainfall, latitudinal variation and fertile soil. The region offers ideal eco-climatic conditions for plants ranging from Tropical to Alpine forests.

The total land area and the estimated forest cover of the North-East States - "Seven sisters" - is as follows:

State	Geographical Area (sq. km.)	Forest Area (sq. km.)	Percentage
<i>Arunachal Pradesh</i>	83,743	51,540	61.54%
<i>Assam</i>	78,438	30,708	39.15%
<i>Manipur</i>	22,327	15,154	67.87%
<i>Meghalaya</i>	22,429	9,496	42.34%
<i>Mizoram</i>	21,081	15,935	75.59%
<i>Nagaland</i>	16,579	8,629	52.04%
<i>Tripura</i>	10,486	6,292	60.01%

The entire North-East India has a vast reserve of medicinal plants. Some of the important medicinal plants are:

Botanical Names	Common Names
<i>Aconitum ferox</i>	Visha
<i>Alpinia galanga</i>	Kulanjan
<i>Alstonia scholaris</i>	Satiana
<i>Anamirta cocculus</i>	Kakmari
<i>Aquilaria agallocha</i>	Agar wood
<i>Baliospermum montanum</i>	Dantimool
<i>Calycopteris floribunda</i>	Kohoranj
<i>Cinnamomum tamala</i>	Tejpat
<i>Combretum pillosum</i>	Bhori lodh
<i>Coptis teeta</i>	Mishmi teeta
<i>Curculigo orchoides</i>	Kali musli
<i>Derris ferruginea</i>	Aru
<i>Desmotricum fimbriatum</i>	Jeevanti
<i>Dioscorea alata</i>	Khamalu
<i>Eupatorium triplinerve</i>	Aaya pana
<i>Fritillaria cirrhosa</i>	Yathu

Botanical Names	Common Names
<i>Garcinia morella</i>	Kokum butter
<i>Gynocardia odorata</i>	Chal mugra
<i>Hydnocarpus kurzii</i>	Chal bhugra
<i>Messua ferra</i>	Nag kesar
<i>Myrica nagi</i>	Kai phal
<i>Nardostachys jatamansi</i>	Bal chad
<i>Nepenthes khasiana</i>	Pitcher plant
<i>Panax pseudo-ginseng</i>	Ginseng
<i>Picrorhiza kurrooa</i>	Kuroo
<i>Pinus khasya</i>	Khasi chir
<i>Podophyllum hexandrum</i>	Ban kakri
<i>Pterospermum acerifolium</i>	Moragos
<i>Rauvolfia serpentina</i>	Sarpagandha
<i>Rhododendron</i> spp.	Orchid
<i>Rubia cordifolia</i>	Manjista
<i>Swertia chirayita</i>	Chirayata
<i>Symplocos racemosa</i>	Lodh
<i>Taxus wallichiana</i>	Yew
<i>Tylophora indica</i>	Anantmoal
<i>Vanda tessellata</i>	Rasna

Various laws dealing with forests have been enacted by the individual State Governments in the North-Eastern region. Many of these laws are similar in nature and scope. Thus, Mizoram Forest Act, 1955, Nagaland Forest Act, 1968, Manipur Forest Rules, 1971, etc., are based on the Assam Forest Regulations, 1891 (also see Part-I, Central and States' Forest Acts). Further, in some States like Meghalaya, the autonomous district councils have framed their own laws.

It may be noted that the Indian Forest Act, 1927 repealed the Indian Forest Act, 1878 so far as it related to Assam. The re-enacted Act omitted Assam from the extent clause. This Act however was extended in its application to the new Provinces and merged States by the Merged States (Laws) Act, 1949 and to the States of Manipur and Tripura by the Union Territories (Laws) Act, 1950. A State-wise legal scenario in the North-Eastern region is discussed in brief below.

State of Assam

The Assam Forest Regulations, 1891, (similar to the Indian Forest Act, 1927) contains provisions relating to trade, transit, etc., of the forest produce. Detailed rules, however, have been framed under the Regulations relating to import and transit of forest produce. All forest produce imported by road or river into Assam shall be brought to the revenue stations for examination and for the payment of import duty. The concessional 'Home Consumption Import Permit' may be issued for the import from the Siem's territories in Khasi Hills of the quantity of forest produce specified therein required for home consumption only. All forest produce in transit are to be covered by a 'transit pass', a permit (showing the permission to remove forest produce from

a specified locality) or a certificate of origin (in the case of forest produce from private lands for which nothing is due to Government).

The *Assam Forest Regulations (Amendment) Act, 1995*, has been enacted for the effective implementation of the Regulation, i.e. initiation of confiscation proceedings against seized articles/ forest produce, etc., by the forest officials. The **Assam Forest Protection Force, 1986**, provides for the constitution and regulation of the Assam Protection Force for the better protection and security of the forests, forest produce, etc., in the State.

The **Assam Sale of Forest Produce, Coupes and Mahal Rules, 1977**, provide the details with regard to the operation of 'mahal' system. 'Mahal' means a well defined area wherefrom certain types of forest produce are sold on condition of their removal within a specified period. Under the rules, forest produce can be sold by inviting tender, through public auction or through negotiation, directly by the Government or by the forest department.

State of Arunachal Pradesh

The **Arunachal Pradesh Anchal Forest Reserve (Constitution and Maintenance) Act, 1975**, provides that State Government may by notification in the Official Gazette, constitute any land (other than Reserved Forests) at its disposal, for constituting 'Anchal Forest Reserve'. The provisions of Assam Forest Regulations, 1891, relating to Reserved Forests shall apply to Anchal Forest Reserves. The Act empowered the State Government to prescribe and limit the power and duties of the 'Anchal Samiti' (Committee) and the Forest Department who will manage the Anchal Forest Reserves. It also empowered the State Government for the preservation, reproduction and disposal of trees and other forest produce in the Anchal Forest Reserve.

The Forest department had no control over the valuable State forests other than the reserved forests of Arunachal Pradesh and as such those could not be managed properly and the department has been very keen to manage these forests in the greater interest of the development of the State and as such this Act was enacted. It may be noted that "Anchal Samiti", under the Act, is a local-level Committee constituted under the N.E.F.A. Panchayati Raj Regulation, 1967. The revenue from such forests is shared by the State Government and Anchal Samiti; 50 per cent of the funds are utilised as per the Act, for the development of concerned villages.

The State of Arunachal Pradesh also follows the 'Mahal' system while providing trade permits in respect of the forest produce.

State of Mizoram

The **Mizoram Forest Act, 1955**, based on the Assam Forest Regulations, 1891, provides detailed rules and regulations in regard to trade, transit, etc., of forest produce. Under the Act, various trees of medicinal value are put into 'reserved' category and special permission is required from the State Government to cut these trees. Cutting of reserved trees under six feet in girth is banned. The State Government provides limited permits to the traders in the State after careful scrutiny. The trader has to fill up a 'Form of Permit' for collection of forest produce and also needs a 'Transit Pass'.

Under Sec. 6(1) of the Act, the Government of Mizoram has laid down Schedule of Rates of royalty leviable on all classes of forest produce removed from any forest in Mizoram (*vide* a Notification, effective from 1st September, 1994).

State of Manipur

The Manipur Forest Rules, 1971, framed under the Indian Forest Act, 1927, provides detailed rules and regulations in regard to trade and transit of forest produce. The rules are similar to those laid down under the Assam Forest Regulations, 1891. Under the rules, various trees of medicinal value in Protected forests are put into 'reserved' category.

State of Meghalaya

The provisions of the Assam Forest Regulation, 1891, apply in general by substituting therein the words "Meghalaya" or "Government of Meghalaya" in appropriate places, as enacted in the Meghalaya Forest Regulation (Application and Amendment) Act, 1973. In Meghalaya only five per cent of total forest land is under the Forest Department of the State. The rest is privately owned, regulated by the three District Councils, viz. the Garo Hill District Council, Jaintia Hill District Council and the Khasi Hill District Council. The management of forests falling under these District Councils is done on the basis of the Garo Hills District (Forest) Act, 1958, and the Meghalaya Forest Regulation Act, 1973.

The Garo Hills District (Forest) Act, 1958, provides for the management of any forest not being a reserved forest in the Autonomous District of Garo Hills and for the levy and collection of forest revenue. The United Khasi-Jaintia Hills Autonomous District (Management and Control of Forests) Act, 1958, is an Act to provide for the management and control of forests in the United Khasi-Jaintia Hills Autonomous District. The provisions are made regarding the removal of forest produce, rates of royalty, transit of forest produce, etc.

The Khasi Hills Autonomous District (Management and Control of Forest Revised Rates of Royalty) Rules, 1984, are framed under the United Khasi and Jaintia Autonomous District Act, 1958. Under the rules, the Executive Committee of the Khasi Hills District Council revised the Schedule of Rates of Royalty leviable for all classes of forest produce.

Rules and Orders in Force in Certain Districts

The Garo Hills Regulation, 1882, gives power to the Chief Commissioner to regulate the removal of forest produce via licences. Two types of permits are provided for under the Rules- *Trade permit* and *Gurkati permit* to be granted by the Divisional Forest Officer, in respect of forest produce under the State management. Gurkati permits are issued for removal of forest produce in such quantity as can be carried by the holder of the permit on his person. The residents of 'Garo' Hills District and Garo and other aboriginal tribes may, without permit, remove and utilise free of royalty such forest produce as they may require for their own use, but not for sale, trade, mortgage or gift.

Similar rules are provided for the **Khasi and Jaintia Hills**. Special rules are also laid down for removal of Orchids from these Hills. Executive Rules for the management of forests in the **Lushai Hills** are also provided. The administration of forests in these Hills is vested in the Superintendent, Lushai Hills subject to the general supervision of the Conservator of Forests, Assam. A 'trade permit' is required for the collection, manufacture and removal of forest produce for purposes of export.

State of Nagaland

The Nagaland Forest Act, 1968, has similar provisions as that under the Assam Forest Regulations, 1891. Further, the Nagaland Settlement of Forest Coupes and Mahals by Tender/ Auction Sale System Rules, 1969, have similar provisions as that under the Assam Settlement of Forest Coupes and Mahals by Tender System Rules, 1967, and Assam Sale of Forest Produce, Coupes and Mahal Rules, 1977.

The State Government has framed the Rules to Regulate the Export of Forest Produce, 1969, under the Nagaland Forest Act, 1968. An 'export duty' is required to be paid on all forest produce worked out from Nagaland forests. The Rules to Regulate the Transport of Forest Produce Within and Outside Nagaland, 1969, have similar provisions as that under the rules framed under Assam Forest Regulations, 1891. The State Government has also framed the Rules to Regulate the Removal of Orchids from Forests in Nagaland, 1969, which provides that Orchids may only be collected for export from the Nagaland under the cover of a licence.

State of Tripura

Rules have been framed under the Indian Forest Act, 1927, in the State. The State also follows the 'Mahal' system while providing trade permits in respect of the forest produce. At some places in Tripura, marketing societies have been organized. The State has laid down rights and concessions enjoyed by the tribal people, indicating the quantities of forest produce that can be removed.

Summing Up

Various Central, State and local laws existing in North-East States provide some kind of protection to the threatened medicinal plants. However, the legal provisions have largely failed to control the illegal commercial exploitation of medicinal plants. For instance, laws of Arunachal Pradesh, Mizoram and Meghalaya have reduced commercial exploitation by the people out of the State (limited permits are allowed only to the natives). However, local people are engaged by the traders to collect medicinal plants for 'commercial' purposes, though the collection in a limited scale for 'personal' use only is allowed to the local people.

Thus the local traders exploit the collectors; the monetary benefits accruing to the collectors differ significantly from the market value of the plants. The forest officials pretend ignorance about any illegal trade in medicinal plants. Many medicinal plants of high economic value are transported in the name of some other species with less commercial value. The officials manning the forest check gates only see the transit pass. Many of them could not distinguish between different medicinal plants (A TRAFFIC-India study, 1998).

Many North-East States follow the "Mahal" system in some way or other while providing trade permits. It is an important system of regulating commercial trade in the North-East India. Many species are sold by 'Mahal' system (viz. *Cinnamomum* spp., *Hydnocarpus* spp., *Oroxylon* spp., *Rauvolfia serpentina*, etc.). However, it has been realised by the forest officials that the 'Mahaldars' (persons granted permits under the 'Mahal' system) were not maintaining the directions provided by the forest office for collecting bark and other products. In fact, the Mahaldars were damaging the forests and threatening the survival of the species by harvesting in an unprofessional manner. Thus, in 1997 these 'Mahals' were stopped (A TRAFFIC-India study, 1998).

Some States, viz. Assam, Manipur, Nagaland and Tripura have initiated the process of elimination of contractor agency. The constraints appear to be organizational and financial. There is need to carry out item-wise survey of NTFPs and organize collection, processing and marketing by involving tribals. Promotion of local (tribal) Cooperatives for non-destructive collection and trade can break the monopoly of the local traders and bring the profits to those who deserve it, i.e. the local people. Further, cultivation of commercially useful medicinal plants should be emphasised.

NERAMAC (North Eastern Regional Agricultural Marketing Corporation Ltd.), a Central Government Undertaking, funded by North East Council (NEC), under the Planning Commission of India and based in Tripura, is trying to reduce the monopoly of local businessmen in the field of trade in medicinal plants.

AAP (Assam Ayurvedic Products) is the only enterprise that processes medicinal plants of the region on a regular basis. A Government owned small-scale industry, the AAP aim to market the Ayurvedic medicines by engaging the needy villagers. AAP is using 40 per cent of the medicinal plants from its nursery located in Kamrup district (A TRAFFIC-India study, 1998).

A process has begun to set up Arunachal Pradesh Medicinal and Aromatic Corporation. The Corporation is a big step towards the development of trade in medicinal plants of Arunachal Pradesh. The Corporation will help in harvesting important medicinal plants and the storage and packaging of these plants. Thus under one roof, all aspects of trade in medicinal plants will be taken care of. An aggressive marketing policy would be initiated. The Corporation proposes to finance the farmers for cultivation of medicinal plants, under a 'buy back' arrangement. The Chief Executive shall be a scientist, with thorough knowledge of the medicinal plants (A TRAFFIC-India study, 1998).

The threatened species in the region, viz. *Copis teeta*, *Panax pseudo-ginseng*, etc., may be considered for inclusion in Schedule VI of Wildlife (Protection) Act, 1972, as also inclusion in Appendix I/ II of CITES. It may be noted that in Arunachal Pradesh, the collection of *Copis teeta*, *Panax pseudoginseng* and *Taxus wallichiana* has been banned.

GENERAL RULES UNDER ASSAM FOREST REGULATION, 1891*

CHAPTER 4

Rules to regulate the import of forest produce [Under Sections 37(1) and 40(2) (a) and (g)]

1. All timber or other forest produce imported by road or river into Assam from any place beyond the territories to which the Assam Forest Regulation, VII of 1891, extends except Bhutan and Hill Tippera, shall be brought to the nearest of the specified revenue stations staffed by the Government on the route of extraction, for examination and for the payment of the amounts, if any, due to the Government thereon, whether as import duty or on any other account.

2. The timber and other forest produce referred to in R. 1 shall not be removed from the specified revenue stations until the amount due to Government thereon have been paid, the timber has been marked and a Forest Department pass in the prescribed form has been obtained from the Forest Officer in charge of the revenue station.

3. Import duty on timber and other forest produce will be levied at the following rates:

Increase and decrease of any of the rates is vested in the Senior Conservator of Forests to a limit of 25 per cent of decrease and 25 per cent of increase according to distance and difficulties of extraction.

4. In case of timber or forest produce imported from Siem's territory, Khasi Hills, except timber and firewood imported into the British territory of Shillong, which are exempted from duty, the rates of import duty to be realised by Government will be as follows:

Increase and decrease of any of the rates is vested in the Senior Conservator of Forests to a limit of 25 per cent of decrease and 25 per cent increase according to distance and difficulties of extraction.

- (a) Such forest produce shall be covered by a certificate of origin issued by the Siem on his authorised agent and bearing such signature or stamp of the Siem or his agent as has been previously registered in the Divisional Forest office concerned.
- (b) Home consumption import permit may be issued by officer-in-charge of revenue stations in British territory in the prescribed form for the import from the Siem's territories in the Khasi Hills of the quantity of forest produce specified therein required for home consumption only on realisation of a fee of Rs. 2-8-0 for each permit. This concessional permit shall not affect the right of the Siem to levy royalty on the forest produce imported under such permits. A permit endorsed by the Siem

* The complete Regulation is not reproduced. Only the relevant parts have been extracted.

or his agent after realisation of his dues shall entitle the holder thereof to import the forest produce into British territory without certificate of origin and to remove such forest produce to his home direct without first taking it to the nearest revenue station.

Import from Bhutan, Hill Tippera and Manipur

5. No import duty will be paid on timber and other forest produce imported into the Goalpara, Cachar, Longaighat, Sibsagar, Kamrup and Darrang districts from the territories of the Dharma and Deb Rajas of Bhutan and Manipur and into Sylhet direct from Hill Tippera, but such timber or other forest produce shall be brought to the nearest of the specified revenue stations staffed by Government on the route of extraction.

6. All forest produce imported from Bhutan and Hill Tippera will be accompanied by a certificate of origin. This certificate will be given to the Forest Officer in charge of the forest revenue station, who will in exchange, issue a Forest Department pass in the prescribed form. Such passes will be issued free of charge.

6-A. The Manipur State must levy at least as much royalty on all forms of forest produce as is at present levied by Government in the Divisions into which the produce is imported and Government reserve the right to impose an import duty on forest produce coming from the Manipur State if it is found that it is competing unfairly with produce from Government forest. No reduction of the rates of royalty below those in force in the Divisions into which the produce is imported will be sanctioned by the Manipur State without previous reference to the Conservator of Forests, Assam, in each case.

6-B. The Manipur Forest Officer, in charge of the Jirimukh Revenue Station, in the case of import into the Cachar Division and the Manipur Forest Officer, in case of import into the Sibsagar Division, will issue the special transit pass in the same form as that used in the Cachar Division for Manipur timber and will issue the ordinary transit pass prescribed and used by Government for bamboo, cane, thatch and other kinds of minor produce when imported into the Cachar or Sibsagar Division. The Range Officer, Lakhimpur or the Beat, Officer, Dimapur will stamp the Manipur pass after necessary check and will sign it as 'checked and found correct' for which he will maintain a separate Check Register.

CHAPTER 5

Transit Rules

[Under Sections 40 and 41]

Rules to regulate the transport of forest produce by land and water

1. (a) All rivers, as defined in the Assam Forest Regulation, 1891 (VII of 1891), and their banks shall be kept open for the transport of forest produce.
- (b) Except with the written permission of the Deputy Commissioner and under the conditions imposed by him, no person shall cause diversion of the channel or obstruction on the banks or in the channel of any river used for the transport of forest produce.

2. (a) No forest produce shall be removed except as provided in sub-R. (b) of this rule unless covered by a pass which shall be in the form of-

- (i) a permit issued by a duly authorised Forest Officer under the rules relating to the unclassed State forest or reserved forests, allowing the holder to remove forest produce from a specified locality; or
- (ii) a certificate of origin in the case of forest produce from private lands for which nothing is due to Government. Such certificate must be issued by the owner of such land or his duly authorised agent and must bear such signature or stamp of the owner or his agent as has been previously registered in the local Divisional Forest office, and such certificate shall be produced by the holder at the revenue station specified therein to be dealt with as noted hereafter; or

Note: The certificate of origin must be issued in all cases whether the owner himself or any other person removes the produce;

- (iii) a transit pass issued by a Forest Officer, authorised by the Divisional Forest Officer, in token of full payment of all amounts due to Government on account of the forest produce covered by it. In special cases the Conservator of Forests may permit the issue of transit passes by any person duly authorised by him.
4. (a) All forest produce in transit covered by a permit or a certificate of origin shall be taken to the nearest revenue station staffed by Government on the route of extraction except in cases provided for in R. 5, the person or persons in charge of such forest produce and detained there for examination, measurement, or counting and marking, if necessary, by the Officer-in-charge of the revenue station.
- (b) No forest produce in transit taken to revenue station shall be moved within such station between sunset and sunrise without the permission of the officer-in-charge of the revenue station nor shall such forest produce be moved away from the revenue station until a transit pass as prescribed in these rules has been issued by him.
 - (c) In the case of forest produce in transit covered by a permit or a certificate of origin and intended to be exported beyond the district within which it has been collected, transit pass as prescribed hereinbefore shall be obtained by the person in charge of such forest produce from the duly authorised forest officer-in-charge of a revenue station in exchange for the permit or the certificate of origin and such forest produce shall not be booked or moved by rail, steamer or boat unless covered by such transit pass. When the destination for removal of such forest produce is within the district, the permit or certificate of origin shall be endorsed by the duly authorised officer-in-charge of the revenue station in token of full payment of all amounts due to Government and such endorsed permit or certificate of origin shall be deemed to be the transit pass required under these rules:

Provided that it shall be within the power of the officer-in-charge of a revenue station to refuse to grant a transit pass or endorse a permit or a certificate of origin if he has reason to believe the permit or certificate of origin covering the forest produce to be false or full payment of all amounts due to Government in respect of the forest produce has not been made.

5. Should the person or persons in-charge of any forest produce in transit desire to stop, land, cut up, convert or utilise any produce before taking the same to a revenue station, he or they shall obtain the permission in writing of the officer-in-charge of the nearest revenue station. Such officer shall, if he deems fit to grant the permission, proceed in respect of the forest produce as if it had been taken to revenue station.

6. No fee shall be levied for transit passes granted in respect of forest produce from private land covered by a certificate of origin or in respect of forest produce covered by a Gurkati Permit or in respect of forest produce on which full royalty has been paid.

8. All forest produce in transit may be stopped and inspected at any place by any Forest Officer and all persons in charge of forest produce shall be bound to produce the permit, the certificate of origin, or the transit pass covering such produce when called upon to do so by the Forest Officer.

ASSAM SALE OF FOREST PRODUCE, COUPES AND MAHALS RULES, 1977*

2. Definitions.-

- (f) "Mahaldar" means the Mahaldar registered as such under the Forest Department or in the office of the Chief Conservator of Forest or in any of the circle offices or division offices;
- (g) "Coupe" means a compact area wherein a number of trees are premarked for sale;
- (h) "Mahal" means a well defined area wherefrom certain types of forest produce are sold;
- (i) "Lot" means a collection of forest produce meant for disposal;
- (j) "Forest produce" means "forest produce" as defined under Ss. 4(a) and (b) of the Assam Forest Regulation VII of 1891.

3. Mode of sale.-

- (a) The forest produce shall be sold by any of the following methods:
 - (1) By inviting tender;
 - (2) By public auction;
 - (3) By negotiation, direct by Government or on behalf of Government of Assam in Forest Department or in any other manner as decided by Government on its own discretion.

PART I

Sale by Tender System

3. Notice for tender.- A notice calling for tender for settlement of a coupe or a mahal shall be published in the Official Gazette by the Divisional Forest Officer not less than one month before the last date fixed for submission of tender.

8. Procedure for dealing with tenders.-

- (1) Immediately after the closure of the tender time for receipt of tenders the Divisional Forest Officer shall indicate time and date when the tenders shall be opened.
- (2) After the scrutiny of the tenders, the order for acceptance of any tender shall be passed by the respective competent authorities whose competency shall be according to the delegation of financial powers under the Assam Delegation of Financial Powers Rules, 1960.

10. No obligation to accept the highest or any tender.- The highest tender will generally be accepted but it shall not be obligatory on the part of the settling

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

authority to accept the highest or any tender. Maximum number of coupes that one party may get should not be more than 5.

11. Preference and concession in settlement with tenderers belonging to Scheduled castes, Scheduled tribes, or other backward classes.-

- (1) Subject to suitability and ability of the tenderer to perform the work satisfactorily, preference and concession in settlement of a coupe or mahal shall be admissible in the following manner to a person belonging to any of the Scheduled castes, Scheduled tribes, or other backward classes recognised by the State Government, provided the recognised highest offer for the coupe or the mahal does not exceed Rs. 50,000:
 - (a) If the offer from a member of the above mentioned categories of persons is not below 92-1/2 per cent of the recognised highest offer, the coupe or the mahal shall be settled with such person at his own offer;
 - (b) Even if the offer from a member of the afore-mentioned categories of persons is below 92-1/2 per cent of the recognised highest offer, the coupe or the mahal may at the discretion of the competent authority be settled with such person at an amount 7-1/2 per cent less than the recognised highest offer.
- (2) The preference and the concession shall also be admissible in the following manner to a co-operative society, provided not less than 80 per cent of the members thereof are persons belonging to Scheduled castes, Scheduled tribes or other backward classes and provided the recognised highest offer for the coupe and the mahal does not exceed Rs. one lakh:
 - (a) If the offer from the above mentioned co-operative society is not below 90 per cent of the recognised highest offer, the coupe or the mahal shall be settled with such co-operative society at its own offer;
 - (b) Even if the offer from the co-operative society is below 90 per cent of the recognised highest offer, the coupe and the mahal may, at the discretion of the competent authority, be settled with such co-operative society at an amount 10 per cent less than the recognised highest offer;
 - (c) As between individual members of the categories mentioned in sub-R. (1) above and a co-operative society mentioned in this sub-rule, the co-operative society shall be given preference over the individuals.
- (3) No preferential treatment and concession as mentioned in (1) and (2) above shall be admissible when the recognised highest offer for the coupe or the mahal exceeds Rs. 50,000 or Rs. one lakh, as the case may be.

12. No joint settlement.-

- (a) No coupe or mahal shall be sold jointly with more than one person except in the case of a co-operative society or a firm or a joint stock

company duly registered in the office of the appropriate registering authority in Assam.

- (b) *Deconcentration of opportunities*.— No person shall be settled with more than five coupes/ mahals at any time. If any person is found to get settlement of more than five coupes/ mahals at any given time he shall have to surrender all the excess coupes/ mahals retaining only five coupes and mahals to his choice. The surrendered coupes/ mahals shall be immediately resold at such person's risk.

PART II

Sale by Auction System

22. Forest coupes/ mahals/ lots or any other forest produce estimated valuation of which does not exceed Rs. 1,000 and that in the opinion of the Divisional Forest Officer requires immediate disposal shall be sold by auction amongst the registered forest contractors and mahaldars in the following manner: A proclamation for auction sale shall be published not less than 15 days before the date fixed for auction stating therein—

- (a) the name of the coupe and mahal or lot of any other forest produce;
- (b) the particulars necessary for its identification;
- (c) the period for which it is proposed to be sold;
- (d) the date and place of auction;
- (e) the officer who will hold the auction.

24. Manner of conducting the sale.—

- (1) The auction sale shall be held by the Divisional Forest Officer (D.F.O.) or some officer deputed by him not below the rank of A.C.F. (Assistant Conservator of Forests) for the purpose.
- (2) The D.F.O. may postpone the auction sale on reasonable grounds but shall in such case, issue fresh proclamations, publishing the new date fixed.
- (3) On the date fixed for auction, the D.F.O. or the Officer authorised to hold the auction shall call for the bids from registered contractors present:

Provided that if there is no bid or insufficient bid, he may continue the sale from day to day informing the bidders on the spot.

- (4) The Officer holding the auction shall indicate by striking a hammer on the table, the closure of the sale of a particular coupe, mahal or any other forest produce in the auction.
- (5) The auction shall be closed in favour of the highest bid which is received and final sale shall be made with the highest bidder.

26. *Mode of payment of bid value*.— The person declared to be the auction purchaser at an auction sale shall be required to pay immediately on the spot 50 per cent of the sale value and if he fails to do so the coupe or the mahal or lot shall forthwith be again put up and sold.

The remaining 50 per cent of the sale value have to be paid immediately before lifting the forest produce of issue of work order as may be directed by the Divisional Forest Officer.

28. Savings.- Notwithstanding any of the provisions contained in these rules, the Government of Assam in Forest Department reserve the right to settle or dispose of any forest produce in the form of mahal, coupes or by direct negotiations or in any other manner at its discretion, otherwise than mentioned in these rules in public interest or in accordance with provisions of the Assam Forest Regulations, 1891.

THE MIZORAM FOREST ACT, 1955*

(Act No. IV of 1955)

An Act to provide for the management of any forest not being a Reserved Forest.

1. **Extent.**- It extends to the State of Mizoram, except the areas under the jurisdiction of the Chakma, Lai and Mara District Councils.

2. **Definitions.**- In this Act, except where it is otherwise expressly provided for or the context otherwise requires:-

- (7) "District Council" means the District Council of the Mizo District constituted under the provisions of the Sixth Schedule to the Constitution of India and in accordance with the Assam Autonomous District (Constitution of District Councils) Rules 1951.

4. **Reserved Trees.**- The trees specified in Appendix-I of this Act shall be treated as reserved trees. Such trees in Government Forest shall not be cut, felled, tapped or injured in any manner without permission of any kind issued in writing by the State Government or competent Government Forest Officer appointed in this behalf by the State Government in writing.

5. Disposal of Forest Produce.-

- (1) The cutting, sawing, conversion and removal of trees and timber and the collection, manufacture and removal of forest produce from a Government forest except for purposes of personal use under such conditions as the Government may, by rules made in this behalf allow, are prohibited, except under a permit granted by the State Government or any other officer empowered in this behalf.
- (2) Trade permit as prescribed in Appendix-II shall be granted for timber, reserved or unreserved or other forest produce cut, collected or removed from the Government Forest for the purpose of trade.

5-A. **Government to fix selling price of Forest Produce.**- Notwithstanding any provisions contained in this Act, the Government may fix the selling price of any forest produce from time to time keeping in view the availability, demand and other factors connected therewith. The selling price so fixed by the Government shall be binding on the Permit holder and any other person selling the forest produce.

6. Royalties.-

- (1) The rates of royalties to be charged on all forest produce from the Government forest to outside District for trades under a trade permit are given in Appendix-III to this Act. The power to increase or decrease any of the rates is vested in the State Government to a limit of 25% of increase or decrease according to distance and difficulties of extraction.

* The complete Act is not reproduced. Only the relevant sections have been extracted.

- (2) All other forest produce not included in the Appendix-III shall be charged at such rates as may be fixed by the State Government.
- (4) No forest produce shall be extracted for any purpose from any of the Government Reserved Forests except on payment of royalty and with the written permission of the State Government or any other officer empowered in this behalf.

7. Payment of fees and royalties.-

- (1) All fees and royalties payable on account of any forest produce collected or removed under the provisions of this Act or rules made thereunder shall be paid for at the time of marking, previous to removal or at the first forest revenue station reached by the forest produce.
- (2) No forest produce shall be removed in transit pass or any revenue station, unless provided with a pass in the form given in Appendix-II to this Act. Such passes shall be obtained from the Officer-in-charge of the first revenue station reached by such forest produce.

9. Wax.- No person shall remove wax for purposes of trade from the Government Forests, save under, and subject to the conditions of purchasing licences granted by the State Government, or any other officer empowered in this behalf.

11. Town Forest Reserve.-

- (1) The Government by notification in the Mizoram Gazette and by publication in any other manner it deems suitable, constitute any forest which is not a Government Reserved Forest into Town Forest Reserve and may in like manner vary or cancel any such notification.
- (4) No trees within a Town Forest Reserve shall be cut, felled, tapped or injured in any manner without permission in writing, which will be subject to such condition as may be imposed by the State Government or any other officer empowered in this behalf.

18. Government Forest Tribunal.- The State Government shall appoint a Government Forest Tribunal who shall decide all claims of right on land, all objections against the proposed Reserved Forest. The orders of the Government Forest Tribunal shall be published forthwith in the Mizoram Gazette.

APPENDIX - I

	Vernacular names	Latin names	Mizo names
1.	Sapas, Champas, Sopas	<i>Magnolia pterocarpa</i> , <i>M. sphenocarpa</i> and <i>M. gustavi</i> , <i>Manglietia insignis</i> , <i>M. hookeri</i> and <i>M. caveana</i> , <i>Talauma</i>	Ngiau chi reng reng

Vernacular names	Latin names	Mizo names
	<i>rabaniana</i> and <i>T. phellocarpa</i> <i>Michelia cathcartii</i> , <i>M. excelsa</i> , <i>M. lanuginosa</i> , <i>M. champaca</i> , <i>M. manii</i> , <i>M. punduana</i> , <i>M. oblonga</i> and <i>M. montana</i>	
2. Chaulmugra, Lantem	<i>Hydnocarpus kurzii</i>	Kurzii
3. Nahor, Nageswar	<i>Mesua ferrea</i>	Herhse
4. Sia Nohor, Karal, Kasukoroi (Cachar) Serpai (Kuki)	<i>Khaya assamica</i> and <i>K. floribunda</i>	Serpai
5. Gurgra, Nagabhe or Makria	<i>Schima wallichii</i> and <i>S. khasiana</i>	Khang
6. Hollong	<i>Dipterocarpus pilosus</i>	Lawngthing
7. Sal	<i>Shorea robusta</i>	Lawngthing tha chi
8. Makai	<i>Shorea assamica</i>	
9. Simul	<i>Bombax ceiba</i>	Phunchawng
10. Rata	<i>Dysoxylum binectariferum</i>	
11. Amari Rata	<i>Amoora rohituka</i> <i>A. wallichii</i> and <i>A. chitragonga</i>	Salatah
12. Kolia, Hoga, Poma, Hotia	<i>Chukrasia tabularis</i>	Zawngtel
13. Poma	<i>Cedrela toona</i> , <i>C. febrifuga</i> and <i>C. microcarpa</i>	Tel
14. Sisso	<i>Dalbergia sissoo</i>	
15. Ping	<i>Cynometra polyandra</i>	Kawrhreiha
16. Sonalu, Sanurur	<i>Cassia fistula</i> and <i>C. nodosa</i>	Makpazangkang (Banarlathi)
17. Khair, Khoira	<i>Acacia catechu</i>	
18. Moi sunbi	<i>Albizia lucida</i>	
19. Koroi	<i>Albizia procera</i>	Kangtek
20. Hiharu, Koroi-moroi	<i>Albizia odoratissima</i>	Thingri
21. Jullili, Duang, Fikiri	<i>Altingia excelsa</i>	Hriang
22. Hollock, Jhalna	<i>Terminalia myriocarpa</i>	Char
23. Bogi Jamuk	<i>Eugenia praecox</i>	Char
24. Fatjam, Barja-muk	<i>Syzygium cumini</i>	Hmuipui
25. Sida	<i>Lagerstroemia flos-reginae</i>	Thlado
26. Ajhar, Farul	<i>Lagerstroemia parviflora</i>	Thlado
27. Khokan, Ramdala	<i>Duabanga sonneratioides</i>	Zuang
28. Planikadam, Gahorichapa	<i>Nyssa sessiliflora</i>	Banphar chikhat
29. Tarakchapa, Haldu Haludchaki	<i>Haldina cordifolia</i>	
30. Kurta	<i>Palaquium polyanthum</i>	
31. Mohidal, Kawatuli	<i>Cordia fragrantissima</i>	Muk
32. Ahui	<i>Vitex peduncularis</i>	Thingkhawilu
33. Gomari, Gamarh	<i>Gmelina arborea</i>	Thlanvawng

Vernacular names	Latin names	Mizo names
34. Bonsum, Nikahi	<i>Phoebe attenuata</i> and <i>Hainaniana</i>	Zobul Khangwal
35. Gonsoroi, Gondrei	<i>Cinnamomum cecicodaphne</i> and <i>C. glanduliferum</i>	
36. Jal Sundi	<i>Alseodaphne owdeni</i>	Bulchi
37. Naga Dalchini, paderai	<i>Cinnamomum zeylanicum</i>	Thingrai
38. Agar, Sasi	<i>Aquilaria malaccensis</i>	Thingrai
39. Kuhir	<i>Bridelia retusa</i>	
40. Uriam	<i>Bischofia javanica</i>	Khuangthli
41. Garokhuta, Chhamolia	<i>Aporosa roxburghii</i>	
42. India rubber	<i>Ficus elastica</i>	Thelret
43. Kathal	<i>Artocarpus integrifolia</i>	Lumkhuang
44. Sam	<i>Artocarpus chaplasha</i>	Tatkawng
45. Dud chempa	<i>Pseudostreblus indica</i>	
46. Bola	<i>Morus laevigata</i>	Lungli
47. Jinari	<i>Podocarpus nerifolia</i>	
48. Monailateku (in the districts of Nowgong & Sibsagar)	<i>Aglaia</i> sp.	
49. Thutmala (in the districts of Cachar, Sylhet and Nowgong)	<i>Garuga pinnata</i>	
50. Ruhimalla	<i>Lannea coromandelica</i>	
51. Bhelu (in all Forest Divisions)	<i>Tetrameles nudiflora</i>	Thingdwal
52. Kadam (in Sylhet, Cachar, Lakhimpur, Kamrup, Haltugaon and Garo Hills Forest Div.)	<i>Neolamarckia cadamba</i>	Banphar
53. Kalasam, Kharika Chopa	<i>Cryptocarya</i> sp.	
54. Banjalakia, Bospat and Satiana	<i>Amygdalus</i> sp.	Thuamriat
55. Kurial	<i>Dipterocarpus turbinatus</i>	

APPENDIX - III

Government of Mizoram

Environment & Forests Department, Mizoram - Aizawl

NOTIFICATION

No. 8. 11020/1/91-EST.- In exercise of the power conferred by sub-section (1) of Sec. 6 of the Mizoram Forest Act, 1955 the Government of Mizoram is pleased to publish the following schedule of rates of royalty leviable on all classes of Forest Produce removed from any Forest in Mizoram till further orders.

This supercedes the Notification No. 41/74/15 dated 9th October, 1974 and will be effective from 1st September, 1994.

13. Rates for Minor Forest Produce:-

Sun Grass or Thatching Grass (in bundles):

0.30 metre in girth	... Rs. 17.00 per 1000 bundles
0.45 metre in girth	... Rs. 25.00 per 1000 bundles
0.60 metre in girth	... Rs. 75.00 per 1000 bundles

(22) Increase or decrease of any of the rates is vested in the Principal, Chief Conservator of Forests, Mizoram to a limit of 25 per cent. of decrease and 25 per cent. increase according to exceptional size or good quality of forest produce or distance and difficulties of extraction.

(23) All other minor forest produce not listed above such as beewax, honey, ivory, agar (*Aquilaria agallocha*), chaulmugra (*Hydnocarpus kurzii*), lac, rubber, pati (*Cinnamomum obtusifolium*), etc. will be charged at 12 1/2 per cent "*ad valorem*" as fixed by the P.C.C.F., Mizoram.

(24) Mizoram sales tax at rates prevalent will be leviable on payment of royalty for any kind of forest produce operated under permit only.

(25) "*Ad valorem*" rates will be issued on 1st April of each year from the Office of the Principal, Chief Conservator of Forests, Mizoram, Aizawl.

THE MANIPUR FOREST RULES, 1971*

CHAPTER I Preliminary

2. Definitions.- In these rules, unless there is anything repugnant in the subject or context-

(a) "Act" means the Indian Forest Act, 1927 (16 of 1927).

CHAPTER V Reserved Trees in Protected Forests

22. Certain trees to be reserved.- All trees of the undermentioned species standing on any constituting protected forests shall be reserved:

Sl. No.	Botanical Name	Manipuri Name	Assamese or Bengali Name
(1)	(2)	(3)	(4)
1.	<i>Adina cordifolia</i>	...	Haldu
2.	<i>Albizia procera</i>	Khal	...
3.	<i>Albizia</i> spp.	Uil	...
4.	<i>Alnus nepalensis</i>	Pareng	...
5.	<i>Amoora rohituka</i>	Heirangoi	Amari
6.	<i>Amoora wallichii</i>	...	Rata
7.	<i>Anthocephalus cadamba</i>	Keli Kodom	Kodam
8.	<i>Artocarpus chaplasha</i>	Cham	Cham
9.	<i>Artocarpus integrifolia</i>	Theibong	Kathol
10.	<i>Bischofia javanica</i>	Uthum Naraobi	...
11.	<i>Bombax insigni</i>	Khuman Tera	...
12.	<i>Bombax malabaricum</i>	Tera	...
13.	<i>Canarium resiniferum</i>	Mekruk	Khuna
14.	<i>Cassia fistula</i>	Chahul	Soharu
15.	<i>Cedrella toona</i>	Tairel	Poma
16.	<i>Cedrella serrata</i>	Ching Tairel	...
17.	<i>Chikrassia tabulris</i>	Taimareng	...
18.	<i>Cinnamomum cecidodaphne</i>	...	Gondroi
19.	<i>Cynometra polyandra</i>	Nanap	Ping
20.	<i>Dipterocarpus turbinatus</i>	Yangou	...

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

21.	<i>Dipterocarpus tuberculatus</i>	Khangra	---
22.	<i>Duabanga sonneratioides</i>	Tal	Tumdala
23.	<i>Emblica officinalis</i>	Heikru	---
24.	<i>Eugenia jambolana</i>	Jam	Jamun
25.	<i>Gmelina arborea</i>	Wang	Gamari
26.	<i>Juglans regia</i>	Heijuga	Akhrot
27.	<i>Kayea floribunda</i>	---	Karol
28.	<i>Kydia calycina</i>	Khabi	---
29.	<i>Lagerstroemia flos-reginae</i>	Jarol	Ajhar
30.	<i>Litsaea poyantha</i>	Tumilla	---
31.	<i>Macaranga denticulata</i>	Lakoi	---
32.	<i>Mangifera indica</i>	Hejnou	Aam
33.	<i>Mansonia dipikae</i>	---	Badam
34.	<i>Melanorrhoea usitata</i>	Khew	---
35.	<i>Messua ferrea</i>	Uthao Inagehwal	Nahor
36.	<i>Michelia</i> spp.	Leihao	Champa
37.	<i>Phoebe</i> spp.	Uningthou	Bonsum
38.	<i>Pinus khasia</i> (syurpnisularis)	Uchan	---
39.	<i>Schima wallichii</i>	Usoi	---
40.	<i>Stereospermum chelonoides</i>	Mishi	---
41.	<i>Tectona grandis</i>	Chingsu	---
42.	<i>Terminalia chebula</i>	Manahi	Haritaki
43.	<i>Terminalia myriocarpa</i>	Tolhao	Hollock
44.	<i>Tetrameles nudiflora</i>	Wangphop	Tula
45.	<i>Cinnamomum zeylanicum</i>	Ushingsha	Dalchini

CHAPTER VI

Cutting of Trees, Cultivation, etc. in Protected Forests

23. Conditions for exploitation of protected forests.- Exploitation of the protected forests shall be subject to the following conditions, namely-

- (i) No tree shall be girdled, pollarded or lopped off its branches.
- (ii) No trees shall be wounded for the collection of gum and resin.
- (iii) No trees shall be uprooted, burnt or injured in any other manner.
- (iv) No tree other than that specifically marked for felling or permitted to be removed by a general order of the Divisional Forest Officer, shall be cut.
- (v) No tree under 9 inches girth at breast-height shall be cut.
- (vi) All trees permitted to be cut shall be cut as close to the ground as possible.

24. Removal of forest produce.- No forest produce may be removed from protected forest, except by *bona fide* villagers of the villages notified to be located within the protected forest. No forest produce shall be removed from a plot assigned for cultivation in protected forest or from any trees in such plot except by such *bona fide* villagers of such plot and no forest produce shall be removed from any protected

forest in a village or from any trees in such protected forest except by a *bona fide* villager.

25. Cutting of trees, etc. is prohibited.- Cutting, etc. of trees is prohibited save as provided in these rules.

26. Production of pass or licence.- Any person holding a pass or licence for appropriation or removal of forest produce shall have in his possession the pass or the licence, whenever he enters protected forests for any purpose connected therewith and shall produce the same whenever required to do so by the Forest Officer:

Provided that nothing in this rule shall apply in case of a person who is permitted to remove forest produce without the production of a pass in time of famine or scarcity by any general or special orders of the Government.

27. Levy of royalty.- The Chief Forest Officer shall levy rates of royalty payable for each kind of forest produce removed from protected forests according to schedule fixed by the Government from time to time.

28. Certain privileges admitted to the *bona fide* villagers.- Following privileges are admitted to the *bona fide* villagers residing in the notified villages within the protected forests:

- (i) *Grazing rights.-* They may graze cattle in the area subject to the control of the Forest Department which may close the area or parts of it to grazing from time to time for regeneration.
- (ii) *Wood rights.-* They will have the rights of obtaining wood for their own buildings or firewood and for wooden implements for their own use only but not for sale.
- (iii) *Hunting rights.-* The State rules for the preservation of Wild Life will apply.
- (iv) *Cultivation rights.-* The wet-rice cultivation of the villages within the protected area will continue as before. They will have no *Jhuming* rights in general terms but may have *Jhuming* for certain crops at suitable places subject to the control and supervision of the Forest Department.

31. Certain acts to be regulated by the plans/ schemes approved by the Government.- The cutting, sawing, conversion and removal of trees and timber and pasturing of cattle shall be regulated, as far as may be in accordance with the provisions of working plans/ working schemes duly approved by the Government, in so far they are not inconsistent with these rules.

CHAPTER VII

Transit of Forest-Produced

32. Obstruction on the banks of rivers, etc. is prohibited.-

- (a) All rivers and their banks shall be kept open for the transport of forest produce.
- (b) No person shall cause diversion of the channel or obstruction on the banks or in the channel or any river used for the transport of forest

produce except with the written permission of the Deputy Commissioner or the Chief Forest Officer.

33. Mode of removal of forest produce.-

- (a) No forest produce shall be removed except as provided in sub-rule (b) of this rule unless covered by a pass which shall be in the form of-
- (i) a *permit* issued by a duly authorised Forest Officer allowing the holder to remove forest produce from a specified locality; or
 - (ii) a certificate of origin (in the form prescribed in Appendix "A") in the case of forest produce from private lands for which nothing is due to Government. Such certificate must be issued by the owner of such land or his duly authorised agent and must bear such signature or stamp of the owner or his agent as has been previously registered in the Forest Office and such certificate shall be produced by the holder at the Revenue Station specified therein to be dealt with as note hereafter:

Note.- The certificate of origin must be issued in all cases whether the owner himself or any other person removes the produce.

- (iii) a transit pass (in the form prescribed in Appendix "B") issued by a Forest Officer, in token of full payment of all amounts due to Government on account of the forest produce covered by it. In special cases, the Chief Forest Officer may permit the issue of transit passes by any person duly authorised by him:

Provided that no certificate of origin or other pass shall be required for the transport of home-grown bamboos. No royalty will be realised on bamboos of any kinds unless they are known to have come from Government forest.

- (b) (i) *Lac* intended for export can be moved within a plains area or to a plains area from a neighbouring hill area without a transit pass or permit from the place of origin to the storage godown or premises of the purchaser, subject to the provision of items (ii) and (iii) below.
- (ii) All traders who at any time store lac exceeding 50 maunds in their godowns or premises must register such godowns or premises with the Chief Forest Officer. All traders in the lac not coming under this definition will remain as therefor under the condition of rule 33 (a).
- (iii) All traders who register godowns or premises under (ii) will pay the royalty due on lac brought to such godowns or premises, other than lac covered by a certificate of origin within 7 days of its receipt and receive a storage receipt for the amount.
- (iv) Transit passes will be issued free on request for export of lac against storage receipt issued under item (iii).
- (v) The stock held in the registered storage godowns or premises is subject to check at any time by any Forest Officer and all facilities, etc. for such check must be given by the owners of registered storage godowns or premises.

Explanation.— On receipt of notice from the Chief Forest Officer of any change in the rate of royalty for the lac, the Forest Officer will immediately notify all officers concerned in whose charge lac is cultivated.

35. Forest produce in transit to be detained at the nearest Revenue Station.—

- (a) All forest produce in transit covered by a permit or certificate of origin shall be taken to the nearest Revenue Station, staffed by Government on the route of extraction, except in cases provided for in rule 36, by the person or persons in charge of such forest produce and detained there for examination, measurement or counting and marking, if necessary, by the Officer-in-charge of the Revenue Station.
- (b) In the case of forest produce in transit covered by a permit or a certificate of origin and intended to be exported beyond the area within which it has been collected, a transit pass as prescribed hereinbefore, shall be obtained by the person in charge of such forest produce from the duly authorised Forest Officer in charge of a Revenue Station in exchange for the permit or the certificate of origin and such forest produce shall not be booked or moved by rail, steamer or boat unless covered by such transit pass. When the destination of such forest produce is within the area, the permit or certificate of origin shall be endorsed by the duly authorised officer-in-charge of the Revenue Station in token of full payment of all amounts due to Government and such endorsed permit or certificate of origin shall be deemed to be the transit pass required under these rules:

Provided that it shall be within the power of the officer-in-charge of a Revenue Station to refuse to grant a transit pass or endorse a permit or a certificate of origin, if he has reason to believe that the permit or the certificate of origin covering the forest produce to be false or if full payment of all amounts due to Government in respect of the forest produce has not been made.

36. Permission for any forest produce in transit which are not taken to Revenue Station.—

- (a) Should the person or persons in-charge of any forest produce in transit desire to stop, land, cut up, convert or utilise any such produce before taking the same to a Revenue Station, he or they shall obtain the permission in writing of the officer-in-charge of the nearest Revenue Station. Such officer shall, if he deems fit, grant the permission, proceed in respect of the forest produce as if it had been taken up to a Revenue Station.
- (b) No fee shall be levied for transit passes granted in respect of forest produce from private land covered by a certificate of origin, in respect of forest produce covered by a permit; or in respect of forest produce on which full royalty has been paid.

37. Mode of payment of royalty, etc.— All amounts due to Government whether as royalty, duty, or on any other account in respect of any forest produce in transit shall be paid in such manner as ordered by the Chief Forest Officer.

38. Power of Forest Officer to inspect forest produce in transit.- All forest produce in transit may be stopped and inspected at any place by any Forest Officer and all persons in-charge of such forest produce shall be bound to produce the permit, the certificate of origin or the transit pass covering such forest produce when called upon to do so by the Forest Officer.

47. Register for all consignments of forest produce.- A register should be maintained at each Revenue Station showing the date of arrival of all consignments of forest produce and the date of release and all other necessary particulars. A trader may submit a copy of the arrival report of the consignment of forest produce giving the necessary details direct to the office of the Chief Forest Officer. The officer-in-charge of the Revenue Station will countersign this copy. The Chief Forest Officer should make use of these reports to check the accuracy of the entries in the register.

49. Routes for movement of forest produce in the plains and hill areas.- All forest produce shall be moved by the following routes only in the plains, from the hill areas into the plains and from the plains to the hills:

(1)	Imphal	---	Dimapur Road.
(2)	Imphal	---	Moreh Road.
(3)	Imphal	---	Ukhrul Road.
(4)	Imphal	---	Tamenglong Road.
(5)	Leimakhong	---	Pheidinga Road.
(6)	Mongjam	---	Maibakhul Road.
(7)	Imphal	---	Kangchup Road.
(8)	Heingang	---	Lamlongei Road.
(9)	Pangei	---	Pukhao Road.
(10)	Pukhao	---	Sawombung Road.
(11)	Imphal	---	Keithenimanbi Road.
(12)	Imphal	---	Tiddim Road.
(13)	Moirang	---	Sugnu Road.
(14)	Kakching Khunjab	---	Sugnu Road.
(15)	Pallel	---	Punjab Road.
(16)	Keirok	---	Machi Road.

50. Penalty.-

- (1) Any person contravening any of the provisions of these rules shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.
- (2) Penalty which are double of those mentioned in sub-rule (1) of this rule may be inflicted in cases where the offence is committed after sunset and before sunrise or after preparation for resistance to lawful authority or where the offender has been previously convicted of a similar offence.

Forest Produce imported into the territory of Manipur

52. Foreign pass.- All forest produce imported into the territory of Manipur shall be covered by a foreign pass to be registered.

53. Form, etc. of foreign pass must be registered in C.F.O's Office.- Every foreign pass must be in form which, and must be signed by an official whose

designation has been registered in the office of the Chief Forest Officer and every foreign property mark must be of a description which has been registered in the said office.

55. Imported forest produce may be conveyed to first depot without a pass.- Any forest produce which is imported may be conveyed within the limits of Manipur territory as far as the first depot is established and if stocked or deposited in any place between such limits and such depot the foreign pass covering the material shall at once be delivered at that depot.

57. Saving of recognised privileges.- Nothing in these rules shall be deemed to require or to have required the possession of a pass in cases where exemptions from such possession for enjoyment of certain privileges recognised by the Government have been granted before the passing of the rules.

Forest Depots

58. Depots and their purpose.- The Chief Forest Officer may establish at such places as he shall think fit, depots to which forest produce shall be taken-

- (a) for examination previous to the grant of a pass in respect thereof under these rules; or
- (b) for determining the amount of money, if any, payable on account thereof to Government, and for the payment of any money so found to be due; or
- (c) in order that any mark required by law or by these rules to be affixed thereto, may be so affixed.

61. Vessel conveying forest produce by river to call at forest depot on banks.- The person in-charge of any vessel which carries forest produce by a river, on the banks of which one or more depots established under these rules are situated shall call and stop his vessel at every such depot which he has to pass, in order that the forest produce may be examined if necessary and the person in charge of such vessel shall not proceed with such vessel pass any such depot without permission of the Forest Officer in-charge of such depot.

Stoppage in Transit

65. Forest produce in transit may be stopped and examined by certain officers.-

- (1) Forest produce in transit may be stopped and examined in any place by any forest, police, revenue officer, if such officer shall have reasonable grounds for suspecting when any money which is due to the Government in respect thereof has not been paid or that any forest offence has been or is being committed in respect thereof:

Provided always that no such officer shall vexatiously or unnecessarily delay the transit of any forest produce which is lawfully in transit, or vexatiously or unnecessarily unload any such forest produce, or cause the same to be unloaded, for the purposes of examination.

- (2) The person in-charge of forest produce shall furnish to any such officer all the information which he is able to give regarding the same, and if he is removing the same under a pass shall produce such pass, on demand, for inspection of such officer and shall not in any way prevent or resist the stoppage or examination of the said forest produce by such officer.

Exclusion of Local Areas from Application of Rules

67. Local areas to which the rules of this Chapter are not applicable to be published.- The Manipur Government may, by notification in the Official Gazette, exempt from the operation of the rules contained in this Chapter any local area specified in such notification.

THE GARO HILLS DISTRICT (FOREST) ACT, 1958*

(Act No. II of 1958)

An Act to provide for the management of any forest not being a reserved forest in the Autonomous District of Garo Hills and for the levy and collection of forest revenue

2. Definitions.-

(12-A) "Forest produce" means anything excluding stones, boulders, shingle, gravel, limestone, *kanker* and all other materials which are defined as minor minerals under rule 3 (iii) of the Mineral Concession Rules, 1949, when found in, or brought from any forest under the jurisdiction of the District Council and shall include:

- (a) trees, leaves and fruits and all other parts and produce of trees;
- (b) plants not being trees, including grass, creepers, seeds, moss, orchids and all parts and produce of such plants.

(12-B) "Forest produce" shall also include the following whether found in, or brought from, any forest under the jurisdiction of the District Council or not, but excluding those brought from a Government Reserved Forest; timber, charcoal, wood oil, resin, natural varnish, bark, lac, myrobalans.

3. Power of the District Council to manage forest.- The management of any forest other than Government Reserved Forest within the Garo Hills Autonomous District is vested in the District Council of the Garo Hills Autonomous District.

4. Power to constitute reserved forest.- The District Council may constitute any forest land at the disposal of the District Council a reserved forest in the manner hereinafter provided.

13. Acts prohibited in such forests.-

- (d) quarries stone, burns lime, or charcoal, or collects subject to any manufacturing process, or removes any forest produce,

shall be punished with imprisonment for a term which may extend to six months or with fine, which may extend to five hundred rupees or with both.

17. Constitution of Village Forests.- The Executive Committee may, by notification in the *Assam Gazette* and also in the District in such manner as it may deem appropriate, constitute any land at the disposal of the District Council a Village Forest for the collective benefit of any Village Community or group of Village Communities, and may in like manner vary or cancel any such notification.

* The complete Act is not reproduced. Only the relevant sections have been extracted.

18. Powers to make rules for Village Forests.- The Executive Committee may make rules for regulating the management of Village Forests, prescribing the conditions under which the community or group of communities, for collective benefit of which any such forest is constituted, may be provided with forest produce or with pasture, and their duties in respect of the protection and improvement of such forests.

20. Application of Chapters IV, VI, VII, VIII, IX, X and XI of the Assam Forest Regulation, 1891.-

- (1) The provisions of the following Chapters of the Assam Forest Regulation, 1891 (Regulation No. VII of 1891), namely, Chapters IV, VI, VII, VIII, IX, X and XI and the rules made thereunder as may be amended from time to time shall, *mutatis mutandis* apply in respect of the management of Council Forests and levy and collection of forest revenues.
- (2) The provisions of all rules made under the Assam Forest Regulation, 1891 (Regulation No. VII of 1891), having the force of law, and the provisions of the Garo Hills Regulation, 1882 (Regulation No. 1 of 1882), and the rules and orders issued thereunder relating to the forests and forms and registers as were in force immediately before the commencement of this Act shall *mutatis mutandis* apply in respect of the management of the Council Forests and such cognate matters.

RULES AND ORDERS IN FORCE IN CERTAIN DISTRICTS
(Regulation No. 1 of 1882)*

CHAPTER I

THE GARO HILLS REGULATION, 1882

SECTION 1

The Garo Hills Regulation I of 1882

2. Power to the Chief Commissioner.- The Chief Commissioner may, from time to time, subject to the control of the President, by notification in the *Assam Gazette*:

- (a) *To prohibit certain acts.-* Prohibit all or any person, not being natives of the Garo Hills district, from doing any of the following acts within the limits of the said district without a licence, that is to say,-

cutting wood;

hunting animals;

collecting wax, ivory, India-rubber, or other jungle products, and

- (b) *To regulate the granting of licenses to do such acts.-* Prescribe the conditions and restrictions subject to which, and the amount of fees on payment of which, and the persons by whom, licenses to do any of the said acts may be granted.

3. Penalties for offences against Sec. 2.- Any person who does any act in contravention of a notification issued under Sec. 2 of this Regulation, and any holder of a licence under the said section who does any act in contravention of a restriction or condition imposed by such licence,

shall be punishable for a first offence with a fine not exceeding one hundred rupees, and for each subsequent offence with imprisonment of either description for a term which may extend to three months, or with a fine not exceeding five hundred rupees, or with both;

and the Magistrate by whom he is convicted may further order that all animals or carcasses of animals, and all wood, wax, ivory, India-rubber, or other jungle products found in his possession, and all animals, ropes, nets, guns, ammunition and other things used by him in the commission of such offence, shall be confiscated.

SECTION 2

Rules having the Force of Law

(A) RULES RELATING TO THE USE OF FOREST PRODUCE IN ZAMINDARY LANDS IN THE GARO HILLS DISTRICT THAT ARE UNDER THE MANAGEMENT OF THE STATE UNDER SEC. 2 (A) AND (B)

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

1. **Zamindari forests in Garo Hills.**— In such lands, all persons, not being natives of Garo Hills District, are prohibited from cutting wood, hunting animals and collecting wax, ivory, India-rubber or other forest-produce, save under and subject to the provisions of trade or Gurkati permits Appendices A and B to these rules and granted by the Divisional Forest Officer or other person empowered by him in this behalf.

2. (a) *Trade permits* will be issued for the removal of such timber and other forest produce as may be specified therein.

(b) Trade permits may be issued for any period not exceeding twelve months from the date of issue, but the period of any permit may, at the discretion of the Divisional Forest Officer, be extended for a further maximum period of twelve months on payment by the permit-holder, of a fee as fixed by the Divisional Forest Officer, not exceeding 25 per cent, of the royalty payable on the produce to be removed under the permit.

(c) *Royalties* shall be charged on the timber and other forest produce removed under a trade permit at the rates prescribed in Appendix C (published separately) to these rules. Increase and decrease of any of the rates is vested in the Chief Conservator of Forests to a limit of 25 per cent of decrease and 25 per cent increase according to distance and difficulties of extraction.

3. *Gurkati permits* will be issued for the year ending on the 30th June for the removal by land of thatching grass, bamboos, canes, reeds, leaves and poles upto 1 foot 6 inches in girth other than reserved under the Assam Forest Regulation in such quantity as can be carried by the holder of the permit on his person. The fee for one Gurkati permit shall be as follows:

		Rs. a. p.
(i) For House-tax paying natives of the Garo Hills District	...	1 0 0
(ii) For other persons	...	5 0 0

4. Trade permits and Gurkati permits are not transferable except with the written permission of the Divisional Forest Officer.

A Gurkati permit must be in the possession of the persons cutting or removing the produce and must be produced on demand for inspection by any Forest Officer, Police Officer or any Revenue official.

(B) RULES RELATING TO THE USE OF FOREST PRODUCE OF LAND AT THE DISPOSAL OF GOVERNMENT NOT INCLUDED IN A RESERVED OR VILLAGE FOREST IN THE GARO HILLS DISTRICT

In these rules the expression "Unclassed State Forests" means any land at the disposal of the State not included in a reserved or village forest.

5. No reserved or unreserved trees shall be felled, cut, girdled, marked, lopped, tapped or injured by fire or otherwise, no timber sawn, converted or removed, and no other forest produce collected or removed except under and subject to the

conditions of a trade or Gorkati permit prescribed in these rules or under the orders of the State Administration or of the Conservator of Forests:

Provided that-

- (i) The cutting of *jhums* may be practised by house-tax-paying natives of the Garo Hills subject to the control of the Deputy Commissioner.
- (ii) (a) All house-tax-paying natives of the Garo Hills district, resident or *jhuming* in that district may, without any permit, remove and utilise free of royalty such timber and other forest produce as they may require for their own use within the district, but not for sale, trade, mortgage or gift.

The Concession is extended to servants of the State serving in the Garo Hills.

- (b) All other residents of the Garo Hills District who pay land revenue and non-residents who hold temporarily settled land in the plains *mauzas* of the district may, without permit, remove and utilise free of royalty such unreserved timber and other forest produce as they may require for their own use within the district, but not for sale, trade, mortgage or gift.

Note.- "The concession in sub-clauses (a) and (b) are limited except with the permission of the Divisional Forest Officer, to the quantity extracted at a time which a concessionaire can himself carry."

6. There shall be two classes of permits, viz.-

- (i) Trade permits.
- (ii) Gorkati permits.

(i) (a) Trade permits shall be issued by the Deputy Commissioner, Divisional Forest Officer or any other officer empowered in this behalf in the form prescribed in Appendix A to these rules, for felling, cutting, conversion and removal of all reserved timber and for unreserved timber, over 1 foot 6 inches girth measured at 4 feet from the ground and for all other forest produce when not actually carried on by the person under a Gorkati permit if cut, collected or removed for purposes of trade.

(b) Trade permits are not transferable except with the written order of the Deputy Commissioner or the Divisional Forest Officer. They may be issued for any period not exceeding twelve months from the date of issue. Such period may be extended for a further maximum period of twelve months at the discretion of the Divisional Forest Officer on payment by the permit-holder of a fee not exceeding 25 per cent of the royalty payable on the forest produce removed under the permit.

(c) Royalty shall be payable on the forest produce removed under a trade permit at the rates prescribed in the Schedule published separately.

Increase and decrease of any of the rates is vested in the Senior Conservator of Forests to a limit of 25 per cent of the decrease and 25 per cent increase according to distance and difficulties of extraction.

(ii) (a) Gorkati permits shall be issued by the Deputy Commissioner, Divisional Forest Officer or any other officer or person duly empowered on this behalf in the form prescribed in Appendix B to these rules for the collection and removal by land

of firewood, thatching grass, bamboos and canes, reed, leaves and poles of unreserved species up to 1 foot 6 inches in girth in such quantities as can be carried by a permit-holder on his person.

(b) Gurkati permits are not transferable except with the written order of the Deputy Commissioner or the Divisional Forest Officer, and they must be in the possession of their holders when cutting or removing any forest produce and must be produced on demand for inspection by any Forest, Police or Revenue Officer. They will be issued for the year ending on the 30th June.

(c) A Gurkati permit will be issued to one person only at the following rates:

	Rs.
For house-tax-paying natives of the Garo Hills district removing forest produce for sale	1
For other persons	5

7. No lease for any fixed period giving the right of collecting or removing rubber, cane, *kath* and *kutch*, *lac*, *agar* or other forest produce from the Unclassed State Forests shall be given without the previous sanction of the Conservator of Forests.

8. All fees and royalties payable on account of any forest produce collected or removed under these rules shall be paid previous to the issue of the trade or Gurkati permit; but it is left to the discretion of the Conservator of Forests to decide whether such payment shall be recovered in full or in part when a trade permit is issued. In no case will forest produce be permitted to be removed from a forest or in the case of produce taken to an authorised sale depot, from the sale depot until full payment has been recovered from the permit-holder.

9. All timber and other forest produce in respect of which there is reason to believe that any money is payable to Government under these rules, when in transit in any part of the district, may be stopped and examined by any Forest or Police Officer and all persons in charge of such timber or other forest produce shall be bound to produce any permit or certificate or pass which may have been granted to them for its removal when called upon to do so by such Forest or Police Officer.

10. Any person infringing any of the above rules shall be liable to be punished with imprisonment for a term which may extend to six months, or with a fine which may extend to five hundred rupees, or with both.

SECTION 3

Executive Orders relating to the Garo Hills

2. **Gurkati.**- Commission at a rate not exceeding 10 per cent on collections on account of Gurkati is payable to the Laskars and Sirdars of the Garo Hills and to Forest subordinates below the rank of Forest Rangers and other servants of the State and other persons approved jointly by the Deputy Commissioner and the Divisional Forest Officer when they are entrusted with the work of selling such passes.

3. The following rules are prescribed for the sale of Gurkati permits in the Garo Hills Division:

- (i) Range and Beat Officers will report on the condition of each new permit seller proposed giving full details about his holdings, cattle, connections, occupation, etc. in order that the Divisional Forest Officer may judge of his suitability for the work.
- (ii) Permit sellers except Laskars must bring or send their books monthly to the Range or Beat office during the week the officer in charge is preparing his Cash Accounts and must at the same time remit all money due to Government and the following penalties may be imposed for failure to do so-
 - (a) Reduction of commission from 10 per cent to 5 per cent in the case of failure to produce the books and pay the revenue in full during the first month.
 - (b) Confiscation of commission due for failure to produce the books and pay the revenue in full for two months running.
- (iii) Permit sellers who are Laskars must bring or send their books to the Range/ Beat office and deposit their collections every quarter, failing which they shall forfeit the commission due to them for the quarter.

4. The Garos and other aboriginal tribes residing in the hills are allowed to take free of charge from forest reserves bamboos, firewood, thatching grass and unreserved trees that may be required by them for their own use within the district but not for sale, trade, mortgage or gift.

CHAPTER II THE KHASI AND JAINTIA HILLS SECTION I

RULES RELATING TO THE USE OF FOREST PRODUCE ON LAND AT THE DISPOSAL OF THE STATE IN THE JAINTIA HILLS AND BRITISH VILLAGES OF THE KHASI HILLS AND NOT INCLUDED IN A RESERVED OR VILLAGE FOREST.

1. **Definitions.**- In these rules the expression "Unclassed State Forests" means any land at the disposal of the State in the Jaintia Hills and the British villages in the Khasi Hills and not included in a reserved or village forest.

2. No reserved or unreserved trees shall be felled, cut, girdled, marked, lopped, tapped or injured by fire or otherwise, no timber sawn, converted, or removed and no other forest produce collected and removed, except under and subject to the conditions of a *trade permit* as prescribed in these rules, and granted by the Deputy Commissioner or any other officer authorised by him in this behalf or under a written order of the Provincial Government:

Provided that-

- (a) the cutting of *jhums* by Syntengs and Khasis may be practised subject to the control of the Deputy Commissioner;
- (b) natives of the Khasi and Jaintia Hills district shall be allowed to remove and utilise free of royalty such timber and other forest produce, except *orchids* as they require within the district but shall not be permitted to export timber or other forest produce beyond the district except under a trade permit.

3. Trade permits shall be issued in the form prescribed in Appendix B to these rules for the removal of all reserved trees and of unreserved trees over 1 foot 6 inches in girth measured at 4 feet from the ground and all other forest produce. Trade permits are not transferable.

4. Trade permits will be issued ordinarily for any period not exceeding twelve months, but the period of such permit may be extended up to a further maximum of twelve months at the discretion of Deputy Commissioner and on payment of a fee which shall not exceed 25 per cent of the amount of royalty under the permit. The Deputy Commissioner may, however, remit the fee altogether in cases in which he considers this justified.

The power given above to the Deputy Commissioner with regard to granting of extension of time on time-expired permits may be exercised by the Sub-divisional Officer, Jowai, subject to the conditions that the sanction given by the Sub-divisional Officer is confined to cases in which the royalty payable at the time when extension is asked for does not exceed Rs. 100 and that his power of granting extension is limited to the period of four months.

5. Royalty shall be charged on forest produce removed from the Unclassed State Forests under a trade permit at the rates prescribed in the Schedule published separately.

Increase and decrease of any of the rates is vested in the Senior Conservator of Forests to the limit of 25 per cent of decrease and 25 per cent increase according to distance and difficulties of extraction.

6. The royalty due shall be paid at the time of marking the produce previous to its removal or, where this is permitted, at the first revenue station reached by the forest produce.

7. No timber or other forest produce under a trade permit shall be landed, converted, utilised or exported unless covered by a pass to be issued on receipt of royalty in the form prescribed in Appendix D to this rule.

8. All timber or other forest produce when in transit may be stopped and examined by any Forest Officer, Sirdar, Dolloi, or Police Officer, and all persons in charge of such timber or other forest produce shall be bound to produce any permit or pass which may have been granted to them for its removal when called upon to do so by such Forest Officer, Sirdar, Dolloi or Police Officer.

9. In the Unclassed State Forests, leases for any fixed period giving the right of collecting or removing rubber, cane, *kuth* or *cutch*, *lac*, *agar* or other forest produce may be given by the Deputy Commissioner who should consult the Conservator of Forests as to the terms of the lease.

10. Grazing of cattle in Unclassed State Forests by natives of the Khasi and Jaintia Hills district is permitted free. Professional graziers may be permitted to graze their cattle in areas selected by the Deputy Commissioner under the conditions and on payment of the rates prescribed by him.

11. Any person infringing any of the above rules shall be liable to be punished with imprisonment for a term which may extend to six months or with fine which may extend to Rs. 500 or with both.

SECTION 2

Executive Orders relating to the Khasi and Jaintia Hills

1. Relationships between the Deputy Commissioner in charge of forest and the Conservator.- The Deputy Commissioner, Khasi and Jaintia Hills, is, subject to the control of the Commissioner of Division directly responsible to the Provincial Government for the working of the forest within his district. The position occupied by the Conservator in regard to the above-named forests is that of an adviser to the Provincial Government and to the Deputy Commissioner. The Deputy Commissioner should consult the Conservator on all technical forest matters and is expected to follow the advice of the latter officer in such matters as far as is possible. Should he reject the advice of the Conservator he must justify such rejection on political or other grounds. In the event of the Conservator disagreeing with any action taken by the Deputy Commissioner in regard to forest matters he is empowered to refer the question through the Commissioner of Division for the decision of the Governor.

RULES FOR THE REMOVAL OF ORCHIDS FROM THE JAINTIA HILLS AND SUCH PORTION OF THE KHASI HILLS AS CONSTITUTE BRITISH TERRITORY AND FOR THEIR SALE AT SHILLONG

6. (1) The term "Collector" is intended to refer to agents of florists' firms from Europe and elsewhere who regularly trade in orchids.

(2) *Removal of orchids.*- A licence to a "Collector" for the removal of orchids from the Jaintia Hills and such portions of the Khasi Hills as constitute British territory will not be granted except with the special permission of the Provincial Government.

(3) Sale of orchid plants from either British or Siem's territories is prohibited in the station of Shillong except under a *licence* from the Deputy Commissioner, Khasi and Jaintia Hills, which will be granted on payment of the fees noted below:

<i>Vanda caerulea</i>	}
<i>Cymbidium eberneum</i>	}
<i>Cypripedium hirsutissimum</i>	}
<i>Phajus wallichii blumei</i>	}
<i>Dendrobium litui-florum</i>	}

"	<i>freemanii</i>		}
"	<i>crystallinum</i>	Re. 1 per plant.	}
"	<i>formosum</i>		}
"	<i>infundibulum</i>		}
"	<i>devonianum</i>		}
"	<i>falconery</i>		}
"	<i>wardianum</i>		}
All other kinds		0.50 nP.	

(4) The exportation of the orchid *Cypripedium ensigne* is "prohibited".

(5) Licences are not transferable and are invalid after the expiry of the term specified therein.

(6) The flowers of orchids can be sold without a licence.

(7) Any person found removing or trading orchids in contravention of these rules will be prosecuted.

CHAPTER III EXECUTIVE RULES RELATING TO THE LUSHAI HILLS

RULES FOR THE MANAGEMENT OF THE FORESTS IN THE LUSHAI HILLS MIZO DISTT.

In the following rules:

(1) *Lushai Hills*.- "Tree" includes palms, bamboos, stumps, brushwood, and canes.

(3) "Forest produce" includes:

- (a) the following whether found in or brought from, a forest or not, that is to say, timber, charcoal, cautchouc, catechu, wood-oil, resin, natural varnish, bark, lac and myrobalans; and
- (b) the following when found in, or brought from, a forest, that is to say-
 - (i) trees and leaves, and fruits, and all other parts, or produce not hereinbefore mentioned of trees;
 - (ii) plants not being trees (including grass, creepers, reeds and moss) and all parts or produce of such plants; etc.

1. The administration of forests in the Lushai Hills is vested in the Superintendent, Lushai Hills subject to the general supervision of the Conservator of Forests, Assam, who may report to the Provincial Government on any question affecting the management of the Forests.

2. *Lushai Hills*.- The list of reserved trees entered in Chapter 2 of General Rules framed under the Assam Forest Regulations having the force of law applies to the Lushai Hills.

3. The cutting, sawing, conversion and removal of trees and timber and the collection, manufacture and removal of forest produce for purposes of export from the Lushai Hills are prohibited, except under a *trade permit* granted by the Superintendent, Lushai Hills, or any other Officer empowered in this behalf, or under a written order of the State Government. In the case of export to Bengal, instead of a trade permit an 'entry pass' will be issued free of charge by an authorised Officer of the Bengal Forest Department.

4. Trade permits shall be granted for timber, reserved or unreserved, or other forest produce cut, collected, or removed for purposes of trade.

The Divisional Forest Officers of Cachar and Sylhet and anyone authorised by them shall be empowered to issue trade permits for the removal of forest produce from the Lushai Hills to the Cachar and Sylhet districts, respectively, to persons approved of by them and the Superintendent, Lushai Hills.

5. The royalties to be charged on all forest produce, removed from the Lushai Hills forests to the Sylhet and Cachar districts under a trade permit are published separately. Increase and decrease of any of the rates is vested in the Senior Conservator of Forests to a limit of 25 per cent of decrease and 25 per cent increase according to distance and difficulties of extraction.

6. Royalties at the rates prescribed separately shall be charged for forest produce removed from the Lushai Hills forest into Bengal. Increase and decrease of any of the rates is vested in the Senior Conservator of Forests to a limit of 25 per cent of decrease and 25 per cent increase according to distance and difficulties of extraction.

7. No reserved tree under 6 feet in girth except *Nageswar (Messua ferr)* the girth limit of which is 5 feet, shall be felled.

8. All fees and royalties payable on account of any forest produce collected or removed under these rules shall be paid for at the time of marking previous to removal, or at the first revenue station reached by the forest produce.

9. No forest produce shall be removed in transit post or any revenue station, unless provided with a pass *i.e.* the form given in Appendix C. Such passes may be obtained from the officer-in-charge of the first revenue station reached by such forest produce.

12. India-rubber-yielding trees growing in the Lushai Hills may be tapped only during the months of December, January, February and March. The roots of the trees and the lowest part of the stem within three feet from the surface of the ground may not be tapped, and no India-rubber trees may be felled, burnt or lopped. The incisions must not be less than two feet apart, and must not exceed one foot in length and four inches in breadth.

13. No person shall extract, collect, or remove India-rubber, being the produce of trees growing in the Lushai Hills, save under, and subject to the conditions of an India-rubber collecting licence granted by the State Government, or by the Superintendent, Lushai Hills, or any other officer empowered in this behalf. Such licence shall be in the form contained in Appendix (omitted) to these rules, and the amount of the fee for the same, which may from time to time be prescribed by the State Government, shall be printed on each licence.

14. No person shall purchase any India-rubber, being the produce of trees on any such land, save under, and subject to the conditions of an India-rubber-purchasing licence granted by the State Government or by the Superintendent, Lushai Hills, or any other officer empowered in this behalf. Such licence shall be in the form contained in Appendix (omitted) to these rules, and the amount of the fee for the same, which may from time to time be prescribed by the State Government, shall be printed on each licence.

16. All breaches of the above rules shall be punishable under Sec. 188 of the Indian Penal Code.

17. The Aijal Reserve, whose boundaries are on record in the office of Superintendent, Lushai Hills, is constituted by executive orders to preserve the amenities and conserve the water-supply of Aijal and its neighbourhood. Subject to these ends being kept in view, the control of timber and other forest produce rests entirely with the Superintendent, Lushai Hills, subject to the general control on questions of policy, of the Conservator of Forests.

18. In areas outside the Aijal Reserve, all residents of the Lushai Hills District who pay house-tax or land revenue may, without any permit, remove and utilise free of royalty such timber and other forest produce as they may require for their own use within the district, but not for sale, trade, mortgage or gift or for use outside the district provided that the quantity extracted at a time shall be limited, except with the permission of the Superintendent in charge of Forests to what each resident can himself carry. Timber and other forest produce extracted in excess of this quantity will be liable to payment of royalty at the discretion of the Superintendent in charge of Forests.

CHAPTER IV

THE NAGA HILLS JHUM LAND REGULATION, 1946

9. **Forest produce.**- Subject to any orders that may be made under this Regulation, persons having customary rights to any 'jhum' land shall be entitled to forest produce from such land for their own use or the use of members of their own village or community, but shall not, without the permission of the Land Conservator, be entitled to sell or transfer otherwise such produce to any other person.

UNITED KHASI-JAINTIA HILLS AUTONOMOUS DISTRICT (MANAGEMENT AND CONTROL OF FORESTS) ACT, 1958*

*An Act to provide for the management and control of forests in the
United Khasi-Jaintia Hills Autonomous District.*

1. Definition and interpretation.-

- (a) "District Council" means the District Council of the "Khasi Hills Autonomous District";
- (e) "Executive Committee" means the Executive Committee of the District Council of the United Khasi-Jaintia Hills Autonomous District;
- (f) "Forest" means and shall be deemed to be a forest, if in the area, there are reasonable number of trees, say, not less than twenty-five trees per acre, reserved or unreserved or any other forest produce growing on such area, which have been or are capable of being exploited for purposes of business or trade;
- (h) "Forest produce" includes-
 - (1) those which are found in or brought from a forest namely: timber, charcoal, caoutchoue, resin, bark, myrobalans;
 - (2) trees, plants not being trees including grass, creepers, reids, canes, orchids.

5. Removal of forest produce.- No timber or forest produce shall be removed for the purpose of sale, trade or business from Protected Forests, Green Blocks, Raid Forests, Unclassed Forests and District Council Reserved Forests without the order in writing of the Forest Officer of the District Council.

[Raid forests are those looked after by the heads of the Raid under the management of the local administrative head.]

6. Reserved trees.- The Executive Committee may, by notification in the Assam Gazette, declare certain trees to be reserved trees in addition to the following:

- | | | | |
|----|---------------|----|------------|
| 1. | Diengblei | 5. | Diengngai |
| 2. | Diengnganblei | 6. | Dieng-agar |
| 3. | Niar-iong | 7. | Dienglaram |
| 4. | Niar-lieh | 8. | Diengbai |

* The complete Act is not reproduced. Only the relevant sections have been extracted.

8. Rates of royalty.- The Executive Committee may make rules fixing the rates and realisation of royalty for each class of trees, timber or forest produce which shall be published in the Assam Gazette.

11. All timbers or forest produce removed from Private Forests shall be liable to payment of royalty prescribed for such timber or forest produce under S. 8 above, [at a percentage as may, by notification, be fixed by the Executive Committee] when exported beyond the District or when brought to Shillong in vehicles for purposes of trade.

12. Control over ferrying and transit of forest produce.-

- (1) The control of all rivers and their banks as regards the floating of timber as well as the control of all forest produce in transit by land or water is vested in the Executive Committee which may make rules, e.g., to regulate the transit of any forest produce.
- (2) Such rules, may, among other matters-
 - (a) provide for the stoppage, reporting, examination and marking of forest produce in transit, in respect of which there is reason to believe that any money is payable to the District Council or to which it is desirable for the purpose of this Act to affix a mark;
 - (b) establish revenue stations to which forest produce is to be taken by the person in charge of it for examination or for realisation of such money or in order that such mark may be affixed to it and prescribe or authorise a Forest Officer, subject to such control as aforesaid to prescribe the conditions under which forest produce is to be brought to, stored at and removed from such revenue station;
 - (c) provide for the management and control of such revenue stations and for regulating the appointment and duties of persons employed thereat.

13. Power to regulate felling of trees, etc.- The Executive Committee shall have power to -

- (a) regulate or prohibit the felling, cutting, girdling, marking, lopping, tapping or injuring by fire or otherwise of any trees, the sawing, conversion and removal, and the collection and removal of other forest produce;
- (e) regulate the sale of free grant of forest produce; and
- (f) prescribe or authorise any Forest Officer to prescribe, subject to the control of the Executive Committee, the fees, royalties, or other payments for forest produce, and the manner in which such fees, royalties, or other payments are to be levied, in transit or partly in transit or otherwise.

KHASI HILLS AUTONOMOUS DISTRICT (MANAGEMENT AND CONTROL OF FOREST REVISED RATES OF ROYALTY) RULES, 1984*

Notification No. D. C. XIV (A) 314/81-84/27, dated 3rd December, 1984. In exercise of the powers conferred by S. 8 of the United Khasi and Jaintia Autonomous District (Management and Control of Forest Act, as amended up to date;

The Executive Committee of the Khasi Hills District Council does hereby revise the Schedule of Rates of Royalty leviable for all classes of forest produce with effect from 4th December, 1984, as indicated below.

B. (v) Rates for Minor forest produce

		<i>Royalty in full</i>	
		Rs. P.	Per Quintal
1.	Tezpatta (<i>Cinnamomum tamala</i>)	10.00	"
2.	Wild pepper	100.00	"
3.	Broom stick	18.00	"
4.	Pine dhup wood	6.30	"
5.	Sisia bark (<i>Cinnamomum zeylanicum</i>)	52.50	"
6.	Other C.P. Bark	18.30	"
		<i>Royalty in full</i>	
		Rs. P.	Per kg.
9.	Agar wood (<i>Aquilaria agallocha</i>)		
	Class I	312.50	"
	Class II	218.80	"
	Class III	118.80	"
	Class IV	0.65	"
10.	Wood lichen	25.00	Per Quintal
11.	Sohoairah	37.50	"
12.	Topchini	47.00	"
13.	Wood charcoal	18.80	"
14.	Charita	2.00	"
15.	Firewood (bamboo)	0.50	Per bundle of 0.60m in dia.
16.	Thatch Grass	10.00	per 100 bundles of 10 cm in dia.
17.	Fooder grass	1.00	per head load.

B. (viii) All other minor forest produce not listed above like honey, lac, stone lichen, *Solonum berries*, bee wax, sakunmatara, *Rauwolfia serpentina*, chaulmugra (*Hydnocarpus kurzii*), etc., will be charged at 12-1/2% *ad valorem*.

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

NAGALAND RULES TO REGULATE THE EXPORT OF FOREST PRODUCE, 1969*

Notification No. For-V (Misc) 43/67 (2), dated 1-3-1969. In exercise of the powers conferred by Ss. 40 and 68 of the Nagaland Forest Act, 1968 (Act No. 3 of 1968), the Governor of Nagaland is pleased to make the following rules to regulate the export by road or river or any other mode of transport of timber and any other forest produce from the State of Nagaland or any other place outside Nagaland. These rules shall apply to all areas to which the Nagaland Forest Act, 1968 applies.

1. All timber or other forest produce worked out from Nagaland forests and transported by road or river or any other mode for consumption beyond the State of Nagaland shall be brought to the nearest specified revenue stations or any other revenue stations to be notified by Government and staffed by the Government on the route of extraction for examination and for payment of amounts, if any, due to the Government thereon, whether as export duty or on any other account.

2. The timber and other forest produce referred to in R. 1 shall not be removed from any of the above mentioned revenue stations until all the amounts due to Government thereon have been paid, the timber has been marked and a Forest Department pass in the prescribed form has been obtained from the Forest Officer-in-charge of the revenue station.

4. Any Police Officer not below the rank of Assistant Sub-Inspector of Police or any Forest Officer or any other person authorised in this behalf by the State Government may with a view to comply with these rules or to satisfying himself that these rules have been complied with-

- (i) enter upon, search or authorise any person to enter upon and search any premises, any vehicle or vessel in which such person has reason to believe that any provision of these rules has been, is being or is about to be contravened.
- (ii) seize or authorise the seizure of timber in respect of which he has reason to believe that any provision of these rules has been, is being or is about to be contravened.

5. If any person infringes any of the above rules he shall be punished with imprisonment of either description, which may extend to six months or with fine which may extend to five hundred rupees or with both.

* The complete Rules are not reproduced. Only the relevant rules referred to.

NAGALAND RULES TO REGULATE THE REMOVAL OF ORCHIDS FROM THE FORESTS IN NAGALAND, 1969

Notification No. For-V (Misc) 43/67 (8), dated the 1st March, 1969. In exercise of the powers conferred by Ss. 32, 33 and 34 of the Nagaland Forest Act, 1968 (Act 3 of 1968), the Governor of Nagaland is pleased to make the following rules to regulate the removal of orchids from the forests in the State of Nagaland.

These rules shall come into force with immediate effect. These rules shall apply to all areas to which the Nagaland Forest Act, 1968 applies.

1. Orchids may only be collected for export from the Nagaland under cover of a licence.

2. The licence will be granted by the Deputy Commissioner of Nagaland on payment of a licence fee of twenty rupees, and shall cover a period of 6 months from the date of issue.

3. The licence will not be transferable and will be invalid after the expiry of the date specified therein.

4. A fee of two rupees per plant must be paid as royalty.

5. For the export of orchids a transit pass will be issued free of charge and may be obtained after payment of all fees due from the duly authorised Forest Officers.

6. Flowers of orchids may be removed free of charge.

7. Plants for sale within the Nagaland only may be removed free of charge by local inhabitants under the control of the district officers in Nagaland.

8. The export of the following orchids is prohibited:

Renanthera imschootiana (Red Vanda);

Phaiyas albus;

Cypripedium insigne.

9. Any person removing or trading in orchids in contravention of these rules shall be punished for a term which may extend to six months or with a fine which may extend to five hundred rupees or with both.

STATE
OF
ORISSA

NTFP including Medical Plants

Acacia arabica ('Babul' gum), *Acacia senegal* ('Khair' gum), *Boerhaavia diffusa* ('Gandhapurna'), *Calophyllum inophyllum* ('Sultan champa'), *Cymbopogon martini* ('Rosha' grass), *Diospyros melanoxylon* ('Tendu'/'Kendu' leaves), *Madhuca indica* ('Mahua'), *Oroxylum indicum* ('Sona'), *Rauvolfia serpentina* ('Sarpagandha'), *Santalum album* ('Sandal'), *Schleichera oleosa* ('Kusum' seeds), *Withania somnifera* ('Ashvagandha'), etc.

Nationalized NTFP Items

Tamarind, *Rauvolfia serpentina* roots, Myrobalan, Dhawara gum, Tendu leaves, etc.

Monopoly Agency

- * Orissa Forest Development Corporation in respect of certain NTFP items.
- * Tribal Development Cooperative Corporation (TDCC) and other Cooperative societies/ companies.
- * Gram Panchayats in certain areas.

Price Fixation Method

- * By High Power State Committee in respect of each specified forest produce.



Orissa

Legal Framework

- (1) *Orissa Forest Act, 1972*
(Similar to the Indian Forest Act, 1927)
 - * Provisions relating to the transit of forest produce and duty leviable on forest produce.
 - * Special provisions relating to the Sandalwood.
- (2) *Orissa Forest Produce (Control of Trade) Act, 1981 and Rules, 1983*
 - * State monopoly in the trade of certain specified forest produce.
- (3) *Orissa Timber and Other Forest Produce Transit Rules, 1980*
 - * A 'Transit Permit' is required in respect of the transit of forest produce.

(4) *Orissa Protection of Scheduled Castes and Tribes (Interest in Trees) Act, 1981*

- * To protect SC/ STs from exploitation in the matter of transfer of their interest in specified trees.

(5) *Policy on Procurement and Trade of Non-timber Forest Produce* (Government's Resolution No.5503/ F & E, 31 March 2000)

- * Gram Panchayats empowered to regulate procurement and trading of NTFP; where Forest Protection Committees have been formed (under the JFM scheme), the Committees will have priority over the Gram Panchayat.

INTRODUCTION

The State of Orissa, lying on the east coast of India, famous for Chilka lake, has a total land area of 1,55,707 sq. km. out of which the forest area comprises of about 57,184 sq. km. (36.73%). Tropical Semi-Evergreen and Moist Deciduous forests are mainly found in the State. The State possess some useful NTFP including medicinal plants:

Botanical Names	Common Names
<i>Acacia arabica</i>	Babul gum
<i>Acacia catechu</i>	Katha
<i>Acacia senegal</i>	Khair gum
<i>Anamirta cocculus</i>	Kakmari
<i>Boerhaavia diffusa</i>	Gandhapurna
<i>Butea monosperma</i>	Palas
<i>Calophyllum inophyllum</i>	Sultan champa
<i>Citrullus colocynthis</i>	Indrayan
<i>Cymbopogon martini</i>	Rosha grass
<i>Diospyros melanoxylon</i>	Tendu/ Kendu
<i>Madhuca indica</i>	Mahua
<i>Oroxylum indicum</i>	Sona
<i>Pongamia pinnata</i>	Karanj
<i>Pueraria tuberosa</i>	Siali fibres
<i>Rauvolfia serpentina</i>	Sarpagandha
<i>Santalum album</i>	Sandal
<i>Saraca indica</i>	Ashoka
<i>Schleichera oleosa</i>	Kusum
<i>Shorea robusta</i>	Sal
<i>Strychnos nux-vomica</i>	Kuchla
<i>Tylophora indica</i>	Antamul
<i>Withania somnifera</i>	Aswagandha

The State Government has enacted several Acts/ Rules to ensure a sustainable harvest of forest produce. The salient features of these legal enactments are discussed in brief below.

The Orissa Forest Produce (Control of Trade) Act, 1981, is an Act to provide for control and regulation of trade in certain forest produce by creation of State monopoly in such trade. The term "forest-produce" as defined in the Act includes Catechu, Khair gum, Babul gum, Sal resin, Rosha grass, Mahua flowers and seeds, Sandalwood, Kusum seeds, etc.

Some of the salient features of the Act are:

- (i) *Appointment of agents*- Under the Act, only the Government or an

authorised officer or an agent shall purchase or transport or import or export the specified forest produce. Any person including a Gram Panchayat, a Co-operative Society or the Orissa State Tribal Development Cooperative Corporation Ltd. may be appointed as an agent.

- (ii) *Rescission of subsisting contracts*- All contracts for the purchase, sale, gathering or collection of specified forest produce grown or found in an area and all grants of *profit-e-pendre* including the right to enter upon the land, fell, cut and remove the specified forest produce from the said area, shall stand rescinded, whether such forest produce is grown or found on private or Government land/ forest.
- (iii) However, a grower of forest produce may transport his produce from any place within the unit wherein such produce is grown or found to any other place in that unit. Further, any person having right to that effect over any forest in respect of any specified forest produce under any law, may transport such produce for his domestic use or consumption in such quantity and subject to prescribed terms and conditions.
- (iv) *Constitution of Advisory Committee* - For each calendar year, the Government shall constitute an advisory committee for the purpose of advising the Government in the matter of fixation of fair and reasonable price of each specified forest produce at which produce may be purchased by the State Government or Agent.

The Committee is to consist of representative groups like the growers of forest produce, traders or manufacturers, elected Scheduled Tribe members, etc.

- (v) *Government to purchase the specified forest produce*- The Government or Agent shall be bound to purchase at the price fixed (by the Committee) specified forest produce offered for sale at the depot.
- (vi) *Registration of growers, manufacturers, traders, etc.*- A compulsory registration is provided for under the Act (if the quantity of specified forest produce during a year is likely to exceed the prescribed quantity).
- (vii) *Disposal of specified forest produce*- Specified forest produce purchased or collected by the State Government or agents shall be sold by auction or by calling tenders, etc.
- (viii) *Retail sale of specified forest produce*- No person shall engage himself in retail sale of any forest produce except under a *licence*.

The Orissa Protection of Schedule Castes and Scheduled Tribes (Interest in Trees) Act, 1981, is an Act to provide for the protection of the members of the SC/ STs from exploitation in the matter of transfer of their interest in "specified trees", viz. Sal, Kusum, Teak, Karanj, Kendu, Khair, Chandan, Acacia, Eucalyptus, etc.

The Orissa Forest Produce (Control of Trade) Rules, 1983, provides for the terms and conditions of the agency (appointment of agents). Under the rules, the agent shall be liable to pay the loss, if any, incurred by the Government, as a result of cancellation of the appointment. The loss will be equal to an amount which results by the multiplication of the quantity which is collected and delivered short of the quantity notified for the unit and a figure which is the difference between the rate

of sale per unit of the quantity and all expenses per unit of quantity incurred by the Government till it is delivered to the purchaser.

Under the rules, the transport of specified forest produce is to be regulated by transport permit subject to certain conditions, viz. the specified forest produce shall be transported only by the route specified in the permit and shall be produced for checking at specified place(s), the permit shall be valid for specified period only, all transport permits after transporting the forest produce or after the expiry of the period mentioned therein (whichever is earlier) shall be returned to the forest officer, etc.

Under the rules, every grower, manufacturer, trader and consumer of specified forest produce is required to get himself *registered*, if the quantity grown by him or whose annual use, requirement or consumption, as the case may be, is likely to exceed/ or exceeds the quantity as given in the Table/ Schedule to the Rules. Further, under the rules, the Government or agent who sells or delivers the specified forest produce to the purchaser shall grant him a "certificate of sale". The stock which he claims to have purchased from the Government if not supported by a certificate of sale shall be deemed to be the property of the Government. The idea is to check the illegal buying or selling of the forest produce. Finally, under the rules, any person who desires to engage himself in retail sale of a specified forest produce shall obtain a *licence* in the manner provided. The annual licence fee shall be on a sliding scale based on the quantity of the specified forest produce required to be traded during the calendar year by the applicant as per Schedule to the Rules.

The Orissa Timber and Other Forest Produce Transit Rules, 1980, provides that all forest produce in transit by land, rail or water shall be covered by a "Transit Permit" to be issued free of cost by the Divisional Forest Officer. However, no transit permit shall be required to cover transit of forest produce in certain cases, viz. for the transit of forest produce whose removal is covered by Forest Department permits, for removal of forest produce in connection with recognized rights under any law in force for bonafide domestic use (thus, the tribals can transport or possess up to 50 kgs. of tamarind and ten bundles of hill brooms without transit permit), etc.

Under the rules, the forest produce in transit is liable to inspection by a Forest/ Police officer, at a checking station. It is compulsory to get the forest produce checked at such stations. Further, under the rules, all forest produce imported into the State shall be covered by a transit permit issued by the Divisional Forest Officer of the division from which the forest produce is exported; any forest produce imported into the State may be transported under "foreign transit permit" within the limit of the State subject to certain conditions. Whoever contravenes any of the provisions of these rules shall be punished with imprisonment upto one year or with fine up to Rs. 1,000 or with both. The penalty could be doubled under certain circumstances, as laid down in the rules.

Chapter VII-A of the Orissa Forest Act, 1972, contains special provisions relating to 'Sandalwood'. Sec. 55-A lays down that sandal trees growing on any land are the exclusive property of the State Government. Sec. 55-B lays down that any person who by terms of his title to the land, grants or by judicial decision, etc., was prior to the commencement of the Orissa Forest (Amendment) Act, 1990, legally entitled to the sandal trees in his lands, shall not fell or sell any such sandal trees.

Sec. 55-C provides that a *licence* is required for storage, sale and manufacture of sandal wood and sandalwood oil. However, no licence shall be necessary for possession of sandal wood up to two kilograms for bona fide domestic use. Any person contravening the said provisions shall be punishable with imprisonment for a term up to 3 years and with fine up to Rs. 10,000.

Sec. 55-D lays down that every occupant or holder of land shall be responsible for the due preservation of all sandal trees growing thereon, which are the exclusive property of the State Government, and shall, in the event of any damage to any such tree from whatsoever cause or its theft, report such facts to the nearest Forest Officer or Police Officer as soon as possible.

Orissa State Forest Act

Also see Part-I, 'Central and States' Forest Acts'.

Summing Up

The State of Orissa has initiated the process of elimination of contractor agency. Orissa is the only State in the country where Tendu leaf is directly collected by the Forest Department and marketed by Orissa Forest Corporation. Sal seed trade has also been nationalized. Simlipal Forest Development Corporation and Tribal Development Cooperative Federation organize collection of a number of NTFP.

The system in Orissa suffers from several defects. One company has been given monopoly collection rights for 29 NTFPs for ten years- an exclusive right of collection and marketing. There is no check on the price paid by the company to the tribals, although on paper the price is fixed by the Collector. These orders creating private monopolies are ad hoc, arbitrary, and against the principles of natural justice, as no tenders or offers have been invited before bestowing monopolistic powers to a private agency. They smack of favouritism and lack of probity and openness (Shukla, R.S., 2000).

According to Orissa's laws, processing of hill brooms can only be done by the lease holder, TDCC (Tribal Development Cooperative Cooperation) and its traders. Tribals can collect hill brooms, but cannot bind these into a broom, nor can they sell the collected item in the open market. Thus the poor are prevented from both, doing value addition through processing and the right to get the best price for their produce.

Similar monopoly exists in Orissa for a tree called *Oroxylum indicum*, the bark of which is used for making 'agarbattis' (Incense sticks). The traders who enjoys the monopoly of entering forest does not only remove the bark, but often cuts the entire tree, thus causing great harm to the forest. Several cases of injury to forests caused by the trader's men have been reported by the Forest Department itself, but the lease still continues (Shukla, R.S., 2000).

Earlier, it had been decided that procurement of Sal seeds would be through LAMPS and their trade would be nationalised; but the item has been passed on to private industrialists who were to establish a Sal seed solvent plant within the State. In Mayurbhanj district, Sal seed collection is being organized by the Simlipal Forest Development Corporation.

The State recently declared a *Policy on Procurement and Trade of Non-timber Forest Produce* (Government's Resolution No.5503/ F & E, 31 March 2000), under which Gram Panchayats empowered to regulate procurement and trading of NTFP in both scheduled and non-scheduled areas; where Forest Protection Committees have been formed (under the JFM scheme), the Committees will have priority over the Gram Panchayat.

The conferring of unbridled rights of ownership of NTFPs to the Panchayats may lead to exploitation of the poor by the vested interests as was the case in the seventies before nationalization/ regulation of the NTFP trade. Further it may lead to the destructive exploitation of forest resources. The purpose of social security and economic upliftment of the tribals can be conveniently served by giving usufructs and revenue therefrom (as envisaged by the JFM programme), rather than unbridled ownership over NTFPs available from the Government forests (Gangopadhyay & Mullick, 1998).

ORISSA FOREST ACT, 1972*

CHAPTER VII-A

Provisions Relating to Sandal wood

55-A. Sandal trees to be exclusive property of State Government.-

- (1) Notwithstanding anything to the contrary contained in any law, contract, grant or other instruments but save as provided in Sec. 55-B-
 - (i) all sandal trees which may grow in any land on or after the date of commencement of the Orissa Forest (Amendment) Act, 1990; and
 - (ii) all sandal trees existing on any land prior to the commencement of the Orissa Forest (Amendment) Act, 1990,

shall be the exclusive property of the State Government.

- (2) Where, in any proceedings taken under this Act, a question arises as to whether any sandal wood is the property of the State Government, it shall, until the contrary is proved, presumed to be the part of a sandal tree which was the exclusive property of the State Government under sub-section (1), and in the case of any prosecution the burden of proving the contrary shall lie on the accused.

55-B. Disposal of sandal wood belonging to private persons.-

- (1) Any person who by terms of his title to the land, grants or by judicial decision or otherwise, was prior to the commencement of the Orissa Forest (Amendment) Act, 1990, legally entitled to the sandal trees in his lands, shall not fell or sell any such sandal trees.
- (2) The Divisional Forest Officer concerned may cause any such sandal tree or trees occurring on such lands to be cut or uprooted and sold and in the event of such sale, the sale proceeds thereof shall be paid to the person referred to in sub-section (1) after deducting the expenses incurred for felling and selling the tree and such payment shall be deemed to have been made towards the full satisfaction of compensation for that tree.

55-C. Regulation, sale and manufacture of sandal wood and sandal wood oil.-

- (1) No person shall possess, store or sell or attempt to store or sell sandal wood or disintegrate or attempt to disintegrate sandal wood in mills or by other contrivance, manufacture or distil or attempt manufacture or distil oil from sandal wood, or re-distil, refine or sell oil extracted from sandal wood, except under a licence obtained from a Forest Officer

* The complete Act is not reproduced. Only the relevant sections have been extracted.

empowered in this behalf on payment of such fees and subject to such restrictions and conditions as may be prescribed:

Provided that no such licence shall be necessary for possession of sandal wood up to two kilograms for *bona fide* domestic use.

- (2) Whoever contravenes the provisions of sub-section (1) shall on conviction, be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees:

Provided that-

- (i) in the case of first offence, the term of imprisonment shall not be less than one year and the amount of fine shall not be less than three thousand rupees; and
- (ii) in the case of a second or subsequent offence, the term of imprisonment shall not be less than two years and the amount of fine shall not be less than five thousand rupees (*sic*).

55-D. Responsibility of occupants and holders of land for preservation of sandal trees.-

- (1) Every occupant or holder of land shall be responsible for the due preservation of all sandal trees growing thereon, which are the exclusive property of the State Government, and shall, in the event of any damage to any such tree from whatsoever cause or its theft, report such facts to the nearest Forest Officer or Police Officer as soon as possible.
- (2) Any occupant or holder who fails to report any such case or damage or theft as aforesaid to such Officer and unless adjudged by a Forest Officer not lower in rank than the Divisional Forest Officer that such damage or theft was not caused either by his own act or by any neglect or default on his part or by any other person at his instigation or with his connivance shall, notwithstanding any other penalty to which he may be liable, be liable to pay the State Government such compensation on account of such damage or theft as the Divisional Forest Officer deem reasonable.

Explanation.- The word "damage" used in this section includes the lopping of branches of the trees.

55-E. Penalty for offence in regard to sandal wood.- In any case of a forest offence having reference to the cutting, uprooting or removal or damage to a sandal tree or any part of a sandal tree belonging to Government, the offender shall, on conviction, be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees.

**THE ORISSA FOREST PRODUCE
(CONTROL OF TRADE) ACT, 1981***
(Act No. 22 of 1981)

*An Act to provide for control and regulation of trade in certain Forest Produce
by creation of State monopoly in such trade.*

2. Definitions.-

- (c) "forest produce" means timber of any of the species specified in Cl. (j), Bamboos of all species, Khair, Catechu (Katha), Catechin (Cutch), Ganduli gum, Dhaura gum, Khair gum, Babul gum, Sal resin, Salai resin, Rosha grass, Rosha grass oil, Lac, Shelad, Mahua flowers, Mahua seeds, Chironi, Myrobalans, Tassar cocoons, Sandal wood, Tamarind, Siali leaves, Kusum seeds, Karanja seeds, Siali fibres, Sal seeds, Hill brooms and such other produce as may be notified by the State Government from time to time, whether grown or found on land owned by private persons or on land owned by the State Government or in Government forests;
- (d) "grower of forest produce" means-
 - (i) in respect of forest produce grown on and owned by any person, the owner of such land, and
 - (ii) in all other cases the State Government;
- (e) "licensed vendor" in relation to a specified forest produce means a person to whom a licence is issued under Sec. 13 for retail sale of such forest produce;
- (g) "retail sale" means the sale of any specified forest produce not exceeding such quantity as the State Government may, by notification specify in respect of such specified forest produce.

3. Constitution of Units.- The State Government may divide every specified area into such number of units as it may deem fit:

Provided that a specified area may be divided into different units for different specified forest produce.

4. Appointment of agents.-

- (1) The State Government may, for the purchase of and trade in specified forest produce on its behalf, appoint one or more agents in respect of different units for all or any specified forest produce and any such agent may be appointed in respect of more than one unit.
- (2) Any person including a Gram Panchayat, a Co-operative Society or the

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Orissa State Tribal Development Co-operative Corporation Ltd. may be appointed as an agent under sub-section (1).

5. Restriction on purchase and transport and rescission of subsisting contracts.-

(1) Notwithstanding any provision to the contrary in any other law, on the issue of a notification in respect of any area-

- (a) all contracts for the purchase, sale, gathering or collection of specified forest produce grown or found in the said area and all grants of *profit-a-prendre* including the right to enter upon the land, fell, cut and remove the specified forest produce from the said area, shall stand rescinded, whether such forest produce is grown or found on land owned by private persons or on land owned by the State Government or in Government forest:

Provided that rescission of such contracts and grants shall not affect the customary rights, if any, of the local tribals to gather and collect the specified forest produce;

- (b) no person other than-
 - (i) the State Government,
 - (ii) an officer of the State Government authorised in writing in that behalf, or
 - (iii) an agent in respect of the unit in which the specified forest produce is grown or found, shall purchase or transport any specified forest produce in the said area.

Explanation-I.- "Purchase" shall include purchase by barter.

Explanation-II.- Purchase of specified forest produce from the State Government or the aforesaid Government Officer or agent or a licensed vendor shall not be deemed to be a purchase in contravention of the provisions of this Act.

Explanation-III.- A person having no interest in the holding who has acquired the right to collect the specified forest produce grown or found on such holding shall be deemed to have purchased such produce in contravention of the provisions of this Act.

Explanation-IV.- The Explanations I to III shall be deemed to be explanations to Cl. (b) of this sub-section and shall not be deemed in any manner qualifying or detracting from Cl. (a) of this sub-section or saving any contracts referred to in Cl. (a) from the operation of the provision for rescission of contracts contained in the said Cl. (a).

(2) Notwithstanding anything contained in sub-section (1)-

- (a) a grower of forest produce other than Mahua may transport his produce from any place within the unit wherein such produce is grown or found to any other place in that unit and a grower of Mahua may transport the Mahua grown by him from any place within the district wherein such Mahua is grown or found to any place within that district;
- (c) any person having right to that effect over any forest in respect of any specified forest produce under any law for the time being in

force, may transport such produce for his domestic use or consumption in such quantity and subject to such terms and conditions as may be prescribed.

- (3) Any person desiring to sell any specified forest produce may sell them to the aforesaid Government Officer or agent at any depot situated within the unit wherein such produce was grown or found:

Provided that the State Government, the Government Officer or the agent shall not be bound to repurchase the specified forest produce once sold.

6. Constitution of Advisory Committee.-

- (1) The State Government shall, for each calendar year constitute in respect of each specified forest produce an Advisory Committee for each Revenue Commissioner's Division in the State consisting of not more than nine members as may be notified by the State Government from time to time for the purpose of advising the State Government in the matter of fixation of fair and reasonable price of each specified forest produce at which such produce may be purchased by the State Government or its authorised Officer or agent when they are offered for sale in such Division in accordance with the provisions of this Act:

Provided that-

- (i) two of the members shall be from amongst the traders in such specified forest produce or manufacturers of goods in which such specified forest produce is used as raw materials;
 - (ii) at least two members shall be from amongst the growers of such specified forest produce other than the State Government;
 - (iii) one member shall be from amongst the members of Parliament representing the State, and belonging to the Scheduled Tribes; and
 - (iv) one member shall be from amongst the members of State Legislature belonging to such Tribes.
- (2) It shall also be the duty of the Committee to advise the State Government on such other matters as may be referred to it by the State Government.
- (5) The Committee shall tender its advice to the State Government within such period as the Government may, for each Committee, specify in this behalf.

7. Government to fix price in consultation with Committee.- The State Government shall, after consultation with the Committee constitute under Sec. 6, fix the price at which specified forest produce shall be purchased by it or by any of its authorised officers or agents from growers of specified forest produce in the Revenue Commissioner's Division and shall publish the same in the Gazette and in such other manner as may be prescribed not later than the 30th day of June of the calendar year for which the Committee is constituted and the price so fixed shall remain in force up to the end of such calendar year and shall not be altered during the year:

Provided that if the Committee fails to tender advice within the period specified under sub-section (5) of Sec. 6 or such further period not exceeding fifteen days as

the State Government may allow, the State Government may proceed to fix the price without waiting for the advice of the Committee:

Provided further that different prices may be fixed for different units, and in so doing regard shall be had amongst other things to:

- (a) the prices of specified forest produce obtained or fixed under this Act or any other enactment during the preceding three years in respect of the area comprised in the unit;
- (b) the quality of the specified forest produce in the unit;
- (c) transport facilities available in the unit;
- (d) the cost of transport; and
- (e) general level of wages for unskilled labour prevalent in the unit, and the provisions of the Minimum Wages Act, 1948 (11 of 1948).

8. Opening of depots and publication of the price list etc., at the depot.- There shall be set up in each unit such number of depots and at such places as the State Government may, taking into consideration the convenience of the growers of specified forest produce, direct and a price list of specified forest produce fixed by the State Government under Sec. 7 and the hours of business shall be prominently displayed on the notice-board kept for the purpose at every such depot.

9. State Government or agent to purchase specified forest produce.-

- (1) The State Government or their authorised Officer or agent shall be bound to purchase at the price fixed under Sec. 7 any specified forest produce offered for sale at the depot during the hours of business:

Provided that it shall be open to the State Government or the authorised Officer or the agent to refuse to purchase any specified forest produce which in their opinion is not fit for the purpose of consumption or use as raw-material for manufacture or for trade.

- (2) Any person aggrieved by the rejection of his specified forest produce by an authorised Officer or agent under the proviso to sub-section (1), may within fifteen days therefrom, refer the matter to the Divisional Forest Officer, or such other Officer who may be empowered by the State Government in this behalf, having jurisdiction over the unit in which the specified forest produce has been grown or found.
- (3) On receipt of a reference under sub-section (2) the Divisional Forest Officer or such other Officer, as the case may be, shall hold an enquiry in the prescribed manner and after hearing the parties concerned, shall pass such orders as he may deem fit and in case he finds the rejection of the specified forest produce to be improper, he may direct the authorised Officer or agent, as the case may be, to purchase the same and may also award to the person aggrieved such further compensation, not exceeding twenty per cent of the price of the specified forest produce, payable to him as he may deem fit.
- (4) The State Government or its authorised Officer or agent shall be entitled to take delivery of any specified forest produce collected by any person

from land owned by the State Government or Government Forests on payment of such collection charges as may be determined by the State Government from time to time:

Provided that it shall be open to the State Government or the authorised officer or agent to refuse to take delivery of any such forest produce which is not fit for consumption or use as raw-material for manufacture or for trade:

Provided further that in the case of any dispute, the Divisional Forest Officer or such other Officer who may be specifically empowered in this behalf, as specified in sub-section (2), shall hear and dispose of the same in the manner provided in this Act and the Rules made thereunder.

10. Registration.- Every grower of specified forest produce shall, if the quantity of a specified forest produce grown by him during a year is likely to exceed such quantity as may be prescribed, get himself registered in the prescribed manner.

11. Registration of manufacturers, traders and consumers of specified forest produce.-

- (1) Every manufacturer who uses any specified forest produce as a raw-material and every trader or consumer whose annual use, requirement or consumption, as the case may be, exceeds such quantity as may be prescribed, shall get himself registered within such period on payment of such fee and in such manner as may be prescribed.
- (2) Every such manufacturer, trader or consumer shall submit such declarations, accounts and returns in such forms to such Officer and at such intervals as may be prescribed.

12. Disposal of specified forest produce.- Specified forest produce purchased or collected by the State Government or by its officers or agents under this Act, shall be sold by auction or by calling tenders or otherwise as the State Government may, in public interest, by general or special order direct.

13. Retail sale of specified Forest Produce.-

- (1) No person shall engage himself in retail sale of any specified forest produce except under a *licence* granted under this section.
- (2) The State Government may, for the purpose of facilitating retail sale of a specified forest produce within the State, grant licence to as many persons as it may deem fit.
- (3) Any person who desires to engage himself in sale of any specified forest produce, shall make an application in such form to such authority and in such manner as may be prescribed.
- (4) The prescribed authority may on receiving such application and on payment of such fee as may be prescribed, grant or renew a licence subject to such terms and conditions as may be prescribed.

15. Power of entry, search, seizure, etc.- Any Police Officer not below the rank of Assistant Sub-Inspector, or any other person authorised by the State Government may, with a view to securing compliance with the provisions of this Act or the rules made thereunder or to satisfy himself that the said provisions have been complied with-

- (i) stop and search any person, boat, vehicle or receptacle used or intended to be used for the transport of any specified forest produce;
- (ii) enter and search any place; and
- (iii) seize the specified forest produce in respect of which he suspects that any provision of this Act or the rules made thereunder has been, is being or is about to be contravened along with the receptacles containing such produce, or the vehicle or boats used in carrying such produce.

16. Penalty.- If any person contravenes any of the provisions of this Act or the rules made thereunder-

- (a) he shall be punishable with imprisonment which may extend to one year or with fine which may extend to five thousand rupees or with both;
- (b) the specified forest produce in respect of which such contravention have been made or such part thereof as the Court may deem fit shall be forfeited to the Government;

Provided that if the Court is of the opinion that it is not necessary to direct forfeiture in respect of the whole, or, as the case may be, any part of the specified forest produce, it may, for reasons to be recorded, refrain from doing so.

17. Attempts and abetment.- Any person who contravenes or abets the contravention of any provision of this Act or the rules made thereunder shall be deemed to have contravened such provision.

21. Power to make rules.- The State Government may, subject to the condition of previous publication, make rules to carry out all or any of the provisions of this Act.

22. Orissa Forest Act, 1972 and other laws not to apply to specified forest produce for purposes covered under the Act.-

- (1) Nothing contained in the Orissa Forest Act, 1972 (Orissa Act 14 of 1972) shall apply to specified forest produce in respect of matters for which provisions are made under this Act.
- (2) Nothing contained in any other law, rule, order or any other thing having a force of law in any region of the State shall apply to the specified forest produce in respect of matters for which provisions are made under this Act.

23. Power to exclude specified forest produce from the operation of the Act.-

- (1) The State Government may, from time to time, by notification, direct that from a date specified therein, a forest produce specified in the notification shall cease to be a specified forest produce in the said notification.
- (2) The State Government may, from time to time, by a like notification, direct that from a date specified therein the specified forest produce which ceased to be so, shall be specified forest produce in relation to the area or areas as may be specified in the said notification.

THE ORISSA PROTECTION OF SCHEDULED CASTES AND SCHEDULED TRIBES (INTEREST IN TREES)

ACT, 1981*

(Act No. 18 of 1983)

An Act to provide for the protection of the members of the Scheduled Castes and Scheduled Tribes from exploitation in the matter of transfer of their interest in specified trees.

2. Definitions.-

- (k) "specified tree" means a tree specified in the Schedule and such other species of trees as may be notified by Government from time to time.

3. Protection of interest in specified trees belonging to the Scheduled Castes and Scheduled Tribes.-

- (1) No contract entered into after the commencement of this Act by an owner of any specified tree for the sale of the timber thereof shall be valid if such owner is a member of the Scheduled Caste or the Scheduled Tribe and if the contract has been entered into without the previous permission in writing granted by the Range Officer on an application made in that behalf giving adequate description of the timber proposed to be sold.
- (2) On receipt of the application, the Range Officer concerned shall enquire into the case on the spot or cause such an enquiry to be made by any other Forest Officer and the Gram Panchayat or the Urban local body concerned, as the case may be, shall be requested to send one or more of the Ward Members to the spot on the date of enquiry:

Provided that in any case where the Range Officer considers that the consideration for the contract is inadequate, he may require the owner to sell the trees to the Orissa Forest Corporation Limited or to any other State owned Corporation for such consideration amount as the Range Officer deems fit to fix.

* The complete Act is not reproduced. Only the relevant sections have been extracted.

SCHEDULE
[See Sec. 2(k)]
List of Specified Trees

Sl. No.	Local Name	Botanical Name
(1)	(2)	(3)
1.	Sal	<i>Shorea robusta</i>
2.	Kadam	<i>Adina cordifolia</i>
3.	Kasi	<i>Bridella retusa</i>
4.	Kusum	<i>Schleichera tajjuga</i>
5.	Tentra	<i>Albizia</i> spp.
6.	Sirish	<i>Albizia lebbek</i>
7.	Rimli (Nembura)	<i>Burshra serrata</i>
8.	Saguan (Teak)	<i>Tectona grandis</i>
9.	Bijia (Piasal)	<i>Pterocarpus marsupium</i>
10.	Sisoo	<i>Dalbergia latifolia</i>
11.	Bandhan	<i>Quenia daldergoidea</i>
12.	Assan	<i>Terminalia tomentosa</i>
13.	Mahua	<i>Madhuca latifolia</i>
14.	Bheru	<i>Chlorosylon siaetenia</i>
15.	Karanj	<i>Pongamia glabra</i>
16.	Kendu	<i>Diospyros melanoxylon</i>
17.	Dhaura	<i>Anogeissus latifolia</i>
18.	Khair	<i>Acacia catechu</i>
19.	Amba (Mango)	<i>Mangifera indica</i>
20.	Panasu (Jackfruit)	<i>Artocarpus heterophylus</i>
21.	Tentull (Tamarind)	<i>Tamarindus indica</i>
22.	Chandan	<i>Santalum album</i>
23.	Tal (Palm)	<i>Barassus flabelifer</i>
24.	Lendia	<i>Lagerstroemia parir flosch</i>
25.	Arjuna	<i>Terminalia arjuna</i>
26.	Acacia	<i>Acacia formis</i>
27.	Eucalyptus	<i>Eucalyptus saligna</i>

THE ORISSA TIMBER AND OTHER FOREST PRODUCE TRANSIT RULES, 1980*

2. Definitions.-

- (1) In these rules, unless the context otherwise requires—
- (a) "Act" means the Orissa Forest Act, 1972 (Orissa Act 14 of 1972).
- (b) "Contract area" means area covered by a forest contract.
- (c) "Foreign transit permit" means a permit issued by a competent authority of another State or Union territory for movement of forest produce originating from the State or Union territory.
- (f) "Forest contract" means a contract whereby Government agree to sell and the purchaser agrees to buy the forest produce under the Orissa Forest Contract Rules.
- (h) "Minor forest produce" means forest produce other than timber, firewood, charcoal and bamboos.

3. Route.-

- (1) *Land routes.* The Chief Conservator of Forests shall notify from time to time in the Official Gazette, the routes in the State of Orissa through which forest produce may be imported, exported or moved into, from or within the State.
- (2) *Water routes.-*
 - (a) The rivers and their banks as specified in Schedule shall be available for transport of forest produce.
 - (b) No person shall cause any diversion to the water routes or cause obstruction in the channels or on banks of the river specified in Schedule I.

4. *Transit permit.-* Except as provided in R. 5, all forest produce in transit by land, rail or water shall be covered by a permit, hereinafter called the "Transit Permit" to be issued free of cost by the Divisional Forest Officer or by the Assistant Conservator of Forests, authorised by him in that behalf;

Provided that the Range Officer or a Forester, when duly authorised in that behalf by the Divisional Forest Officer may issue transit permit in cases where no verification at the stump site is necessary;

Provided further that in respect of a minor forest produce collected by the Orissa State Tribal Development Co-operative Corporation Ltd., a Branch Manager or a Divisional Manager and in respect of tassar cocoon collected by the State Tassar Co-operative Society Ltd., Orissa, the Assistant Director of Sericulture can issue transit permits;

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

Provided also that for removal of timber and other forest produce from the depots of the Orissa Forest Corporation Limited including those at rail heads, the Divisional Manager of the said Corporation and any other officer subordinate to him not below the rank of Deputy Sub-divisional Manager when duly authorised by him in that behalf may issue transit permit.

5. Cases in which permit shall not be required. (1) No transit permit shall be required to cover transit of forest produce in the following cases namely:

- (a) for the transit from the contract area of forest produce purchased by the Forest Contractors whose contracts are governed by the Orissa Forest Contract Rules and duly covered by a coupe permit;
- (b) for the transit of forest produce whose removal is covered by Forest Department permits;
- (e) for removal of forest produce other than timber, bamboos and minerals of any description required by transits, having recognized rights under any law in force for their *bona fide* domestic use but not for trade or barter subject to the condition that tribals can transport or possess up to fifty kgs. of tamarind and ten bundles of hill brooms without transit permit;
- (i) for transport of minor forest produce within the district except lac, tassar, myrabolans, gums and resin, root or patalgaruda, sal seed, tamarind and hill brooms, subject to such limit of transport and storage without transit permit as may be notified by State Government in the Official Gazette for different items.

6. Form of Permit.- The transit permit shall be in Form No. I.

7. Application for permit and orders thereon.-

- (1) Persons desiring to remove forest produce under R. 4 shall apply for transit permit to the Forest Officer having jurisdiction in Form II or Form III, as the case may be, together with the declaration and undertaking as embodied therein.
- (2) On receipt of application, the Forest Officer having jurisdiction shall cause an enquiry, where necessary, in the manner prescribed hereinafter, before issue or refusal of transit permit.
- (4) In the case of an application for removal of forest produce from one's own private holding for *bona fide* domestic use, if no order is passed either refusing the permit within forty-five days of the receipt of the application, the applicant shall be at liberty to file a representation before the Conservator of Forests of that Circle who shall pass order within sixty days of the date of receipt of such representation and such order shall be final.

8. Depot permit.- The Divisional Forest Officer may, from time to time, notify the places other than rail heads, river banks, saw mills and factory premises, wherefrom owners having depots of bamboo, timber or firewood bearing Forest Department hammer mark, may remove such material by using permits called "depot permits", issued previously by or with the permission of the Divisional Forest Officer.

12. Retention of Transit Permit.- Any person to whom a Transit Permit is issued under these rules shall be bound to follow the direction given in the Transit Permit and to retain it with him so long as the forest produce covered by the Transit Permit remain in his possession and to produce it for inspection at any time before it is disposed of if and when required by any Forest Officer, not below the rank of a Forester.

13. Checking of Transit Permit.-

- (1) Forest produce in transit by land, rail or water is liable to inspection by any Forest Officer, or Police Officer not below the rank of Sub-Inspector, or by a Revenue Officer not below the rank of a Tahsildar, or by the Divisional Manager of the Orissa Tribal Development Co-operative Society Ltd., or by the Assistant Director, Sericulture of the State Tassar Co-operative Society Ltd., Orissa for form prosecution and handing over the cases to the Forest Officer and the Transit Permits shall be produced on demand before any such Officer.
- (2) It shall be incumbent on the person transporting forest produce to present the Transit Permit or coupe permit or depot permit or any forest department permit, for examination at such checking stations, as may be notified by the Divisional Forest Officer of the division in the official Gazette. It will be illegal to take any forest produce by a route which avoids any route at which a checking station can be established.
- (3) Checking station shall remain closed from 10 p.m. to 5 a.m. No forest produce shall pass a checking station when it is closed between these hours except with the previous permission in writing of the Divisional Forest Officer, in whose jurisdiction the checking station is located:
Provided that checking stations on National Highways shall remain open throughout the day and night.
- (4) As soon as the forest produce has been checked and found correct, the concerned permit under the authority of which the forest produce is carried, shall be endorsed by the Forest Officer in charge of the checking station under his signature and date with the word "CHECKED". If the forest produce *exceeds* the quantity stated in the permit or is not of the kind or description given in the permit, the forest produce shall be liable for seizure. If the forest produce is *less* than the quantity stated in the transit permit, the said permit shall not be used again to cover the deficit.

17. Import of forest produce from outside. All forest produce imported into the State of Orissa shall be covered by a transit permit issued by the Divisional Forest Officer of the division from which the forest produce is exported.

19. Foreign Transit Permit. Any forest produce imported into the State of Orissa may be transported under foreign transit permit within the limit of the State of Orissa subject to the following conditions, namely:

- (a) in case of transport by road - up to first checking station in the border;
- (b) in case of transport by rail - up to railway depot of the destination Railway Station;

(c) in case of transport by sea - up to the limits of destination port area; and

(d) in case of transport by air - up to limit of destination airport.

20. Issue of fresh transit permit in lieu of foreign transit permit.- (1) When forest produce is sought to be removed from the area mentioned in R. 19, the Divisional Forest Officer of the division in which the area lies shall on application by the owner issue transit permit free of charge in lieu of the foreign transit permit after necessary verification, for movement of the produce within the State of Orissa.

21. Penalties.- Whoever contravenes any of the provisions of these rules shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to rupees one thousand or with both:

Provided that *double* the amount of penalty as aforesaid may be inflicted in cases where the offence is committed after 10 p.m. and before 5 a.m. or after making preparation for resistance to lawful authority or where the offender has been previously convicted for a similar offence.

SCHEDULE

[vide Rule 3(2)(a)]

Name of Rivers

Mahanadi, Kathjori, Kuakhai, Bhargavi, Brahmani, Ramial, Tikiria, Maku Nalla, Jautuk, Gohira, Samakol, Baltarani, Salandi, Kusai, Kusol, Budhabalang, Sona, Gangadhar, Deo Jambhira, Tel, Baghanadi, Salunki, Mahuani, Ib, Anug, Tania, Jira Kharasrota, Devi, Vansadhra, Rusikulya, Sileru, Saberi, Nagavali, Indravati, Kolab, Machkund with all its branches and tributaries.

GOVERNMENT OF ORISSA
FOREST AND ENVIRONMENT DEPARTMENT

Resolution No. 5503/ F & E Dated Bhubaneswar the 31st March 2000

Sub: Policy on Procurement and Trade of
Non-Timber Forest Produce

Minor Forest Produce

3.(a) The items of Non-Timber Forest Produce listed in Annexure-A will be treated as Minor Forest Produce (MFP) and the term MFP will only mean and include items listed in Annexure- 'A'. The list of items of NTFP to be treated as MFP may however be modified by Government from time to time. Gram Panchayat/ Gram Sabha in the scheduled areas will have the ownership over MFP produced within its territorial jurisdiction, i.e., in respect of the MFP produced in and collected from the Government lands and forest lands within the limits of the revenue villages comprising the Gram Panchayat. Under law, ownership of MFP in non-scheduled areas is not vested in Gram Panchayats. Gram Panchayats both in the scheduled and non-scheduled areas will however, have the authority to regulate purchase, procurement (as distinct from collection by primary gatherers) and trading in MFP in accordance with the policy outlined in the succeeding paragraphs.

3.(b) No Gram Panchayat, whether situated within or outside the scheduled area will have ownership over MFP produced in Reserved Forests, in forest areas under Wildlife Sanctuaries and National Parks which are outside the limits of revenue villages. The Gram Panchayats will not therefore have the right to grant lease or licence to any individual or agency for collection of Minor Forest Produce from any Reserved Forest or Sanctuary or National Park. However, members of Vana Samrakshyana Samitis, and tribals, artisans, etc. as part of their customary rights will be free to collect Minor Forest Produce from forest areas excluding sanctuaries and National Parks. When any such MFP collected from forest areas is brought to a village, i.e. into the territory within a Gram Panchayat, it will come under the Gram Panchayat's powers to regulate procurement and trading. Where Vana Samrakshyana Samiti has been formed, the Samiti and its members will have priority over the Gram Panchayat in the matter of collection and disposal of Minor Forest Produce of the respective forest area.

3.(c) Any person desirous of purchasing MFP from primary gatherers or trading in MFP so purchased shall apply for registration to the concerned Gram Panchayats and the Gram Panchayat may register such dealers or traders for a season from the first day of October to the last day of September of the following year. Dealers and Traders have to seek fresh registration for the next session. Gram Panchayats shall make all efforts to promote free competition in procurement of MFP by engaging as many dealers for each item of Minor Forest Produce as reasonably practicable. The Gram Panchayat shall also levy an annual registration fee from such dealers or traders at such rates as may be determined by Gram Panchayat and shall issue a certificate

of registration to the registered dealers and traders. The dealers registered by the Gram Panchayats will have to furnish a monthly return to the concerned Range Officer indicating the item of MFP procured, quantity procured and the Gram Panchayat from which procurement was made during the month. No person will be allowed to operate as a Dealer/ Trader in MFP in any area without being registered as such by the concerned Panchayat.

3.(d) The collection of MFP by the primary gatherers will be subject to reasonable control to be exercised by the DFO (Divisional Forest Officer) in accordance with the provisions of law and sound silvicultural principles laid down in the Forest Working Plan which shall be given publicity in advance in the adjoining Gram Panchayats.

3.(e) The Government agencies like Orissa Forest Development Corporation, Tribal Development Cooperative, etc. may also register themselves with one or more Gram Panchayats for procurement and trading in one or more items of Minor Forest Produce.

3. (f) A Gram Panchayat may cancel the registration of any dealer/ trader or may refuse to grant registration for the subsequent seasons if after summary enquiry in course of which the affected party shall be given an opportunity to show cause, it is satisfied that the dealer and trader has procured any MFP from the primary gatherers at a rate lower than the minimum procurement price fixed for that item of MFP under para 5 of this Resolution for the relevant year.

3.(g) No lease shall be granted by Government in respect of any Minor Forest Produce nor shall it levy any royalty on these items after commencement of this Resolution. No Forest Department Transit permit will be required thereafter for transport/ movement of any Minor Forest Produce within the State.

Other Items of NTFP

4.(a) The trade in *Kendu* leaf will continue to be directly controlled by the State Government as there are well laid down statutory provisions for control of trade in this item. *Sal* seed which is the one NTFP item notified as a specified forest produce under the Orissa Forest Produce (Control of Trade) Act, 1981 will also be dealt with in accordance with the provisions of law by Government keeping the overall interest of the trade, the industries and the gatherers in view.

4. (b) Certain items, namely *sal* leaves, gums and resins of different trees, *khair* and catechu, the barks of different trees and climbers and roots of various species which have medicinal or other uses will not be leased out, as the collection of these items on commercial scale has adverse impact on the sustainability of the particular species and the forest. In particular locality, however, based on sound assessment of silvicultural availability and enforcement of appropriate collection procedure, any of these lease-barred items may be allowed to be collected either directly by field organization of Forest Department or a Government undertaking.

4. (c) The remaining items of NTFP as per the list of Annexure-B, which may be modified by the Government from time to time, will be allowed to be procured and traded by the dealers who have been registered for the purpose under this Resolution by the concerned Divisional Forest Officers. Individuals, societies, cooperatives, Government undertakings and corporations may be registered as a dealer for the above purpose. Such registration shall ordinarily be granted by the Divisional Forest

Officers for a season (from the first day of October to the last day of September of the following calendar year) to applicants seeking such registration, unless there are valid reasons for refusing registration. The Divisional Forest Officers will endeavour to promote competition among the traders and dealers by registering as many dealers as reasonably practicable for a specified area. For each item, as many dealers as may come forward can be engaged for each Forest Division/ Range. FDC, TDCC, Cooperative Societies like LAMPS, etc. will also be eligible to register themselves with the Divisional Forest Officers and should be encouraged to engage themselves in trading in these items. The Vana Samrakshyana Samiti, Mahila Samiti, recognized groups of primary gatherers, may also get themselves registered for this purpose. The fees to be paid for registration shall be prescribed by Government.

4.(d) The registered dealers will be required to furnish the names of their authorized agents/ nominees and the names of their collection and storage centers to the concerned Divisional Forest Officers, and will also record the daily transaction in the required formats. The dealers will have to enter into an agreement with the concerned Divisional Forest Officers under which the dealer will be responsible for achieving a minimum target of procurement to be fixed by the Divisional Officer, of a particular item during a collection season. If the collection method of any particular item in a particular area is considered to be harmful or injurious to the forest, the Divisional Forest Officer may impose temporary ban on such collection.

4.(e) The registered dealers will have to pay royalty to the local forest Range Officer at the rate fixed for the quantity of produce collected. The rate of royalty shall ordinarily not be less than 10 per cent of the minimum procurement price of the particular item, but this rate may be varied by Government from time to time, *suo motu* or on proposals submitted by the Divisional Forest Officers.

4.(f) The registered dealers will be required to take transit permits from competent Forest Officers for movement/ transport of the produce out of the collection centres after settling the royalty dues, etc.

4.(g) The Divisional Forest Officer may cancel the registration or refuse registration of any dealer/ trader if after summary enquiry in course of which the affected party shall be given opportunity to show cause, it is found that the dealer has procured any forest produce from the primary gatherers at a price less than the minimum procurement price fixed for the relevant year under para 5 of this Resolution or has failed to achieve the minimum target of procurement, or has failed to file the prescribed returns or has failed to settle the royalty dues in time.

5. For all NTFP items including MFP, the Committee appointed by Government in SC & ST Development Department will fix the minimum procurement price for each collection season or part thereof. These procurement prices shall be announced every year ordinarily during the month of September and will be given wide publicity as decided by Government.

Annexure 'A'
Common Trade Name of the Item of Forest Produce

- | | |
|--|--|
| 1. Tamarind, deseeded Tamarind,
Tamarind seed | 2. Mahua flower |
| 3. Hill brooms | 4. Thorn broom
(Jhadu or Ghoda lanji) |
| 5. Phula jhadu | 6. Broom grass |
| 7. Nux vomica
(Kochila seeds) | 8. Harida |
| 9. Bahada | 10. Amla |
| 11. Soap nut
(Ritha phala) | 12. Marking nut
(Bhalia) |
| 13. Cleaning nut
(Nimmala) | 14. Honey |
| 15. Siali leaves | 16. Sabai grass |
| 17. Mango kernel | 18. Thatch grass |
| 19. Simul cotton | 20. Arrow root
(Palua) |
| 21. Dhatuki flower | 22. Putrani |
| 23. Sikakai | 24. Jungal jada or Gaba |
| 25. Siali seed | 26. Palasa seed |
| 27. Indra jaba
(Korai seed) | 28. Gila
(seed and coat) |
| 29. Banachera | 30. Bana haladi |
| 31. Bana kolatha | 32. Gaba |
| 33. Basil | 34. Makhana seed
(Kanta padma) |
| 35. Tala makhana seed | 36. Baidanka seeds |
| 37. Baghanakhi seed | 38. Kamala gundi fruit |
| 39. Landa haguli | 40. Bela |
| 41. Chirata
(Bhui neem) | 42. Khajuripata |
| 43. Rohini fruit | 44. Bhursunga leaves |
| 45. Rasna root | 46. Phanaphena fruit |
| 47. Sidha fruit | 48. Sathabari |
| 49. Katha lai | 50. Atundi lai |
| 51. Khelua lai | 52. Suam lai |
| 53. Eksira fruit | 54. Katha chhatu
(Mushroom) |
| 55. Mat reed
(Sapa masina grass) | 56. Anenta mula |
| 57. Antia pata | 58. Nageswar flower |
| 59. Mankad kendu | 60. Atundi fruit |

Annexure 'B'

- | | |
|--|------------------|
| 1. Mahua seed | 2. Kusum seed |
| 3. Karanja seed | 4. Neem seed |
| 5. Char seed | 6. Chakunda seed |
| 7. Babul seed | |
| 8. Any other item(s) as may be notified by Government. | |

Items covered under Para 4(b)

1. Sal leaves
 2. Sal resin (Jhuna)
 3. Gums (Dharua gum, Babul gum, Gonduli gum, Bahada gum, Palas gum, Salai gum, etc.)
 4. Khaira and catechu
 5. Barks of trees/ climbers (Sunari, Lodha, Madha, Phanphana, Arjuna barks, etc.)
 6. Roots of Patala garuda (R.S. roots)
 7. Sandal wood
 8. Tassar cocoon
 9. Canes
-

STATES
OF
PUNJAB AND HARYANA

NTFP including Medicinal Plants

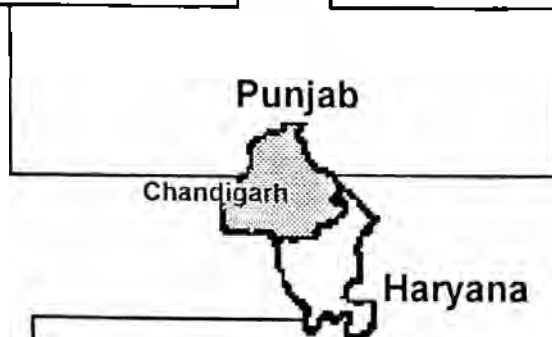
Acacia arabica ('Babul'), *Acacia senegal* ('Khuir'), *Acalypha indica* ('Mukta jhiri'), *Althea officinalis* ('Gul khair'), *Azadirachta indica* ('Neem'), *Boswellia serrata* ('Salai'), *Butea monosperma* ('Palas'), *Eulaliopsis binata* ('Bhabar' grass), *Rauvolfia serpentina* ('Sarpagandha'), *Shorea robusta* ('Sal'), *Sisymbrium irio* ('Jangli sarsoan'), *Strychnos nuxvomica* ('Kuchla'), *Terminalia* spp. (Myrobalans), *Urginea indica* ('Jangli piyaz'), *Vitis quadrangularis* ('Harjora'), *Withania somnifera* ('Aswagandha'), *Zizyphus saliva* ('Ber'); etc.

Monopoly Agency

- State Forest Department.

Price Fixation Method

- By the State Forest Department.



Legal Framework

(1) Indian Forest Act, 1927

- Contains provisions relating to the transit of forest produce and the duty leviable on forest produce.

(2) Punjab Forest Rules

- Rules for the Unclassed Forests/ Waste lands belonging to State Government.
- A licence required for the removal of natural products.

(3) Haryana Forest Development Act, 1983

- An Act to provide for the establishment of the Haryana Forest Development Board for undertaking the development of forest resources, utilization of, processing of, and trade in forest produce.

INTRODUCTION

The States of Punjab and Haryana, lying in the north west of India, were earlier part of the one State, i.e. Punjab. The modern state of Haryana which came into being in 1966, has two natural areas, viz. Sub-Himalayan terai and Indo-Gangetic plain. The state of Punjab, having a highly fertile land, may be divided into two parts, viz. Sub-Shivalik strip and Sutlej-Ghaggar plain.

Both the States have little forest area. The State of Haryana has a total area of 44,212 sq. km. out of which forest area comprises of about 1,673 sq. km. (3.78%). The State of Punjab has a total land area of 50,367 sq. km. out of which the forest area is of about 2,901 sq. km. (5.76%). Both the States have a common capital, i.e. Chandigarh, which is a Union Territory. Its area is 114 sq. km. out of which the forest area is of about 31 sq. km.

While the Tropical Dry Deciduous/ Thorn forests are found in Haryana, the State of Punjab has the following types of forests: Tropical Moist Deciduous, Subtropical Pine and Himalayan Moist Temperate forests. Some of the important NTFF including medicinal plants found in the States of Punjab and Haryana are:

Botanical Names	Common Names
<i>Acacia arabica</i>	Babul
<i>Acacia senegal</i>	Khair
<i>Acalypha indica</i>	Mukta jhiri
<i>Althea officinalis</i>	Gul khair
<i>Asparagus racemosus</i>	Satavari
<i>Azadirachta indica</i>	Neem
<i>Blepharis edulis</i>	Utangan
<i>Boswellia serrata</i>	Salai
<i>Butea monosperma</i>	Palas
<i>Eclipta alba</i>	Bhangra
<i>Eulaliopsis binata</i>	Bhabar grass
<i>Peganum harmala</i>	Gandhaya
<i>Pinus roxburghii</i>	Pine, Chir
<i>Podophyllum emodi</i>	Bankakri
<i>Rauvolfia serpentina</i>	Sarpagandha
<i>Salvia aegyptica</i>	Tukham malanga
<i>Shorea robusta</i>	Sal
<i>Sisymbrium irio</i>	Jangli sarsoan
<i>Strychnos nux-vomica</i>	Kuchla
<i>Terminalia</i> spp.	Myrobalans
<i>Urginea indica</i>	Jangli piyaz
<i>Vitis quadrangularis</i>	Harjora
<i>Withania somnifera</i>	Aswagandha
<i>Zizyphus sativa</i>	Ber

The State Governments of Punjab and Haryana have enacted Acts/ Rules to ensure a sustainable harvest of forest produce. The Indian Forest Act, 1927, which contains provisions relating to the transit of forest produce and the duty leviable on forest produce, is applicable to the States of Punjab and Haryana.

The Punjab Forest Rules have been framed in respect of the Unclassed forests and waste lands belonging to Government. No person shall remove, cut, etc. any natural products in the above-mentioned lands except under a 'licence' granted by Collector or Forest Officer. Every licence holder shall be bound by the conditions stated in the licence; in case of any breach the Collector may cancel the licence. Any person acting in contravention of these rules shall be liable to an imprisonment up to one month, which may extend to six months on a subsequent conviction.

The Haryana Forest Development Act, 1983, is an Act to provide for the establishment of the Haryana Forest Development Board for undertaking the development of forest resources, utilization of, processing of, and trade in forest produce. The Board shall have a fund to be called the 'Forest Development Fund' which will be financed by the State Government. All the officers and employees of the Board shall be deemed to be Forest Officers within the meaning of the Indian Forest Act, 1927. The State Government shall exercise superintendence and control over the Board and its officers, and may make rules for carrying out the purposes of this Act.

Summing Up

In recent years, the Punjab and Haryana State Governments have placed an emphasis on the Joint Forest Management (JFM) Scheme, by seeking active participation and involvement of local people. The beneficiaries selected are from amongst the economically backward people living in the villages in the vicinity of forests. In the State of Haryana, the Village Forest Protection and Management Committees (VFPMCs) formed in respect of the reserved/ protected forests have been assigned the responsibility of protection, social fencing, micro-planning, and, production management (Verma, S.K., 1998).

The material benefits (i.e. usufructs of all NTFPs) which are potentially sustainable were the clear motivation. The viability of JFM will depend on villagers' willingness and agreement to the basis of the partnership with the Forest Department, particularly with regard to the benefit sharing arrangements.

PUNJAB FOREST RULES*

Rules for the Unclassed Forests or Waste Lands belonging to Government under Secs. 52 and 50-B of the Punjab Lands Act, IV of 1872.

1. (1) This rule, Rules 2 to 9 (both inclusive) and Rule 17 apply in the first instance to all waste lands which are of the Government in the local areas mentioned in the Schedule, except-
 - (a) protected and reserved forest;
 - (b) lands under the control of the Military, Canal or Railway authorities;
 - (c) lands under the control of District Boards and Municipal Committees;
 - (e) Government lands to which any special rules apply.
3. No person shall pasture cattle, cut wood or *sajji* plants or grass, or gather fuel or any other natural product in the above-mentioned lands, except-
 - (i) under the authority of law in accordance with the conditions of a licence granted by the Collector or Forest Officer.
4. Every licence granted under rule 3, cl. (i), shall be in writing and signed by the Collector or Forest Officer, and shall state-
 - (a) the nature, extent and duration of the rights thereby conferred;
 - (b) the consideration paid or to be paid by the licence holder;
 - (c) the special conditions, if any, on which the licence is granted.
8. Every licence holder shall be bound by the conditions stated in the licence granted to him.
9. In case of any breach of the provisions of rule 8, the Collector may, at his discretion cancel the licence, and thereupon the licence-holder, shall forfeit all claims to any produce or wood which at the time of the cancellation of the licence has not been removed from the land to which the licence applies.
17. Any person acting in contravention of any of these rules shall be liable, on a first conviction, to simple imprisonment for a term which may extend to one month, or to fine not exceeding Rs. 100, or to both; and on a subsequent conviction under this rule within three years of the first two imprisonment for a term which may extend to six months, or to fine not exceeding Rs. 300, or to both.

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

THE HARYANA FOREST DEVELOPMENT ACT, 1983*

(Act No. 7 of 1983)

Statement of Objects and Reasons

In conformity with the new national policy, the State Government proposed to undertake a very ambitious programme for development of Forest resources. This calls for a substantial step up of investment in the forestry sector. Past experience has shown that the present administrative arrangement needs a drastic change if the new massive programme is to be implemented on priority. For the constitution of an alternative and effective agency for the implementation of the massive programme, the State Government decided to constitute the Haryana Forest Development Board. To achieve this end, the Haryana Forest Development Ordinance, 1982 was promulgated. It is now proposed to replace this ordinance by an Act.

An Act to provide for the establishment of the Haryana Forest Development Board for undertaking the development of forest resources, utilization of, processing of, and trade in forest produce.

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

- (a) "Board" means "The Haryana Forest Development Board" established under sub-section (1) of Sec.3;
- (d) "forest produce" shall have the meaning assigned to it in the Indian Forest Act, 1927;
- (g) "trade" means any activity relating to forest produce and include manufacturing and processing thereof.

3. Establishment and incorporation of the Board. - (1) With effect from such date as the State Government may, by notification, appoint in this behalf, there shall be established for carrying out the purposes of this Act, a Board to be known as "The Haryana Forest Development Board" with head-quarters to such place as the State Government may specify.

5. Constitution of the Board. -

- (1) The Board shall consist of a Chairman, a Director who shall be a member of the Indian Forest Service, and nine other members of whom four shall be official and five non-official.
- (2) All members of the Board shall be nominated by the State Government.

9. Office to be held during pleasure of State Government. - Notwithstanding anything contained in this Act, the Chairman and the members of the Board shall hold office during the pleasure of the State Government.

20. Duties and functions of the Board. - The duties and functions of the Board shall be-

* The complete Act is not reproduced. Only the relevant sections have been extracted.

- (a) to undertake proper and scientific exploitation of forest resource of the State of Haryana and if necessary outside it;
- (b) to market the various products both raw and refined goods; inside and outside the State of Haryana;
- (c) to establish and manage industries based on forest produce;
- (d) to undertake trade in forest produce and to promote the development of forest resources in the State of Haryana;
- (e) to plant, grow, cultivate, produce, protect and manage, raise plantations of all kinds or varieties of forest plants, trees and crops on Government lands, community lands, private lands and on lands owned by institutions and other organizations, to promote social forestry;
- (f) to formulate, plan and execute projects and programmes relating to afforestation, soil conservation and conservation of environment so far as it is necessary for performing its functions under this Act;
- (g) to undertake any other function which the State Government may assign to the Board, within the scope of this Act.

21. Fund of Board. -

- (1) The Board shall have a fund to be called the Forest Development Fund.
- (2) The Forest Development Fund will be financed by the State Government.

29. Conferment of powers of Forest Officers. - All the officers and employees of the Board shall be deemed to be Forest Officers within the meaning of the Indian Forest Act, 1927 and they shall be competent to exercise the powers of Forest Officers, so far as may be necessary, for the purpose of performing their duties under this Act.

32. Power of Government to give directions to Board. - The State Government may give to the Board, such directions, as in its opinion are necessary or expedient, for carrying out the purposes of this Act and it shall be the duty of the Board to comply with such directions.

33. Control of State Government over Board. - The State Government shall exercise superintendence and control over the Board and its officers and may call for such information as it may deem necessary and, in the event of its being satisfied that the Board is not functioning properly or is abusing its powers it may, by notification, supersede the Board:

Provided that before superseding the Board the State Government shall give a reasonable opportunity to the Board for showing cause against the proposed supersession:

Provided further that the Board shall be reconstituted, within a period of one year, from the date of its supersession.

35. Power to make rules. - The State Government may, by notification, make rules for carrying out the purposes of this Act.

STATE
OF
RAJASTHAN

NTFP including Medicinal Plants

Acacia catechu ('Katha'), *Acacia senegal* ('Khair'), *Azadirachta indica* ('Neem'), *Boerhavia diffusa* ('Punarnava'), *Boswellia serrata* ('Salai'), *Butea monosperma* ('Palas'), *Chlorophytum tuberosum* ('Tholimosli'), *Commiphora mukul* ('Guggal'), *Datura alba* ('Safed dhatura'), *Diospyros melanoxylon* ('Tendu'), *Madhuca indica* ('Mahua'), *Tacoma undulata* ('Rohara'), *Withania somnifera* ('Aśwagandha'), etc.

Nationalized NTFP Items

Gum Karaya, Mahua seed, Karanj seed, Safed musli, and other NTFP items.

Monopoly Agency

- Rajasthan Tribal Areas Development Cooperative Federation (RTADCF).
- State Forest Department in respect of tendu leaves.

Price Fixation Method

- By RTADCF on the basis of recommendation of District Collector, who fixes the price on the basis of last year's sale and prevailing market rates in nearby markets.

Rajasthan

Legal Framework

(1) Rajasthan Forest Act, 1953

(Similar to the Indian Forest Act, 1927)

- Provisions relating to the transit of forest produce and duty leviable on forest produce.

(2) Rajasthan Protected Forest Rules, 1957

- Rules for the collection, manufacture and removal of forest produce from Protected Forests.

(3) Rajasthan Reserved Forests Rules, 1957

- A 'permit' required for the carrying of any forest produce.

(4) Rajasthan Forest Produce (Transit) Rules, 1957

- A 'pass' required for the removal or transport of the forest produce.

(5) Rajasthan Forest (Settlement) Rules, 1958

- It recognizes the 'right to collect the minor forest produce' of the people likely to be affected by "reservation" of a forest area.

(6) Rajasthan Government's Order on Joint Forest Management (JFM)

- Village Forest Protection and Management Committees (VFPMCs) have been formed in respect of reserved and protected forests.
- The members of such committees (viz. villagers/tribals) are entitled to all usufructs intermediary benefits and 50-60% sharing in the final harvest.
- The Committee operate joint account with the representatives of the Forest Department.

INTRODUCTION

The State of Rajasthan, which includes the Thar desert, has a total land area of 3,42,239 sq. km. out of which the forest area comprises of about 31,700 sq. km. (9.26%). Tropical Dry Deciduous/ Thorn forests are predominantly found in the State. The State of Rajasthan possess some important medicinal plants and other non-timber forest produce:

Botanical Names	Common Names
<i>Acacia catechu</i>	Katha
<i>Acacia senegal</i>	Khair
<i>Azadirachta indica</i>	Neem
<i>Boerhavia diffusa</i>	Punanrva
<i>Boswellia serrata</i>	Salai
<i>Butea monosperma</i>	Palas
<i>Calotropis procera</i>	Safed-ak
<i>Cassia auriculata</i>	Tarwar
<i>Chlorophytum tuberosum</i>	Tholi mousli
<i>Clerodendrom phlomoides</i>	Urni
<i>Commiphora mukul</i>	Guggal
<i>Datura alba</i>	Safed dhatura
<i>Diospyros melanoxylon</i>	Tendu
<i>Eclipta alba</i>	Bhangra
<i>Madhuca indica</i>	Mahua
<i>Sisymbrium irio</i>	Jangli sarsoan
<i>Solanum xanthocarpum</i>	Kateili
<i>Tacoma undulata</i>	Rohara
<i>Vitis quadrangularis</i>	Harjora
<i>Withania somnifera</i>	Aswagandha

The State Government has enacted Acts/ Rules to ensure a sustainable harvest of forest produce. The salient features of these Acts/ Rules are discussed in brief below.

The Rajasthan Forest (Settlement) Rules, 1958, require the Forest Settlement Officer to inquire into the claims of the people likely to be affected by the proposed "reservation" of a forest area. The 'right to collect minor produce' is also recognized, which consists of gums and resins, wax and honey, wood oil, medicinal herbs, flowers and leaves, fruits and seeds, bark, fibre, etc. The produce will be removed on head-loads only to the extent permitted for their personal bonafide requirements and for petty sale (Rule 12). All rights and concessions are subject to the condition that forests are to be maintained (Rule 13).

Rule 15 lays down that so far as the inquiry into the rights of the people is concerned there is no much difference between *Reserved* and *Protected* Forests.

Usually all those forests which are very heavily burdened with rights are constituted as "protected forests" and concessions are granted in a more liberal scale.

The Rajasthan Protected Forest Rules, 1957, provide rules for the collection, manufacture and removal of forest produce from protected forests. The "protected trees" include: Kadaya (*Sterculia urens*), Khair, Aam (*Mangifera indica*), Mahua, Bahera (*Terminalia belerica*), Aonla (*Emblica officinalis*), Baela (*Aegle marmelos*), Chandan (*Santalum album*), Achar, Jamun (*Eugenia jambolana*), Semal (*Bombax malabaricum*), Bad, Pipal (*Ficus religiosa*), Imli (*Tamarindus indica*), Tendu, Bans (Bamboo), Kadam (*Anthocephalus cadamba*), Neem, Salai, Khirni (*Mimusops hexandra*). All forest produce removed from the protected forests shall be in accordance with a permit issued in the "Form-I".

The Rules also provide for the regulation of the grant of permits and licences to the inhabitants of towns/ villages in the vicinity of protected forests to take forest produce for their own use and the production and return of such licence by such persons. The holder of licence shall use the forest produce for his own agricultural or domestic purpose and shall not sell such produce (the licence shall be in "Form-II"). Payments shall be made in accordance with the rates specified for any area by the Government for the forest produce.

The Rules also provide that no person shall clear or break up any land for cultivation or other purposes in a Protected Forest except under the terms of a *patta* granted by the Divisional Forest Officer in "Form-III". The Rules also provide penalties for any contravention of the rules (imprisonment upto 6 months or fine up to Rs. 500, or both).

The Rajasthan Reserved Forest Rules, 1957, provides for a permit for clearance (for cultivation) and shifting cultivation ("Form-I" and "Form-II"). No person whose right is admitted under Sec.12 of the Rajasthan Forest Act, 1953, shall carry any forest produce except in accordance with a permit in "Form-IV" issued by the Range Officer. All forest produce extracted from the Reserved Forests must pass through the *chowkies/ nakas* (check-posts) specified by the Divisional Forest Officer.

The Rules further lay down that the forest produce may be counted and measured by the forest official-in-charge of the *chowki* and by any forest officer at any time during the transit. No carriage of forest produce is permitted in night, unless specifically permitted by the Divisional Forest Officer. The penalties for contravention of the rules are-imprisonment upto 6 months or fine up to Rs. 500, or both.

The Rajasthan Forest Produce (Transit) Rules, 1957, lays down that no forest produce shall be removed or transported into or from or within any area in the State except without a *pass* ("Form-I") issued by the Forest Officer. However, no pass shall be required for the extraction of forest produce for consumption by any person in exercise of any right or concession granted by the State Government. The Government may exempt any forest produce from the operation of these rules.

The Conservator of Forests may establish *depots* for examination of the forest produce prior to the grant of pass, or for determining the amount of money, if any, payable to the Government, and for the payment of any money so found to be due.

The Rajasthan Reserved Forest (Commutation of Rights) Rules, 1960, lays down that commutation of all rights under Sec. 16 of the Rajasthan Forest Act, 1953,

shall not exceed 20 times the value of the forest produce at the time of commutation, whether by cash payment or by grant of land.

Summing Up

'Tendu' leaf trade in Rajasthan is handled by the Forest Department on a monopoly basis. Tribal Area Development Cooperative Federation (TADCF) organizes collection of other NTFP items on a monopoly basis. LAMPS (Large Scale Multi Purpose Societies) and Cooperative Societies are being involved in collection of grasses, gums, fruits, medicinal plants, etc. The contractor agency has been eliminated.

However, the TADCF has not been able to make much dent in NTFP collection and its processing, and has been suffering loss in the trade. For instance, it buys 'Tholi mousli' (*Chlorophytum tuberosum*), a medicinal herb at Rs. 250-400/kg, although tribals could easily get Rs. 500-1000 in the open market. Thus nationalization has not been of much help to the gatherers. The 'unfair' trade practices on the part of the private traders and manufacturers has affected the sustainable harvest of NTFP including medicinal plants (Shukla, R.S., 2000).

Cooperative societies set up to stand by the tribals are seldom successful to get leases from the forest department as they are in chronic financial distress. Even where a handful of LAMPS, or State Tribal Development Cooperative Corporations (STDCCs) have obtained the lease as the collection agencies, they have not carried out viable operations as they have failed to develop any sustainable strategy to deal with the NTFP markets due to poor leadership and managerial practices, malpractices and lack of interest in acquiring commercial skills. Bereft of genuine participation or leadership from tribals with stakes in the NTFP trade, these Cooperatives have lost their credibility and have become inefficient in organising the tribal people or interact on their behalf with the NTFP market in any meaningful manner (Ramji & Bhatnagar, 2000).

In practice, STDCCs like the State Forest Development Corporations have appointed the same private traders, money lenders and middlemen as their sub-agents who fully exploit the collectors. Further, due to unsatisfactory operation of these organisations (viz. delays in payment), the tribals prefer to sell their produce to middle men who ensure quick payment in cash (Verma, S.K., 1998).

THE RAJASTHAN FOREST PRODUCE (TRANSIT) RULES, 1957*

[Framed under Sec. 41 of the Rajasthan Forest Act, 1953]

2. Removal of produce.- No forest produce shall be removed into or from or within any area in the State of Rajasthan except as hereinafter provided without a *pass* issued by a Forest Officer or person duly authorised by or under these rules or otherwise than in accordance with the conditions of such pass or by any route or to any destination other than the route and destination specified in such pass:

Provided that no pass shall be required for the removal of any forest produce which has been extracted from the forest for consumption by any person in exercise of any right or concession granted by the State Government or of any other forest produce, as may be exempted by the State Government from the operation of these rules.

3. Passes.-

(1) The following officers and persons shall have the power to issue passes under these rules, namely-

- (i) (a) Chief Conservator of Forests, Rajasthan.
- (b) Conservator of Forests.
- (c) Divisional Forest Officer.
- (d) Sub-divisional Forest Officer.

(ii) Persons specifically authorised by the Government in this behalf by a notification in the *Rajasthan Rajpatra*.

(2) Every pass issued under these rules shall contain the following particulars, namely-

- (a) Name of the person to whom the pass is granted.
- (b) Quantity and description of forest produce covered by it.
- (c) Name of village, tehsil and district in which the person resides.
- (d) Place from and to which such forest produce is to be taken or conveyed.
- (e) The route and the name of *chowkies* and *nakas* by which such forest produce is to be conveyed.
- (f) The period for which the pass shall be valid.

4. Fees.- A pass under rule 2 shall be issued in the form appended to these rules upon payment of a fee of a rupee one.

5. Means of Transport.- A group of carts, transport animals, mechanically driven vehicles belonging to or hired by one individual owner may be covered by

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

one single pass provided that the number of such carts, transport animals or vehicles is clearly recorded in the pass and if such carts, transport animals or vehicles belong to different owners they shall be accompanied by as many passes as there are owners.

6. Check posts.- All forest produce moved in or from the limits of the State of Rajasthan shall pass through a check *chowki* (or *naka*) where the transit pass must be produced for inspection and endorsement by the official in-charge of the *chowki*.

8. Stoppage in transit.- Any Forest Officer not below the rank of a Forest Guard or any Police Officer not below the rank of a Head Constable may stop, examine, mark and report on timber and other produce in transit.

9. Depots.-

- (i) The Conservator of Forests may establish such places as he thinks fit as depots to which the forest produce shall be taken-
 - (a) for examination prior to the grant of a pass, or
 - (b) for determining the amount of money, if any, payable to Government, and for the payment of any money so found to be due, or
 - (c) in order that any mark required by law or these rules is to be fixed thereto may be so fixed.
- (ii) The Conservator of Forests shall make known from time to time by notification in the *Official Gazette*, and locally in such manner as he deems fit, the names and situation of each depot in his Circle.
- (iii) Each depot shall be in charge of an officer appointed by or under the orders of the Conservator of Forests without whose permission no forest produce shall be brought into or removed from the depot.

THE RAJASTHAN PROTECTED FOREST RULES, 1957*

(Framed under Sec. 32 of the Rajasthan Forest Act, 1953)

II

Rules for cutting, sawing, conversion and removal of trees and timber and the collection, manufacture and removal of forest produce from protected forests

2. **Cutting.**- No person shall fell, girdle, lop, top, uproot, burn, strip off bark or leaves, saw, convert, remove, fashion, manufacture, collect and export any tree, timber or other forest produce from any Protected Forest, except in accordance with these rules, and with the conditions express or implied of any contract given by the State Government for the removal of forest produce.

3. **Protected trees.**- The following trees shall not be felled, girdled, lopped, topped, uprooted, burnt, or their bark or leaves stripped off except with the written permission of the Divisional Forest Officer, namely-

- (a) *Trees marked as standards.* Such trees shall have some distinctive marks, such as coaltar rings.
- (b) Kadasa, Khair, Aam, Mahua, Bahera, Aonla, Baela, Chandan, Achar, Jamun, Semal, Bad, Pipal, Imli, Tendu, Bans, Kadam, Neem, Salai, Khimi.

6. **Felling in night.**- No forest produce shall be felled, converted or extracted from the forest between half an hour after sunset and an hour before sunrise. Burning of charcoal or boiling of *Katha* chips may, however, proceed throughout the day and night.

7. **Removal.**- All forest produce removed from the protected forests shall be in accordance with a permit issued in the Form I and shall pass through *chowkies/nakas* specified in the permit.

III

Rules for the regulation of the grant of permits and licences to the inhabitants of towns and villages in the vicinity of Protected Forests to take trees, timber or other forest produce for their own use and the production and return of such licence by such persons

10. **Licence for personal use.**- No person shall cut, convert, fashion, remove or extract any tree or timber or any other forest produce from any protected forest for his own use without obtaining a licence from the Range Officer or any other subordinate officer empowered by him in this regard.

11. **Licence Form.**- The licence shall be in Form II and shall be produced for inspection on demand by any Forest or Police Officer.

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

12. No sale.- The holder of licence shall use the tree, timber and/or other forest produce for his own agricultural or domestic purpose and shall not sell such produce.

13. Payment for forest produce.- All payments in respect of a tree, timber, and/or other forest produce shall be made in advance at the office from which the licence is issued.

14. Rates of payments.- Payment shall be made in accordance with the rates specified for any area by the Government from time to time for such trees, timber and/or other forest produce.

15. Carrying of the produce.- All trees, timber and other forest produce extracted by the licence holder shall pass through the *chowkies/nakas* specified by Divisional Forest Officer. The licence shall be endorsed by the check *moharrir* or *nakedar*, entering the description of the produce together with the time of its removal.

Any forest produce covered by any licence but not endorsed by the check *moharrir* or *nakedar* shall be deemed to have been extracted without any authority and shall be subject to seizure and confiscation.

16. Katha and Lime.- No person shall boil Katha or burn lime in the forest except in such places as may be pointed out for the purpose by the Range Officer or any officer subordinated to him and authorised by him in this behalf.

IV

Regulation of clearing and breaking of land for cultivation or other purposes in the Protected Forests

17. Clearance.- No person shall clear or break up any land for cultivation or other purposes in a Protected Forest except under the terms of a *patta* granted by the Divisional Forest Officer in Form III.

VI

Cutting of grass and pasturing of cattle

19. Grass Cutting.-

- (1) No person shall pasture cattle or cut grass in a Protected Forest except in such parts of that forest as are opened from time to time for grazing or grass cutting.
- (2) No person shall graze cattle without payment of fees prescribed for any area by the Government from time to time and without a permit issued in Form IV by the Range Officer.
- (3) This rule shall not apply to rights and concession holders who will be regulated by the rules for the exercise of such rights and concessions.

VII

Penalties

20. Penalties.- Any contravention of the rules 2 to 10 and 15 to 19 shall upon conviction by a Magistrate be punishable with imprisonment for a term which may extend to six months or fine which may extend to five hundred rupees or both.

RAJASTHAN RESERVED FORESTS RULES, 1957*

(Framed under Sec. 26-A of the Rajasthan Forest Act, 1953)

II

Clearance and shifting cultivation

2. Permit for clearance.- No person shall make any fresh clearing for cultivation or for any other purpose without obtaining a permit in writing in Form I from the Divisional Forest Officer concerned.

3. Practice and permit for shifting cultivation.- The practice of shifting cultivation shall remain confined to the areas already under such cultivation and no person shall extend this practice in any new area without obtaining a permit in writing in Form II from the Divisional Forest Officer concerned.

IV

Carrying of Forest produce by persons whose right is admitted under Sec. 12

10. Carriage of forest produce.- No person whose right is admitted under Sec. 12 of the Rajasthan Forest Act, 1953, shall carry any forest produce except in accordance with a permit in Form IV issued by the Range Officer.

11. Passage through the specified nakas.- All forest produce extracted from the Reserved Forests must pass through the *chowkies/nakas* specified by the Divisional Forest Officer.

VI

Felling, uprooting, tapping, girdling, sawing, conversion and removal of trees and timber and the collection, manufacture and removal of forest produce from such forests

13. Cutting of trees.- No person shall fell, uproot, tap, girdle, saw, convert and manufacture any standing tree except in accordance with the permit issued in Form V by the Range Officer and no person shall remove any tree or other produce converted or manufactured except in accordance with the permit issued in Form IV by the Range Officer.

20. Marking.-

(b) No forest produce shall be conveyed beyond the limits of the area without a *pass* signed by the Forest Moharrir (*Nakedar*) in such form as the Divisional Forest Officer may prescribe.

(c) No such forest produce shall be carried except by such routes and via such *chowki* or *chowkies* as may be prescribed by the Divisional Forest

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

Officer and Wood Officer and no wood other than fuel shall be removed beyond the said *chowki* or *chowkies* without being stamped with such Government mark as the Divisional Forest Officer may prescribe for use at each *chowki*. The forest produce may be counted and measured by the forest official in-charge of the *chowki* and by any forest officer at any time during transit.

21. No carriage in night.- No forest produce shall be exported after sunset and before sunrise unless specifically permitted by the Divisional Forest Officer.

VII

The Examination of forest produce passing out of such forests

23. Checking.- Any forest officer not below the rank of a Forest Guard may check the forest produce during transit.

IX

Penalties

25. Penalties.- Any contravention of the rules 3, 4, 7, 9, 10, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24 shall upon conviction by a Magistrate be punishable with imprisonment for a term which may extend to six months or fine which may extend to five hundred rupees or both.

RAJASTHAN RESERVED FOREST RULES, 1957

FORM IV

Forest Department, Rajasthan

.....Range.....Division

Form of Permit for Removal of Forest Produce

(rules 10 and 13)

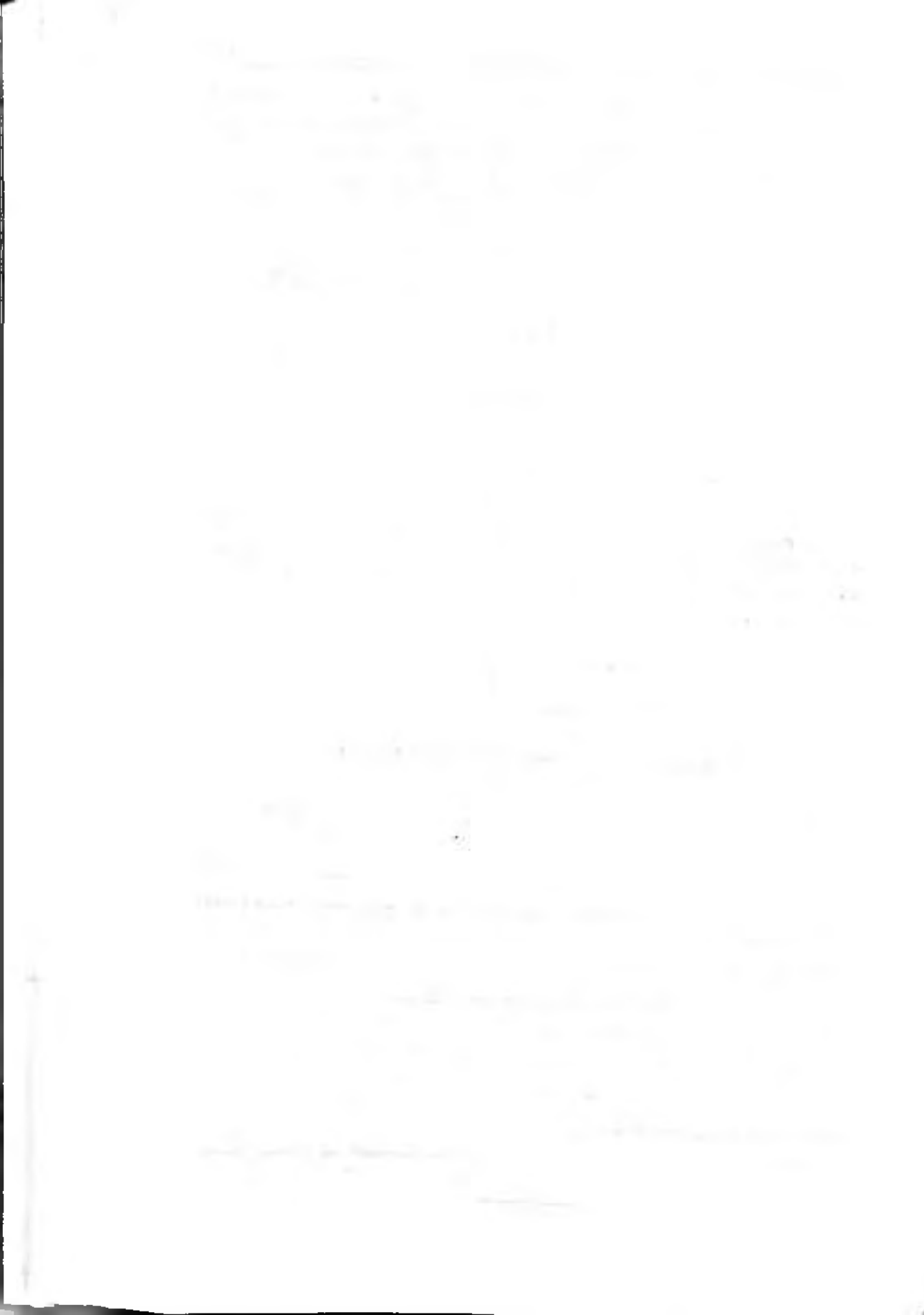
Permit No.....s

Date.....

- (i) Name and address of the Permit-Holder....
- (ii) Description of the Forest produce for which permit is granted....
- (iii) The name of the Block and Compartment from which the forest produce will be extracted....
- (iv) Fees paid, if any.....
- (v) Facsimile of the property mark, on timber, if any.....
- (vi) Destination of the Forest produce.....
- (vii) Period for which the permit is valid.....
- (viii) Route through which export is permitted.....
- (ix) Other conditions, if any.....

Date.....

Signature of Range Officer.



STATE
OF SIKKIM

NTFP including Medicinal Plants

Abies webbiana ('Talis patri'),
Aconitum lecinatum ('Kala- bhikmo'),
Aconitum spicatum ('Bikh'),
Desmotricum fimbriatum ('Jeevanti'),
Gynocardia odorata ('Chaul mugra'),
Hedyotis auricularia ('Dapoli'),
Madhuca butyracea ('Phoolwara'),
Myrica nagi ('Kai phal'), *Nardostachys*
jatamansi ('Bal chad'), *Picrorhiza*
kurroo ('Kutki'), *Pinus wallichiana*
('Kail'), *Pinus roxburghii* ('Chir'),
Podophyllum hexandrum ('Ban kakri'),
Rheum emodi ('Revand chini'), *Swertia*
chirayita ('Chirayata'), *Valeriana*
hardwickii ('Tagar'), *Withania*
somnifera ('Ashwagandha'); etc.

Monopoly Agency

- * State Forest Department.

Price Fixation Method

- * By State Forest Department.

Sikkim



Legal Framework

(1) Indian Forest Act, 1927

- * Extended to the State in 1989; contains provisions relating to the transit of forest produce and duty leviable on forest produce.

(2) Sikkim Forests, Water Courses & Road Reserve (Preservation and Protection) Act, 1988

- * Regulations in respect of Reserved Forests, Khasmal and Gorucharan Forests.
- * Control and management of Private Forests.
- * Provisions in respect of transit of forest produce.
- * "Forest Produce" under the Act includes medicinal plants.

(3) Sikkim Forest Department Reward Rules, 1998

- * Reward to the informer of a forest offence (3% of the value of produce involved in the offence).

(4) Government's Order on Joint Forest Management (JFM), 1998

- * An active participation and involvement of local people along with the forest officials for maintenance and protection of forests and sharing of forest usufructs.

INTRODUCTION

Sikkim, lying in the lap of the Himalayas bordering China has a total land area of 7,096 sq. km. out of which forest area is about 2,650 sq. km. (37.34%). Some of the important NTFP including medicinal plants in the State are:

Botanical Names	Common Names
<i>Abies webbiana</i>	Talis patri
<i>Aconitum leciniatum</i>	Kala- bhikmo
<i>Aconitum spicatum</i>	Bikh
<i>Alpinia galanga</i>	Kulanjan
<i>Desmotricum fimbriatum</i>	Jeevanti
<i>Gynocardia odorata</i>	Chaul mugra
<i>Hedyotis auricularia</i>	Dapoli
<i>Madhuca butyracea</i>	Phoolwara
<i>Messua ferrea</i>	Nag kesar
<i>Myrica nagi</i>	Kai phal
<i>Nardostachys jatamansi</i>	Bal chad
<i>Picrorhiza kurrooa</i>	Kutki
<i>Pinus wallichiana</i>	Kail
<i>Pinus roxburghii</i>	Chir
<i>Podophyllum hexandrum</i>	Ban kakri
<i>Rheum emodi</i>	Revand chini
<i>Swertia chirayita</i>	Chirayata
<i>Valeriana hardwickii</i>	Tagar
<i>Valeriana wallichii</i>	Mushak bala
<i>Withania somnifera</i>	Ashwagandha

The State's forests have been demarcated into: Reserved forest, Khasmal forest (the forest areas in the vicinity of the villages from where the local people meet their timber/ fuelwood requirements), and, Gorucharan forest (areas for cattle grazing and fodder collection). There are also slip reserves and road reserves. Together they constitute the State-owned forests. There are other categories of forests, which do not come under the direct administrative control of the Forest Department. These are: Forests of the Kazis, Gumpa forests (managed by the Lamas), and, Private forests of His Highness and of some members of the erstwhile Royal family.

The Indian Forest Act, 1927, was extended to Sikkim from 20 April 1989 with retrospective effect. The State has also enacted Acts/ Rules to ensure a sustainable harvest of forest produce. The salient features of these Acts/ Rules are discussed in brief below.

The Sikkim Forests, Water Courses and Road Reserve (Preservation and Protection) Act, 1988, is the principal State statute in respect of forest. It is the statute of wide-ranging import, regulating inter alia reserved forests (Chapter II) ,

khasmal and gorucharan forests (Chapter III), protection of riverbanks, slip reserves and road reserves (Chapter IV), control and management of private forests (Chapter V), transit of forest produce (Chapter VI), etc. Forest Produce defined under the Act includes medicinal plants.

The Act also gives the State Government the power to make rules to effectuate the purposes of the Act. Accordingly, several rules have been made thereunder; the following may be specifically mentioned: the Sikkim Forests (Compounding of Offences) Rules, 1998, and, the Sikkim Forest Department Reward Rules, 1998. Under the latter, any person furnishing information leading to or otherwise, contributing to the booking of forest offence and/or successful penal action against the offender, may be granted a reward, to be authorized by the Divisional Forest Officer which shall be paid in cash, to the extent of 3% of the value of the produce involved in the offence.

There are other conservation-oriented efforts within the State law as well. In 1995 by a Notification, the Forest Deptt. banned grazing in reserved forests, and by another Notification imposed a ban on felling of trees of any type from some of the reserved forests for a period of 10 years. In 1996 the State Government declared 14 trees as "protected" (of which no felling is allowed) and 11 as "restricted" (felling of which requires prior approval of the Government). The Forest Deptt. has also declared 14 medicinal plants of high altitude as restricted and protected species.

Sikkim is the land of orchids. About 475 species of 100 genera are found here. In 1987, a Centre for Protection and Propagation of Endangered Species of Orchids of Eastern Himalayas was established in the State. A specific Notification for orchids was issued in 1950s which inter alia prohibited the export of orchids without licence from the forest department, the plucking of orchids from Road Reserve Areas, etc.

In Sikkim, Joint Forest Management (JFM) has been adopted vide Notification dated 26 June 1998. Accordingly, in Khasmal, Gorucharan areas and degraded forest lands, Forest Protection Committees shall be constituted. Such Committees may be given 25% of the net income derived from the forest crop (including the NTFP and medicinal plants) so protected after meeting the bonafide demands of the local villagers in respect of fodder and firewood from fallen and dry twigs.

Summing Up

The State of Sikkim has eliminated the system of contractors and replaced them by departmental agencies. The Forest Department manages the forest in the state. As regards policy, there is no State Forest Policy. The National Forest Policy, 1988 is the guiding document. However, a State Forestry Action Plan for Twenty Years under the National Forestry Action Programme, 1994-95 has been prepared. The plan sets out the guidelines for the preparation of a management plan for all the forests and ecosystems of the State. According to this Plan, inter alia top priority has been given to the strengthening of policy, legislation and institutional framework (Centre for Environmental Law, WWF-India, 1999).

Sikkim is a treasure house of medicinal plants. There is an enormous amount of folklore in the State about the use of the medicinal plants. There are several traditional systems of medicine: the Nepali system, the Bhutia system and Lepcha

system. It would be worthwhile to give an impetus to ethnobotanical studies in the area. A list of medicinal plants of Sikkim Himalayas and their uses has been compiled by the Working Plan Circle of the Forest Deptt. However, the status, survey of medicinal plants is an ongoing exercise.

A proposal for inclusion of some of the endangered plants in Sikkim in Schedule VI of the Wildlife Protection Act, 1972 is under consideration of the State Wildlife Advisory Board. The plants include: *Panax* spp., Orchids, *Taxus baccata* and *T. wallichiana*, *Juniper* spp., and, *Costus speciosus*. If the hypothesis that wealth needs to be guarded holds true, then the biological security of the State must be treated with the seriousness that it deserves. There is already a system of registration of foreigners entering the State. The system can be strengthened to incorporate screening of what biological wealth leaves and enters the State (Centre for Environmental Law, WWF-India, 1999).

With the degree of diversity in plants and the corresponding diversity in the use of such plants, there is a conspicuous absence of any debate on intellectual property. However, the knowledge largely remains in the informal sector. The possibility of its integration into the formal sector lies in a system of patents' protection. Providing for such a system would also boost the interest of the pharmaceutical industry in the State.

The Joint Forest Management (JFM) has been adopted in the State. However there is a degree of skepticism vis-à-vis JFM in the State, since the idea of people's collaboration with the work of the Department is still in its embryonic stage. Even though Sikkim has only recently adopted democratic politics, there is an apparent alienation of the populace from the law-making process. The people are perhaps still oriented to a top-down approach, especially in the light of the former system of governance. Such an approach does not reconcile with environmental management (Centre for Environmental Law, WWF-India, 1999).

**THE SIKKIM FORESTS, WATER COURSES AND ROAD
RESERVE (PRESERVATION AND PROTECTION)**

ACT, 1988*

(Act No. 6 of 1988)

An Act to consolidate the law relating to forests, forest produce, water courses and road reserves and for matters connected therewith or incidental thereto.

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

- (b) "forest" means an extensive tract of land covered with trees and undergrowth, sometime intermingled with pastures, alpine scrubs;
- (f) "forest produce" includes-
 - (i) (a) the following found in, or brought from a forest or not, that is to say: -
bark, charcoal, firewood, myrobalans, natural varnish, resin, shellac, timber, wood, and
 - (b) the following when found in, or brought from, a forest, that is to say: -
trees and leaves, flowers, and fruits and all other parts or produce of trees not hereinbefore mentioned;
- (iii) plants not being trees, including agave, creeper, dioscores, daphne, edgeworthia, ferns, grass, lycopodium, lichens, mushrooms, moss and reeds, bamboos, nettle, polygonum, thysanotacna, and all categories of medicinal herbs and shrubs, any agricultural crop, bulbs, rhizomes, tubers, and all parts or produce of such plants;
- (h) "gorucharan forest" means any forest land settled and set aside by the State Government for the purpose of grazing of cattle of adjoining villages;
- (i) "khasmal forest" means any forest land settled and set aside by the government for meeting the bonafide domestic need of timber, firewood and fodder of the resident of the adjoining villages;
- (l) "reserved forest" means any forest land settled and notified by the Government as reserved forest;

Chapter-II

Reserved Forests

3. Power to reserve forests.- The Government may declare any land as a reserved forest in the manner hereinafter provided.

* The complete Act is not reproduced. Only the relevant sections have been extracted.

4. Notification by Government.- Whenever it is proposed to declare any land as a reserved forest, the Government shall issue a notification specifying therein-

- (a) that it has been decided to declare such land as a reserved forest;
- (b) as nearly as possible, the situation and limits of such land; and
- (c) the appointment of an officer (hereinafter referred to as the Forest Settlement Officer) to enquire into the matter and determine the existence, nature and extent of any right alleged to exist in favour of any person in or over any forest produce, and to deal with the same as provided in this chapter.

5. Bar of accrual of forest rights.-After the issue of a notification under Section 4, no right shall be acquired in or over the land comprised in such notification except by succession or under a grant or contract in writing made or entered into or by or on behalf of the Government or some person in whom such right was vested when the notification was issued.

12. Order on claim to right of pasture or to forest produce.- In case of a claim to right of pasture or to forest produce, the Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part.

20. Acts prohibited in reserved forest and penalties thereof.- Any person who,-

- (a) make any fresh clearing prohibited by section 5;
- (b) converts a reserved forest or part thereof to any use other than forestry;
- (c) use reserved forest for growing commercial crops;
- (i) fells, cuts, girdles, lops, taps or burns any tree or strips off the bark or leaves of any tree or otherwise damage the same;
- (j) quarries stone, burns lime or charcoal or collects or removes any forest produce;
- (k) damages, alters or removes any cairn, wall, ditch, embankment, fence, hedge or railing shall, on conviction, be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees or with both and in addition to be liable to pay such compensation for the damage done to the forest as the convicting court may direct.

21. Penalties for offences committed by person having rights in reserved forests.- Whenever fire is caused wilfully or by gross negligence in a reserved forest by a person having rights in such forest or by person in his employment, the Government may, without prejudice to any other punishment that may be imposed under this Act, direct that in such forest or any specified portion thereof the exercise of all or any of the rights of pasture, grazing or collection of forest produce by any such person shall be suspended for such period as it thinks fit or be extinguished.

Chapter III

Khasmal and Gorucharan Forests

22. Power of Government to declare Khasmal and Gorucharan Forests.-

(1) The Government may by notification declare that the provisions of this Chapter shall apply to Khasmal or Gorucharan forest.

24. Acts prohibited in Khasmal and Gorucharan forests and penalty thereof.-

(1) Any person who-

- (a) makes any fresh clearing or converts Khasmal forest or Gorucharan forest or part thereof to any use other than forestry;
- (f) cuts, pollards, girdles, lops, taps or burns any tree or strips off the bark or otherwise damage the same;
- (g) quarries stone, burns lime or charcoal or collects any forest produce;
- (h) damages, alters, removes any cairn, wall, ditch, embankment, fence, hedge or railing, boundary marks, shall, on conviction be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees or with both and in addition to be liable to any such compensation for the damage done to the forest as the convicting court may direct.

25. Power of Government to order closure of forest.- The Government may by notification-

- (a) declare that any portion of Khasmal or Gorucharan forest shall be closed for such period not exceeding thirty years and that the rights of any private persons over such forest or portion thereof shall be suspended during that period; and
- (b) declare any tree or class of trees in Khasmal or Gorucharan forest to be reserved from the date fixed in that notification.

27. Power to make rules for Khasmal and Gorucharan forests.-

- (1) The Government may, by notification, make rules to carry out the purposes of this Chapter.
- (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 cutting, sawing, conversion and removal of trees and timber and the collection, manufacture and removal of forest produce;
 - (b) the granting of permits to the inhabitants of neighbouring villages to take trees, timber or other forest produce for their bonafide use, and the production and return of such permits by such villagers;
 - (c) the payment, if any, to be made for the permission to cut trees or to collect and remove such timber or other forest produce;
 - (d) the examination of forest produce passing out of such forests.

28. Penalties for acts in contravention of Section 27. - Whoever contravenes the provisions of the rules made under Section 27 shall, on conviction, be punishable with imprisonment for a term, which may extend to two years or with a fine, which may extend to five thousand rupees, or with both.

Chapter V

Control and Management of Private Forests

33. Control over forests or lands not being the property of Government.- For the purpose of this Chapter-

- (a) "forest" includes any land containing trees or shrubs, pasture land and any land not being a reserve forest, Gorucharan or Khasmal forest, slip reserve and road reserve, which the Government may, by notification, under this section declare to be a forest;
- (b) "owner" in relation to a forest or land includes a mortgagee, lessee or other person having right to possession and enjoyment of forest land.

34. Preservation of private forest and reserved trees. -

- (1) No owner of any forest land and no person claiming under him whether by virtue of a contract, licence or any other transaction entered into before or after the commencement of this Act or any other person shall, without the previous permission of the forest officer authorized in this behalf, cuts or girdles trees or do any act to denude the forest or diminishes its utility as a forest:

Provided that nothing contained in this sub-section shall apply to-

- (a) the removal of fallen trees; and
- (b) the making of agricultural implements for bonafide use of the owner.
- (2) Notwithstanding anything contained in sub-section (1), the Government may, by notification, and for reasons to be specified in such notification, exempt any class of forest or class of trees or any forest produce found therein from all or any of the provisions of this section.
- (3) The Government may, by notification, declare any tree or species of trees to be reserved from the date fixed in such notification in such forest or land.

35. Power to make rules.- For the purpose of Section 34, the Government may, make rules prescribing-

- (a) class or kinds or species of trees which may be permitted to be cut and girdled and girth of such trees;
- (b) the conditions subject to which permission for removal of trees may be granted;
- (c) the procedure to be followed by the forest officer before granting permission;
- (d) the procedure regarding granting of permission to fell trees specified under Section 34.

36. Protection of forest or land for special purposes. -

- (1) The Government may, by notification-
 - (a) regulate or prohibit in any forest-
 - (i) the breaking up or clearing of any land;

- (ii) the pasturing of cattle;
- (iii) the firing or clearing of vegetation;
- (iv) the girdling, tapping or burning of any trees or stripping off bark or eaves of any trees;
- (v) the lopping or pollarding of any trees;
- (vi) cutting, sawing, conversion and removal of trees and timber;
- (vii) the quarrying of stones or the burning of lime or charcoal or the collection or removal of any forest produce or its subjection to any manufacturing processes;
- (b) regulate in any forest the regeneration of forest and their protection from fire;
- (c) regulate the exercise of customary and prescriptive rights in such forests.

37. Penalty.- Whoever contravenes the provisions of sub-section (1) of Section 34 or the rules made under Section 35, or of the terms of a notification issued under Section 36 shall, without prejudice to any other action that may be taken against him under this Act, on conviction, be punishable with imprisonment which may extend to six months or with fine which may extend to two thousand rupees or with both.

38. Government management of forest at the request of owner.- (1) Any owner of any land or, if there be more than one owner thereof, the owners of all the shares therein may, with a view to the formation or preservation of forest thereon, apply in writing to the Government to take over the management of such land, and the Government may, on such application, where it is of opinion that it is expedient in public interest to form or preserve the forest, by notification, assume the management of such land.

39. Responsibilities of occupants and holders of the land for preservation of trees.- (1) Every occupant or holder of land shall be responsible for the preservation of all trees growing thereon and shall in the event of any injury to any tree from whatever cause or its theft, at once report such fact to the nearest forest officer.

40. Application for permits for felling trees.-

- (1) Every person who whether as holder, occupant, tenant, sub-tenant or lessee or in any other capacity having right over trees growing or existing or found on any land, who is desirous of felling such trees for bonafide domestic use, shall apply to the forest officer not below the rank of Range Officer in the prescribed form and shall obtain permit.
- (2) No person shall remove any trees, wood, timber or other forest produce from his land without obtaining permit in this behalf in the manner provided in sub-section (1):
Provided that no fees or duties shall be imposed on removal of such produce by any person from his land.
- (3) Every person who having right over trees growing or existing or found on any land, is desirous of felling such trees for commercial use shall apply to the forest officer not below the rank of Deputy Conservator of Forests and shall obtain permit on payment, if any, as may be prescribed.

41. Application of provisions of this Act relating to forest produce and trees grown on land under the control of the local authority and institution.- The provision of Chapter III of this Act shall apply in respect of all forest produce and trees grown in any land under the control and management of a local authority and institution.

Chapter VI

Transit of Forest Produce

42. Power to make rules to regulate transit of forest produce. -

- (1) The control of all timber and other forest produce in transit by land or water is vested in the Government and it may make rules to regulate the transit of all timbers and other forest produce.

Explanation. - For the purpose of this Chapter, the forest produce shall be deemed to include semi-finished forest product for commercial purposes.

- (2) In particular and without prejudice to the generality of the foregoing power, such rules may-

- (a) specify the routes by which timber or other forest produce may be transported or moved into from or within the State and the fee thereof;
- (c) provide for the stoppage, reporting, examination and marking of timber or other forest produce in transit, in respect of which there is reason to believe that any money is payable to the Government on account of the price thereof or any duty, fee, royalty or charge due thereon or to which it is desirable for the purpose of this Act to affix the mark;
- (d) provide for the establishment of check posts or the erection of barriers at such places as the Government may direct with a view to prevent or check commission of forest offences in respect of forest produce and for stoppage, reporting and examination of goods carried by any vehicle or vessel at such check posts or barriers;
- (e) provide for establishment and regulation of depots and stations to which such timber or other forest produce shall be taken by those in charge of it for examination, or for the payment of such money or in order that such marks may be affixed to it, and the conditions under which such timber or other forest produce shall be brought to, stored at and removed from such depots or stations and for regulating the appointment and duties of persons employed therein;
- (f) authorize the transport of such timber or other forest produce across any land and provide for payment of compensation for any damage done by the transport of such timber or other forest produce;
- (g) prohibit the closing up or obstructing of the bank of any river used for the transit of timber or other forest produce and throwing of grass, brushwood, branches or leaves into any such river or any act which may cause such river to be closed or obstructed.

- (3) In making the rules under this section, the Government may provide that

person guilty of contravention thereof shall, on conviction be punishable with imprisonment which may extend to one year or with fine which may extend to two thousand rupees, or with both, and where the offence is committed after sunset or before sunrise, or after preparation for resistance to lawful authority, or where the offender has been previously convicted for a like offence, the Magistrate having jurisdiction shall inflict double the penalty prescribed for such offence.

43. The Government and forest officers not liable for damage to forest produce at depots and stations.— The Government shall not be responsible for any loss for damage which may occur in respect of any timber or other forest produce while at a depot or station established under rules made under Section 42 or detained elsewhere for the purpose of this Act and no such forest officer shall be responsible for any such loss or damage unless he causes loss or damage wilfully, negligently, maliciously or fraudulently.

Chapter IX Penalties and Procedure

55. The seizure of property liable to confiscation. -

- (1) Where there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce together with all implements, tools, vehicles used in committing any such offence may be seized by any forest officer.
- (2) Any forest officer may, if there is reason to believe that a vehicle has been or is being used for the transport of forest produce in respect of which there is a reason to believe a forest offence has been or is being committed, require the driver or the person in charge of such vehicle to stop the vehicle and cause it to remain stationary as long as may reasonably be necessary to examine the contents in the vehicle and inspect all records relating to the goods carried which are in possession of such driver or other person in charge of the vehicle.
- (3) Every officer seizing any property under this section shall place on such property or the receptacle or vehicle, if any, in which it is contained a mark indicating that the same has been seized and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try offence on account of which the seizure has been made:

Provided that where the forest produce in respect of which such offence is believed to have been committed is the property of the Government and if the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, report of the circumstances of the seizure to his superior officer.

58. Forest produce, implements, tools, etc. when liable for forfeiture. -

- (1) The forest produce which is not the property of the Government and in respect of which a forest offence has been committed and all implements, vehicles, or other conveyance or any other vehicle used in committing

such offence, shall be liable by order of the convicting court to be forfeited to the Government.

- (2) Such forfeiture may be in addition to any punishment provided in this Act for such offence.

59. Disposal of forest produce, etc. on conclusion of trial.- When the trial of any forest offence is concluded, any forest produce in respect of which such offence has been committed shall, if it is the property of the Government or has been forfeited, be taken possession of by the forest officer, and in any other case may be disposed of in such manner as the court may, by order, direct.

84. Penalties. - Any person who contravenes any provisions of this Act or any rules made under this Act for contravention of which no separate penalties are provided, shall on conviction, be punishable with imprisonment for a term which may extend to one year or with a fine which may extend to six thousand rupees or with both.

State Government's Declaration, 1996

Protected Trees

1. Malagiri
2. Yew tree
3. Chimal/ Gurans (all kinds)
4. Chewri
5. Tamala (*Cinnamomum zeylenicum*)
6. Kimbu
7. Sinkoli
8. Amla
9. Harra
10. Barra
11. Bar (*Ficus bengalensis*)
12. Pipal (*Ficus religiosa*)
13. Labar
14. Siltimbur, and any other species that may be included from time to time

Restricted Trees

1. Dar (to be used only for turnuy)
2. Khamari
3. Tooni
4. Panisaj
5. Sisum
6. Juniper
7. Mel
8. Bahuni kath (to be used only for mask making)
9. Bhalu kath
10. Rani champa
11. Jat katus (Musrey)

THE SIKKIM JOINT FOREST MANAGEMENT NOTIFICATION, 1998*

No. 202/F

Dated 26 June 1998

WHEREAS the Khasmal and Gorucharan forest lands in the State have been considerably degraded in most of the areas due to over exploitation of the forest produce without caring for the future, though a part of these forest lands were set aside for meeting the bonafide needs of the people who were to keep the boundaries of these forest lands intact in lieu of the rights and concessions enjoyed by them, but, over the years due to increase in population of the villages, the pressure on these lands increased considerably and these lands were denuded of the tree cover and subsequently the areas were encroached upon by the people;

AND WHEREAS, the Forest Department has made efforts to rehabilitate these areas to its original vegetation under various schemes, particularly, Social Forestry and Centrally Sponsored Schemes and in many cases people's participation was also achieved, but the effort was abandoned after undertaking by the Department due to lack of interest on the part of villagers;

AND WHEREAS, the 1998 National Forest Policy Resolution envisages people's involvement in the development and protection of forests for meeting the genuine demands of fuelwood, fodder, small timber and non-timber forest produce including medicinal plants for the villagers for bonafide use;

Now, therefore, in order to achieve the active participation of the villagers in the development and protection of forests, the State Government hereby notifies: -

That in Khasmal, Gorucharan areas and degraded forest lands, sensitive to severe biotic interference and damage to the forest crop, Forest Protection Committees involving the residents of the adjoining villages shall be constituted. Such Committees may be given 25% of the net income derived from the forest crop (including non-timber forest produce and medicinal plants) so protected after meeting the bona fide demands of the local villagers in respect of fodder and firewood from fallen and dry twigs. In addition, Village Forest Protection Committee may also be given 25% income generated from the intermediate fellings, i.e. thinning and clearing, etc.

1. Constitution of State Level Committee. - There shall be a State Level High Power Committee to evolve a suitable and dynamic Joint State Forest Management Policy during the period of initial implementation to make the programme well established to meet the aspirations of the people.

3. Procedure for Constitution of Village Forest Protection Committees: -
Area Selection for Constitution of Village Forest Protection Committees

The Divisional Forest Officer shall select, on priority basis, such sensitive Panchayat Blocks in consultation with Divisional Forest Officer (Territorial) where

* The complete Notification is not reproduced. Only the relevant parts referred to.

the villagers are willing to offer their cooperation in the protection of forest crop in Khasmal, Gorucharan and degraded forest lands falling in their area.

4. Composition of Village Forest Protection Committee.-

- I. The Divisional Forest Officer in consultation with the Panchayat of the concerned Block shall select beneficiaries for constitution of the Village Forest Protection Committee within the respective jurisdictions and within the framework of this notification.
- II. The beneficiaries ordinarily shall be economically backward class of people in the vicinity of the forests. Every family living in the Panchayat area shall, however, have the option of becoming a member of the Village Forest Protection Committee, if such family, including the female members, is interested in the work of protection.
- III. The concerned Panchayat shall extend necessary support and help to such Committees to ensure their smooth and proper functioning.
- IV. Each Village Forest Protection Committee shall have an Executive Committee to carry out the various activities assigned to the Committee.
- V. The composition of the Executive Committee shall be as follows:
 - (a) Panchayat President or any member of Panchayat nominated by him - Member
 - (b) Elected representative of the beneficiaries (Not exceeding six of which at least 33% shall be women members) - Member
 - (c) Representative of Non Governmental Organization - Member
 - (d) Concerned Block Officer - Member Secretary

5. Duties. -

- (i) The Village Forest Protection Committee shall maintain register showing necessary particulars of the beneficiaries who are members of the Committee, e.g. name, father's name, age, number of family members, address, name of the nominee, etc.
- (iv) Each Village Forest Protection Committee shall maintain a Register which shows expenditure on and Revenue from the forest areas under their control by way of sale of grass, fodder, forest proceeds from thinning, Minor Forest Produce, etc.

6. Functions. -

- A. (i) To ensure protection of forests/ plantations through members of the committee.
- (ii) To protect the Khasmal/ Gorucharan forests in their respective jurisdiction with the members of the Committee.
- (iii) To inform forest personnel about any person or group of persons attempting to trespass and wilfully or maliciously damaging the said forest/ plantation or committing theft thereon.

- B. (i) To ensure smooth and timely execution of all forestry works taken up in the area under protection by the committee.
- (ii) To involve every member of the Committee in the matter of protection of forests/ plantations as well as other duties assigned to the Committee.
- C. (i) To ensure smooth harvesting of the forest produce by the Forest Department.
- (ii) To assist the concerned forest officials in proper distribution of earmarked portion i.e. 25% of net sale proceeds among the members of the Committee (as per the list in Range Office).
- (iii) To ensure that the usufructory rights allowed by the Government is not in any way misused by any of the members and forest plantation sites are kept free from any encroachment.
- D. (i) To prevent activities in contravention of the provisions of the Indian Forest Act, 1927, Sikkim Forests, Water Courses and Road Reserve (Preservation and Protection) Act, 1988 and any rules made thereunder.

7. Usufructory Benefits.-

- (i) The members shall have to protect the forests, plantations for at least five years to be eligible for sharing of the usufructs under this programme. For this purpose, the Village Forest Protection Committee shall get a certificate from the concerned Range Officer every year in April stating that the Village Forest Protection Committee has protected the plantations, forest successfully during the previous financial year.
- (ii) The forest official in consultation with the Executive Committee and with the approval of the Block Panchayat of the area, will distribute to the eligible members their proportionate shares of usufructs from the final harvesting, not before the crop attaining the age of ten years, or as fixed by the Forest Department, upon satisfactory performance of functions detailed hereinafter.
- (iii) The members shall be entitled to collect following items *free* of the royalty without causing any damage to forests, plantations:
 - (a) Fallen twigs, grass, fruits, flowers, seeds and leaves, medicinal plants or portion thereof for their personal use.
 - (b) One fourth of the product obtained and intermediate yields from coppicing, thinning, etc. and also 25% from the sale proceeds of minor forest produce.
- (iv) The concerned forest official shall set aside 25% of the net sale proceeds at every harvesting of the concerned plantation, forests i.e. timber, poles, firewood, etc. and shall pay to all eligible members or their nominees, their proportionate share out of the said earmarked funds, as per Para 7 (ii) of the notification.

**SIKKIM STATE
FOREST DEPARTMENT**

NOTIFICATION NO. 498-748/F

It is hereby notified for the information of the public that his Highness the Maharaja of Sikkim has, with a view to check the wanton exportation and removal of Sikkim orchids by the Nursery-men and the orchid hunters, respectively and to preserve a flora that Sikkim is noted for, been pleased to order:

1. that the export of orchids out of Sikkim is prohibited except under a Licence to be obtained from the Forest Department, Sikkim State, Gangtok, on payment of fees. The scale of fees may vary from time to time;
2. that the plucking of orchids from Road Reserve areas is strictly prohibited to all including a Licencee;
3. that the collection of orchids from Reserved Forests shall be done under a License also;
4. that the Licencee not collect in person shall issue identity cards to his agents;
5. that the grazers of cattle shall cause no damage to the orchids and shall not use them as fodders for animals;
6. that the infringement of above rules shall be punished with imprisonment which may extend up to three months or with a fine which may extend up to one hundred rupees, or both;
7. that all the Landlords and Managers of Estates in Sikkim shall co-operate with the Forest Department to put a stop to the indiscriminate collection of orchids that these orders aim at.

SIKKIM DARBAR GAZETTE, JULY 1970

Part III

Rules, Orders, Press Notes, Etc.

Office of the Conservator of Forests

NOTIFICATION No. 1744/Forests

Dated Gangtok, the 30th July 1970

It is hereby notified for the information of public in general that *Lycopodium* spp. (Nagbeli, Chusing Dermo) occurring within Sikkim will, henceforth, be collected exclusively by the Forest Department.

No person shall export or attempt to export *Lycopodium* outside the territory of Sikkim without a permit issued by the Conservator of Forests, Government of Sikkim, or any other Officer duly authorized by him.

Any person who contravenes or abets the contravention of the provisions of this notification shall be liable to prosecution and on conviction shall be punished with imprisonment of either description for a term which may extend to three months and shall also be liable to a fine which may extend to Rs. 1000/- (Rupees One Thousand).

All offences under this notification will be cognizable, bailable, and not compoundable.

STATE
OF
TAMIL NADU

NTEP Including Medicinal Plants

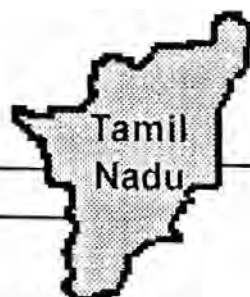
Acacia catechu ('Kasha katti'),
Alangium salviifolium ('Ankolum'),
Alpinia galanga ('Periareta'),
Caesalpinia sappan ('Vetteku'),
Desmodium pulchellum ('Vellalothi'),
Garcinia morella ('Korakpuli'),
Hemidesmus indicus ('Nannari'),
Pongamia pinnata ('Pungam'),
Rauvolfia serpentina ('Chivan
melpodi'), *Santalum album*
(Chandanam), *Sapindus trifoliatus*
(Ponnan kottai), *Strychnos nux-
vomica* ('Yeti'), *Terminalia chebula*
(Kadookai), *Tylophora indica*
(Peyppalail), *Vateria indica* ('Vellai
kunrikam'), etc.

Nationalized NTEP Items

No NTEP is nationalized.

Monopoly Agency

* State Forest Department and Girijan
(Tribal) Cooperatives.



Legal Framework

(1) *Tamil Nadu Forest Act, 1882*
(Similar to the Indian Forest Act,
1927)

- Provisions relating to the transit of forest produce and duty leviable on forest produce.

- Special provisions relating to Sandalwood.

(2) *Tamil Nadu Preservation of Private Forests Act, 1949*

- An Act to prevent the indiscriminate destruction of private forests.

(3) *Tamil Nadu Hill Areas (Preservation of Trees) Act, 1955*

- Regulation of the cutting of trees in hill areas.

(4) *Tamil Nadu Sandalwood Transit Rules, 1967* and *Tamil Nadu Sandalwood Possession Rules, 1970*

- A 'permit' required in respect of transit of Sandalwood.

- A 'licence' required for possession of Sandalwood in excess of 5 kgs.

- Imprisonment up to 5 years and fine up to Rs. 20,000 provided under the State Forest Act.

(5) *Tamil Nadu Timber Transit Rules, 1968*

- Special rules regarding the 'Red sanders wood'. No person shall have in his possession or move red sanders timber chips/ powder except under a special permit.

INTRODUCTION

The State of Tamil Nadu, situated on the south eastern side of the Indian peninsula, and covering a large portion of Western Ghats, has a total land area of 1,30,058 sq. km. out of which forest area comprises about 22,628 sq. km. (17.4%). The forest types found in the State are: Tropical Wet Evergreen and Moist Deciduous, Sub-tropical Broadleaved Hill and Wet Temperate forests. The State possess a wide variety of NTFP including medicinal plants:

Botanical Names	Common Names
<i>Acacia catechu</i>	Kasha katti
<i>Acacia concinna</i>	Sheeyakay, Shikakai
<i>Acalypha paniculata</i>	Kuppi
<i>Alangium salvifolium</i>	Ankolum
<i>Alpinia galanga</i>	Periareta
<i>Alstonia scholaris</i>	Aelilappalai
<i>Anamirta cocculus</i>	Kakkay-kollivirai
<i>Caesalpinia sappan</i>	Vetteku
<i>Desmodium pulchellum</i>	Vellalothi
<i>Garcinia morella</i>	Korakpuli
<i>Hemidesmus indicus</i>	Nannari
<i>Hydnocarpus alpina</i>	Torathi
<i>Lobelia nicotianaefolia</i>	Kattu-papillay
<i>Peganum harmala</i>	Shimai-azha-vanai-virai
<i>Pongamia pinnata</i>	Pungam
<i>Pterocarpus marsupium</i>	Vengai-maram
<i>Pterocarpus santalinus</i>	Shen chandanam
<i>Pterospermum acerifolium</i>	Matsakanda
<i>Rauvolfia serpentina</i>	Chivan melpodi
<i>Santalum album</i>	Chandanam
<i>Sapindus trifoliatus</i>	Ponnan kottai
<i>Sterculia urens</i>	Velley putali
<i>Strychnos nux-vomica</i>	Yetti
<i>Terminalia arjuna</i>	Vella marda
<i>Terminalia chebula</i>	Kadookai
<i>Tylophora indica</i>	Peyppalail
<i>Vateria indica</i>	Vellai kunrikam

The State Government has enacted several Acts/ Rules to ensure a sustainable harvest of forest produce. The salient features of these legal enactments are discussed in brief below.

The Tamil Nadu Preservation of Private Forests Act, 1949, is an Act to prevent the indiscriminate destruction of private forests and interference with customary

and prescriptive rights therein and certain other purposes. Under the Act, the State Government may constitute for each district a Committee for the purposes of this Act, consisting of the members like the District Collector, District Forest Officer, Tehsildar, etc. No owner of any forest shall, without the previous sanction of the Committee sell, mortgage, lease or otherwise alienate the whole or any portion of the forest.

The Tamil Nadu Hill Areas (Preservation of Trees) Act, 1955, is an Act to provide for the regulation of the cutting of trees and the cultivation of land in hill areas in the State of Tamil Nadu. Under the Act, the Government may constitute for each hill area a Committee for the purposes of this Act, consisting of the members like the District Collector, District Forest Officer, Tehsildar, etc. No person shall, without the previous permission in writing of the Committee, cut, uproot or burn any tree. Further, no person shall use, or cause to be used, any land with a slope of more than one in three for any purpose other than the growing of trees.

The Tamil Nadu Hill Areas (Preservation of Trees) Rules, 1957, lays down the manner in which the trees may be cut/ felled and the obtaining of permission in that regard (requirement of the demarcation of the boundaries of the area containing the trees proposed to be felled, surveyed maps, working plan, etc.). The Committee shall, before granting permission require a Forest Officer (not below the rank of Range Officer) to inspect the trees concerned and to make a report to the Committee. The Committee may impose a condition that the felled area shall be regenerated with an equal number of trees of the same species or those of other suitable species, if the regeneration is proposed to be done artificially.

Chapter V-A (Secs. 36-A to 36-E) of the Tamil Nadu Forest Act, 1882, lays down provisions regarding *Sandalwood*. Under Sec. 36-A of the Act, possession of sandalwood in excess of 5 kgs. without a licence granted by the District Forest Officer, is an offence. In event of cancellation or suspension of the licence by the District Forest Officer, an appeal lies with the Collector. Sec. 36-E provides that anyone possessing sandalwood in contravention of this Chapter or of any rule made under it, shall be punished with imprisonment up to 5 years and with fine up to Rs. 20,000. For a first offence, the imprisonment shall not be less than 2 years and the fine shall not be less than Rs. 7,500. For a second or subsequent offence, the imprisonment shall not be less than 3 years and the fine shall not be less than Rs. 15,000.

The Tamil Nadu Sandalwood Transit Rules, 1967, provides that no person shall import sandalwood into or export sandalwood from, or move sandalwood within any place in the State unless such sandalwood is accompanied by a *permit* way *permit* and unless such sandalwood bears the mark of the Government of origin (registered property mark). Such sandalwood shall also be produced for examination at its destination at the appropriate checking station specified in Schedule A.

Nothing contained in these rules shall apply to sandalwood not exceeding 5 kgs. carried by any bonafide traveller or under his authority for his personal use; sandalwood cut and carried by a *ryot* for his personal use from the growing on the *patta* lands of the said *ryots*. The District Forest Officer shall maintain an approved list of companies or persons engaged in the distillation of sandalwood or in the manufacture of any of its by-products.

The Tamil Nadu Sandalwood Possession Rules, 1970, provides that no person shall possess on stock sandalwood in excess of 5 kgs. without a *licence* (non-transferable). Every application (to the District Forest Officer) for the grant of a licence shall be accompanied by authenticated documents and other relevant particulars in support of the procurement of the sandalwood. Whenever the dealer/ stockist intends to obtain or procure possession of subsequent consignments of sandalwood, he shall immediately inform the District Forest Officer of the actual source from which he intends obtaining such additional consignment.

Under the rules, a stockist storing sandalwood and its by-products (obtained by manufacture or conversion) including sandalwood oil, powder, small billets, etc., should furnish to the District Forest Officer, full particulars of the place of storage with a certified sketch of the premises. If it appears to the Officer that the licensee has contravened or failed to comply with any of the conditions laid down in these rules, or in the licence, he may cancel or suspend the licence.

The Tamil Nadu Timber Transit Rules, 1968, contains special rules regarding the 'Red sanders wood'. Rule 10 lays down that no person shall have in his possession or move red sanders timber chips/ powder except under a special *permit* issued by the District Forest Officer in Form VI. However, a bonafide traveller may carry red sanders wood upto 5 kg. for his personal use; similarly red sanders wood may be cut and carried by a *ryot* for his own personal use, from trees growing on the *patta* lands of the said *ryot*.

Tamil Nadu State Forest Act

Also see Part-I, 'Central and States' Forest Acts'.

Summing Up

The State of Tamil Nadu has initiated the process of elimination of contractor agency. The constraints appear to be organizational and financial. NTFP collection is maximized through departmental collection by Forest Department in Tamil Nadu and by Girijan (Tribal) Cooperatives.

The tribals are permitted to collect NTFP for their personal consumption and sale. In Kalrayan hills, NTFP procurement is fully entrusted to cooperative societies. The items of collection includes grasses, galmut, medicinal plants, etc. Much remains to be done in respect of NTFP processing and its development (Shukla, R.S., 2000).

The State has enacted special Acts and Rules in respect of Sandalwood and Red Sanders wood, to check the 'illegal' felling and removal of trees.

People's participation in forestry has been gaining ground since past few years as an effective means of regenerating degraded forest areas. The State has initiated the Joint Forest Management (JFM) programme (Interface Forestry Project) in respect of the reserved forests. The village communities are entrusted with the protection and management of reserved forests (involvement in the Micro Planning). The forest usufructs to be shared include fuel, fodder, fruit, and other NTFP. Thus JFM, if properly implemented, could be a useful scheme to ensure a sustainable harvest of the forest produce.

**THE TAMIL NADU PRESERVATION OF PRIVATE
FORESTS ACT, 1949***
(Act No. XXVII of 1949)

An Act to prevent the indiscriminate destruction of private forests and interference with customary and prescriptive rights therein and for certain other purposes.

2-A. Constitution of Committee.- The State Government may, by notification with effect from such date as may be specified therein, constitute for each district a committee for the purpose of this Act, consisting of the following members namely:

- (a) the District Collector as Chairman of the Committee;
- (b) the District Forest Officer having jurisdiction over district;
- (c) the Tahsildar having jurisdiction over the area;
- (d) the Executive Engineer of the Agriculture Department in charge of soil conservation;
- (e) the Personal Assistant (General) to the Collector of the district who shall be the Secretary of the Committee.

3. Preservation of Private Forests.-

- (1) No owner of any forest shall, without the previous sanction of the Committee sell, mortgage, lease or otherwise alienate the whole or any portion of the forest.

Explanation.- Nothing in the sub-section shall be construed as preventing the owner from selling or otherwise dealing with the right to gather and remove forest produce other than trees, timber and reeds in the usual or customary manner for a period not exceeding two years.

- (2) No owner of any forest and no person claiming under him, whether by virtue of a contract, licence or any other transaction entered into before or after the commencement of the Tamil Nadu Preservation of Private Forests Act, 1946, or any other person shall without the previous permission of the Committee cut trees or reeds or any act likely to denude the forest or diminish its utility as trust:

Provided that nothing contained in this sub-section shall apply to the removal of dead or fallen trees or to any act done for the usual or customary domestic purposes or for making agricultural implements.

- (3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the State Government may *exempt* any forest or class of forests or class of trees therein from all or any of the provisions of this section.

* The complete Act is not reproduced. Only the relevant sections have been extracted.

7. Penalties.- Whoever contravenes the provisions of sub-section (1) or sub-section (2) of Sec. 3 shall be punishable with imprisonment which may extend to two years or with fine which may extend to five thousand rupees or with both.

10. Power to make Rules.-

- (1) The State Government may make rules for carrying out the purposes of this Act.
- (2) Without prejudice to the generality of the foregoing power, such rules may provide for:
 - (a) the classes or kinds of trees which may be permitted to be cut and the girth of such trees;
 - (b) the classes or kinds of trees to which permissions may be granted;
 - (c) the procedure to be followed by the District Collector before granting permissions.

**THE TAMIL NADU HILL AREAS (PRESERVATION OF
TREES) ACT, 1955***
(Act No. XVII of 1955)

An Act to provide for the regulation of the cutting of trees and the cultivation of land in hill areas in the State of Tamil Nadu.

WHEREAS there has been indiscriminate cutting of trees in hill stations in the State of Tamil Nadu involving large-scale deforestation and resulting in considerable soil erosion.

AND WHEREAS with a view to prevent deforestation and soil erosion and also to preserve the special characteristics of the hill areas as regards landscape, vegetal cover and climate, it is necessary to regulate the cutting of trees as also the cultivation of land in hill areas in the State of Tamil Nadu.

2. Definitions.-

- (a) "Committee" means any committee constituted under Sec. 2-A and having jurisdiction;
- (b) "Cultivation" means raising of cereals, pulses or plantation crops but shall not include the raising of kitchen gardens or flower gardens.

2-A. Constitution of Committee.- The Government may, by notification, with effect from such date as may be specified therein, constitute for each hill area a committee for the purpose of this Act consisting of the following members, namely:

- (a) the District Collector having jurisdiction as Chairman of the Committee;
- (b) the District Forest Officer having jurisdiction over the hill area;
- (c) the Tahsildar having jurisdiction over the hill area;
- (d) the Executive Engineer of the Agriculture Department in charge of soil conservation having jurisdiction over the hill area;
- (e) the Personal Assistant (General) to the Collector of the District, who shall be the Secretary of the Committee.

3. Prohibition of Cutting of Trees.-

- (1) No person shall, without the previous permission in writing of the Committee:
 - (a) cut, uproot or burn, or cause to be cut, uprooted or burnt, any tree, or
 - (b) fell or remove any tree which constitutes danger to life or property, or is dead or diseased or wind fallen, or has silviculturally matured, or

* The complete Act is not reproduced. Only the relevant sections have been extracted.

- (c) cut or remove any tree for the improvement of coffee crop in any coffee plantation in such area in any hill area as the Government may, by notification, specify in this behalf;

Provided that where permission to cut or remove is granted on the grounds referred to in Cls. (a) to (c) above, the Committee shall impose as a condition the effective *regeneration* of an equal number of the same or other suitable species of trees, and for that purpose, may require the person to whom the permission is granted to deposit with the Committee a sum not exceeding one hundred rupees for each tree permitted to be cut or removed.

(1-A) Notwithstanding anything contained in sub-section (1), permission may be granted by the Government to any person to clear any land by cutting, uprooting or burning or causing to be cut, uprooted or burnt any tree subject to the condition, that the land so cleared shall be used for growing coffee or tea.

- (2) No person shall cut or otherwise damage, or cause to be cut or damaged, the branch of any tree:

Provided that this shall not be deemed to prevent the pruning of any tree as required by ordinary agricultural practice:

Provided further that nothing contained in this sub-section shall be deemed to prevent the cutting or pruning of the branch of any tree for the purpose of providing proper shade for coffee or tea plantation.

4. Prohibition of Cultivation.-

- (1) No person shall use, or cause to be used, any land with a slope of more than one in three for any purpose other than the growing of trees.
- (2) No person shall use, or cause to be used, any land with a slope of less than one in three for new cultivation except with the previous permission of the Committee which may, while granting such permission impose such conditions as it may deem fit including those relating to soil conservation measures.
- (3) No person shall, after expiry of one year from the date on which this Act comes into force in any hill area, use or cause to be used, for cultivation any land in such hill area with a slope of less than one in three except with the previous permission of the Committee which may, while granting such permission impose such conditions as it may deem fit including conditions relating to soil conservation measures.
- (4) Nothing contained in sub-sections (2) and (3) shall apply to any land with a slope of less than one in ten.

6. Appeal.- Any person aggrieved by an order refusing to grant permission under Sec. 3 or Sec. 4 may, within two months of the receipt of such order, prefer an appeal in writing to the Government and the Government shall, after giving the appellant an opportunity of being heard, pass such order thereon, as they may think fit.

7. Penalty.- Any person who is guilty of an offence under Sec. 3 or Sec. 4 or who contravenes any conditions imposed in a permission granted under this Act, shall on conviction be punishable with imprisonment which may extend to one year or with fine which may extend to five hundred rupees, or both.

THE TAMIL NADU HILL AREAS (PRESERVATION OF TREES) RULES, 1957*

2. In these Rules, unless there is anything repugnant in the subject or context.-

- (i) "the Act" means the Tamil Nadu Hill Areas (Preservation of Trees) Act, 1955 (Madras Act XVII of 1955).
- (ii) "Section" means a section of the Act.

3. Nothing contained in these Rules shall apply.-

- (a) to the felling of trees in Government Reserved Forest by or under the authority of the District Forest Officer concerned;
- (b) to the felling of trees in Government Cinchona plantations by or under the authority of the Director of Cinchona; and
- (c) to the cutting or pruning of the branch of any tree for the purpose of providing proper shade for coffee or tea plantation.

5. Every application for permission to the Committee under Sec. 3(1) of the Act shall be in Form I.

5-A. If the application is for the cutting of the trees by the clear felling method, that is to say, the felling of all the trees in the area, for growing tea or coffee, it shall be accompanied by the following, namely:

- (1) A certificate to the effect that the boundaries of the area containing the trees proposed to be felled have been demarcated clearly on the ground by lines of 2 metres wide or are defined already by natural features, such as, roads.
- (2) Three copies of surveyed maps showing the location, name, survey number and acreage of the area containing the trees proposed to be felled.
- (3) A working plan drawn up and certified by a person who is or who has been an officer of the Forest Department not below the rank of an Assistant Conservator of Forests.

6. Every application for permission to the Committee under sub-section (2) or sub-section (3) of Sec. 4 shall be in Form II.

- 8. (i) The Committee shall, before granting permission under Sec. 3(1), require a Forest Officer not below the rank of Range Officer to inspect the tree concerned and to make a report to the Committee on the application in Form III.
- (ii) The Committee shall before granting permission under Sec. 4(2) or 4(3), require the State Silviculturist, the Assistant Agricultural Engineer or the District Forest Officer to inspect the land concerned and make report to the Committee on the application in Form IV.

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

- (iii) The Committee shall thereafter either accord permission under Sec. 3(1) or 4(2) or 4(3) as the case may be, subject to such conditions as it may think fit or refuse to grant the permission applied for, after recording its reasons therefor. In case where permission is granted, the Committee shall communicate a copy of its order to the Officer authorised by it to enforce the conditions (subject to which the permission is accorded).
9. (1) In case where permission is granted by the Committee to cut a tree on the ground that it has silviculturally matured the Committee shall, besides requiring the person to whom the permission is granted to make the deposit referred to in the second proviso to Sec. 3(1), impose as a condition:
- (i) that the felled area shall be *regenerated* with an equal number of trees of the same species or those of other suitable species, if the regeneration is proposed to be done artificially;
 - (ii) if the regeneration is proposed to be done naturally from coppice,
 - (a) that the tree shall be felled at a height not exceeding six inches from ground; the bark being left intact on the stump and adhering to it all round the stump, without being torn off or otherwise damaged; and
 - (b) the felled area shall be devoted only for raising a tree-crop and the tree crop raised on it either naturally or artificially shall be adequately protected against fire, grazing and trampling by cattle.
- (2) The person to whom permission is granted, shall deposit with the Committee as security, a sum of Rs. 1,000 (rupees one thousand only) per hectare or Rs. 100 (rupees one hundred only) for each tree proposed to be felled whichever is less for the successful regeneration of tree.
- (3) Regeneration of the felled area will be done by the Forest Department at the cost of the permit holder in the event of his failure to regenerate the area with a tree crop to the satisfaction of the Committee within the time limit stipulated in the permit. If the security deposit is insufficient for regeneration by the Forest Department, the excess amount required will be recovered from the permit-holder. If the security deposit is found to be in excess of the amount spent by the Forest Department for regeneration the excess amount will be refunded to the permit holder three years after the completion of the regeneration by the Forest Department.
- (4) The deposit shall be refunded to the person to whom the permission was granted after the expiry of the three years from the date of felling of the original tree growth if the Committee is satisfied that the regeneration has been successfully undertaken by the owner.

Explanation.- For the purposes of the above rule:

- (i) "field crop" shall mean crops of short duration mostly less than a year raised in cultivated fields. This will also include plantation crops like tea, coffee, cardamom and plantations whose management involves working of the intervening soil at intervals; and

- (ii) "tree crops" shall mean crops of tree which are grown for long duration and which do not require frequent working of the soil for their development except at the initial stages of raising.

10. If the Committee has reason to believe that any person to whom permission under the Act was granted has in his application furnished particulars which are materially incorrect or has contravened any provisions of these rules or the conditions subject to which the permission was granted, the Committee shall have power to cancel such permission immediately or modify the same, after giving in writing to the parties concerned, a notice to show-cause why the permission given should not be cancelled, or modified as the case may be and after considering the representation, if any.

11. Any person aggrieved by an order of the Committee refusing to grant permission under Sec. 3 or Sec. 4 of the Act may within two months from the date of such order, prefer an appeal in writing to the Government and the Government shall, after giving the appellant an opportunity of being heard, pass such order thereon as they may think fit.

THE TAMIL NADU SANDALWOOD TRANSIT RULES, 1967*

2. Definitions.-

- (iii) "Sandalwood" includes sandalwood roots, sandalwood billets, sandalwood dust and sandalwood chips.

3. Condition for import, export and movement.- No person shall import sandalwood into or export sandalwood from, or move sandalwood within any place in the State unless such sandalwood is accompanied either by a permit referred to in rule 4 or by a way permit referred to in rule 6 and unless such sandalwood bears the mark of the Government of origin, as provided in rule 7 of the property mark in respect of such sandalwood which has been duly registered in accordance with rule 7. Such sandalwood shall also be produced for examination at its destination at the appropriate checking station specified in Sch. A.

4. Form of permit.-

- (1) In the case of sandalwood purchased from Government, the permit shall be in Form I and shall be printed.
- (2) In the case of sandalwood purchased at the Government sales depot in the State of Andhra Pradesh, Mysore or Kerala and imported into the State, the permit shall be that issued by the Government of the State of Andhra Pradesh, Mysore or Kerala or any authority in that State responsible for the sale of sandalwood in that State and such permit shall be valid only for transport of sandalwood to the destination specified therein.
- (3) In the case of imported sandalwood other than that referred to in sub-rule (2), the permit shall be in Form II and shall be printed.

The forms of the permit shall on application be supplied by the District Forest Officer having jurisdiction on payment of price which will be fixed by the Chief Conservator of Forests from time to time. No form of permit other than that supplied by the District Forest Officer shall be used.

- (4) In the case of subsequent movement of imported sandalwood and of the transport of all local sandalwood other than that for which Form I is prescribed, a printed permit in Form II shall be used.

The forms of the permit shall on application be supplied by the District Forest Officer having jurisdiction on payment of the price referred to in sub-rule (3). No form of permit other than that supplied by the District Forest Officer shall be used.

5. Issue of permits.-

- (1) Permit in Form I shall be in triplicate and shall have all parts filled up by the District Forest Officer or subordinate duly authorised by him.

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

The District Forest Officer or the subordinate so authorised, as the case may be, shall hand over the original and retain the triplicate as counterfoil for record in office.

- (2) Permits in Form II shall be in triplicate and shall have all parts filled up by the person disposing of the sandalwood or his agent. The original shall be handed over to the person authorised to remove the sandalwood. The duplicate shall be forwarded by post or by messenger to the District Forest Officer having jurisdiction by the person issuing the permit who shall retain custody of the sandalwood in his store or on his land for purposes of check for a period not exceeding fifteen days from the date of despatch of the duplicate to the District Forest Officer or delivery to him by messenger, as the case may be. The triplicate of the permit shall be retained by the person issuing the permit and shall be produced for inspection at any time within that period on demand by any Forest Officer not below the rank of Forest Guard.

6. Check of permits.-

- (1) All sandalwood in transit shall be produced for examination at the first checking station in the district between the hours of 6 a.m. and 6 p.m. and if such sandalwood arrives at the first checking station after 6 p.m. the officer-in-charge of such checking station may detain it till next day for examination.
- (2) The officer-in-charge of the checking station shall after satisfying himself that the sandalwood actually comes from the place and is of the kind stated in the permit of the Government of Andhra Pradesh, Mysore or Kerala or the permit is in Form I or Form II as the case may be and is not in excess of the quantity specified therein retain such permit and give in exchange thereof a *way permit* in Form III as hereinafter provided (duly noting the Vehicle Number carrying the Sandalwood). If the officer-in-charge of the checking station is not satisfied and refuses to grant the way permit he shall detain the sandalwood and the permit of the Government of Andhra Pradesh, Mysore or Kerala or the permit in Form I or Form II as the case may be and report the case for the orders of the concerned District Forest Officer having jurisdiction, stating clearly the reasons for the action taken.
- (2-A) A vehicle driver with a vehicle carrying sandalwood when he passes through a check post with permit in Form I or Form II shall sign the Register maintained in the check post and similarly furnish the vehicle number in the said Register.
- (3) The quantity of sandalwood under transit shall not be greater than that entered in the permit and if it is less, the same permit shall not be used again to cover the deficiencies.
- (4) The way permit in Form III shall be in duplicate, the original shall be given in exchange for the permit of the Government of Andhra Pradesh, Mysore or Kerala or the permit in Forms I and II, as the case may be and the duplicate shall be retained by the Officer-in-charge of the checking station.

- (5) The way permit shall protect such sandalwood to its destination and shall be produced and endorsed at all subsequent checking stations.
- (6) The permits referred to in the preceding rules shall in the case of imported sandalwood and sandalwood for export, be produced with the sandalwood for examination at every checking station mentioned in Sch. A and post which the sandalwood or may be taken.
- (7) Any Revenue Officer not below the rank of Revenue Inspector-in-charge of firka or any Police Officer in uniform not below the rank of Head Constable or any Forest Officer not below the rank of Forest Guard 1 or Tanadar-in-charge of a checking station mentioned in Sch. A may stop any vehicle reasonably suspected of carrying sandalwood for checking its contents and the permits referred to in these rules shall be produced when demanded and such vehicle shall not proceed therefrom until permitted to do so by the said officer or the Revenue, Police or Forest Department or the said Tanadar.

Explanation. - In this clause "vehicle" includes lorrie, stage carriages, contract carriages, tractors, cars, hand cars, bullock carts, horse-drawn carts, horse-drawn carriage, such as, jutkas, cycle rickshaws and hand-pulled rickshaws.

- (8) No person shall take any sandalwood off or pass it from any road on which a checking station has been placed with intent to evade the production of the sandalwood at a checking station.

7. Use and registration of property marks.-

- (1) All sandalwood imported from the State of Andhra Pradesh, Mysore or Kerala and all Government sandalwood disposed of locally shall bear the mark of the Government of origin in the following manner:

Every piece of sandalwood shall bear its own Government mark and in the case of chips and saw dust carried in bags the latter shall be closed and the fastening sealed with the above mark.

- (2) (a) The ownership of all sandalwood grown and moved within any area in the State shall be indicated by a property mark affixed in the manner provided in sub-rule (1).
- (b) All such property marks shall be registered at a District Forest Office:
 - (i) in accordance with the provisions of sub-rule (3) if the marks relate to sandalwood extracted from private lands within the State; and
 - (ii) in accordance with the provisions of sub-rule (4) if the marks relate to sandalwood other than that extracted from private lands within the State.
- (c) (i) A fee of Rs. 200 (rupees two hundred only) shall be charged in respect of registration of property mark of sandalwood for wholesalers and distillers and Rs. 100 (rupees one hundred only) in respect of non-wholesalers and non-distillers.
- (ii) A fee of Rs. 100/- (rupees one hundred only) shall be charged in respect of renewal of registration of property mark for sandalwood

for wholesalers and distillers and Rs. 50 (rupees fifty only) in respect of non-wholesalers and non-distillers.

- 3 (i) Every application for the registration of property mark in respect of sandalwood to be extracted from private lands within the State shall be accompanied by a Statement in Form IV in which all the particulars therein prescribed shall be furnished to the District Forest Officer concerned and also by six facsimiles of the mark proposed. Form IV may be manuscript and shall be prepared by the applicant.
- (ii) After the application together with the facsimile and the Statement in Form IV as specified above are received, the District Forest Officer or the subordinate authority authorised by him shall if he is satisfied that as soon as possible and with the consent of the owner of the land affix the departmental hammer mark on each tree after blazing it at breast height from ground level and issue written permission for the extraction of the trees and grant a certificate of registration of the property mark in Form V for the transport of the trees to the central by the applicant. In cases where the trees are inspected by a subordinate authority the D.F.O. shall inspect not less than 10 per cent of the trees so inspected:

Provided that the District Forest Officer may, by written order, refuse to give permission for the extraction of the trees and to grant the certificate of registration of the property mark, if he has reason to believe that the trees belong to Government or that the applicant has committed fraud in respect of such trees. Against any order passed by the District Forest Officer under this proviso, an *appeal* shall lie to the Conservator of Forests having jurisdiction.

A *revision*-petition against the order of the Conservator of Forests on the appeal so preferred shall lie to the Government if preferred within 30 days.

- (iii) Each uprooted tree bearing heartwood shall be cleaned up to its heartwood limit. In so cleaning the uprooted tree, the departmental hammer mark at breast height shall be intact and a ring of bark and sapwood 6 centimetres wide surrounding the departmental hammer mark shall be left uncut.
- (iv) Every tree so uprooted and cleaned shall bear its distinctive serial number which shall be written legibly in tar any where on it if cut up into pieces, or when the tree has been cut into billets and roots all parts of such trees so cut shall each bear, at their cut ends the original serial number assigned to the tree so as to admit of identification and check subsequently by the District Forest Officer or his subordinates.
- (v) The exact situation of the land whence each of the trees containing heartwood was extracted shall be indicated on the ground by a stout numbered peg which shall be well driven in the pit formed in the process of uprooting the number on the peg being the same as that writing on the wood concerned such pegs shall be retained until such trees as the District Forest Officer or his subordinate checks the sandalwood and verifies the locality of the felling:

Provided that in cases where a subordinate authority has checked the pits, atleast 25 per cent of the pits so checked shall be checked by the District Forest Officer or a Gazetted Officer authorised by him in this behalf.

- (vi) The heartwood obtained from each of the trees shall thereafter be weighed and the results recorded in the Statement in Form VI indicating in it at the same time the number of root and stem wood pieces obtained from each of such trees with an abstract in the remarks column showing the total out turn expressed in number of pieces (roots and billets separately) and the aggregate of all pieces in respect of which the registration of property mark is desired. Form VI shall on application be supplied by the concerned District Forest Officer having jurisdiction on payment of a fee as fixed by the Government from time to time. No form other than that supplied by the District Forest Officer shall be used.
 - (vii) After the application for the removal of the sandalwood with the Statement in Form VI containing all the particulars therein prescribed is received, the District Forest Officer, or a Gazetted Officer authorised by him in his behalf shall, as soon as possible inspect and identify the sandalwood by verifying the girth and the departmental hammer mark put on the standing trees and by assembling all the parts of each tree and satisfy himself that the wood is of the same tree that was standing hammer marked and that the details furnished by the applicant in Form VI are correct and without error, and thereafter mark all the sandalwood with the District pass hammer. Thereafter the District Forest Officer shall, subject to the provisions of Cl. (viii) of this sub-rule grant a certificate of registration in Form V with as little delay as possible.
 - (viii) The District Forest Officer or any subordinate authority authorised by him may require from any person either when presenting a property mark to registration or at any subsequent time, information to the source of origin and the quantity of sandalwood, period of felling, agency, routes, depots, destination and such other details regarding his method of felling, trading or working as the District Officer may think necessary. The District Forest Officer may refuse registration and may cancel the registration of the property mark if the information required is not given or if he considers that such property mark cannot easily be distinguished from a Government mark or from a property mark used by other person or if he has reason to believe that the person using the property mark is or has been concerned in any illegal practice with regard to sandalwood or for any other good and sufficient reason in every case be recorded at the time by the District Forest Officer. Any appeal against the District Forest Officer's refusal lies to the Conservator of Forests concerned whose decision shall be final.
4. (a) Every application for the registration of property mark in respect of sandalwood other than that extracted from private lands shall be accompanied by facsimiles of the mark proposed.
- (b) After the receipt of the application the District Forest Officer or the subordinate authority authorised by him shall check such sandalwood

and if the result of checking is satisfactory the District Forest Officer shall subject to the provisions of Cl. (viii) or sub-rule (3) grant a certificate of registration in Form V with as little delay as possible.

- (c) All sandalwood in respect of which a property mark is registered under this sub-rule shall be marked with the district pass hammer by the District Forest Officer or by the subordinate authority authorised by him to do so.

8. The date upto which and the description and quantity of sandalwood for which registration of property mark has effect.- The registration and each renewal of registration of a property mark shall be valid only in respect of the description and quantity of the wood entered in Form V and be in force only from the date of such registration or renewal until the first day of April following unless otherwise stated.

9. Exemption of small quantities of sandalwood carried by a *bona fide* traveller, by ryots for their own use.- Nothing contained in these rules shall apply to-

- (a) sandalwood not exceeding 5 kilograms in weight carried by any *bona fide* traveller or under his authority for his personal use, or
- (b) sandalwood cut and carried by a *ryot* for his own personal use from the growing on the *patta* lands of the said *ryots* or of any neighbouring *ryot* from whom title to such sandalwood is derived and provided that he obtains a certificate of title from village munsiff and that the quantity cut and carried on each occasion does not exceed 5 kilograms in weight.

10. The District Forest Officer shall maintain an approved list of companies or persons engaged in the distillation of sandalwood or in the manufacture of any of its by-products. He may at his discretion exclude the name of any company or person in the said approved list, after giving reasonable opportunity to such company or person.

The District Forest Officer may by written order exempt any company or person whose name is included in the approved list from the provisions of sub-rule (2) in so far as it relates to the retention of sandalwood in custody for the purpose of check and from provisions of Cls. (b) and (c) of sub-rule (4) of rule (7) and may cancel any such order.

SCHEDULE A

1. All Police Stations and Police Out-posts.
2. Offices of the Forest Range Officers.
3. Offices of District Forest Officers.
4. Headquarters of Foresters, and
5. *Tanahs* or Forest Checking Stations in the State of Tamil Nadu.

TAMIL NADU SANDALWOOD POSSESSION RULES, 1970*

2. Definitions.-

- (a) "Act" means the Tamil Nadu Forest Act, 1882; Tamil Nadu Act, 1882 (Tamil Nadu Act V of 1882).
- (b) "Dealer" means any person, who carries on the business in Sandalwood of buying, selling, supplying or distributing Sandalwood directly and includes:
 - (i) a local authority or company which carries on business in sandalwood,
 - (ii) an auctioneer or his accredited agent, by whatever name called who carries on the business in sandalwood of buying, selling, supplying or distributing sandalwood on behalf of any principal, and
 - (iii) every local branch of a firm or company situated outside the State;
- (f) "Sandalwood" includes sandalwood roots, sandalwood dust, sandal sapwood and sandalwood chips.
- (h) "Stockist" means any person who stocks sandalwood for conversion into sandalwood oil or other products but not for disposal of wood as such.

3. Form and manner in which application for licence may be made.-

- (1) No person shall possess on stock sandalwood in excess of five kilograms without a licence. Whenever any person intends possession or stocking sandalwood in excess of five kilograms he shall apply to the District Forest Officer in Form I and obtain a licence after paying the fees prescribed in sub-rule (7) of rule 4. Every application for the grant of a licence shall be accompanied by authenticated document and other relevant particulars in support of the procurement of the sandalwood.
- (2) On receipt of the application together with the authenticated documents, the District Forest Officer shall, if he is satisfied about the bona fides of the applicant, issue a licence in Form II for the possession of sandalwood.
- (3) Whenever the dealer or stockist intends to obtain or procure possession of subsequent consignments of sandalwood, he shall immediately inform the District Forest Officer, in writing of the actual source from which he intends obtaining such additional consignment of sandalwood and supply such information as the District Forest Officer may require, from time to time, to satisfy himself about the bona fide of such additional consignment of sandalwood.
- (4) Whenever the dealer or stockist comes into possession of consignment of sandalwood, he shall within twenty-four hours, inform the District

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

Forest Officer of the place of storage of sandalwood, about the fact of possession and the same shall be inspected by an Officer not below the rank of a Forester without any delay and till such inspection is over the dealer shall not tamper with the identification marks that may have been already placed on such sandalwood.

- (5) After such inspection the dealer or stockist shall be given an order in writing by the District Forest Officer to cover such sandalwood if such conversion is sought to be made:

Provided that the District Forest Officer may refuse to grant or renew a licence to any applicant or licensee if he has reason to believe that the information required is not given or that the person has been concerned in any illegal practice with regard to sandalwood or for any other goods.

Explanation. - The Arignar Anna Government Hospital of Indian Medicine, Madras and the Government College of Indian System of Medicine, palayamkottal are *exempted* from the operation of rule 3.

4. Terms, conditions and fee for the grant of licence.-

- (1) A stockist storing sandalwood and its by-products (obtained by manufacture or conversion) including sandalwood oil, smaller billets, sandalwood powder and dust toilet articles or scented sticks, should furnish to the District Forest Officer, full particulars of the place of storage with a certified sketch of the premises. The premises should be distinguished by a notice-board conspicuously displayed. Any change of place of storage should be notified.
- (2) The dealer or stockist should maintain a stock register showing receipt issues and balance of sandalwood and all its by-products including sandalwood oil at the premises.
- (3) A true extract from the stock register for every financial year shall be submitted to the District Forest Officer by the 10th April. of the following year or before renewal of the licence when it has been issued for part of the year.
- (6) The licence shall not be transferable.
- (7) (a) A licence fee of Rs. 100 for one financial year or part of the year shall be payable along with the application for licence by non-wholesalers and non-distillers.
- (b) A licence fee of Rs. 200 for one financial year or part of the year shall be payable along with the application for licence by wholesale dealers and distillers.

6. Power to cancel or suspend licence.- If it appears to the District Forest Officer that the licensee has contravened or failed to comply with any of the conditions laid down in these rules, or in the licence, he may cancel or suspend the licence after giving the holder fifteen day's time in writing to make any representation in the matter.

7. Appeal.- Every person aggrieved by an order of the District Forest Officer under the proviso to sub-rule (5) of rule 3 or under rules may prefer an appeal in writing to the District Collector within thirty days of receipt of such order.

THE TAMIL NADU TIMBER TRANSIT RULES, 1968*

10. Red Sanders wood.- No person shall have in his possession or move red sanders timber chips or powder except under a special permit issued by the District Forest Officer in Form VI:-

Provided that nothing contained in the rules shall apply to:

- (a) Red sanders wood not exceeding 5 kgs. in weight carried by any *bona fide* traveller or any person authorised by him in writing for his personal use, or
- (b) Red sanders wood cut or carried by a *ryot* for his own personal use, from trees growing on the *patta* lands of the said *ryot* or of any neighbouring *ryot* from whom title to such red sanders wood is derived and provided that he obtained a certificate of title from the village munsif and that the quantity cut and carried on each occasion does not exceed 5 kgs. in weight.

FORM VI

(Referred to in rule 10)

(Counterfoil to be retained by the District Forest Officer)

Permit No.

1. Name and residence of the person to whom the permission is granted.
2. Quantity.
3. Description of Redsanders wood/ chips/ powder.
4. Fees paid, if any.
5. Marks if any on the Redsanders wood, chips or powder.
6. When obtained.
7. To what place removed.
8. Route.
9. Time allowed
10. Vehicle registration No.
11. Remarks.

Signature of the issuing officer.

* The complete Rules are not reproduced. Only the relevant rules referred to.



STATE
OF
UTTAR PRADESH

NTFP including Medicinal Plants

Abies webbiana ('Talish patri'), *Butea monosperma* ('Dhak'), *Centella asiatica* ('Brahmi'), *Chlorophytum* spp. ('Safed musli'), *Curculigo orchoides* ('Kali musli'), *Diospyros melanoxylon* ('Tendu' leaves), *Embellica officinalis* ('Amla'), *Hemidesmus indicus* ('Antamul'), *Madhuca indica* ('Mahua'), *Picrorhiza kurroo* ('Kuroo'), *Pinus wallichiana* ('Kail'), *Rauvolfia serpentina* ('Sarpagandha'), *Sterculia urens* ('Karaya'), *Terminalia arjuna* ('Arjun'); etc.

Nationalized NTFP Items

Tendu leaves, Resin.

Monopoly Agency

- * Uttar Pradesh Forest Development Corporation/ Tribal Development Corporations in respect of nationalised and other NTFP items.
- * Oil seeds, gums, tannin, fruit collection leases auctioned to contractors.
- * Bhesaj Sangh Cooperative in Uttarakhand region.

Price Fixation Method

- * By High Power Committee in respect of nationalised items.
- * By Forest Development Corporation/ Forest Department in respect of other items.



Legal Framework

(1) Indian Forest Act, 1927

- * Applicable to the State (with U.P. Amendment); contains provisions relating to the transit of forest produce and duty leviable on forest produce.

(2) U.P. Private Forests Act, 1948 and Rules, 1972

- * Regulation of collection, manufacture and removal of forest produce from Vested and Notified Forests.

(3) U.P. Tendu Leaves (Regulation of Trade) Act and Rules, 1972

- * State monopoly in the purchase and distribution of 'Tendu' leaves.

(4) U.P. Transit of Timber and Other Forest Produce Rules, 1978

- * A Transit Pass is required in respect

of the transit of forest produce.

(5) U.P. Resin and Other Forest Produce (Regulation of Trade) Act and Rules, 1976

- * State monopoly in the trade of Resin.

(6) U.P. Protection of Trees in Rural and Hill Areas Act, 1976

- * Regulation of felling of trees and replanting of trees.

(7) U.P. Forest Corporation Act, 1974

- * Establishment of a Corporation for better preservation, supervision and development of forests and exploitation of forest produce.

(8) U.P. Panchayati Forest Rules, 1976

- * Forest Panchayats to have powers relating to the sale and exploitation of forest produce within Village Forests.

INTRODUCTION

The State of Uttar Pradesh (U.P.), the most populous State in India, has a total land area of 2,94,411 sq. km. out of which the forest area comprises of about 51,663 sq. km. (17.54%). The State has a tropical climate except for the Himalayan region which has a temperate climate. The State of U.P. possess a large variety of NTFP including medicinal plants:

Botanical Names	Common Names
<i>Abies webbiana</i>	Talish patri
<i>Abrus precatorius</i>	Ghumchi
<i>Acacia catechu</i>	Katha
<i>Aconitum deinorrhizum</i>	Mohra
<i>Aconitum heterophyllum</i>	Atis
<i>Acorus calamus</i>	Bach
<i>Alstonia scholaris</i>	Chitwan
<i>Atropa belladonna</i>	Indian Belladonna
<i>Butea monosperma</i>	Dhak
<i>Cassia fistula</i>	Amaltas
<i>Centella asiatica</i>	Brahmi
<i>Chlorophytum boravilian</i>	Safed musli
<i>Clausena pentaphylla</i>	Ratanjot
<i>Curculigo orchoides</i>	Kali musli
<i>Cymbopogon martinii</i>	Rosha grass
<i>Diospyros melanoxylon</i>	Tendu
<i>Embllica officinalis</i>	Amla
<i>Flemingia strobilifera</i>	Chauranga
<i>Hemidesmus indicus</i>	Antamul
<i>Holarrhena antidysenterica</i>	Dudhi, Kurchi
<i>Ichnocarpus frutescens</i>	Sukhnidia
<i>Jasminum multiflorum</i>	Dhai
<i>Madhuca indica</i>	Mahua
<i>Nardostachys jatamansi</i>	Bal chad
<i>Peganum harmala</i>	Gandhya
<i>Picrorrhiza kurrooa</i>	Kuroo
<i>Pinus roxburghii</i>	Chir
<i>Pinus wallichiana</i>	Kail
<i>Podophyllum hexandrum</i>	Bankakri
<i>Pterocarpus marsupium</i>	Bija sar
<i>Pterospermum acerifolium</i>	Kanak champa
<i>Rauvolfia serpentina</i>	Sarpagandha
<i>Rumex dentatus</i>	Ambavati
<i>Sida rhombifolia</i>	Bariari
<i>Sterculia urens</i>	Karaya
<i>Terminalia arjuna</i>	Arjun

The State Government has enacted a number of Acts/ Rules/ Regulations to protect and 'regulate' the exploitation of its vast wealth of NTFP. Some of these legal enactments are discussed in brief below.

The U.P. Private Forests Rules, 1950, framed under the U.P. Private Forests Act, 1948, provides that the forest produce in Vested Forest (i.e. a forest of which the control has been vested in a Forest Officer by a Notification) shall ordinarily be sold by the Divisional Forest Officer by public auction after due publicity under an agreement with the contractors. The Divisional Forest Officer may grant a *licence* to any person who is the inhabitant of a town/ village in the neighbourhood of a vested forest to take produce of the said forest for his own use. The collection, manufacture and removal of forest produce from vested forests shall be regulated according to the prescriptions of the approved working-plan of the forest.

Similar provisions are contained in the rules in respect of a Notified Forest (i.e. a forest specified in a Notification issued by the Government). Under the rules, all export of forest produce must be covered by passes or *rawannas*. In the *rawanna* the description of the forest produce covered by the *rawanna* shall be stated briefly. No export shall take place between sunset and sunrise.

The U.P. Protection of Trees in Rural and Hill Areas Act, 1976, is an Act to provide for regulation of felling of trees and replanting of trees in rural and hill areas of U.P. No person shall fell, cut, remove, etc. any tree standing on any land, unless he obtains permission of the Competent Authority to fell or remove trees. No such permission shall be required for the felling of any tree with a view to appropriating the wood or leaves thereof for bonafide domestic use. Every person to whom permission has been granted shall be bound to plant two trees in place of every tree which has been felled, cut, etc. Various Timber and Fruit trees are mentioned in the Schedule to the Act; many of these trees are of medicinal value also.

The U.P. Tendu Patta (Vyapar Viniyaman) Adhiniyam [Tendu Leaves (Regulation of Trade) Act], 1972, is an Act to provide in the public interest, for the creation of State monopoly in the purchase and distribution of 'tendu' leaves (*Diospyros melanoxylon*). The Act provides for the appointment of 'agents' for the purpose of purchase and trade in 'tendu' leaves. Restrictions are provided on the sale, purchase and transport of 'tendu' leaves. An 'Advisory Committee' shall advise the State Government in the matter of fixation of a fair and reasonable price at which 'tendu' leaves offered for sale may be purchased by or on behalf of the State Government.

Under the Act, every grower of 'tendu' leaves (other than the State Government or a 'Gaon Sabha' or other local authority) shall, if the quantity of leaves grown by him during a year is likely to exceed the prescribed quantity, get himself registered. Every manufacturer of 'bidis' (an Indian cigarette) and exporter of 'tendu' leaves shall also get himself registered. These provisions ensure that no smuggling activities/ illegal trading could take place in the State.

Detailed Rules have been framed under the Act, viz. U.P. Tendu Patta (Vyapar Viniyaman) Niyamavali [Tendu Leaves (Regulation of Trade) Rules], 1972. The Rules are laid down in respect of Appointment of agents; Transport permit and permit for sale and purchase of 'tendu' leaves; Registration of growers, manufacturers and exporters; Disposal of 'tendu' leaves; Certificate of sale; etc.

The U.P. Transit of Timber and Other Forest Produce Rules, 1978, have been framed under the Indian Forest Act, 1927. No forest produce shall be moved into or from or within the State except without a "transit pass". No such pass, however, shall be required for bonafide consumption by any person in exercise of a privilege granted by State Government. The Conservator of Forests may establish *depots* to which forest produce shall be taken for checking or for determining the amount of money payable to the State Government. All forest produce imported into the State will have to follow the rules made by the Union Government under Sec. 40-A of Indian Forest Act, 1927, in addition to these rules, and shall be covered by a "foreign pass". The penalties provided for under the Rules are imprisonment up to one year or fine up to Rs. 1000, or with both.

The U.P. Forest Corporation Act, 1974, is an Act to provide for the establishment of a Corporation for better preservation, supervision and development of forests and better exploitation of forest produce within the State. The U.P. Panchayati Forest Rules, 1976, likewise provides for the management of village forests, via the formation of Forest Panchayat. The Forest Panchayat shall have the status of a Forest Officer, and shall have the powers relating to the sale and exploitation of forest produce including resin. The exploitation of NTFPs for commercial purpose shall be done strictly according to the prescriptions of the working plan/ project, if any. The forest produce so exploited shall be sold by public auction.

The U.P. Resin and Other Forest Produce (Regulation of Trade) Act, 1976, is an Act to provide in the public interest, for the carrying on by the State of the trade of purchase and distribution of Resin to the exclusion of others, and for the regulation of manufacture and preparation of various articles based on forest produce. 'Resin' means the secretion extracted by tapping from 'Chir' or 'Kail' trees (i.e. *Pinus roxburghii*/ *Pinus wallichiana*).

Under the Act, restrictions are provided on the sale, purchase and transport of resin. No person shall tap resin or manufacture any resin product or export any resin or resin product unless he is registered. No person shall sell resin to any person other than the State Government or an authorised officer. However, in certain cases, the State Government may permit any private person to purchase and transport resin on the prescribed terms and conditions, via a 'permit'. An Advisory Committee shall assist the State Government in the matter of fixation of price at which resin shall be purchased by the State Government. The detailed Rules, under the aforesaid Act, have been framed, viz. *The U.P. Resin and Other Forest Produce (Regulation of Trade) Rules, 1976*.

Bhesaj Sangh in U.P.

Bhesaj Sangh comprising of village level cooperative societies in Uttarakhand region of the State, is responsible for regulation of collection and sale of medicinal plants in Uttarakhand besides the forest department. The Sangh was basically created to save the collectors from the exploitation of middlemen and traders.

Since 1986, the State Government authorized Kumaon Mandal Vikas Nigam (KMVN), Nainital, also for collection and sale of medicinal plants besides the Bhesaj Sangh by the Notification No. 542/ 28-1.86(6)/ 83 dated 17.3.86. This brought an end to the monopoly of Bhesaj Sangh in the Kumaon region. Bhesaj Sangh still operates exclusively in the Garhwal region (Jain, P.K., in litt, 2000).

The policy decision regarding where and of which species the collection is to be permitted, is taken at the top level. The Forest department, from time to time, issue list of medicinal plant species *banned* for collection. The royalty rate payable to the Forest department as well as the price of the species on which the royalty is calculated is decided jointly by the Conservator of Forest, Divisional Commissioner, Director of KMVN, and the Chief Pharmaceutical Expert (Ranikhet). Forest department prepares 'lots' for collection of medicinal plants and intimates the same to the Bhesaj Sangh/ KMVN.

The Sangh has introduced a system of appointing individual as 'agent' for organising collection and sale of medicinal plants. The agent deposits certain amount of money as 'security money' and engages the locals for collection. Further, only the 'registered' cultivators can cultivate and transport their yield. The crop and the harvested material are inspected by the Bhesaj Sangh and counter inspected and certified by the Forest department. After the completion of the process, Bhesaj Sangh issues the 'transit pass', which too is counter signed by the concerned Divisional Forest Officer. For all this processing, the Bhesaj Sangh charges 5% commission on the approved rates from the cultivator (Jain, P.K., in litt, 2000).

The Uttar Pradesh Village Forests Joint Management Rules, 1997

The Rules, framed under Secs. 28 and 76 of the Indian Forest Act, 1927, shall apply to such village forests in Uttar Pradesh as are *not* governed by the U.P. Panchayati Forest Rules, 1976. Subject to the supervision, direction, control and concurrence of the Divisional Forest Officer, a village forest shall be managed *jointly* by the Village Forest Committee and nominated officers of the Forest Department.

The *duties* of the Village Forest Committee shall be to prepare a five-year Micro-plan (i.e. scheme of management of a village forest) and Annual Implementation Plan for the village forest and place the same before the village community for its approval; to prevent destruction of trees; to utilize forest produce to the advantage of the village community; to protect the village forest and plantations thereon from illicit felling, lopping, etc.

A Village Committee shall be deemed to be a Forest Officer for the purposes of these rules. Thus the Committee shall make local sale of forest produce including medicinal plants without detriment to the village forest; provided such an exploitation has the prior approval of the Divisional Forest Officer and has been made for the bona fide domestic use of right-holders. The Committee shall extract and sell resin in accordance with the provisions of the U.P. Resin and Other Forest Produce (Regulation of Trade) Act, 1976.

Government Resolution for Eco-Development in Uttar Pradesh

The "Eco-Development" programme's *object* is to conserve bio-diversity in the State with the active participation of the local people in the Bio-diversity Conservation Programmes in and around the Protected Areas (viz. National Parks, Sanctuaries and Biosphere Reserves). The objective is to intervene in the livelihood of people living in and around Protected Areas so as to protect Protected Area Resources by providing suitable alternatives; to develop capacity in villagers to plan and implement sustainable modes of development through eco-development programme.

The 'Village Eco-Development Committee' (i.e. a village level committee constituted in the manner prescribed under this resolution) will take up Eco-development activities in the village concerned. The Committee is to consist of a representative of Zilla (District) Panchayat and of Non-Government Organization, along with officers of the Forest department.

U.P. Private Forests Act

Also see Part-I, 'Central and States' Forest Acts'.

Summing Up

In Uttar Pradesh, 'Tendu' leaf trade has been nationalised. The Tarai Anusuchit Janjati Vikas Nigam (Tarai Scheduled Tribe Development Corporation) has started collection of 'Tendu' leaves by involving tribals in Band and Mirzapur districts of the State. Resin, which is the main output from pine forests of the U.P. hills is also nationalized.

In Uttar Pradesh, Forest Development Corporation is gradually taking up NTFP collection. The State has also encouraged collection of NTFP through Tribal Development Corporations (viz. Tarai Scheduled Tribe Development Corporation and Kumaon/ Garhwal Tribal Development Corporation). However, oilseeds, gums, tannin, fruit collection leases are at present auctioned to contractors. The State Government has been thinking of boosting economic development of tribals through NTFP collection, processing and marketing. But, so far contractor agency largely prevails in the trade (Shukla, R.S., 2000).

The Bhesaj Sangh in Uttarakhand region of the State is just merely one more chain in the system contributing in no way either for the benefit of collector or conservation. The whole process of collection and sale of medicinal plants in the region is rather complicated. The process of registration and certification for cultivation is counter productive as cultivators tend to give up cultivation rather than go for them (Jain, P.K., in litt, 2000).

Nevertheless, some initiatives have been made in the State to protect its vast wealth of medicinal plants, viz. U.P. Forest Corporation Project of Medicinal Plants in District Lalitpur. The district Lalitpur of Bundelkhand area of U.P. is famous for Ayurvedic medicine manufacturer, Baidyanath. The Lalitpur Forest Division has been auctioning the local medicine herbs to local traders; on behalf of the traders the local tribals had been collecting the medicinal plants from forest in an uncontrolled, unlimited and unscientific manner. In order to check the indiscriminate extraction, to conserve bio-diversity and to pay fair wages to tribals, the U.P. Forest Corporation was allotted the work of collection, storage and sale of medicinal plants in Lalitpur district vide the Government of U.P. G.O. No. 3792/ 14-2-97-500/ 51/ 1997, dated 31.7.1998 effective from 1997-98.

The collection charges were fixed by the Conservator of Forests, Bundelkhand vide letter No. 473/ 37-1, dated 9.8.97. These rates were almost sixty per cent higher than the rates paid by local traders. Several purchase depots were established in the division. It was found that the local tribe of 'Raut' and 'Sahariya' were expert in recognizing the local medicinal plants. There were 40 villages where the medicinal

plants were collected from the State. The services of these tribes were utilized in these villages to motivate the villagers to collect and bring the plant and plant parts to the collection depots and get their collection charges on the basis of quantity collected by them. Gradually the staff of Forest Corporation were also trained locally as well as at Shanti-kunj, Haridwar (Shukla, R.S., 2000).

THE U.P. PRIVATE FORESTS RULES, 1950*

2. Definitions.- In these rules unless there is anything repugnant to the subject or context,-

- (a) "Act" means the U.P. Private Forests Act, 1948 (U.P. Act 6 of 1949);
- (b) "Section" means section of the Act.

CHAPTER II

Management of a Notified Area of Forest

3. Felling permit.- On receipt of an application in writing from a person having the right to cut, collect or remove any trees, timber or fuel from a notified forest and subject to such directions as may be issued by the Conservator from time to time "felling permit" in Form I may be issued by the Divisional Forest Officer:

Provided that a felling permit shall not be issued by the Chairman of a Land Management Committee or the President of a Gaon Panchayat except with the previous approval of the Tahsildar concerned and by the president of local bodies, i.e., a Notified Area Committee, or a Town Area Committee and by the Chairman of Municipal Board without the previous approval of the Sub-Divisional Officer concerned.

5. Quantity of timber or forest produce permitted to be taken by rightholders.-

- (a) To the extent that any restrictions specified in any record of rights, prepared under any law for the time being in force, are not repugnant to, or superseded or modified by these rules, such restrictions shall be deemed to form part of these rules.
- (d) Should in any year the coupe or portion of the forest from which the individual right-holders are permitted to draw their share of forest produce be insufficient to meet the maximum requirements of all such individual shares, the quantity allowed to be removed by each right-holders shall be proportionately reduced in accordance with the capacity of the coupe or portion of the forest and the quantity which each right-holder may remove during the year shall be determined by the Divisional Forest Officer.
- (e) The Conservator may declare by an order in writing the whole or any part of a notified area or forest, as a "plantation" or a "regeneration area" or a "fodder reserve" for a period not exceeding 20 years at a time. In such "plantations" or "regeneration area" or "fodder reserve" all rights of the landlord and the right-holders shall remain suspended for the period of the closure; but grass cutting in all these areas and felling of trees in fodder reserves may be permitted from time to time subject

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

to such conditions as the Conservator may, from time to time, prescribe. Special passes will be issued by the Divisional Officer for the purpose.

- (f) No right-holder shall be allowed to remove any forest produce unless he holds a permit in Form I which he must produce on demand by a Forest or Police Officer.
- (g) Roots of trees shall not be dug except where permitted by the Divisional Forest Officer in writing.
- (i) A register showing the quantity and class of forest produce removed by the right holders from each felling coupe shall be prepared and maintained by the landlord in a form approved for the purpose by the Conservator. Such register shall be produced for inspection on demand by the Divisional Forest Officer. The Divisional Forest Officer shall make this inspection at least once in six months.

6. Felling licence.- On receipt of an application in writing from the landlord a "felling licence" may be issued by the Divisional Forest Officer in Form III. No such felling licence shall be issued except in the cases of groves, without the previous sanction of Government or such officer to whom the power may be delegated by Government in this behalf.

Provided that no felling licence in respect of a grove shall be issued by any authority except the Collector concerned.

7. Preparation of working-plan for the management of a notified forest.-

- (1) In cases in which the Conservator considers that a working-plan should be prepared for the management of a notified forest, he shall issue a notice directing the owner to prepare a working plan within a specified period.
- (2) The owner may either prepare the working-plan himself or request the Conservator to prepare a working-plan on his behalf.

10. Management of forest by owner to be according to the approved working-plan.- When a working-plan has been approved by the Chief Conservator in respect of a notified forest, such forest shall be managed by the owner in accordance with the prescriptions thereof and no deviation from such prescription shall be permitted without the previous sanction of the Chief Conservator.

11. Disposal of forest produce forfeited under Sec. 15.- Any trees, timber or other forest produce forfeited under Sec. 15 shall be handed over by the Collector to the Divisional Forest Officer for disposal, provided that the Collector may direct the sale or disposal of any property subject to rapid decay. All sale-proceeds from such article will be credited to Forest Revenue when the period of appeal is over or the appeal if preferred, has been decided against the offender.

CHAPTER III

Vested Forests

21. Disposal of forest produce of vested forests.- The forest produce shall ordinarily be sold by the Divisional Forest Officer by public auction after due publicity

under an agreement with the contractors. The contract may either be one in which a lump sum is to be paid by the purchaser or one in which the sum is paid for the monopoly of the extraction of certain produce, further sums being payable at fixed rates and intervals.

Note.- Disposal of forest produce otherwise than by auction is permissible only with the special sanction of Government.

22. Licence for removal of forest produce.-

- (a) The Divisional Forest Officer may, on application, grant a licence in Form III to any person who is the inhabitant of a town or village in the neighbourhood of a vested forest to take trees and timber or other produce of the said forest for his own use.
- (b) A security, the amount of which will be determined by the Divisional Forest Officer, shall be deposited by the landlord with the Divisional Forest Officer and pledged to him for the fulfilment of the conditions of the licence. The security will be refundable when the condition of the licence have been fulfilled. In the event of the non fulfilment of any of the conditions the security will be liable to confiscation in whole or in part at the discretion of the Divisional Forest Officer. This is without prejudice to any other action which may be taken by the Divisional Forest Officer.

23. Cutting, sawing, etc., of forest produce in vested forests.- The cutting, sawing, conversion and removal of trees and timber and the collection, manufacture and removal of forest produce from vested forests shall be regulated according to the prescriptions of the approved working-plan of the forest:

Provided that where the right to exploit forest produce in any area of a vested forest has been solely leased or otherwise granted to any firm or individual, the cutting, sawing, etc., of trees and timber and the collection, manufacture and removal of forest produce shall be subject to the terms of the instrument of sale or lease that may have been executed in favour of the firm or individual:

Provided further that where there is no approved working-plan for a forest and also in respect of matters for which there is no provision in the working-plan, the cutting, sawing, conversion and removal of trees and timber and the collection, manufacture and removal of forest produce shall be regulated by orders from time to time by the Chief Conservator.

24. Examination of forest produce passing out of the vested forest.-

- (1) The Conservator may establish export and check *chowkis* for examination of forest produce passing out of any vested forest.
- (2) All forest produce from such vested forest must pass through such export and check *chowkis*.
- (3) All export of forest produce must be covered by passes or *rawannas*.
- (4) *Rawannas* shall be issued by the persons authorised to remove the forest produce or his agent in triplicate, two copies being handed over to the person carrying forest produce, and one copy kept on record. At the check *chowki* the person carrying the forest produce shall hand

over both the copies of the *rawannas* to the officer-in-charge of the check *chowki* who shall return one copy duly endorsed by him and keep the other copy with him. The person carrying the forest produce shall produce his copy of the *rawannas* for examination whenever demanded by any Forest or Police Officer.

- (5) In the *rawanna* the description of the forest produce covered by the *rawanna* shall be stated briefly. In the case of sawn timber or timber in round, the species, and the dimensions of each piece shall be stated along with its cubical content.

- (12) No export shall take place between sunset and sunrise.

25. Clearing and breaking up of a land for cultivation or other purposes in vested forests.- The Divisional Forest Officer may on an application made in this behalf issue with the sanction of the Chief Conservator, a permit in Form II for the breaking up of a land in a vested forest for cultivation on condition specified therein the subject to the instructions contained in rule 4.

29. Burning of charcoal and process of manufacture to be applied to forest produce.- The burning of charcoal or the subjection of any forest produce to any manufacturing processes shall be regulated by the instructions that may be issued by Chief Conservator from time to time.

30. Regulation of the rights to be exercised by the right-holders.- The manner and the extent to which the rights in all vested forests may be exercised shall be regulated by rule 5.

THE UTTAR PRADESH PROTECTION OF TREES IN RURAL AND HILL AREAS ACT, 1976*

(Act No. 45 of 1976)

An Act to provide for regulation of felling of trees and replanting of trees in rural and hill areas of Uttar Pradesh.

2. Act not to apply to certain areas.- This Act shall not apply to-

- (a) trees situate in reserved and protected forests;
- (b) trees situate in a forest or forest land in respect of which notification under the Indian forest Act, 1927 as amended in its application to Uttar Pradesh is in force;
- (c) trees situate in urban areas;
- (d) trees situate in a Government garden or on land held by the Government.

3. Definitions.- In this Act, unless there is anything repugnant in the context-

- (i) "blank area" means any piece of land (not being under cultivation) measuring one-half of a hectare or more, which has five or less trees growing on it;
- (vii) "hill areas" means the districts of Almora, Pithoragarh, Garhwal, Chamoli, Tehri-Garhwal and Uttarkashi and the hill *pattis* of district Naini Tal and areas of Chakarata Tahsil and Mussoorie Municipal Board of Dehra Dun district but does not include any Cantonment area.

4. Restriction on felling and removal of trees.- Except as provided in this Act or the rules made thereunder, no person shall-

- (a) fell any tree standing on any land, whether included in a holding or not;
- (b) cut, remove or otherwise dispose of any tree other than a tree which is completely dead and has fallen without the aid of human agency on any such land.

5. Permission to fell or remove trees.- The competent authority may, on the application of any person entitled to fell a standing tree or to cut, remove or otherwise dispose of fallen trees, after making such inquiry, as it thinks fit, grant permission to him to do so:

Provided that such permission shall not be refused if the tree constitutes danger to person or property :

Provided further that except in such area as may be notified by the State Government in this behalf such permission shall not be required for the felling of any tree with a view to appropriating the wood or leaves thereof for *bona fide* use for purposes of fuel, fodder agricultural implements or other domestic use :

* The complete Act is not reproduced. Only the relevant sections have been extracted.

Provided also that such immediate steps as are necessary to remove any obstruction or nuisance or to prevent any danger may be taken without such permission.

7. Obligation to plant trees.- Every person, to whom permission has been granted under this Act to fell, cut, remove or dispose of any tree shall be bound to plant and tend two trees in place of every tree in the area, from where such tree has been felled, cut, removed or disposed of by him under such permission:

Provided that the competent authority may for reason to be recorded in writing, permit lesser number of trees to be planted, or trees to be planted in any different area, or exempt any person from the obligation to plant or tend any tree.

8. Plantation of trees in blank area.- Where the Divisional Forest Officer is of opinion, on the basis of the report of a revenue officer, not below the rank of a Sub-Divisional Officer, or a Horticulture Officer, not below the rank of a District Horticulture Officer, or a Soil Conservation Officer not below the rank of Bhoomi Sanrakshan Adhikari or any Forest Officer not below the rank of Assistant Conservator of Forest, or otherwise that trees should be planted in a blank area, he may issue a notice to the owner, occupier or tenure-holder (hereinafter referred to as claimant) of such area to show cause why trees should not be planted in such area as may be specified in such notice.

10. Penalty for felling or removal of tress in contravention of Sec. 4.- Whoever fells or causes to be felled any standing tree, or cuts, removes or otherwise disposes of any fallen tree, in contravention of the provisions of Sec. 4, or contravenes any condition of any permission granted under this Act, shall be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

22. Provision of this Act to be in addition to any other law for the time being in force.- The provisions of the Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force prohibiting or regulating the felling of trees.

23. Power of the State Government for preservation of trees.-

- (1) The State Government may in the interest of general public, declare by notification that any class of trees shall not be felled for such period as is specified in that notification.
- (2) The management of such trees shall be regulated in the prescribed manner.

24. Power to make rules.- The State Government may by notification make rules to carry out the purposes of this Act.

SCHEDULE I

Timber Trees

[See Sec. 3(xi)]

Sl. No.	Common Name	Botanical Name
1.	Akhrot	<i>Juglans regia</i>
2.	Arjun	<i>Terminalia arjuna</i>
3.	Aam	<i>Mangifera indica</i>
4.	Imli	<i>Tamarindus indica</i>
5.	Kardhai	<i>Anogeissus pendula</i>
6.	Kanju	<i>Holoptelea integrifolia</i>
7.	Kusum	<i>Schleichera trijuga</i>
8.	Kail	<i>Pinus excelsa</i>
9.	Kharshu	<i>Quercus semecarpifolia</i>
10.	Khair	<i>Acacia catechu</i>
11.	Gutel	<i>Trewia nudiflora</i>
12.	Dhau/ Bakli	<i>Anogeissus latifolia</i>
13.	Chandan	<i>Santalum album</i>
14.	Chamkharik	<i>Carpinus viminea</i>
15.	Chironji	<i>Buchanania latifolia</i>
16.	Chir	<i>Pinus roxburghii</i>
17.	Jamun	<i>Syzygium cumini</i>
18.	Dhak-Palas	<i>Butea monosperma*</i>
* (for Mirzapur, Varanasi, Banda and Jhansi districts only)		
19.	Tuni	<i>Cedrella serrata</i>
20.	Tun	<i>Cedrella toona</i>
21.	Tendu	<i>Diospyros tomentosa</i>
22.	Deodar	<i>Cedrus deodara</i>
23.	Neem	<i>Azadirachta indica</i>
24.	Papri/ Sansadu/ Chikri	<i>Buxus sempervirens</i>
25.	Phaliyant	<i>Quercus glauca</i>
26.	Bakain	<i>Melia azedarach</i>
27.	Bahera	<i>Terminalia bellerica</i>
28.	Banj	<i>Quercus inconstans</i>
29.	Mahua	<i>Madhuca latifolia</i>
30.	Morinda	<i>Abies pindrow</i>
31.	Moru	<i>Quercus dilatata</i>
32.	Rai	<i>Picea morinda</i>
33.	Rianj	<i>Quercus lanuginosa</i>
34.	Shisham	<i>Dalbergia sissoo</i>
35.	Salai	<i>Boswellia serrata</i>
36.	Sagaon	<i>Tectona grandis</i>
37.	Sal	<i>Shorea robusta</i>

38.	Siris	<i>Albizia</i> spp.
39.	Sain/ Asna	<i>Terminalia tomentosa</i>
40.	Semal	<i>Salmalia malabarica</i>
41.	Harra	<i>Terminalia chebula</i>
42.	Haldu	<i>Adina cordifolia</i>

SCHEDULE II

Fruit Trees

[See Sec. 3 (xi)]

Sl. No.	Common Name	Botanical Name
1.	Anar	<i>Punica granatum</i>
2.	Amrood	<i>Psidium guyava</i>
3.	Aroo	<i>Prunus perrico</i>
4.	Aloobukhara	<i>Prunus communis</i>
5.	Aam	<i>Mangifera indica</i>
6.	Aonla	<i>Emblia officinale</i>
7.	Kathal	<i>Artocarpus integrifolia</i>
8.	Khubani	<i>Prunus armeniaca</i>
9.	Naspati	<i>Pyrus communis</i>
10.	Narangi, Neehu, Malta, Mussammi and Santra	All varieties of <i>citrus</i>
11.	Litchi	<i>Nephelium litchi</i>
12.	Sharifa	<i>Amona squemosa</i>
13.	Sev	<i>Pyrus malus</i>

Notification No. 86/XIV-3-377-76, dated 20th January, 1982.- In exercise of the powers under Sec. 21 of the Uttar Pradesh Protection of Trees in Rural and Hill Areas Act, 1976 (U.P. Act No. 45 of 1976), the Governor in public interest is pleased to exempt from all the provisions of the Act, the following species of trees growing on individual cultivated or uncultivated holdings measuring up to two hectares:

Sl. No. (1)	Common Name (2)	Botanical Name (3)
1.	August	<i>Sesbania grandiflora</i>
2.	Aru	<i>Alantus excelsa</i>
3.	Utis	<i>Alnus nitida</i>
4.	Casuarina	<i>Casuarina equisetifolia</i>

5.	Jangal Jalebi	<i>Pithecellobium dulce</i>
6.	Poplar	<i>Populus</i> spp.
7.	Pharash	<i>Tamarix aphylla</i>
8.	Bakain	<i>Melia azedrach</i>
9.	Babool	<i>Acacia arabica</i>
10.	Vilayati Babool	<i>Prosopis juliflora</i>
11.	Eucalyptus	<i>Eucalyptus</i> spp.
12.	Robinia	<i>Robinia pseudoacacia</i>
13.	Wattle	<i>Acacia mearusii</i>
14.	Willow	<i>Salix</i> spp.
15.	Siris	<i>Albizzia</i> spp.
16.	Subabool	<i>Leucaena leucocephala</i>

**THE UTTAR PRADESH TENDU PATTÀ (VYAPAR
VINIYAMAN) ADHINIYAM, 1972***

(U.P. Act No. 19 of 1972)

An Act to provide in the public interest, for the creation of State monopoly in the purchase and distribution of tendu leaves and for matters connected therewith.

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

- (c) "tenure-holder" means a *bhumidar*, *sirdar*, *asami*, Government lessee or other Government grantee;
- (d) "grower of *tendu* leaves" means-
 - (i) in respect of *tendu* leaves grown on land which is for the time being vested in and held by the State Government or constituted as a reserved forest or protected forest under the Indian Forest Act, 1927 (Act 16 of 1927), the State Government;
 - (ii) in respect of *tendu* leaves grown on land which is for the time being vested in and held by a Gaon Sabha or other local authority, such Gaon Sabha or other local authority;
 - (iii) in respect of *tendu* leaves grown on land which is for the time being held by a tenure-holder, such tenure-holder;
 - (iv) in respect of *tendu* leaves grown on land which is for the time being held by a mortgagee in possession or tenant or lessee on behalf of the State Government or such Gaon Sabha, local authority or tenure-holder as aforesaid, such mortgagee in possession, tenant or lessee, as the case may be;
 - (v) in respect of *tendu* leaves grown on land which is for the time being in the custody of a receiver appointed by a Court or by some other authority in exercise of a power conferred by law, such receiver;
 - (vi) in respect of *tendu* leaves grown on land which is for the time being held by any other person, such person;

3. Constitution of units.- The State Government may divide any area into such number of units as it may deem fit.

4. Appointment of agents.-

- (1) The State Government may, for the purpose of purchase of, and trade in *tendu* leaves on its behalf, appoint agents in respect of different units, and any such agent may be appointed in respect of more than one unit.

* The complete Act is not reproduced. Only the relevant sections have been extracted.

- (2) The terms and conditions of, and the procedure respecting, such appointment shall be such as may be prescribed.

5. Restrictions on sale, purchase and transport of *tendu* leaves.-

(1) On and after the appointed day-

- (a) no person shall sell *tendu* leaves to any person other than the State Government or an Officer of the State Government authorised by it in that behalf or an agent in respect of the unit in which the leaves have grown;
- (b) no person other than such Government, officer or agent shall purchase *tendu* leaves from any person other than such Government, officer or agent, or collect *tendu* leaves grown on any land of which he is not owner or tenure-holder;
- (c) no person other than such Government, officer or agent shall transport *tendu* leaves except in the following cases, namely-
 - (i) where he being a grower of *tendu* leaves transports them from any place within the unit wherein such leaves have grown to any other place in that unit; or
 - (ii) where he transport's them on behalf of such Government, officer or agent; or
 - (iii) where he has purchased the leaves from such Government, officer or agent either for the manufacture of *bidis* within Uttar Pradesh or for sale of the leaves outside Uttar Pradesh and he transports them outside the unit in accordance with the terms and conditions of a permit issued in that behalf by such authority and in such manner as may be prescribed.

(2) Notwithstanding anything in sub-section (1) the State Government or an officer of the State Government authorised by it in that behalf may on such terms and conditions and in such manner as may be prescribed,-

- (a) Permit any person, who had purchased *tendu* leaves in the year 1971 or earlier,-
 - (i) to sell such leaves to any person other than the State Government or an officer or agent referred to in Cl. (a) of sub-section (1), and permit any person other than such Government, officer or agent to purchase the said leaves; or
 - (ii) to transport such leaves to any place within Uttar Pradesh or to export them outside Uttar Pradesh; or
- (b) permit any person referred to in sub-clause (iii) of Cl. (a) sub-section (1) to sell within Uttar Pradesh any *tendu* leaves which he has been unable to utilise in the manufacture of *bidis* within Uttar Pradesh or, as the case may be, to export outside Uttar Pradesh; or
- (c) permit any person, who has purchased any *tendu* leaves outside Uttar Pradesh to bring them inside the State either for manufacture of *bidis* within the State or for transporting them elsewhere outside Uttar Pradesh; or

- (d) permit any person, who has purchased any *tendu* leaves within Uttar Pradesh outside any area to which this Act applies to transport them to any area to which this Act applies for the manufacture of *bidis*.
- (3) A person to whom a permit referred to in Cl. (b) or Cl. (c) or Cl. (d) of subsection (2) is granted shall be liable to pay, in the manner prescribed, a tax at the rate of three rupees per standard bag of *tendu* leaves.
- 5-A. (1) Notwithstanding anything contained in this Act but subject to Sec. 16, the State Government or an officer empowered by it by general or special order in this behalf, may by permit authorise in the manner prescribed a person to whom the State Government has sold or with whom it has agreed to sell *tendu* leaves to collect the same on its behalf directly from the grower of *tendu* leaves, on payment of price thereof to such growers.
- (2) The permit referred to in sub-section (1) shall specify the estimated quantity sold, the name of the grower of *tendu* leaves, the amount required to be paid to such grower and such other particulars as may be prescribed.
- (3) A person authorised under sub-section (1) shall be deemed to be an agent for all or any of the purposes of this Act as may be prescribed, but shall not be entitled to payment of any amount by way of commission otherwise for the collection of *tendu* leaves.

6. Constitution of Advisory Committee.-

- (1) The State Government shall for each year constitute for each such division of a Commissioner, where *tendu* leaves grow, an Advisory Committee which shall consist of not more than nine members nominated by the State Government :

Provided that not more than one-third of such members shall be from amongst persons who are growers of *tendu* leaves.

- (2) The Advisory Committee for each division shall advise the State Government in the matter of fixation from time to time of a fair and reasonable price at which *tendu* leaves offered for sale may be purchased by or on behalf of the State Government in that division, and also on such other matters as may be referred to it by the State Government.

7. Fixation of price by State Government.-

- (1) The State Government shall having regard to the following among other factors fix the price at which *tendu* leaves shall be purchased by or for it from growers of *tendu* leaves in each unit of the division during the year namely-
 - (a) the price of *tendu* leaves, if any, fixed under this Act during the preceding three years in respect of the unit;
 - (b) the quantity of the leaves grown in the unit;
 - (c) the transport facilities available in the unit;

- (d) the cost of transport; and
 - (e) the general rate of wages for unskilled labour prevalent in the unit.
- (2) The price so fixed shall be published in such manner as the State Government may direct and shall not be reduced during the year to which it relates.

8. State Government to purchase all *tendu* leaves offered for sale.-

- (1) The State Government shall be bound to purchase at the price fixed under Sec. 7 all *tendu* leaves offered for sale to it or for it during the normal hours of business at a depot set up by the State Government in that behalf.

Provided that it shall be open to an officer of the State Government or agent, as the case may be, appointed in the behalf to refuse to purchase any leaves which in his opinion are not fit for the purpose of manufacture of *bidis*.

- (2) Any person aggrieved by the rejection of his leaves by an officer or agent under the proviso to sub-section (1), may within fifteen days therefrom, and in the manner prescribed complain to the Divisional Forest Officer, or such other officer as may be empowered by the State Government in that behalf.
- (3) On receipt of a complaint under sub-section (2), the officer concerned shall hold summary inquiry and pass such order as he may deem fit, and in case he finds the rejection of the leaves to be improper he may-
- (a) if he considers the leaves in question still suitable for manufacture of *bidis*, direct the authorised officer or agent, as the case may be, to purchase the same and also direct the payment to the person aggrieved of such compensation not exceeding twenty per cent. of the price of the leaves payable to him, as he may deem fit; or
 - (b) if he considers that the leaves in question have since become unsuitable for manufacture of *bidis*, direct the authorised officer or agent, as the case may be, to pay to the person aggrieved an amount equivalent to the price of such leaves payable to him under sub-section (1) and such further compensation not exceeding ten per cent. of such price as he may deem fit by way of damages for the loss suffered by such person.
- (4) Notwithstanding anything in sub-section (1), where the State Government or its authorised officer or agent has reason to believe that any *tendu* leaves offered for sale were grown on any land which is vested in and held by the State Government or which is constituted as reserve forest or protected forest, such leaves may be appropriated without payment of price; and on payment only of such collection charges, if any, as the State Government may from time to time determine.

9. Registration of growers, etc.-

- (1) Every grower of *tendu* leaves other than the State Government or a Gaon Sabha or other local authority shall, if the quantity of leaves

grown by him during a year is likely to exceed such quantity as may be prescribed, get himself registered in the prescribed manner.

- (2) *Registration of manufacturer of bidis and exporter of tendu leaves.*- Every manufacturer of bidis and every exporter of tendu leaves shall get himself registered on payment of such fee and in such manner as may be prescribed.

10. Disposal of the leaves.-

- (1) *Tendu* leaves purchased by or for the State Government shall be sold or otherwise disposed of in such manner as the State Government may direct.
- (2) The sale of *tendu* leaves in respect of which the grower is the State Government or a Gaon Sabha or other local authority shall be governed by, and where the Government sells or causes to be sold the *tendu* leaves grown in any area in respect of a part of which the grower is the State Government and in respect of another part of which the grower is a Gaon Sabha or other local authority, the net proceeds of such sale shall be apportioned between the State Government and such Gaon Sabha or other local authority in accordance with, any general or special order of the State Government issued in that behalf.

12. Powers of entry, search, seizure, etc.- Any Police Officer not below the rank of a Sub-Inspector or any Forest Officer may, with a view to securing compliance with the provisions of this Act or the rules made thereunder or to satisfying himself that the said provisions have been complied with-

- (i) stop and search any person, boat, vehicle or receptacle used or intended to be used for the transport of *tendu* leaves;
- (ii) enter and search any place;
- (iii) seize *tendu* leaves in respect of which he suspects that any provision of this Act or the rules made thereunder has been, is being or is about to be contravened alongwith the receptacle containing such leaves, or the vehicle or boats used in carrying such leaves.

13. Penalty.- If any person contravenes any of the provisions of this Act or the rules made thereunder he shall be deemed to have committed a forest offence and the *tendu* leaves, if any, in respect of which such offence is committed shall in relation to the commission of such offence be deemed to be forest produce, and the provisions of Chapter IX of the Indian Forest Act, 1927, as amended in its application to Uttar Pradesh (excepting Sec. 69) shall accordingly apply with necessary modifications.

14. Offences by companies.- If the person committing an offence under this Act is a company, the company as well as every person incharge of and responsible to the company for the conduct of its business at the time of the commission of the offence shall be liable to be deemed to be guilty of the offence 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 if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

U.P. TRANSIT OF TIMBER AND OTHER FOREST PRODUCE RULES, 1978*

2. **Definition.-** In these rules "Act" means the Indian Forest Act, 1927.

CHAPTER I

Transit of Timber and other Forest Produce by Land

3. **Regulation of transit of forest produce by means of passes.-** No forest produce shall be moved into or from or within the State of Uttar Pradesh except as hereinafter provided, without a transit pass in the form in Sch. A to these rules, from an officer of the Forest Department or a person duly authorised by or under these rules to issue such pass or otherwise than in accordance with the conditions of such pass or by any route or to any destination other than the route or destination specified in such pass :

Provided that no transit pass shall be required for the removal-

- (a) of any forest produce which is being removed for *bona fide* consumption by any person in exercise of a privilege granted in this behalf by State Government or of a right recognised under the Act, within the limits of a village in which it is produced;
- (b) of forest produce by contractors' agency from the forests managed by the Forest Department, in which case the movement shall be regulated by the relevant conditions of sale and terms of the corresponding agreement deed executed by the buyer;
- (c) of such forest produce as may be exempted by the State Government from the operation of these rules by notification in the *Official Gazette*.

4. Officers and persons to issue passes.-

- (1) The following officers and persons shall have power to issue passes under these rules-
 - (a) for forest produce belonging to Government or not owned by any other person, the Conservator of Forest, the Divisional Forest Officer, the Sub-Divisional Forest Officer or any other officer authorised in this behalf in writing by the Conservator of Forest or the Divisional Forest Officer;
 - (b) for forest produce owned by any person, such person or his agent if so authorised in writing by the Divisional Forest Officer-
 - (i) provided that any person who desires to obtain a transit pass or authorisation to issue passes under Cl. (b) of sub-rule (1) above, shall apply in the form in Sch. "B" and the Divisional Forest Officer may, before issuing the transit pass or authorisation

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

- to issue such passes, conduct such inquiry and call for such information as considered necessary;
 - (ii) such authorisation shall specify the period during which it shall remain in force, and shall also specify the route to be adopted and check *chowki* or depot through which the produce must pass; and
 - (iii) any authorisation may at any time be changed (on request or otherwise) or cancelled by the Divisional Forest Officer or Conservator of Forests.
- (2) The officer competent to issue transit pass or to authorise any person to issue transit pass may refuse to issue or authorise to issue transit pass.
- (3) Appeal against the orders under rules 4(1)(b) and 4(2) shall lie with the next higher authority (Conservator of Forest in case the order has been passed by the Divisional Forest Officer, and Chief Conservator of Forest or Additional Chief Conservator of Forest in case the order has been passed by the Conservator of Forest) and his decision shall be final.

5. Fee payable for different classes of passes.- At the check *chowki* or depot established under rule 15 and specified under proviso (ii) to Cl. (b), sub-rule (1) of rule 4, the forest produce alongwith the two copies of the pass (duplicate and triplicate) shall be produced for examination under sub-rule (4) of rule 6 and for payment of transit fee on the forest produce calculated at the following rates; corresponding receipt shall be granted in the form given in Sch.C-

(i)	per lorry of timber or other forest produce	Rs. 5.00 per tonne of capacity
(ii)	per cart load of timber or other forest produce	2.50
(iii)	per camel load of timber or other forest produce	1.25
(iv)	per pony load of timber or other forest produce	0.50
(v)	per head load of timber or other forest produce	0.25

Note.- In respect of resin and resin products, the provisions of the Uttar Pradesh Resin and Other Forest Produce (Regulation of Trade) Act, 1976 and the Rules framed thereunder, shall apply.

6. Passes what to contain.-

- (1) Every transit pass shall be in the form given in Sch. "A".
- (2) The colour and size of each pass and price to be paid in respect of each book of transit passes will be such as may be prescribed by the Chief Conservator of Forests.
- (3) (i) Such pass shall be in Hindi in Devanagri script or Urdu.
- (ii) Transit passes shall be in triplicate and bound in books which shall be obtainable from the Divisional Forest Officer. Each book shall bear an

identifying number and the passes in each book shall be numbered serially.

- (4) First copy of the triplicate forms of pass shall form the counterfoil and second and third parts shall be given to the person in charge of the produce under transit and shall be produced whenever required by any checking officer. The third part shall be collected by the Forest Officer checking the forest produce who will initial the second part and mention thereon that the third part has been received by him.

7. Separate passes for each load.- No transit pass shall ordinarily cover more than one load, whether such load be carried by a person, an animal or in a vehicle. But the Divisional Forest Officer may, whenever he deems fit, order that one pass may cover any number of head loads or animal loads not exceeding 50 and any number of cart loads not exceeding 10, for journey not exceeding 25 km. from and to the same places and undertaken at one and the same time.

9. Books of blank passes to be supplied to person authorised to issue them.-

- (1) When the Divisional Forest Officer authorises any person or the agent of any person under Cl. (b) of sub-rule (1) of rule 4 to issue transit passes, he shall furnish such person from time to time, with authenticated books of blank passes.
- (2) The said person to whom such book supplied shall pay the price, if any, fixed under sub-rule (2) of rule 6. In addition to the price, a security of Rs. 50/- will also be deposited to ensure proper utilisation of the pass.
- (3) No person who has been authorised to issue passes shall issue transit passes otherwise than in accordance with the conditions of his authorisation.
- (4) No such person shall charge any fee for any transit passes issued.

10. Counterfoils of used transit passes to be returned.- The counterfoils of all used transit passes shall be returned to the officer from whom the book of passes was received. Failure to do this may result in forfeiture of security deposited under sub-rule (2) of rule 9. No fresh-pass and no pass-book shall be supplied until the counterfoil of all passes previously used have been so returned or fresh security deposited in the event of failure to return the counterfoil.

11. Counterfoils to be produced for inspection on demand.- Any person or the agent of such person who has been authorised to issue transit passes under Cl. (b) of sub-rule (1) of rule 4 shall be bound, if called upon by any Forest Officer not below the rank of a Forester, to produce for the inspection or to return the counterfoils of all passes which have been issued by such person or agent.

12. Procedure on cancellation or expiry of authority to issue passes.- In the event of any authority given under Cl. (b) sub-rule (1) of rule 4 being at any time cancelled under the said clause or on the expiry of the period specified in such authority, the person whose authority is so cancelled or the person the period of whose authority has so expired, as the case may be, shall forthwith return to the officer, who granted the authority, every unused book of transit passes and the unused portion of any such book in his possession together with the counterfoils

of used passes, if any which he has not already returned; and thereupon the said person shall be entitled to receive a refund of the amount paid by him in respect of every such unused book of transit passes, but no refund shall be allowed in respect of any partly used book.

13. Transit passes issued by private persons when invalid.- No transit pass issued by any person or by the agent of any person authorised under Cl. (b) of sub-rule (1) of rule 4 to issue transit passes shall be valid-

- (a) if such pass is not prepared in form supplied for this purpose under sub-rule (1) of rule 9; or
- (b) if the pass is issued after receipt by such person of an order cancelling the authority to issue such passes; or
- (c) if the pass is issued by such person after the expiry of the period specified in the authority given for the issue of such passes.

15. Depots and their purposes.- The Conservator of Forests may establish at such places as he shall deem fit, depots to which forest produce shall be taken-

- (a) for initial examination or subsequent checking regarding bonafide removal of forest produce; or
- (b) for determining the amount of money payable on account thereof to the State Government, and for the payment of any money so found to be due; or
- (c) in order that any mark required by law or by these rules to be affixed thereto may be so affixed.

17. Depots to be in charge of an officer.- Each depot shall be incharge of an officer appointed by or under the orders of Conservator of Forests or the Divisional Forest Officer. No forest produce shall be stored at or removed from the depot without permission of the officer in-charge of the depot.

19. Forest produce to be removed by day light.- Except with the special permission of the Divisional Forest Officer in writing, no forest produce shall be transported between the hours of sunset and sunrise. Fee at double the rates prescribed in rule 5 shall be charged for the transport so permitted.

20. Foreign pass. - All forest produce imported into the State of Uttar Pradesh will have to follow the rules made by the... Union Government under Sec. 40-A of Indian Forest Act, 1927 (Act No. 16 of 1927) in addition to the rules and shall be covered by a foreign pass registered under rule 2 and in the case of timber, by a foreign property mark registered under rule 23.

21. Form etc. of foreign passes be registered in Conservator's Office.- Every foreign pass must be in a form which has been registered in the office of the Conservator of Forests of the Circle into which it is sought to import forest produce thereunder and must be signed by an official whose designation is registered in the office of the said Conservator, and every foreign property mark must be of a description which has been registered under rule 23 in the said office. At the time of applying for Registration of the foreign pass in the office of the Conservator of Forest of Circle concerned, a declaration will have to be submitted duly verified by the competent authority concerned that there is no objection to the exporting of the desired forest

produce to the State of Uttar Pradesh and custom excise duty or other duties, if any, leviable have been paid by the party concerned to competent authority :

Provided that at the request of the neighbouring State Government passes signed by the contractors or their authorised agents whose signatures have been duly registered in the office of the Divisional Forest Officer in whose division forest product is taken, may be allowed:

Provided further that the passes used by such contractors or their authorised agents should bear an official stamp of the officer who has been authorised by the State Government to issue books of passes to contractors.

22. Imported forest produce may be transported to first depot without a pass under rule 4.- Any forest produce imported into the State of Uttar Pradesh may be transported within the limits of the State of Uttar Pradesh upto the nearest first depot established under rule 15, without a pass issued under 4, if it is covered by a foreign pass registered under rule 21 and if stacked or deposited in any place between such limits and such depot, the foreign pass covering the material shall at once be delivered at that depot.

23. Regulation of forms of foreign passes or foreign property marks.-The Conservator of Forests shall upon receipt of an application for registration of any foreign form or mark for the purpose of rule 21 enquire into the authenticity of the same and, if he has no objection, shall on payment of Rs. 100 by the applicant register such form or mark in his office. Every such registration shall hold good from the date of registration till the 31st December of the year following the year of registration except in the case of forms and marks of foreign Governments, the registration of which shall hold good till they are modified or repealed by new forms or marks.

25. Forest produce in transit may be stopped and examined by certain officer.-

- (1) Any forest produce in transit to which these rules apply, and any person, animal, vehicle, vessel or craft carrying such forest produce, may be stopped, detained, examined and checked at any place by any forest, police or revenue officer of the State Government not below the rank of Forest Guard, Sub-Inspector of Police or Kanoongo, as the case may be, if such officer shall have reasonable grounds for suspecting that any money which is due to Government in respect thereof has not been paid or that any forest offence has been or is being committed in respect thereof :

Provided that no such officer shall vexatiously or unnecessarily detain any forest produce which is lawfully in transit, not vexatiously or unnecessarily unload any such forest produce or cause the same to be unloaded, for the purpose of examination.

- (2) The person incharge of such forest produce shall furnish to any such officer all the information required by him in connection with the forest produce and he is transporting the same under a transit pass, shall produce such pass on demand for the inspection of such officer and shall not in any way prevent or resist the stoppage or examination of the said forest produce by such officer.

28. Penalties for breach of rules.-

- (1) Whosoever contravenes any of the provisions of these rules shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.
- (2) In cases where the offence is committed after sunset and before sunrise or after making preparation for resistance of lawful authority or where the offender has been previously convicted of a like offence, the penalty to be imposed shall be double of those mentioned in sub-rule (1).

SCHEDULE "A"**FORM***(See Rule 3)***Counterfoil**

Book No.	Transit pass	Page No.
(1)	(2)	(3)

1. Locality of origin:
 - (a) Name and situation of forest.
 - (b) Name of forest owner.
2. Name and address of owner of forest produce.
3. Description of produce and quantity.
4. Property mark, etc.
5. Name of village/ town to which the produce is to be transported.
6. Route by which produce is to be transported.
7. Depot/ Depots at which forest produce will be produced for check.
8. Date of expiry of pass.
9. Any other particulars.
10. Signature/ seal of issuing officer and date.
11. Signature of checking officer.

**THE UTTAR PRADESH FOREST CORPORATION
ACT, 1974***
(Act No. 4 of 1975)

An Act to provide for the establishment of a Corporation for better preservation, supervision and development of forests and better exploitation of forest produce within the State and for matters connected therewith.

3. Establishment of the Corporation.-

- (1) The State Government shall, by notification in the *Gazette* and with effect from a date to be specified therein, constitute a corporation by the name of the Uttar Pradesh Forest Corporation.
- (2) The Corporation shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name and shall have the power to acquire, hold and dispose of property for the purposes of this Act.
- (3) The Corporation shall for all purposes be a local authority.
- (4) The Corporation shall have its head office at Lucknow and may have offices at such other places as it may consider necessary.

4. Constitution of the Corporation.- The Corporation shall consist of a Chairman, to be appointed by the State Government and the following other members, namely-

- (a) five members to be appointed by the State Government from amongst the officer serving under it, one of whom shall be appointed as the Managing Director of the Corporation; and
- (b) not more than three non-official members to be appointed by the State Government from amongst the persons who in its opinion possess experience in matters relating to the preservation and development of forests.

5. Disqualifications for being Chairman or other member.- A person shall be disqualified to be appointed as, and for being the Chairman or other member of the Corporation, if he-

- (c) has directly or indirectly by himself or by any partner, employer or employee any share or interest, whether pecuniary or of any other nature, in any contract or employment, with, by, or on behalf of the Corporation; or
- (f) is a director, secretary, manager or other officer of any company which has any share or interest in any contract or employment with, by, or on behalf of the Corporation :

* The complete Act is not reproduced. Only the relevant sections have been extracted.

Provided that a person shall not be disqualified under Cl. (e) or Cl. (f) by reason only of his or the company in which he is a director, secretary, manager or other officer having a share or interest in-

- (i) any sale, purchase, lease or exchange of immovable property or any agreement for the same;
- (ii) any agreement for loan of money, or any security for payment of money only;
- (iii) any newspaper in which any advertisement relating to the affairs of Corporation is published;
- (iv) an occasional sale to the Corporation up to a value not exceeding ten thousand rupees in any year, of any article in which he or the company regularly trades.

Explanation.- A person shall not be deemed to have any share or interest in any contract or employment with, by or on behalf of the Corporation by reason only of his being a share-holder of company which has such share or interest.

12. Disqualification for participation in proceedings on account of interest.- A member who is directly or indirectly concerned or interested in any contract, loan, arrangement or proposal, entered into or proposed to be entered into by or on behalf of the Corporation shall at the earliest possible opportunity disclose the nature of his interest to the Corporation and shall not be present at any meeting thereof when any such contract, loan arrangement or proposal is discussed unless his presence is required by other members for the purpose of eliciting information, and no member so required to be present shall vote on any such contract, loan, arrangement or proposal.

14. Functions of the Corporation.- Subject to the provisions of this Act, and to any general or special directions of the State Government, the functions of the Corporation shall be following, namely-

- (a) to undertake removal and disposal of trees and exploitation of forest resources entrusted to it by the State Government;
- (b) to prepare projects relating to forestry within the State;
- (c) to undertake research programmes relating to forest and forest products and render technical advice to State Government on matters relating to forestry;
- (d) to perform such functions as the State Government may from time to time require.

15. Powers of the Corporation.-

- (1) The Corporation shall, subject to the provisions of this Act, have power to do anything which may be necessary or expedient for carrying out its functions under this Act.
- (2) Without prejudice to the generality of the foregoing provision, such power shall include the power-
 - (a) to set up workshops or factories for processing forest raw materials;

- (b) to establish, maintain and operate laboratories and experimental and research stations;
- (c) to enter into such contract or arrangement with any person as the Corporation may deem necessary for performing its function under this Act;
- (d) to borrow money, issue debentures and manage its fund; and
- (e) to incur expenditure and grant loans and advances to such persons as the Corporation may deem necessary for performing its functions under this Act.

16. Power of the Corporation to undertake projects at the instance of others.-

The Corporation may undertake the execution of any afforestation project at the request of the State Government or, with the previous approval of the State Government, at the request of any other person on such terms and conditions as may be agreed upon.

27. Local bodies to assist the Corporation.-

- (1) Every local body shall render such assistance and furnish such information to the Corporation and make available for its inspection and examination such records, maps, plans and other documents as it may require in connection with the performance of its function under this Act.
- (2) Notwithstanding anything contained in any other law for the time being in force, the State Government may give to any local body such directions as in its opinion are necessary or expedient for enabling the Corporation to perform its functions under this Act and thereupon it shall be the duty of the local body to comply with such directions.

UTTAR PRADESH PANCHAYATI FOREST RULES, 1976*

Notification No. 6589/XIV-2-302-64, dated 19th July, 1976.- In exercise of the powers under sub-section (2) of Sec. 28 of the Indian Forest Act, 1927 (Act No. 16 of 1927), and all other powers enabling him in this behalf read with Sec. 21 of the General Clauses Act, 1897, (Act No. 10 of 1897), and in supersession of the existing rules on the subject published with Government Notification No. 3394/XIV-2, dated May 18, 1972, the Governor is pleased to make the following rules :

1. Short title and commencement.-

- (i) These rules may be called the U.P. Panchayati Forest Rules, 1976.
- (ii) They shall be applicable to Nainital, Almora, Pithoragarh, Garhwal, Chamoli, Uttar Kashi and Tehri district and Chakrata Tehsil of Dehra Dun district and to such other areas as the State Government may from time to time notify.

2. Meaning of Panchayati Forest.- The term "Panchayati Forests" includes any area (outside the Municipal or Cantonment limits) which has been duly constituted as such under rules 5 to 11 hereinafter and this term wherever used in these rules shall have the same meaning assigned to the village forests used in sub-section (1) of Sec. 28 of the Indian Forest Act.

4. Appointment of Special Officer.- The State Government may appoint one or more officers hereinafter called the Special Officer to organise and supervise the working of the Panchayati Forests constituted under these rules. Each such officer shall work under the control of the Commissioner but exercise all the powers vested in the Deputy Commissioner under these rules.

5. Procedure to apply for formation of Panchayati Forest.- At least one-third of the adult residents who or whose family has resided for ten years immediately preceding the date of application in the village within whose settlement boundary the land applied for lies may apply to the Sub-Divisional Magistrate for the settlement of a scheme of management of any area not including any holding lying within the settlement boundary of their village or villages within which their rights of user have been recognised by judicial decision or in a forest settlement :

Provided that no land shall be declared to be Panchayati Forest if one-third or more of the residents of the village or villages within which the area lies, enter objections to the scheme. The application shall specify, as nearly as possible the situation and the limits of the area applied for.

18. Duties of Forest Panchayat.- It shall be the duty of every Forest Panchayat to make reasonable provision within its jurisdiction-

- (a) to prevent damage to trees and for felling only those trees that have been marked silviculturally by Forest Department as fit for exploitation;

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

- (b) to ensure that no encroachment of any kind takes place and no land is broken for cultivation in contravention of the rules made under Kumaon Nayabad and Waste Lands Act, 1948, or of any other such Act or of such rules which may be in force;
- (c) to erect and maintain boundary pillars;
- (d) to carry out the directions and execute the orders given to it by the Deputy Commissioner to maintain, improve and exploit the forests. Such orders will be issued by the Deputy Commissioner on the advice of the Conservator of Forests or Divisional Forest Officers;
- (e) to utilize the produce of Panchayati Forest to the best advantage of the village community and of the right holders, recognised by established custom or permitted by the Commissioner consistent with silvicultural availability;
- (f) to close at least 20 per cent. of the area for grazing unless otherwise permitted by the authority to be specified by the Commissioner for the purpose; and
- (g) to protect the forest from illicit fellings, lopping and other kind of damage and fire.

19. Powers of Forest Panchayat.-

- (1) The Forest Panchayat shall have the status of a Forest Officer and shall exercise the following powers for the area entrusted to it :
 - (c) *Sale and exploitation of forest produce.*-To make local sale of forest produce without detriment to the forests; provided such an exploitation has the prior approval of the Divisional Forest Officer and is made for the bonafide domestic use of right holders. The Forest Panchayat may issue permits and charge fees for grazing or cutting grass or collection of fallen fuel if considered necessary for the bona fide domestic use of right holders. If the Forest Panchayat feels that it has exploitable trees or other forest produce for commercial sale within its forests, it shall apply to the Deputy Commissioner who shall forward the application with the comments and recommendations to the Divisional Forest Officer who in turn shall forward the same with his recommendations to the Conservator of Forests concerned for orders on receipt of which further action to mark and sell the trees or other forest produce shall be taken by the Divisional Forest Officer. The Forest Panchayat shall have the power to sell fallen fuel and grass provided such sale does not violate provisions of the Working Plan of the Forest Panchayat. It can make local sale of slates and stones for the bona fide domestic use of the villagers.
- (2) *Resin tapping and its sale.*- Unless special permission of the State Government has been obtained no resin from Chir trees may be extracted and sold except with the approval of the Conservator of Forest. Such order of approval may *inter alia* prescribe-
 - (i) that any such extraction and sale of resin shall be done by the Forest Department itself;

- (ii) that the Panchayat concerned may itself arrange for such extraction and sale of resin subject to the provisions-
 - (a) that the trees must be tapped and resin must be extracted in accordance with the rule in force in the Forest Department for such tapping and extraction and that the work may at any time be inspected by the Forest Department officials, to ensure that such rules are being observed; and
 - (b) that all outturn of resin be sold in accordance with the direction of the Conservator of Forests :

Provided that if he considers that any forest is not suitable for resin tapping, or that such orders are not being carried out or that for any other reason resin tapping operations are not desirable, he shall in consultation with the Divisional Forest Officer, prohibit such extraction of resin altogether:

Provided further that nothing in the last preceding proviso shall empower him to prohibit the extraction of resin for local domestic or medical purposes.

22. Exploitation and auction of timber, fire-wood and minor forest produce.- The exploitation of timber, firewood (in which fallen firewood is not included) and minor forest produce [excluding resin, slate, stone, gravel and other mineral products; for resin rule 19 (2) above may be seen] and grass for commercial purposes shall be done strictly according to the prescriptions of the working plan or project, if any, in force or if no such project is in force after obtaining the consent of the Divisional Forest Officer concerned. The forest produce so exploited shall be sold by public auction in accordance with the orders issued by the Deputy Commissioner in consultation with the Conservator of Forests, Divisional Forest Officer from time to time :

Provided that-

- (i) Estimate of the value of the forest produce intended to be sold by public auction shall be prepared by the Forest Panchayat and got approved by the Divisional Forest Officer concerned;
- (ii) If the estimated price of the produce as approved by the Divisional Forest Officer is below Rs. 5,000 auction may be conducted by the Sarpanch of the Forest Panchayat;
- (iii) If the estimated price of produce is Rs. 5,000 or above the auction shall be conducted by the Divisional Forest Officer concerned.

Approval of auctions.- All auctions of Rs. 5,000 and above shall be subject to the approval of the Conservator of Forests concerned and those below Rs. 5,000 shall be subject to the approval of the Divisional Forest Officer concerned. No such approval shall be given without first intimating the results of the auction in writing to the Panchayats concerned and giving them 15 days' time for objections, if any. If any objection is received, the Divisional Forest Officer shall withhold his approval and refer the matter to the Deputy Commissioner. No auction shall be considered final unless such approval has been obtained in writing. An intimation about the approval of the auction shall be sent by the Divisional Forest Officer/ Conservator of Forests to the Deputy Commissioner concerned.

UTTAR PRADESH RESIN AND OTHER FOREST PRODUCE (REGULATION OF TRADE) ACT, 1976*

(Act No. 13 of 1976)

An Act to provided in the interest of the general public, for the carrying on by the State of the trade of purchase and distribution of resin to the exclusion of others, and for the regulation of manufacture and preparation of various articles based on forest produce, and for matters connected therewith.

2. Definitions.- In this chapter, unless the context otherwise requires-

- (d) "resin" means the secretion extracted by tapping from Chir or Kail trees;
- (e) "resin depot" means a place specified as such by the Conservator of Forests for the purchase, storage or sale of resin tapped in an area specified in relation to that depot;
- (f) "resin products" means derivatives obtained by processing of resin and includes resin, turpentine, hardened resin, and also includes paints and varnishes manufactured directly from resin.

3. Constitution of units.- The State Government may, by notification in the *Gazette* divide the State into such number of units, as it may deem fit, and until varied by such notification, each forest circle (as for the time being delimited by general or special orders of the State Government) shall constitute a unit.

4. Restrictions on sale, purchase and transport of resin etc.- On and after the appointed day-

- (a) no person shall tap resin or manufacture any resin product or export any resin or resin product unless he is registered under and in accordance with Sec. 10;
- (b) no person shall sell resin to any person other than the State Government or an authorised officer;
- (c) no person other than the State Government or an authorised officer shall purchase resin from any tapper of resin;
- (d) no person other than the State Government or an authorised officer shall transport resin except in the following cases-
 - (i) where he being a tapper of resin transports it to the resin depot specified for the area where the resin is tapped; or
 - (ii) where he transports it on behalf of the State Government or an authorised officer;
- (e) no person other than the State Government or an authorised officer shall transport resin products manufactured in a unit to any place outside

* The complete Act is not reproduced. Only the relevant sections have been extracted.

that unit without a permit issued in that behalf by such authority, in such manner and subject to such terms and conditions as may be prescribed.

5. Permit for sale, transport, etc.-

- (1) Notwithstanding anything in Sec. 4, the State Government or an authorised officer may on such terms and conditions and in such manner as may be prescribed-
 - (a) permit any person, who had purchased any resin before the appointed day within an area to which this Chapter applied to transport and sell such resin to any person other than State Government or an authorised officer and permit any person other than the State Government or an authorised officer to purchase and transport the same; or
 - (b) permit any person, who has purchased resin from the State Government or an authorised officer for manufacture of resin products to transport the same and to sell any resin which he has been unable to utilise in the manufacture of resin products; or
 - (c) permit any person, who has purchased any resin outside Uttar Pradesh to bring the same inside the State either for manufacture of resin products within the State or for transporting them elsewhere outside Uttar Pradesh; or
 - (d) permit any person, who has purchased any resin within Uttar Pradesh outside any area to which this chapter applies to transport it to any area to which this Chapter applies for the manufacture of resin products.
- (2) A person to whom a permit is granted under sub-section (1) shall be liable to payment of such fee as may be prescribed.

6. Constitution of an Advisory Committee.-

- (1) The State Government shall for each year constitute for each unit in which resin is tapped, an Advisory Committee which shall consist of not more than nine members nominated by the State Government :

Provided that one-third of such members shall be officers of the Forest Department and not more than one-third of such members shall be from amongst tappers of resin.

- (2) The Advisory Committee for each such unit shall advise the State Government in the matter of fixation from time to time of a fair and reasonable price at which resin offered for sale may be purchased by or on behalf of the State Government in that unit, and also on such other matters as may be referred to by the State Government.

7. Fixation of price by State Government.-

- (1) The State Government shall having regard to following factors, fix the price at which resin shall be purchased by or for it in each unit during the year, namely-

- (a) the price of resin, if any, fixed under this Chapter during the preceding three years in respect of the unit;
 - (b) the quality of the resin tapped in the unit;
 - (c) the cost of transport;
 - (d) the general rate of wages for labour prevalent in the unit;
 - (e) the cost of extraction of resin;
 - (f) the cost of packing of resin including the cost of container in which resin is delivered;
 - (g) any other factor which the State Government considers relevant.
- (2) The price so fixed shall be published in such manner as the State Government may direct, and shall not be altered during the year to which it relates.
- (3) The price so fixed shall be for net weight of resin excluding the weight of container in which resin is packed.

8. State Government to purchase all resin offered for sale.-

- (1) The State Government shall be bound to purchase at the price fixed under Sec.7 all resin offered for sale to or for it during the normal hours of business at a resin depot :

Provided that it shall be open to an authorised officer to refuse purchase of such resin as in his opinion is not fit for the purpose of manufacture of resin products.

- (2) Any person aggrieved by the authorised officer's refusal to purchase resin under the proviso to sub-section (1) may, within fifteen days from such refusal, and in the manner prescribed complain to the Divisional Forest Officer or such other officer as may be empowered by the State Government in that behalf (hereinafter referred to as the competent officer).
- (3) On receipt of a complaint under sub-section (2), the competent officer shall hold a summary inquiry and pass such order within thirty days of the receipt of the complaint as he may deem fit, and in case he finds such refusal to be improper, he may direct the authorised officer to purchase the same.
- (4) Where the competent officer finds the refusal of the resin proper but in his opinion, the resin may be purchased at a lower price, he may direct the authorised officer to purchase the same at such lower price as he deems fit.
- (5) Notwithstanding anything in sub-section (1), where the State Government or an authorised officer has reason to believe that any resin offered for sale was tapped from trees standing on any land which was vested in or belonged to the State Government or which was constituted as Reserved Forest or Protected Forest, or Panchayati Forest, such resin may be appropriated without payment of price, and on payment only of such collection charges, if any, as the State Government or the authorised officer may determine.

9. Tapping of trees which are not being tapped.-

- (1) If the State Government or any authorised officer finds that any Chir or Kail tree standing in a unit is not being tapped, the State Government or the authorised officer may by notice require the owner of such tree to commence tapping of the same or to cause its tapping commenced within such time as may be prescribed.
- (2) If after the service of the notice under sub-section (1), the owner of the tree fails to comply with such notice, the State Government or the authorised officer may, in the manner prescribed, cause the tree to be tapped for extraction of resin.
- (3) All resin extracted from a tree under sub-section (2), shall be sold in accordance with the provisions of this Chapter and the rule made thereunder and the price thereof shall, after deducting the expenses of tapping, be paid to the owner of such trees.

10. Registration of tappers of resin etc.- Every tapper of resin, every manufacturer of resin product and every exporter of resin or resin products shall be entitled to registration on payment of such fee, to such authority and in such manner as may be prescribed.

11. Disposal of resin.- Resin purchased by the State Government shall be sold or otherwise disposed of in such manner as the State Government may by general or special order direct.

14. Penalty.- If any person contravenes any of the provisions of this Chapter or the rules made thereunder, he shall be deemed to have committed a forest offence, and the resin or resin product, if any, in respect of which such offence is committed shall in relation to the commission of such offence be deemed to be forest produce, and the provisions of Chapter IX of the Indian Forest Act, 1927 (Act 16 of 1927), as amended in its application to Uttar Pradesh (excepting Sec. 69 thereof), shall accordingly apply with necessary modifications.

15. Offences by companies.- If the person committing an offence under this Chapter is a company, the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence 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 if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

17. Provisions of this Chapter to have overriding effect.- The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law or in any contract or other instrument.

20. Transitory provision.- Where at any time before the appointed day, any person had entered into any contract for the sale of resin expected to be tapped by him to any trader and obtained an advance from such trader towards the price of his resin expected to be delivered to the trader under such contract, then notwithstanding

that by virtue of the provisions of Secs. 4 and 17, such contract shall have become void on the appointed day, the said person and trader may make a joint application before the Divisional Forest Officer or an officer authorised by him in that behalf giving particulars of such advance, and thereupon the said officer, on being duly satisfied that the application has been voluntarily made by the said person, may direct the officer to pay on behalf of the said person to such trader a sum equivalent to the said advance (less the amount already repaid by the said person to such trader) without any interest or compensation, out of the price due to the said person for resin sold under Sec. 8 and the liability of the State Government to the said person and of the said person to the trader shall to the extent of such payment stand discharged, and the said person shall not be liable to pay any interest or compensation in respect of such advance.

21. Amendment of Act 16 of 1927.- After Chapter VIII of the Indian Forest Act, 1927 as amended in its application to the Uttar Pradesh the following Chapter shall be inserted, namely-

CHAPTER VIII-A
Regulation of Manufacture and Preparation of
Articles Based on Forest Produce

21-A. Power to regulate manufacture, etc., of articles based on forest produce.-
The State Government may make rules-

- (a) to provide for the establishment and regulation by licences, permits or otherwise (and the payment of fees therefor) of sawmills and units including factories engaged in the manufacture or preparation of-
 - (i) Kathia out of Khair tree;
 - (ii) resin, turpentine and other products out of resin;
 - (iii) plywood and match out of timber;
 - (iv) such other preparations based on forest produce as the State Government may, by notification in the *Official Gazette*, from time to time specify;
- (b) to provide for the regulation by licences, permits or otherwise of the supply of raw materials relating to the preparations mentioned in Cl. (a), the payment of fee therefor, the deposit of such sum for due performance of the conditions of any such licence, permit or other document, the forfeiture of the sum so deposited or any part thereof for contravention of any such conditions, and the adjudication of such forfeiture by such authority as may by notification in the *Official Gazette* to be specified by the State Government.



STATE
OF
WEST BENGAL

NTFP including Medicinal Plants

Acacia catechu ('Katha'), *Alstonia scholaris* ('Chaltim'), *Cassia alata* ('Dadmari'), *Centella asiatica* ('Thul kurhi'), *Diospyros melanoxylon* ('Kendu' or 'Tendu' leaves), *Eupatorium triplinerve* ('Aya pana'), *Holarrhena antidysenterica* ('Kurchi'), *Madhuca indica* ('Muhua'), *Rauvolfia serpentina* ('Sarpagandha'), *Sida cordifolia* ('Bala'), *Shorea robusta* ('Sal' seed), *Vanda tessellata* ('Rasna'); etc.

Nationalized NTFP items

Sal seed and Kendu/ Tendu leaves.

Monopoly Agency

- * West Bengal Tribal Development Cooperative Corporation (TDCC), through collecting agency - LAMPS (Large Scale Multi Purpose Society).
- * Besides nationalised NTFP items, LAMPS procure other non-nationalised NTFP items including medicinal plants.



Legal Framework

(1) Indian Forest Act, 1927

- * Applicable to the State, contains provisions relating to the transit of forest produce and duty leviable on forest produce.

(2) West Bengal Private Forests Act, 1948

- * To provide for the conservation of Private Forests and the regulation of removal of forest produce from them.

(3) West Bengal Forest Produce Transit Rules, 1959

- * A Transit Pass is required in respect of the transit of forest produce.

(4) Government's order on Joint Forest Management (JFM), 1990, 1991, and, 1996

- * The orders cover South-West Bengal,

North Bengal, Darjeeling Gorkha Hill Areas and Sunderbans.

- * An active participation and involvement of local people along with the forest officials for regeneration, maintenance and protection of forests.
- * Constitution of Forest Protection Committees (FPCs); the beneficiaries to be granted 25 per cent of the forest usufructs.

- * Medicinal plants are covered under the forest usufructs.

(5) Current Forest Policy of West Bengal

- * The State of West Bengal has prepared a Forestry Action Plan for the period 1996-2015 keeping in view the National Forest Policy.
- * The Policy envisages protection through participatory management.

INTRODUCTION

The State of West Bengal (W.B.), famous for Darjeeling hills and 'Sunderbans' tiger reserve, has a total land area of 88,752 sq. km. out of which the forest area comprises of about 11,879 sq. km (13.38%). The State stretches from the Himalayas in the north to the Bay of Bengal in the south. The forest types found in the State are: Tropical Semi-Evergreen and Moist Deciduous, Littoral and Swamps, Sub-tropical Broadleaved and Moist/ Wet Temperate forests. The State possess a number of NTFP including medicinal plants:

Botanical Names	Common Names
<i>Acacia catechu</i>	Katha
<i>Alstonia scholaris</i>	Chattim
<i>Anamirta cocculus</i>	Kakmari
<i>Aquilaria agallocha</i>	Agar wood
<i>Aristolochia indica</i>	Isharmul
<i>Caesalpinia sappan</i>	Bakam
<i>Cassia alata</i>	Dadmari
<i>Centella asiatica</i>	Thul kurhi
<i>Datura stramonium</i>	Datura
<i>Diospyros melanoxylon</i>	Kendu or Tendu
<i>Eupatorium triplinerve</i>	Aya pana
<i>Hemidesmus indicus</i>	Anantamul
<i>Holarrhena antidysenterica</i>	Kurchi
<i>Madhuca indica</i>	Mahua
<i>Myrica nagi</i>	Kai phal
<i>Pterospermum acerifolium</i>	Kanak champa
<i>Rauvolfia serpentina</i>	Sarpagandha
<i>Saraca indica</i>	Ashoka
<i>Sida cordifolia</i>	Bala
<i>Scindapsus officinalis</i>	Gaj pipal
<i>Shorea robusta</i>	Sal
<i>Symplocos racemosa</i>	Lodhra
<i>Tylophora indica</i>	Antamul
<i>Vanda tessellata</i>	Rasna
<i>Vitex peduncularis</i>	Nagbael, Boruna

The Government of West Bengal has enacted Acts/ Rules in respect of collection, trade, transit, etc., of forest produce. The West Bengal Private Forests Act, 1948, is an Act to provide for the conservation of private forests and for the afforestation in certain cases of waste-lands in West Bengal. Under the Act, every owner of a private forest is required to submit a 'working plan' (a scheme for the management and treatment of a forest) for the approval of the Regional Forest Officer. A forest

in respect of which a working plan has been approved is called a "Controlled Forest" under the Act.

If after the approval of the working plan, the owner fails or neglect to carry out any of the terms and conditions of such plan, or fells or removes from such forest any tree in contravention of any of such terms and conditions, he shall be punishable with imprisonment up to three months or with fine up to Rs. 1,000, or with both. For a second or subsequent offence, the State Government may direct that the control of such forest shall be vested in a Regional Forest Officer for a specified period. Notwithstanding the aforesaid provision, if the State Government is satisfied that the conservation of any private forest in a notified area should not be left to the owner thereof, the State Government may direct that the control of such forest shall be vested in a Regional Forest Officer for a specified period. The forest so vested shall be termed as "Vested Forest".

Under the Act, a Forest Settlement Officer shall determine the claim of any person over a vested forest (other than a right of ownership) or any forest produce from such forest. Further, no collection, manufacture or removal of forest produce shall be made in such forest except in accordance with the rules made by the State Government. Imposition of 'collective fine' on the inhabitants of any local area in certain cases is also provided under the Act.

The West Bengal Forest Produce Transit Rules, 1959, are laid down under Secs. 41, 42 and 76 of the Indian Forest Act, 1927. No forest produce shall be moved into, from or within the districts referred to in the rules, except under cover of a transit pass'. In respect of forest produce grown under Social Forestry project on private lands, a 'Tree-card' shall be maintained by each owner of such land. The Divisional Forest Officer may provide for the establishment and regulation of check-posts or depots at which forest produce shall be brought for examination or for the payment of dues therefor.

The State Government has issued various **Orders on Joint Forest Management (JFM)**, covering South-west Bengal, North Bengal, Darjeeling Gorkha Hill Areas and Sunderbans. The JFM programme envisages an active participation and involvement of local people along with the forest officials for regeneration, maintenance and protection of forests. Under the programme, Forest Protection Committees (FPCs) shall be constituted and beneficiaries acting as members of such committees shall be allowed, as a measure of incentive, 25 per cent of the usufructs. The beneficiaries shall be identified from amongst the economically backward people living in the vicinity of forests.

The Divisional Forest Officer in consultation with "Bon-o-Bhumi Sanskar Sthayee Samiti" of the concerned Panchayat Samiti shall select beneficiaries for construction of Forest Protection Committee(s). The said Committee, besides protecting the forests, will be required to ensure smooth harvesting of the forest produce by the Forest Department. The members of the Committee will have to protect the forest/ plantation for at least 5 years to be eligible for sharing of usufructs under this programme.

The members shall be entitled to collect fruits, flowers, seeds, leaves, etc., free of royalty without causing any damage to forests/ plantations. In North Bengal and certain other areas, medicinal plants are permitted to be collected by FPC members

free strictly on the basis of approved micro-plans, except in National Park, core area of Tiger reserve and *sanctum sanctorum* of sanctuary. This will not in any manner, extinguish the rights and privileges already granted to the members of the Scheduled Tribe by the State Government. The concerned forest official shall set apart 25 per cent of the net sale proceeds at every final harvesting of the concerned forests/ plantations and shall pay to all eligible members their proportionate share out of the said earmarked funds.

The State Government, in its 1996 resolution, has provided for the constitution of 'Eco-Development Committees' for the purpose of protection and development of village protected areas (sanctuaries and national parks) and members of such committees (economically backward people living in the vicinity of protected areas) shall be allowed benefits of usufruct sharing and eco-development activities.

Current Forest Policy of West Bengal

The State of West Bengal has prepared a Forestry Action Plan for the period 1996-2015 keeping in view the National Forest Policy, as outlined in the ensuing Table (Mukhopadhyay, Shankar, 1998).

Comparative account of Earlier Strategies and Current Strategies of Forest Management (State of Forestry Action Plan, West Bengal, 1996-2015)			
Issues		Earlier Strategies	Current Strategies
1.	Protection of existing forests	Protection through custodial management	Protection through participatory management
2.	Increase productivity	Old technology, less	Modern technology, investment/ input more investment/ input
3.	Expand forest area	Forestry activity within forest area	Expanding forestry outside the forest area
4.	Strengthening policy and Institution	Old & obsolete organizational structure Feudalistic & rigid policy	New dynamic structure Socialistic & ecofriendly policy
5.	Reduction of Demand	Wasteful use of resources Exploitation of fringe people	Maximising economy in use & alternative/ substitutes of wood products Ecodevelopment of fringe people

Summing Up

The State of West Bengal believed in few regulatory measures and relied on the power of the self-governing local level institutions (Panchayats). Thus, no permits are issued in respect of most of the NTFPs; the villagers can collect some medicinal plants for their own personal use. The tribals have been given the right to collect all NTFPs for their consumption or sale.

LAMPS (Large Scale Multi Purpose Society) are procuring 'Tendu' or 'Kendu' leaves (*Diospyros melanoxylon*), oilseeds (viz. 'Sal' - *Shorea robusta*, 'Neem' - *Azadirachta indica*, etc.), 'Mahua' flowers (*Madhuca indica*), 'Sabai' grass (*Eulaliopsis binata*), 'Bahera' (*Terminalia belerica*), 'Harra' (*Terminalia chebula*), etc., by paying attractive collection rates to tribals. The West Bengal Tribal Development Cooperative Ltd. (TDCC) is the apex organization for all the LAMPS and provides financial help and takes up responsibility of marketing of collected NTFP (Shukla, R.S., 2000). However, in many parts of West Bengal, for instance, in Midnapore district, even commercially important NTFP such as Sal seeds and Tendu leaves are unutilized because of weak links in the marketing channel (Capistrano, 1998).

In recent years, the State Government has placed an emphasis on the Joint Forest Management (JFM) programme, by seeking active participation and involvement of local people. The Village Forest Protection Committees have been assigned the responsibilities of protection, maintenance, micro-planning, etc., in Reserved/ Protected Forests. The beneficiaries selected are from amongst the economically backward people living in the vicinity of forests. The material benefits (i.e. usufructs of all NTFPs) which are potentially sustainable were the clear motivation.

The viability of JFM will depend on villagers' willingness and agreement to the basis of the partnership with the Forest Department, particularly with regard to the benefit sharing arrangements. Unless the basis of sharing is perceived by villagers as fair and the arrangements are clear and uncomplicated, villagers are unlikely to be interested. A related aspect will be the commitment, on the part of the Government and Forest Department in creating an equitable JFM system of operation for forests other than degraded ones.

THE WEST BENGAL PRIVATE FORESTS ACT, 1948*

(Act No. 14 of 1948)

An Act to provide for the conservation of private forests and for the afforestation in certain cases of waste-lands in West Bengal.

WHEREAS it is expedient to provide for the conservation of forests and for the afforestation of waste-lands in West Bengal where such forests or lands are not the property of the Crown or where the Crown has no proprietary right over such forests or lands.

2. Definitions.- In this Act, unless there is anything repugnant in the subject or context:-

- (4) "controlled forest" means a forest in respect of which a working plan has been approved under sub-section (1) of Sec. 4;
- (8) "forest produce" includes-
 - (a) the following whether found in, or brought from, a forest or not, that is to say-
 - (i) timber, charcoal, caoutchouc, catechu, wood oil, resin, natural varnish, bark, lac, mahua flowers, mahua seeds, kuth and myrobalans.
 - (b) the following when found in, or brought from, a forest that is to say-
 - (i) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned, of trees,
 - (ii) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants;
- (14) "private forest" means a forest which is not the property of the Government or over which the Government has no proprietary right;
- (19) "vested forest" means a forest of which the control has been vested in a Regional Forest Officer by a notification under sub-section (2) of Sec. 6 or under Sec. 7 or under Sec. 11 and includes any forest deemed to be, or managed as, a vested forest under this Act;
- (20) "waste-land" means any waste-land which is not the property of the Government or over which the Government has no proprietary right;
- (21) "working plan" means a written scheme for the management and treatment of a forest.

* The complete Act is not reproduced. Only the relevant sections have been extracted.

CHAPTER II

Conservation of Private Forests and Afforestation of Waste-lands

3. Preparation of, and appeal and revision in respect of working plans for private forests.-

- (1) The State Government may by notification, direct that every owner of a private forest which is not a vested forest, but which is situated within such area as may be specified in the notification, shall prepare in the prescribed manner and submit within the period mentioned in the notification to the Regional Forest Officer a working plan for the conservation of such private forest.
- (2) On the expiry of the period mentioned in the notification under sub-section (1), the Regional Forest Officer shall, after considering each working plan submitted to him under that sub-section, and after consultation in the manner prescribed with the Conservator of Forests of the forest circle within which such forest is situated, by an order in writing, accept the working plan or modify it in such manner as he may consider necessary or substitute another working plan for it.
- (3) If any owner of such private forest does not submit a working plan within the period specified in the notification issued under sub-section (1), the Regional Forest Officer, may, after consultation in the manner prescribed with the Conservator of Forests of the forest circle within which such forest is situated, prepare a working plan in respect of such forest.
- (4) When the Regional Forest Officer by an order in writing modifies any working plan under sub-section (2) or substitutes another working plan under that sub-section for the working plan submitted under sub-section (1), he shall cause a copy of such order to be served in the prescribed manner upon the owner of such private forest to which such working plan relates and such owner may, within sixty days of the date of service of such order, appeal against such order to the Appellate Committee and the Appellate Committee, may thereupon, after giving such owner an opportunity of being heard, by an order in writing, either accept the working plan with or without modifications or reject it and the decision of the Appellate Committee on every such appeal shall, subject to the provisions of sub-section (3), be final.
- (5) The Board of Revenue may, on application by an owner of a private forest for revision of an order of the Appellate Committee passed in appeal under sub-section (4), and if such application is made within thirty days from the date of the order, call for the record of the appeal in which the order was passed and on receipt of such record, after giving such owner an opportunity of being heard, may if it does not see fit to reject the application, direct the Appellate Committee by an order in writing to make such modifications in the working plan accepted by the said Committee under sub-section (4) as may be specified in such order in writing.

4. Approved working plan.-

- (1) When the Appellate Committee accepts any working plan with or without modification under sub-section (4) of Sec. 3, or modifies any working plan under sub-section (5) of the said section, or the Regional Forest Officer accepts, modifies or substitutes any working plan under the said section, or prepares any working plan under the said section, such Committee or Officer, shall by an order approve such working plan or the working plan as so modified by the Committee or such Officer, as the case may be, and every working plan so approved shall be deemed for the purposes of this Act to be an approved working plan:

Provided that the Regional Forest Officer shall not so approve any working plan that he has modified or substituted by an order under sub-section (2) of Sec. 3 if,-

- (a) an appeal against the order has been made to the Appellate Committee; or
- (b) where no such appeal has been made, the time within which such appeal may be made has not expired:

Provided further that the Appellate Committee shall not so approve any working plan accepted by it with or without modification by an order under sub-section (4) of Sec. 3 if,-

- (a) where an application for revision of the order has been made to the Board of Revenue, the order of Board of Revenue on such application has not been received by such Committee; or
 - (b) where no such application for revision has been made, the time within which such application may be made has not expired.
- (2) A copy of every approved working plan shall be sent in the prescribed manner by the Regional Forest Officer to the owner of the private forest to which it relates and the owner shall thereupon manage such forest in accordance with such plan and shall carry out all the terms and conditions thereof.

5. Prohibition of leases and extension of terms of existing leases of private forests after issue of notification under Sec. 3(1).- After the publication of a notification under sub-section (1) of Sec. 3, no owner of a private forest in the notified area shall enter into any new lease or extend the term of any existing lease in respect of such forest until the working plan in respect of such forest has been approved under sub-section (1) of Sec. 4 except with the previous sanction of the State Government and, after such working plan has been so approved, except in accordance with the terms and conditions of such plan, and any lease entered into or any extension of the term of any lease granted in contravention of the provisions of this section shall, notwithstanding anything contained in any other law for the time being in force, be void and have no effect.

5-A. Prohibition of felling or removal of trees of private forests after issue of notification under Sec. 3(1).-

- (1) After the publication of a notification under sub-section (1) of Sec. 3,

no owner of a private forest in the notified area or other person shall fell or cause to be felled or remove or cause to be removed from such forest any tree or trees until working plan in respect of such forest has been approved under sub-section (1) of Sec. 4 except after obtaining in writing, and in accordance with, the previous permission of the Regional Forest Officer in this behalf.

- (2) Any person contravening the provisions of sub-section (1) shall be punishable with imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both.

6. Penalty for the violation of working plan:-

- (1) If after an approved working plan in respect of any private forest has been sent under sub-section (2) of Sec. 4 to the owner of such forest, such owner fails or neglect to carry out any of the terms and conditions of such plan, or fells or cause to be felled or removes or causes to be removed from such forest any tree or trees in contravention of any of such terms and conditions he shall be punishable with imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both.
- (2) If the owner of a private forest is convicted a second or subsequent time under sub-section (1) for the failure or neglect to carry out any of the terms and conditions of the working plan in respect of such forest or for felling or causing to be felled or removing or causing to be removed from such forest any tree or trees in contravention of any of such terms and conditions, the State Government may, by notification, direct that the control of such forest shall be vested in such Regional Forest Officer for such period as may be specified in such notification.
- (3) Nothing in sub-section (1) shall render any owner, of any private forest liable to conviction for any deviation from any approved working plan if such deviation has been previously sanctioned by the Regional Forest Officer on application made by such owner in that behalf to such officer or by the Appellate Committee on an appeal from an order of the Regional Forest Officer refusing to sanction such deviation presented by the owner to such Committee within thirty days from the date of such order.

7. Vesting of forest in a Regional Forest Officer:- Notwithstanding anything contained in Secs. 3 and 4 or in sub-section (2) of Sec. 6, if the State Government is satisfied that the conservation of any forest in a notified area should not be left to the owner thereof, the State Government may, by a notification specifying the reasons for so doing, direct that the control of such forest shall be vested in such Regional Forest Officer for such period as may be specified in the notification.

Provided that no such notification shall be issued until-

- (a) the Regional Forest Officer has, by notice in writing, called upon the owner of such forest to show cause before the Appellate Committee within such period as may be specified in such notice why the control of such forest should not be so vested, and

- (b) the Appellate Committee after considering the cause, if any, shown by the owner and any evidence which the owner may produce in support of the same has recommended that such notification should be issued.

8. Forest loans.- (1) Subject to rules made under this Act, loans may be granted on the recommendation of the Appellate Committee by such officer as may be empowered in this behalf by the State Government to any owner of a controlled forest or of a vested forest who, in the opinion of the Appellate Committee, is likely to suffer unduly owing to any temporary reduction of his income resulting from any action taken under Sec. 4 or sub-section (2) of Sec. 6 or Sec. 7 or to any owner of a controlled forest to enable such owner to pay any compensation payable to him under sub-section (6) of Sec. 10 or sub-section (2) of Sec. 25.

9. Amalgamation of two or more vested forests under one working plan.- If, after consultation in the prescribed manner with the Conservator of Forests of the forest circle within which the forests are situated, a Regional Forest Officer is of the opinion that it is impossible otherwise to secure the conservation of two or more forests, belonging to different owners, of which the control has been vested in him by a notification under sub-section (2) of Sec. 6 or under Sec. 7, he may record an order that such forests shall be managed under one working plan as if they belonged to one owner, and shall cause a copy of such order to be served in the prescribed manner on the owner of each such forest.

17. Imposition of cess.-

- (1) The State Government may impose in the prescribed manner on an acreage basis a cess on all private forests within a notified area with effect from such date, not being before the expiry of ten years from the date of publication of a notification under Sec. 3, as the said Government may appoint.
- (2) Such cess shall be so calculated as to yield a sum not greater than that which is sufficient to meet the cost of the Regional Forest Officer and his staff, including any expenses incurred in connection with their work to be determined in the prescribed manner.

18. Release of vested forest to the owner.-

- (1) If the owner of a vested forest satisfies the Appellate Committee-
 - (a) at any time after the expiry of fifteen years from the date of the notification by which the control of such forest has been vested in a Regional Forest Officer, that-
 - (i) the control of such forest may be restored to him without undue risk of detriment to its conservation, and
 - (ii) the cost of its management as determined under the provisions of sub-section (1) of Sec. 16 has been recovered in full, or
 - (b) at any time after the expiry of thirty years from the date of such notification, that the cost of management of such forest as determined under the provisions of that sub-section has been recovered,

the Appellate Committee shall by order direct that with effect from a date, to be specified in such order, the control of such forest shall cease to be vested in the Regional Forest Officer.

CHAPTER III

Rights in Forests

19. Control and demarcation of vested forest.- When a notification has been published in respect of any forest under sub-section (2) of Sec. 6 or under Sec. 7 or under Sec. 11, the control of such forest shall be vested in the Regional Forest Officer, who shall forthwith proceed to demarcate it.

20. Appointment of Forest Settlement Officer.-

- (1) A Forest Settlement Officer shall be appointed by the State Government in respect of every forest of which the control is vested in a Regional Forest Officer by a notification under sub-section (2) of Sec. 6 or under Sec. 7 or under Sec. 11, and may be appointed in respect of any controlled forest on the application made in this behalf to the State Government by its owner.
- (2) Such appointment shall be made by a notification specifying in such notification, as nearly as may be possible, the situation and limits of such forest.

21. Bar of accrual of rights.- After the issue of a notification under Sec. 20, no right shall be acquired in or over the land comprised in such notification, except by succession or under grant or contract in writing made or entered into, with the previous sanction of the State Government, by or on behalf of the owner or some person in whom such right was vested when the notification was issued; and no fresh clearings for cultivation or for any other purpose, and cutting, conversion or removal of timber or the collection, manufacture or removal of other forest produce, shall be made in such land except in accordance with such rules, if any, as may be made by the State Government in this behalf.

22. Proclamation by Forest Settlement Officer.- The Forest Settlement Officer shall publish in the neighbourhood of the forest in respect of which he has been appointed, a proclamation in Bengali and, if any other language has been prescribed in this behalf for the local area in which such forest is situated, also in such other language-

- (a) specifying, as nearly as possible, the situation and limits of such forest;
- (b) explaining the measures proposed for, and the consequences which will ensue, on the conservation of such forest; and
- (c) requiring every person who claims any right, other than a right of ownership, over such forest or over any forest produce from such forest, to give to such Forest Settlement Officer, within a period of not less than three months to be stated in the proclamation, particulars, either in writing or by word of mouth, of such right and the amount and nature of the compensation, if any, claimed in respect thereof.

23. Inquiry by Forest Settlement Officer.-

- (1) The Forest Settlement Officer shall at some convenient place inquire into the existence of any rights which are claimed under Cl. (c) of sub-section (1) of Sec. 22 or which may be ascertained by him from any other source.

- (2) The Forest Settlement Officer shall give a hearing to the Regional Forest Officer or an officer authorised by such Regional Forest Officer in writing, in this behalf, to satisfy himself as to the necessity of modifying or extinguishing any right in the interests of the conservation of the forest.

25. Specification and modification of rights.-

- (1) After completion of inquiry under Sec. 23, the Forest Settlement Officer shall, by an order in writing-
 - (a) record the nature of the rights existing at the time of the notification under Sec. 20, and
 - (b) direct the modification or extinction of any such right, other than a right of ownership, in the interests of the conservation of the forest.
- (2) When the Forest Settlement Officer directs under Cl. (b) of sub-section (1) the modification or extinction of any right, he shall unless the person whose rights are affected has come to an agreement as to the amount of compensation payable to him determine what compensation shall be awarded to such person, and the amount of any compensation payable under this sub-section to any such person shall be paid in the prescribed manner, in the case where the forest to which such right relates is a controlled forest, by the owner of such forest, and in the case where such forest is a vested forest, by the Regional Forest Officer in whom the control of such forest is vested under this Act and every payment so made by the Regional Forest Officer shall be recouped from the profits of the vested forest to which such right relates as part of the cost of management of such forest.

CHAPTER IV

Penalties and Procedure

29. Penalties for breach of rules.-

- (1) Any person who-
 - (a) fells, girdles, lops, taps or burns any tree in a controlled or vested forest or strips off the bark or leaves from or otherwise damages, any such tree,
 - (b) quarries any stone, or burns any lime or charcoal, or collects, subjects to any manufacturing process, or removes any forest produce from a controlled or vested forest,
 - (c) breaks up or clears for cultivation or any other purpose any land in a controlled or vested forest,
 - (d) sets fire to a controlled or vested forest, or kindles a fire without taking all reasonable precautions to prevent its spreading to any portion of such forest, or
 - (e) permits cattle to damage any tree in a controlled or vested forest,

shall be punishable with imprisonment for a term which may extend to six months, or with a fine which may extend to five hundred rupees, or with both.

- (2) Any person contravening any rule made under this Act, for the contravention of which no special penalty is provided, shall be punishable with imprisonment for a term which may extend to one month, or with a fine which may extend to five hundred rupees, or with both.

30. Imposition of collective fine on the inhabitants in certain cases.-

- (1) If it is provided to the satisfaction of the District Magistrate that in any vested forest-

- (a) any cattle have been permitted to trespass;
- (b) any trees have been felled, girdled, lopped, tapped, burnt or otherwise damaged;
- (c) any other forest produce has been burnt or removed; or
- (d) any land has been broken up for any purpose,

otherwise than in the exercise of any right in or over such forest with intent to cause detriment to the conservation of such forest, and if the District Magistrate is satisfied after enquiry that the inhabitants of any local area are concerned in the commission of any such offences or are in any way assisting persons in committing such offences, the District Magistrate may, by order in writing in which there shall be specified the reasons for making such order, impose on the inhabitants of such area a collective fine which may extend to five hundred rupees or three times the value estimated by him of any forest produce damaged, whichever is greater, and may, after such further enquiry, as he deems necessary, apportion such fine amongst such inhabitants and such apportionment shall be made according to the respective means of such inhabitants.

- (2) Every order imposing a collective fine under sub-section (1) shall be forthwith published in the local area in such manner as the District Magistrate considers best calculated to bring the order to the notice of the inhabitants of the area concerned.
- (3) The District Magistrate may exempt any person or class or section of such inhabitants from liability to pay any portion of such fine.

57. Power to make rules.- The State Government may make rules for carrying out the purposes of this Act.

THE WEST BENGAL FOREST PRODUCE TRANSIT RULES, 1959*

2. In these rules "forest produce" has the same meaning as in the Indian Forest Act, 1927 (XVI of 1927).

3. These rules shall apply to timber and other forest produce from any source within the districts of Jalpaiguri, Cooch Behar, Birbhum, Bankura, Burdwan, Midnapore, Malda, Darjeeling (including the territory since transferred from Bihar), West Dinajpur (including the territory since transferred from Bihar), Murshidabad, Purulia, Nadia and Hooghly which are moved by any of the routes within the boundaries of these districts.

4. (2) No timber or other forest produce shall be moved into, from or within the districts referred to in rule 3, except under cover of a *transit pass* in the form prescribed in Appendix I, from an officer of the Forest Directorate not below the rank of a Forester duly authorised by the Divisional Forest Officer to issue the same or otherwise than in accordance with the conditions of such pass.

(4) In respect of timber and other forest produce from Khasmahal forests transit pass shall be issued by the Divisional Forest Officer or any officer duly authorised in this behalf on the production of a certificate of origin issued by the Khasmahal Officer.

(6) In respect of timber and other forest produce grown under Social Forestry Project on private lands, a treecard in the form prescribed in Appendix-II shall be maintained by each owner of such land. The treecard shall be in triplicate and shall be issued by the territorial Divisional Forest Officer. One copy of the treecard shall be retained by the owner of the land and the other copies by the Beat Officer and the Divisional Forest Officer.

(7) The transit pass in respect of timber and other forest produce mentioned in sub-rule (6) shall be issued by the Beat Officer authorised by the territorial Divisional Forest Officer in this regard. The rotation, the number of trees issued against a transit pass and the balance left for harvesting shall be noted on the reverse page of the treecard. The number of the transit pass should be recorded on the reverse page each time the transit pass is issued.

5. Fees for transit pass in respect of different items of forest produce moved from the districts specified in rule 3 may be levied in accordance with rates as may be prescribed by the Conservator of Forests from time to time. It shall be within the competence of the Conservator of Forests subject to the approval of Government to regulate the movement of certain kinds of forest produce in short supply from the limits of the areas specified in rule 3.

6. Any person importing, exporting or moving timber or other forest produce into, from or within the area specified in rule 3 or any persons in possession or charge

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

of timber or other forest produce in transit, shall produce the pass referred to in rule 4 on demand by any Forest Officer or Police Officer.

7. (1) All timber and other forest produce to which these rules apply, and any cart, vehicle, boat or other vessel suspected of carrying the same, shall be liable to stoppage by any Forest Officer within the limits of the area specified in rule 3 for the purpose of examination and check.
- (2) Any sum due and payable to the Forest Directorate, Government of West Bengal, on such timber or other forest produce shall be realised at the nearest forest office.
- (3) Any timber or other forest produce not covered by a transit pass referred to in sub-rule (2) and (3) of rule 4 together with boats, carts, vehicles or cattle suspected to be carrying the same or any timber which is concealed in contravention of sub-rule (1) of rule 4, shall be liable to seizure and dealt with further under the provisions contained in Chapter IX of the Indian Forest Act, 1927 (XVI of 1927), and any cattle seized in this connection shall be liable to be impounded.
8. (1) Any Forest Officer who has seized any forest produce under rule 7 shall-
 - (a) immediately issue a written notice to the owner of such forest produce, or if the owner is unknown, to the person in charge or possession of such forest produce at the time of seizure, calling upon him to produce proof of the origin of the forest produce and his title thereto within thirty days from the date of issue of such written notice, a copy of which shall be pasted on a Notice Board at the nearest forest office, and
 - (b) submit a seizure report in the prescribed form without delay to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.
- (2) The seized forest produce shall be released or confiscated under the provisions contained in Chapter IX of the Indian Forest Act, 1927 (XVI of 1927).
9. (6) The Divisional Forest Officer may, in consultation with the Collector concerned, provide for the establishment and regulation of Check Posts or Depots at which timber or other forest produce shall be stopped for examination or for the payment of dues therefor or in order that Government hammer marks may be affixed to the same.
11. (1) Any person contravening any of the provisions of these rules shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.
- (2) Penalties which are double of those mentioned in sub-rule (1) may be inflicted in cases where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority, or where the offender has been previously convicted of a like offence.

WEST BENGAL GOVERNMENT'S ORDER ON JOINT FOREST MANAGEMENT*

**Resolution No. 5062- For/ D/ IS- 16/88, dated 27th July, 1990
(Covering South-West Bengal)**

WHEREAS the Forest Department has taken up a massive programme for "Resuscitation of Sal Forest of South-West Bengal" with the objective to re-establish moribund sal and other hardwood forests in the districts of Midnapore, Bankura, Purulia, Burdwan and Birbhum, for converting the areas into productive forests;

WHEREAS active participation and involvement of local people are vital for regeneration, maintenance and protection of aforesaid forest/ plantations and successful implementation of the programme;

Now, therefore, the Governor is pleased to decide that Forest Protection Committees (FPCs) shall be constituted for this purpose and beneficiaries acting as members of such committees shall be allowed, as a measure of incentive, 25 per cent of the usufructs subject to observance of the conditions provided in the Resolution.

The composition, duties and functions, the usufructuary benefits and restrictive measures pertaining to such protection committees shall be as follows:

Composition

1. (i) The Divisional Forest Officer in consultation with "Bon-o-Bhumi Sanskar Sthayee Samiti" of the concerned Panchayat Samiti shall select beneficiaries for constitution of the Forest Protection Committee(s), within their jurisdictions, and within the framework of this Resolution.
- (ii) The beneficiaries ordinarily shall be economically backward people living in the vicinity of the forests concerned. Every family living in the vicinity of the forests shall, however, have the option of becoming a member of the Forest Protection Committee, if such family including the female members is interested in the work of protection.
- (iii) The concerned Gram Panchayat(s) shall extend necessary support and help to such Committee(s) to ensure their smooth and proper functioning.
- (iv) Each Forest Protection Committee shall have an Executive Committee to carry out the various activities assigned to the Committee.
- (v) The composition of the Executive Committee shall be as follows:
 - (a) Sabhapati or any member of the
Bon-o-Bhumi Sanskar Sthayee
Samiti of the local Panchayat Samiti
as may be nominated by the Sabhapati - Member

* The complete Order is not reproduced. Only the relevant parts have been extracted.

- (b) Gram Pradhan or any member of Local Gram Panchayat(s), as may be nominated by the Pradhan(s) - Member
 - (c) Elected representatives of the beneficiaries (not exceeding 6); - Members
 - (d) Concerned Beat Officer - Member-Secretary
- (x) The representatives of the beneficiaries to the Executive Committee shall be elected each year in Annual General Meeting of the Committee, where the concerned Range Officer shall be the observer.

Duties

2. (i) The Forest Protection Committee shall maintain a register showing necessary particulars of beneficiaries who are Members of the Committee, e.g. name, father's name, address, age, number of family members, name of nominee, etc. The nomination forms duly filled in and approved by the Executive Committee should be pasted in the register. Such registers are also to be maintained in the concerned Range Offices of the Forest Department for permanent record;
- (ii) The Forest Protection Committee shall hold a general body meeting once every year where activities of the Committee as well as details of distribution of usufructuary benefits are to be discussed, besides electing representatives of the beneficiaries to the Executive Committee.

Functions

3. (a) (i) To ensure protection of forest(s)/ plantation(s) through members of the Committee;
- (ii) To inform forest personnel of any person or persons attempting trespass and wilfully or maliciously damaging the said forest(s)/ plantation(s) or commit theft thereon;
- (b) (i) To ensure smooth and timely execution of all forestry works taken up in the area under protection by the Committee;
- (c) (i) To ensure smooth harvesting of the forest produce by the Forest Department;
- (ii) To assist the concerned forest official in proper distribution of the earmarked portion (i.e. 25% of net sale proceeds) among the members of the Committee (as per list maintained by "Sthayee Samiti");
- (iii) To ensure that usufructuary rights allowed by the Government is not in any way misused by any of the members and forest/ plantation sites are kept free from any encroachment whatsoever.
- (d) (i) To prevent any activities in contravention of the provisions of Indian Forest Act of 1927 and any Acts and Rules made thereunder and the Wild Life (Protection) Act, 1972.

Usufructuary Benefits

4. (i) The members will have to protect the forest/ plantation for at least 5 years to be eligible for sharing of usufructs under this programme;

- (ii) The Forest Official in consultation with the Executive Committee and with the approval of the "Bon-o-Bhumi Sanskar Sthayee Samiti" of the concerned panchayat samiti will distribute to the eligible member his proportionate share of usufructs from the final harvesting, not before the crop attaining the age of 10 years, upon satisfactory performance of functions detailed hereinbefore.
- (iii) The members shall be entitled to collect following items free of royalty without causing any damage to forests/ plantations:
 - (a) Fallen twigs, grass, fruits, flowers, seeds (excluding cashew), etc. and leaves;
 - (b) One-fourth of the product obtained as intermediate yield from F.D.F. coppicing, multiple shoot cutting, thinning, etc. and also 25 per cent of the net sale proceeds of cashew where available to be shared proportionately.

This will not in any manner, extinguish the rights and privileges already granted to the members of the Scheduled Tribes by the State Government in their Order No. 2001- For. dated 20.4.81 and/ or may be granted in future.

- (iv) Entire sal seeds, and kendu leaves so collected shall have to be deposited with the West Bengal Tribal Development Co-operative Corporation Ltd., through the local LAMPS and LAMPS will pay the members, in approved tariff, against their individual collection.
- (v) The concerned forest official shall set apart 25 per cent of the net sale proceeds at every final harvesting of the concerned plantation/ forests (i.e. timber, pole, etc.) and shall pay to all eligible members or their nominee their proportionate share out of the said earmarked fund, as per para (4)(ii) of the Resolution.

Termination of Membership

- 5. (i) Failure to comply with any of the conditions laid down hereinbefore as well as contravention of provisions of the Indian Forest Act of 1927, or Acts and/ or Rules made thereunder, may entail cancellation of individual membership and/ or dissolution of the Executive/ Forest Protection Committee, as the case may be, by the Officers of the Forest Department.

Resolution No. 8554 & No. 8555- For. of 15th November 1991 (Covering North Bengal & Darjeeling Gorkha Hill Areas)

Usufructuary Benefits

- 4. (i) The member will have to protect the forest/ plantation/ wildlife for at least 5 years to be eligible for sharing of usufructs under this programme;
- (ii) The members shall be entitled to collect following items free of royalty without causing any damage to forests/ plantations;
 - (a) Fallen twigs, grass, fruits, flowers, mushroom, seeds, leaves and intercrops raised by FPCs, subject to any restrictions imposed from time to time, provided however such collection will not be allowed

in National Park, core area to Tiger Reserve and *sanctum sanctorum* of Sanctuary.

- (b) Medicinal plants in North Bengal will be permitted to be collected by the FPC members free strictly on the basis of approved micro-plans, except in National Park, core area of Tiger Reserve and *sanctum sanctorum* of Sanctuary;
- (c) Members of the FPC will receive 25 per cent of net sale proceeds of firewood and poles which are harvested during thinning and cultural operations.
- (iii) Entire sal seeds so collected shall have to be deposited with the West Bengal Tribal Development Co-operative Corporation Ltd., through the local LAMPS (where LAMPS are functioning) and LAMPS will pay the members, in approved tariff, against their individual collection;
- (iv) The concerned forest official will distribute to the eligible members their proportionate share of the usufructs from the harvesting after satisfactory performance of functions detailed hereinbefore.
- (v) The usufruct sharing will be subject to restrictions imposed from time to time on account of silvicultural and management requirements and from preservation of wildlife point of view.

**Resolution No. 8556- For. of 15.11.1991
(Covering the Sunderbans)**

Usufructuary Benefits

- 4. (iv) Entire collection of *honey* and *bee-wax* from forest plantation shall have to be deposited with the Forest Department through the local Range Officer or his authorised representative who will pay the members, in approved tariff, against their individual collection.

**GOVERNMENT OF WEST BENGAL
FOREST DEPARTMENT**

No. 3841 - For/ FR/ O/11M-7/95

Dated, Calcutta, the 26th
June, 1996

RESOLUTION*

WHEREAS the Forest Department have taken up a massive programme of Wildlife conservation and management in the State and established a number of wildlife protected areas, i.e., sanctuaries and national parks, for this purpose.

AND WHEREAS successful implementation of the programme is dependent to a large extent on active participation and involvement of the local people.

Now, therefore, the Governor is pleased to decide that Eco-Development Committees (EDC) shall be constituted for the purpose of protection and development of wildlife protected areas (sanctuaries and national parks) and members of such committees shall be allowed benefits of usufruct sharing and eco-development activities, subject to observance of the conditions provided in this Resolution.

1. Composition

- (i) The Divisional Forest Officer/ Officer in charge of the protected area, in consultation with the "Bon-o-Bhumi Sanskar Sthayee Samiti" of the concerned Panchayat Samiti, shall select members for constitution of the E.D.C. within the framework of this Resolution.
- (ii) The members shall ordinarily be economically backward people living in the vicinity of the protected area concerned. Every family living in the vicinity of the protected area shall, however, have the option of becoming a member of the E.D.C. if such family including the female members is interested in the work of protection.
- (iii) There shall normally be a joint membership of each household (i.e. husband becoming member, wife automatically becomes a member or *vice versa*). Either of the two can exercise the right to represent the household at any annual general meeting.

Eco-development Activities

- (i) Micro-plans in respect of eco-development activities will be drawn up in a participatory manner prior to commencement of the activities, involving the Range Officer and Beat Officer of the Forest Department and the members of the E.D.C. Need based and site specific work programme, out of a basket of options, will be chosen within specified monetary limits, both for community and individual benefit, for implementation. Every selected eco-development activity shall have direct or indirect linkage or relation with conservation of biodiversity and such

* The complete Resolution is not reproduced. Only the relevant parts have been extracted.

linkage/ relation is to be mentioned against each selected activity in the micro-plan.

- (ii) Protection provided to the wildlife protected area against theft, grazing, fire, etc. will be considered as the involvement and contribution of the E.D.C. The forest officer may not release fund for village eco-development, unless he is satisfied that contribution by the E.D.C., as stipulated above, has been fulfilled.
- (iii) Members of the E.D.C. shall share a percentage of investment for every village eco-development work in cash, labour and/or physical resources. Agreed cost sharing arrangement will be incorporated in the micro-plan.

5. Usufructuary Benefits

A. From Wildlife Protected area:-

- (i) Upon satisfaction of the State Government that collection and removal of certain items of forest produce from identified zone(s) of a protected area is necessary for the improvement and management of wildlife therein, the Chief Wildlife Warden may grant permission for such collection and removal; members of the E.D.C. shall be eligible for getting in equal proportion such forest products free of royalty but on payment of collection cost, when collected by Government agency, as follows:
 - (b) 100% share of specified non-edible fruits, pods, flowers, seeds, decorative fungus and leaves;
- (ii) The members of the E.D.C. will have to protect and manage the protected area to the satisfaction of the forest officer for a minimum period of one year to become eligible for 25% share of Government receipts on account of tourist and transport entry and photography and such other related activities in the protected area;
- (iii) Usufruct sharing, as mentioned above, will be subject to restrictions imposed from time to time on wildlife management and other related considerations.

UNION TERRITORY
OF
ANDAMAN & NICOBAR ISLANDS

NTFP Including Medicinal Plants

Albizzia lebbek ('Koko'), *Calophyllum inophyllum* ('Sultan champa'), *Dipterocarpus turbinatus* ('Garjun'), *Messua ferra* ('Nag kesar'), *Murraya exotica* ('Satin wood'), *Pongamia pinnata* ('Karanj'), *Premna integrifolia* ('Arni'), *Pterocarpus dalbergoides* ('Paduka'), *Pterocarpus nerrifolia* ('Thitmin'), *Pterocymbium tinctorium*, *Pterospermum acerifolium* ('Kanak champa'), *Rauvolfia serpentina* ('Sarpagandha'), *Sageraea elliptica* ('Chooi'), *Symplocos racemosa* ('Lodh'), *Terminalia procera*, *Thespesia populnea*, etc.

Monopoly Agency

- * Environment & Forest Department.

Price Fixation Method

- * By Environment & Forest Department.

Andaman & Nicobar Islands

Legal Framework

(1) Indian Forest Act, 1927

- * Contains provisions relating to the transit of forest produce and duty leviable on forest produce.

(2) Andaman & Nicobar Protected Forest Rules, 1986

- * Regulations relating to removal, collection, manufacture, etc. of forest produce.
- * Licences to bonafide inhabitants of villages in the vicinity of forest.

(3) Andaman & Nicobar Forest Produce Transit Rules, 1966

- * Terms and conditions for transit of forest produce outside the Islands.

(4) Andaman & Nicobar (Protection of Aboriginal Tribes) Rules, 1957

- * Licences for purchase and export of local produce from aboriginal tribes from the Reserved Forests.

(5) Andaman & Nicobar Administration Notification No. 9/66/Tim/18-A. Vol. I(J)

- * The A & N Administration has declared 'Paduka' (*Pterocarpus dalbergoides*), 'Marblewood' (*Diospyros marmorata*), 'Chooi' (*Sageraea elliptica*), 'Teak' (*Tectona grandis*), 'Satin wood' (*Murraya exotica*), 'Koko' (*Albizzia lebbek*) and 'Thitmin' (*Pterocarpus nerrifolia*) as "Reserved Trees".

INTRODUCTION

Andaman and Nicobar (A & N) Islands, a group of more than 300 islands in the Bay of Bengal, have luxuriant impenetrable forests and mangroves. Out of the total land area of 8,249 sq. km., about 7,171 sq. km. (87%) is covered under forest. The physical isolation of the Andaman and Nicobar Islands, within the islands and from the mainland over the years, has resulted in the evolution of rare and endemic flora. Some of the important NTFP including medicinal plants in the Union Territory are:

Botanical Names	Common Names
<i>Albizia lebbek</i>	Koko
<i>Calophyllum inophyllum</i>	Sultan champa
<i>Dipterocarpus turbinatus</i>	Garjun
<i>Messua ferra</i>	Nag kesar
<i>Murraya exotica</i>	Satin wood
<i>Pongamia pinnata</i>	Karanj
<i>Premna integrifolia</i>	Arni
<i>Pterocarpus dalbergoides</i>	Paduka
<i>Pterocarpus nerrifolia</i>	Thitmin
<i>Pterospermum acerifolium</i>	Kanak champa
<i>Rauvolfia serpentina</i>	Sarpagandha
<i>Sageraea elliptica</i>	Chooi
<i>Symplocos racemosa</i>	Lodh
<i>Terminalia procera</i>	-
<i>Thespesia populnea</i>	-

Andaman and Nicobar Islands is a Union Territory of India. Thus all Central laws and policies enacted by the Parliament are applicable to the Islands. Wherever necessary, the Administration by notification enacts regulations and orders for the Islands.

The Department of Environment and Forests under A & N Administration have made rules for Protected Forest, viz. **Andaman and Nicobar Protected Forest Rules, 1986**, under the Indian Forest Act, 1927. Under these rules, no person shall cut, convert or collect, manufacture, remove any forest produce in and from a forest. The rules lay down terms and conditions for cutting, conversion or removal of trees or collection, manufacture or removal of forest produce. Licences may be granted to bona fide inhabitants of villages in the vicinity of forest and to agriculturists in possession of agricultural land residing in Port Blair Municipal area.

The A & N Administration have also made rules for the transit of forest produce, viz. **Andaman and Nicobar Forest Produce Transit Rules, 1966**. The rules lay down terms and conditions for timber or forest produce transit outside the Island. The **Andaman and Nicobar Panchayat (Regulation) Act, 1994** entrusts certain matters

relating to preservation of forest to the Gram Panchayat (village administrative body). The Gram Panchayat has been entrusted with the raising, preservation and improvement of village forest, pastures and orchards.

The A & N Administration vide notification dated 21 April 1957 made the Andaman and Nicobar Islands (Protection of Aboriginal Tribes) Rules, 1957. It talks about rules and conditions for the issuance of 'passes' to the reserved areas (those predominantly inhabited by the tribes) and that of 'licences' for purchase and export of local produce from the reserved forests. The licensee holding the licence shall be authorized to purchase various items of local produce (including forest produce) from the aboriginal tribes of the reserved areas for which he holds a licence. A 'royalty' shall be levied on all local produce purchased and exported from reserved area.

The A & N Administration has declared many of the forests as "Protected Forest" (Section 29 of the Indian Forest Act, 1927 empowers the State Government to declare any forest-land or waste land whether it is or not a reserved forest as 'protected forest'). The State Government under Section 30 of the Indian Forest Act has power to declare any tree as "reserved". The A& N Administration has declared 'Paduka' (*Pterocarpus dalbergoides*), 'Marblewood' (*Diospyros marmorata*), 'Chooli' (*Sageraea elliptica*), 'Teak' (*Tectona grandis*), 'Satin wood' (*Murraya exotica*), 'Koko' (*Albizia lebbek*) and 'Thitmin' (*Pterocarpus nerrifolia*) as "Reserved Trees".

Andaman and Nicobar Islands have their own Forestry Action Programme called the Andaman and Nicobar Islands Forestry Action Programme (ANIFAP). The Plans and Programmes of the ANIFAP have been prepared keeping in mind the unique management requirement of the forest resources of this territory. Emphasis has been laid on bringing about production from these resources strictly on a sustained basis. Special emphasis has been laid on Research and Development, Biodiversity Conservation, Training, Education and Awareness and providing intensive protection to the flora and fauna.

Summing Up

The A & N Administration has eliminated the system of contractors and replaced them by departmental agencies. As noted above, the Forest Department has taken certain measures to improve the management of the forest resources. Though the Forest Department on its own is performing the duty of safeguarding the forest resources, it is necessary that the Panchayat and people be involved in forestry programmes. This would help people to develop a close affinity towards the forest and in turn, discourage exploitation of the forests. Joint Forest Management is yet to be notified and implemented in the A & N Islands (Centre for Environmental Law, WWF-India, 1999).

The Forestry Plans and Programmes have been prepared in accordance with the needs of the territory as best understood today. However, it is necessary that the plans and programmes are subjected to rigorous tests periodically and revisions adopted whenever felt necessary. Economic analyses are also required to be made taking into account the prevalent market forces and consequent prices at the time when specific programmes are executed (Centre for Environmental Law, WWF-India, 1999).

Andaman and Nicobar Islands is one of the "hotspots", rich in biological wealth. The Islands have some of the rare flora, but none of the rare and threatened species of plants in the Islands are specified in any of the Schedule of the Wildlife (Protection) Act, 1972. There is need to include the endangered species in the Act. Also, there is need to carry out item-wise survey of NTFP (including medicinal plants) and organize collection, processing and marketing by involving tribals.

ANDAMAN AND NICOBAR ISLANDS PROTECTED FORESTS RULES, 1986*

Andaman and Nicobar Administration

Port Blair

Dated 24th April 1987

NOTIFICATION 3/87 No. F. (T)/ 27/25

In exercise of the powers conferred by Section 32 of the Indian Forest Act, 1927 (Act XVI of 1927) read with notification of Government of India in the Ministry of Home Affairs No. 69/49/50- AN dated the November, 1951 the Lieutenant Governor (Administrator), Andaman and Nicobar Islands has been pleased to make following rules related to "Protected Forests" in the Andaman and Nicobar Islands

2. In these Rules, unless there is anything repugnant to the subject or context:-
 - (a) "the Act" means the Indian Forest Act, 1927 (Act XVI of 1927) as amended from time to time.
- 3.(i) Except as provided under these rules, no person shall or cause to be cut, saw, convert or remove or cause to be cut, converted or removed, any tree or timber, or collect, manufacture, or remove, or cause to be collected, manufactured or removed any forest produce in or from a forest.
 - (ii) The cutting, sawing, conversion or removal of trees or the collection, manufacture or removal of forest produce in or from a forest may be permitted under and in accordance with the terms and conditions of a licence or a permit issued in this behalf under these rules.
4. Licences under these rules may be granted in the following cases:
 - (i) To bonafide inhabitants of villages in the vicinity of forest and to the persons residing in Port Blair Municipal area who are in occupation of agricultural land duly allotted to them by the appropriate authorities of the Andaman and Nicobar Administration and who are not entitled for the timber free of royalty under sub-rule (ii) of rule 4 of these rules, licence shall be issued by the Divisional Forest Officer or his nominee, subject to the payment of royalty of such timber as fixed by the Government from time to time and subject to the terms and conditions of the said licence, to cut, saw, convert or remove trees and other forest produce except those declared to be reserved under sub-section (a) of Section 30 of the Act, for their bonafide domestic use only.
 - (iii) Licences to the bonafide agriculturists in possession of agricultural land residing outside Port Blair Municipal area, to extract Minor Forest

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

Produce free of royalty on a permit issued by the Range Officer concerned as per the following limit per family:

(a) Firewood	—	Two cords per year
(b) Bamboo	—	Five hundred numbers per year
(c) Ballies	—	One hundred numbers per year
(d) Posts	—	Twenty numbers per year
(e) Thatching leaves (including Dhani-Palm & Pandanus leaves)	—	Two thousand numbers per year
(f) Canes	—	Two hundred numbers per year.

A fee of Rs. 5.00 (Rupees Five only) shall be charged for each permit to be issued, but no royalty is to be charged. The permit fee shall be deposited in advance with the Range Officer having jurisdiction.

(iv) Licences for trade purposes and for purposes other than those covered by above sub-rule shall be issued by the Divisional Forest Officer at rates of royalty as are fixed by the Government from time to time.

5.(i) Collection of minor forest produce required for public functions such as Republic Day, Independence Day, Gandhi Jayanti or for other Public functions shall be allowed free of royalty subject to the permission of the Chief Conservator of Forests in each case on the application of the Department concerned. Collection of minor forest produce required for other departmental work shall be allowed only after payment of royalty at the rates prescribed by the Government from time to time in this behalf.

(ii) For the purposes of sub-rule (i), Chief Conservator of Forests may allow free grant up to the value of Rs. 500/- in each case, as authorized under Government of India, Ministry of Food and Agriculture, Notification No. 6-18/ 59 F.11 dated 7-9-1959. Cases beyond the competency of the Chief Conservator of Forests shall be referred to the Lt. Governor for sanction.

7. The timber and other forest produce extracted against licences and permits issued under rule 4(i), (ii) and (iii) are meant for bonafide domestic use of the permittee/ licensee institution only and not for sale, barter or gift and shall not be allowed to be exported outside Andaman and Nicobar Islands. In the event of any person found trading in such timber or forest produce in question, it shall be confiscated to the Government under orders of Magistrate having jurisdiction and the person in question shall be debarred from getting timber and other forest produce on payment of royalty or free of royalty in future.

8. The holder of a licence or a permit for removal of timber or other forest produce from a forest shall be bound to produce such licence or permit for examination on demand by a forest officer not below the rank of a Forest Guard. Failure to produce such licence or permit or timber and other forest produce removed from

forest on such demand shall for the purpose of clause (b) of the sub-section (i) of section 33 of the Act be deemed to be an infringement of these rules.

9. If the Conservator of Forests, having jurisdiction is at any time, of opinion that the supply of any kind of forest produce in an area is sufficient only to meet local requirement he may, by an order in writing, prohibit the removal of such forest produce beyond the limits of any locality specified therein and such forest produce shall not be removed beyond such limits.

11. No forest area shall be allotted by any Government department/ agency for non-forestry purposes without obtaining prior approval of the Government of India through the Forest Department as required and provided in the Forest (Conservation) Act, 1980 (Act No. 69 of 1980) if so and for any other Act as is/ may be applicable from time to time.

ANDAMAN AND NICOBAR ADMINISTRATION CHIEF COMMISSIONER SECRETARIAT

PORT BLAIR dated the 23rd January, 1966

NOTIFICATION

No. 9/66/Tim/18-A. Vol. I(J) In exercise of the powers conferred by sub-section (a) of Section 30 of the Indian Forest Act, 1927 (16 of 1927) read with the Notification of Government of India in the Ministry of Home Affairs No. 69/49/50-AN dated the 7th November 1951, the Chief Commissioner, Andaman and Nicobar Islands has been pleased to declare the following classes of trees in the protected forests of Andaman and Nicobar Islands to be "reserved" with the immediate effect namely:

- | | |
|---------------|-------------------------------------|
| 1. Padauk | (<i>Pterocarpus dalbergoides</i>) |
| 2. Marblewood | (<i>Diospyros marmorata</i>) |
| 3. Chooi | (<i>Sageraea elliptica</i>) |
| 4. Teak | (<i>Tectona grandis</i>) |
| 5. Satinwood | (<i>Murraya exotica</i>) |
| 6. Koko | (<i>Albizia lebbek</i>) |
| 7. Thitmin | (<i>Pterocarpus nerrifolia</i>) |

ANDAMAN AND NICOBAR ISLANDS (PROTECTION OF ABORIGINAL TRIBES) RULES, 1957*

2. Definitions.-

- (c) "licence" means a licence granted by the Chief Commissioner under sub-section (1) of Section 6 to carry on any trade or business in any reserved area;
- (d) "licencee" means a person, or a body of individuals including a member or members of an aboriginal tribe, to whom a licence has been granted;
- (e) "person" does not include a member of an aboriginal tribe.

CHAPTER II

PASSES

3. Period for which pass may be granted or renewed.- A pass under Section 7 may be granted for a period of one year or a part thereof and may, subject to the provisions of these rules, be renewed for a further period not exceeding one year.

4. Application for Pass.- An application for the grant of a pass shall be made in Form 'A'.

5. Grant and renewal of pass.-

- (1) On an application filed under rule 4, if the Deputy Commissioner, after such enquiry as he may deem fit to make, does not reject the application, he may, subject to the provisions of these rules, grant a pass to the applicant in Form 'B' for any period expiring on a date within the current financial year.
- (2) A pass granted under sub-rule (1), may, on an application being made in Form 'D' to the Deputy Commissioner, be renewed by him for a period permitted under rule 3.

CHAPTER III

LICENCES FOR TRADE OR BUSINESS

7. Application for licence.- Every application for grant of a licence shall be in Form 'E'.

8. Grant of Licence.- On an application filed under rule 7, if the Chief Commissioner, after such enquiry as he may deem fit to make, does not reject the application, he may, subject to the provisions of these rules, grant a licence for a period not exceeding one year.

* The complete Rules are not reproduced. Only the relevant parts have been extracted.

9. Form of Licence.- Every licence granted under rule 8 shall be in Form 'F'.

CHAPTER V MISCELLANEOUS

11. Fees for passes and licences.- No pass or licence shall be granted unless the fee in respect thereof as indicated below has been paid to Government, namely:

DETAILS OF PASS, ETC.	RATE OF FEE
(i) Pass to be granted to a Government servant while on duty or to a Government servant (and any member of his family) while proceeding on transfer	Nil
(ii) Subject to item (i) above, a pass to be granted for a period not exceeding one month	Re 1/-
(iii) A pass other than a pass specified at item (i) or item (ii) above	Rs. 5/-
(iv) Renewal of a pass	The same fee as for grant of a pass
(v) A licence	Rs. 500/-

12. Purchase of local produce in Reserved areas by licensee.-

- (1) A licensee holding licence in Form 'F' shall be authorized to purchase the various items of local produce from the aboriginal tribes of the reserved area for which he holds a licence.
- (2) The extent to which, and the minimum rates at which, the various items of such produce may be purchased by a licensee shall be fixed by the Chief Commissioner from time to time.

13. Royalty payable to Government on local produce exported from reserved areas.-

- (1) On all local produce purchased under rule 12 and exported from a reserved area, a royalty at such rate or rates as may be fixed by the Chief Commissioner from time to time shall be levied.
- (2) The royalty levied under sub-rule (1) above shall be paid by the licensee to the Deputy Commissioner or to such other officer as may be appointed by the Deputy Commissioner in this behalf and shall be credited to Government.



NATIONAL CAPITAL
TERRITORY OF DELHI

NTFP including Medicinal Plants

Acacia arabica ('Babul'), *Acacia senegal* ('Khair'), *Acalypha indica* ('Mukta jhiri'), *Althea officinalis* ('Gul khair'), *Azadirachta indica* ('Neem'), *Boswellia serrata* ('Salai'), *Butea monosperma* ('Palas'), *Eulaliopsis binate* ('Bhabar' grass), *Sisymbrium irio* ('Jangli sarsoan'), *Terminalia* spp. (Myrobalans), *Urginea indica* ('Jangli piyaz'), *Zizyphus sativa* ('Ber'); etc.

Monopoly Agency

- * Forest Department.

Price Fixation Method

- * By the Forest Department.

Delhi

Legal Framework

(1) Indian Forest Act, 1927

- * Contains provisions relating to the transit of forest produce and the duty leviable on forest produce.

(4) Delhi Preservation of Trees Act, 1994

- * Establishment of the Tree Authority, which shall be responsible for the preservation of all trees within its jurisdiction.
- * No person shall fell or remove or dispose of any tree or forest produce in any land, except with the previous permission of the Tree Officer.

- * All owners to effectively protect all the trees growing in the lands/ areas under their control.
- * Imprisonment upto one year provided under the Act.

INTRODUCTION

Delhi, the capital of India (National Capital Territory- NCT), has a total land area of 1,483 sq. km. out of which the forest area is of about 42 sq. km. (2.83%). The Tropical Dry Deciduous/ Thorn forests are found in Delhi. Some of the important NTFP including medicinal plants found in the National Capital Territory of Delhi are:

Botanical Names	Common Names
<i>Acacia arabica</i>	Babul
<i>Acacia senegal</i>	Khair
<i>Acalypha indica</i>	Mukta jhiri
<i>Althea officinalis</i>	Gul khair
<i>Asparagus racemosus</i>	Satavari
<i>Azadirachta indica</i>	Neem
<i>Boswellia serrata</i>	Salai
<i>Butea monosperma</i>	Palas
<i>Eclipta alba</i>	Bhangra
<i>Eulaliopsis binate</i>	Bhabar grass
<i>Sisymbrium irio</i>	Jangli sarsoan
<i>Terminalia</i> spp.	Myrobalans
<i>Urginea indica</i>	Jangli piyaz
<i>Zizyphus sativa</i>	Ber

The National Capital Territory of Delhi has enacted Acts to ensure a sustainable harvest of forest produce. The Indian Forest Act, 1927, which contains provisions relating to the transit of forest produce and the duty leviable on forest produce, is applicable to the National Capital Territory of Delhi. However, no transit rules have been framed in the NCT. This means that forest produce brought illegally from other States is not subject to any transit regulations in the NCT.

The **Delhi Preservation of Trees Act, 1994**, is an Act to provide for the preservation of trees in Delhi. The Act provides for the establishment of the Tree Authority for the whole of the NCT of Delhi. Notwithstanding anything contained in any other law for the time being in force, the Tree Authority shall be responsible for the preservation of all trees within its jurisdiction.

The Act also provides for the appointment of Tree Officers for the purposes of this Act. No person shall fell or remove or dispose of any tree or forest produce in any land, whether in his ownership or occupancy or otherwise, except with the previous permission of the Tree Officer. Every person, who is granted permission under this Act to fell or dispose of any tree, shall be bound to plant trees.

The Act provides that all the owners shall effectively protect all the trees growing in the lands or the areas under their control and where the Tree Officer is of the opinion that adequate measures have not been taken to protect the trees from

any damage, he may direct the owner to take such measures as are considered necessary to protect trees from damage. The Act also provides for the adoption of trees. Any person who contravenes any of the provisions of the aforesaid Act or rules or orders made thereunder shall, on conviction, be punished with imprisonment, which may extend to one year or with fine, which may extend to Rs. 1,000 or with both.

THE DELHI PRESERVATION OF TREES ACT, 1994*

2. Definitions. -

(d) "Forest produce" includes: -

(a) the following whether found in, or brought from, forest or not, that is to say-

timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, *mahua* flowers and seeds, kuth and myrobalans, and

(b) the following when found in, or brought from, a forest, that is to say-

(i) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned, of trees;

(ii) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants;

(i) "tree" means any woody plant whose branches spring from and are supported upon a trunk or body and whose trunk or body is not less than five centimetres in diameter at a height of thirty centimetres from the ground level and is not less than one metre in height from the ground level;

(j) "Tree Officer" means a forest officer appointed as such by the Government for the purposes of this Act;

(l) words and expressions used in this Act and defined in the Indian Forest Act, 1927 (Central Act 16 of 1927) but not defined in this Act, shall have the meanings respectively assigned to them in that Act.

CHAPTER II

Tree Authority

3. Establishment of the Tree Authority. -

(1) The Government shall, by notification, constitute a Tree Authority for the whole of the National Capital Territory of Delhi.

(2) The Tree Authority shall consist of the following members, namely: -

(i) Secretary of Forests or any other officer not below the rank of Secretary to the Government nominated by the Government - Chairman

(ii) Deputy Commissioner, Delhi - Member

(iii) Two members of the Legislative Assembly nominated by the Government - Members

* The complete Act is not reproduced. Only the relevant sections have been extracted.

- (iv) Two representatives of the Local bodies
nominated by the Government – Members
- (v) Deputy Conservator of Forests – Member-Secretary
- (3) The Tree Authority may co-opt as members in such manner and for such period as it may determine, not more than five representatives of non-official organizations and Government Departments having special knowledge or practical experience in the preservation of trees.

CHAPTER III Officers and Servants

5. Appointment of Tree Officer. - The Government may appoint one or more Forest Officers of the rank not below the Deputy Conservator of Forests as Tree Officers for the purposes of this Act.

6. Appointment of other officers. - The Government may, from time to time, appoint such other officers and servants as may be considered necessary who shall be subordinate to the Tree Officer.

CHAPTER IV Duties of Tree Authority

7. Duties of Tree Authority. - Notwithstanding anything contained in any other law for the time being in force, the Tree Authority shall, subject to any general or special order of the Government, be responsible for-

- (a) the preservation of all trees within its jurisdiction;
- (b) carrying out census of the existing trees and obtaining, whenever considered necessary, declarations from all owners or occupants about the number of trees in their lands;
- (c) development and maintenance of nurseries, supply of seeds, saplings and trees to persons who are required to plant new trees or to replace trees which have been felled;
- (d) getting planting and transplanting of trees necessitated by construction of buildings, new roads or widening of existing roads or replacement of trees which have failed to come up along roads or for safeguarding danger to life and property;
- (e) organization of demonstration and extension services for the purpose of this Act and assisting private and public institutions connected with planting and preservation of trees;
- (f) undertaking such schemes or measures as may be directed from time to time by the Government for achieving the objects of this Act;
- (g) undertaking critical study of the proposals of various Government Departments and private bodies for construction of buildings, roads, factories, irrigation works, laying out of electric, telephone and other transmission lines with regard to protection of existing trees and planting of more trees, wherever possible.

CHAPTER V

Restriction on Felling and Removal of Trees and Liabilities for Preservation of Trees

8. Restriction on felling and removal of trees. - Notwithstanding anything contained in any other law for the time being in force or in any custom or usage or contract and except as provided in this Act or the rules made thereunder, no person fell or remove or dispose of any tree or forest produce in any land, whether in his ownership or occupancy or otherwise, except with the previous permission of the Tree Officer:

Provided that if the tree is not immediately felled, there would be grave danger to life or property or traffic, the owner of the land may take immediate action to fell such tree and report the fact to the Tree Officer within twenty-four hours of such felling.

9. Procedure for obtaining permission to fell, remove or dispose of, a tree.-

- (1) Any person desiring to fell or remove or otherwise dispose of, by any means, a tree, shall make an application to the concerned Tree Officer for permission and such application shall be accompanied by attested copies of such documents as may be prescribed in support of ownership over the land, the number and kind of trees to be cut, their girth measure at a height of 1.85 metres from ground level and the reasons therefor, copy of *sajra* showing clearly the site and *Khasra* number of the property.
- (2) On receipt of the application, the Tree Officer, may after inspecting the tree and holding such enquiry as he may deem necessary, either grant permission in whole or in part or for reasons to be recorded in writing, refuse permission:

Provided that such permission may not be refused if the tree: -

- (i) is dead, diseased or wind fallen; or
 - (ii) is silviculturally mature, provided it does not occur on a steep slope; or
 - (iii) constitutes a danger to life or property; or
 - (iv) constitutes obstruction to traffic; or
 - (v) is substantially damaged or destroyed by fire, lightning, rain or other natural causes; or
 - (vi) is required in rural areas to be cut with a view to appropriating the wood or leaves thereof or any part thereof for bonafide use of fuel, fodder, agricultural implements, or other domestic use.
- (3) The Tree Officer shall give his decision within sixty days from the date of receipt of the application:

Provided that no permission shall be granted to any person from the same area on more than two occasions during the same year subject to a maximum area of one hectare at a time.

10. Obligation to plant trees. - Every person, who is granted permission under this Act to fell or dispose of any tree, shall be bound to plant such number and kind

of trees in the area from which the tree is felled or disposed of by him under such permission as may be directed by the Tree Officer:

Provided that the Tree Officer may, for reasons to be recorded in writing, permits lesser number of trees to be planted or trees to be planted in any different area or exempt any person from the obligation to plant or tend any tree.

11. Preservation of trees. -

- (1) Subject to the provisions of Sec. 13 it shall be the duty of the owner of the land to comply with an order made under Sec. 9, or a direction issued under Sec. 10 and to plant trees in accordance with such an order or direction and to ensure that they grow well and are well preserved.
- (2) All the owners shall effectively protect all lands or trees growing in the lands or the areas under their control and where the Tree Officer is of the opinion that adequate measures have not been taken to protect the trees from any damage, he may direct the owner to take such measures as are considered necessary to protect trees from damage. In case of default, the Tree Officer may himself arrange such measures and recover the expenditure thereon from the owner in the prescribed manner.

13. Adoption of trees. - Notwithstanding anything contained in this Act or in any other law for the time being in force, the Tree Authority may, subject to such terms and conditions as it may specify in that behalf, after giving notice to the owner of the tree to show cause, if any, as to why the trees should not be given in adoption, allow, by a written permission, any body corporate or institution to adopt the tree for such period as may be specified in the permission and during such period, the said body corporate or institution shall be responsible for the maintenance and preservation of the said tree.

14. Appeal.- An appeal shall lie against the order or direction of the Tree Officer under Secs. 9, 10 and 11 to the Appellate Authority within a period of thirty days of passing of order or direction by the Tree Officer.

CHAPTER VI **Penalties and Procedure**

15. Seizure of property. - Where the Tree Officer has reasons to believe that an offence under this Act has been committed in respect of any tree, he may seize the tools, implements, any boats, vehicles, animals or other conveyances used for the commission of the said offence, alongwith the tree or part thereof which has been severed from the ground or the trunk, as the case may be.

16. Forfeiture of timber and other produce from the tree, implements used for felling and the vehicle and animals used for transport of such trees. -

- (1) Where any person is convicted of an offence under this Act, any timber or the tree in respect of which an offence is committed, the tools and implements used for felling and any boats, vehicles, animals or other conveyances used for its transport, may be ordered by the Court to be forfeited to Government.
- (2) Any timber or produce from the tree, tools and implements, etc. and any

boats, animals or other conveyances forfeited under sub-section (1) shall be disposed of by the Tree Officer in such manner as may be prescribed.

18. Power to arrest without warrant. - (1) Any Tree Officer or a Forest Officer not below the rank of Forest Ranger or a Police Officer not below the rank of Sub-Inspector may, without a warrant, arrest any person reasonably suspected of having been concerned in any offence under this Act, and such person refuses to give his name or address or gives a name or address which the concerned officer has reason to believe to be false or if he has reason to believe that the person will abscond.

21. Power to compound offence. -

(1) The Government may, by notification empower a Tree Officer or any Forest Officer not below the rank of Deputy Conservator of Forests. -

(a) to compound any offence committed under this Act on payment of-

(i) a sum not exceeding rupees ten thousand by way of composition for the offence which such person is suspected to have committed; and

(ii) the value of timber and other produce, if any, from the tree in respect of which the offence has been committed;

(b) to release any property seized or liable to confiscation, on payment of the value thereof as estimated by such officer and the amount determined as payable for composition of the offence, as ordered by the Tree Officer or any Forest Officer, as the case may be.

(2) On the payment of such sums or such value or both as the case may be, to such officer, the property seized and the offender, if in custody, shall be released and no further proceeding shall be taken against such offender or property.

23. Offences by organizations. -

(1) If the person committing an offence under this Act is an organization, the organization as well as every person in charge of, and responsible to, the organization for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be prosecuted 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 was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by an organization and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of its Head of Department/ office/ unit, director, manager, secretary, treasurer or other officer of the organization, such head of the Department/ office/ unit, director, manager, secretary, treasurer or other officer of the organization shall also be

deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

24. Penalty. - Any person who contravenes any of the provisions of this Act or rules or orders made thereunder shall, on conviction, be punished with the imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

25. Award of penalty or forfeiture not to interfere with other punishment. - The award of penalty or forfeiture of any property under this Act shall not prevent the inflicting of any punishment to which the person affected thereby is liable under any other law.

CHAPTER VII

Miscellaneous

29. Power of the Government to exempt. - Subject to such conditions, if any, as may be imposed, the Government may, if it considers it necessary so to do in the public interest, by notification, exempt any area or any species of trees from all or any of the provisions of this Act.

30. Power of the Government for preservation of trees. - The Government in the interest of general public, declare by notification that any class of trees shall not be felled for such period as is specified in that notification.

32. Transit of felled material. - The provisions of Secs. 41 and 42 of the Indian Forest Act, 1927 (Central Act 16 of 1927) shall *mutatis mutandis*, apply to the transit of the felled trees under this Act.

34. Power to make rules. - The Government may, after previous publication make, by notification in the official Gazette, rules to carry out the purposes of this Act.

35. Provision of this Act to be in addition to any other law for the time being in force. - Nothing in this Act shall be deemed to affect the operation of any other law and the rules made thereunder and the provisions of this Act shall be in addition to and not in derogation of the provisions of the said Act and rules made thereunder.

Abbreviations

Glossary

References

ABBREVIATIONS

A & N:	Andaman and Nicobar Islands
A.P.:	Andhra Pradesh State
AIR :	All India Reporter
CITES:	Convention on International Trade in Endangered Species of Wild Fauna and Flora
Cr. L. R.:	Criminal Law Reporter
Cr. P. C.:	Criminal Procedure Code
D.F.O.:	Divisional Forest Officer
FPC:	Forest Protection Committee
H.P.:	Himachal Pradesh State
I.P.C.:	Indian Penal Code
IPRs:	Intellectual Property Rights
J & K:	Jammu and Kashmir State
JFM :	Joint Forest Management
LAMPS :	Large Scale Multi Purpose Society
M.P.:	Madhya Pradesh State
MARKFED:	Marketing Federation of India Limited
MFP:	Minor Forest Produce
NTFP:	Non-Timber Forest Produce/ Products
NWFP:	Non-Wood Forest Produce
P & H:	Punjab and Haryana States
SC:	Supreme Court; Scheduled Caste
SEC.:	Section (of an Act)
SFDC:	State Forest Development Corporation
ST:	Scheduled Tribe
STDCC:	State Tribal Development Cooperative Corporation
T.N.:	Tamil Nadu State
T.P.:	Transit Permit
TRAFFIC:	Trade Records Analysis of Flora and Fauna in Commerce
TRIFED:	Tribal Cooperative Marketing Development Federation of India Limited
U.P.:	Uttar Pradesh State
VFPC:	Village Forest Protection Committee
VFPMC:	Village Forest Protection and Management Committee
W.B.:	West Bengal State
WWF:	World Wide Fund for Nature

GLOSSARY

Ad valorem: In proportion to the value.

Agarbatti (also agarbati, dhoop): a Joss-Stick.

Amaltas: An Indian tree (*Cassia fistula*) with bright yellow flowers; seeds have medicinal value.

Amla: A tree (*Embllica officinalis*) with leaves like feathers and a fruit (having medicinal properties) similar to a Gooseberry.

Anachronism: The representation of something as existing or occurring at other than its proper time, especially earlier; anything that is or seems to be out of its proper time in history.

Aranya: A forest.

Arjun: A tree (*Terminalia arjuna*), one of the myrobalans, that keeps its leaves all through the year and has a dark bark used in medicine, as a dye, and for tanning.

Ashok: An evergreen small medicinal tree (*Saraca indica*) that has orange or bright red flowers.

Ayurveda: The traditional Hindu science of medicine.

Babul (also Kikar, Babool): A prickly tree (*Acacia* spp.) that keeps its leaves all through the year and has yellow flowers; gum obtained from the tree.

Bailable offence: An offence for which the prisoner may be admitted to bail [Cr. P. C., 1974, Sec. 2(8)].

Bidi (or Beedi): A roll of tobacco enclosed in Tendu leaf for smoking. An Indian cigarette quite prevalent in rural and urban slum areas of India.

Bigha: A measure of land, different in different parts of the country (generally equal to a quarter of a hectare).

Biodiversity: The term *biodiversity* encompass all species of plants, animals and micro-organisms, and the ecosystems and ecological processes of which they are part.

Bona fide: Good faith.

Cart-Load: A load (of forest produce) carried by a bullock cart per trip.

Challan: An official piece of paper showing that money has been paid or is to be paid for goods received.

Chowki: A check-post for the examination of forest produce in transit, by the forest officer (viz. States of Uttar Pradesh and Rajasthan).

Cognizable offence: It means an offence for which a police officer, in accordance with the Code of Criminal Procedure or under any law for the time being in force, arrest without warrant [Cr. P. C., 1974, Sec. 2(c)].

Composition: It means the cost of forest produce together with the compensation imposed under the provisions of a State Forest Act.

Conservation: It means to ensure the preservation of a quality environment for organisms in terms of their nutrition, recreation, etc. and to ensure at the same time through planned manipulations, a continuous yield of useful plants, animals, etc. by maintaining a balanced cycle i.e. ecological balance. In other words, it means preservation of ecosystems along with sustainable use of resources.

Controlled Forest: A forest in respect of which a working plan has been approved by the Government [viz. State of West Bengal].

Coupe: A compact area wherein a number of trees are pre-marked for sale by auction or tender and for removal within specified period.

Demarcated Forest: It means forest land or waste land under the control of the Forest Department, of which the boundaries have already been demarcated by means of pillars of stone or masonry or by any other conspicuous mark, etc. (viz. State of Jammu and Kashmir).

Division: A unit of administration.

Eco-Development Programme: A programme to conserve biodiversity with the active participation of the local people in and around the Protected Areas (viz. National Parks, Sanctuaries and Biosphere Reserves).

Ecological Balance: The term *ecological balance* implies a stable ecosystem i.e. relative numbers of components of a natural community remain constant. The survival of a single species depends on an entire ecosystem.

Ex parte: In absence of the party/ parties.

Forest: An area shall be deemed to be a forest, if in the area, there are reasonable number of trees, say, not less than 25 trees per acre, reserved or unreserved or any other forest produce growing on such area, which have been or are capable of being exploited for purposes of business or trade (United Khasi-Jaintia Hills Act, 1958).

The word 'Forest' has been derived from the Latin word 'Foris' which means 'outside'. Besides tall dense growth of trees, it consists of innumerable other living organisms from the plant as well as the animal kingdoms. Forests satisfy a great range of human needs which vary from tangible raw materials like fuel, fodder, food and shelter, to intangible benefits of environmental equilibrium. In India, the local terms for the forest are 'Van', 'Jungle', 'Aranya', etc.

Forest Lessee: It means a person in whose favour a right to convert and remove forest produce from a forest has been granted under any lease, deed, bond or instrument.

Forest Officer: It includes the Principal Chief Conservator, Chief Conservator, Conservator, Deputy and Assistant Conservators, Range Officers, Junior Range Officers, Foresters, Forest Guards, Members of the Forest Protection Force and any other person whom the Government may, from time to time, appoint by name or as holding an office to carry out all or any of the purposes of the Forest Act (Jammu

& Kashmir State Forest Act, 1987).

Forest Panchayat: A local authority formed for the management of 'village forests' (viz. State of Uttar Pradesh). Having the status of a Forest Officer, it has the powers relating to the sale and exploitation of forest produce.

Forest Usufructs: The useful/ utility products from forest except timber. Also *see* Usufructs.

Ghats: The mountain ranges parallel to the eastern and western coast of India: the Eastern Ghats and the Western Ghats.

Gorucharan forest: It means any forest land settled and set aside by the State Government for the purpose of grazing of cattle of adjoining villages (viz. State of Sikkim).

Gram (or Gaon) Panchayat: A Village Council; the official organization that governs local rural areas. The Panchayat engages itself in various socio-economic and welfare activities in a village (also *see* 'Forest Panchayat').

Gram (or Gaon) Sabha: A village-level association or assembly.

Gurkati Permit: A concessional permit issued for the removal of forest produce in such quantity as can be carried by the holder of the permit on his person. It is prevalent in certain districts in the States of North-East India.

Head-Load: A load (of forest produce) carried by an individual in a trip.

Imli: Tamarind (*Tamarindus indica*).

Isabgol: The seeds of a bush (*Plantago ovata*), usually taken to clear the bowels.

Jhum (or Jhoom) Cultivation: It means 'shifting cultivation' practised mainly by nomadic tribes in north-eastern, east-central and southern parts of India. A system of farming by which forest areas are burned and cleared, cultivated, and then usually abandoned after two or three years. The shifting cultivation leads to progressive loss of productive soil, flood hazards and loss of valuable forest wealth leading to environment and ecological disturbances.

Joint Forest Management (JFM): A programme of people's participation in forestry (social forestry). Participatory forest management on an usufruct sharing basis occurs by enlisting people's involvement in protection of forests and in the development of fuelwood, fodder, small timber and NTFPs (including medicinal plants). Various institutional structures such as Village Forest Protection and/ Management Committees (VFPCs/ VFPMCs) are constituted for protection and rehabilitation of degraded forests.

In India, the programme has the support of National Forest Policy, 1988 and the 1988 amendment to the Forest (Conservation) Act, 1980, and the Constitution Amendment in 1992 (inclusion of Social Forestry, Farm Forestry and NTFP in Eleventh Schedule of the Constitution). By the end of 1998, 21 States have issued notifications/ resolutions in accordance with Government of India's directives (No. 6.21/ 89.F.P.) dated 1st June, 1990 enabling forest dependent communities to participate actively in management of forests with the forest department on a mutually advantageous basis.

Jungle: A forest, especially a fairly open forest of bushes and small trees.

Katha (also Kath, Khair): Catechu; an important Non-timber forest produce extracted from the tree *Acacia catechu*.

Khasmal forest: The forest areas in the vicinity of the villages from where the people meet their timber/ fuelwood requirements (viz. State of Sikkim).

Kilogram (Kg.): A metric unit of weight equal to 1,000 grams (2.2046 lb.).

Kuth: An important Non-timber forest produce extracted from the plant *Saussurea lappal* *Saussurea costus*.

Lakh (or Lacs): One hundred thousand.

Law: "Law" includes any ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law [*Constitution of India*, Article 13(3)(a)].

The term "law" is not limited to legislative enactments. All forms of delegated legislation and conditional legislation amount to law. All orders and notifications made and issued under statutory powers and which are legislative in nature amount to law [*Indian Evidence Act, 1872*, Sections 57 and 58].

Lease: A lease of immovable property is a transfer of right to enjoy such property, made for a certain time or in perpetuity, in consideration of a price (*premium*) or money (*rent*) to be rendered to the transferor (*lessor*) by the transferee (*lessee*) who accepts the transfer on such terms.

A 'lease' includes also – (a) a *patta*, (b) a *kabuliyat* or other undertaking in writing, not being a counterpart of a lease, to cultivate, occupy or pay or deliver rent for immovable property.

Lorry-Load: A load (of forest produce) carried by a lorry (mini-truck, etc.) per trip.

Mahal: A defined area wherefrom certain types of forests produce are sold on condition of their removal within a specified period. The 'mahal' system is prevalent in the North-East States of India.

Mahaldar: A person holding permit to collect forest produce under the 'Mahal' system.

Maharaja: A ruler. The title of certain erstwhile rulers of Indian states.

Mahila Mandal: A group of women who meet, discuss and take action on common problems.

Mahua: An important Non-timber forest produce; the 'mahua' flowers and seeds are obtained from *Madhuca indica*.

Malabar: The area along the coast of South-west India in Kerala.

Mamlutdar: The chief civil officer in charge of district.

Mandal: A group of districts.

Mandi: A market.

Maund: A unit of weight equivalent to 40 seers (about 40 kgs.).

Medicinal: Having healing properties, attributes, relating or pertaining to the science and art concerned with the cure, alleviation and prevention of disease and with restoration and preservation of health [*Indian Penal Code, 1860*, Section 275].

Medicinal Plants: The plants of proven medicinal value.

A Plant could be classified as "medicinal" if it came into any of the following groups: (a) Any plant used in Ayurveda, Homoeopathy, Unani, Siddha, Allopathy, Tibetan medicine and in other traditional medicines, (b) Any plant known to be used as medicinal from old texts (even if no modern publication listed these as medicinal

or was not currently being used), (c) Any plant traded for reasons of having medicinal value (BCPP Report, Conservation Assessment and Management Plan-CAMP Workshop, India, 1998). Medicinal plants are used to produce traditional medicines, phyto-pharmaceuticals, intermediates for drug manufacture, industrial/ pharmaceutical auxiliary products, health foods, herbal teas, etc. Almost all countries use medicinal plants in unprocessed, semi-processed or processed form.

Medicinal plants are receiving an enormous amount of attention today. The resurgence of interest in natural systems of medicine, in indigenous peoples and practices, the increasing use of parts or extracts or compounds made from medicinal plants, the realization of the potential loss through both domestic and foreign trade, and the publicity engendered by the Convention on Biodiversity and GATT treaty have combined to form what is practically a "movement" for medicinal plants. As individuals and institutions discover new properties, there are a growing number of plants being classified as "medicinal", perhaps due to the identification of a secondary metabolite or the working out of a phyto-chemical composition, which determines medicinal value. Most of medicinal plants in India are so classified because of traditional practices and uses (BCPP Report, Conservation Assessment and Management Plan-CAMP Workshop, India, 1998).

Minor Forest Products (MFP): A term used for forest produce other than the timber i.e. Major Forest Produce. The traditional timber-orientation of forest management, often rooted in colonial history, has regarded Non-Timber Forest Products (NTFPs) as "minor, residual, and, of lower value". However, foresters, ecologists and conservationists have now been increasingly recognizing and realizing the multiple values and benefits provided by MFPs from forest. That is why the term 'NTFP/ NWFP' is now being increasingly used or preferred over the term 'MFP'.

Mutatis mutandis: The necessary changes having been made.

Myrobalans: Important Non-Timber Forest Produce in India, obtained from the trees of *Terminalia* spp. ('Harra', 'Bahera', and 'Arjun').

Naka: Check-post.

Nationalized Forest Produce: A forest produce for which the State assumes direct monopoly on purchase and trade rights. In many States of India, 'Tendu' leaves, 'Sal' seed, 'Mahua' flowers and seeds, etc., have been nationalized (at the State level).

Neem: A tall evergreen tree (*Azadirachta indica*) whose leaves and bark are used in making medicines. Small twigs of neem tree are also used for cleaning the teeth.

Nizam: Title of the erstwhile rulers of the Hyderabad State of India.

Non-bailable offence: Not admitting of a bail as a matter of right [Cr. P. C., 1974, Sec. 43(1)].

Non-cognizable offence: It means an offence for which a police officer has no authority to arrest without warrant [Cr. P. C., 1974, Sec. 3(1)].

Non-Scheduled Areas: Areas not declared to be scheduled areas as per Fifth Schedule to the Constitution of India. The ownership rights over Non-timber forest produce are not conferred on the Gram Panchayats as per 73rd amendment of Constitution via Panchayats (Extension to the Scheduled Areas) Act, 1996.

Non-Timber Forest Produce (NTFP): The forest produce other than timber (wood),

which can be harvested on a non-destructive basis" [Expert Committee, Ministry of Environment & Forests, Government of India, 1997]. NTFPs are economic products of plant, animal and mineral origin from forests. They include all goods of biological origin other than wood (timber) in all its forms, as well as services derived from forests. NTFP include a number of goods such as fodder, fibres, flosses, food and food additives, fertilizers (bio-mass), medicinal plants and herbal potions, phyto-chemical and aroma chemicals, fatty oils, latex, gums, resin and other exudates and different kinds of animal products (honey, wax, lac, silk, etc.). They also include services such as grazing, and raw material for several village/ cottage industries.

Non-Wood Forest Products (NWFP): See Non-Timber Forest Produce (NTFP).

Notified Forest: A forest specified in a notification issued by the State Government.

Paisa: An Indian coin worth one hundredth (hundred) of a rupee.

Panchayat: A Council (see 'Gram Panchayat').

Panchayati Forests: See Forest Panchayat.

Panchayati Raj: The scheme for giving more powers to the Panchayats.

Parishad: A Council. See also Zilla Parishad.

Patel: The Headman of a village (viz. States of Goa and Gujarat).

Patta: A legal document proving a person's right to a property; a title-deed.

Patwari: A government official who records agreements and keep records about the ownership of landed property.

Pipal (also Peepul, Peepal): The Indian Fig tree (*Ficus religiosa*).

Pradhan: The Headman of a village.

Price: The amount of money, etc. asked or paid for something; cost; charge.

Private Forest: These are forests belonging to an individual or clan or joint clan which are grown or inherited by him or them in recognized private lands.

It means a forest which is not the property of the Government or over which the Government has no proprietary rights or has parted with such rights by way of lease or so, or to the whole or any part of the forest produce of which the Government is not entitled (viz. States of U.P. and West Bengal).

Profit a prendre: It is a right vested in one man of entering upon the land of another and taking therefrom a profit of the soil, e.g. the right to graze cattle on another's land, to take leaves, etc. While natural rights are incident to the possession of every occupier of land, easements and *profit a prendre* have to be acquired by grant, prescription or custom.

Prohibited Tree: A tree that is forbidden by law or by an order to be cut, felled or removed from a forest.

Protected Forest: A legal term for an area subject to limited degree of protection under the provisions of Indian Forest Act or other State Forest Acts. The rights and concessions to villagers/ tribals in respect of such forest are recognized by a State Government.

It is a forest where forest produce is allowed to be collected *unless* regulated. These are forests protected for the growth of trees for the benefit of the local inhabitants.

Protected Tree: See Reserved Tree.

Quintal: A metric unit of weight, equal to 100 kilograms (220.46 lbs.).

Raid Forest: A forest looked after by the heads of the Raid under the management of the local administrative head (viz. North-East States of India).

Raj: Rule.

Rajah (or Raja): A king.

Rate: A price or value; specifically, the cost per unit of some commodity, service, etc.

Rawanna: An export pass required for the export of forest produce in the State of Uttar Pradesh.

Regulation: Rule prescribed for the management of some matter; rule or order having the force of law.

Reserved Forest: It means any forest land settled and notified by the Government as reserved forest under the Indian Forest Act or other State Forest Acts. The rights and concessions to villagers/ tribals in respect of such forest are extinguished or purchased by a State Government.

In a reserved forest, no forest produce is allowed to be collected *unless* permitted. Growing of commercial crops, cutting of trees, collection or removal of forest produce, etc., is usually prohibited in a reserved forest.

Reserved Tree (also Protected Tree): It means the tree, the preservation, reproduction and disposal of which is regulated by the rules made by the State Government (e.g. Sandal tree- *Santalum album* in South India). Such trees can only be felled by the State Government, even if standing on the private lands.

Resin: The secretion extracted by tapping from trees e.g. *Pinus roxburghii* and *Pinus wallichiana*.

Restricted Tree: A tree that can be felled with due permission from the State Government.

Right-holder: A person who has by custom a right of cutting or collecting in, and removing from a forest timber, fuel or other forest produce for his domestic and agricultural purposes and of pasturing his cattle in a forest.

Royalty: A payment made for the collection and removal of forest produce. No royalty can be realized by the State on forest produce unless the State is owner of the same.

Royalty in general connotes the state's share in the goods upon which the right of its exploitation are conferred upon any person or the group of persons. The practice prevalent for the exploitation of forest produce cannot be ignored which generally authorise the owner of forest to recover the royalty for felling of trees and extraction and utilization of the other forest produce. The extension fee, interest, interest on interest, payment for outshaped illicit blazes and damages cannot be held to be covered by the term "royalty" (*State of Himachal Pradesh v Raja Mahendra Pal* AIR 1999 SC 1786).

Rupee: The official Indian currency (unit of money) (1 US\$ = 45 rupees).

Ryot (also Raiyat): A farmer who did not own the land he cultivated; a peasant.

Ryotwari: A system in which a direct settlement for cultivating land was made between ryot and the Government, without a Zamindar between them.

Sabha: A meeting.

Sabhapati: The President of a meeting.

Sal seed: An important Non-timber forest produce; seed of the tree *Shorea robusta*.

Samhita: A collection of Vedic texts.

Samvat: A year (see Vikrama era).

Sandalwood: An important medicinal wood, obtained from the tree *Santalum album*, found in the southern states of India.

Sardar: A village headman; a leader. See also Sarpanch.

Sarpanch: A head of a village or of a Panchayat.

Schedule: An appendix to an Act of legislature or to legal instrument containing a statement of details or taking the form of a detailed list or relevant matter [Sec.3(52), General Clauses Act (10 of 1897)].

Scheduled Areas: The areas which have been or may be declared to be Scheduled Areas by the President under sub-paragraph (1) of paragraph 6 of the Fifth Schedule to the Constitution of India. The ownership rights over Non-timber forest produce conferred on the Gram Panchayats as per 73rd amendment of Constitution via Panchayats (Extension to the Scheduled Areas) Act, 1996.

Scheduled Caste (SC): A caste listed in the Eighth Schedule of the Constitution of India and recommended for special help in education and employment.

Scheduled Tribe (ST): A tribe listed in the Eighth Schedule of the Constitution of India and recommended for special help in education and employment.

Seigniorage value: It means the royalty payable by for the collection and removal of forest produce from the forest on licences/ permits at the rates fixed by the Government. The Seigniorage rates to be charged for each kind of forest produce granted on licences have been laid down in the Schedule of Karnataka State Forest rules. The seigniorage value also prevails in the State of Kerala.

Shivaliks: The hills at the base of Himalayas in the States of Uttar Pradesh, Punjab and Haryana.

Shri/ Shrimati: Mr./ Mrs. A title of respect for a man/ woman.

Sirdar: It means the headman of a village in North-east States of India.

Smriti: A class of religious texts including law books, epics and Puranas.

Suo motu: On its own motion.

Sustainable Development: It is development that meets the needs of the present without compromising the ability of the future generations to meet their own needs.

The *Caring for the Earth* document (Brundtland Report, WCED – World Commission on Environment and Development, 1987) defines "sustainability as a characteristic or state that can be maintained indefinitely whereas development is defined as the increasing capacity to meet human needs and improve the quality of human life. This means that sustainable development would imply improving the quality of human life while living within the carrying capacity of supporting ecosystems".

Tahsil (or Tehsil): A smaller division of a District.

Tahsildar (or Tehsildar): An official in charge of collecting Government revenue in a Tehsil.

Taluk (also Taluka): A smaller division of a District.

Tendu patta: 'Tendu' leaves (*Diospyros melanoxylon*) – an important Non-timber forest produce in India, which has been nationalized in many States. Tendu leaves are mainly used in the manufacture of 'bidi' (Indian cigarette).

Timber: Wood suitable for building houses, ships, etc., whether cut or still in the form of trees. Wood not used for the above purposes is not a timber but a non-timber forest produce e.g. Sandalwood.

Thana: A Police Station.

Thanadar: A Police Officer.

Transit Pass: A pass granted to a person merely to take out of forest any kind of forest produce on payment of the dues therefor, if any, as the form prescribes the places from which such produce has to be transported; its destination as well as the route of its transport besides indicating the date of issue and expiry; its ownership is, however, *not* indicated. It is not transferable to the person to whom forest produce is sold.

Traders: Wholesale suppliers, Retailers, Importers, Exporters.

Tree: It includes timber trees, fruit trees, palms, bamboos, stumps (brushwood, bushes, hedges) and canes.

Unani: A system of Indian medicine believed to have Greek origins.

Unclassed Forests: These are "lands at the disposal of the State and not included in reserved, protected or village forest". These are forests hitherto known as Unclassed State Forests before the commencement of the Constitution of India, now directly managed and controlled by the Government including any other forest(s) not falling within any of the other classification (North-East States).

Undemarcated Forest: It means and includes all forest land (other than demarcated forest) which is the property of the Government and is not appropriated for any specific purpose (viz. State of Jammu and Kashmir).

Usufructs: The right of using and enjoying all the advantages and profits of the property of another without altering or damaging the substance. Also see Forest Usufructs.

Uttarakhand: Hill region of the State of Uttar Pradesh.

Van: A forest.

Van Panchayat: See 'Forest Panchayat'.

Veda: Any of the four ancient sacred books of the Hindus.

Vested Forest: A forest of which the control has been vested in a Forest Officer by a notification issued by the Government (viz. State of Uttar Pradesh). The Government may constitute a vested forest by notifying any private area or forest to secure its protection in the public interest.

Vikrama era: The era beginning from the year 57 BC. See also Samvat.

Village Forest: It means any forest area constituted for the benefit of any village community or village communities.

Village Panchayat: See Gram Panchayat.

Vyapar: Trade.

Working Plan: A written scheme for the management and treatment of a forest.

Zamindar: The holder of large estate or *jagir*; landed proprietor; shareholder in estate.

Zilla: An administrative district.

Zilla Panchayat (or Zilla Parishad): A District-level Council; an elected group of people in charge of the administration of a local district.

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For further information contact:

**Director
TRAFFIC-India
WWF-India Secretariat
172-B, Lodi Estate
New Delhi-110003
Tel : 91-11-4698578
Fax: 91-11-4691226
Email: trfindia@del3.vsnl.net.in
Web: www.traffic.org**