



# WEBINAR ON THE PROPOSED HEADLINE INDICATORS

JOSEPH MASINDE

Senior Environmental Education Information Officer

CBD-CHM

ABS-CH

Desk officer

NEMA KENYA



# Introduction

- Kenya is party to various international instruments dealing with traditional knowledge associated to genetic resources.
- These include the Convention on Biological Diversity (CBD), Nagoya Protocol on access and benefit sharing, Cartagena Protocol, WIPO treaties, the Convention for International Trade in Endangered Species (CITES) and International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), among others.
- Even though Kenya does not hold a substantive ABS law, the country has approved the ABS regulation of 2006, encompassing access and benefit sharing principles as stated in the Nagoya Protocol.

- In this regard, access permits in Kenya are subject to Prior Informed Consent (PIC) and Mutually Agreed Terms (MAT) between resource providers and users.
- In Kenya any person who intends to access genetic resources, whether naturally occurring or naturalised in Kenya, needs an access permit for genetic resources with a certificate from National Commission for Science, Technology and Innovation. The process of obtaining a permit involves a multi-agency engagement and Prior Informed Consent and Benefit-Sharing as may be applicable.
- Additionally, the country is in the process of developing the first online permitting system and reviewing its ABS domestic legislation to conform to the constitution and Nagoya Protocol provisions.

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- and reviewing its ABS domestic legislation to conform to the constitution and Nagoya Protocol provisions.

# Monetary benefits

- Monetary benefits can consist of any or a combination of the following:-
  - a) access fees or fee per sample collected or acquired;
  - b) upfront, license fee ,milestone, and royalty payments;
  - c) fees to be paid to trust funds for supporting conservation and sustainable use of biodiversity;
  - d) salaries and preferential terms where mutually agreed;
  - e) research funding and joint ventures;
  - f) joint ownership of relevant intellectual property rights;

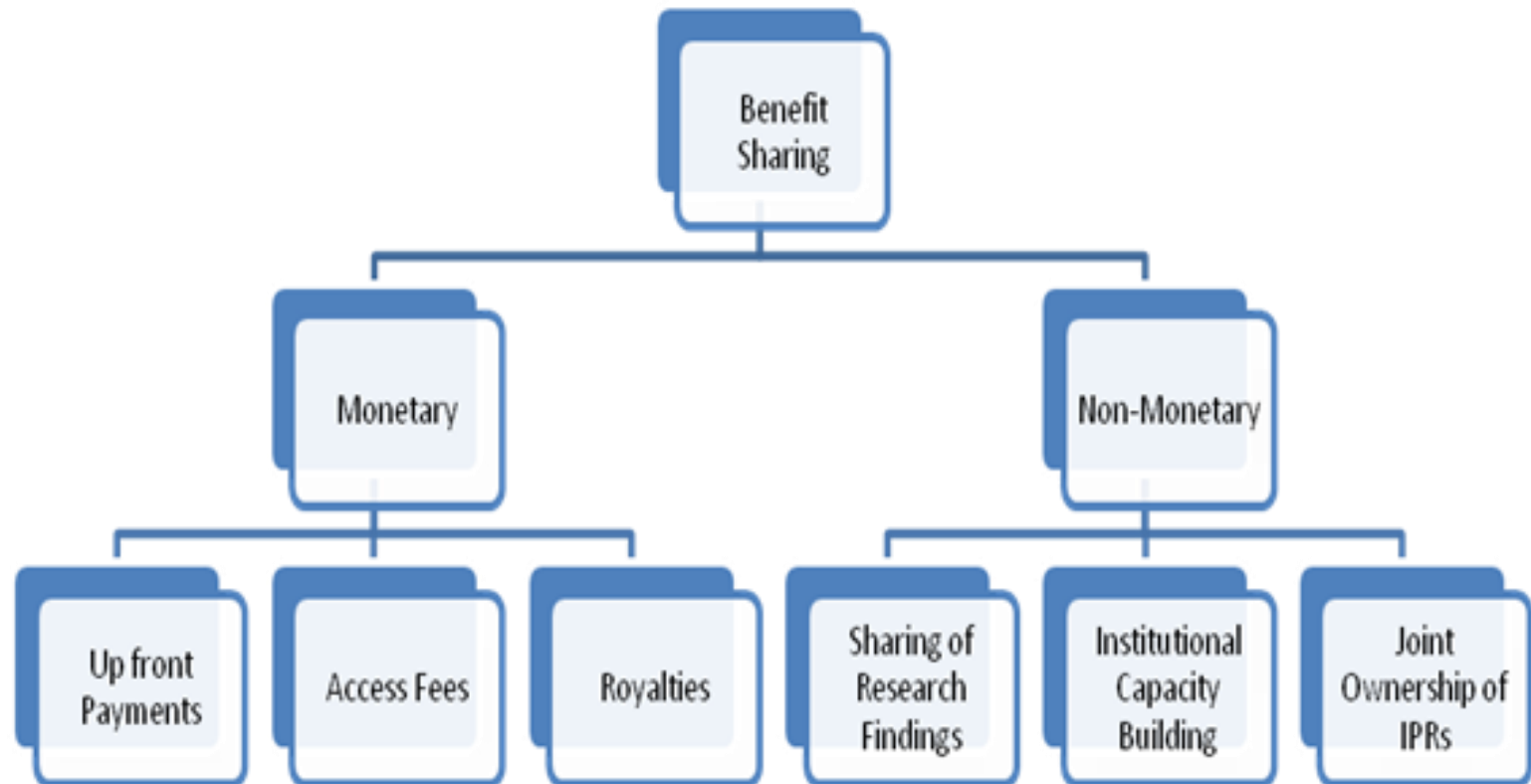
# Non-monetary benefits include

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Non-monetary benefits can consist of any or a combination of the following:-

- (a) sharing of research and development information as well as technology transfer under fair and most favorable terms;
- (b) admittance to ex situ facilities of genetic resources and access to databases by participating institutions,
- (c) human and institutional capacity building;
- (d) access to scientific information relevant to conservation and sustainable use of biological diversity,
- (e) Institutional and professional relationships arising from access and benefit sharing agreements and subsequent collaborative activities.

# Flow Chart of Benefit Sharing in Kenya



# ABS Technical Committee

- Kenya under the Ministry of Environment and Forestry has established A committee on Biodiversity dealing with issues data collection and reporting, preparation of position papers for COP meetingsi.
- ii. National Environment Management Authority (NEMA)
- iii. National Commission for Science, Technology and Innovation (NACOSTI)
- iv. Kenya Industrial Property Institute (KIPI)
- v. Kenya Wildlife Service (KWS)
- vi. Kenya Forest Service (KFS)
- vii. Kenya Plant Health Inspectorate Service (KEPHIS)
- viii. Kenya Agricultural Research Institute (KARI)
- ix. National Museums of Kenya (NMK)



# Types of information collected

- Information on PIC and MAT
- Validity of Access Permit , their numbers
- All GR collected and deposited with the relevant lead agency in Kenya.
- NEMA records of all intangible components of GR collected and deposited with the lead agency

- The permit holder is required to submit quarterly reports to the NEMA on the status of research, including all discoveries made involving genetic resources and/or intangible components.

reports:

- (i) status reports on the environmental impacts of any ongoing collection of genetic resources or intangible components,

# Internationally Recognized Certificate of Compliance

- (a) Issuing authority;
- (b) Date of issuance;
- (c) The provider;
- (d) Unique identifier of the certificate;
- (e) The person or entity to whom prior informed consent was granted;
- (f) Subject-matter or genetic resources covered by the certificate;
- (g) Confirmation that mutually agreed terms were established;
- (h) Confirmation that prior informed consent was obtained; and
- (i) Commercial and/or non-commercial use.

# Relevant information related to:

- a. prior informed consent,
- b. the source of the genetic resource,
- c. the establishment of mutually agreed terms, and/or
- d. the utilization of genetic resources.

# Monetary benefits (Goal C)

## Challenges

- Information is confidential No full disclosure of all the money from the royalties deal
- Making compilation of information on monetary benefits difficult
- When it comes to issues of money and benefits people don't want to disclose
- Court cases
- There is no proper system of collection information on Non-monetary benefits

# Case study

- Kenya Wildlife Service (KWS) and Denmark-based Novozymes to access and exploit for commercial purposes genetic resources, enzymes and micro-organisms within national parks, national reserves and other protected areas ( KenyaBaringo county and the micro-organisms collected from Lake Bogoria)

# National ABS measures (Target 13)

- There are various laws and regulations governing access and benefit sharing in the country which act as tools of compliance
- Violation of the access and benefit-sharing Regulations 2006, constitute offences under the Act, EMCA, 1999; and violation of Kenyan constitution 2010



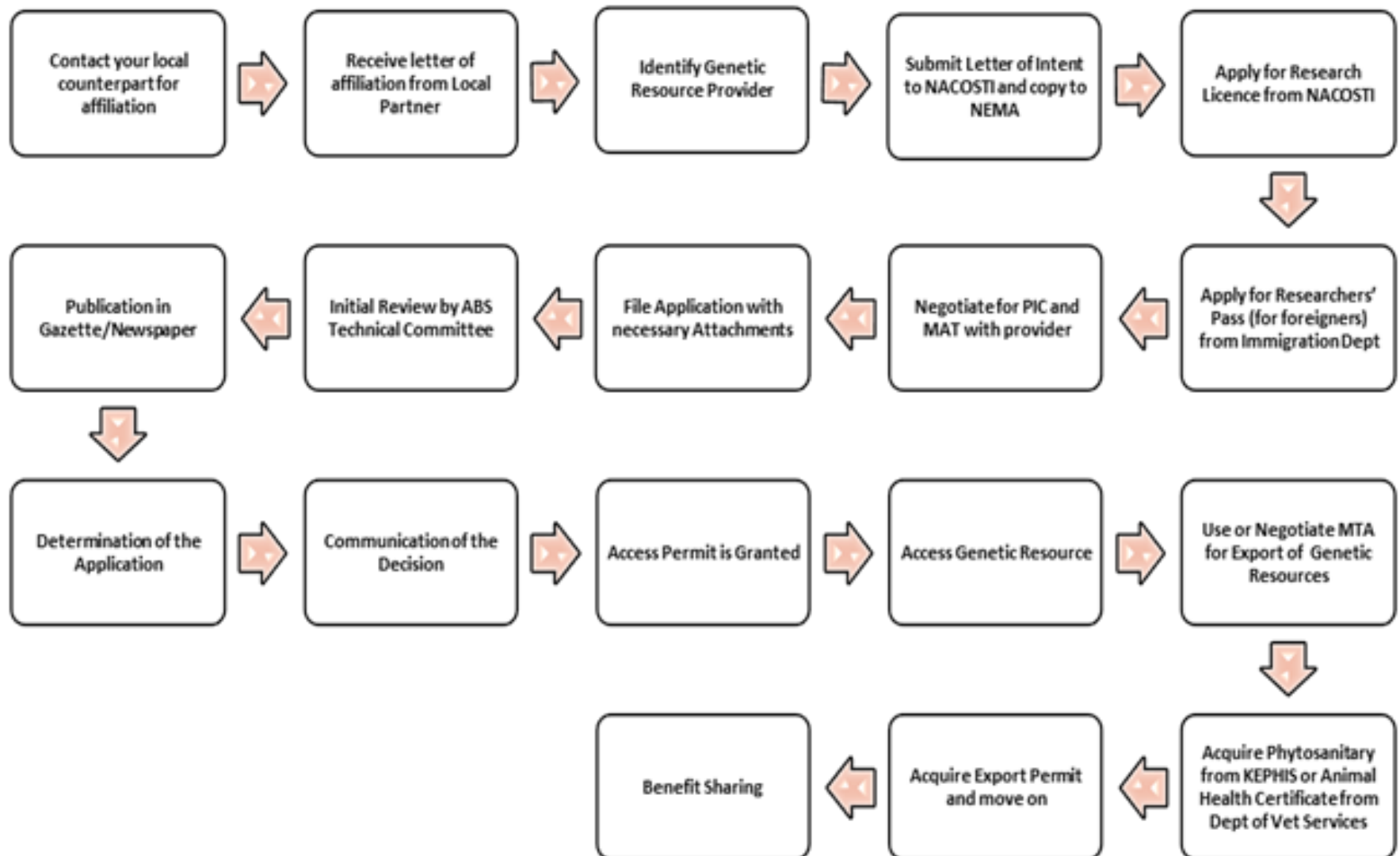
# National ABS measures (Target 13)

- Articles 42, 69 and 70 of the Constitution which relate to environmental rights and natural resources
- Article 69 (1)(a) (e) and (h) mandates the State to ‘ensure sustainable exploitation, utilisation, management and conservation of the environment and natural resources,
- and ensure the equitable sharing of the accruing benefits; protect genetic resources and biological diversity; and utilise the environment and natural resources for the benefit of the people of Kenya.’

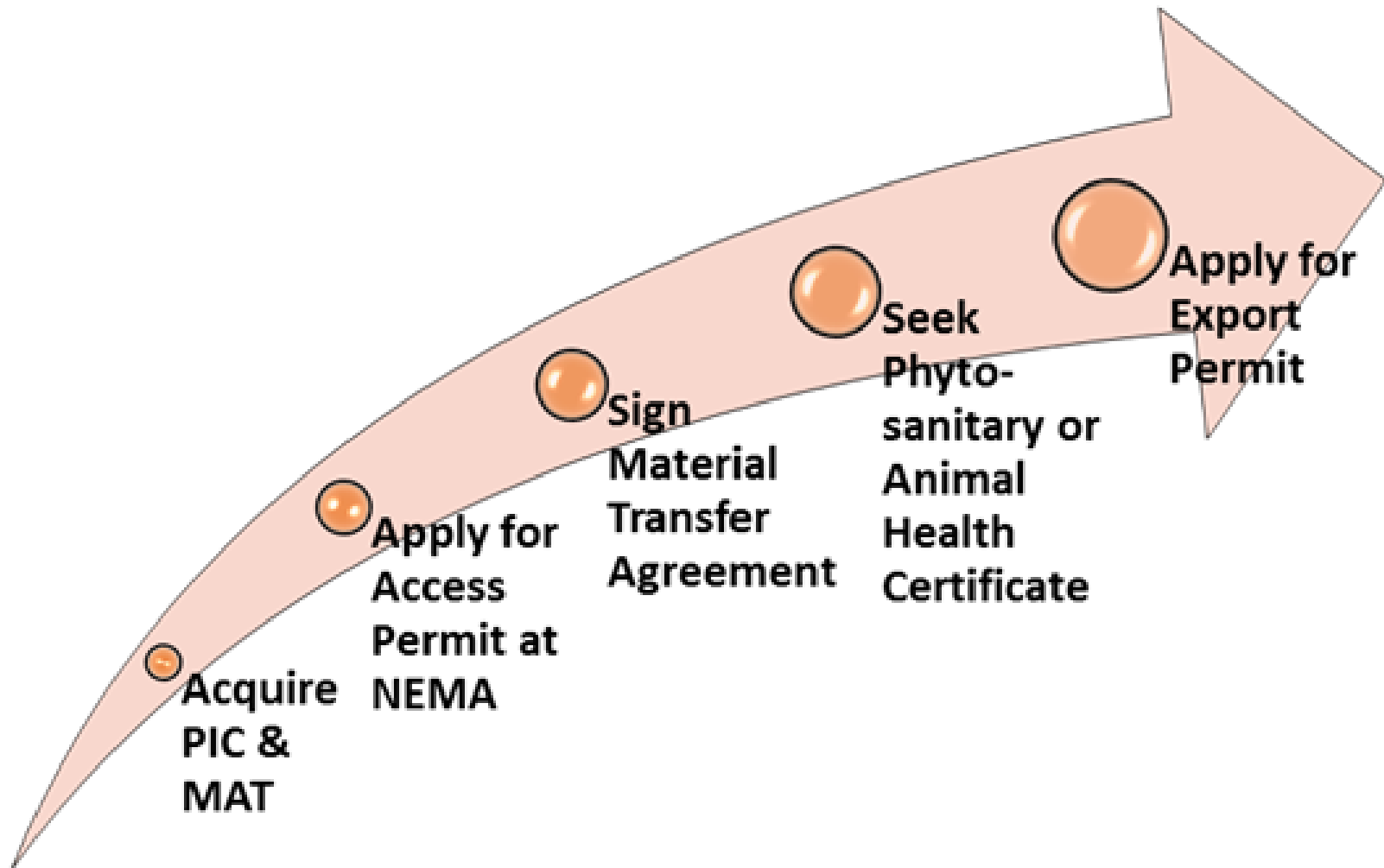
- **ABS National Focal Point** Principal Secretary-  
State Department of Environment and  
Forestry
- Competent National Authority, ABSCH and  
Publishing Authority for the country NEMA  
designated suggested CNA include: KWS,  
KFS,NMK

- In Kenya any person who intends to access genetic resources, whether naturally occurring or naturalized in Kenya, needs an access permit for genetic resources with a certificate from National Commission for Science, Technology and Innovation. The process of obtaining a permit involves a multi-agency engagement and Prior Informed Consent and Benefit-Sharing as may be applicable.

# Flow chart of Access procedure in Kenya



# Processing of Acquired Genetic Resources for Export



# Points to note

- We were able to prepare the First interim report available on the ABSCH
- Data on Access include, the various Research permits, Access permits, the PIC, and MAT.
- The information is gotten from the various institutions, research institutions, Kenya Wildlife Service (KWS), National Museums of Kenya, Kenya Forest Service, NEMA, Kenya Forestry Research Institution and National Commission For Science, Technology & Innovation (NACOSTI).
- The various fees information can be gotten from the institutions, NEMA access permit fees are well documented
- The Utilization fees and benefits are not well documented

# Challenges

- The Utilization fees and benefits are not well documented
- Awareness (ABS concepts )
- Capacity building
- Uniform indicators
- Harmonizing the online data collection
- Project driven processes