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# Role of IPLCs / TK Holders in ABS: Provisions of the Nagoya Protocol and the AU Guidelines

Expert Workshop: Developing ABS Communication Materials for IPLCs

Limuru, Kenya, 29 January 2018

*Lena Fey, ABS Initiative*

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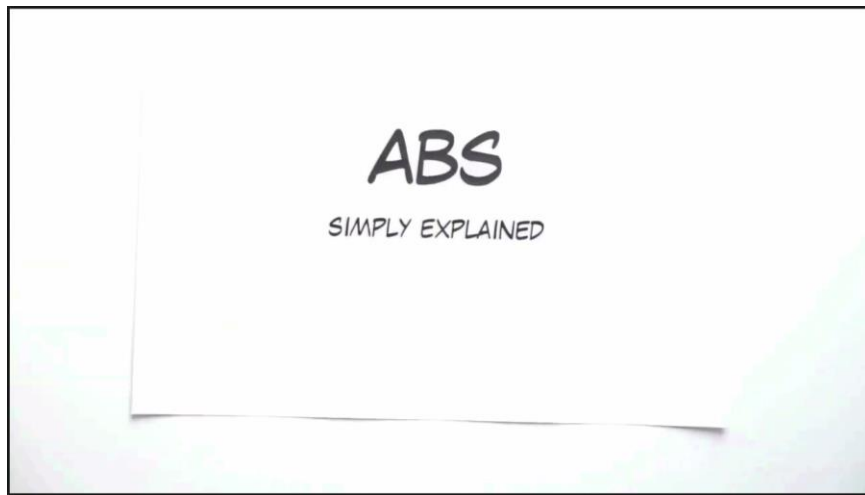
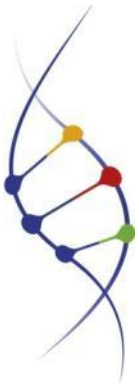


implemented by



*The concept:*

## Short film: ABS Simply Explained

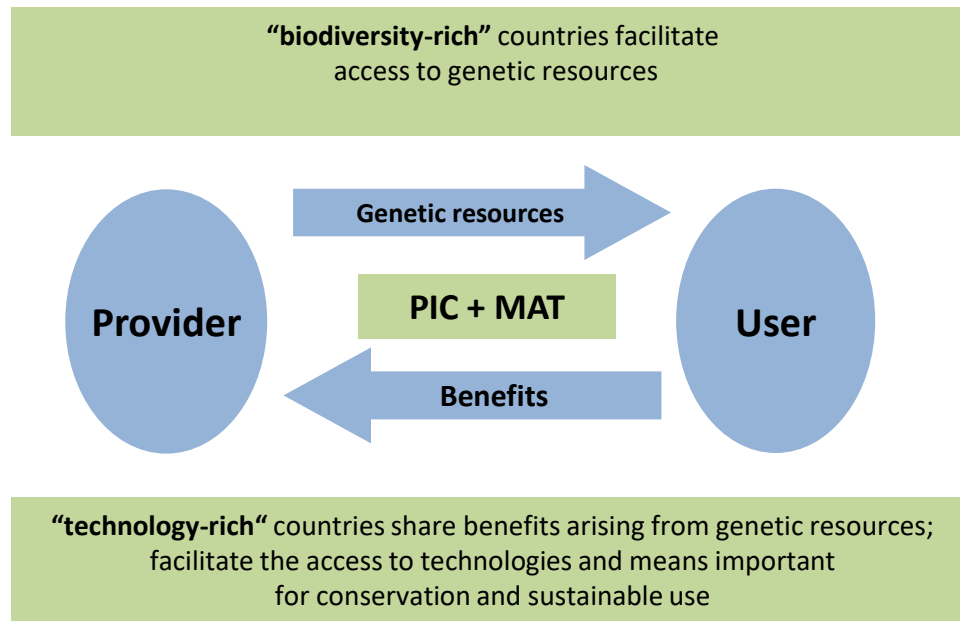


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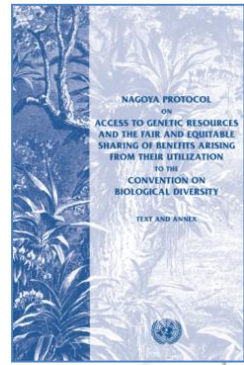


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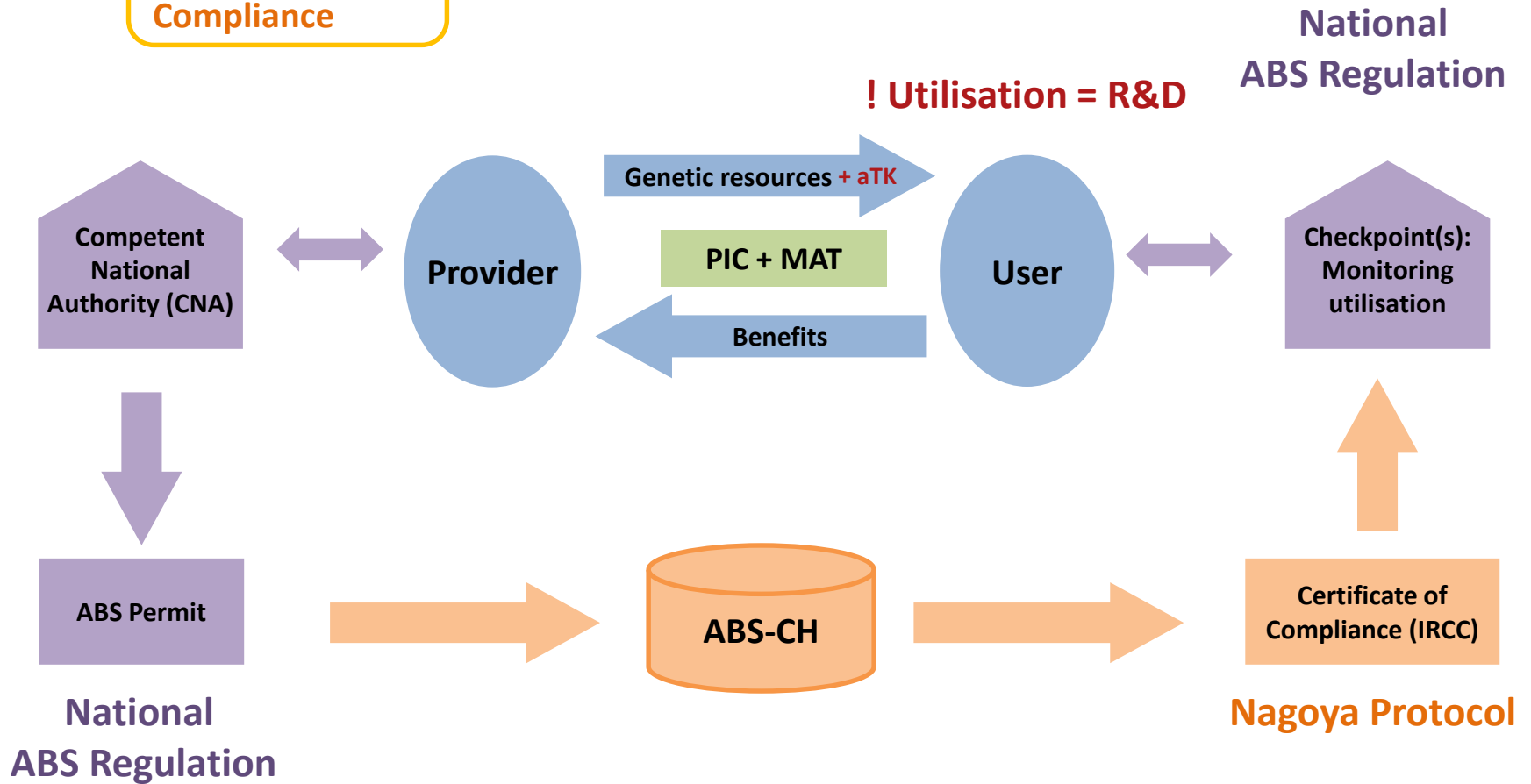
# Core Principles of ABS: Art. 15 CBD



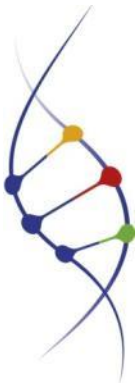
# ABC of ABS – Logic of the Nagoya Protocol



Access  
Benefit-sharing  
Compliance



# Indigenous Peoples and Local Communities and the Nagoya Protocol



## Preamble

- Relevance of **Article 8(j)**
- **Interrelationship between genetic resources and TK** and their inseparable nature for IPLCs
- Importance of TK for the **conservation and sustainable use** of biodiversity, and for the **sustainable livelihoods** of IPLCs
- Diversity of circumstances in which TK is held or owned
- UN declaration on the Rights of Indigenous Peoples (**UNDRIP**)
- Nothing in Protocol should be construed to diminish or extinguish existing rights of IPLCs



# Core Elements: TK and IPLCs

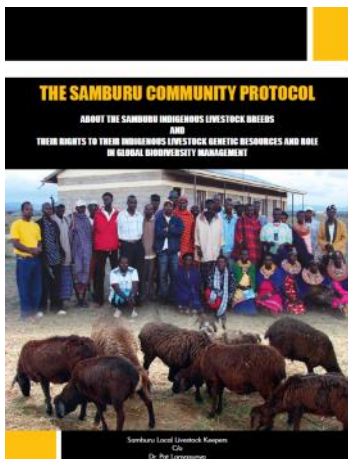


## Art. 6 – Access to GR

- Shall be based on PIC, including PIC of IPLCs where they have established rights to grant access

## Art. 7 – Access to TK associated with GR

- Shall be based, in accordance with domestic law, on PIC or approval and involvement of IPLCs and on MAT



## Art. 12.1 – Recognition of community protocols

- Parties shall, in accordance with domestic law, take into consideration IPLCs' customary laws, community protocols and procedures with respect to TK associated with GR.

# Core Elements: TK and IPLCs



## Art. 12.3 – Support to IPLCs

- Parties shall endeavour to support the development of
  - a) Community protocols** for access to TK associated with GR and BS from the utilization of TK associated with GR
  - b) Minimum requirements for MAT** to secure BS from the utilization of TK associated with GR
  - c) Model contractual clauses for benefit-sharing** from the utilization of TK associated with GR

## Art. 12.4 – Customary use and exchange

Parties shall **not restrict the customary use and exchange** of GR and associated TK within and amongst IPLCs (including across borders)

# IPLCs in the AU Guidelines

## Awareness raising, information sharing

- Among IPLCs
- Within and across countries

## Access for utilisation

- Establishing measures for PIC & MAT with IPLCs for access to GR for utilisation (where they have the according rights) and access to aTK;
- Absence of domestic measures does not imply that PIC is not required or has been granted;
- Exemption of customary use and exchange of GR and aTK

## Benefit-sharing

- Benefits shall be shared equitably with IPLCs and other stakeholders
- Benefit-sharing standards that uphold “intrinsic, cultural and socio-economic values of GRs and aTK” are put in place



African Union  
Strategic Guidelines  
for the Coordinated Implementation of the  
Nagoya Protocol on  
Access to Genetic Resources and the  
Fair and Equitable Sharing of  
Benefits Arising from their Utilisation



# IPLCs in the AU Guidelines

## Protection of aTK, community and farmers' rights

- Safeguard and protect the collective rights of IPLCs to GRs and aTK
- Benefits directed towards conservation/sustainable use and improvement of livelihoods of IPLCs

## Capacity building

- Encourage activities of IPLCs that support conservation and sustainable use
- Laws and policies that create legal rights for IPLCs over GRs and aTK
- Support IPLCs in MAT negotiations
- Support IPLCs to improve their position in the value chain
- Encourage and support IPLCs to develop and use customary laws, community protocols and procedures

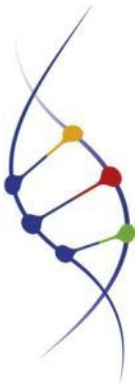


African Union  
Strategic Guidelines

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# Conclusion



- **Nagoya Protocol:** Recognition of IPLC rights can serve as a strong lever for IPLCs when engaging in national implementation
- **AU Guidelines:**
  - Establishing framework for coordinated implementation in Africa
  - Strong support for IPLC measures in NP
  - Governments to support IPLCs in negotiating MAT
  - Encourage states to strengthen legal rights of IPLCs over GR and aTK
  - Awareness raising among IPLCs

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