



REPUBLIC OF KENYA



MINISTRY OF INDUSTRY, TRADE AND CO-OPERATIVES

STATE DEPARTMENT FOR CO-OPERATIVES

NATIONAL CO-OPERATIVE POLICY

*Promoting Co-operatives for Socio-Economic
Transformation*

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PREFACE

The Constitution of Kenya (CoK,2010) bestows the National Government with the mandate of policy formulation. In view of this mandate, the State Department has formulated this National Co-operative Policy in recognition of the changing environment in which co-operatives are regulated and supervised. The policy brings in focus the role played by the county governments as envisaged in the Constitution of Kenya (CoK,2010) which recognises co-operative societies as a devolved function.

As a mass movement, the national government recognises the unique role that co-operatives continue to play in bringing about equitable growth and development. The national government shall therefore actively take up its role of capacity building the county governments to ensure uniform growth of the movement in the country.

The policy recognises co-operatives as private business organizations. In order to become responsible corporate entities, co-operatives are expected to promote good governance practices that ensure their sustainable growth and development. In this respect, the policy proposes a new structure that promotes integration and enhances self-regulation. The new structure stratifies the Kenyan co-operative movement by establishing a federation and strengthening the apex organization. The two levels government will register only economically viable co-operatives.

In developing this policy, the State Department for Co-operatives held consultations with stakeholders taking into account the diversity of their perspectives and activities. It is the view of the national government that the implementation of the policy will require co-operation from stakeholders.


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Principal Secretary, State Department for Co-operatives

FOREWORD

The Government of Kenya recognizes the co-operative movement as a critical player in pursuit of social and economic development. The policy is anchored on the theme, *“Promoting Co-operative for Socio-Economic Transformation”*.

The policy identifies contemporary challenges which inhibit the growth of co-operatives and presents a paradigm shift intended to establish a more proactive engagement between the national and county governments, the co-operative movement and other stakeholders. It also seeks to rationalize the role of national and county governments in co-operative development in line with the CoK, 2010 and national development goals set out in Kenya Vision 2030. The government affirms its commitment to uphold the sanctity of the co-operative values and principles as a way of enabling the growth of co-operative enterprises while ensuring that the interests of the general membership are safeguarded.

The CoK, 2010 devolved co-operative function to the counties. Upon promulgation of the constitution challenges have emerged in the management and supervision of co-operatives. The formulation of this policy is thus the first step towards establishing an appropriate and supportive legal and institutional framework to support the growth and development of co-operatives in the country. In adopting this policy, the growth of the co-operative movement in the country will be based on uniform standards in the exploitation of the different economic opportunities available for co-operatives.

The policy provides interventions for co-operatives to be at the forefront in mobilizing savings, enhancing agricultural productivity and value addition. It also supports co-operative in participation of the provision of decent and affordable housing, fighting poverty and promoting inclusivity in wealth creation and empowerment. It provides a framework for mobilizing financial and technical assistance for co-operative development, encouraging Public

Private Partnerships (PPPs) in value-addition, market linkages; and the promotion of co-operative education, training and research.

The policy recognizes Co-operatives as vehicles for realization of Kenya Vision 2030. It identifies co-operatives as private organizations that provide public good. This places enormous responsibility on the leadership of the movement to embrace good governance practices that reflect the expectations of not only the National and county governments but also those of their members. The two levels of government shall work closely with the Co-operative Alliance of Kenya (CAK) among other stakeholders to promote self-regulation. In conclusion, it is expected that this policy will provide direction on the way the co-operative sector is governed in order to achieve socio-economic development.



Hon. Peter Munya, MGH

Cabinet Secretary

Ministry of Industry, Trade and Co-operatives

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We also acknowledge the contributions of Co-operative Alliance of Kenya, Kenya Institute of Public Policy Research and Analysis, National Co-operative Housing Union, Kenya Rural and Savings and Credit Cooperatives Societies Union, Kenya Union of Savings and Credit Co-operatives, Green Growth Africa and the International Co-operative Alliance-Africa.

We wish to register our gratitude to the National Co-operative Business Association - Co-operative League of the United States of America (NCBA-CLUSA) and USAID/ AHADI for their unreserved commitment in facilitating and supporting the policy development process. Lastly we acknowledge the staff from the State Department for Co-operatives and counties who worked tirelessly to ensure completion of this policy.

EXECUTIVE SUMMARY

The policy provides a framework for accelerating the growth of Kenya's co-operative sector in a dynamic and competitive global environment. It replaces Sessional Paper No. 6 of 1997 on "*Co-operatives in a Liberalized Economic Environment*". It highlights the historical background of the co-operative sector in Kenya and globally. The objective of this policy is to promote competitive and sustainable co-operatives for socio-economic development. Challenges facing the co-operative movement have been identified.

By the end of 2017, there were 22,344 registered co-operatives with an estimated membership of 14 million. These co-operatives are active in financial intermediation, agricultural produce marketing and processing as well as provision of decent and affordable shelter. Kenyan co-operatives are envisaged to promote green investments especially in such sectors as transport, housing, wholesale and retail trade. The policy further analyses the co-operative movement status and flags out its achievements.

Cognisant of the devolved system of governance, the policy lays ground for the review of the legal and regulatory framework to facilitate the growth and development of co-operatives. It is acknowledged that co-operatives are private organisations which play an important role in public mobilisation to stimulate economic growth. Therefore, the role of the national and county governments remains facilitative in nature.

Co-operative values and principles that include honesty, openness, democratic control, autonomy, concern for community are appreciated. While retaining the four-tier system to support the growth of the movement, the policy replaces the tier previously known as national co-operative organisations (NACOs) with the federation as a way of enhancing sector specific self-regulation within the movement. The new structure empowers the apex body, CAK, to play its role of advocacy.

Proposals on measures that will enhance effectiveness of co-operative operations with a clear separation of the roles of management and boards are considered. This intervention also recognizes the importance of delegates vis-a-vis the rights of individual members and responds to the need to stratify the co-operative societies for ease of regulation and supervision. Further interventions to strengthen regulation and dispute resolution in co-operatives are proposed.

The co-operative movement has mobilised over 48% of national savings¹. In addition, World Bank estimates that co-operatives financed 90% of housing stock in Kenya in 2016². On this basis, the policy proposes to strengthen co-operatives in savings mobilisation and housing. It addresses the general credit management in producer co-operatives emphasizing on borrowers' education to reduce delinquency. Proposals are also provided in areas of emerging financial opportunities for co-operatives, which include participation in National Payment System, agency banking and share trading.

The role of co-operatives in agricultural value chains cannot be over emphasised. Co-operatives support channelling farm inputs to improve production, provide market linkages for agricultural produce, facilitate post-harvest management of agricultural produce by providing transportation and improved storage technology. The policy further lays the ground and emphasis on co-operatives to adopt value addition to their raw produce.

Education and training are essential factors in the growth and development of the co-operative movement. Co-operative University of Kenya has been identified as a centre of excellence in co-operative education and training. In addition, the policy recognises other institutions of higher learning offering co-operative education and training. Challenges facing delivery of co-operative education, training and research identified include low capacity and inadequate standardised training materials amongst others.

¹ IMF, World Bank Economic Outlook 2014

² World Bank, 2017

Majority of co-operatives in Kenya are still using manual paper-based systems, therefore there is need to support them to automate their system in order to increase efficiency. The policy provides direction for the National and County Governments to work closely with the Co-operative movement to promote adoption of Information and Communications Technology (ICT) in Co-operatives.

It is acknowledged that the youth, women and persons with disability and other marginalised groups are not fully integrated in co-operative activities. This may be due to attitude, lack of interest or existing ownership structures. It is proposed that special interest groups will be mainstreamed in co-operative activities.

Chapter three provides interventions for all the thematic areas covered in the situational analysis. Key among these is the complete review of the current laws to reflect the devolved system of governance also. It lays ground for total review of governance enforcement structures by reviewing the role of regulatory organs.

Chapter four sets out implementation roles of various institutions. This includes both state and non-actors. Finally, the policy makes provision for a monitoring and evaluation framework well as policy review.

ACRONYMS AND ABBREVIATIONS

ADR	-	Alternative Dispute Resolution
BPO	-	Business Process Out-sourcing
CAK	-	Co-operative Alliance of Kenya
CIC	-	Co-operative Insurance Company
CoG	-	Council of Governors
CoK 2010	-	Constitution of Kenya (2010)
ECCOS	-	Ethics Commission for Co-operative Societies
HIV/AIDS	-	Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
ICA	-	International Co-operative Alliance
ICT	-	Information and Communication Technology
KNBS	-	Kenya National Bureau of Statistics
KUSCCO Ltd	-	Kenya Union of Savings and Credit Co-operatives Limited
MDAs	-	Ministries, Departments and Agencies
M&E	-	Monitoring and Evaluation
NACHU	-	National Co-operative Housing Union
NACOs	-	National Co-operative Organizations
PPP	-	Public Private Partnerships
SACCOs	-	Savings and Credit Co-operatives
SASRA	-	SACCO Societies Regulatory Authority
UN	-	United Nations
USAID/AHADI	-	United States Agency for International Development/ Agile and Harmonized Assistance for Devolved Institutions
WOCCU	-	World Council of Credit Unions

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CHAPTER ONE: INTRODUCTION

1.1 Background

Co-operatives have played a significant role in socio-economic development of nations for centuries and are a reminder to the international community that it is possible to pursue both economic viability and social responsibility. It is against this background that the United Nations (UN) declared the year 2012 the International Year of Co-operatives.

The International Co-operative Alliance (ICA) Blue print (The 2020 Vision) anticipates co-operatives as a business model that will provide economic, social and environmental sustainability and be the fastest growing form of enterprise. Its five (5) pillars of participation, sustainability, identity, capital and legal framework drive this. The ICA Africa Co-operative Development Strategy 2017-2020 recognizes co-operatives as a critical vehicle towards poverty alleviation and development in Africa. As co-operatives in Africa strive to support human development, they face various challenges such as low human resource capacity, weak economic base, extensive financial dependency from external sources, lack of internal capacity and poor governance. The strategy recognizes the sector as having high potential for facilitating financial growth and can therefore be transformed to lead social and economic development in Africa. Co-operatives have the potential in facilitating green investments to support economic growth.

1.2 Co-operatives in Post-Independence Kenya

The objectives that guide Kenya's development agenda were first established in the Sessional Paper No. 10 of 1965 on "African Socialism and its Application to Planning in Kenya." This paper promoted "Africanisation" in all spheres of the economy through political equality, social justice, human dignity including freedom of conscience, freedom from want, diseases and exploitation, equal opportunities; and high and growing per capita incomes, equitably distributed.

One of the outcomes of the Sessional No. 10 of 1965 was the enactment of the Co-operative Societies Act No. 39 of 1966. This accelerated the formation of co-operatives that facilitated the transfer of land to indigenous Kenyans, marketing of agricultural produce, and formation of financial institutions to support the co-operative movement.

Session Paper No. 1 of 1970 was the first co-operative development policy, in which government sought to consolidate the gains made in the co-operative movement. The policy was reviewed in 1975 when the government specifically recognised the importance of co-operatives as vital organs for mobilizing material, human, and financial resources for national development. It reiterated the government's commitment to expanding co-operative activities in all spheres of social and economic development. A key milestone at this stage was the establishment of the Ministry of Co-operative Development.

The second co-operative policy was Sessional Paper No. 4 of 1987, whose theme was "*Renewed Growth through the Co-operative Movement*". This policy reiterated the commitment of the government in enhancing the participation of Kenyans in the economy through co-operatives. The government recognized the private nature of co-operatives and adopted an advisory role.

Sessional Paper No. 6 of 1997 on "*Co-operatives in a Liberalised Economic Environment*" was the third co-operative policy. In this policy, the Government reviewed its involvement in the management of co-operatives and provided a legislative framework under which co-operatives could operate in a competitive economic environment. This led to the enactment of the Co-operative Societies Act No. 12 of 1997 that gave greater powers to the members of the co-operative movement. The Act was however amended in 2004, to restore some powers to the government to intervene in the management of co-operatives when necessary. In addition, the rapid growth of financial co-operatives offering front office services necessitated the enactment of the Sacco Societies Act of 2008 to regulate savings and credit co-operatives.

1.3 Co-operatives in the Devolved System of Governance

CoK, 2010 brought about fundamental changes in the management of public affairs. The CoK 2010 established two levels of government namely; the national and the 47 county governments. The functions assigned to the county governments under Fourth Schedule included co-operative development and regulation that was unbundled by the Transition Authority through Legal Notice No. 137 of 9th August 2013. One of the objects of devolution is to promote social and economic development and provision of easily accessible services throughout Kenya (CoK, 2010 Article 174). In doing so all actors will be guided by the principles and as espoused in Article 10 of the Constitution.

1.4 Co-operative Identity

The ICA defines a co-operative as “an autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly owned and democratically-controlled enterprise”.

Co-operative identity includes the co-operative principles and values. Co-operative policy and legal framework are guided by these values and principles, including most significantly, protecting and fostering the autonomy of co-operatives. As part of the international co-operative movement, all co-operatives in Kenya conduct their business in accordance with internationally shared co-operative values and principles.

1.5 Co-operative Principles

The principles are guidelines through which co-operatives regulations and practices are anchored. They are: open and voluntary membership, democratic member control, economic participation, and autonomous and independent. The other principles are education, training and information, co-operation amongst co-operatives, and concern for the community.

1.6 Co-operative Values and Ethical Beliefs

The co-operative principles are based on the following co-operative values: self-help, self-responsibility, democracy, equality, equity and solidarity. Co-

operative members also believe in the ethical values of honesty, openness, social responsibility and caring for others. All co-operatives operate within these principles and values and will be required to include a statement of conformity with the principles in their annual audited financial statements.

1.7 Justification for Policy Review

This policy has been necessitated by the change in the governance structure in the country as well socio-economic environment. The CoK, 2010 established two levels of governance: national and county governments. The Fourth Schedule of the CoK, 2010 assigns the management of co-operative societies to the county governments and capacity building and formulation of policies and standards to the national government. The policy development will need to be aligned to the national development priorities among them, the Kenya Vision 2030 blueprint.

The other important development strategies guiding the development of co-operative movement are Sustainable Development Goals (SDGs), Africa Union Agenda 2063, ICA Blueprint 'Vision 2020', International Co-operative Alliance (ICA), Africa Co-operative Development Strategy 2017-2020, and World Council of Credit Unions (WOCCU) prudential guidelines and strategies.

The policy will provide a framework for favouring environment for realizing improved efficiency and profitability of co-operatives.

1.8 Objectives

The main objective of this policy is to provide a framework that promotes sustainable and competitive co-operative movement for socio-economic development in a devolved system of governance. The specific objectives of the policy are to:

- a) To accelerate the growth and development of the Co-operative sector through legal and institutional reforms;
- b) Promote co-operative production, access to shared resources, value addition and marketing
- c) Enhance financial deepening and investments through co-operatives;

- d) Establish an institutional framework for enhancement of co-operation, consultation and co-ordination of co-operatives management;
- e) Promote governance in co-operatives;
- f) Develop the capacity of co-operatives through training, education and research;
- g) Promote adoption of ICT in co-operatives; and
- h) Mainstream issues related to climate change, special interest groups and human rights in co-operatives.

1.9 Theme of the Policy

The theme of the policy is, *“Promoting Co-operatives for Socio -Economic Transformation”*. This presents an opportunity for co-operatives to contribute towards the attainment of the objectives of Kenya Vision 2030. The creation of this theme is informed by the realisation that co-operatives have contributed to the social and economic development of the country.

CHAPTER TWO: SITUATION ANALYSIS

2.1 Introduction

This chapter discusses the current co-operative landscape and identifies the gaps that the policy intends to address. The analysis addresses the general perspective, policy, legal and regulatory framework and sectoral performance in the co-operative sector. Other areas analysed in this chapter include co-operative movement structure, co-operative governance, co-operative education, training and research, ICT and cross cutting issues.

2.2 General Perspective

Co-operatives participate in all spheres of socio-economic development. The ICA World Co-operative Monitor (2018) reported that out of the top 300 co-operatives and mutual, 35 % were in agriculture, 32% were operating in insurance, 19% in wholesale and retail, 8% in banking and finance, 2% in industry and utility, 2% in health, education and social care and other sectors 2%. The same report indicates that these societies had collective revenues of over USD 2 trillion.

Kenya ranks number seven in the world and number one in Africa in terms of co-operative development.³ By the year 2017, there were 22,344⁴ registered co-operative societies cutting across almost all sectors of the Kenyan economy, both formal and informal. These co-operatives had mobilized savings to the tune of Ksh. 730 billion advanced over Ksh. 700 billion to their members as loans and advances and controlled assets worth approximately Ksh. 1 trillion⁵. It is estimated that 63% of Kenya's population participates directly or indirectly in co-operatives activities contributing about 31% of the total Gross Domestic Product (GDP). The benefits that have accrued to Kenyans through co-operative societies include employment and wealth creation. Other than being engaged in the traditional areas of agricultural production, processing and marketing, the

³ ICA Report 2015

⁴ National Co-operative Register 2017

⁵ Audited financial statements for all co-operatives, 2017

strength of co-operatives can now be felt in finance, real estate, manufacturing and mining sectors.

The role of co-operatives in socio-economic development has been through financing of education, agriculture, housing, transport, health and commercial activities. In addition, co-operatives are critical in development of rural economies where smallholder agriculture is the mainstay of communities. Cash crop farming especially coffee, sisal, sugarcane, rice, macadamia, cashew nuts, cotton, and pyrethrum are largely carried out by smallholder farmers.

2.3 Policy, Legal and Regulatory Framework

The current legal and regulatory framework for the co-operative movement in Kenya is anchored on the following legislation, policy, rules and regulations: Co-operatives Societies Act Cap 490; The Co-operatives Societies Rules 2005; Sacco Societies Act 2008, Cap 490 B; Sacco Societies Regulations 2010; and Sessional Paper No. 6 of 1997.

The Co-operative Societies Act provides for the registration, incorporation, governance and supervision of all co-operative societies. The Act provides for three-tier structure being the primary co-operatives, secondary and apex. The Sacco Societies Act, 2008 was enacted to deal with licensing, supervision and regulation of Savings and Credit Cooperative Societies (SACCOs) with unique business model of financial mediation through deposit mobilization and advancement of credit to their members. The Co-operatives Societies Rules 2008 and the SACCO Societies Regulations 2010 operationalize the above laws.

These legislations need to conform to the devolved system of governance as envisaged in the CoK, 2010. The CoK, 2010 establishes a devolved structure of government consisting of the national and county governments, which are distinct but inter-dependent conducting their mutual relations on the basis of co-operation and consultations. The Constitution further enshrines devolution of power as one of the national values and principles of governance.

2.4 Co-operative Institutional Framework

Co-operatives in Kenya are regulated by the State department for Co-operatives. This function is performed by the office of the Commissioner for Co-operative Development and the SACCO Societies Regulatory Authority (SASRA). Notwithstanding the provisions of the CoK, 2010, the current situation is that the Commissioner is both the regulator and promoter of co-operatives. On the other hand, SASRA was responsible for regulating only deposit-taking SACCOs leaving other SACCOs exposed.

On the functions of each level of government, the Fourth Schedule thereto assigns specific functions to each level of government. In particular, the national government is assigned with policy formulation, capacity building, norms and standards development and technical assistance, while county governments implement. There is need to align co-operatives function to CoK, 2010.

2.5 Sectoral Co-operative Performance Review

2.5.1 Agricultural based Co-operatives

As at the end of 2017 there were 5055 agro-based marketing co-operatives in Kenya⁶. These Co-operatives were mainly involved in coffee, dairy, pyrethrum, livestock, cereals and cotton production and marketing. They had a combined turnover of Ksh.14 billion and an asset base of Ksh. 481billion in 2017.

There have been a number of challenges in the performance of agro-based co-operatives in the country. Some of these challenges include delayed payment to farmers, poor marketing channels for agricultural produce and low level of value addition. The others are poor farm input supply systems, lack of credit facilities and general lack of managerial capacity. This has led to stagnation in the growth and development of these co-operatives.

⁶ Audited Financial Statements for Agricultural Co-operatives, 2017

In addition, co-operative unions meant to support primary co-operatives have a registered dismal performance with some remaining dormant.

2.5.2 Financial and Investment Co-operatives

a) Savings and Credit Co-operatives

The primary objective of Savings and Credit Co-operatives (SACCOs) is to create a pool of funds from which members can obtain credit facilities on softer terms than is otherwise available in the open market. By 2017, there were 13,200⁷ SACCOs in the country out of which 176 were offering front office services. Collectively they had accumulated savings and deposits of over Ksh. 430 billion, Ksh. 441 billion in loans and Ksh. 601 billion in assets and had a membership of about 5 million persons⁸.

Despite this notable success, SACCOs are unable to accumulate savings and deposits fast enough in order to satisfy their members' need for credit. This gap is met by commercial banks and the emerging e-platforms. Co-operatives are thus moving away from developing a savings to a borrowing culture.

In order to pay high interest rates to their members, many SACCOs have resorted to introducing financial products that they are not adequately equipped to manage. Furthermore, some SACCOs are burdening their members by charging interest on loans that are unsustainable. Co-operatives are associations of persons established with the purpose of providing services as opposed to high returns capital.

b) Diaspora Co-operatives

The Kenyan Diaspora Policy launched in 2014 recognizes the need to mainstream the Diaspora into our national development process. The State Department for Co-operatives registered the first Diaspora based SACCO in 2012 for Kenyans based in the United States of America. In support of this Policy however, the State Department for Co-operatives in collaboration and with the

⁷ National Co-operative register, 2017

⁸ Audited Financial Statements for SACCOs, 2017

support of the Ministry of Foreign Affairs promoted and registered seventeen SACCOs as at the end of 2017 with the aim of mobilizing savings.

While the initial move was to mobilize the Diaspora to form SACCOs, it is emerging that the Diaspora needs are more than what can be facilitated by SACCOs. The government will review this position with a view of coming up with an appropriate framework to facilitate the Diaspora in consumption of development programmes by the Diaspora not limited to savings as is the current scenario.

c) Sharia Compliant Co-operatives.

The government recognizes financial inclusion as an important pillar of social economic development in the country. In line with this, the State Department for Co-operatives has been promoting Sharia compliant co-operatives as a means of increasing and promoting financial inclusion in Muslim communities. This program will be expanded to cover all regions of the country while encouraging conventional co-operatives to offer Sharia compliant products and services.

d) Investment Co-operatives

The Government plans to increase investments in housing, healthcare, clean and renewable energy, infrastructure and manufacturing. The impact of such investments will be greatly multiplied if a greater number of Kenyans were mobilised to participate. The demand for such investments has seen Kenyans mobilised through unregulated pyramid schemes leading to huge losses on investments.

To address these challenges, the government shall promote co-operatives that will be engaged in mobilising savings for investments. These co-operatives will be referred to as savings and investment co-operatives (SICOs).

e) Co-operative Financing

The Fin Access Household Survey Report 2016 indicates that loans generated by co-operatives contributed 45.9% of all loans from financial institutions directed to land and housing. Co-operatives also contributed 36% of all loans directed towards education, 21.5% to agricultural activities and 17.1% towards business ventures. By the end of 2017, co-operatives had over Kshs. 700 billion as outstanding loans and advances extended to members. These loans are mainly financed through share contributions, internal reserves and deposits raised from co-operative members.

While some co-operatives have used this model to great prosperity, others who are unable to internally raise adequate savings have not registered meaningful growth. To this end some co-operatives are laden with loans that they are unable to service. On the other hand, the funding from the government and donor community is increasingly becoming less as competing priorities emerge.

Even as financial institutions seek for collateral to secure loans borrowed by co-operative societies, the common practice has been for the same financial institutions to guarantee regular payment by way of hypothecation of the members produce for marketing co-operatives and the deduction schedule for SACCOs. This practice has resulted in distributing the burden of debt repayment to all members of the society irrespective of whether they are beneficiaries of the loan or not.

The Co-operative Bank of Kenya has been the dominant financial institution in the co-operative sector. With liberalization however, other financial institutions have moved into the sector to offer competition. SACCOs also have recorded growth and are also a substantial segment of the financial sector.

f) Co-operative Investments

Whenever members invest in co-operative societies they expect returns and appreciation of their investment. Co-operative societies' assets are acquired through direct member contribution, borrowed funds or from accumulated

reserves. Once acquired, such assets, which are domiciled in the society general account, are usually considered society investments and fail to recognise individual effort of the members. Quite often it overlooks the fact that loans acquired to finance these assets are offset through members' produce. It is therefore very common to see the share capital of a member in a coffee society being reflected as Ksh.20 in value when for over 30 years the same farmers' proceeds were used to acquire factories and other assets for the society.

This practice has not only tended to kill industry among the members in promoting society investments but it also goes against the co-operative value of equity among members. It has therefore discouraged members from investing in their co-operative societies since there appears to be no capital appreciation for their investments that would differentiate an old member from a new member. This scenario has created disharmony in many societies where new members use society assets acquired by the old members without any form of compensation to the old members. Therefore, there is need to establish a platform that can be used to determine the market price of co-operative societies shares.

g) Housing Co-operatives

The right to housing is acknowledged in many international instruments and in Article 43 of the CoK, 2010. Kenya had a housing backlog of two million units as at end of 2016. The annual housing demand is 300,000 units in rural areas and 214,000 units in urban areas⁹. Co-operatives play a critical role in the provision of affordable shelter and bridging the gap in housing finance market. The co-operative movement is expected to deliver 25% of the annual housing demand in the country.

There were 1,980 housing/investment co-operatives by the end of 2017 with an asset base of approximately Ksh.31billion¹⁰

⁹ Kenya Housing Policy

¹⁰ Audited financial statements for housing co-operatives, 2017

There are many factors that constrain access to affordable and decent housing. These factors include limited access to long term funding such as mortgages, low household disposable income, poor saving culture by majority of Kenyans, and limited infrastructure development for new housing schemes.

2.5.3 Transport Co-operatives

Public service transport is primarily a private sector driven industry. It is an attractive avenue for small-scale investors looking for quick returns. However, it has faced operational challenges which required to be addressed. To streamline the operations of the sector, the government directed that operators would either be limited companies or co-operatives. For ease of management and operation, many small operators chose the co-operative model as opposed to the company model and registered SACCOs. The registration of these SACCO societies in the transport sector have not adequately achieved the required purpose of self-regulation. Therefore, there is need to transform them into effective transport co-operatives.

2.5.4 Consumer Co-operatives

Consumers' co-operatives are organized to facilitate acquisition of consumer goods and services on favourable terms to members. They undertake the production and processing of consumer goods, wholesaling and retailing of goods and services mainly for their members. Kenya had 192 registered consumer co-operatives by the end of 2017, majority of which are dormant. For example, Kenya Farmers Association which has since become dormant was most successful consumer co-operative in the country. Past efforts by co-operatives to run consumer retail shops have failed due to weak governance.

2.5.5 Industrial Co-operatives

Industry co-operatives are manufacturing businesses owned and managed by people who work in it. These co-operatives are mainly focused on small and large-scale industries, cottages and *jua kali* artisans.

With large number of youth graduating from vocational and technical training institutions, there have never been adequate functional industrial co-operatives to support them in their start up activities. In addition, the existing industrial co-operatives have stagnated due to inactive membership, lack of promotion and capital inadequacy.

2.6 Co-operative Movement Structure

2.6.1 Background

The co-operative movement in Kenya operates on a four-tier structure where societies are classified as either primary, union, national or apex. From the outset, this structure was meant to:

- a) Provide viable economic units capable of providing services to members;
- b) Exploit the economies of scale to ensure the high returns to members;
- c) Align each co-operative activity with a national co-operative organization to coordinate activities of its affiliates nationally and internationally; and
- d) Have a strong apex organization to lobby and articulate the interests and concerns of the co-operative movement at county, national and international levels.

At the lowest level of the structure are the primary co-operatives that are formed by individual persons usually as a single purpose or single product enterprise. In order to enhance economies of scale, the government encouraged the formation of unions that operated at district or sector specific level. These unions have their membership drawn from primary co-operatives, and are instrumental in the provision of either specialised services or goods to their affiliates. At the third level are the national co-operative organizations (NACOs) usually specialised vehicles that offer sector driven services to affiliated primary co-operative societies and unions. At the apex is the Co-operative Alliance of Kenya that is meant to be the custodian of the co-operative principles and values in the country.

This structure as it exists today cannot effectively serve the movement in the current economic environment. Some in the second and third tier levels have transformed into organisations that are not co-operative in nature. The Co-operative Bank and Co-operative Insurance Company have since ceased being co-operative organisations and are represented in the co-operative movement by the holding co-operatives that own them. Most co-operative unions have since become dormant while the sector specific unions like KUSCCO and NACHU have moved up the ladder and are now referred to as NACOs.

Most importantly, the linkages between different levels are no longer discernible. Apart from the primary level where membership is clear, all other levels seem to be competing for affiliation from the primary co-operatives. This tends to create friction within the movement especially where the functions of the different secondary organizations appear to be overlapping. The unions, where they exist, NACOs and even the Apex organization seem to be engaged in businesses that are in direct competition with each other and sometimes with the affiliate primary co-operatives. This has not only created conflict within the movement but also causes fatigue among the different players in the sector resulting in the weakening of some co-operative organizations that are key to the growth of the movement.

To facilitate growth within the movement, sector specific co-operatives shall be promoted at national level. They will be known as federations, thus differentiating them from unions at county level. The Federations once established shall offer services to their affiliates in matters of advocacy, market research and promotion, and promote sector specific standards and regulations.

These will include:

- a) Ensuring that all affiliates societies keep proper records and books of accounts;
- b) Provide a platform for the advancement of ICT and innovations for its affiliates;

- c) Provide education and training to affiliated societies;
- d) Establish and enforce a code of ethics for affiliates/subsidiaries;
- e) Affiliate with other local, regional and international bodies for the benefit of its affiliates;
- f) Develop and enforce such standards that shall be necessary for the advancement of the affiliates; and
- g) Engage in any other business to promote the interests of its affiliates as long as the business is not in competition with the affiliates.

The Co-operative Alliance of Kenya (CAK) shall remain the apex organization. Membership to the apex body shall be restricted to the co-operative federations. However secondary co-operatives that are not sector specific and cannot therefore affiliate to any federation, shall affiliate directly to CAK. The apex may admit any organization or society as an associate member without voting rights for the purposes of promoting the interest of co-operative movement in the country. The role of CAK will include:

- a) Advocacy, spokesperson of the movement, and promotion of the movement's interests;
- b) Promotion of co-operation, collaboration and linkages among co-operatives and stakeholders through networks at local, regional and international levels;
- c) Promotion of the development of the co-operative movement and advise the Government at national and county levels on co-operative matters;
- d) Custodian and champion of the co-operative principles and values, and promotion of self-regulation within the movement; and
- e) Affiliation with regional and international co-operative organizations for the benefit of the Kenyan movement.

It is worthwhile to emphasise that co-operatives are private organizations, jointly owned and democratically controlled enterprises. Therefore, the

structure of the organization of the movement shall always guarantee adequate member control.

2.6.2 Co-operative Companies

Some co-operatives have formed companies to compete effectively and to meet the legal requirements and standards set by the regulators in different sectors. These companies are able to raise capital from the members of the public either through the initial public offering or by private placement. Unfortunately, when forming these companies, the ownership structure is not clearly spelt out leading to the listing of incumbent co-operative board members as directors of the company in their individual capacities rather than as trustees. Situations have arisen where directors of such companies have refused to hand-over the company to the newly elected board members whenever there is a change in board composition in the co-operative society. This practice exposes the assets of the co-operative to risk of loss. Co-operative members may not be aware of performance of such companies and hence they end up not benefiting from their returns.

2.6.3 Holding Co-operatives

For strategic reasons co-operative societies have formed holding co-operatives for the sole purpose of investing in the stocks of other organisations (companies or co-operatives). Such co-operatives do not produce goods or services. The existing holding co-operatives are Co-op Holding Co-operative Society Ltd and Co-operative Insurance Services Ltd. which own Co-operative Bank of Kenya Ltd and Co-operative Insurance Company Ltd respectively. These co-operatives have ensured that interests of the co-operatives are fully represented in the management of these companies and their interest in the co-operative movement is entrenched in the mission and strategic objectives. While it is anticipated that such type of co-operatives will continue to be formed as the need arises, care will be taken to ensure that such organizations remain true to their mission.

2.6.4 Dual Registration of Co-operatives

In order to meet market obligations, some co-operative societies have operated on dual registration regimes as both co-operatives and companies. While this practice has served its purpose operationally, it has caused regulatory challenges and sometimes infringed on members' rights of participating in decision-making. It is common for such organisations to try and exploit the benefits of either of the regulatory regime whenever it was convenient to the directors. It must be recognised that the underlying principles between a company and a co-operative are basically different. While co-operatives are associations of persons, where the personal participation of the member in the business process is important, a company is an association of capital. Since co-operatives can now register companies, the purpose of dual registration is no longer necessary.

2.7 Protection of Co-operative Identity

Co-operatives in Kenya have been successful to the extent that non co-operative organizations resort to marketing themselves as co-operatives. For instance, non-co-operative credit institutions refer to themselves as SACCOs. Even though the current legislation forbids usage of the term "Co-operative" and "SACCO" by non-co-operative institutions, there is need to provide stiffer penalties for those who use the two terms illegally.

2.8 Co-operative Governance and Compliance

2.8.1 Co-operative Governance

Governance is the system of rules, practices and processes by which an organization is directed and controlled. It essentially involves balancing the interests of stakeholders such as members, board, management, customers, suppliers, financiers, Government and the community. Since governance also provides the framework for attaining co-operative objectives, it encompasses practically every sphere of management, from action plans and internal controls to performance measurement and corporate disclosure.

Through various legal interventions the government has promoted good corporate governance practices in the co-operative movement. However, incidences of weak governance are still experienced in some co-operative organizations, which have led to misapplication and mismanagement of resources, and cases of collapse of co-operatives. The weak governance is characterised by ineffective leadership, micro-management of the societies by the boards, unethical business practices, and inadequate application of good financial management and lack of effective member participation. Current efforts to address the weak governance in co-operative movement include the establishment of Ethics Commission for Co-operative Societies (ECCOS) and the Co-operative Tribunal.

ECCOS was established as an un-incorporated body in the State Department for Co-operatives through the Public Officers Ethics Act of 2003. Its mandate is to ensure governance structures that support enforcement are put in place. The Commission as currently constituted has not effectively discharged its mandate.

The Co-operative Tribunal was established to settle co-operative disputes under the Co-operative Societies Act. Following promulgation of the CoK, 2010, the Tribunal was transferred to the Judiciary. However, the operations of the Tribunal continue to be a circuit court with limited capacity. This position has hampered administration of justice to co-operative movement.

2.8.2 Co-operative Compliance

a) Non Remittances

Non-remittance of co-operative members' deductions by employers and marketing agencies has been a major problem. The effect of non-remittance of deductions to the SACCOs is that members default and are not able to access credit facilities as per the objectives of the society. Further, the savings of the affected co-operative societies is reduced and the societies fail to mobilize further resources among members on account of the disincentive. The Commissioner is mandated under Section 35 of the Co-operative Societies Act

to facilitate recovery of monies withheld by employers of members of SACCOs after deductions from their salaries. The actions provided in law include effecting demand notices and subsequently agency notices. These actions have not been fully successful due to challenges posed by agents who once appointed are hesitant to implement the agency. In some instances, once an agent is appointed, the defaulting employer and the SACCO involved opt to enter into a consent agreement making it difficult to enforce the agency under the provisions of the Co-operative Societies Act. A mechanism to enforce compliance by the agent does not exist hence leaving a huge gap in the implementation of the law.

b) Refund of Deposits

Co-operatives operate under the principle of open and voluntary membership. This principle envisages free entry and free exit of co-operative members without any coercion. The current law provides for guidelines on how a member exits a co-operative society and his/her entitlement upon cessation of membership. In some instances, however, a co-operative society fails to refund the deposits of an existing member causing suffering to the member and his family or the next of kin. This presents a clear case of infringement of a member's rights. On the other hand, the society's failure to refund deposits may be to protect the general interest of all the other members where refunding such deposits may lead to a general loss or collapse of the society.

There are no sanctions in place in case of default by a co-operative society to refund deposits nor does a mechanism exist to protect the interest of the remaining members in case of withdrawal by a section of other members.

c) Common Bond

Traditionally co-operative Societies were formed by group of people who came from one locality, did the same business or were under the same employer. Overtime and with increased competition, co-operatives were forced to recruit members beyond their common bond in order to beat competition. However, to

preserve their original identity, many co-operatives classified the new members differently from the original members and hence denied them some rights. This situation is contrary to co-operative principle of democratic control and co-operative values on democracy, equality and equity.

2.9 Education, Training and Research

Education, training, and research is one of the seven co-operative principles whose objective is to empower the membership and build the capacity of the co-operative leadership, management and employees to enable them carry out their respective roles effectively.

Education and training has been uncoordinated due to lack of inadequate guidelines and standardised material. Despite this state of affair, the Co-operative University of Kenya (CUK) has distinguished itself as a premier co-operative training centre. The Co-operative University of Kenya (CUK) was established in 1952 and initially operated as a department within the Ministry of Co-operative Development. The college has contributed significantly in equipping the staff of the co-operative movement, government departments; members of the co-operative movement, and the informal sector with appropriate managerial and supervisory skills. In 1995, the Co-operative College of Kenya Act No. 490A was enacted making the College a Semi-Autonomous Government Agency (SAGA) to function as education and research training college. It attained University College status in November 2011 through the order paper No.164 and was chartered in 2017. The Institute of Co-operative Development at the university is mandated to offer co-operative education and training, research and consultancy services to the co-operative movement.

Low capacity in the co-operative movement has affected service delivery to members. In addition, creativity and innovation that are critical factors in the growth and development of any business organization have not been adopted by many co-operative enterprises. Cases have been observed where co-

operatives have become a target of all manner of service providers hence disrupting service delivery. In order to inculcate professionalism and set standards in service delivery in the co-operative movement, the Government promoted and facilitated registration of Kenya Society of Professional Co-operators.

The co-operative sector lacks credible data, which hampers policy formulation. Continuous research on emerging applicable technologies and issues is critical in propelling businesses towards undertaking industrial activities. Absence of research and development has resulted in co-operative enterprises lagging behind thus limiting their competitiveness and product range.

The National Government has the responsibility of developing mechanisms to build capacity of the county officers to enable them discharge their mandate.

2.10 ICT in Co-operatives

Some co-operatives have adopted modern information and communication technology enable them to conduct their business on online. Activities like membership registration; shares and savings subscriptions are now undertaken online by some co-operatives without the necessity of physical meeting or manual paperwork. This trend though efficient poses some challenges in that the virtual operations are not supported by any regulations and hence difficult to regulate. This has created a possibility of fraudsters accessing the system to swindle the public. Measures will be necessary to cascade the ICT Act to the movement through regulations.

In addition, many small and medium sized co-operatives have not embraced ICT and therefore their operations are manual based and hence inefficient. This is due to the heavy capital required in installation of ICT solutions and the maintenance of the attendant software licenses. Start-up co-operative societies and the small and medium ones are unable to raise such capital and therefore cannot invest in ICT solutions.

2.11 Cross cutting issues

New initiatives and innovative ventures are required for co-operative societies to expand into emerging high growth areas and partnerships. The co-operative sector will be supported to reach a greater number of people. The traditional areas in which the co-operative movement has always performed have been outlined in previous chapters in this document. However, opportunities for growth and sustainability of the co-operative movement will be further realised by leveraging on the following growth areas: youth and women, special interest groups, environment, health, ICT and new forms of co-operatives.

i. Worker-Owned and Youth involvement in co-operatives

The worker-owned co-operative concept is based on a commitment to solidarity and on democratic methods for organization and management. The workers' co-operative may therefore be defined as a co-operative owned and managed by workers in a democratic manner. It demonstrates an alternative to the 'business as usual' mode of shareholder-owned companies. The mission is not to earn money but rather to create wealth within a society through entrepreneurial development and job creation. Such worker co-operatives promote employment creation, skills and knowledge development, and easy access to affordable finance. The model can be used to engage youth in various entrepreneurial activities. The Mondragon co-operative model of Spain best represents such worker-owned co-operatives.

Youth represent 65% of the country's population. The youth tend to be attracted to newer models of collective engagements that promise them quick gains. With the youth unemployment rate at 80%, co-operatives provide opportunity for youth to engage in productive activities. Co-operatives can contribute to the development of practical skills for entrepreneurship, which is a key contributor to employment. There is an opportunity to harness this large number of underutilised energy through directed entrepreneurship skills and apprenticeship programmes backed by funding through co-operatives.

ii. Gender mainstreaming in co-operatives

It is estimated that in Kenya women account for 30% of the members of the co-operative movement and only 9% of leaders in co-operatives. There are however significant regional differences in membership which range from about 10% in North Eastern region to 40% in Nairobi¹¹

Development experts have recognised women as central participants in the socio-economic development process. Therefore, greater involvement of women in all aspects of development programmes is extremely important for the rational utilization of development resources which has hitherto remained under estimated and neglected.

Through co-operatives, women are able to respond to both practical and strategic needs as they are provided with opportunities to access common production resources (such as credit, land, marketing facilities, infrastructure, tools, and technology), which increase their income. By forming themselves into co-operatives, women can also benefit from economies of scale and improve their access to open market.

iii. Climate change

Co-operatives under the principle of concern for the community should be in the forefront in mitigating climate change. However, cases have been noted, where many co-operatives are polluters to the environment especially agricultural co-operatives. Co-operatives are expected to play a leading role in protection of environment and adoption of green technologies.

¹¹ ILO 2012

iv. HIV/AIDS

The HIV/AIDS pandemic classified as a national disaster has far reaching potential to impact on the business of co-operatives. It is therefore imperative to proactively carry out continuous HIV/AIDS advocacy and awareness.

CHAPTER THREE: POLICY INTERVENTIONS

3.1 Introduction

This chapter provide policy interventions to address challenges affecting the growth and development of the co-operatives. The implementation of interventions prescribed will be undertaken by both levels of government in accordance with Article 186 and the Fourth Schedule of CoK, 2010. The specific functions have been assigned to each level of government through the Transition Authority Legal Notice No. 137 of 2013.

3.2 Review of the Legal and Regulatory Framework

Policy Objective: To accelerate the grow and development of co-operative sector through legal and institutional reforms

Interventions:

- a) Review the Co-operative Societies Act and Sacco Societies Act, to include the following areas:
 - (i) Re-align the legal and regulatory framework to the CoK, 2010;
 - (ii) Restructure the office of the commissioner for co-operative development and related offices in regulating the movement and enforcement of the law;
 - (iii) Develop a regulatory framework for non-financial co-operative societies;
 - (iv) Develop appropriate legal and regulatory framework to facilitate inter borrowing among co-operative societies;
 - (v) Develop a legal and regulatory framework for co-operative societies to raise capital using capital market instruments and the establishment of a secondary market for co-operative securities;
 - (vi) Develop financial market conduct regulations to cater for co-operative societies;

- (vii) Establish an institutional framework for facilitating co-operative self-regulation through its structures;
- (viii) Legislate on the role of elected boards and the management of co-operative societies;
- (ix) Prohibit registration of co-operatives as both co-operatives and companies;
- (x) Provide guidelines for the operations of holding co-operatives and registration of companies by co-operative societies,
- (xi) Develop institutional framework to regulate operations of virtual services by co-operatives;
- (xii) Provide for legislation to protect the use of the term “Co-operative” and “SACCO” providing stiffer penalties on those who violate the restrictions;
- (xiii) Provide for legislation to incorporate credit information sharing in co-operatives;
- (xiv) Develop regulations that guide the graduated levels of growth and development of co-operative societies;
- (xv) Develop a framework for the co-operative sector shared services platform;
- (xvi) Develop legal mechanism to enforce compliance by an agent in a case of non-remittance of co-operative society’s deductions;
- (xvii) Develop a mechanism for refund of member deposits;
- (xviii) Provide for legislation on segregation of members into classes;
- (xix) Provide for legislation to require inclusion of a statement of conformity with the co-operative principles and values in the annual audited financial statements.
- (xx) To transform ECCOs into a body corporate mandated to deal with matters pertaining to governance and more specifically: declaration of incomes, assets and liabilities, enforcement

- of indemnity, prevention of corruption incidences in co-operatives, enforcement of code of conduct;
- (xxi) Provide for legislation for establishment of a central liquidity facility for financial co-operative societies, as a platform for their participation in the national payment system;
- b) Facilitate the counties to formulate county specific legislation and regulations in line with the national policy; and
- c) Establish and support intergovernmental sectoral forums to discuss and resolve issues in the co-operatives sector for harmonious relations and growth in the co-operative movement in accordance with the CoK, 2010 and legislation;

3.3 Co-operative Production, Value Addition and Marketing

Policy objective: To promote co-operative production, access to shared resources, value addition and marketing

Interventions:

- a) Revive and support weak but critical agro based co-operatives;
- b) Provide a platform for market information sharing and market linkages in the co-operative sector;
- c) Facilitate creation of credit schemes and revolving funds accessible to the co-operative sector;
- d) Facilitate development of quality standards in the co-operatives sector;
- e) Develop mechanisms to link co-operatives to commodity exchange programme (COMEX);
- f) Create an enabling environment for co-operatives to engage in Public Private Partnerships (PPPs) and Business Process Out-sourcing (BPO);
- g) Facilitate co-operatives to engage in production, value addition and marketing of their products/services;
- h) Facilitate information sharing and ensure effective dissemination of quality standards in the co-operatives sector;

- i) Facilitate co-operative societies to invest in bulk storage facilities;
- j) Address marketing challenges in all value chains in order to improve production;
- k) Develop legal framework to promote contract farming in co-operatives; and
- l) Develop risk management strategies in co-operative societies.

3.4 Co-operative Finance and Investment

Policy objective: To enhance financial deepening and investments through co-operatives.

Interventions:

- a) Develop mechanisms for co-operative enterprises to participate in government securities;
- b) Develop strategies to promote the growth of financial co-operatives;
- c) Develop mechanisms to integrate financial co-operatives in the provision of Islamic financial products;
- d) Establish the Co-operative Development Fund to provide affordable and facilitate, research and innovations in co-operatives. The fund to be financed through contributions from co-operatives. The government may provide initial seed capital;
- e) Provide incentives for housing Co-operatives to participate in provision of decent and affordable houses;
- f) Promote the growth of financial cooperatives by channelling through them special purpose funds; and
- g) Promote new ventures, partnerships and financing opportunities in the co-operatives sector in line with the co-operative principles

3.5 Co-operative Movement Structure

Policy objective: To establish an institutional framework for enhancement of co-operation, consultation and co-ordination of co-operative management.

Interventions:

- a) Implement a new co-operative structure that constitutes primary, unions, federations and the apex to enhance co-operation, consultation and co-ordination of co-operative activities;
- b) Restructure CAK to respond to the needs of the new structure;
- c) Promote co-operative federations in all value chains;
- d) Promote consumer, workers and industrial co-operatives;
- e) Restructure and promote transport co-operatives; and
- f) Promote and develop guidelines and procedures to be followed in the formation and operations of worker's co-operatives, consumer co-operatives, diaspora co-operatives, and Savings & Investments Co-operatives (SICOs).

3.6 Co-operative Governance and Enforcement

Policy objective: To promote governance in co-operatives.

Interventions

- a) Strengthen regulatory institutions to effectively promote and enforce ethics and governance in co-operative organisations;
- b) Reform in conjunction with the Judiciary the Co-operative Tribunal to enhance access and timely dispensation of justice to co-operators;
- c) Develop strategies to promote professionalism in co-operatives; and
- d) Establish alternative dispute resolution mechanisms in co-operatives.

3.7 Co-operative Education, Training and Research

Policy objective: To develop the capacity of co-operatives through training, education and research.

Interventions:

- a) Promote co-operative research in all co-operative institutions, colleges and universities;
- b) Establish linkages with all institutions of higher learning offering co-operative training;
- c) Promote the development of a uniform co-operative curriculum for use in learning institutions in collaboration with Kenya Institute of Curriculum Development;
- d) Enhance collaboration between county governments and the national government for capacity building in the co-operative sector;
- e) Anchor co-operative learning centres within existing county learning institutions;
- f) Integrate the co-operatives data and statistics into the national data through the Kenya National Bureau of Statistics;
- g) Facilitate establishment of National Co-operative Information and Research Centre; and
- h) The national Government to develop mechanism to fund research and development in the sector¹²

3.8 Information Communication Technology in Co-operatives

Policy objective: To promote adoption of ICT in co-operatives.

Interventions:

- a) Facilitate the development of shared e-co-op platform to enhance service delivery to co-operative movement;

¹² To be financed through annual budgetary allocations

- b) Support and develop capacity of co-operatives to embrace modern technology and ICT;
- c) Develop strategies to Promote investment in ICT; and
- d) Develop risk management strategies to mitigate cyber fraud in virtual services platforms.

3.9 Cross cutting initiatives

Policy objective: To mainstream issues related to climate change, special interest groups and human rights in co-operatives.

Interventions:

- a) Formulate guidelines for co-operatives to participate in community concerns and preservation of environment for sustainable development;
- a) Encourage co-operatives to promote environmental conservation through adoption of green energy concepts and adherence to environmental conservation programmes and regulations;
- b) Sensitize co-operatives on participation in carbon trading exchange programmes
- c) Build capacity of co-operatives on waste management to prevent pollution such as ejection of coffee effluent into water bodies;
- d) Promote programmes aimed at afforestation through co-operatives;
- e) Support youth initiatives through sensitization to participate in the leadership of existing co-operative societies;
- f) Develop strategies to promote gender inclusivity in the movement and encourage women to become members and participate equitably at all levels especially in leadership and employment in co-operatives;
- g) Promotion of member wellness through adoption and application of good nutrition and physical exercise;

h) Create awareness on HIV/AIDS and non-communicable diseases through member's education forums and provide equal opportunities in employment to all persons including persons living with HIV and AIDS.

CHAPTER FOUR: INSTITUTIONAL IMPLEMENTATION FRAMEWORK

4.1 Introduction

The enactment of CoK, 2010 brought fundamental changes in the management of government affairs by creating two levels of government: The National and the county governments. This change in the country's governance structure has therefore occasioned a change in the manner the National Government will involve itself in the management of co-operatives by making co-operative societies a devolved function as per the Fourth Schedule of the Constitution. This policy therefore puts forth the interventions that:

- a) Respect the devolution of power as one of the national values and principles of governance under Article 10;
- b) Recognise the transfer of power between levels of government;
- c) Acknowledge the assignment of the function of national policy development to the national government; and the function of regulation of co-operative societies to county governments;
- d) Recognise the role of National Government in execution of the function of capacity building and technical support to the counties;
- e) Appreciate the jurisdictional variations for co-operative societies, some of which operate countrywide and/or across-counties and, that such co-operatives will require concurrent regulation of both national and respective county governments;
- f) Acknowledge the need to have uniform national norms and standards applicable for the supervision of co-operative societies and the responsibility of the national government to develop such norms and standards;

- g) Recognise the principle of inter-governmental relationship based on consultation and co-operation between the national and county governments in the growth and development of co-operatives; and
- h) Acknowledges that co-operatives are private organizations that deal with public good and the role of government shall be limited to ensuring the existence of an environment that nurtures a dynamic and vibrant movement.

4.2 Role of National Government

Arising from the constitutional mandate of the national government to spearhead policy formulation, capacity building and ensuring standardization and uniformity, the national government and its agencies shall be responsible for:

- a) Formulation of national policy and legal framework for the development and growth of the co-operatives sector;
- b) Registration and cancellation of co-operative societies;
- c) Registration of co-operative audit reports;
- d) Maintenance of a register of approved audit firms for the co-operative sector;
- e) Formulation and enforcement of management standards for co-operative societies,
- f) Development and coordination of Inter-governmental relations mechanism in the co-operative sector;
- g) Carrying out inquiries, inspections and investigations into the affairs of co-operatives and enforcement of surcharges;
- h) Provide oversight over apex, federations, and cross-county co-operative organizations in consultation with county governments;

- i) Promotion of good governance and ethics in co-operative societies;
- j) Formulation and regulation of co-operative education and training standards;
- k) Carrying out capacity building to the county governments;
- l) Establishment of an e-Portal for the Co-operative sector.
- m) Promoting of public private partnerships and facilitate regional and international co-operative relations; and
- n) Establishment and maintenance of a research and information centre for co-operatives.

4.3 Role of County Governments

The role of county governments in supervision and management of co-operatives will be to:

- a) Implement co-operative policy and formulate county specific co-operative legislation and regulations in line with the national policy;
- b) Promote and facilitate registration of co-operatives;
- c) Provisionally register county specific co-operatives;
- d) License co-operative business in areas of their jurisdiction;
- e) Provide audit services and enforce audit requirements and standards;
- f) Carry out inspections into the affairs of co-operatives;
- g) Promote and facilitate co-operative societies engaged in value addition, support adoption of appropriate technology by co-operatives, and facilitate market information sharing;
- h) Collect and collate data on all co-operative activities in the county
- i) Establish and maintain county co-operative information centres;
- j) Ensure co-operatives comply with co-operative legislations;
- k) Facilitate collaboration and linkages with co-operatives and stakeholders for the benefit of the movement;

- l) Promote good governance in the management of the co-operative societies within their jurisdiction;
- m) Support and strengthen growth, revival and restructuring programmes;
- n) Uphold the principles of inclusivity in co-operative societies;
- o) Provide co-operative advisory services;
- p) Enforce management standards in the co-operative societies;
- q) Promote co-operative research, development and data collection on county co-operative societies;
- r) Anchor co-operative education in county learning institutions; and
- s) Promote co-operative ventures and innovation for county co-operative societies.

4.4 SACCO Societies Regulatory Authority (SASRA)

SASRA is established under the SACCO Act 2008 to oversee the prudential regulation and supervision of deposit taking SACCOs. This is in line with internationally accepted principle requiring deposit-taking financial institutions to be subjected to prudential regulations and standards. To avoid duplicity in the regulatory regime of financial co-operatives and allow for smooth transition of SACCO societies as they expand their services from back office to front office operations, the role of SASRA will be expanded.

4.5 Ethics Commission for Co-operative Societies

The Ethics Commission for Co-operative Societies (ECCOS) is established as an unincorporated body by sub regulation (2) of Public Officers Ethics Regulations (2003) as the responsible Commission for officers of a co-operative society established under the Co-operative Societies Act, including the members of the governing body of the co-operative society.

4.6 Co-operative Tribunal

The Co-operative Tribunal is established under the Co-operative Societies Act Cap 490 to arbitrate and resolve disputes in the co-operative movement. In line with the COK 2010 the tribunal has been consolidated in the structure of the Judiciary. Despite this move, it is expected that the tribunal will continue to serve the interest of the movement and it will be restructured to improve its efficiency and take services closer to the people.

In addition to the Tribunal, the government shall promote the Alternative Dispute Resolution Mechanism (ADR), as the first line of action in resolving disputes in co-operatives. The CoK 2010 recognises ADR as an effective dispute resolution mechanism since they are cheaper, less confrontational, rules and procedures are flexible thus favouring reconciliation and recognises possible future relationships of the parties concerned.

4.7 Role of Other State Agencies

This policy is cognizant of the existence of other state agencies responsible for the implementation of other national government policies and legislation. The state agencies shall be critical in the successful and seamless implementation of this policy, particularly with regard to strategies that directly or indirectly overlap across the various sectors.

The national government shall create an enabling environment for effective co-ordination among the various state agencies and actors in the implementation of this policy. Other national policies and legislation shall concurrently acknowledge and incorporate components of this policy that are relevant to their mandate. In this regard:

- a) This policy shall leverage on Intergovernmental Relations Technical Committee (IGRTC) to establish a framework for consultation and co-operation between the National and County governments to ensure seamless implementation;

- b) County governments shall provide resources to facilitate service delivery in their respective jurisdictions; and
- c) The National Government shall provide adequate funds for implementation of this policy through the normal budgetary cycles.

4.8 Role of Non State Actors

The policy recognises the role of non-state stakeholders involved in co-operative development.

The non-state actors will therefore collaborate with government to mobilise co-operative members and resources, disseminate the policy and participate in capacity building for both co-operators and regulators. They will collaborate with the government in public participation process including members' education and participation in diverse aspects of governance.

Development partners will play complimentary role towards realisation of the development of the goals and objectives of this policy.

4.10 Monitoring and Evaluation

Monitoring and evaluation (M&E) will be an integral part of the implementation of this policy. M&E will provide the government, the co-operative movement and other stakeholders' continuous data on progress in implementing the policy and ensure any emerging issues are responded to appropriately. Reporting will provide the necessary feedback and enable appraisal of the implementation strategy.

A results-based framework will be put in place for periodic assessment and evaluation of achievements and gains made in the implementation of the policy.

The government will promote compliance with the national, regional and other global initiatives by ensuring enhanced country reporting to the ICA using established indicators. These steps include:

- a) Developing a Result Based M&E framework for the policy;
- b) Establishing and commissioning of the policy implementation committee;

- c) Developing mechanisms for disseminating information and informing subsequent reviews, changes and interventions to keep the processes alive; and
- d) Instituting mechanisms for shared country reporting to ICA using the established indicators.

4.11 Policy Review

This policy will be reviewed every five years in line with current and future needs of the country.

Table 1 Kenya's four-tier co-operative movement structure

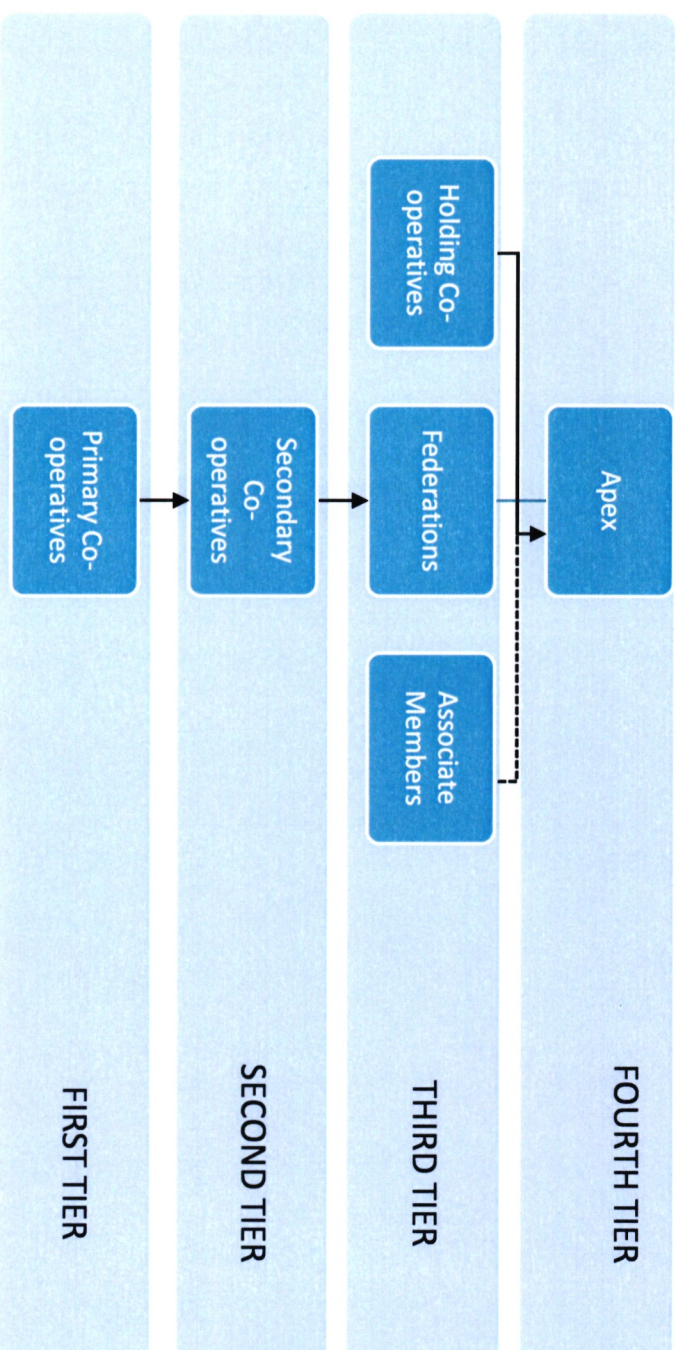


Table 2: National Co-operative Policy Implementation Plan and Budget

POLICY OBJECTIVE	POLICY TARGET	STRATEGIES	INDICATORS	ACTORS	TIME FRAME in years			COST KSHS. (Million)	
					1	2	3		
1. To accelerate the growth and development of co-operative sector through legal and institutional reforms.	Review Co-operative legislations	Comprehensive review of the CSA in line with the provisions of the constitution	New Co-operative Societies Act enacted	SDC/KLRC/CoG/IGRTC/AG	15	5	0	20	
		Comprehensive review of the SACCO Societies Act in line with the provisions of the constitution	Sacco Societies act amended	SDC/KLRC/CoG/SASRA/AG	15	5	0	20	
		Review of Co-operative Rules and SACCO Societies Regulations	Rules and Regulations reviewed	SDC/KLRC/AG	0	3	2	5	
		Formulation of county specific regulations in line with the national policy	Regulations/Rules in place	KLRC/ COUNTY GVTS/AG	0	2	0	2	
	Develop a regulatory framework for non-financial co-operative societies	Develop legal framework to enhance financial deepening	Formulate Regulations to regulate non-financial Co-operative Societies	Non-Financial Co-operative regulations developed	SDC/KLRC/ COUNTY GVTS/AG/NT	0	3	2	5
			Develop regulations to facilitate inter borrowing among co-operative societies	Regulations developed	SDC/KLRC/ COUNTY GVTS/AG/NT	0	3	2	5
			Develop regulations for co-operative societies to raise capital using capital market instruments,	Regulations developed	SDC/CMA/NT	0	2	3	5

through co-operatives	and the establishment of a secondary market for co-operative securities	Develop financial market conduct regulations to cater for the co-operative societies	Regulations developed			0	3	2	5
		Develop regulations for the co-operative sector shared services platform	Regulations developed	SDC/CMA	0	3	2	5	
Develop legal framework to enforce governance and enhance efficiency in co-operatives	Develop regulations that guide the graduated levels of growth and development of co-operative societies	Provide regulations for establishment of a central liquidity facility for financial co-operative societies, as a platform for their participation in the national payment system	Regulations Developed	SDC/CBK/NT	5	1	1	7	
			Regulations developed	SDC/COUNTY GVTS/SASRA/CRA	0	3	2	5	
	Establish and support intergovernmental sectoral forums		Intergovernmental Sectoral for a developed	SDC/CoG	2	2	2	6	

Sub total		37		35		18		90	
2. To promote co-operative production, access to shared resources, value addition and marketing	Revitalize Producer Co-operatives	Revive and support weak but important agro-based co-operatives	Weak Co-ops revived	SDC/ COUNTY GVTS/CAK	2	2	2	6	
	Review and address marketing challenges in all value chains in order to improve production	Develop guidelines on investment in bulk storage and agro-processing through co-operatives	Co-operatives involved in bulk storage	COUNTY GVTS/SDC/NT	0	3	0	3	
		Develop co-operative guidelines on Public Private Partnerships (PPPs) and Business Process Outsourcing (BPO)	Co-operatives involved in PPPs, BPO	SDC/ COUNTY GVTS	0	3	2	5	
Sub total		2		8		4		14	
3. To enhance financial deepening and investments through co-operatives, Interventions	Expand financial services outreach through co-operatives	Develop guidelines on financial deepening and inclusion through co-operatives	Increased financial outreach through co-operatives	SASRA/ COUNTY GVTS	0	3	2	5	
	enhance co-operatives, Interventions								

	Support investments through co-operatives	Develop a strategy to facilitate co-operative to participate in provision of affordable housing	Increased affordable housing	SDC/ GVTS/SDH	COUNTY	0	3	2	5
		Develop a strategy to facilitate investment of Kenyan Diaspora in the country through co-operatives	Strategy developed	SDC/ GVTS/NT	COUNTY	0	3	2	5
Sub total						0	9	6	15
4. To promote governance in co-operatives	Review operative governance structure	Review co-operative governance policy and code of conduct	Policy and code of conduct reviewed			2	3	2	7
		Develop procurement guidelines for co-operative societies	Guidelines developed	SDC/ GVTS/IPOA	COUNTY	0	2	1	3
Sub total						2	5	3	10

5. To establish an institutional framework for enhancement of co-operation, consultation and co-ordination of co-operative management.	Restructure the existing institutions and promote new ones to support new structure	Promote co-operative federations in all value chains and restructure CAK	CAK restructured Federations established in all value chains	SDC/ COUNTY GVTS	0	5	10	15
		Develop guidelines and procedures for formation and operations of the holding co-operatives, co-operative companies and Savings and Investments Co-operatives (SICOs)	Procedures developed	SDC/ COUNTY GVTS	0	3	2	5
Sub total								
6. To develop the capacity of co-operatives through training, education and research.	Promote Co-operative education and training	Develop Co-operative officer handbook	Standardised co-operative supervision	SDC/ COUNTY GVTS /ICD	0	3	2	5
		Develop standardized co-operative education and training manuals	Standardized co-operative training material	SDC/CAK/ICD	0	3	2	5
	Promote Co-operative Research	Facilitate establishment of National Co-operative Information and Research Centre	One stop shop for co-operative information	SDC/ COUNTY GVTS	2	2	2	6

		Develop Co-operative Data base at SDC	Availability of credible co-operative information	SDC/COUNTY/GVTS/KNBS	2	2	2	6
Sub Total								
					4	10	8	25
7. To promote adoption of ICT in Co-operative.	Integrate ICT in Co-operative business	Facilitate the development of shared e-coop platform to enhance service delivery to co-operative societies	e-coop platform developed	SDC/CAK/NT	1	2	2	5
		Promote investment in ICT and robust Management Information Systems (MIS) by cooperatives	Improved efficiency in service delivery in co-operatives	SDC/ COUNTY GVTS /FEDERATIONS/CAK	0	1	1	2
Sub total								
					1	3	3	7
8. To mainstream issues related to climate change, special interest groups and human rights in co-operatives	Mainstream youth and environmental issues in cooperatives	Develop guidelines on environment protection by co-operatives	Green energy concept adopted and implemented in co-operatives	COUNTY GVTS /FEDERATIONS/CAK/NEMA	1	1	1	3
		Develop co-operative guidelines on participation of youth, women and people with disabilities	Enhanced youth participation in co-operatives	SDC/ COUNTY GVTS /CAK	0	2	3	5
Sub total								
					1	3	4	8
TOTAL					47	73	46	186