

ADDRESS BY H.E GOVERNOR JOSHUA IRUNGU, CHAIRMAN, NATURAL RESOURCES MANAGEMENT COMMITTEE, COG/NACOFA/WWF JOINT MEETING TO DEVELOP VIEWS AND COMMENTS ON BENEFIT SHARING BILL - 25TH NOVEMBER 2014

Your Excellences' the Governors, Hon. CECs, County Officers present, WWF family members, NACOFA representatives, distinguished guests, Ladies and Gentlemen

I would like to take this opportunity to appreciate all of you for gracing this occasion.

I would also like to sincerely thank NACOFA for spearheading this important workshop. Similarly, I thank World Wide Fund Kenya Office for always supporting the Council in its activities. Certainly WWF support for this meeting is highly appreciated.

Ladies and gentlemen,

Our Constitution endorses the need for sustainable development principles and public participation in environmental decision making

It further states that all natural resources and the benefits derived thereof belong to the Government and people of Kenya. It provides for all laws on the issue of access to and protection of resources be subjected to the provisions of the Constitution.

Ladies and Gentlemen

However, currently we have no clear provision of how benefits are to be distributed (what is fair and equitable), who is the community? Who will bear the potential social and environmental costs with related risks of conflicts if benefit sharing and governance issues are not well addressed? What are the economic value of all these benefits and costs? Is there understanding of what these expected benefits are, how their (total) value can be assessed and who are stakeholders and actors?

Ladies and Gentlemen

In the context of Devolution and given that Kenya is a signatory to the CBD, it is important that equitable benefit sharing of natural resources are promoted. We must be guided by the models of best practices and meaningful stakeholder participation.

Ladies and Gentlemen

As we gear up towards sustainable growth and development, advancing the equitable sharing of the natural resources benefits is particularly significant in the Counties context.

It is envisaged that it will increase transparency and allow for implementation of social and environmental responsibility. By so doing then the redistribution of costs and benefits at all levels will be addressed.

Ladies and Gentlemen

One of the main concerns behind the Convention on Biological Diversity (CBD) and one of its central objectives is the fair and equitable sharing of benefits. Indeed sustainable use is considered as a valuable tool; precisely due to social, cultural and economic benefits that people derive from thereof.

Ladies and Gentlemen

Fair and equitable benefit-sharing objectives hold that counties, farmers, and indigenous communities that grant access to their resources and/or traditional knowledge should share in the benefits that users derive from these resources.

Ladies and Gentlemen

While some progress has been achieved on negotiations related to access regulations and despite developments in deliberations in such forums, some stakeholders are found to be cautious to agree on measures related to benefit sharing.

Ladies and Gentlemen

Cooperation in benefit sharing can help to create a friendly environment that could lead to broader cooperation. To realize such cooperation needs an effective policy and regulatory framework, as well as supportive stakeholder initiatives.

Ladies and Gentlemen

Our need for Equitable Benefit Sharing law is compelled by the underlying causes such as lack of a comprehensive cost-benefit sharing policy and law in the light of changing circumstances; the need for constant monitoring by communities themselves who in turn incur costs and for that reason need to be compensated for their input; the need to share costs and benefit among all the relevant stakeholders; the need for public participation in the management of natural resources ; and the need to power devolution where the management of natural resources has to be devolved to the lowest possible level.

Ladies and Gentlemen

In simplistic terms, critics of the mechanism have pointed out that County Governments are not strong enough to defend their community's interest against powerful corporate interest driving market based projects on their land. They indicate that the proposed law presents a danger of customary rights violations in the interest of inward investment, and abusive contracts and land speculation to the detriment of community interests. They insist that without clear tenure and use rights, sustainable resource management will be impossible and the legislation may increase social conflicts.

To this, we thus stress the importance for binding agreements in assessing and negotiating benefit distribution under Mutually Agreed Terms (MAT).

Ladies and Gentlemen

There is strong need to analyze benefit sharing under two broad categories; benefit flow and benefit sharing.

The analysis of benefit flow should examine the role played by three key aspects of resource governance (i) property rights, (ii) permits and (iii) taxes or royalties as well as the resource endowment in shaping the scale and timing of benefit flow.

In benefit sharing analyses, it is important to focus on the influence of County governments and community conditions in mediating who gains.

Ladies and Gentlemen

In conclusion, the Council of Governors recommends a law that:

- complies with all the applicable laws and regulations;
- that's a product of a participatory and consultative process;
- provides for a comprehensive and open list to choose from possible monetary and non-monetary benefits;
- considers training, capacity building and technology transfer
- provides for appropriate monetary benefits strategies that hold stakeholders accountable;
- has interventions that are strategic and adaptive to changing circumstances or/and unforeseen situations;
- has rationale for enhancing sustainability and improving sustainable management practices; and
- ensures compliance with mutually agreed terms as well as factor in perennial complaints of the local communities.

Ladies and Gentlemen

I wish you all the best even as we make the best of this workshop. God bless you all.

Thank you.