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AGRICULTURE SECTOR FUNCTIONAL ANALYSIS: A POLICY, REGULATORY, AND LEGISLATIVE PERSPECTIVE

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INTRODUCTION

Agriculture remains the mainstay of the Kenyan economy, accounting for about 24 per cent of GDP and 74 per cent of employment (GoK, 2008). It is a key sector in the economic pillar of the Kenya Vision 2030. It is also a key sector whose functions have been devolved by the Constitution of Kenya, 2010. The sector has direct implications on at least two critical areas that the country has to address, namely food security and employment creation. This directly impacts the poverty incidence levels, the health of Kenyans and their general quality of life. It is thus paramount that the devolution in the sector is carried out in a way that it addresses the aforementioned challenges and do not excercabate them.

Prior to ushering in the devolved government on 4th March 2013, the agricultural sector has been managed in at least 10 separate sub-sectors namely crops (both industrial and food), horticulture, livestock, fisheries, land, water, cooperatives and marketing, environment and natural resources, regional development, and development of arid and semi arid land (ASAL). There have also been initiatives carried under disaster mitigation under Office of the President and Ministry of Special Programmes. This has also corresponded with the work of respective ministries, departments and Semi Autonomous Governments Agencies/State Corporations. This paints a complexity in transition in two ways. First is the merging that will take place at the national level (reducing the 42 ministries to the constitutional 22 maximum), and secondly is transferring of the functions identified for devolution to the county government. The administrative, political, economic and financial implications of this dual transition are not yet clear, and this could lead to major gaps in performance if roles and responsibilities are not clarified.

In this line, this brief discusses two urgent matters that are of great importance to the Agricultural Sector especially as relates to devolution. They relate to the overall policy and legal framework of the sector, and service delivery especially related to the myriad of state corporations that have hitherto been key to the sector's performance.

THE AGRICULTURAL SECTOR DEVELOPMENT STRATEGY (2010-2020) IN THE CONTEXT OF A DEVOLVED GOVERNMENT

The Agricultural Sector Development Strategy (ASDS) 2010-2020 is the overall national policy document for the agriculture sector ministries and stakeholders in Kenya. The document proposes policy and institutional changes necessary for a vibrant and productive agricultural sector. A major drawback of the policy is that it was developed before the Constitution was passed and therefore needs a re-aligning with the Constitution in as far as its implementation is concerned. For instance the ASDS had the districts as the implementation units with de-concentrated offices that take orders from above but now there are county governments with power to make own decisions. As shown in Table 1, the devolution process has greatly changed the operations in the sector especially in service delivery.

While the Constitution does clearly indicate which of the two governments will handle certain aspects in the sector, it does not indicate other areas which might then be considered as residual functions (see column three). But some are really not national functions such as regional development and development of Northern Kenya and Arid & Semi Arid Lands(ASAL).But it is in this that serious concerns arise, for instance will crop and animal husbandry include research, extension services, and recruiting of officers? Who sets the standard of service delivery and performance? What about marketing to internationals by a specific county? Do the crops here include industrial and horticulture as well or is it just food crops? What about inputs (machinery, seeds, fertilizer) provision? Who subsidizes the farmers, national or county government?

Table 1: Distribution of functions in Agricultural sector between national and county governments in 4th Schedule

National Government	County Government	Functions not assigned and not clear who will carry them out
• Agricultural Policy • Veterinary Policy (including regulation of the profession) **Related Sectors** • Protection of environment and natural resources including fishing, hunting and gathering, protection of animals	• Crop and animal husbandry • Livestock sale yards • County abattoirs • Plant and animal disease control • Veterinary services (excluding the regulation of the profession) • Animal control and welfare; and fisheries	• Regional Development • Development of Northern, Arid, and Semi Arid Lands • Animal and plant health inspectorate • Plant and animal research • Livestock extension programmes

and wildlife, water protection, securing sufficient residual water, and safety of dams.	**Related Sectors** • Trade development and regulation including markets, fair trading practices, and cooperative societies • Certain aspects of natural resources and environmental conservation including soil and water conservation, and forestry[1] • Water services including storm water conservation (damming, etc.)	

Source: Constitution of Kenya, 2010. Fourth Schedule.

In line with these devolved functions which need to be unbundled further there is need to establish the costs and ensure that sufficient resources are availed to both levels of government for smooth management of the sector. There is need to address human resource capacity in the sector. Also urgent is to establish where the residual roles will lie and the budgetary allocation necessary for their functioning. Table 2 shows the 2013 Budget Policy Statement (MoF, 2013) projections for the devolved functions in Agriculture and Rural Development. Taking cognizance that the areas devolved account for the bulk of the agriculture sector it is curious that the current and projected allocations do not exceed 30 percent.

Table 2: Cost of Devolved Agricultural Functions (Kshs. Billion)[2]

Year	2010/11 Actual	2011/2012 Actual	2012/2013 Budget	2013/2014 Ceiling	2014/2015 Ceiling	2015/2016 Ceiling
Agriculture devolved functions	10.5	11.2	9.8	14.9	15.7	16.5
Agriculture National	--	52,955	51,098	54,415	57,345	58,231
% devolved costs of all Agriculture	--	21.15	19.17	27.38	27.37	28.33

Source: Ministry of Finance, BPS, 2013 p. 44

Emerging policy issues for action

[1] These certain aspects are yet to be clarified.
[2] The costs were derived based on current spending by ministries (both GoK and donor funds) through their headquarters and district codes; current transfers to LATF aggregated by county; and current transfers to CDF aggregated by county.

- There is need to work with other stakeholders in reviewing and identifying the gaps in the ASDS especially on matters of devolution, resource allocation and transition. This should specifically address what the role of county governments is in facilitating agriculture to address economic development, employment and wealth creation, and food security
- Work with the Agriculture, Fisheries and Food Authority (the Authority) in integrating all sectors and institutions related to agriculture. This will include building its capacity and providing technical support to county and national governments in their new roles.
- Re-look at the residual functions that have not been allocated to either the national or county government. The authority should advise on the possible approaches, including offering advisories on who should take their roles and the necessary budgetary allocation.
- Revision of the ASDS should also factor in salient issues such as cooperation between counties on areas of comparative advantage given the trans-county nature of some of the production areas.

STATE CORPORATIONS IN THE AGRICULTURAL SECTOR IN THE CONTEXT OF A DEVOLVED GOVERNMENT

The agricultural sector has had several state corporations (state owned enterprises). Their work focuses on specific areas of the sector including regulation, policy, productivity, and marketing. Table 3 attempts to list some of the Agricultural state corporations by the broad division of functions between the national government as shown in Table 1 above. This exercise already brings to fore the challenge that will be faced where there is no clear division of roles. For instance, while the Agricultural Society of Kenya is charged with development of agriculture (a policy function) its work is actually to promote regional specific agricultural activities including through annual agricultural fairs. This latter role means its work falls squarely in the purview of the counties. Secondly with that comes the cost of the state corporations if they are to operate both at the national and county levels. There is therefore need to clearly allocate roles taking into account both efficiency and the requirements of devolution.

The available costs (shown in Table 3) of the respective corporations are only given for the headquarters and no indication of devolution is provided. Basing on an attempt to separate the state corporations based on schedule 4 of the constitution it emerges that the revenue and expenditure estimated would be Kshs. 87.5 Billion and Kshs. 22.1Billion towards county and national government agricultural functions respectively. This is a rough estimate but it does confirm that County governments will carry the load of service delivery in this sector. However as noted above the Agriculture, Fisheries and Food Authority is set to replace several of these state corporations including Coconut Development Authority; the Kenya Sugar Board; the Tea Board of Kenya; the Coffee Board of Kenya; the Horticultural Crops Development Authority; the Pyrethrum Board of Kenya; the Cotton Development Authority; the Sisal Board of Kenya; the Pests Control Products Board; and, the Kenya Plant Health Inspectorate Service. No mention is made of the fact that many of the functions these corporations have been carrying should actually be devolved rather than absorbed by the new national body i.e. the Authority. The functions of the Authority include:

(a) To administer the Crops Act and the Fisheries Act;
(b) To promote the best practices and regulate the production, processing, marketing, grading, storage, collection, transportation and warehousing of agricultural and aquatic products;
(c) To collect and collate data, determine research priorities; and,
(d) Advise the national and county government on agricultural and aquatic levies.

The Authority excludes mandates of the livestock sub-sector of agriculture and it is not clear which body will deal with matters of the same yet animal husbandry has been devolved to the county governments. A further mandate of the Authority is that of advising the Cabinet Secretary responsible for agriculture on how agricultural land is to be used by the various county governments. This is particularly important should the county governments have different plans on how to apply the land under their jurisdiction. On a positive side, it will be critical so as to ensure that the country achieves its targets of agriculture production.

The establishment of the Authority is laudable given its potential to reduce duplication of roles and the attendant costs that have been the case hitherto. However with the county governments already handling key aspects of agriculture, how do we reconcile its (Authority's) functions and those of the counties? Worth noting here is that some of the responsibilities given the nature of their coverage as shown in Table 3 are best devolved as opposed to being absorbed by a national entity. Further, it is not clear the extent to which the counties have an input in the work of the Authority or does it take a top down approach? It is not clear whether it will also inherit the budgetary load of the corporations being absorbed some of which had a revenue raising function? Or will the national government take that up fully? Or share the resources - financial and technical - with the county governments? Conflicts over control of corporations and regional development authorities are bound to emerge as has been reported lately. There is therefore need for a clear policy direction informed by the constitutional principles and capacity of counties.

What is not clear is how the new Authority will be structured. Will it only deal with the regulatory measures or also service delivery aspects as some of the corporations have been doing? For those matters devolved to county governments, will the Authority establish offices in each county? And how does county legislation and operations conflict or complement the work of the Authority and vice versa? The Act does not indicate the establishment of county agricultural boards and hence is likely to operate from a central office. Finally, with the Authority playing a coordinating role, will it also provide a basis for inter-county relations and conflict resolution mechanism on matters of Agriculture?

Table 3: Matching Agricultural Sector's State Corporations by Devolved Functions

Mandate relates to County function	Estimates of Revenue and Expenditure (2012/2013*)	Mandate relates to national function	Estimates of Revenue and Expenditure (2012/2013*)
Agricultural Finance Corporation (AFC) which is a government owned non-bank development financial institution. Rationale: Financing of agriculture is not a policy role and should fall under crop and animal husbandry	1,496,690,000	**Kenya Agricultural Research Institute (KARI)** which is a premier national institution bringing together research programmes in food crops, horticultural and industrial crops, livestock and range management, land and water management, and socio-economics. Rationale: Resulting research informs policy formulation. However at point of testing crops it falls under crop husbandry and may then fall under both national and county spheres	4,708,802,000
Pests Control Products Board to regulate the importation and exportation, manufacture, distribution and use of pest control products. Rationale: Pest Control falls under crop husbandry	173,885,000	**Kenya Plant Health Inspectorate Service (KEPHIS)** which is a regulatory agency for Quality Assurance on Agricultural inputs and produce in Kenya. Rationale: Regulatory is clearly a national function	871,725,000
Agriculture Society of Kenya (ASK) mandated with promotion of agricultural development. Rationale: Agriculture development is a county function especially the service		**Pyrethrum Board of Kenya** Serving international clientele of distributors, manufacturers and ultimate consumers of end-use products Rationale: Pyrethrum is produced under specific counties and as such the board is best under county	1,496,500,000

delivery end		governments	
National Cereals and Produce Board (NCPB) mandated procurement, management and marketing of grains and related enterprises Rationale: That it buys grains which is a core aspect of county government especially production and marketing.	4,7000,555,000	**Kenya Sugar Research Foundation** mandated for the development and dissemination of technology and information needed for increased productivity, profitability and sustainability of the sugar industry in Kenya. Rationale: Research is a national function especially on taking advantage of economies of scale of few large scale laboratories	740,755,000
Nyayo Tea Zones Development Corporation (NTZDC) mandated to enhance the conservation of forests and protection of the environment, to produce the internationally renowned Kenyan quality tea, to produce fuelwood that is essential in tea factories for tea processing, create jobs as well as revenue for the Kenyan government. Rationale: Its mandates are those of county including forestry, enhancing tea production and employment creation	958,134,000	**Kenya Seed Company** mandated to carry out focused research, promote and facilitate production of high yielding, better quality certified seed to farmers and stakeholders, to enhance food self sufficiency which is an indicator of the quality of peoples lives and a condition for sustainable economic prosperity Rationale: Research is a national function especially in ensuring support across all counties	4,335,815,000
Agricultural Development Corporation (ADC) charged with the promotion and execution of agricultural schemes, and reconstruction in Kenya by initiating, assisting or expansion of agricultural undertakings and enterprises. Rationale: Its mandate is what has already	2,188,977, 000	**Coffee Board of Kenya** mandated to promote competition in the coffee industry and regulate the coffee industry Rationale: Its work cuts across counties and thus would best remain a national responsibility	365,500,000

been devolved to counties			
South Nyanza Sugar Company (SONY) Ltd mandated with production and milling of white sugar and associated products. Rationale: Its functions fall within the devolved functions and also it falls within specific counties.	7,781,927,000	**Kenya Sugar Board c**harged with the responsibility of regulating, developing and promoting the Kenya Sugar Industry Rationale: Regulation is best a national function but there is a concern about the fact that the production end is a county responsibility.	810,827,000
Nzoia Sugar Company mandated with production and milling of white sugar and associated products Rationale: Its functions fall within the devolved functions and also it falls within specific counties	10,653,149,000	**Coffee Research Foundation** mandated to promote research into and investigate all problems relating to coffee and such other crop system of husbandry as are associated with coffee throughout Kenya including productivity, quality, value addition and suitability of land in relation to coffee planting and matters ancillary thereto. Rationale: Research is a best left as a national function unless where it falls within a specific county	678,982,000
Chemelil Sugar Company mandated with production and milling of white sugar Rationale: Its functions fall within the devolved functions and also it falls within specific counties	4,187,732,000	**Horticultural Crops Development Authority (HCDA)** mandated to facilitate the development, promotion, coordination and regulation of the horticultural industry in Kenya Rationale: Its regulatory role is best at national level. It however has lots to do with counties given that all production and marketing will be managed within specific counties	368,774,0000

Kenya Coconut Development Authority established to regulate the coconut industry in the country Rationale: Coconut is produced in specific counties and hence this is best absorbed by the county governments	103,000,000	**Tea Board of Kenya** mandated to regulate the tea industry and promote competition in the tea sub-sector. Rationale: Regulation is best a national government function due to economies of scale and enforcing common standards	460,442,000
Cotton Development Authority Rationale: Its functions are taken care of under counties which could establish a shared entity if need be	181,260,000	**Tea Research Foundation** mandated to promote research into and investigate all problems relating to tea and such other crops relating to tea production. Rationale: Research is a best a national function to ensure maximization of available resources	427,702,000
Agro-Chemical and Food Company Rationale: Its role in food production falls under animal and crop husbandry	1,857,300,000	**Bukura Agricultural College** Rationale: As a training institution it provides common standards and hence best retained as a national function	226,000,000
Muhoroni Sugar Company Rationale: Its functions fall under county roles in food production and it falls within specific counties	2,955,129,000	**Coffee Development Fund** Rationale: As a fund it is best retained at the national level where different counties can access its services	416,460,000
New Kenya Cooperative Creameries Ltd. Rationale: Its role in cooperatives and marketing of milk products renders it a county responsibility	11,698,428,000	**Kenya Sugar Development Fund** Rationale: Its role in research cuts across counties and is best retained as a national function	2,664,467,000

Sisal Board of Kenya Rationale: Its functions fall best under county responsibility in crop husbandry	25,001,000	**Sacco Societies Regulation Authority** Rationale: Its regulatory role is a national function as it cuts across all counties	269,244,000
Total	**87,575,500,000**	**Total**	**22,160,961,000**

Source: Annex of Estimates of Revenue and Expenditure of State Corporations for the year ending 30 June 2013

Emerging policy issues for action

- The Authority shall provide direction in the inter-governmental/agency relations between the National and county Government and the SAGAs (including Regional Development Authorities) involved in the sector. What shape will this direction have? Will county governments have a space to raise their own concerns or is it top-down?
- Re-allocation of funding should reflect the shared responsibilities between the national, county and the Authority. As far as the Authority is concerned, its capacity to carry out the roles of the former institutions and promote all the sub-sectors in agriculture should be a critical focus.
- There is need for a review of the Act by Parliament so as better rationalize and seek to establish the necessary structures at both the national and county government through which the Authority will operate. This should be with clear delineation of who does what. This should by and large be regulative on the part of the authority, service delivery on the part of the county and policy making on the part of the national government
- Parliament should make provisions that provide direction in the harmonization of the regulatory framework and build the capacity of the Authority.
- Transition Authority to advise the Cabinet Secretary in charge of Agriculture and the Authority on how assets and liabilities of the corporations absorbed into the authority that relate to national and county government functions are to be transferred.

CONCLUSION

The role of agriculture in the economy of Kenya is great and hence devolution of the sector is of concern. This brief underscores the critical aspects that need to be reflected on much more in the effort to do an effective functional analysis. It underscores the need to review the Agricultural Sector Delivery Strategy and to clearly define the role of the Agriculture, Fisheries and Food Authority. The latter was enacted early in 2013 but seems to have re-centralized some of the powers already devolved under the Constitution of Kenya. This has the potential of undermining the very provisions that Kenyans anticipate from their county. Clarity of roles also has implications on the human resource allocations to each level of government. The bottom line is that Kenyans deserve an effective and seamless transition in service delivery. It is hoped that with clarity of roles, setbacks in service delivery that would affect the sector's progress would be avoided or at least minimized.

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