

Agriculture and Agribusiness Regulation in Kenya

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Introduction

The Agricultural sector is the mainstay of Kenya's Economy. Ideally, the sector is a major contributor to the growth and development of our economy, and as such, it contributes 24% of the Gross Domestic Product and 27% of the Gross Domestic Product indirectly through linkages with manufacturing, distribution and other related services.

Since the sector approximately contributes to about 45% of the Government Revenue, the Government has been keen to put in place various policies and regulations, to see to it that the sector develops well. And that it is given high priority as an important tool for fostering national development.

The government, through the Ministry of Agriculture and other Independent regulatory bodies, has been working together to ensure the implementation of the set policies and regulations. Some of the regulatory bodies include- Kenya Plant Health Inspectorate Services-KEPHIS, the National Environment Management Authority-NEMA, the State Department of Veterinary Services, and the Kenya Bureau of Standards-KEBS. Pest Control Product Board, among others.

The study seeks to understand the different legislative frameworks in agriculture and agribusiness and perhaps the setbacks faced by the existing legislation in addressing the problems facing the sector; thus, it involves a closer look at the new dispensation of the constitution and the policies therein.

Some Of The Policies Include:

- Pyrethrum Industry Policies.
- Development of Sugar Policy and Amendment of Sugar Act.
- Fisheries Act.
- National Potato Policies.
- Livestock Act.
- Agricultural Sector Development Strategies 2010-2020 ADS.
- Cotton Policy and Repeal of Cotton Industry Act 335.
- National Agriculture Livestock and Extension Policy-NALEP.

1st Policy. Pyrethrum Industry Policies

Kenya is one of the major producers and exporters of pyrethrum and, thus, a significant contributor to its economy. But in the mid-1990s, due to high-cost production, disease damage and delayed payment by the Pyrethrum Board of Kenya.

Decreased production was also fueled by the unfriendly policy regulating the environment by the Pyrethrum Board of Kenya, and so this from then saw the issue of low productivity and scarcity of planting materials, subsequently leading to the decline of the crop in the World Market.

So, the policy and regulating framework that has been operating creates confusion and does not favor the revamping of the sector.

Since 1938, the sector has been governed by the Pyrethrum Amendment Ordinance, which created the Pyrethrum Law was amended in 1964 with the enactment of Pyrethrum Act Cap 340, which established the Pyrethrum Board of Kenya and the Pyrethrum Marketing Board -PMB. The two were later merged through another amendment in 1977 to recreate the Board.

Redress:

1. In 2013, the Pyrethrum Act Cap 340 was repealed by the Crops Act 2013 and on the same day, Pyrethrum Act no. 22 of 2013 which established the Pyrethrum Regulatory Authority-PRA, was also enacted.

However, the Agriculture Foods Authority-AFA Act 2013 took over all the farmer institutions established under the repealed Acts, including the PBK. A situation created where the two bodies -AFA and PRA have been provided for to govern an Industry creates confusion and inconsistencies.

2. The amendment has been proposed to reinstate the Pyrethrum Board of Kenya as the regulator and the transfer of commercial function to the Pyrethrum Processing Company of Kenya-PPCK. (Food and Agriculture Organization, n.d.)
3. Since the wake of devolution and Agriculture being devolved to County levels, there has been a concerted effort by the 18 pyrethrum-growing counties in the country to revive the cultivation of this important crop.

2nd Policy. Development Of Sugar Policy And Amendment Of Sugar Act No 10

The Sugar Industry is on the brink of collapse unless drastic and radical measures are taken immediately to salvage it. The regulator, the Agriculture Fisheries and Food Authority, has failed to

tame the forces responsible.

And so, from the look of things, the sector has not done its best, and the government, particularly the Ministry of Agriculture, has failed to take any action as the situation gets out of control.

Some Of The Problems Include:

1. The removal of tariffs and the country's relation with COMESA states has seen a situation where there exists rampant importation of cheap sugar from COMESA members, and so infringement of this policy saw a deterioration of local sugar companies.
2. The lack of a framework to address the issue of low seed quality, high taxation levels, the excessive number of middlemen and inadequate Sugar Development funds.
3. Economic liberalization and global trade de-regulation have posed a lot of challenges to the sugar industry. Multi-lateral and regional trade treaties have seen sugar imported with Zero Tariffs from producer states and, hence, difficulty in the marketability of locally produced sugar.
4. Failure in institutional structures, processes, and policy to invigorate the sector in terms of research development as well as extension services for the cane farmers.

Redress:

The survival of the Sugar industry depends solely on the successful implementation of the critical policies and perhaps a revision of the unworthy policies.

Some Of The Policies Include:

1. Devolving the power to allow the cane producer to set prices from the Kenya Sugar Authority to committees composed of out-growers organizations and sugar company management to ensure that prices for produce are fair.
2. A reduction in taxes and levies in sugar production to aid in increasing the competitiveness of Kenya's sugar in both the domestic and foreign markets.
3. Zealous implementation of sugar quotas and imposition of taxes and duties on imported sugar, to ensure local sugar factories reduce their inventories and thus implement changes to improve their performance.
4. Kenya Sugar Research Foundation -KESREF, to conduct more research into new early maturing seed varieties that are resistant and have higher sucrose content.
5. Allowing Sugar companies to utilize the Cess fund paid to local authorities to improve the infrastructure.

3rd Policy. Fisheries Act

Several legislative policies have been formed from both the old dispensation of the constitution and the promulgated constitution to gather for this sector.

These policies aim at creating an enabling situation for a thriving fishing industry, as well as sustainable utilization of fisheries resources for a responsible and better aquaculture to achieve the involvement of fishermen in common fisheries management.

But, the sector, for a long time, had not gotten closer attention and little or no investment was channeled to this sector, so the infringement of policies led to:

1. A decrease in the total value of exports due to the ban on imports from Lake Victoria by the European Union.
2. Improper handling of fish, grading and harvesting, packaging and lack of National Fish Quality Control Lab.

The lack of closer coordination between the institutions managing this sector led to an unfavorable environment for the sector and, thus, the staggering of the sector. With the poor infrastructure and human resource development, lack of support fueled the same.

Redress:

The Government has drafted several policies to ensure the sector has been invigorated. Section 40 of the Crops Act, 2013, read together with section 46 of the Agriculture Fisheries and Food Authority, 2013-AFFA Act, gives power to the Cabinet Secretary in consultations with the Authority and the county government to make regulations for the better carrying into effect of the provisions of the Act.

Some Of The Policies To Address Include:

1. The government to develop or rather develop infrastructure including breeding sites, cooling plants and access to reduce wastage and achieve required sanitary and health standards.
2. Encourage the growth of Microfinance institutions to ensure the provision of Credit services to the Fishing Industry sub-sector.
3. Promote closer regional cooperation in the management or regulation of transboundary fisheries, for example, in the control of water hyacinth.
4. The Kenyan Government and the Food and Agriculture Organization-FAO have put in place the Blue Growth Initiative-BGI, which is aimed at helping select areas of the coastal region to develop fisheries and aquaculture.
5. Kenya's 2014-2017 National Nutrition Action Plan recognizes fisheries as one of the major sectors that contribute to the goals of the national nutrition agenda.

4th Policy. National Potato Industry Policy

Potato is the second most important food crop, after maize, in Kenya. And just like any other sector, the industry previously faced challenges in regard to the framework which regulated it. And so this posed challenges such as inadequate access to the adoption of production-informed technology where the farmers get to produce at maximum, with the infringement of policies in regards to proper breeding and thus the mix-up of varieties. The supply of quality or preferred varieties is also inadequate. From then also, there has been less adoption of standardized packages and weights as well as minimal value addition.

Redress:

1. New regulatory policies have been put in place both in draft and implemented ones, to ensure the potato industry thrives well, and so the related institutions have been streamlined to be favorable to the industry. A good example is the Kenya Plant Health Inspectorate – KEPHIS, which was granted a license as a Private inspector to come up with implementing regulations and policies to ensure the industry thrives.
2. The problem of Inadequate Potato varieties and seed production- The policy on restraining the importation of Potato tubers on the Seed and Plant Varieties Act in 1972 led to poor quality of seed and preferred varieties. The Act was repealed in 2013 to allow importation, hence high-quality seed variety.
3. Poor post-harvesting handling, value addition and marketing have been addressed in terms of training youth, the key industry players in Agribusiness using extension services in proper farming practices, as well as a procession of contract farming for reliable supply.
4. The structural alternations in the 1990s, such as the allocation of land to private entities, saw a reduction of land owned by institutions like KALRO and ADC, leading to the slow multiplication of seeds and the limited availability of varieties. But now, the government has allowed them to own expansive lands, hence the fast multiplication of favorable varieties.
5. The adoption of proper and standard packaging and weighing and the subsequent commercialization of the sector, as well as the adoption of drought-resistant varieties, has seen the sector thriving with those policies in place.

5th Policy. Livestock Act

Since Independence and the old dispensation of the constitution, the Livestock Sector has seen a number of legislative policies formulated to foster its growth, but as is common with other policies, it has also faced a lot of challenges in achieving full implementation. A good example is the policy in the mid-1990s, which saw a scrap of export compensation push leather exporters out of the market, thus leading to increased importation of leather products.

Disease prevalence also became a challenge due to the high mortality rates and the fact the sector has not yet implemented covers for such incidences, thus the difficulty in policy implementation due to losses by farmers.

Redress:

In the wake of the new constitution, the sector has seen many of the policies present being repealed and made better. Some of the redressing policies include-

1. The introduction of Livestock Insurance in October of 2015, the first government livestock insurance scheme in Africa, was launched. Kenya Livestock Insurance Program KLIP was successfully piloted in two counties in North Kenya. This, together with better Veterinary services, is going to encourage Livestock Keeping.
2. Devolution has contributed a lot; as such, few counties are beginning to put key infrastructure such as abattoirs and livestock markets.
3. At the moment, the main policy governing livestock production is the National Livestock Policy -NLP. This aims at raising livestock rearing to a world-class level by improving breeding, nutrition, animal health, animal produce processing and marketing, research and extension. The other anchor is the Veterinary Policy VP, which is yet to be launched, and so an implementation of this would give the farmers access to the lucrative international livestock and livestock products market.
4. Introduction of disease-free zones and the required inputs to facilitate farming and, thus enabling the farmers acquire international markets for their livestock, this is achieved through the imposition of quarantines to manage disease spread.

6th Policy. Agricultural Sector Development Strategies 2010-2020

This was created to ensure sustained agricultural growth and that all the resources are marshaled to the maximum and, as such, transformed from subsistence to commercial agriculture. The policy is for the sector ministries and the stakeholders in Kenya. The document dictates the characteristics, challenges and opportunities, vision, mission etc, that the ministries will undertake to propel the agricultural sector to the future.

Due to the existence of mis-coordination among ministries, the Agriculture Sector Coordination -ASCU, was created to address the same.

The issues of credit facilities to the farmers were a major challenge, the introduction of Agricultural Finance Corporation AFC, didn't help much since the corporation was mismanaged and so farmers no longer benefitted from them.

The challenge of input acquisition became a threat due to the monopoly of production and the poor distribution system.

Redress:

1. The development of these strategies saw a revival of old agricultural industries; examples include Kenya Meat Commission-KMC, Kenya Cooperative Creameries-KCC and other related companies.
2. The stepping up of research in the sector, as well as intensive extension services offered through the spirit behind the set-up strategies, has seen the sector thrive.
3. The shift from subsistence kind of agriculture to effective commercialization has seen the eradication of poverty and subsequent reduction of food insecurity. (Kenya Law, n.d.)
4. The presence of better coordination of the sub-sectors and institutions has fueled the Value Addition in the agricultural produce and thus promoted the growth of the sector.
5. The strategy is also coupled with the role of Marketing goods and produce up to the global level to ensure proper utilization of semi-arid areas through, for example, Irrigation.
6. Policy framework fueled by these strategies has ensured that agriculture research has been undertaken by both public and private institutions to enhance productivity, food security and safety and thus ensure effective competitiveness in domestic and global markets.

7th Policy. Cotton Policy And Repeal Of Cotton Industry Act Cap 335

- The Cotton industry is among the industries in Kenya that are on the verge of dying due to mismanagement.
- There was the imposition of restrictions on the importation of quality seeds, which thus reduced production and, subsequently, low-quality output. This, together with unstable prices of cotton in foreign markets, fueled the downfall of this industry.

Redress:

1. The importation of certified seeds has been allowed. The policy allows the importation of seeds from Israel to small-scale farmers to encourage them to practice cotton farming.
2. Many textile industries have come up to ensure demand for cotton is increased, and farmers are assured of the market.
3. Value addition is being done to enhance self-sufficiency in production. The policies regulate the prices to encourage more farmers to produce cotton.
4. There has been an advisory committee to ensure appropriate policies in favor of the cotton industry are developed. Control of pests and diseases, which was a major challenge to most

farmers, was addressed by introducing extension officers and research to enhance proper control of the same.

8th Policy. National Agriculture Livestock And Extension Policy –NALEP

1. The agricultural sector has had a minimal number of extension officers to train farmers with knowledge of agriculture. Their services play a tremendous role in agricultural production.
2. Majorly farmers depended on these services for marketing their produce, which has posed a challenge because most of the extension officers available don't meet the demand of available.

Redress:

1. Newly formulated policies of E-extension services, that is, electronic extension services, have been developed to enable farmers to easily access the services at any time.
2. The Extension services have a tremendous role in seeing to it that agricultural production is done to the maximum to curb food insecurity.
3. Extension officers ensure that the new technology has been appreciated by the farmers. This was done by ATIRI, Agricultural Technology and Information Response Initiative, which was initiated by KARI. It involved community-based organizations and other farmers intermediaries to reach small farmers.
4. Farmers lacked information about appropriate inputs to use and how to control pests that were attacking their produce; the officers had to intervene to ensure adequate, timely information to salvage the situation.
5. In the time past, the service providers were state sponsored for example through, Agricultural technology and information Response Initiative (ATIRI), National agriculture and Livestock program(NALEP) but now the private sector have been incorporated to facilitate the information dissemination.
6. State and other private sector companies sponsor agricultural shows that aid in promoting the adoption of new technology to facilitate modern agricultural practices and training farmers in the same.
7. Encouraging farmers to embrace diversification in their production to ensure that they maximize their production.
8. The state has incorporated diverse technological-oriented production to promote value addition goods produced. The genesis of this is the farm gate, where farmers are advised not to sell the produce in raw form but to add value to it.
9. The linkage of farmers to the market through making available the information on matters of demand of the produce, that is, where the demand is high and low. With the Devolution, this has been intensified. (Greenlaw et al., 2022)

Conclusion

From the study above, the agriculture sector, on its own, has, from time to time, due to the interest it receives from the Government, had a number of policies formulated ideally to foster its development and to ensure a thriving sector.

But just like other policies formulated for other sectors, in as much as they strive to salvage the situation, these policies have had setbacks, which have seen a number of them being repealed and better ones formulated.

With the wake of the New Constitution, the sector has seen tremendous changes with even a devolution system where many of the sector services were devolved and streamlined towards the achievement of Kenya’.

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