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## **Tegemeo Institute of Agricultural Policy & Development, Egerton University, Kenya**

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Working paper 20/2005

### **Background Document On Umbrella Legislation For Kenyan Agriculture**

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## Table of Contents

List of Tables .....	i
Introduction.....	1
Introduction.....	1
Workplan So Far .....	1
Way Forward .....	2
Historical Background .....	3
Exercise of colonial power 1900-1955 .....	3
Swynnerton Plan .....	3
Independence .....	3
1980's – 1990's.....	3
Enter NARC.....	4
Recent Work In The Area .....	4
Kodhek .....	4
Ministry of Agriculture and Livestock Draft Strategic Plan.....	5
Pearson, 2004 .....	5
Spooner, 2004 .....	6
What New Work Has Been By Parliamentary Committee and Tegemeo .....	12
Work Still To be Done.....	12
Time Line Of Activities So Far .....	12
The Proposal .....	13
Benefits from Consolidating into 3 (6) main Institutions: .....	13
The Legislative Menu .....	15
Umbrella I.....	15
Umbrella II.....	16
Umbrella III .....	16
Repeal .....	17
Amendment.....	17
Questions Raised So Far. ....	18

## List of Tables

Table 1: Overview of the Process .....	5
Table 2: Results from the Application of the Decision Framework for Agricultural Parastatals ( <i>Spooner</i> ) .....	9

## **Introduction**

Kenya's agricultural sector is governed by over 130 pieces of legislation. Many of these are out of date with the current economic thinking and are in need of updating, amendment, and repeal.

The traditional pace and method of updating legislation has been extremely slow with only 3 pieces of directly agricultural legislation passing through parliament in the last 4 years. At that pace the legislative review could take upwards of a century. The tragedy is that even those pieces that have gone through parliament have not been fully implemented due to flaws in the new bills, sections that are impossible to implement, and resistance from various quarters.

The situation is further compounded by the large number of commodity specific pieces of legislation in the pipeline, some of which have been in that pipeline for more than a decade.

Government has responded to this situation with a pragmatic decision to consolidate agricultural legislation under one (or a few) pieces of umbrella legislation. This commitment is first hinted at in the PRSP, stated in the ERSWEC and expounded on in the SRA. Government has since suggested that assistance to move the process forward would be appreciated.

Parliament has indicated a desire to have the process well advanced by October 2004, and completed by March 2005. The intention is to have any budgetary implications included in the 2005-6 budget that will be being prepared at that time.

### **Workplan So Far**

The exercise so far has focused on redefining the role of government in a competitive, fast changing and private sector driven agricultural sector. The policies that will be involved include those stated in the ERS and SRA – government as a facilitator with roles limited to the enabling environment, government and public agencies exiting from commercial activities, redefining the roles and functions of the line ministries, parastatal reform and reform of the regulatory environment and agencies

*Research Component* has involved taking an inventory of the current agricultural laws. Work was done to examine the genesis and reasons for the laws being passed in the first place. Historical stakeholder analysis and stakeholder analysis of the present still needs to be undertaken to identify winners, losers, potential champions and resisters.

The laws and their sections and components were catalogued and analyzed with respect to need, relevance, applicability, out of date, inconsistencies, redundancies, infringement on basic rights, enforceability, relevance of sanctions etc.

Output is a draft concept of modalities and options for organizing the unified legislation. An initial proposal has already been presented to ALNR Committee.

*Proposals Component* The analysis in the research component will lead to a proposal for review, updating, repeal and consolidation of legal statutes in the sector.

Initial proposals were first presented to the committee on October 25<sup>th</sup>.

**This is where we have reached to date.** Parliamentary committee asked for:

- Copies of all affected legislation
- Information on countries that have undertaken similar exercises
- Benefits generated in those countries from the exercise
- That the Executive Branch of Government be approached to spearhead the process

### **Way Forward**

Consultation Component The proposals need to be subjected to review and input from affected stakeholders, inside and outside of government. This can be undertaken commodity by commodity, and geographical area by geographical area. Stakeholders will include producers, traders, processors, regulators, parastatals, ministry departments, legislators etc. Consultation with officers in various arms of government will be an important part of this process.

The Parliamentary Committee on Agriculture, Lands and Natural Resources will be a major stakeholder in the process. The main stakeholders within the executive branch of government will be the line ministries of Agriculture, Livestock and Fisheries Development, Cooperatives and Marketing, and Regional Development. Individual commodity organizations, parastatals, and farmers also will be important stakeholders

Preparation of Draft Sessional Paper would be the next priority activity.

Drafting Component Depending on the input received from consultations, the process can move on to engaging with legislative drafters, the parliamentary committee and the Law Reform Commission to prepare umbrella legislation. That draft legislation would need to be subjected to a second, more focused, round of stakeholder consultation.

Consultation and buy in from the line ministries and Ministers affected will be critical at all stages. It is anticipated that if the idea of consolidation of legislation is endorsed at this level, than the process of writing a Cabinet Memo, and a Sessional Paper would need to be initiated.

- 2005 Present draft sessional paper and bill to stakeholders, and committee

Presentation and Lobbying Late 2006: Target for First reading of Bill/bills  
Late 2006 Target Second and Third Reading and passage

Budgetary Implications: Early 2006, and 2007. Proposals and principles reflected in budgetary process.

## Historical Background

Why do we have so many pieces of Legislation

### Exercise of colonial power 1900-1955

- Control of crop and livestock production and marketing
- =>rules, licensing, control crop and livestock numbers/cropping patterns
- designate beneficiaries of government resources + allow for collection of cess
- designate monopoly marketers/areas/forms/grade and standards
- Control/exclude African . Licensing. (e.g. tea, coffee)
- Specify all that could/or could not be done. And can be done against your will, but at your cost - terracing, cattle dipping, vaccination, weeding
- Create crimes + sanctions.
- System of police state (including Agricultural officers) – stop, examine, enter, seize, and associated costs

### Swynnerton Plan

Agitation for better conditions for Africans, pro development, anti Mau Mau,

- Land consolidation and adjudication. Issuance of title
- Terracing
- Allow growing of certain commodities, through co-ops

### Agriculture Act

Declaration of essential produce, fixed and guaranteed prices, control of production and marketing, establish agricultural committees and boards, rules to preserve soil fertility and control land development, appoint agents, compulsory acquisition, GMR, guarantees to AFC,

### Independence

Opportunity + risk. No African private sector, anti Asian, therefore keep marketing parastatals + restrictions and controls on private competition. Transfer benefits to new rulers and their allies/cronies. Good jobs.

### 1980's – 1990's

decline, centralization of control State Corporations Act.

Sessional Paper # 1, 1986.

Incomplete Structural Adjustment

Decontrol of everything.

Domestic political imperatives vs donor pressure nb cereals sector reform and reversal

Donors disengage

Sectors failing – maize, coffee, sugar, cotton, pyrethrum, dairy, cashew etc.

Decline in services – agricultural extension, research, AI, veterinary, AFC, etc

but high public expenditure, primarily wages.

Liberalization: who wanted it ?? and was it ever actually completed.

Decade wasted. Sector after sector has declined as an out of date legal framework, ownership and governance structure met the economic realities of the end of the 20<sup>th</sup> century... examples

**Enter NARC**

ERS – role of the state 3 productive sectors. Agriculture.

*Strategic interventions identified within agriculture include legislative and regulatory reform, reform of agricultural extension, improved access to financial services, reviving livestock marketing and interventions to improve the fishing industry and to protect forests.*

The SRA also recognizes the problem of low productivity and the extension, research and economic and financing dimensions of the problem. *SRA also commits to legislative review, sector coordination and coordination across agriculture and rural related ministries, an apex stakeholder forum and new institutional structures in agricultural extension and research*

**Recent Work In The Area****Kodhek**

*The government's approach to liberalization.*

The table below gives some overview of the government's thinking behind the legislation that has already been passed for tea, coffee and sugar and that proposed for dairy, cotton and horticulture. In all cases it can be seen that the new bodies are to inherit the obligations and staff of the bodies that preceded them. This means that they

- Undertake too many functions
- Cannot fully escape the governments desire to control

Licensing procedures are a case in point. While there is movement away from licensing every actor - growers, processors and marketers- the postcolonial hangover remains. The Coffee Act<sup>1</sup>, and the Sugar Act<sup>2</sup> talk of issuing a license if the applicant is a 'fit and proper person' (whatever that may be and supposedly 'fitness' and 'properness' are not permanent states and can change from year to year) and is 'knowledgeable, experienced and has capacity or employs such a person'. This is a subjective criterion and subject to change at the discretion of those empowered to issue the licenses. If one employee leaves the license can be withdrawn? These types of provisions do little to attract private investment into the industry, and open the door to corruption and influencing peddling. Reasons can be created that force a potential operator to bribe board officials, or even the minister who, in every case, has final authority.

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<sup>1</sup> Section 20

<sup>2</sup> Section 15

**Table 1: Overview of the Process**

Old Role	New Role	Tea	Cof fee	Sugar	Dairy	Cot ton	Hortic ulture
Licensing producers	Registering producers for statistical purposes	√	√	√	√		
Planting material	Planting material	√	√	√	√	√	√
Extension services	Extension services	√	√	√	√	√	√
Research	Research	√	√	√	√	√	
Licensing processors	Registering processors	√	√	√	√	√	√?
Licence marketers	Register marketers	√	√		√	√	√?
Set/collect/use cess/levy	Set/collect/use cess/levy	√	√	√	√	√	√
Promotion	Promotion	√	√	√	√		√
State Corporations Act	Exemption from State Corporations Act	√	√		√		
Paternalism toward small-scale producers	Small-scale producers organization	√	√	√		?	√
Post-farm Association	Post-farm Association	√	√	√		?	
Set post-farm fees and charges	Set post-farm fees and charges	√	√	√			√
Training	Training	√	√	√	√		√
	Inherit old staff and obligations	√	√	√	√	?	√

Note: √ applies to the relevant sub-sector

### Ministry of Agriculture and Livestock Draft Strategic Plan

(October 2003) states “*The Legislative Programme* Empowering the private sector, including farmers, to undertake business should be the underlying purpose of laws and regulations. This does not imply government withdrawal but merely a change of role. Issues of safety, quality control and standards as well as ensuring efficient arbitration of disputes remain critical roles of the government.

Government will consolidate its remaining functions in a narrower set of legislation. Amendment of the Agriculture Act (Cap 318) giving recognition to an industry stakeholder board, and giving the minister powers to make orders for the better functioning of an agricultural sector will clear a large portion of the legislative backlog. That amendment will also repeal a large number of existing laws, many of which are out of date, redundant, or not enforced.

In general, the review of the laws will follow certain principles. Harmonization of policies to ensure consistency and avoid conflicts and contradictions is important. While laws should be clear and unequivocal, they must allow sufficient flexibility to accommodate the fast changing global business environment without frequent recourse to Parliament.”

#### Pearson, 2004

“The government’s regulatory role should be limited to maintaining safety, quality control, and international standards and to ensuring efficient arbitration of disputes. Stakeholders and officials of regulating agencies together should determine the optimal degree of self-regulation and the residual regulatory functions that are best undertaken by government. The appropriate role for ministerial provision of public goods and services to agriculture also requires careful review by private-public partnerships. The government thus needs to assemble a team with a mandate to



review, harmonize, and propose a manageable list of amendments to agriculture-related laws within the next twelve months. The goal should be to have a new Agriculture Revitalization Act in place by the close of 2005.”

#### **Spooner, 2004**

“The starting point for reform is the development and application of a decision framework that can be applied to each individual parastatal. Each parastatal has been reviewed in terms of the decision tree set out in Figure 1, which provides for four reform options –

- Abolish,
- Privatised,
- Retain the parastatal but focus on increased efficiency, and
- Private sector delivery mechanisms (e.g., sub-contracting, partnership, or regulation).

The key question is whether the state has a clear responsibility for ensuring access to the good or service provided by the parastatal. This will depend on whether the good or service

- Is a public good,
- Is a regulatory service, or
- Will not be provided to poor, remote, or other vulnerable groups without government intervention.

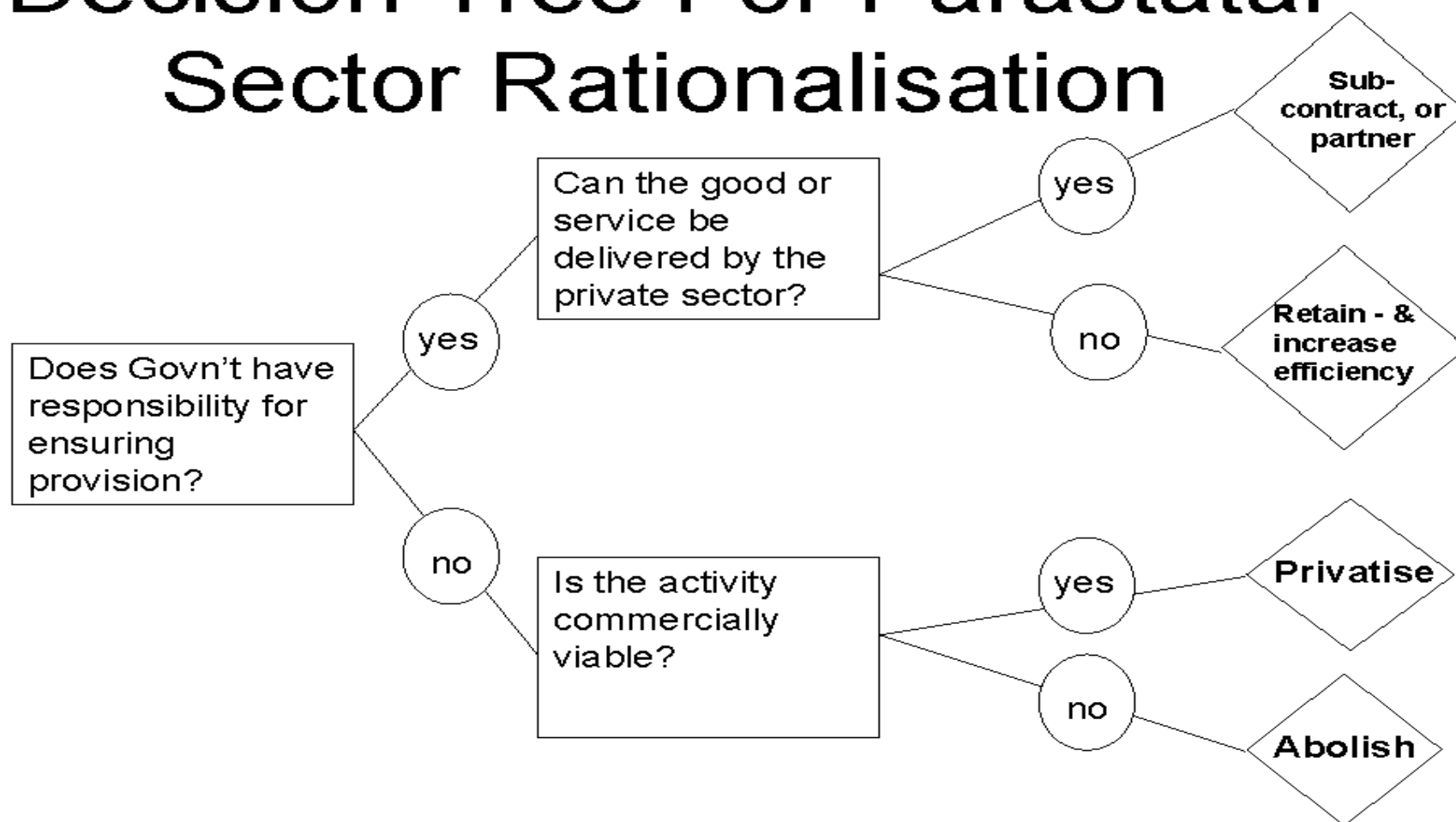
Emphasis is given to “responsibility to ensure access” because there may be various options for the actual delivery of the good or service.

If a convincing case cannot be made for state responsibility, the next driver in the decision-making process is the commercial viability of the parastatal activity. If the activity is not viable, the parastatal should be abolished and its assets liquidated. If there is not a good reason for state involvement but the parastatal activity is commercially viable, the parastatal should be privatised.

If the public sector does have responsibility for ensuring access to the good or service provided by the parastatal, the next driver in the decision-making process is whether this activity could be delivered by the private sector. If so, various options exist, including contracting out the service to a private provider, providing a partnership, or privatizing the activity within a regulatory or conditional framework. If the private sector cannot deliver the good or service, the parastatal should be retained. But if this option is selected, focus should be given to improving the efficiency of the parastatal activities through performance agreements and incentive programs that replicate commercial conditions for management.”

*Spooner Matrix Table 2 below developed through visits to organizations and some Tegemeo input. All have already been presented to previous PS's of Agriculture and Livestock*

# Decision Tree For Parastatal Sector Rationalisation



**Table 2: Results from the Application of the Decision Framework for Agricultural Parastatals (Spooner)**

Parastatal	Action	Impact	Knowledge Gaps	Short and medium term priorities	
				Year 1	Years 2 and 3
CBK	<ul style="list-style-type: none"> <li>Abolish</li> </ul>	<ul style="list-style-type: none"> <li>Improved rural livelihoods</li> <li>Emergence of multi-channel marketing</li> <li>Association and self regulation</li> <li>Reduced fiscal commitment from government</li> </ul>	<ul style="list-style-type: none"> <li>Rural impact</li> </ul>	<ul style="list-style-type: none"> <li>Retain CBK only to register traders; all other regulation discontinued</li> <li>Remove all restrictions on marketing</li> <li>Support industry association and self-regulation</li> <li>Support traders</li> <li>Support rural infrastructure development</li> <li>Support co-operative reform and development of individual groups</li> </ul>	<ul style="list-style-type: none"> <li>Abolish CBK</li> <li>Repeal Act</li> <li>Liquidate assets</li> <li>Support traders</li> <li>Support rural infrastructure</li> <li>Support co-operative reform and development of independent producer groups</li> </ul>
HCDA	<ul style="list-style-type: none"> <li>Retain market development role</li> <li>Privatise assets</li> <li>Abolish direct trading activities</li> </ul>	<ul style="list-style-type: none"> <li>Reduced fiscal commitment from government</li> <li>Improved industry support from private association</li> </ul>	<ul style="list-style-type: none"> <li>Asset value</li> </ul>	<ul style="list-style-type: none"> <li>Restructuring study (focusing on debt and asset disposal)</li> <li>Discontinue regulation</li> <li>Support private traders</li> <li>Support producer groups</li> <li>Support industry association</li> </ul>	<ul style="list-style-type: none"> <li>Privatise assets</li> </ul>

Parastatal	Action	Impact	Knowledge Gaps	Short and medium term priorities	
				Year 1	Years 2 and 3
KDB	<ul style="list-style-type: none"> <li>Privatise</li> </ul>	<ul style="list-style-type: none"> <li>Reduced fiscal commitments from government</li> <li>Improved industry support from private association</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>Migrate KDB to industry association</li> </ul>	<ul style="list-style-type: none"> <li>Support industry association</li> </ul>
KMC	<ul style="list-style-type: none"> <li>Abolish</li> </ul>	<ul style="list-style-type: none"> <li>Reduced fiscal commitment from government</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>Liquidate assets</li> <li>Debt restructuring</li> <li>Develop producers groups and industry association</li> <li>Support the development and hand-over of rural infrastructure on key driving routes</li> </ul>	<ul style="list-style-type: none"> <li>Support the development and hand-over of rural infrastructure on key driving routes</li> </ul>
KEPHIS	<ul style="list-style-type: none"> <li>Retain with limited regulatory functions</li> <li>Private-public partnership</li> </ul>	<ul style="list-style-type: none"> <li>Increased investment</li> <li>Improved market access to appropriate seeds</li> <li>Improved rural livelihoods</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>Remove all regulatory functions other than truth-in-labelling inspection</li> <li>Develop KEPHIS-industry partnerships</li> <li>Support industry associations</li> <li>Support traders</li> </ul>	<ul style="list-style-type: none"> <li>Support industry association</li> <li>Support traders</li> </ul>

Parastatal	Action	Impact	Knowledge Gaps	Short and medium term priorities	
				Year 1	Years 2 and 3
NCPB	<ul style="list-style-type: none"> <li>Retain strategic reserve and famine related activities</li> <li>Introduce sub-contracting</li> <li>Privatise commercial functions</li> </ul>	<ul style="list-style-type: none"> <li>Reduced market distortion</li> <li>Increased investment</li> <li>Improved rural livelihoods</li> <li>Reduced staffing and asset requirements</li> <li>Reduced fiscal commitment from government</li> </ul>	<ul style="list-style-type: none"> <li>Asset value</li> <li>Capacity of the private sector to expand activities</li> </ul>	<ul style="list-style-type: none"> <li>Privatise commercial functions</li> <li>Build capacity for sub-contracting</li> <li>Support private traders</li> <li>Support rural infrastructure</li> </ul> <p>Support industry associations and farmers groups</p>	<ul style="list-style-type: none"> <li>NCPB becomes sub-contracting agency for strategic and famine activities</li> <li>Leases remaining strategic assets</li> </ul>
PCPB	<ul style="list-style-type: none"> <li>Retain but reduce regulatory burden</li> </ul>	<ul style="list-style-type: none"> <li>Improved market access to pest control products</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>Streamline regulatory functions</li> <li>Continue to develop PCPB-industry partnerships</li> <li>Support private traders</li> </ul>	<ul style="list-style-type: none"> <li>Possible merger into a single regulatory agency</li> </ul>
PBK	<ul style="list-style-type: none"> <li>Privatise</li> </ul>	<ul style="list-style-type: none"> <li>Improved rural livelihoods</li> <li>Increased investment</li> <li>Association and self regulation</li> <li>Reduced fiscal burden / commitment on GOK</li> </ul>	<ul style="list-style-type: none"> <li>Potential investors</li> <li>Asset value</li> <li>Rural impact</li> </ul>	<ul style="list-style-type: none"> <li>Restructuring study (focusing on debt)</li> <li>Identify strategic investor</li> <li>Discontinue regulation</li> </ul>	<ul style="list-style-type: none"> <li>Privatise</li> <li>Repeal Act</li> </ul>
KSB	<ul style="list-style-type: none"> <li>Privatise</li> </ul>	<ul style="list-style-type: none"> <li>Reduced fiscal commitment from government</li> </ul>	Can the industry become commercially viable?	<ul style="list-style-type: none"> <li>KSB continues to support industry restructuring</li> </ul>	<ul style="list-style-type: none"> <li>Migrate KSB to industry association to manage quotas (could take more than 3 years)</li> <li>Repeal Act</li> </ul>

***Food for Thought.***

Do we buy the approach above for the parastatal portion ?

Within parastatals issues are **regulation**, on the one hand, vs **development and promotion**, vs **commercial** activities.

Most undertake a mixture of these functions.

Note that

Parastatals related laws are perhaps only 20 of the 100 or so pieces to be dealt with.

**What New Work Has Been By Parliamentary Committee and Tegemeo**

1. Read and summarized all the 100+ pieces of legislation. Into a 63 page document.
2. Identify and evaluate key provisions in each
3. Make a case for either/any of the following actions for the stated reason:

Action Menu	Reasons Menu
Repeal	Outdated
Amend	Unenforceable
Keep	Conflicts with basic constitutional rights
Move to rules/Subsidiary legislation	Covered adequately elsewhere
	Likely to require frequent parliamentary input
<b>Work Still To be Done</b>	
Stakeholder analysis of outcomes – winners and losers, champions and resisters	
<ul style="list-style-type: none"> <li>• Benefits Analysis.</li> <li>• Financial and staffing implications</li> <li>• Analysis of Gaps created</li> <li>• Re-verify proposals from Stage 1.</li> <li>• Identify and lay out alternative options to above proposals</li> <li>• Draft functions, staffing, funding of any new bodies</li> </ul>	

**Time Line Of Activities So Far**

<b>July 15-19</b>	Mombasa Retreat for Parliamentary Committee on Agriculture, Lands and Natural Resources
<b>3<sup>rd</sup> August</b>	Follow up meeting with committee on way forward.
<b>September 30<sup>th</sup></b>	Met Committee to update on progress. Planned for full meeting in October
<b>October 25<sup>th</sup></b>	Meeting to Present Draft Concept and hear reactions/input/advice from committee
<b>December 7<sup>th</sup></b>	Meeting between Ministry and Parliamentary Committee
<b>December 14</b>	Proposals Presented to Ministries, Committee and select invitees

## The Proposal

We have been able to come to a tentative vision of what the outcome may be.

Under an new Agriculture Act:

- Repeal a large number of petty/nuisance/outdated legislation
- Capture what needs to be retained. See if covered elsewhere.
- Create **Agricultural Development Board**
- Create **Agriculture and Livestock Regulatory Board**
- Expand KEPHIS into **Kenya Animal and Plant Health Promotion Service**
- Assign roles orphaned but still needed that was covered in repealed legislation.
- Assign key roles in each commodity.

### **Benefits from Consolidating into 3 (6) main Institutions:**

- Reduced service line departments e.g. board, human resources, accounts,
- *Managers and departments for commodities rather than MD's and full parastatals. Potential savings from this need to be documented but can be expected to be quite large given the few examples we are familiar with.*

NB efficiency will come with retrenchment in specific organizations, but should lead to increased employment overall in the sector including in more streamlined industry associations.

- Place **representatives of stakeholder institutions** on boards + relevant services e.g. banking and finance, legal, agriculture technical, international trade

And **leave the minister power to make rules** for commodities in consultation with those boards.

**Need to strengthen stakeholder institutions.** These will need to take up much of the work formerly undertaken by the parastatals. E.g. a Kenya Sugar Association, Coffee Industry Association etc. The details of how these institutions turn out should be left to the dynamism of the leaders – with help from ministries and other supporters. The details do not need to be codified in legislation but do need to be thought through e.g. what type of capacity building, interim financial support

*Question of whether agriculture and Livestock should each have their OWN separate institution for each function. May be politically more palatable, but reduces the potential cost savings. That decision is not ours to make.*

### The Proposal

The Proposal						
Livestock	16	<i>Animal Health</i>	Cap 366	Veterinary Surgeons Act	Amend	
			Cap 364	The Animal Diseases Act	Update, Umbrella III	
			Cap 358	The Cattle Cleansing Act	Repeal	
			Cap 365	The Rabies Act	Merge, Umbrella III	
			Cap 360	Prevention of Cruelty to Animal Act	OK	
		<i>Stock</i>	Cap 357	The Branding of Stock Act	Update	
			Cap 498	Stock Traders and Licensing Act	Repeal	
			Cap 355	Stock and Produce Theft Act	Repeal	
		<i>Hides</i>	Cap 359	Hides, Skins and Leather Trade Act	Repeal	
		<i>Meat</i>	Cap 356	The Meat Control Act		
			Cap 363	The Kenya Meat Commission Act	Repeal	
		<i>Dairy</i>	Cap 336	The Dairy Industry Act	Repeal	
		<i>Pig</i>	Cap 362	Uplands Bacon Factory Act	Repeal	
			Cap 361	The Pig Industry Act	Repeal	
		<i>Fish</i>	Cap 378	The Fisheries Act		
			Cap 371	The Maritime Zones Act		
Crop	24	<i>Industrial Crops</i>	Cap	The Sugar Act	Umbrella I, II	
			10	Cap 333	The Coffee Act	Umbrella I, II
			Cap 343	The Tea Act	Umbrella I, II	
			Cap 340	The Pyrethrum Act	Umbrella I	
			Cap 335	The Cotton Act	Umbrella I, II	
			Cap 328	The Canning Crops Act	Repeal	
			Cap 341	The Sisal Industry Act	Repeal	
			Cap 332	The Coconut Preservation Act	Repeal	
			Cap 331	The Coconut Industry Act	Repeal	
			Cap 328	National Cereals and Produce Board Act	Amend (?)	
General	4	<i>General</i>	Cap 321	The Crop Production and Livestock Act	Repeal, Umbrella I	
			Cap 320	The Agricultural Produce and Marketing Act	Repeal	
			Cap 319	Agricultural Crop (Export) Act	Repeal, Umbrella I	
			Cap 318	The Agriculture Act	Umbrella I, amend	
			Cap 324	Plant Protection Act	Merge + Cap 346	
		<i>Crop Regulation</i>	Cap 325	The Suppression of Noxious Weeds Act	Repeal, subsume 346	
			Cap 326	The Seeds and Plant Varieties Act	Amend	
			Cap 327	The Grass Fires Act	Repeal	
			Cap 345	The Fertilizer and Animal Foodstuffs Act	Umbrella II	
		<i>Input Regulation</i>	Cap 346	The Pest Control Products Act	Umbrella II	
			Cap 329	The Cereals And Sugar Finance Corporation Act	Repeal	
		<i>Finance</i>	Cap 323	The Agricultural Finance Corporation Act	Repeal, Umbrella I	
			Cap 347	The Irrigation Act	Umbrella I	
		<i>Misc</i>	Cap	Bukura Agricultural College Act	Umbrella I	



## The Legislative Menu

### Umbrella I

This would set up an **Agricultural Development Board**. This organization would take over the developmental functions of parastatals that are still felt to be needed, or where the industry is not yet organized enough to take over critical functions for itself. One of the functions of the board will be to put itself out of business by building industries own capacity to undertake developmental roles for themselves. Development functions can include funding for research, marketing, facilitating financial services, policy dialogue with government, foreign countries, links with diplomatic missions, etc

#### *Merge and/or Subsume in Subsidiary legislation setting up Agricultural Development Board*

1	No. 10, 2001	The Sugar Act	Umbrella I for development and promotion functions
2	No 9, 2001	The Coffee Act	Umbrella I “
3	Cap 343	The Tea Act	Umbrella I “
4	Cap 340	The Pyrethrum Act	Umbrella I “
5	Cap 335	The Cotton Act	Umbrella I “
6	Cap 321	The Crop Production and Livestock Act	Repeal most, Umbrella I for residual useful functions
7	Cap 319	Agricultural Crop (Export) Act	Repeal most, Umbrella I for residual useful functions e.g. development of export markets where standards are important.
8	Cap 318	The Agriculture Act	Maintain provisions that provide a legislative platform for government assistance to agricultural producers
9	Cap 347	The Irrigation Act	NIB. NB moved to Ministry of Water.
10	No. 2, 2002	Bukura Agricultural College Act	Subsidiary Legislation adequate

CAP 318 could form the basis of the Umbrella I. Amendment of CAP 318 could provide for this board, to replace the non-existent and no longer needed National, Provincial and District Agricultural Boards.

ADB could also become the government agricultural extension agency, linking with, or even contracting alternative providers if the reform of extension were to move in that direction, as foreseen under KAPP.

## Umbrella II

**Agriculture and Livestock Regulatory Board.** In a number of industries there will continue to be need for public regulation against non-biological issues. While self regulatory mechanisms are preferred, government needs to maintain some backstopping regulatory functions, dispute resolution, public good type of roles backed by the force of law. Applicable to the regulatory functions of the crop parastatals. Collected together in one organization. Powers to collect cess, powers to enforce grades, measures etc, arrangements for marketing coffee, tea, sugar, interphase with National Environmental Management Act. Roles under this act are mainly for government and can be expected to be permanent.

## Umbrella III

**Animal and Plant Health Promotion Act.** Under this act there can be rationalization of the expanding roles of KEPHIS, (or preferably KEAPHIS). The Plant Protection Act, The Seeds and Plant Varieties Act, and the Pest Control Products Act, and the Fertilizer and Animal Foodstuffs Act would be subsumed into a single act covering regulatory issues of a biological hazard nature.

Cap 364	The Animal Diseases Act	Update, Umbrella III
Cap 365	The Rabies Act	Umbrella III, subsidiary legislation
Cap 360	Prevention of Cruelty to Animal Act	Umbrella III, subsidiary legislation
Cap 324	Plant Protection Act	Merge + Cap 346
Cap 326	The Seeds and Plant Varieties Act	Amend
Cap 345	The Fertilizer and Animal Foodstuffs Act	Umbrella III
Cap 346	The Pest Control Products Act	Umbrella III

## Repeal

1	Cap 358	The Cattle Cleansing Act	Repeal
2	Cap 498	Stock Traders and Licensing Act	Repeal
3	Cap 355	Stock and Produce Theft Act	Repeal
4	Cap 359	Hides, Skins and Leather Trade Act	Repeal
5	Cap 356	The Meat Control Act	
6	Cap 363	The Kenya Meat Commission Act	Repeal
7	Cap 336	The Dairy Industry Act	Repeal
8	Cap 362	Uplands Bacon Factory Act	Repeal
9	Cap 361	The Pig Industry Act	Repeal
10	Cap 328	The Canning Crops Act	Repeal
11	Cap 341	The Sisal Industry Act	Repeal
12	Cap 332	The Coconut Preservation Act	Repeal
13	Cap 331	The Coconut Industry Act	Repeal
14	Cap 327	The Grass Fires Act	Repeal

## Amendment

Cap 366	Veterinary Surgeons Act	Repeal Section 3,4. Allow less than degree holders to practice, caveat emptor + grades of certification/trainers
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**Questions Raised So Far.**

1. Document the benefits of this proposal
2. Tell of countries, preferably at our level of development who have done this kind of thing.
3. How much would implementing this cost for consultation, programming and execution, developing exit and privatization plans, and funding staff rightsizing?
4. Suggest that private sector, particularly professional bodies e.g. vets, industry associations etc be brought on board as soon as possible. They are best able to define the self-regulatory mechanisms and rules that will help their sector.
5. Are we convinced that the philosophy of deregulation, liberalization and privatization is good for Kenya and has more benefits than costs.
6. Is the government – at its various levels – convinced? Committed? Willing to lead.
7. Who SHOULD be the champion? Are they (he) willing, Convinced. ? What level of Government – PS Head of Civil Service, Ministers, President.
8. What if government stalls?
9. Is the March/April timeline at all possible?
10. Why not deal with related legislation e.g. State Corporations Act, NEMA, Lands etc.
11. Kenyan experience of Framework Laws with procedures for making rules, vs detailed laws.
12. Self-regulation for disorganized sectors. May be easy for export horticulture, but what about others