

Modalities of Developing Umbrella Legislation in Kenya's Agricultural Sector

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Tegemeo has been involved with the Parliamentary Committee on Agriculture, Land and Natural Resources and the Ministries of Agriculture, and Livestock and Fisheries Development and the Ministry of Cooperatives Development and Marketing in a review of agricultural legislation. Government has for a number of years mentioned the need to harmonize the over 100 pieces of legislation governing the sector. Tegemeo has provided technical input into that process whose findings and recommendations are the subject of this paper.

The paper reviews the history of legislative and policy phases in the agricultural sector. The colonial period, the post Swynnerton Plan period, the immediate post independence period, liberalization and structural adjustment periods and the current period characterized by globalization are identified. For many of these eras the policy orientation was codified in the form of laws. Recently however, the process of legislative change has not kept up with changes in policy. As a result, the sector is governed by legislation that is unenforceable, outdated, in violation of human rights and out of sync with the current policy environment. A review of the bulk of agricultural specific legislation was undertaken to suggest how Kenya could make up the lost ground given the crowded parliamentary calendar.

The paper takes the philosophical underpinnings of the Economic Recovery Strategy for Wealth and Employment Creation and the Strategy for the Revitalization of Agriculture to suggest that much of the legislative ground that needs to be covered can be done through Umbrella Legislation. 3 pieces of umbrella legislation are suggested creating 3 government bodies

- Agricultural Development Board, a transitory agency to take care of transitory development functions that stakeholder owned institutions may not yet be ready to handle such as grades and standards, finance, policy and marketing
- An Agriculture and Livestock Regulatory Board to undertake permanent government roles protecting against non-biological threats such as conflict/dispute resolution, grades and standards, environmental issues
- An Animal and Plant Health Promotion Act an Animal and Plant Health Inspection Service that would be a competent authority ensuring domestic and foreign markets of the wholesomeness of produce and the absence of biological hazards.

The paper also recommends the repeal of a number of laws, and the amendment of a few, most specifically the veterinary Surgeons Act to allow non-degree holders to treat cattle.

The paper documents a process that is ongoing. In response to input already received the paper reviews international experiences with legislative review, and documents some of the impacts where it has happened. The paper also proposes a

roadmap of consultation, drafting of a Sessional Paper, Cabinet Memo and drafting a new Agricultural Act to create the new 3-pronged regulatory and legislative framework to take the agricultural sector boldly into the new competitive century.

