STATE OF DEVOLUTION ADDRESS BY H.E GOVERNOR ISAAC RUTO, CHAIRMAN, COUNCIL OF GOVERNORS

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NAIROBI

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VENUE: 11TH FLOOR BOARD ROOM, DELTA HOUSE.

Ladies and Gentlemen…

Today we review for the second year, the direction, progress, challenges and achievements of our Country under Devolved governance. It is my sincere belief that with all our challenges and shortfalls, NO County can be said to have become worse from Devolved governance. As we take stock of devolution; lessons learnt, challenges, and possible areas of improvement, it is of paramount significance to compare expectations and reality in order to plan ahead.

I want to appreciate the National Government and the various institutions through which transition has been managed, notably the Transition Authority, Commission for Revenue Allocation (CRA), and Commission for the Implementation of the Constitution, among others. Even though it was not seamless, the prerequisite legislations and policy frameworks have been established to ensure that County Governments are functional. These milestones were further supported by technical assistance from development partners who continue to provide the impetus required to forge ahead and make devolution a reality. We continue to learn from the experiences of other countries that have embraced devolved systems of government before us to enrich our knowledge and experience and to ensure devolution works.

From the very onset, devolution was intended to bring essential services closer to the people, and ensure public participation in governance processes. This has been made possible by the transfer of functions to the County Governments and consequent resource allocation to implement those functions. The said functions comprise county health services, agriculture, early childhood education, county public works, coordination and participation of local communities in governance, among other functions. Taking a critical look at these functions, it is evident and discernible that much success has been realized. Through such noble initiatives, we continue to meet the expectations of ordinary Kenyans whose conditions and quality of life continue to improve with each passing day of devolution.

However, at this moment as I address you, County Governments and National Government are standing on a cross road on certain functions such as County roads, forestry, electricity, gas and energy reticulation, and cultural activities, public entertainment and amenities. These functions have not been transferred and they are contained in a draft Gazette Notice that is yet to be published by the Attorney-General's Office. This Gazette Notice will be availed for your perusal.

Whilst Devolution has succeeded in addressing the issues of inequality in resource allocation and service delivery, it is yet to fully realize uneven growth and development which was perpetrated for many years by the centralized system of governance. The Council notes that a lot of resources are still administered at the Centre. We urge the National Government to take the deliberate steps necessary to ensure that the bulk of the resources are pushed down to the Counties where the bulk of the Citizens are. This will both open up the Country and ensure equity in resource distribution. In particular, focused efforts should be made to extend tarmacked road network and the national electric grid to the traditionally marginalized counties in the northern Kenya.

As a Council, we are also greatly concerned about Security: though a National Government function, the economic stability of The Counties are greatly hinged on a stable and secure environment. What we have witnessed is acts of terrorism and insecurity which has created economic sanctions in some Counties and greatly affected several sectors: education has been seriously affected in some areas; schools have been closed; Service delivery in the health sector has been compromised greatly; construction in Counties like Mandera have become very expensive due to the threats to the quarry workers; professionals and Non-governmental organizations are moving out of these Counties in droves.

State of Devolution in sectors:

In health, County Governments have given top priority to service delivery by allocating a budget above the requisite 15 per cent as stipulated by the National Health Policy. We have put in place structures to ensure that the interface between personnel and equipment tallies, to guarantee that the human resource element translates into better medical care. Many Counties have acquired kidney dialysis machines and reduced the cost of dialysis from KES 13000 to 4500 for all required three sessions. There are currently 51 kidney dialysis machines in county hospitals performing 944 sessions per day. In effect, kidney patients' referrals to Kenyatta National Hospital have been reduced over 11 times. For the first time since independence, Mandera County performed its first caesarian delivery at Takaba Subcounty Hospital. In Samburu County, maternal deaths have declined by 79 per cent since the County Government constructed housing units within health facilities for expectant mothers to move in with their families, weeks before delivery. These are novelties among communities that hitherto experienced neglect and marginalization. They are now reaping the benefits of devolution. These success stories are replicated in every transferred function. Most Level 5 Hospitals have been elevated to Teaching and Referral Hospitals and this has seen provision of sophisticated diagnostic and treatment services. These services include CT Scans and more digital X-rays in modern laboratories.

In Agriculture, we are happy to report that in the agricultural sector, much has been achieved. Many Counties have been able to make extension services more accessible to farmers and further, farmers are accessing subsidized fertilizer and farm inputs to improve their productivity. In addition, several Counties have been able to supply machinery like milk coolers and tractors and improved technologies like tissue culture, soil testing, genetic improvement programs, provision of drought resistant seeds and improved fishing and aquaculture methods. We note that since the inception of County Governments, our farmers have more linkages to international markets for products like livestock, avocado, tea and coffee.

A case in point is Nyeri County which has seen a revolution in the coffee industry through its Joint Marketing Strategy. The grading and milling losses previously experienced by farmers have significantly reduced. Farmers are now directly participating in the production and marketing process and they are able to follow their products from the farm to the selling point. Co-operative societies are being transformed into accountable and transparent entities that will be vehicles of economic growth in the county. Actually, over KES 2.5 billion has been injected into the Nyeri economy from this initiative.

In Finance, we have made progress in the annual resource allocation to County Governments: The unconditional equitable share of County Governments' revenue has progressively increased since the 2013/14 FY. This started from KES190Bn in 2013/14, 226Bn 2014/15 and currently the proposed 258Bn in 2015/16 FY. However, we still insist that the increment should be formally anchored in law to reflect unconditional transfers of 45% of the previous year's collected total revenues.

Even though County Governments have been allowed to operate their own Revenue Fund Accounts by the law, the disbursements of monies to counties from the National Treasury has consistently been outside the mandated time-frame as provided for in the Public Finance Management (PFM) Act hence this has created financial management uncertainties in County Governments. No County has for the last 15 months received monies from Treasury before the 15th as stipulated in law. The Council believes that if this delay is corrected, County Governments' rate of development and delivery of services will be enhanced.

Under Intergovernmental consultations, the PFM Act provides for the establishment of key consultative forums like the Intergovernmental Budget and Economic Council (IBEC) to consider matters of fiscal relations. IBEC has progressively been a key forum for County Governments in terms of recommendations provided by Counties in relation to the Division of Revenue between the two levels of Government. For instance, the 2015/16 proposed County allocation was largely influenced by IBEC through the Council of Governors. The Council of Governors insists that IBEC should be strengthened to enhance its effectiveness as it represents the two levels of Government.

Further, the National and County Government Coordinating Summit has been functional but there have been challenges in the implementation of resolutions reached during the Summit meetings. We hope that in the next year, information sharing between the intergovernmental structures shall will be enhanced.

Ladies and gentlemen, we as a Council believe in Social and Fiscal Accountability. The establishment of County Budget and Economic Forums (CBEFs) has also enhanced the quality of county budgets. Thirty four (34) Counties have established their County Budget and Economic Forums. The Council of Governors' believes that moving forward, the quality of county budgets and plans can only improve with the full operationalization of the CBEFs in all the 47 Counties.

All the 47 County Governments through the Executive arm and County Assemblies are IFMIS-enabled as stipulated by law. This has ensured that Counties expenditure is easily monitored and value for money has been traced and determined. This has improved the level of transparency and accountability in the operations of County Governments. The Council believes that once all the decentralized units are fully established in the Counties and IFMIS-enabled, transparency will be fully achieved at the lower levels of service delivery at the Counties.

In revenue collection, all the 47 County Governments are progressively shifting from the manual revenue collection systems to digitalized systems. This is a way of improving the Counties fiscal effort by sealing the loopholes that were allowing revenue leakages. Reports by the Controller of Budget have indicated that 75 per cent of Counties met their revenue targets in the 2013/14 FY. This is a good indication taking into account that County Governments are still in the transition period. The Council believes that once all the 47 counties are fully automated, the fiscal effort of each County will be enhanced and Counties will stop over relying on the National transfers and rely more on their locally raised revenues.

Under County Borrowing, The Council of Governors reiterates that the annual County Allocations through the Equitable share and Grants are never enough to fully implement the development projects earmarked by the County Governments. Taking into account that there have been no clear guidelines on counties borrowing to complement the development projects, the Council of Governors engaged with IBEC to develop the borrowing framework for both the two levels of Government. The framework has been developed and is awaiting approval through the PFM guidelines submitted to Parliament.

Moving forward, the Council of Governors believes that Counties will be able to now borrow to complement their allocated revenues in provision of services to the locals. Each County Governments is currently allowed to borrow up to 20 per cent of their total annual revenues.

In Energy, Roads and Transport, much progress has been made. Counties have made the Licensing of SME power generation projects easy, to encourage industrial development in counties. This has encouraged the Private sector to invest in renewable energy technologies to increase energy consumption, investment in increasing electricity connectivity and provision of incentives on adoption of green energy and use of renewable energy. The result of such collaboration can already be seen in Counties such as Busia, Kiambu, Homabay, Kericho, Baringo and Kajiado, among others.

Despite the fact that the transfer of contested County roads has not been effected, Counties have done a tremendous work in opening up roads to increase accessibility and motorability of previously inaccessible roads. The County Governments have embarked on rigorous infrastructural development exercises which have seen the growth of road networks to open up the major production areas of the country and promote development of agriculture. Previously dilapidated link roads in major urban centres have undergone upgrades, repair and rehabilitation of rural roads have opened up agriculturally rich areas. In a bid to create employment for our youth, County Governments have given tenders for bridges and culvert works to Youth groups. This will not only improve connectivity but also ensure that we link our rural and urban areas and open up major centers across the country.

In Urban Development, County Governments and development partners are collaborating in participatory approaches to sustainable urban development through training and capacity building. Many counties have now developed their spatial plans and County Integrated Urban Development Plans to guide development in counties. Kisumu, Mombasa, Kakamega, Lamu, and Kiambu are some of the examples of Counties which have invested in efficient storm water and solid waste management with the help of investors. Efforts have been put to develop all urban areas rather than concentrating more in towns. County Governments are providing incentives to attract private investors. I have just returned from Sweden where I led a delegation to explore means and ways of developing sustainable urbanization.

Under Environment, the Council notes that environment has been the center of focus for all County Governments. As such, we as a Council participated in the deliberations on the legal review and harmonization of a number of bills related to Environment and submitted comments on them: The Climate Change Bill, 2014, passed on 05/03/2015; The Water Bill,2014 pending at committee stage in parliament; The Mining Bill, 2014, in the Senate, First Reading was done on 26/11/14; The Natural Resources (Benefit Sharing) Bill, 2014 in the Senate, second reading done on 12/03/15; and the Environmental Management & Co-ordination (Amendment) Bill, 2014, currently in the Senate, First Reading on 11/02/15.

In relation to water resources, Counties have established Water Companies which are service providers currently in charge of water schemes. County Governments have made huge strides in expansion of water distribution networks. To ensure wide coverage, the County Governments have continued to upgrade the pumping systems and storage facilities. The County Governments have also initiated, supported and sustained various community water projects across the Country. To ensure equitable distribution of water within the county, Counties have engaged communities with existing water supply projects to explore ways of upgrading the systems and ensuring water is treated before supplying to consumers in addition to expanding distribution networks to reach more people. Further still, counties have established technical teams to carry out assessment of springs and give technical input on protection measures required. The teams have carried out preliminary survey on springs. We have also invested in rain water harvesting, providing technical support and capacity building to public institutions and supplying storage facilities. So far, plastic water tanks have been supplied to learning and other public institutions across the Counties. We are rehabilitating dams to ensure that water provision in Counties meets the needs of the people, thus reducing many diseases.

Some 23 out of the 47 Counties are classified as Arid and Semi-Arid Lands (ASAL). These Counties have initiated repairs and maintenance of Irrigation schemes and provided support to micro irrigation sites/groups; drilling of boreholes; water supply and improvements of existing rural water services; improvements of kiosks and pipe extensions; de-silting and construction of pans; water trucking , purchase of standby gen-sets and stockpiling of fast moving borehole spare parts; Fuel subsidy for motorized boreholes, provision of storage tanks; support to rapid response teams and repair and maintenance of water bowsers. This has ensured that even the sparsely populated and vast areas have access to water.

Ladies and gentlemen, solid waste management is legislatively managed by the Environmental Management and Coordination Act -EMCA (1999). The Environment Committee submitted our views for conformity with the Constitution of Kenya. The Bill is currently awaiting second reading in the Senate. In addition, counties are participating in the formulation of the National Solid Waste Management Strategy to guide sustainable solid waste management in the counties to ensure a healthy, safe and secure environment for all. The Strategy is a deliberate and visionary commitment for the counties in the management of solid waste towards achieving the ZERO waste principle. In this respect, counties have adopted the 10 minimum solid waste management requirements developed by the National Environment Management Authority (NEMA). Counties have identified land for new dumping sites and purchased trucks for the transportation of the various segregated waste streams.

To bolster **Trade and Investment**, Counties have been engaged in facilitation of training activities in the areas of business start-ups skills, entrepreneurship, innovation, value chains and project management. So far, Nairobi City County has trained over 120 SMEs in various areas and the results are being felt through improved business activities, improved loan repayment and success stories from persons who have been supported by counties. To ensure that as many people as possible have access to financial start up, many counties have established joint loan boards, to facilitate business people through issuance of loans from KES 100,000 to maximum KES 500,000. Due to the adherence to these policies by both clients and staff, the Board has issued over KES 15m to more than 100 business people hence improving financial capacitation.

So far, there are loan schemes being advanced to business persons as seed capital. The objective of the Loan Scheme is and remains to advance financial assistance to indigenous entrepreneurs so as to enable them access affordable credit, reach a standard of creditworthiness and gain commercial experience which would qualify them to play their part in the commercial and industrial life of Kenya. The scheme operates as a revolving fund. The sustainability of the project has been assured through consistent fundraising for capacity building and other resources.

Marketing and Promotion: Counties have enhanced the creation of markets by introducing SMEs to new markets for their products. They are engaged in business forums geared towards creation and sharing of knowledge to business persons on opportunities existing in the Counties. The forum has also been a gateway for collecting information on issues affecting the business community. These include Miss County Tourism competitions and County Investment Forums.

Networks: Public-Private Sector Partnership (PPP): Right from the start, County Governments underscored the role of private sector as an active partner and leading stakeholder in County affairs. County Governments have actively participated in forums such as the Presidential Round Table whose aim is to fast track critical legislation, tax, licensing and administrative reforms as well as overseeing rapid improvement of infrastructure. Notable results include the huge reduction in business licenses, review of taxes, making Mombasa a 24-hour port to achieve faster movement of goods, a fast-improving road network, and the installation of broad-band cable communication network to link up Kenya with the rest of the world. Many Counties have tried to boost **Trade and Business Information** by introducing databases or Information Desks where information can be disseminated to various groups at their convenience. Information on business licenses, necessary permits and policies is availed on the same desk. Many Counties have constructed modern markets to support and improve the business climate in the rural areas. To make major towns a 24-Hour Economy, Counties are partnering with investors in providing street lights initially in Central Business Districts and later in the suburbs and towns within the sub-counties.

Ladies and gentlemen, under Education and ICT, All the 47 County Governments are in the process of putting up more Early Childhood Development (ECD) structures to cater for the devolved Education functions. Enrolment to these institutions has also increased over the past two financial years. However, we still have several challenges. The National ECD policy has not been developed by the National Government to guide Counties through their development of necessary legislation. The Council of Governors' believe that if this policy is developed in time, it will facilitate the County Governments to uniformly develop standards and norms that improve the sector.

Under-funding of the function through the annual revenue allocation to counties has slowed down the implementation of the sector. County Governments have therefore started allocating to the sector some monies from the locally raised revenues to ensure an efficient education system. In this way, we are meeting the expectations of ordinary Kenyans whose conditions and quality of life continue to improve with each passing day of devolution.

With respect to Legal Affairs, we note with concern that there are over 30 pieces of legislation are among laws before Parliament, or Acts that have been recently passed, that claw back and recentralize devolved functions. Notably, I would like to mention that the Council has raised objection to provisions in, among others, the Health Bill, the Water Bill, the Mining Bill, the County Retirement Scheme Bill, the Agriculture Fisheries and Food Authority Act and the Wildlife Conservation & Management Act. All these Bills and Acts are among the various laws with provisions that infringe and interfere with the functions of County Governments.

We further note that the Fifth Schedule of the Constitution had set a timeline of five years for the enacted of all the laws required to implement the Constitution. This timeline lapses in August 2015. Of interest to County Governments is the fact that the Constitution has stipulated that the provincial administration has to be restructured to accord with the devolved system of government. We hope that the National Government will expedite this process so that all structures respect the Constitution.

Further, we note that there still exists State Corporations and Regional Authorities that continue to undertake County Government functions. The *Report of The Presidential Taskforce on Parastatal Reforms* recommended for discussions to take place between the National Government and County Governments regarding the future of the State Agencies whose functions have been devolved. It is expected that those discussions will herald appropriate decisions on the way forward for those Agencies. This position has also been reiterated by the Transition Authority.

It would be unrealistic to ignore the challenges.

The first challenge cutting across all counties is putting mechanisms in place to ensure that transferred functions and resource allocation are commensurate. We have consulted with both levels of government but consensus and concurrence are yet to yield cooperation. We also have the challenge of double taxation and functions overlap. For instance, the fourth function: cultural activities and public amenities. In relation to betting and casinos, the National

Government still collects the revenue. This minimizes the revenue base for counties.

In all aspects, we want to reaffirm that devolution is on the right track and will continue to record success stories. A recent report by the Institute of Development Studies, University of Nairobi released on March 10, 2015 gave County Governments a clean bill of health. The report considered:

1. Public participation and access to information
2. Integrity, Transparency and Accountability
3. Economic and social Rights and development
4. Equality and Non- discrimination
5. Access to justice and security
6. Tax justice, Fiscal prudence and trade development
7. Land rights and Natural resources Governance
8. Other fundamental Rights and freedoms
9. Devolution of power
10. Monitoring and evaluation process.

In all these, County Governments scored above average. The report also observed that County Government funding did not match allocated functions.

As I conclude, I would like to emphasize to you and the members of the public that County Governments are not appendages or extensions of National Government. County Governments are not state departments. They are legitimate governments, by virtue of the Constitution of Kenya 2010 and the March 2013 General Elections. County Governments are units through which sovereign power of the people is exercised and in this regard, their functional integrity and independence must be respected.

In conclusion, we observe that our collective commitment, taking into consideration the "SIX Cs " of devolution will transform the lives of all Kenyans as has been witnessed in the last two years.

THANK YOU.

Signed

H.E. Isaac Ruto, EGH

Chairperson, Council of Governors