



**CONSIDERATION OF ISSUES RAISED BY THE AGRICULTURE
COMMITTEE OF THE NATIONAL ASSEMBLY
AND
THE FIBRE VALUE CHAINS STAKEHOLDERS
TOWARDS
REVIEW OF THE PROPOSED FIBRE DEVELOPMENT AUTHORITY BILL,
2020**

December, 2020

1. INTRODUCTION

The Fibre Directorate considered the feedback conveyed by the National Assembly Committee for Agriculture and the Fibre value chains stakeholders and reviewed the proposed Fibre Development Authority Bill on the basis of the feedback. Subsection 2.0 contains an iteration of the issues and the considerations made thereof.

2. Review of proposed Bill

Following is a summary of the actions taken towards consideration of the feedback and review of the Bill -

Table 1: Feedback and action on the proposed Fibre Bill, 2020

SECTION	ISSUE/COMMENT RAISED	PROPOSED RECOMMENDATION	Consideration/Justification
2	Interpretation of the term "dealer"	Redefine the term and avoid the catch all players under the single term "dealer" Restrict term dealer to trader or broker.	The term was redefined and the feedback incorporated as proposed
	Definition of the term "fibre crops"	Redefine term to give it its meaning i.e fibre crops are those grown and tended for the production of fiber.	The term was redefined and the feedback incorporated as proposed.
	Define the term "value chain" to give it a meaning.	Define value chain to mean "A set of activities that transform a raw crop product to a more useful product of a higher value"	The term "value chain" was defined as proposed.
	Define the term "organic cotton" to give it meaning.	Organic cotton is "cotton which is produced according to the internationally recognized organic farming standards	The term "organic cotton" was not defined as the term is not used in the bill.
	Define the term "Fair Trade"	Fair Trade is a market system that focuses on improving the working and living conditions of smallholder farmers, by guaranteeing a fair price to the	The term "fair trade" was not defined as the term is not used in the bill.

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		producers. It includes sustainable environmental measures.	
4	The farmer representation in the Board not explicit	Amend 4 (1) to increase the value chain representatives to five to include appointment of at least two smallholder farmer representatives by grassroots movements and one fairtrade representative.	Increasing the farmer representation and a Fairtrade representative will lead to violation of the State Corporation Act and the Mwongozo Code.
	Qualification of farmer representatives holding a degree may not be possible	Amend 4.2(b to exclude farmer representatives from having a a degree and lower the qualification to Kenya Secondary Education certificate	This proposal was not considered because farmers with lower qualifications cannot effectively engage in policy related discussions.
	Qualification of a degree or having held a senior position a challenge to farmer representative	Amend 4.2(c) by deleting it.	The proposal was not considered for the reason above.
	Sub Section4 (1) Composition of the Board does not include PS responsible for environment and yet Section 35(1)(c) provides for "environmental standards as set by the body for the time being responsible for environmental matters"	Review Composition of the Board to include the Ps responsible for environment.	Including the PS Environment would increase the Board members above the State Corporations Act and Mwongozo Code.
7	7 (j) Surveillance has wrong connotation as used under Authority functions	Redefine the term surveillance	The term "surveillance" is defined.

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18	Establishment of a Fibre Crops Council is a duplication	Eliminate establishment of a Fibre Crops Council.	Establishment of the Fibre Crops council was eliminated from the Bill.
19	Sub Section 19(1)(f): The smallholder included in the registration and licensing provision and the nursery operator not categorized.	Reword nursery operators to read "commercial nursery operators" and delete smallholder farmers.	The proposal was considered and the section revised as per the recommendation.
	Sub Section 19(1)(h): provides for formulation of regulations by county governments – a role for the national government	Delete 19(1)(h)	The provision was deleted as guided by the NA Committee.
	Sub Section 19(2) extent of value addition not clear and the rights of the farmer in the value addition not clear	Amend section to inject clarity on meaning of value addition.	Definition of value addition is defined.
	Sub Section 19(2)(c) infrastructural support including physical infrastructure development, financial and market information;	County Governments may not undertake such function effectively	The function transferred the Authority.
20	Sub Section 20(1) registration of all plantations and dealers includes smallholder growers which should not be the case.	Amend as follows "The Authority shall register all fibre crops plantations and commercial traders involved in the fibre value chains."	The proposal partially considered as the use of the term "traders" may lead to conflict with county governments who Licence traders for the local markets.
	Sub Section 20(2) is allegedly ambiguous and may include smallholder grower.	Reword as follows – "Commercial entities involved in fibre value chains	Section as stated does not include smallholder farmers as alleged.

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		must be registered by the county governments and the authority"	
	Sub Section 20(3) not clear if small holder growers will be issued with certificates upon registration as well.	Consider to exclude certificates issuance to small holder farmers and issue the same to Cooperatives or Unions.	Section excludes smallholder farmers
21	Sub Section 21(1) Mandates grower to register with associations, cooperatives etc which is viewed as burdensome	Reword as follows "Co-operative Society, Association, company or such legal entity operating within the County will keep a register of its members and make it available to the authorities upon request and subject to Kenyan privacy regulations."	Section rewarded as recommended.
23	Sub section 23 (2) includes private nursery operators licensing by county governments considered abusive or overregulation of smallholder farmers	Reword subsection by deleting the words" private nursery operators.	Section rewarded and private nurseries eliminated
24	Sub section 24 provision for movement permits (MP) and does not explicitly exclude the smallholder farmer.	Exclude smallholder farmers from such prohibition and subject Legal persons to such restrictions.	Section amended to exclude smallholder famers from MP issuance.
31	The section on certification of Kenyan fibre products puts more emphasis on the international market but there is need to consider the national and regional market as well	Reword as follows "The Authority shall register and monitor the certification schemes for compliance with protocols for Kenyan fibre crops in accordance with the national, regional and international market requirements."	Section amended to include term "regionally"

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33	The adoption of best or Good agricultural practices inadequately captured in the bill.	Enhance adoption of best agricultural practices to include application of appropriate techniques for sustainable fibre crops production.	Section amended to include best practices and sustainability.
	Inadequate land cover by vegetation	Provide for setting aside 30% of land for natural vegetation cover	Such provision will interview with rights over private property and is best undertaken through promotion.
	Bill does not provide for climate smart and ecosystem based adaption approaches	Bill to include climate smart approaches in Fibre Crops production.	Amendment included in the Bill.
34	The roles and mandates of inspectors not stipulated	Provide for the roles and mandates of inspectors	The roles will be detailed in the regulations.
35	Sub section 35(6)(c) provision for environmental standards as set by the body for the time being responsible for environmental matters. Issue: The need to ensure sustainable conservation and protection of the biodiversity.	Reword by introducing the following words "environmental standards as set by the body for the time being responsible for environmental matters to ensure protection of genetic resources and biological diversity."	Amendment of Bill undertaken.
40	The Authority shall promote and market fibre crops and fibre crops products locally and internationally. Issue: <i>Need to market fibre crops at all levels including regional level</i>	The Authority shall promote and market fibre crops and fibre crops products locally, regionally and internationally.	Section amended to include regional markets.

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45	<p>The financial year of the Authority shall be the period of twelve months ending on the 30th June of every year.</p> <p><i>ISSUE: Only gives the description without mentioning the time frame</i></p>	The financial year of the Authority shall be the period of twelve months starting 1 st July and ending on the 30th June of every year.	Bill amended as recommended
46	Provision for Cotton Development Fund is a potential area for conflicts with county governments and such funds can be accessed from other sources in an open economy.	Delete provision entirely	Amendment not considered the Fund is retained for Fibre Crops development.
46(b)	The bill process that levies form part of the authorities sources of Funds. The same bill does not however break down how the levy will be subdivided between promotion, research, market linkage, crop development and administration	<p>The Commodities Fund suggests that the section and the bill be amended to improve the same by clearly indicating how the bill will be subdivided and apportioned for each purpose.</p> <p>Further, the Fund suggests that at least 30 % of the levy be set aside towards crop development and lending with the lending aspect being apportion to the Commodities Fund and the County for purposes of lending and advances to farmers and players along the value chain.</p>	Levies percentages (%) and their breakdown will be undertaken under the Fibre regulations once the bill is enacted into law.
47	Meaning of farm development missing	Give meaning or state what is farm development.	Term “farm development” has been defined.
46 & 47	The bill provisions for a formation of the Fibre Crops Development Fund under section 46 and 47 with	The Bill should be amended to recognize the presence of the commodities Fund.	Provision of the Fibre Development Fund is retained.

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	similar mandate and roles as the Commodities Fund. This would only be duplicity seeing that the Fund has also developed its bill complete with the lending Mandate to the crop among other	The Roles, Mandate and sources of the Fibre Crops Development Fund should be amended and indicated as being part of the Commodities Fund in order to ensure efficiency and effectiveness in service delivery and avoid duplicity of roles under legislation. The sanctity of the regulator and that of the lender should be demarcated to avoid duplication of roles	
48	Provides for management of the fund	Delete provision	Section was retained.
49	Sub Section 49(1) Provides for accounts and audit: ISSUE: The need to have inventory of all assets apart from the books and records	Amendment proposed: "The Authority shall cause to be kept all proper inventories, books and records of accounts of the income, expenditure, assets and liabilities of the Authority."	Section amended according to the recommendation.
51	Sub Section 51(1) The Authority shall, within three months after the end of each financial Year Issue Need to ensure access to information to the citizens as per the CoK 2010 Article 35; Access to Information	Amendment proposed: The Authority shall ensure the annual report is published and publicized to the citizens	Proposal not considered as the auditor General has the final opinion in the accounts of SCs.
61	The Crops Act, 2013 is amended in the First Schedule by deleting the following words- (a) "cotton..... gossypium spp" in Part 1.	add: e) (e) water Hyacinth.... Eichhornia crassipes f) (f) Banana...Musa sps. g) Hemp..... Cannabis sativa	Proposal was incorporated in the Bill as recommended by the stakeholder

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	(b) “Kenaf..... Hibiscus Cannabinus L” in Part 2 (c) “Sisal Agave spp” in Part III. (d) “Flax Linum usitatissimu L.” in Part 3. <i>Need to expand the list of fibre crops to include indigenous and upcoming ones with more technological advancements</i>	h) papyrus Cyperus papyrus	
New	Concerns on inadequate protection of our fibre crops biodiversity.	Introduce protection/conservation of our fibre crops biodiversity.	The recommendation was incorporated in the Bill as proposed.
New	Unsustainable practices in the fibre crops production causing degradation of the environment	Mainstream the environmental sustainability in the Bill	The recommendation was incorporated in the Bill as proposed.