



**COUNCIL OF GOVERNORS**



**INDUCTION HANDBOOK FOR TRADE, INDUSTRY,  
MANUFACTURING, COOPERATIVES AND  
ENTERPRISE DEVELOPMENT**

**48 Governments 1 Nation**

## FOREWARD

The trade sector is critical to Kenya's prosperity. It fuels economic growth through creation of jobs, facilitation of exchange of goods within and outside the country, and enhancement of economic opportunities with an ultimate goal of increasing income and reducing poverty. The government has continued to support the sector through development of policies and legislation. These policies and legislation influence the production levels, trade flows, prices of goods and services, and welfare. Therefore, there is need for; continuous engagement, dialogue, and capacity building among the stakeholders in the sector on devolved trade functions; advocating for essential and improved coordination of trade related programs that effectively addresses sectoral needs, explore synergies and identify opportunities that would best fit County governance structure.

To facilitate this, and cognizant of the incoming county leadership, the development of trade, industry, manufacturing, and enterprise development manual by the Council of Governors in consultation with the sector stakeholders, serves to bridge any technical capacity that may exist while facilitating smooth transition. Essentially, it equips the incoming officials with knowledge on the policy and legal architecture of devolution in the trade

sector which is key in supporting the newly elected leaders to seamlessly settle in their

roles and responsibilities. Further, the manual appraises the county leaders with the trade policies, legislations and agreements entered at the global and international level affecting the local trade. The induction session provides a platform for the county governments to appreciate the progress made in the sector over the last decade, through the gains and challenges documented by the Council overtime. In addition, the session will provide a platform for consultation amongst County Governments on matters of common interest, sharing of information and best practices on performance of functions and peer to peer learning.

## ACKNOWLEDGEMENT

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Thirdly, the manual has also benefited inputs from various forums that the COG has convened with the Ministry of Industrialization Trade and Enterprise development and the Ministry of East African Community and Regional Development.

These have been instrumental in interrogating the legislative environment, International Treaties in the Sector and sector governance arrangements.

Fourthly, inputs from the private sector who substantially contribute to the growth of the Trade and Manufacturing sector. Special appreciation to the Kenya Private Sector Alliance, Kenya National Chamber of Commerce and Industry, Kenya Development Corporation, Kenya Association of Manufacturers, Kenya Bureau of Standards, and the Kenya Institute for Public Policy Research and Analysis for their immense contribution in enriching the manual. In a special way, the Council of Governors would like to express special gratitude to Global Communities through the USAID-funded Cooperative Leadership Engagement Advocacy and Research (CLEAR) Program for the technical and financial support towards the finalization of the manual.

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In conclusion, I would like to note that the ultimate goal of the Manual is not only to improve the management of the County Trade Departments, but also to improve performance and service delivery.

## ACRONYMS AND ABBREVIATIONS

ACA	Anti-Counterfeiting Agency
AGOA	African Growth and Opportunity Act
AGPO	Access to Government Procurement Opportunities
AfCFTA	African Continental Free Trade Area
CABs	Conformity Assessment Bodies
CIDPs	County Integrated Development Plans.
COG	Council of Governors
COMESA	Common Market for Eastern and Southern Africa
EAC	East African Community
EPZA	Export Processing Zones Authority
FDI	Foreign Direct Investment
IGAD	Intergovernmental Authority on Development
IGRA	Intergovernmental Relations Act
IAF	International Accreditation Forum
ILAC	International Laboratory Accreditation Cooperation
GATT	General Agreement on Trade and Tariffs
KIBT	Kenya Institute of Business Training
MSEs	Micro and Small Enterprises
MoITED	Ministry of Industrialization, Trade and Enterprise Development
MTPs	Medium-Term Plans
SDG	Sustainable Development Goals
SPS	Sanitary and Phytosanitary
STI	Science, Technology and Innovation
TFTA	Tripartite Free Trade Area
TBT	Technical Barriers to Trade
TRIPs	Trade Related Intellectual Properties
WTO	World Trade Organization

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## EXECUTIVE SUMMARY

The devolved system of governance established institutional mechanisms and systems for delivery of devolved services. As we go into the third cycle of County Governments, the stability of these institutions and systems will be critical for continued service delivery. Since the inception of devolution, the County Governments have undergone two successful transitions in political power. However, the subsequent transitions will require stable, enabled and effective institutions and systems to deliver more and better services to citizens and in order to further reduce regional disparities.

Premised on the above, the Council of Governors through the Trade Committee has put together a Trade sector specific induction manual with critical analyses on policy and governance discussions regarding aspects of service delivery in line with the spirit of devolution. The Constitution of Kenya (2010) devolved the trade function in part two of the fourth schedule section 7. Trade plays a significant role in the countries growth and development through its linkages with all the sectors of the economy by creating markets through which goods and services get to the consumer. Trade also plays a critical role in poverty reduction through employment creation in informal, retail and wholesale trade and provides MSMEs with the opportunity of accessing more favorable prices in regional and global

markets thereby ensuring equitable income distribution.

This County Trade Sector Induction Manual provides for critical components in the induction of new County Government officials. The manual is divided into four thematic chapters, each discussing critical issues, as summarized below.

1. Trade related transferred functions, national sector direction, key sector statistics, and Regional and International agreements and treaties are among the issues discussed in the chapter. The section also introduces a brief on the devolved trade sector linkage with the Constitution of Kenya, 2010, specifically the Articles and Schedules that relate to trade development and regulation; a synopsis of functions and assignments of the County Government in the trade sector; the national trade policy and strategic directions for trade, investment, and manufacturing; and summary of the regional and international agreements with implications on county trade development and regulation.
2. Sector policies and legislation at both levels of government (National & County) are discussed in this chapter. This section examines the policy and legislative environment within which trade related services have been

delivered since the adoption of devolution to identify the missed steps and challenges that require to be fixed to improve service delivery.

3. Trade Sector Governance is critical in attainment of the strategic plans for a government. The section presents a brief overview of the Kenya's Trade sector governance by discussing important organizations, agencies and actors within the sector; outlining their functions, roles and responsibilities as well as presenting the importance of the selected agencies. The section assesses the county trade, industry, manufacturing and enterprise development department, their roles and composition of county officials in the sector. Finally, the section highlights key aspects on intergovernmental relations.
4. Planning, budgeting & implementation of the sector plans is covered in this section. It provides an overview of key service delivery considerations in terms of planning, performance management, intercounty programs and partnerships, lessons on the design and organization of county service delivery structures for the sector including aspects such as public participation, intersectoral linkages and knowledge management.
5. Some of the lessons learnt, achievements and challenges experience in the sector since the onset of devolution are discussed in this section. Further this chapter highlights the case studies, benchmarks, and experience from the specific counties for peer learning.



## CHAPTER ONE

### GENERAL OVERVIEW

#### 1.1 Introduction

The section introduces a brief on the devolved trade sector linkage with the Constitution of Kenya, 2010. It presents the Articles and Schedules that relate to trade development and regulation; a synopsis of functions and assignments of the County Government in the trade sector; the national trade policy and strategic directions for trade, investment, and manufacturing; and summary of the regional and international agreements with implications on county trade development and regulation.



#### Objectives

- i. Understand the Constitutional obligations related to the Trade Development and Regulation
- ii. Appreciate the National Trade Policy and strategic direction and alignment with County Governments

#### 1.2 Constitution Assignment of Trade Development and Regulation Functions

The fourth schedule of the Constitution of Kenya outlines the specific roles of the two levels of government in the trade sector. National Government is mandated to handle matters relating to international trade, while the functions of County Government include, inter alia, domestic trade development and regulation. The Constitution of Kenya, Article 6(2) and the Intergovernmental Relation Relations Act 2012, Article 5 (b) provides the basis for consultation and cooperation between the two levels of government.

Further, Article 189(2) of the Constitution mandates Government at each level, and different governments at the county level, to co-operate in the performance of functions and exercise of powers and, for that purpose, they may set up joint committees and joint authorities. Due to this, the Constitution contemplates the establishment of County Economic Blocs which augments the development of the respective regions through joins county projects and programs.

In this spirit, the National Government in consultation with the County Governments have facilitated development the National Trade Policy. The policy provides a robust framework for steering the country's trade development and the devolved structure of Government in a much more collaborative manner.

Further, the Fourth schedule part (2) (7) devolves the following functions of the Trade development and regulation, including:

- (a) markets;
- (b) trade licences (excluding regulation of professions);
- (c) fair trading practices;
- (d) local tourism; and
- (e) cooperative societies.

Other functions related to trade in the constitution are stipulated in the Fourth Schedule part (2), function 4, which identifies activities including Liquor licensing, public Entertainment & Amenities and outdoor Advertising licensing among others.

### **Gazette notices.**

The Kenya Gazette is an official publication of the government of the Republic of Kenya. It contains notices of new legislation, notices required to be published by law or policy as well as other announcements that are published for general public information. It is published every week, usually on Friday, with occasional releases of special or supplementary editions within the week. Some of the trade related gazette notices are presented in the table 1.

**Table 1: Trade Related Gazette Notices**

Gazette No.	Title	Short Description
Gazette No. 157 (Acts No. 16) of 2015	The Special Economic Zones Act, 2015	AN ACT of Parliament to provide for the establishment of special economic zones; the promotion and facilitation of global and local investors; the development and management of

Gazette No.	Title	Short Description
		enabling environment for such investments, and for connected purposes
Gazette Notice No.82 (special Kenya Gazette Supplement No. 67)	The Non-Deposit-Taking Sacco Business (Section 3(1)(b) of the Sacco Societies Act (SSA)	An Act of Parliament to provide for the establishments of regulations specifying the non-deposit taking business to which the Sacco Societies Act apply; and prescribe the measures for the conduct of the specified non-deposit taking business by Sacco Societies.

### 1.3 Transfer of Functions

Trade development and regulation services were devolved through the Constitution of Kenya and were further unbundled by the Transition to Devolved Governments' Act 2012, Legal Notice 137 of August 2013. The Defunct Transition Authority unbundled the following trade functions:

**Table 2: Trade Related Transfer Functions in the Constitution**

Main Functions	Sub Functions
<b>a) Trade development and regulation</b>	<ul style="list-style-type: none"> <li>a) Implementation of the National Trade Policy</li> <li>b) Provision of Business Development</li> <li>c) Services to Micro, Small and Medium Businesses engaged in trade</li> <li>d) Development of wholesale and retail trade</li> <li>e) Management of credit scheme for micro and small businesses</li> <li>f) Collection of business information and management of county Business Information Centers/Business Solution centers</li> <li>g) Promotion of export business</li> <li>h) Advocacy for provision of market infrastructure</li> <li>i) Conducting trade fairs/exhibitions</li> <li>j) Promotion of Investments</li> </ul>
<b>b) Markets</b>	<ul style="list-style-type: none"> <li>a) Construction, Rehabilitation, Upgrade, and Maintenance of markets</li> </ul>

Main Functions	Sub Functions
c) <b>Trade licenses (excluding regulation of professions); and</b>	a) Single Business Permit comprising of permit fees, charges, rent, license, rent, cess, market fee, and such other fees
d) <b>Promotion of fair-trade practices;</b>	a) Verification of weighing and measuring instruments b) Inspection of weighing and measuring instruments and pre-packed goods c) Investigation of complaints relating to unfair trade practices d) Prosecution of offences arising from unfair trade practices
e) <b>Cooperative Societies</b>	a) The role of County Government in supervision and management of co-operatives has been spelt out in the Sessional Paper No.4 of 2020.

### Cooperative Societies

The cooperative movement in Kenya has been in existence since 1908<sup>1</sup>. Its regulation however has been evolving overtime. Some of the existing legislations as of 2021 include:

Regulations	Type of the cooperative and nature of regulation	Key components
The Constitution of Kenya, 2010	All cooperatives	Devolvement of cooperative mandate from the national government to the counties
The Cooperative Societies Act Cap. 490	All cooperatives	Relates to the constitution, registration, regulation and management of cooperative societies.
By laws of the cooperatives	All cooperatives	Governs management of the societies
SACCO Societies Act, 2008	Deposit taking Sacco's	Licensing and governance by SACCO Societies Regulatory Authority (SASRA)
Income Tax Act, Chapter 470	All cooperatives	Taxation

National Cooperative Development Policy was passed by Parliament as Sessional Paper No.4 of 2020 to pave way for institutional, legislative and administrative reforms within the cooperative sector. Further, Cooperative Bill 2021 was approved by Cabinet and by 2022, the Bill was awaiting transmission to Parliament by the CS in-charge of Cooperatives. The

<sup>1</sup> <https://www.industrialization.go.ke/index.php/downloads/123-history-and-organization-of-cooperative-development-and-marketing-sub-sector-in-kenya>

sessional paper among other areas delineates the functions of the national and county governments towards the creation of a harmonized and enabling environment for cooperatives to thrive.

**Role of County Governments in supervision and management of Co-operatives.**

- a. Implementation of co-operative policy and formulation of county specific co-operative legislation and regulations in line with the national policy;
- b. Promotion and facilitation of registration of co-operatives;
- c. Provisional registration of county specific co-operatives
- d. Licensing co-operative business in areas of their jurisdiction;
- e. Provision of audit services and enforcement of audit requirements and standards;
- f. Carrying out inspections into the affairs of co-operatives;
- g. Promotion and facilitation of co-operatives societies engaged in value addition, supporting adoption of appropriate technology by co-operatives, and facilitation of market information sharing.
- h. Collection and collation of data on all co-operative activities in the County;
- i. Establishment and maintenance of county co-operative information centers;
- j. Ensuring co-operatives comply with co-operative legislations;
- k. Facilitation of collaboration and linkages with co-operatives and stakeholders for the benefit of the movement;
- l. Promotion of good governance in the management of the co-operative societies within their jurisdiction;
- m. Promotion of co-operative research, development and data collection on county co-operative societies
- n. Anchoring co-operative education in county learning institutions;
- o. Promotion of co-operative ventures and innovation for county co-operative societies; and
- p. Provision of resources to facilitate service delivery in their respective jurisdictions.

### ***1.3.1 Status of transfer of functions as guided by the fourth schedule.***

There still exists laws and policies that essentially recentralizes the trade devolved functions provided for in the Fourth Schedule of the Constitution, back to the National Government. This phenomenon manifests itself through regional development authorities, state corporations and other national institutions, which continue to perform functions that belong to the county governments. The effect of this has been that devolved functions are under-funded, and cases of overlaps/duplications of roles. Therefore, to address this, comprehensive legal and policy review and reforms is required in the sector to ensure it all aligns to the devolved system of governance.

### **Unbundling of Trade Functions**

There are functions that still needs to be unbundled in the trade sector. For instance, in the Fair-trading practice's function, the key issues that need to be unbundled include;

- a. Verification of weighing and measuring instruments.
- b. Inspection of weighing and measuring instruments and pre-packed goods.
- c. Investigation of complaints relating to unfair trade practices.
- d. Prosecution of offences arising from unfair trade practices.

As of 2022, the legal framework for the management of cooperatives was yet to be reviewed to take into account the devolved nature of the services. Further, the Joint Loans Board through which the national and the former local governments used to provide funding for micro-lending to traders was disbanded by operation of law but the process of assignment of the service to County Government and transfer of assets and liabilities is yet to be done.

### **Delineation of Trade Functions**

There is need to start the transfer of the establishment and management of Industrial Development Centres and the financing of Micro and Small Enterprises (MSEs) to the county governments. This is in line with the provisions of the Constitution

#### 1.4 Regional and International Treaties and Protocols

The **African Union Agenda 2063** is Africa's blueprint and master plan for transforming Africa into the global powerhouse of the future. The agenda under goal 4 on transformed economies put priority on the following: Science, Technology and Innovation (STI) driven manufacturing, industrialization and value addition; and economic diversification and resilience. This has given way for establishment of programmes, projects and initiatives which are key in accelerating Africa's economic growth and development. The priorities align with the UN Sustainable Development Goals (SDG) number 8 on promoting sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all. It further aligns with SDG goal 9 on building resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation.

Further, Article 2 of the Constitution of Kenya sub article (6) provides that any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution.

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*As of 2022, Kenya was a signatory to 51 trade agreements, comprising of 33 (63%) bilateral agreements, 4 regional trade agreements (7.5%), and the rest multilateral trade agreements.*

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#### Multi-lateral Trade Agreement

Kenya is a member of WTO and is committed to the multilateral trade arrangements that are defined by various WTO Agreements. Particularly, the agreements which are referred to in the Design of the National Trade Policy include the following: General Agreement on Trade and Tariffs (GATT), Sanitary and Phytosanitary (SPS) Agreement, Technical Barriers to Trade (TBT) Agreement, Anti-dumping Agreement, Subsidies and Countervailing Measures Agreement, Customs Valuation Agreement, Rules of Origin Agreement, Safeguards, Trade Related Intellectual Properties (TRIPs) Agreement, Trade in Services, among

## Regional Trade

Regional trade arrangements that shape Kenya's international trade policy include:

**Table 3: Regional Trade Agreements**

Regional Trade	Description
a) <b>The East African Community (EAC)</b>	The EAC, whose membership comprises Kenya, Tanzania, Uganda, Rwanda, Burundi, South Sudan and DR Congo brings the seven countries together on issues of economic, social and political cooperation. The EAC has created an expanded market for trade in goods and services, through the provisions of the EAC Customs Union Protocol and the Common Market Protocol as well as other regional integration instruments and sectoral strategies and policies. The EAC takes lead as the destination market for Kenya's exports, accounting for 25 percent in 2015. Opportunity for enhanced trade in services is abounding as is evidenced in EAC Partner States commitments under the Common Market Protocol. Trade potential in EAC has been limited by factors that include measures that have tariff equivalent effects (such as non-recognition of the EAC Certificate of Origin) and a host of Non-Tariff Barriers (IFC - EAC Common Market Score card, 2016). The slow pace in implementation of EAC policies also contributes to limitations faced in efforts towards enhancing expansion of exports. Some Counties are yet to align their laws to EAC Partner States commitments. This poses an immediate challenge that need to be overcome. Further, County Governments have a role of addressing issues of compliance, multiple licensing and challenges of utilities and infrastructures to minimize any constraint that may discourage entrepreneurship and productivity.
b) <b>The Common Market for Eastern and Southern Africa (COMESA)</b>	COMESA is a Regional Economic Community of 19 countries, which include Kenya. Through the Free Trade Area framework, COMESA affords Member States an opportunity for expanding their trade with the region as a destination for exports or a source for imports on duty free basis. In 2015, COMESA accounted for 16 percent of Kenya's total exports, whose trend over the period 2011 - 2015 is characterized by sluggish and near

Regional Trade	Description
	constant growth rate. Contemporary, COMESA recorded tremendous growth in imports, implying existence of trade potential that needs to be exploited in order to increase exports to this regional bloc. COMESA regional integration also covers trade in service, a sector where Kenya is a key player in the regional economic community. COMESA member states have undertaken measures to progressively liberalize trade in services in the region. Member states have identified four initial sectors to start liberalization. These sectors are tourism, communication, financial services and transport. Additional sectors will be identified to achieve higher levels of liberalization. The region therefore offers opportunities for strong growth in these sectors noting that sectors are devolved.
c) <b>The Intergovernmental Authority on Development (IGAD)</b>	IGAD comprises of the following countries in the horn of Africa - Djibouti, Somalia, Eritrea, Sudan, Ethiopia, Uganda and Kenya. IGAD has been transformed into a Regional Economic Community (REC) and its mandate expanded from drought and desertification to include an economic and trade agenda. It therefore provides a regional integration framework through which trade between the seven countries can be expanded using shared commitments in other RECs (such as COMESA) to deepen trade integration. There exists an opportunity to exploit the market potential in these countries through use of the IGAD framework.
d) <b>EAC- COMESA/ SADC Tripartite Free Trade Area (TFTA)</b>	The EAC/COMESA/SADC Tripartite FTA, whose formation is based on the directive of the Heads of State Summit of 22 <sup>nd</sup> October 2008, and launched on 10 <sup>th</sup> June 2015, covering the first phase of integration that includes trade in goods. Kenya immensely enjoys the expanded regional market of 26 countries, accessed under a Free Trade Area arrangement.
e) <b>African Growth and Opportunity Act (AGOA) 2000</b>	Kenya, along with other beneficiary Sub-Saharan African countries, has benefited from a preferential trade arrangement provided by the USA through the African Growth and Opportunity Act (AGOA). The beneficiary countries have to meet the eligibility criteria set out in the Act which includes establishment of a market-based economy and issues of good governance. This trading program was initially expected to expire in 2015

Regional Trade	Description
	<p>but was on 1st July 2015 extended by another 15 years. Kenya has benefited immensely from AGOA through duty free exports of various products to the US to a tune of Ksh. 50 billion in May 2022. These products are however dominated by apparel products. There exists opportunity to explore broadening of exports to cover other AGOA eligible products.</p>
<p><b>f) Economic Partnership Agreements (EPAs)</b></p>	<p>Kenya together with the other EAC Partner States concluded negotiations of the EPA in October 2014. The EPA was ratified by Kenya Parliament on 20th September 2016 in order to comply with the EU Market Access Regulation. The EPA is the framework that guarantees sustainability of the over 30 years duty free market access trade regime that Kenya's exports have enjoyed in the EU. The impact of this preferential trade regime has been to open up the EU market, which in 2014 accounted for 22 percent of Kenya's exports, taking a second position as a destination market for Kenya's exports after the EAC.</p> <p>In the EU, five countries, out of the 28 EU member states accounted for 85 percent of total Kenya's exports into the EU. The export products were dominated by flowers, horticulture and traditional exports, coffee and tea. There exists opportunity for Kenya to exploit market potential in the 28 EU member States, beyond the traditional destination markets of Netherlands, Britain, Germany, Belgium and Italy. There is also 30 National Trade Policy opportunity to broaden the country's export base using the flexible rules of origin that were negotiated under the EPA.</p> <p>Kenya, along with other EAC Partner States has committed to opening up the EAC market for EU products under the EPA framework. This covers all products that these countries have committed to liberalize with time. Sensitive sectors have been protected through the exclusion list. Liberalization of raw material and intermediate products from the EU will contribute towards competitiveness of the industries that will be importing these products for production of finished products. The EPA guarantees Kenya's duty-free quota-free market access in the EU on</p>

Regional Trade	Description
	contractual long-term basis, which the country can rely on in planning for investments targeting EU as a destination market for emerging industries.
g) <b>African Continental Free Trade Area</b>	The African Continental Free Trade Area (AfCFTA) objective is to create a single continent market for the 56 member states by connecting a total population of about 1.2 billion people. As of July 2022, 54 member states had signed the AfCFTA agreement while 43 member states parties had ratified. Trading under the agreement commenced on 1st January 2021. The African Continental Free Trade Area covers the following policy areas; tariffs on manufactured goods, tariffs on agricultural goods, export taxes, customs, competition policy, state aid, antidumping, STEs, TBTs, GATs, SPS measures, movement of capital, public procurement, IPRs, Investment, environmental laws and labor market. With the existing agreements and treaties Kenya has entered with country-trading partners there is need to align this with other preferential trade agreements such as the EAC and COMESA. EAC is now among the State Parties that have met the minimum requirements for Category A to start trading on a provisional basis under AfCFTA. EAC is negotiating the AfCFTA as a bloc.

### Bilateral Agreements

Kenya has signed bilateral agreements with about 33 countries including: Argentina, Bangladesh, Bulgaria, China, Comoros, Congo (DRC), Djibouti, Egypt, Ghana, Hungary, India, Iraq, Lesotho, Liberia, Netherlands, Nigeria, Pakistan, Poland, Romania, Russia, Rwanda, Saudi Arabia, Somalia, South Africa, South Korea, Swaziland, Tanzania, Thailand, United Arab Emirates (UAE), United Kingdom (UK), United States of America (USA), Zambia, and Zimbabwe. Kenya has signed various bilateral trade and investment agreements with both developed and developing countries that attains the following objectives:

- Reciprocal participation in exhibitions and trade fairs as well as respective country week promotional events;
- Exchange of market intelligence, missions/surveys for market information;
- Encouragement of institutional cooperation such as the Standards Institutions;

- d) Chambers of Commerce and Industry, Customs Organizations, Research Institutions among others;
- e) Prompt and focused follow up of issues raised during bilateral meetings;
- f) Exchange of general and product specific trade and investment missions; and,
- g) Promotion of Trade and Investment.

### **1.5 National Sector Direction**

The country's Kenya Vision 2030 policy blueprint presents trade as a key enabler in driving the success of the vision in growing the economy and thus creating jobs for more Kenyans. To achieve this, the government has adopted a series of successive five-year Medium-Term Plans to implement the Vision. The Fourth Medium Term Plan (2023- 2027) will guide the trade and manufacturing sector among others for the next five years.

As of July, 2022, the Ministry of Trade, Industrialization and Enterprise Development in consultation with other stakeholders were in the process of developing the Fourth Medium Term (MTP IV) that gives direction in the trade and manufacturing sector for the next 5 years (2023-2027).

Further, the Big 4 agenda has a huge bearing on the country's trade facilitation. The government through partner government agencies sought to eliminate inefficiencies, reduce corruption and wastage that raises the cost of doing business in Kenya. In addition, the agenda prioritized manufacturing with special focus on creating free market, subsidies, promoting exports, and value addition.

In addition, the bottom-up economic transformation agenda 2022-2027 guides the economic growth and development plans for the National Government. The plan has outlined various strategies to support Trade; Micro, Small and Medium Enterprises (MSMEs), and cooperative development sectors.

### **1.6 Key Sector Statistics and Related Indicators.**

Kenya has a domestic market of over 50 million people and is a leading economy in Sub-Saharan Africa. This makes it the strongest industrial base in the East Africa region characterized by Kenya's strategic location, diversified economy, entrepreneurial workforce,

comprehensive air routes, and status as a regional financial center. Further, the country has built a strong bilateral and multilateral trade relationships, including subscriptions to memberships such as East Africa Community (EAC), Common Market for Eastern and Southern Africa (COMESA), and Africa Continental Free Trade Area (AfCFTA) among other agreements.

### National Statistics

As defined in the Constitution, the National Government is mandated to support the international trade development and regulation, while the County Government support trade domestically. Both facilitate trade through complementary support policies and measures touching on e-commerce, physical infrastructure, access to affordable credit, and intellectual property rights.

**At the national level**, distribution and wholesale including retail sub-sector has played a key role in the Kenyan economy. The sub-sector in 2020 contributed 15.7 per cent to GDP and 10 per cent to formal employment. Notably, Vision 2030 has identified and earmarked wholesale and retail trade among other sectors for rapid growth and development.

Overall, wholesale and retail trade including hotels and restaurants accounts for 58.7 percent of employment in the informal sector. The informal sector commonly referred to as the “Jua kali” sector continues to play an important role in the labour market as it reduces the levels of unemployment by creating jobs for people in the labour force. In 2014 for instance, the sector provided employment to 11.8 million Kenyans and created 693,000 new jobs compared to 622,000 new jobs in 2013.

The *World Bank’s 2020 Ease of Doing Business* report ranked Kenya 56 out of 190 countries. To facilitate further improvement in the ease of doing business, the governments both National and County Governments have initiated a broad range of pro-business reforms over the last few years, including regulations on starting businesses, obtaining access to electricity, registering property, protecting minority investors, and streamlining the business insolvency process. Kenya has also been experiencing a strong flow of Foreign Direct Investment (FDI),

particularly in the finance and insurance, renewable energy, trade, manufacturing, communication, and education sectors.

### **County Statistics**

The Kenya Institute for Public Policy Research and Analysis conducted two studies on the County Business Environment for MSEs in Kenya. The studies were conducted in 2019 and 2022. To monitor the trade, industry, manufacturing and enterprise development sector at local level, the following thematic areas are essential: worksite and related infrastructures, market environment, financial inclusion, technical capacity, governance and regulatory framework, and risk preparedness and management. These thematic areas are discussed in detail in the section below.

#### **1.6.1 Worksite and Related Infrastructures**

The government has mainstreamed the SDGs into national policies and plans with an aim of among other providing enabling environment for both local and foreign investors. Worksite and related infrastructures are considered the most essential element in providing a conducive environment. Locally, the worksite and related infrastructures and spaces include the Jua Kali sheds, Kenya Industrial Estate sheds, council markets, open-air markets, and open spaces among others. The common indicators used to measure the worksite and related infrastructures in the sector include access to worksite, access to common manufacturing facilities, and adequacy on infrastructure services such as electricity connection, water connection, public toilets, and waste management.

#### **1.6.2 Market Environment**

The fourth schedule of the Constitution of Kenya outlines market as one of the trade development and regulation functions. The market concept can be expounded to imply the market environment for traders in the sector, this includes the access to market, access to road network, fair trade practices and access to government procurement opportunities (AGPO) among others.

### **1.6.3 Financial Inclusion**

Financial inclusion is a crucial enabler of economic growth especially in realizing the Kenya's Vision 2030 and attainment of SDGs. The adoption of the use of financial technology (FinTech) has increased significantly. Commonly, FinTech refers to the application of technology and innovation to solve the needs of consumers and firms in the financial space, this includes credit cards, online banking, and blockchain-powered cryptocurrencies. According to the 2019 FinAccess Household Survey, formal financial inclusion had risen to 82.9 percent, up from 26.7 percent in 2006, while complete exclusion had narrowed to 11 percent from 41.3 percent in 2006. This is an indication that there is an urgent need for concerted efforts that will steer the increase of financial access services. The common FinTech in Kenya is the use of mobile money technology through M-Pesa. This has been a significant tool in enhancing financial inclusion targeting mainly the unbanked and disadvantage group. Some of the indicators discussed herein include establishment of enterprise fund, allocation of Funds, access to savings and credit facilities, financial innovations, and credit guarantee scheme.

### **1.6.4 Technical Capacity**

The evolving nature of working environment in the trade sector calls for continuous capacity building of the stakeholders. The sector however is still struggling in adoption of new technologies due to high costs of innovation, lack of incentives to innovate, and limited access to finance to support innovative ideas. Further, protection new ideas through patenting are key in supporting innovation ideas. Therefore, both governments are supposed to facilitate capacity building around innovation and intellectual property rights, and marketing of the ideas among others. This will be done in collaboration with state agencies such as Kenya Industrial Research and Development Institute among others. The relevant indicators to consider under technical capacity thematic are include the number of trainings, innovations, intellectual property rights and adoption of technology among others.

### **1.6.5 Governance and Regulatory Framework**

Trade development and regulation is critical in the development and execution of trade, manufacturing and investment related activities at the County level. Trade regulations takes

the form of licenses, taxes, fees and charges depending on the several factors including the nature and volume of the goods, the customs laws in force at the time of the transaction, and the public services required to complete necessary trade procedures. Therefore, there is need to map out the specific duties, taxes, fees and charges that one will need to pay for the import or export of specific goods.

### 1.6.6 Risk Preparedness and Management

Risk preparedness and management is essential for business and MSEs continuity and sustainability at all times, including during the shocks. It involves the process of conducting risk management planning, identification, analysis, response planning, and controlling risk on a business. The major objective of risk management is to enhance the likelihood and impact of positive events, while subduing negative events that might affect the business. To track the performance of a County Government in terms of risk preparedness and management, the following indicators are key: status of risk preparedness and management of MSEs towards shocks (number of awareness conducted and risk preparedness mechanisms conducted by the County Government) and governance and financial protection among others. The table below summarizes the key thematic areas and indicators.

**Table 4: Trade Sector Statistics and Related Indicators.**

Thematic Areas	Sub-theme	Indicators
Worksite and related infrastructures	• Access to worksite	• Number of worksites • Worksite cost charged
	• Access to common Manufacturing facilities	• Number of Manufacturing facilities
	• Electricity connection	• Number of worksites connected to electricity
	• Water connection	• Number of worksites connected to pipe water
	• Public Toilets	• Number of worksites with public toilets
	• Waste management	• Number of worksites connected to waste management
	• Internet connection	• Availability of internet networks (yes/no)
Market Environment	• Access to Government Procurement Opportunities	• Number of youths accessing AGPO opportunities in the county
	• Number of markets (constructed, rehabilitated)	• Number of existing markets • Number of new/constructed shades
	• Fair Trade Practices	• No. of MSEs/traders exiting the market • Number of new MSEs/traders' entrants • New opportunities for economically disadvantaged group (AGPO opportunities)

Thematic Areas	Sub-theme	Indicators
	<ul style="list-style-type: none"> <li>Registration of MSEs</li> </ul>	<ul style="list-style-type: none"> <li>No. of registered MSEs (Indicate date of reg.)</li> <li>Organization registered to MSEA, Registrar of parties etc.</li> </ul>
Financial Inclusion	<ul style="list-style-type: none"> <li>Establishment of enterprise fund</li> </ul>	<ul style="list-style-type: none"> <li>Number of enterprise funds registered and number of members enrolled.</li> </ul>
	<ul style="list-style-type: none"> <li>Allocation of Funds</li> </ul>	<ul style="list-style-type: none"> <li>Amount of money distributed to members</li> </ul>
	<ul style="list-style-type: none"> <li>Access to savings and credit facilities</li> </ul>	<ul style="list-style-type: none"> <li>Number of SACCOs</li> <li>Credit uptake</li> </ul>
	<ul style="list-style-type: none"> <li>Financial innovations</li> </ul>	<ul style="list-style-type: none"> <li>Number of MSEs using fintech, mobile banking technology, and remittance technology</li> </ul>
	<ul style="list-style-type: none"> <li>Credit guarantee scheme</li> </ul>	<ul style="list-style-type: none"> <li>No. of credit guarantee schemes introduced by government</li> </ul>
Technical Capacity	<ul style="list-style-type: none"> <li>Training (Capacity Building)</li> </ul>	<ul style="list-style-type: none"> <li>Number of MSEs capacitated/trained</li> </ul>
	<ul style="list-style-type: none"> <li>Innovation</li> </ul>	<ul style="list-style-type: none"> <li>Number of registered innovations</li> </ul>
	<ul style="list-style-type: none"> <li>Intellectual property rights</li> </ul>	<ul style="list-style-type: none"> <li>Number of patented ideas/innovations</li> <li>Trademarks</li> <li>Copyrights etc.</li> </ul>
	<ul style="list-style-type: none"> <li>Automation of Business Services (digital economy)</li> </ul>	<ul style="list-style-type: none"> <li>Number of MSEs/ business using fintech, mobile banking technology, and remittance technology</li> </ul>
	<ul style="list-style-type: none"> <li>MSEs Survival Rate</li> </ul>	<ul style="list-style-type: none"> <li>Number of MSEs exiting the market</li> </ul>
	<ul style="list-style-type: none"> <li>Access to Incubation Services</li> </ul>	<ul style="list-style-type: none"> <li>Number of Incubation centres set by the county</li> </ul>
Governance and Regulatory Framework	<ul style="list-style-type: none"> <li>Licensing and Issuance of Permits</li> </ul>	<ul style="list-style-type: none"> <li>List all the licenses, fees and permits levied to businesses/MSEs</li> </ul>
	<ul style="list-style-type: none"> <li>Public Participation in Policy and Regulatory Framework</li> </ul>	<ul style="list-style-type: none"> <li>List policies and legislations supporting MSEs development in the county</li> </ul>
Risk Preparedness and Management	<ul style="list-style-type: none"> <li>Status of risk preparedness and management of MSEs towards shocks</li> </ul>	<ul style="list-style-type: none"> <li>Frequency of conducting risk preparedness and awareness</li> <li>Existence of fire management units</li> </ul>
	<ul style="list-style-type: none"> <li>Governance and financial protection</li> </ul>	<ul style="list-style-type: none"> <li>Budget allocation</li> <li>Introduction of social safety nets</li> </ul>
Improve the ease of doing business	<ul style="list-style-type: none"> <li>Starting a business</li> <li>Dealing with construction permits</li> <li>Getting electricity</li> <li>Registering property</li> <li>Getting Credit</li> <li>Protecting minority investors</li> <li>Paying taxes</li> <li>Trading across borders</li> <li>Enforcing contracts</li> <li>Resolving insolvency.</li> </ul>	<ul style="list-style-type: none"> <li>Cost and duration</li> <li>Time taken to get construction permit</li> <li>Cost of electricity</li> <li>Number registered</li> <li>Number of MSEs</li> <li>No. of new MSEs</li> <li>Amount of taxes</li> <li>Amount of exports</li> <li>Compliance</li> <li>No. of MSEs</li> </ul>
Support the sector for growth	<ul style="list-style-type: none"> <li>Number of MSEs capacity-built, with relevant Skills</li> <li>Market infrastructure</li> <li>Access to credit</li> </ul>	<ul style="list-style-type: none"> <li>Number of MSE stakeholders' capacity built</li> <li>Number of markets constructed/ rehabilitated</li> <li>Number of MSEs accessing credit</li> </ul>

Thematic Areas	Sub-theme	Indicators
Attract investors in the county	<ul style="list-style-type: none"> <li>Number of investments in the county</li> </ul>	<ul style="list-style-type: none"> <li>Number of investments in the county</li> <li>Number of new investors</li> </ul>
Cooperative development	<ul style="list-style-type: none"> <li>Number of cooperatives as per the various categories</li> </ul>	<ul style="list-style-type: none"> <li>Number of registered cooperatives per year</li> <li>Total number of cooperatives per county</li> </ul>

### 1.7 Status of Cooperatives Societies in Kenya

The National Development Policy was adopted by the National Assembly as a Sessional Paper No. 4 of 2021. It has outlined the roles of the National Government vis-a-vis those of the County Governments. In the Constitution, cooperatives are fully devolved but, in the Policy, cooperative functions such as registration of societies, audits and inquiry remain domicile at the National Government level. The National Government relied on Article 187 of the Constitution on the transfer of functions and powers between levels of government. A function or power of government at one level may be transferred to a government at the other level by agreement between the governments if the function or power would be more effectively performed or exercised by the receiving government; and the transfer of the function or power is not prohibited by the legislation under which it is to be performed or exercised.

Further, the County Governments through the Council was involved in drafting the Cooperative Bill (national Bill) of 2021 which had been tabled in the 12<sup>th</sup> Parliament. This Bill sought to align the cooperatives sector with the 2010 Constitution. The Bill proposed that the registration of cooperatives ought to start from the County Governments. The role of County Governments included promotion, cooperative trainings and recommendations for issuances of certificates by the Commission of Cooperatives among other functions.

There are over 23,500 cooperative societies in Kenya, out of which about 8,800 cooperatives are actively operating, as of 2021. The cooperatives are in form of agricultural-based cooperatives and financial and investment cooperatives. The financial and investment co-operatives include SACCOs, Diaspora co-operatives, Sharia Compliant co-operatives, investment co-operatives, financing co-operatives, investment co-operatives, housing co-operatives, transport co-operatives, consumer co-operatives, and industrial co-operatives.

The Cooperative movement contributes approximately Ksh 175 billion to the economy each year. The role of County Governments in the development and regulation of the movement is critical, and currently, the following measures are being undertaken to support County Governments to discharge their mandate:

- a) Engaging the National Assembly to ensure that the National Cooperative policy is aligned to the Constitution and gives powers to County Governments to discharge its mandate.
- b) Engaging the National Government to ensure that requisite capacity building is enhanced at the County level to improve pre-cooperative education and management by Cooperative societies; and
- c) Engaging the Senate and the National Government to ensure that the Cooperatives Societies Act is repealed to enhance the role of County Governments in the development and regulation of the movement.

## CHAPTER TWO

### POLICY AND LEGISLATIVE ENVIRONMENT

#### 2.1 Introduction

The 2010 Constitution of Kenya introduced the devolved system of governance, which established two-tier level of governments; the National Government and the forty-seven (47) County Governments with distinct powers and functions as provided for in Article 6(2) of the Constitution. This implies that the relationship between the two levels of government must be consultative and cooperative.

#### Objectives



- i. Understand the Policy and Legislative Environment to the Trade Development and Regulation
- ii. Appreciate the key sector frameworks, guidelines and circulars in the Trade sector

This section examines the policy and legislative environment within which trade related services have been delivered since the adoption of devolution to identify the missed steps and challenges that require to be fixed to improve service delivery.

The success of devolution in the Trade sector is dependent on the policy and legislative environment in which trade, investment and manufacturing services are delivered by both the National and County Governments. In this regard, both Governments have responsibilities to develop policies and legislation in their functional areas including the trade sector.

#### **Constitution of Kenya and its implication for policy and legislations in the Trade, Industry, Manufacturing, Cooperative and Enterprise Development Sector**

The Kenya's devolved system of government is anchored in the 2010 Constitution, with supporting policies, legislation and institutions founded in the devolved system. The supremacy nature of the Constitution required that the policy and legislative environment underpinning the trade development and regulation in the devolved system both pre-and-

post the Constitution, be in conformity with the constitutional provisions, both in substance and the process of their making. This meant that the earlier policies, legislations, strategies, and institutions be comprehensively reviewed to align them to the Constitution and the devolved system.

Further, with the dynamic nature of trade environment, the treaties and agreements entered by the Government of Kenya globally, regionally and internationally, calls for continual review of policies at the County Governments to ensure they are well aligned to the changes arising from the treaties, this includes localization and domestication of the policies.

The national legislative powers in the trade sector prevail in areas such as national and international economic policy, environment protection, norms and standards. Income tax, VAT, customs duties and excise tax are exclusively the National Government's responsibility. County Governments can establish their own laws over matters under their responsibility, including domestic trade development and regulation as provided for in Fourth Schedule of the Constitution Part 2, function 7. Precisely, county governments are responsible for issuing business permits and licenses, and can impose local taxes, such as property tax and entertainment tax, under the guidelines provided by the Constitution.

## **2.2 National sector policies and status of their implementation**

Trade policies include those policies that directly affect the flow of goods and services between countries, including import tariffs, import quotas, voluntary export restraints, export taxes, export subsidies, and so on. However, in this case, the focus is on the national trade policies that influences domestic trade. Domestic policies are formulated to not only influence development and regulation of trade locally but to also influence the international market. This is possible because domestic policies influence the cost of doing business through infrastructure development such as development of markets, facilitation of investments in the sector, and connection of energy grip among others.

In the section, we review 3 national policies: National Trade Policy, 2016; Kenya Investment Policy, 2019; and National Industrialization Policy, 2012.

**Table 5: National Sector Policies and their policy objectives**

Policy	Policy Objectives
<b>Kenya Investment Policy, 2019</b>	<p>The overall objective of the policy is to support and stimulate private sector development by attracting high value added and inclusive investment that contributes to the country's economic diversification and ultimately to sustainable development. This policy further recognizes the devolved nature of government, the importance of domestic investors and role of small and medium enterprises in the overall investment landscape. The specific objectives of the policy include:</p> <ul style="list-style-type: none"> <li>i. Create an enabling investment climate;</li> <li>ii. Enhance investment transparency and clarity for investors seeking to invest in Kenya;</li> <li>iii. Establish an effective institutional framework that emphasizes the role of monitoring and coordination of investment-related policies, decisions and activities into a coherent structure to enable seamless coordination of investment issues, including data management, while defining the respective roles of various national and county government agencies;</li> <li>iv. Maximize mobilization and utilization of domestic capacity through encouraging its inclusion in the value chain;</li> <li>v. Assure coherence of national sectorial policy and to promote the development of Kenya's high priority sectors;</li> <li>vi. Advocate for investor rights and obligations; and</li> <li>vii. Promote investment not only for economic growth as such, but for inclusive growth and sustainable development.</li> </ul>
<b>National Trade Policy, 2016</b>	<p>The Policy pursues to exploit the potential in both the trade in goods and trade in services through policy measures that contribute towards transforming Kenya into a competitive export-led economy and a thriving domestic market. The broad objectives of the policy include:</p>

Policy	Policy Objectives
	<ul style="list-style-type: none"> <li>i. The pursuit of more open, competitive and export-oriented policies that are compatible with the Country's National development objectives;</li> <li>ii. The creation of an enabling environment for trade and investment to thrive; and,</li> <li>iii. The promotion of Counties as centres of trade and investment.</li> </ul>
<b>National Industrialization Policy, 2012</b>	<p>The overall policy objective is to enable the industrial sector to attain and sustain annual sector growth rate of 15% and make Kenya the most competitive and preferred location for industrial investment in Africa leading to high employment levels and wealth creation. The specific objectives to be achieved are as follows:</p> <ul style="list-style-type: none"> <li>i. Strengthening local production capacity to increase domestically-manufactured goods by focusing on improving the sector's productivity and value addition by 20 per cent;</li> <li>ii. Raising the share of Kenyan products in the regional market from 7 to 15 per cent.</li> <li>iii. Developing niche products through which Kenya can achieve a global competitive advantage;</li> <li>iv. Increasing the share of Foreign Direct Investment in the industrial sector by 10 percent;</li> <li>v. Increasing by 25 per cent, the share of locally produced industrial components, spare parts and machine tools;</li> <li>vi. Developing at least 2 Special Economic Zones and 5 SME Industrial Parks;</li> <li>vii. Establishing an Industrial Development Fund with a minimum of Ksh. 10 billion for long term financing of manufacturing enterprises;</li> <li>viii. Increasing by 20 per cent the share of manufacturing in total MSME Output.</li> <li>ix. Increase the local content of locally manufactured goods for export to at least 60 percent.</li> <li>x. Increasing the share of industries located outside major urban centres (Nairobi, Mombasa, Kisumu, Nakuru, Eldoret) to at least 50 per cent.</li> </ul>

## 2.3 National sector legislation and status of their Policy Objectives

The Audit of National and County and Legislations in the Trade and Investment Sector<sup>2</sup>, established that the majority of the legislation of the sector do not cater for the county government representations and not aligned to various agreements. Some of the legislations reviewed in the report include the Special Economic Zone Act 2015, Export Processing Zones Act, and micro and small enterprises act (no. 55 of 2012) as discussed below.

**Table 6: Trade related legislations and their objectives**

Name of Legislation		Objectives of Legislation
1. <b>Public Partnership Act, 2021</b>	<b>Private Act,</b>	An ACT of Parliament to provide for the participation of the private sector in the financing, construction, development, operation or maintenance of infrastructure of development projects through public private partnerships; to streamline the regulatory framework for public private partnership; to rebuild the public private partnership act 2013; and for connected purposes
2. <b>Foreign Investment Protection Act, Cap. 518 (2016)</b>		An Act of Parliament to give protection to certain approved foreign investments and for matters incidental thereto.
3. <b>Special Economic Zones Act, 2015</b>		An ACT of Parliament to provide for the establishment of special economic zones; the promotion and facilitation of global and local investors; the development and management of enabling environment for such investments and for connected purposes.
4. <b>Export Processing Zones Act, 2015</b>		An ACT of Parliament to provide for the establishment of export processing zones and the export processing zones Authority; to provide for the promotion and facilitation of export-oriented investment and the development of enabling environment for such investment and for connected purposes.
5. <b>Company Act, 2015</b>		An ACT of Parliament to consolidate and reform the law relating to the incorporation, registration, operation, management and regulation of companies; to provide for the appointment and functions of auditors; to

<sup>2</sup> <https://countytoolkit.devolution.go.ke/sites/default/files/resources/REPORT-ON-THE-AUDIT-OF-NATIONAL-AND-COUNTY-LEGISLATION-AND-POLICY.pdf>

Name of Legislation	Objectives of Legislation
	make other provision relating to companies; and to provide for related matters
<b>6. Public Procurement and Assets Disposal Act, No. 33 of 2015</b>	An ACT of Parliament to give effect to Article 227 of the Constitution; to provide procedures for efficient public procurement and for assets disposal by public entities; and for connected purposes
<b>7. Value Added Tax Act, No. 35 of 2013</b>	An Act of Parliament to review and update the law relating to value added tax; to provide for the imposition of value added tax on supplies made in, or imported into Kenya, and for connected purposes
<b>8. Nairobi Centre for International Arbitration Act, No. 26 of 2013</b>	An Act of Parliament to provide for the establishment of regional center for international commercial arbitration and the Arbitral Court and to provide for mechanisms for alternative dispute resolution and for connected purposes
<b>9. Micro and Small Enterprise Act, 2012</b>	An ACT of Parliament to provide for the establishment of Micro and Small Enterprise Authority; promotion, development and regulation of Micro and Small Enterprises and for connected purposes
<b>10. The Competition Act, 2010</b>	An Act of Parliament to promote and safeguard competition in the national economy; to protect consumers from unfair and misleading market conduct; to provide for the establishment, powers and functions of the Competition Authority and the Competition Tribunal, and for connected purposes
<b>11. Investment Disputes Convention Act Cap 522</b>	An Act of Parliament to give legal sanction to the provisions of the Convention on the Settlement of Investment Disputes between States and Nationals of other States
<b>12. The Investment Promotion Act, 2004</b>	An Act of Parliament to promote and facilitate investment by assisting investors in obtaining the licences necessary to invest and by providing other assistance and incentives and for related purposes
<b>13. Prevention of Fraud (Investments) Act, No. 1 of 1977</b>	An Act of Parliament to provide for the control of persons dealing in securities, and for the more effective prevention of fraud in investments; and for matters incidental thereto and connected therewith

Name of Legislation	Objectives of Legislation
<b>14. SACCO Societies Act</b>	An Act of Parliament to make provision for the licensing, regulation, supervision and promotion of Sacco societies, to establish the Sacco Societies Regulatory Authority and for connected purposes
<b>15. Cooperatives Act</b>	An Act of Parliament relating to the Constitution, registration and regulation of co-operative societies and for purposes incidental thereto

## 2.4 County sector policies and legislation, and status of their implementation

The Council of Governors in consultation with the County Governments mapped out legislations in all sectors and developed a comprehensive mapping county policy and legislation report in 2019 that can be accessed on the Maarifa Website<sup>3</sup>. The report highlighted the issues impeding the implementation of the sector policies and gave recommendations.

Further, the CoG trade committee in 2021 mapped out policies and legislations specifically touching on trade. Mapping out process involved the policies and legislation under different stages of development (those that have been passed, pending in the County Assembly and those under development). A total of 160 pieces of county legislation were received on August 2021 from 36 Counties. A few counties are yet to pass laws and legislations dealing with trade and investment. (A summary of these policies and legislations are outlined in **Appendix 1**).

<sup>3</sup> <https://maarifa.cog.go.ke/assets/file/County Policy & Legislation Mapping Report.pdf>

## CHAPTER THREE

### TRADE SECTOR GOVERNANCE

#### 3.1 Introduction

The section introduces an overview of the Kenya's Trade sector governance by discussing important organizations, agencies and actors within the sector; outlining their functions, roles and responsibilities as well as presenting the importance of the selected agencies. The section assesses the county trade, industry, manufacturing and enterprise development department, their roles and composition of county officials in the sector. Finally, the section highlights key aspects on intergovernmental relations.

#### Objectives



- i. Discuss the important organizations, agencies and actors within the Trade sector; their functions, roles, responsibilities, and their significance to devolution
- ii. Critically analyze the role of County Officers within the trade sector and review important aspects of intergovernmental relations

#### 3.2 Organization of the sector (Institutional Arrangements) and their roles

Trade sector is among the fourteen (14) devolved functions in Kenya as stipulated in the Fourth Schedule of the 2010 Constitution. The sector players are a composite of both state and non-state actors. The state players are the National Government through the respective Ministries and State Agencies; and the 47 County Governments through the various respective departments in the Counties. While, the non-state actors comprise the development partners, private for-profit agencies, Non-Governmental Organizations (NGOs) driven industries and enterprises, and Micro and Small Enterprises among others. All these players play a critical role in trade facilitation guided by four pillars of information flows which requires that goods move from the seller to the buyer. The pillars include; transparency, simplification, harmonization of national procedures, and standardization of procedures and practices.

### **3.2.1 Ministries, Departments and Agencies**

#### **3.2.1.1 Ministry of Trade, Investment and Industry**

The Ministry is responsible for promoting industrialization and enterprise development through industrialization and cooperative policy formulation and implementation; development and implementation of private sector policy and strategy; Co-operative Savings, Credit and other Financial Services Policy and Regulation; Development of Micro, Small and Medium Enterprises; and Buy-Kenya Policy among others.

The Ministry in collaboration with the County Governments has been coordinating the development and implementation of the Buy Kenya Build Kenya Strategy, development of code of practice and regulations for the local retail trade, and negotiations of tariffs offers with regional and international tariffs and agreements that has the potential of influencing local economic development.

Nationally, the sector plays a significant role towards achievement of the targets in the Vision 2030. The second MTP of the Kenya Vision 2030 has identified the sector as a priority sector under the economic pillar with the focus being on promoting trade, and improving the overall climate of industrial investment and doing business in Kenya.

#### **a) State Department for Trade and Investment Promotion**

According to the Executive Order No.1/2016 on “Organization of the Government of the Republic of Kenya”, released in May 2016, the following are the functions of the State Department of Trade and Enterprise Development: Implementation of Trade Policy and Buy Kenya Policy; Promotion of Retail and Wholesale Markets; Business Registration Services; Export Promotion; Fair Trade Practices; Coordination of Regional Trade Matters – COMESA, AGOA, IOR-ARC & IGAD; Trade Negotiations and Advisory Services; and Enforcement of International Trade Laws, Regulations and Agreements.

The State Department of Trade and Enterprise Development execute its mandate through the departments which all significantly contribute to trade development and regulation at the sub-national level. Department for Internal Trade, for instance, has a role in formulation, review and monitoring the implementation of domestic trade policies; Facilitating increased

access to trade finance for the development of Micro and Small Enterprises; Profiling of Domestic markets to promote trade and investment opportunities; and Liaison with County Governments and other relevant stakeholders on promotion of trade development programmes and activities among others.

The Policy and Research department is crucial in conducting research on trade related matters such as product design, marketing, distribution, and use of ICT and E-commerce. The department works in collaboration with the County Governments through the Council of Governors to coordinate the data collection processes, analysis and dissemination of trade information.

Further, the Ministry has established the Kenya Institute of Business Training (KIBT) domiciled under the State Department of Trade to provide Business and Management Development Services to MSMEs and other interest groups. The core functions of the Institute include: Provision of Entrepreneurial Training to MSME operators; Provision of counselling and extension services to MSME operators; Conduct business-based research and consultancy for MSMEs and other stakeholders; and Provision tailor-made training programmes for the Institute's clientele and when need arises. These programmes are essential for the county leadership in the sector.

#### **b) State Department for Industry**

State Department for Industrialization is a government department under the Ministry of Industrialization, Trade and Enterprise Development mandated to create an enabling environment for a globally competitive, sustainable industrial, enterprise and co-operative sector through appropriate policy, legal and regulatory framework. The core functions of the department include: Formulation, coordination, and implementation of the National Industrialization Policies; Provision of an enabling environment for domestic and foreign direct investment; Creation and promotion of market linkages for MSMEs; and Initiation and promotion of industrial programmes and projects among others.

### **3.2.1.2 Ministry of Cooperatives and Micro Small and Medium Enterprise (MSME) Development**

The Ministry of Cooperatives and MSMEs Development was established as per the Executive Order no. 1 of 2022. The Ministry is sub divided into two State Departments: State department of Micro Small and Medium Enterprise (MSMEs) Development, and State department of Cooperatives.

The **State department of Cooperatives** will oversee the implementation of the following functions: Co-operative Policy, Standards and Implementation; Promotion of Co-operative Ventures; Co-operative Production and Marketing; Supervision and oversight over Co-operative Societies; Co-operative Savings, Credit and other Financial Services Policy; Co-operative Legislation and Support Services; Co-operative Education and Training; Co-operative Audit Services and Co-operative Financing Policy.

The **State department of Micro Small and Medium Enterprise (MSMEs)** will oversee the implementation of: MSME Policy; Development of MSME Financing Policy to facilitate adequate flow of credit from financial institutions; Administration of the “Hustler Fund” for the promotion, development and enhancing competitiveness of MSMEs; Capacity development for Entrepreneurship including access to modern management practices; Support for technology upgradation and modernization; Establishment of integrated infrastructural facilities. Institutions: Promotion and Development of Micro and Small Enterprise and enhance their competitiveness; Promote Progressive credit policies and practices targeting MSMEs; Business Innovation and Incubation; Administer Preference in Government procurements to products and services of the MSMEs; Champion subcontracting arrangements between MSMEs and Large Enterprises; Market development for MSME products and services (better access to domestic and export markets); and Support for product development, design.

#### **Relationship between the Ministry and the County Governments**

The State Department of Trade and Enterprise, Internal Trade division supports the domestic trade in the Counties through promotion of competitive domestic trade. Some of the functions executed by the department include: -

- a) Formulation, review and monitoring implementation of domestic trade policies
- b) Monitor the impact of trade policies and practices on domestic trade;
- c) Conduct research on trade related matters e.g., in product design, marketing, distribution, and use of ICT and E-commerce;
- d) Coordination of data collection, analysis and dissemination of trade information
- e) Promotion of wholesale and retail trade and markets through initiatives such as:-
  - a. Promoting programmes on franchising in wholesale business in rural areas;
  - b. Developing skills upgrading programs in wholesaling and distribution;
  - c. Identifying areas where markets can be established
  - d. Establishment and construction of wholesale hubs and tier 1 retail markets;
  - e. Simplification of business licensing (One Stop Shop for licensing, registration and taxation);
  - f. Facilitate the establishment of BMOs and promotion of the formation of Producer Business Groups.
- f) Facilitating increased access to trade finance for the development of Micro and Small Enterprises
- g) Provision of business advisory services to BMOs to enhance competitiveness, growth and development of their enterprises
- h) Profiling of Domestic markets to promote trade and investment opportunities
- i) Liaison with County Governments and other relevant stakeholders on promotion of trade development programmes and activities.

Execution of these functions requires active involvement of the County Governments to ensure effective implementation and attainment of intended goals.

#### **3.2.1.3 State Agencies (Semi-Autonomous Agencies)**

The government agencies and state corporations are established through legal notices and acts of parliament.

**Table 7: List of State Agencies and their roles**

Name of the Agency	Description of an Agency
1. <b>Export Processing Zones Authority (EPZA)</b>	The Authority's mandate is to promote and facilitate export-oriented investments and to develop an enabling environment for such investments. The EPZ Authority was established through the EPZ Act CAP 517.
2. <b>Kenya Development Corporation (A merge of ICDC, Tourism Finance Corporation and Industrial Development Bank)</b>	KDC is mandated to play a catalytic role in Kenya's socio-economic development by providing long-term financing and other financial, investment and business advisory services. Therefore, KDC plays an important role in addressing critical gaps for long-term funding that cannot be met by commercial banks in target sectors in Kenya and elsewhere.
3. <b>Kenya Bureau of Standards (KEBS)</b>	It is the policy-making body for supervising and controlling the administration and financial management of the Bureau.
4. <b>Kenya Trade Network Agency</b>	Is a State Agency under the National Treasury mandated to facilitate cross border trade and establish, manage and implement the National Electronic Single Window System ( <i>Kenya TradeNet System</i> ). The system is an initiative of the Kenya Vision 2030, which seeks to facilitate trade, customs clearance, competitiveness and to reduce the cost of trade thus promoting economy. The system aims to provide the trading community and all stakeholders a single access point for all external trade related services and to meet the legal requirement of the trade.
5. <b>Kenya Export Promotion and Branding Agency (A merger of Export Promotion Council and Brand Kenya Board)</b>	The Kenya Export Promotion and Branding Agency (BrandKE) is a State Corporation established under the State Corporations Act Cap 446 through Legal Notice No.110 of August 9th, 2019 after the merger of the Export Promotion Council and Brand Kenya Board. The BRANDKE's mandate is to implement export promotion and nation branding initiatives and policies to promote Kenya's export of goods and services.

Name of the Agency	Description of an Agency
<b>6. Kenya Accreditation Service (KENAS)</b>	Kenya Accreditation Service (KENAS) is the Sole National Accreditation Body (NAB) mandated to offer accreditation services in Kenya. It is established under the State's Corporations Act, Cap 446; vide Legal Notice No. 55 of May 2009. It gives formal attestation that Conformity Assessment Bodies (CABs) are competent to carry out specific conformity assessment activities. KENAS is a member of the International Accreditation Forum (IAF) and an associate member at the International Laboratory Accreditation Cooperation (ILAC) which are apex organizations that oversee accreditation activities at a global level. KENAS carries out accreditation based on the following: regional directives; relevant statutes and government regulations; requirements for health, safety, and protection of the environment; and the market and needs of clients.
<b>7. Kenya Industrial Property Institute (KIPI)</b>	The Institute was established on 2nd May 2002 upon the coming into force of the Industrial Property Act 2001. Previously the Institute existed as Kenya Industrial Property Office (KIPO), which was established in February 1990 after enactment of the Industrial Property Act, CAP 509 of the Laws of Kenya. Their mission is to protect and promote industrial property rights and foster innovation for sustainable development in Kenya.
<b>8. Kenya Industrial Research and Development Institute (KIRDI)</b>	KIRDI mandated to undertake multidisciplinary research and development in industrial and allied technologies. The department conduct research in the following divisions: Engineering, Energy and Environment, ICT, Leather & Textiles, and Food Technology.
<b>9. Kenya Investment Authority (KenInvest)</b>	Kenya Investment Authority (KenInvest) is a statutory body established in 2004 through an Act of Parliament (Investment Promotion Act No. 6 of 2004) with the main objective of promoting investments in Kenya. It is responsible for facilitating the implementation of new investment projects, providing After Care services for new and existing investments, as well as organizing

Name of the Agency	Description of an Agency
	investment promotion activities both locally and internationally. The core functions of KenInvest include; Policy Advocacy; Investment Promotion; Investment Facilitation which includes Investor Tracking and After Care Services.
<b>10. Scrap Metal Council (SMC)</b>	The Mandate of the Council is derived from the Scrap Metal Act, 2015 for the regulation of dealings in scrap metals which is to Advise the Cabinet Secretary on: The appropriate measures and mechanisms for regulating the scrap metal industry in ensuring economic growth, protection of public health and conformity to the principles of environmental stewardship as required by the Basel Convention; The appropriate measures and mechanisms for protecting public interest against vandalism, theft of utility infrastructure and private property; The methods of attracting investors on the utilization of excess scrap materials and supporting existing users of scrap metal; The applicable license fees to be prescribed under the Scrap Metal Act; Any other matter relevant to the operations of the Scrap Metal Act.
<b>11. Special Economic Zones Authority (SEZA)</b>	The <b>Special Economic Zones Authority (SEZA)</b> was established in 2015 by an Act of Parliament (Special Economic Zones Act No. 16 of 2015). The institution is responsible for attracting, facilitating and retaining domestic and foreign direct investments in Special Economic Zones (SEZs). The Authority serves as the regulator of both public and private SEZs in Kenya and exists to create an enabling environment for investors through the development of integrated infrastructure facilities, as well as the creation of incentives that eliminate the barriers to doing business in Eastern Africa's most vibrant economic hub.
<b>12. Kenya Wine Agencies Limited (KWAL)</b>	KWAL was incorporated in May 1969 with the objective of consolidating importation and distribution of Wines and Spirits from foreign owned companies and enable indigenous Kenyans take control the importation and distribution of Wines and Spirits

Name of the Agency	Description of an Agency
	in the country from hitherto foreign owned companies. Through incorporation of KWAL, the first commercial winery (1982) was established in Kenya. This role was effectively discharged and KWAL retained a monopoly status in manufacturing and distribution of Wines and Spirits until liberalization of the economy in 1992/1993.
<b>13. East African Portland Cement Company</b>	Since 1933 the East African Portland Cement Company has been Kenya's leading cement manufacturer producing world class cement. By providing the 'lifeblood' of the construction industry since the nation's inception, cement, we have helped build Kenya from the ground up in areas such as housing, education, health, tourism, transport and communication. Blue Triangle Cement, our flagship brand, is well appreciated all over Kenya as a symbol of quality and reliability. The nation's historical structural icons, such as KICC, have been built using Blue Triangle Cement. The nation's future structural icons, such as the Thika Superhighway and Chemususu Dam, have been built using Blue Triangle Cement.
<b>14. Kenya National Trading Company (KNTC)</b>	The Kenya National Trading Corporation Ltd. (KNTC) is wholly owned by the Government through the Ministry of East African Affairs, Commerce and Tourism. The Corporation has specific objectives, The most Important of which is promoting and growing wholesale and retail trade.
<b>15. Kenya Industrial Estates (KIE)</b>	Kenya Industrial Estates Ltd was established in 1967 to champion the development of Micro Small and Medium Enterprises (MSMEs) throughout the country with a specific focus on clustering of industries, rural industrialization, and value addition to locally available raw materials. The institution has discharged its mandate quite successfully, in spite of the rapidly changing policy, economic, and market environment. The last three years, in particular, have witnessed a major turnaround in the institution's operations including the posting of profit, resumption of construction of

Name of the Agency	Description of an Agency
	industrial estates, streamlining of systems and processes through ISO 9001:2008 Certification, installation of modern ICT hardware and software to enhance efficiency and effectiveness of service delivery and organizational restructuring including the establishment of a risk management department, skills enhancement and recruitment of professionals where appropriate.
<b>16. Micro and Small Enterprises Authority (MSEA)</b>	Micro and Small Enterprises Authority is a state corporation whose mandate is to formulate and review policies and programmes for MSE Sector in Kenya.
<b>17. Kenya Institute of Industrial Training</b>	It offers Industrial/ Entrepreneurship skills training for school leavers and skills upgrading for industrial workers and employees from SMEs & SMIs.
<b>18. Kenya Institute of Business Training (KIBT)</b>	The objective of the Centre was to train and develop indigenous managers and entrepreneurs in practical management and business skills. For KIBT to effectively deliver Business Development Services to target beneficiaries who are spread countrywide, the Institute has seven regional offices in Mombasa, Embu, Garissa, Nyeri, Nakuru, Kakamega and Kisumu.
<b>19. Anti-Counterfeiting Agency (ACA)</b>	The Anti-Counterfeit Agency was established under the Anti-Counterfeit Act 2008 as a State Corporation with the mandates to enlighten and inform the public on matters relating to counterfeiting, combat counterfeiting, trade and other dealings in counterfeit goods, devise and promote training programs to combat counterfeiting and co-ordinate with national, regional or international organizations involved in combating counterfeiting.

### 3.2.2 County Departments

#### 3.2.2.1 County Trade Departments

The 2010 Constitution of Kenya in chapter 11 provides the basic enabling legislations for decentralization. The devolution in Kenya creates a potential to revolutionize Local Economic

Development (LED) in Kenya. The functions and powers of the county governments as set out in the Fourth Schedule include among others trade development and regulation targeting markets, trade licenses, fair trading practices, and cooperative societies. With the transfer of resources and functions, counties contribution to the national economic grid has been evident over time.

At the county level, the sector is an enabler to the transformation and development of a county in its quest for employment creation, poverty reduction and wealth creation through agro industrialization. The goals of the sector include the creation of jobs, establishment of industrial base for agricultural value addition, and the overall development of the economy of the county.

The county governments development implementation plans are anchored in the county integrated development plans (CIDPs). In addition, the county specific Local Economic Development (LED) activities are embedded in the CIDPs which complement the national priorities and aligns with the National Vision 2030 and the Medium-Term Plans (MTPs). Further, the CIDP is also informed by the local priorities as demanded by the communities. Therefore, the LED ought to combine the national development agenda and the community priorities. The development priorities are implemented according to local interests and priorities. Moreover, both national and county governments need to adhere to constitutional requirements of organizing a well-structured stakeholder involvement with the aim of gathering views on development priorities from the counties. In some instances, the professionals at the community level are included in a sector sitting to deliberate on the relevant priorities.

The two levels of government have a mandate of providing and maintaining a conducive business environment at the local level to attract local, regional and international investors. In addition, the governments need to intensify the priorities on value addition and diversification of economic activities through select flagship projects with a view of creating employment, expanding income potentials and eliminating poverty.

Different counties have embedded the trade development and regulation functions in the following departments:

- a) Department of weights and measures
- b) Department enterprise development
- c) Department of industrialization
- d) Department of Markets
- e) Department of Investment promotion
- f) Department of Trade
- g) Department of Cooperatives
- h) Department of Commerce and Industry

### ***3.2.2.2 County Executive Committee Members for Trade, Industry, Manufacturing, Cooperative and Enterprise Development Sector***

Section 179 of the Constitution of Kenya 2010 provides for County Executive Committees (CECM), and notes that the executive authority of the county is vested in, and exercised by, a county executive committee. Members of a county executive committee are accountable to the County Governor for the performance of their functions and exercise of their powers.

**Section 183** of the Constitution of Kenya 2010 further notes the functions of County Executive Committees as:

- a) Implementing county legislation.
- b) Implementing, within the county, national legislation to the extent that the legislation so requires.
- c) Managing and coordinating the trade function of the county administration and its departments.
- d) Performing any other functions conferred on it by the Constitution or national legislation.
- e) Preparing proposed legislation for consideration by the county assembly; and
- f) Providing the county assembly with full and regular reports on matters relating to trade in the county.

In addition to the functions provided under Article 183 of the Constitution, there are various roles provided under legislation and policies. The County Government's Act, Part v, Sec. 36 provides additional roles of CECs. The Act provides that CEC shall:

- a) Supervise the administration and delivery of services in the county and all decentralized units and agencies in the county;
- b) Perform any other functions conferred on it by the Constitution or national legislation; and
- c) Carry out any function incidental to any of the assigned functions.

Further, the Act provides powers to the CECs to determine their own programme of activities to implement in their department provided they observe integrity and disclose interest in any matter before the committee. In addition, section 46 of the Act, gives powers to the CECs to form organization and the various departments in the County.

### **3.2.2.3 County Chief Officers of Trade, Industry, Manufacturing, Cooperative and Enterprise Development Sector**

The County Government Act, 2021 Section 45 provides that with the approval of the county assembly, the Governor shall appoint the County Chief Officers of Trade (COT). This is an office in the County Public Service. A COT is responsible to the respective CECM for the administration of a county department as provided under section 46.

- a) **Authorized Officer and Accounting Officer:** The COT is the authorized officer in respect of exercise of delegated power. The PFMA 2021 section 148 and Sec 149 designates COs as accounting officers for County Government entities. The CECM for Finance is responsible for managing the finances of the county government entities as is specified in the designation. Except as otherwise stated in other legislation, the person responsible for the administration of a county government entity, shall be the accounting officer responsible for managing the finances of that entity. A CECM of finance shall ensure that each county government entity has an accounting officer in accordance with Article 226 of the COK, 2010. It is however key to note that a county government may, to promote efficient use of the county resources, adopt, subject to

approval by the county assembly, a centralized county financial management service. Section 149 of PFMA sets out responsibilities of Accounting Officers Designated for County Government Entities.

- b) **Public Finance Management:** provides that an accounting officer is accountable to the county assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is: lawful and authorized; effective, efficient, economical and transparent; and that all expenditure comply with PFMA and keeps all financial and accounting records according to this act. And these records in any form including electronic are adequately protected and backed up. They also must ensure to follow all accounting procedures, when acquiring or disposing of goods & services, good custody & safekeeping & storage of goods.
- c) **County Planning:** The COT should ensure that the county has developed and is implementing appropriate plans. These include the County Integrated Investment Plan (CIDP) which is a 5-year plan; the Trade Sectoral Plan (10-year plan); the Annual Work Plan (AWP) which is a one-year plan done annually; the Performance Contract annually; the Annual Development Plan; the Annual Procurement plan; compliance with the Integrated financial management systems; sector working groups /MTEP medium term expenditure plan and Program Based budgeting.

#### **3.2.2.4 County Directors of Trade, Industry, Manufacturing, Cooperative and Enterprise Development Sector**

In some counties the County Department of Trade and Industry is headed by a director, who is in charge of divisions such as Business Support Services, promotion of retail and wholesale markets, development of micro, small and medium enterprises, private sector development Trade and Monitoring & Research, and Domestic Trade Policy matters.

There are other officers in the department such as development officers and other technical officers supporting the department in execution of trade development and regulation.

### 3.2.3 Sector Stakeholders' Involvement, Partnership and Coordination structures

The Council has in the past partnered with a number of sector stakeholders including the Kenya Association of Manufacturers, the Kenya National Chamber of Commerce and Industry, Kenya Institute for Public Policy Research and Analysis, Cooperative Alliance of Kenya and Kenya Private Sector Alliance. Some of the roles and activities undertaken by the stakeholders across the counties are discussed in table 8.

**Table 8: Key Stakeholders in the Sector and the Roles played**

Sector Stakeholders	Role played in the Counties
<b>1. Kenya Association of Manufacturers</b>	<ul style="list-style-type: none"> <li>i. Advances the advocacy interests of industrialists and serves as a common voice for manufacturing and other value add sectors in the country.</li> <li>ii. Support in diversification of exports through partnership and increase competitiveness of various agricultural value chains.</li> <li>iii. Organizing for trade delegations, policy and investment promotion activities to attract investment in the mutual priority sectors such as textile and garment, leather and leather products, agro processing, horticulture, ICT and cotton.</li> </ul>
<b>2. Global Communities USAID CLEAR Program</b>	<ul style="list-style-type: none"> <li>i. The Global Communities through the USAID CLEAR Program provided technical assistance and financial resources to support the development of model County Co-operative Bill. USAID CLEAR also supported drafting of the national Cooperative Bill 2021.</li> <li>ii. Capacity strengthening through training on the cooperative policy and legislative framework.</li> <li>iii. Promotion of the worker cooperative model to increase participation of youth and women in the cooperative sector.</li> </ul>
<b>3. Kenya Private Sector Alliance</b>	<ul style="list-style-type: none"> <li>i. Brings together business community in a single voice to engage and influence public policy for an enabling business environment.</li> <li>ii. Support in advocating for improved business regulatory environment in the country, with special focus on: <ul style="list-style-type: none"> <li>a. Ease of business registration</li> <li>b. Dealing with construction permits</li> <li>c. Property registration</li> <li>d. Taxation</li> <li>e. County business environment including energy/fuel cost reduction</li> </ul> </li> <li>iii. Support in enhancement of trade and investment through: <ul style="list-style-type: none"> <li>a. participation of the private sector in the economic diplomacy and bilateral meetings,</li> </ul> </li> </ul>

Sector Stakeholders	Role played in the Counties
	<ul style="list-style-type: none"> <li>b. Support local SME and entrepreneurship to enhance consumption and use of locally manufactured goods</li> <li>c. Participation in cross-border trade and export/import facilitation</li> <li>iv. MOU agreement between KEPSA and COG:               <ul style="list-style-type: none"> <li>a. To jointly induct the Private Sector Members and County Government officials on the Private Sector Devolution Support Program (PSDSP);</li> <li>b. To jointly mobilize resources for the implementation of the program;</li> </ul> </li> </ul>
<b>4. Kenya National Chamber of Commerce and Industry</b>	<ul style="list-style-type: none"> <li>i. KNCCI protects the commercial and industrial interests of the Kenyan business community, by advocating for the creation of a favourable commercial, trade and investment environment that supports enterprise expansion. The membership of KNCCI constitutes small micro enterprises (SMEs), medium and large enterprises. The Chamber has since devolution established County Chamber offices in all the 47 counties.</li> <li>ii. Support the private sector development through soft loan financing and advisory services.</li> <li>iii. Trade facilitation support to exporters, by providing certification of origin for authentication of genuine products made or grown in Kenya</li> <li>iv. Partnership with counties in the development of an elaborate social protection fund to support the vulnerable in the society i.e., in Kakamega</li> </ul>
<b>5. Kenya Development Corporation (KDC)</b>	<ul style="list-style-type: none"> <li>i. Mandated to assist in bringing economic development across the country through lending, investing and offering advisory services. To achieve this, the corporation has partnered with County Governments to enhance investment and growth across the counties.</li> <li>ii. The corporation work with the county governments in resource mobilization, capacity building, providing financing and advisory services and assisting to get investors to ensure continued economic development in the counties.</li> <li>iii. Support the private sector development through soft loan financing and advisory services, to help businesses recover from the pandemic</li> <li>iv. Support to counties in fostering investment promotion, investor identification, capacity building and resource mobilization in the County</li> <li>v. KDC is working closely with the County Governments and key market players to obtain information and insights that support the corporation's financing decisions.</li> </ul>

Sector Stakeholders	Role played in the Counties
6. Kenya Bureau of Standards (KEBS)	<ul style="list-style-type: none"> <li>i. Provide Standardization and Conformity Assessment services that consistently meet its customers' requirements and endeavor to exceed their expectations in trade sector.</li> <li>ii. Providing technical capacity for the national team including county government officials in reviewing and implementing the national and international agreements relating to standards. i.e., WTO TBT and SPS agreements.</li> <li>iii. KEBS support the improvement of infrastructures and equipment of material testing laboratories, including the safety equipment in the country, and maintaining the measurement standards set up within the laboratories.</li> <li>iv. Provision of product certification scheme for locally manufactured products as provided for under section 10 of the Standards Act Cap 496, Laws of Kenya.</li> </ul>
7. Kenya Institute for Public Policy Research and Analysis	<ul style="list-style-type: none"> <li>i. Provide quality public policy advice to the Government of Kenya by conducting objective research and analysis and through capacity building in order to contribute to the achievement of national development goals. The institute conduct research across the counties in several sectors including trade, industry, manufacturing, and enterprise development.</li> <li>ii. One of the mandates for the institute include conducting independent and objective programs of research and analysis, including macroeconomic, inter-disciplinary and sectoral studies on topics affecting public policy in areas such as human resource development, social welfare, environment and natural resources, agriculture and rural development, trade and industry, public finance, money and finance, macroeconomic and microeconomic modeling.</li> <li>iii. The research activities are aligned to the aspirations of the Kenya Vision 2030 and the National Trade Policy which seeks to enhance the supply of goods and services to the domestic market, while at the same time deepening economic and commercial ties through regional economic integration, and bilateral and multilateral partnerships. The latest studies include:</li> </ul>

Sector Stakeholders	Role played in the Counties
	<ul style="list-style-type: none"> <li>a. County Business Environment for Micro and Small Enterprises<sup>4</sup>.</li> <li>b. Special Paper No. 27 of 2019 on County Business Environment for Micro and Small Enterprises in Kenya<sup>5</sup>.</li> <li>c. Policy briefs for the 47 county governments</li> </ul>

### Coordination Framework in the Trade Sector

Unlike other sectors like health and agriculture which by 2021, had a well-established and operational intergovernmental framework between the national government and county governments, the trade sector intergovernmental coordination framework is still at conceptualization stage.

In 2022, the County Governments through the Council of governors were in talks with the National Government through the Ministry of Trade, to establish mechanisms for strengthening collaborative engagement between the two levels of government. The two levels of government are in the process of activating the intergovernmental trade forum which will provide a platform for actors in the sector to interact, share experiences, and identify opportunities for effective implementation of plans and programs at both levels of government. In addition, the forum will be an avenue for shaping key decisions on issues of policy, strategies and programs for attainment of the country's goals in the sector.

### Partnerships in the trade sector

Partnership is critical in the sector. It enables the county governments interact and share their county plans with the different players in the sector. At the same time, it enables partners in the sector to share their strategic vision and ensure engaged governments pursue compatible targets.

<sup>4</sup> <https://kippra.or.ke/county-business-environment-for-mses-policy-briefs-for-42-counties/>

<sup>5</sup> <https://repository.kippra.or.ke/handle/123456789/2080>

Since devolution, county governments have not had a structured partnership guiding framework. County governments have entered into partnerships with different players in the sector with varying goals. Kenya has one of the more mature Public Private Partnership (PPP) markets in Africa with a comprehensive legislative framework<sup>6</sup>. In December 2021, the *Public Private Partnerships (PPP) Bill 2021* was signed into law. The purpose of the Act was to address the shortcomings of the *PPP Act 2013* by including a framework for streamlined project processes with clear timelines, expanded procurement options and robust processes for Privately Initiated Investment Proposals (PIIP).

The PPP Act 2021, provides that the County Governments can enter into PPP agreements with a private party and shall be responsible for administration of the entire project after conducting a feasibility study. After approval by the county assembly, the counties are expected to submit a list of projects to the Directorate of Public Private Partnerships for inclusion in the published national list of projects. The counties will be operating under an expanded procurement process with the inclusion of direct procurement and a greater clarification on timelines. This includes the period within which bids must be evaluated and for appeals by bidders.

However, there is need to consider decentralizing PPPs from the National Government to County governments as seen in Canada where management of PPPs is decentralized to provincial and municipal governments. This will encourage uptake of PPP projects, attract investments, and enhance development activities at the county level.

#### **3.2.4 Non-state Agencies in Trade Sector**

Non-state actors include non-governmental organizations, multinational corporations, private sector, corporations, and private financial institutions. These non-state actors play an important role in promoting economic growth, developing society, improving communities and promoting citizen participation.

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<sup>6</sup> <https://www.cytonn.com/topicals/public-private-partnerships-2>

#### **3.2.4.1 Non-Governmental Organization**

Non-Governmental Organizations (NGOs) are particularly critical to the socioeconomic development of countries where government capacity and revenues are limited. NGOs play a critical role in economic development, trade facilitation and building healthy communities through the provision of critical services. The rapid growth and expansion of NGOs worldwide attests to their growing role in the development process. NGOs offer a broad spectrum of services across multiple fields, ranging from finance, livelihood interventions and health and education services to more specific areas, such as emergency response, democracy building, conflict resolution, human rights, environmental management, and policy analysis.

Some NGOs provide access to micro credit or micro finance facilities, positively impacting micro enterprises as well as enabling individual households to start income-generating activities. Other NGOs provide micro loans without requiring any collateral or mortgage with the aim of assisting the less privileged in society. They offer opportunities for people to develop initiatives in business or agriculture that generate earnings offsetting the debt over time. Some of the examples of donors funding the Non-Governmental Organizations in the sector include USAID, European Union, SIDA, and UN Habitat among others.

### **3.3 Intergovernmental Relations and Cooperative devolved governance**

#### **3.3.1 Council of Governors Trade Committee**

The Council of County Governors (COG) is a non-partisan organization established under Section 19 of the Intergovernmental Relations Act (IGRA 2012) with a mandate to provide a mechanism for consultation amongst County Governments, share information on the performance of the counties in the execution of their functions, facilitate capacity building for Governors, and consider reports from other intergovernmental forums on national and County interests amongst other functions (Sec 20).

In fulfilment of sections 19 (2) and (3) of the intergovernmental Relations Act (IGRA) 2012, the Council of Governors has established 18 committees one of them being the trade, industry, manufacturing and enterprise development to enable the Council to execute its mandate. The Trade, Industry, Manufacturing & Enterprise Development Committee was constituted to

consider all matters relating to trade development and regulations, Investments and divestiture policies.

The committee's mandate includes;

- i. Review of current Bills before National Assembly and Senate relating to trade, Industry, Manufacturing, enterprise development and cooperatives among others;
- ii. National policies relating to trade Industry, Manufacturing and enterprise development;
- iii. Global competitiveness of counties;
- iv. Promotion of information and communication technologies for development;
- v. Promotion of stable environments for investment at the county level;
- vi. To coordinate and harmonize the Council's position on matters of Trade, Cooperative Development and Investment relations between the two levels of government;
- vii. To provide a forum for consultation on matters of Taxation for County Governments to facilitate enabling environment for investment.
- viii. Coordinate the Intergovernmental Issues related to the trade and cooperative sector.

The Trade committee is chaired by a Governor and its activities are guided by the Council's Strategic Plan: 2022 – 2027 focusing on the three pillars: good governance and institutional capacity for sustainable service delivery in the Counties; Intergovernmental Relations and devolution; and COG's Institutional development.

### **3.3.2 Intercounty agreements and resource sharing**

The Constitution of Kenya, 2010 provides the overarching legal framework to govern the relationships between the government and its citizens. The most significant feature of the Constitution is the introduction of the devolved system of government. Article 6 (2) of the Constitution provides that the governments at the National and County levels are distinct and interdependent. Article 189 of the Constitution provides the constitutional basis for co-operation between National and County governments. Particularly, Article 189(2) of the Constitution Mandates Government at each level, and different governments at the county

level, to co-operate in the performance of functions and exercise of powers and, for that purpose, they may set up joint committees and joint authorities.

### 3.3.2.1 County Regional Economic Blocs

- i. **North Rift Economic Bloc (NOREB):** Uasin Gishu, Trans Nzoia, Nandi, Elgeyo Markwet, West Pokot, Baringo, Turkana and Samburu.
- ii. **Central Kenya Economic Bloc (CEKEB):** Tharaka-Nithi, Meru, Nyeri, Laikipia, Murang'a, Kiambu, Nakuru, Nyandarua, Embu and Kirinyaga.
- iii. **Lake Region Economic Bloc (LREB):** Bomet, Bungoma, Busia, Homa Bay, Kakamega, Kericho, Kisii, Kisumu, Migori, Nandi, Nyamira, Siaya, Vihiga and Trans Nzoia.
- iv. **Jumuiya ya Kaunti za Pwani (JKP):** Lamu, Kilifi, Kwale, Mombasa, Tana River and Taita-Taveta.
- v. **South Eastern Kenya Economic Bloc (SEKEB):** Makueni, Kitui and Machakos
- vi. **Frontier Counties Development Council (FCDC):** Garissa, Wajir, Mandera, Isiolo, Marsabit, Tana River, Lamu, Turkana, Samburu and West Pokot
- vii. **Narok-Kajiado Economic Bloc (NAKAEB):** Narok and Kajiado.

The establishment of County Regional Economic Blocs (CREBs) is in line with Article 189 (2) of the Constitution, which allows County Governments to co-operate through joint committees and joint authorities, in the performance of functions and exercise of powers. This is buttressed in section 6 of the County Governments Act. The key objective of creating the blocs is to stimulate opportunities within the regions with a goal of expanding avenues for resource mobilization for development, expansion of trade and investment to spur local economic development, and harnessing of peace and cohesion, nurture partnerships and help drive economic growth.

The priority areas for the county regional economic blocs include: Trade, and industrialization focused on manufacturing to create jobs, water and sanitation, green development, urban development and improved access to trade services. As of 2022, there were seven established economic Blocs with county membership presented below.

A national policy on establishment of Regional Economic Blocs by County Governments is under development through the coordination of the Ministry of Devolution. The Governance structures have also been established such as the top decisions organ comprising the

Governors and Council of ministers. However, the blocs are at varying levels in operationalization of the Governance structures.

### **3.3.3 Intergovernmental dispute resolution mechanisms and experiences**

The Intergovernmental Relations Act of Kenya 2022 outlines the ideal mechanism that needs to be followed to solve intergovernmental and inter-county disputes across the sectors. Ideally, conflicts arise due to breaching agreements of memorandum or when there is little or no understanding on issues and matters of common interests. The Act guides that both levels of Government shall take all reasonable measures to resolve disputes amicably and exhaustively. The law advocates for the use of alternative dispute resolutions as the first approach. However, where an agreement between the two parties is not reached, the law allows the parties to proceed to court as guided by the constitution of Kenya article 189(3) and (4).

The national government needs to invest in capacity development for officers and experts who can adequately advice and amicably resolve disputes. After declaration of dispute, it will take about 21 days for the summit, or council to convene the affected parties and initiate the process of solving the disagreement.

The trade sector in Kenya has over the years utilized the mechanism to resolving conflicts emanating from the Technical Committee, Secretariat and the sectoral working Group. The conflicts have been managed by the intergovernmental forum co-chaired by the County Executive Members of Trade and the Cabinet secretary of Trade.

### **3.3.4 Other key institutions in intergovernmental space**

#### **3.3.4.1 The National Treasury**

The National Treasury is one such key institution whose mandate and decisions on financial matters fundamentally affect trade development and provision of related services. The National Treasury plays a critical role in the division and allocation of revenue raised nationally between National and County Governments, and among the 47 counties; determination of conditional grants by National government, transfer of funds to county governments; management and transfer to county governments of donor grants and loans for specific

purposes; and the overall regulation of county financial matters. For these reasons it is imperative that county trade officials such as the COG Trade Committee, CECMs and Chief Officers for Trade cultivate good working partnerships with the National Treasury, and also familiarize themselves with the procedures of the workings of the National Treasury as well as the timelines for the performance of certain activities relating to finances. They ought to also familiarize themselves with the various circulars and guidelines which the National Treasury issues from time to time.

#### **3.3.4.2 The Ministry of East Africa Community & Regional Development**

The Ministry is established to coordinate Kenya's participation in the East African Community integration process pursuant to Article 8(3) of the Treaty for the Establishment of the East African Community. Further, the Ministry through the Department of Business Reforms and Transformation supported by UK Kenya Tech Hub among other partners launched the County Regulatory Business Toolkit on 04/02/2022 to improve the ease of doing business by addressing the challenge of accessing regulatory information by SMEs.

The Toolkit provides investors with information on county sector structure, available opportunities, aggregate license per business, license cost, compliance step and documentation required for major licenses in the 10 pilot counties (Nakuru, Nairobi, Uasin Gishu, Machakos, Mombasa, Kisumu, Kakamega, Laikipia, Garissa and Kajiado).

#### **3.3.4.3 The Ministry of Devolution**

The fourth schedule of the Constitution assigns the National Government the function of support and capacity building for the County Governments. Section 121 of the County Governments Act also assigns the Ministry of Devolution jointly with the relevant Counties the function of identifying the Counties with specific capacity deficits and supporting such Counties to build their capacity to enable them undertake and perform their constitutional functions. Previously, capacity building has been understood from the narrow perspective of human resources capacity to the exclusion of infrastructure capacity that can enable county governments to take over all their constitutional functions. In the Trade sector area, capacity building is required in trade development regulation. The Ministry of Devolution should play

the lead role in coordinating with the Ministry of Trade and the National Treasury to support the counties in this respect.

#### **3.3.4.4 The Legislature at the National and County Level**

The legislative arms at the National and County levels of government are also critical players in the trade development and regulation and county trade departments ought to cooperate and collaborate with the departmental committees for trade in the Senate, National Assembly and County Assemblies for purposes of effective and efficient delivery of trade related services, development and regulation.

##### **a) The Senate Departmental Committee on Trade and Cooperatives**

The Departmental Committee on Trade of the Senate which has responsibility of reviewing trade related legislations; reviewing and approving the trade budget and expenditures for the execution of governance; scrutinizing trade governance activities, policies and programs, and assessing whether they meet the intended objectives of legislation, policy frameworks and development plans; conducting investigations on special trade issues; vetting and approving executive trade appointments; and providing a platform for public participation in the execution of specified business of the house would be a critical ally for the county trade departments.

COG and the county trade departments ought to closely collaborate with the Senate Committee on trade to: ensure that draft policies and legislations do not claw back on devolution, the functions of County Governments, and the financial resources of County Governments; to secure an increased equitable share from the revenue raised nationally; to control National Government borrowing which is eating into the sharable amount, and to address many other matters affecting county governments.

##### **b) The National Assembly Departmental Committee on Trade, Industry and Cooperative**

The Departmental Committee on Trade, Industry and Cooperative is one of the fifteen Departmental Committees of the National Assembly established under Standing Order 216 (5). The committee is mandated to oversee policy discussion related to trade, consumer protection, cooperative development, enterprise development and promotion including

SMEs, commerce and industrialization among others. Further, the committee considers business in the following areas; bills, legislative proposals, petitions, inquiries, statements, budgetary review, agreements and session papers among other duties.

Some of the Bills that were referred to the Committee in the 12<sup>th</sup> Parliament and were yet to be passed before the house was adjourned include;

- i. The Investment Promotion (Amendment) (Sen. Bill No.42) Bill, 2021
- ii. The County Licensing (Uniform Procedures) (Sen. Bill No. 32) Bill, 2022
- iii. The Cooperatives Societies (Amendment) (Sen. Bill No. 11) Bill, 2022
- iv. The Statute Law (Miscellaneous Amendments) Bill, 2022

During the 12<sup>th</sup> Parliament, the Committee considered the Economic Partnership Agreement (EPA) between Kenya (member of EAC), and the United Kingdom of Great Britain and Northern Ireland. The agreement provided a legal framework that facilitates Duty-Free Quota-Free access of exports from EAC countries to the UK market.

However, some of the business transacted by the committee have gone against the spirit of devolution. For instance, the development of the four additional trade related programmes assigned to the State Department of Trade and Enterprise Development instead of the County Governments. The programmes include: Domestic Trade and Enterprise Development, and Fair-Trade Practices and Compliance of Standards. This goes against the fourth schedule of the Constitution. Therefore, there is need for the National Assembly trade committee to appreciate the devolved functions and re-assigned the functions accordingly. This can be done through regular joint meetings between the COG trade Committee together with County CECMs for trade and the National Assembly Departmental Committee on trade to ensure the National Assembly appreciate its critical role in advancing devolution.

#### **c) The County Assemblies Departmental Committees on Trade**

County Assemblies are also organized into departmental committees including the Committee on Trade through which they discharge some of the mandates. In this respect, the county Assemblies Committee on trade have responsibility to investigate, inquire into and

report on all matters relating to county trade development and regulation; study the programmes and policy objectives of the trade sector and department and the effectiveness of implementation; study and review all county legislation referred to it; assess the success of the county department of trade on the basis of results achieved compared to the stated objectives and take appropriate action including making recommendations.

County departments of trade need to closely work with and lobby this committee to secure adequate financing and passage of proposed legislations that seek to improve trade and investment financing such as county investment units, and all other matters related to trade. Good working relationships with the County Assemblies Committees will also be necessary to avoid the disruptive impeachment activities.

## CHAPTER FOUR

### COUNTY TRADE PLANNING AND SERVICE DELIVERY

#### 4.1 Introduction

The section provides an overview of key service delivery considerations in terms of planning, performance management, intercounty programs and partnerships, lessons on the design and organization of county service delivery structures for the sector including aspects such as citizen engagement, public participation, and decentralization.



#### Objectives

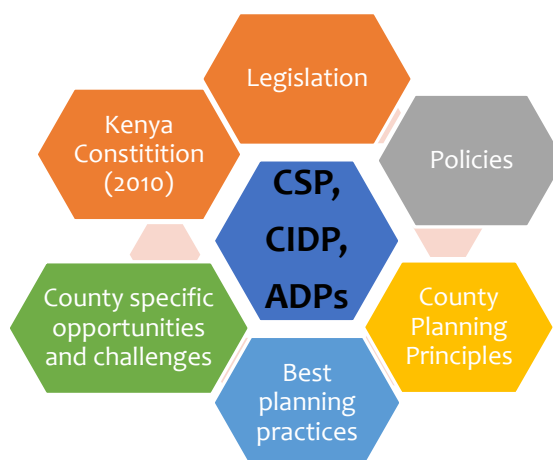
- i. Discuss the Trade Sector Planning and Financing
- ii. Understand the Budget Making process in the Sector
- iii. Intersectoral linkages

#### 4.2 Trade Sector Planning and Financing

Planning is a concurrent function. Article 186(1) and Article 67(2) (h) of the Constitution and the fourth schedule assign planning functions to both the National and County Governments. The County governments are responsible for county planning and development. The process of developing the County Sectoral Plans (CSPs), Spatial Plans, County Integrated Development Plans (CIDPs) and Annual Development Plans (ADPs) should take cognizant of: The Constitution of Kenya 2010; policy and legal contexts; county planning principles and current best planning practices and concepts.

The planning framework needs to integrate economic, social, environmental, legal, and spatial aspects of development to produce a plan. The plans are aligned to national plans such as the Kenya Vision 2030, its Medium-Term Plans, and the National Spatial Plan as well as to international commitments such as the Sustainable Development Goals.

**Figure 1: Elements of Development Plans at the County**



### County Planning Principles

- Integration of national values in all processes and concepts;
- Protection of the right to self-fulfillment within the county communities and with responsibility to future generations;
- Protection and integration of rights and interest of minorities and marginalized groups and communities;
- Protection and development of natural resources in a manner that aligns national and county governments policies;
- Alignment of county financial and institutional resources to agreed policy objectives and programs;
- Engendering effective resource mobilization for sustainable development;
- Promotion of the pursuit of equity in resource allocation within the county;
- Provision of a platform for unifying planning, budgeting, financing, programme implementation and performance review; and
- Serve as a basis for engagement between county government and the citizenry, other stakeholders and interest groups.

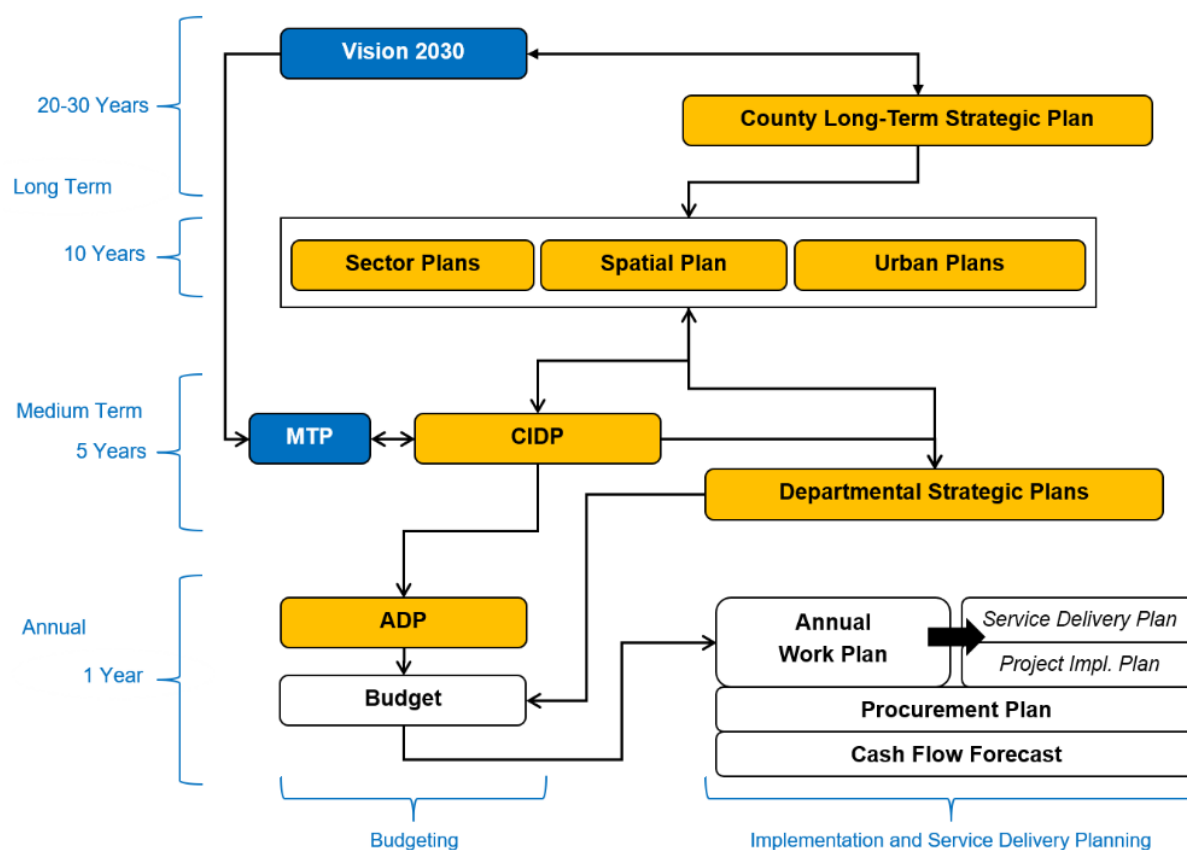
[County Government Acts, Section 102.]

Section 102 of the County Government Act outlines the County Planning Principles.

In addition to CIDPs, the counties should have the following: County Sectoral Plan (10 years); County Spatial Plan (10 years); and Cities and Urban Areas Plan (5 years) among other plans. While all the counties have County Sectoral plans in place, the development GIS-based County Spatial Plans were included for the first time in the 2018-2022 CIDPs. Notably, there is also no evidence on the availability of the Cities and Urban Areas Plan in the CIDPs. Integrated Urban Development Plans (IUDP) are ideal tools for guiding strategic urban investments at the county level.

Figure 2 summarizes how the county development planning systems links with budget and implementation.

**Figure 2: County development planning system**



Source: County Governance Toolkit

### 4.3.1 County Sectoral Plans

The county sectoral plan is a 10-year plan for a specific sector. The county department in consultation with the sector players, is supposed to develop the county sectoral plans as part of the county integrated development plan. These county sectoral plans are supposed to be programmed based and should provide a basis for budgeting and performance management. The sectoral plans are supposed to be reviewed every five years by the county executive and approved by the county assembly but needs to be updated annually.

### 4.3.2 County Integrated Development Plan

Section 102(h) of the County Governments Act, 2012, mandates the county governments to provide a platform for unifying planning, budgeting, financing programs, implementation,

and performance review. Section 108 requires county governments to prepare 5-year County Integrated Development Plans (CIDPs) and the Annual County Plans to implement them. The CIDP is a 5-year integrated development plan covering plans for all the departments in the county including the trade department. The plan outlines clear goals and objectives of the sector, an implementation plan with clear outcomes, provisions for M&E, and clear reporting mechanisms. There is evidence of preparation of CIDPs as all of the 47 CIDPs (2018 – 2022) are available at the Council of Governor's official website. Planning and budgeting activities at the county level are guided by the CIDPs.

The counties also developed the Annual Development plans to support the achievement of the overall plans in the CIDPs. These development plans across the counties covers the following areas in the trade sector:

- i. Provide details of the investment initiatives in the county touching on the sector;
- ii. Details of the development initiatives in the county, including infrastructure, social, economic, and institutional development;
- iii. All projects, plans, and programs to be implemented within the county touching on the sector; and
- iv. Performance indicators and sector statistics among other activities.

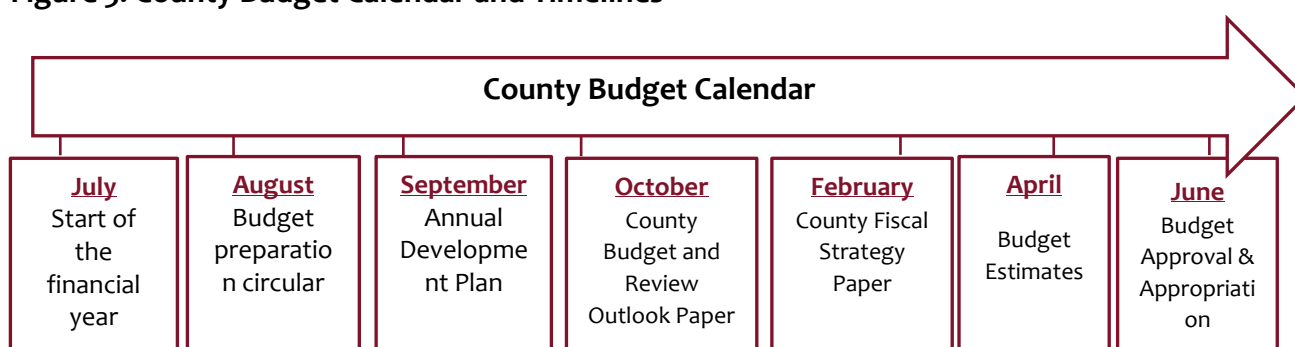
#### **4.4 County Trade Budgeting and Sustainable Financing**

The budget identifies sources of revenue and allocates expenditures to the various sectors of the economy. It is the means through which a county mobilizes resources and allocates them to competing needs. The budget is also the means through which the county governments convert policy goals into actions on the ground. As part of public finance, the budget allocation process is key to the government's roles of sharing and redistribution of income. Finance follows function. With devolved governance, government functions have been divided between the national government and County Governments. Trade as a devolved function, this therefore means that adequate resources should be provided to ensure effective performance of trade sector as a devolved function.

#### 4.4.1 Stages in County Budgeting

Budgeting at the county level begins with the integrated development planning process, which involves planning and establishment of financial and economic priorities for the county over the medium term. The budget process starts with the issuance of guidelines to be followed by all the county government entities in preparation of the budget. This is then followed by the making of estimates of the county government's revenues and expenditures. The county then develops the County Fiscal Strategy Paper before preparing the estimates for the county government which are then submitted to the County Assembly to scrutinize the votes in the estimates before approval by County Executive Committee for Finance, and should be submitted by the end of April annually. This will include the budget estimates and the appropriations Bill. Once approved, the county assembly enacts an appropriation law and other laws required for the implementation of the budget after which implementation begins.

**Figure 3: County Budget Calendar and Timelines**



- i. **Budget Preparation Circular** provides a basis developing county's budget for the forthcoming year. This includes the process of identifying and prioritizing spending priorities of the activities in the Medium-Term Expenditure Frameworks (MTEF).
- ii. **Annual Development Plan** outlines the county's annual development priorities for the forthcoming year. It represents the approved programmes and activities in the CIDP, and the implementation progress and experience in the progress reports.
- iii. **County Budget and Review and Outlook Paper** presents a review of economic and fiscal developments in the preceding year, current medium term economic and financial forecasts since approval of the most recent County Fiscal Strategy Paper and indicative sector budget ceilings for the coming year.

- iv. **County Fiscal Strategy Paper** defines the revenue and expenditure ceilings (budget allocations) for every department and program.
- v. **Budget Estimates** captures the detailed revenue and expenditure estimations for the forthcoming year and forwarding looking estimates for the MTEF. The presentation of the estimates is in line with the department, program and sub-program votes.
- vi. **Budget Approval and Appropriation** gives legal approval to the approved budget, assigning the authority and mandate to incur expenses and raise revenue to County Government Departments.

#### 4.4.2 Public Participation in the County Trade Sector

Public participation is one of the national values and principles of good governance as provided for in Article 10 of the Constitution. Further, Article 174 (c) stresses the need to enhance the participation of the people exercising the powers and functions affecting the general public. Public participation is termed as the process of involvement in governance, in which ‘people participate together for deliberation and collective action within an array of interests, institutions and networks, developing civic identity and involving people in governance processes. The need for public participation in the county trade sector cannot be emphasized.

The Constitution assigns the County Government with the responsibility to ensure, facilitate and build capacity of the public to participate in the governance to the county government through function 14 (Schedule 4 Part 2). At the county level, the Governor has the responsibility of facilitating citizen participation in the development of policies, plans and service delivery in the county. Therefore, CECM, COs and directors need to ensure all activities in the sector goes through the participatory decision making.

**Key areas of public participation in the county Trade sector include: -**

- i. Planning and Budgeting making process for the sector
- ii. Legislative process/policy and law-making
- iii. Public participation in the Trade Service Delivery
  - a. Procurement
  - b. Performance management and oversight
- iv. Stakeholder Forums
- v. County Budget Economic Forum
- vi. Public participation in vetting of public officers in the sector

Public participation gives county governments an opportunity to empower the public on their operations and to deliberate, debate and influence the allocation of public resources with the aim of improving county governments performance, strengthening social equity, reducing government inefficiencies and making county governments become more responsive to citizen's needs and preferences.

#### **4.4 Sector Performance Management**

The performance management framework for county governments was rolled out in 2017 to support the institutionalization of performance management. This is important in ensuring that counties demonstrate their development results. The County Government Act 2012, section 47 (1), mandates the County Executive Committee to design a performance management plan. The County Public Service board is responsible for advising the county government on the implementation and monitoring of the National Performance Management Systems in the counties as provided for in Section 59 (1)(i).

Resolution no.8 of the Devolution conference held in 2019, outlines the commitments from the two levels of government for operationalization of the Performance Management Framework as guided in Sec.47 of the County Governments Act. The performance evaluation criteria is based on the following weights.

**Table 9: Performance Evaluation Criteria**

Performance Criteria	Weight (%)
Financial Stewardship and Discipline	10
Service Delivery	8
Institutional Transformation	10
Core Mandate	60
Cross-Cutting	12
Total	100

## 4.5 Intersectoral linkages

The trade, investment and manufacturing sector cuts across areas of economic and business activity such as industry and investment, trade, and enterprises. Trade contributes about 10 percent of the Kenya's growth and development through its linkages with all the sectors of the economy. Trade supports agriculture, Gender, Cooperatives, manufacturing and services industries by creating markets through which goods and services get to the consumer and thus providing a mechanism through which effects of economic growth are transmitted to various players in the economy. These are the functions that have been devolved in the Kenyan Constitution and are shared in varying degrees with the county governments. It is expected that laws and policies are aligned to ensure respect to and adherence to the functional boundaries established between the two levels of government.

### 4.5.1 Manufacturing sub-sector

The role of the manufacturing sector in Vision 2030 is to create employment and wealth. The sector's overall goal is to have a robust, diversified and competitive Manufacturing Sector to transform the country into a middle-income economy by 2030. Interventions proposed in the Vision and mainstreamed in the MTPs seeks to transform Kenya to be globally competitive and prosperous. In the Medium-Term Plan III, the goal of the Sector is to increase its contribution to the GDP from 9.2 per cent in 2016 to 15 per cent by 2022; create additional one

million jobs yearly; increase level of Foreign Direct Investments to \$2 billion; and improve ease of doing business ranking from 80 in 2017 to 45 by 2022.

To achieve these objectives, a set of key target areas have been identified and specific goals and targets set to steer industrial growth. These include the development of Special Economic Zones (SEZs), Industrial Parks, Industrial Clusters, promotion of small and medium scale manufacturing firms, development of niche products, commercialization of research and development results, attraction of strategic investors in strategic sectors, i.e., iron and steel industries, manufacture of fertilizer, agro-processing, machine tools and machinery, motor vehicle assembly and manufacture of spare parts. To promote development in the target areas, projects are designed and implemented through a Public, Private, Partnership (PPP) framework.

#### **4.5.2 Agriculture Sector**

Agriculture is key to Kenya's economy, contributing nearly 33 per cent of the Gross Domestic Product (GDP) and another 27 per cent of GDP indirectly through linkages with other sectors. The sector employs more than 40 per cent of the total population and more than 70 per cent of Kenya's rural people. Trade plays a crucial role in providing livelihoods for farmers and people employed along the food supply chain. It also contributes to reducing food insecurity across the globe and provides greater choice in consumer goods. Further, agriculture contributes to the production of raw materials needed for industries.

#### **4.5.3 Tourism Sector**

Tourism is trade in itself. In Kenya, tourism contributes a major share of revenue to the country. The benefits attributed to tourism spills over to the whole economy and society through creation of more jobs, business opportunities in the trade sector, higher income for families, increased investment and more opportunities for grass roots development. In addition, tourism is built on partnerships. The bulk of the sector is made up of SMEs and the private sector has a key role in achieving development goals. Tourism offers immense opportunities to promote partnerships for development based on public-private cooperation models.

Through, the county economic blocs, counties seek to create a positive regional image nationally and internationally by adopting a common communication platform. This entails branding the region as an investment destination of choice and premier tourism product. To facilitate this, some counties are planning to have a joint annual investment conferences, missions, expos, and events; both locally and internationally.

#### **4.5.4 Blue Economy Sector**

The trade and blue economy sectors complement each other in various ways. Trade has been used a mechanism to enhance sustainable blue economy across the globe. Some of the economic activities associated with the ocean include traditional sectors such as commercial fishing, coastal tourism and maritime transport to support global trade.

#### **4.5.5 Service Sector**

The service sector plays a significant role in the development and growth of the global economy and countries by increasing income, productivity, employment, investment and trade opportunities. Certainly, manufacturing activity and competitiveness are increasingly dependent on services. Services are also key to achieving the 2030 Sustainable Development Goals. Strengthening the domestic services sector by strengthening its backward and forward links with primary and secondary sectors and its links with trade can be an effective part of a comprehensive development strategy. For developing countries, trade in services represents a new frontier for increasing participation in international trade and thus realizing development gains. Trade in services has shown relative resilience during the recent financial and economic crisis, creating additional incentives for countries to include it in their national trade and growth strategies.

#### **4.5.5 Gender**

To achieve overall development for the country, equity and inclusiveness is at the Centre of development for any prosperous country. The Constitution of Kenya in the Bill of Rights Articles 52-59 gives direction on the role of the government in addressing the needs of the vulnerable groups which include the youth, women, older persons, persons with disabilities (PWDs) and the marginalized. The attainment of high-quality life of a country's populace is

greatly influenced by the extent to which a nation mainstreams issues on gender, youth, PWDs and other Vulnerable members of the society in planning and budgeting process.

The government has taken a gender equity and youth inclusive approach to trade development by adopting laws, and regulations that support women and youth access to financial assistance, initiation of education programmes that eliminate prejudices against women and promote gender equality, and capacity building women and youth in business on national and regional associations and trade opportunities.

#### **4.6 Key intercounty programs in the sector**

There are projects initiated by development partners that extend beyond one County Government. In Western Kenya for instance, a project funded by the Government of Canada in Collaboration with the implementing Counties, are implementing a project dubbed Regional County Forum on Trade and Investment, to facilitate dialogue between three counties; Kisumu, Siaya, and Busia on matters of Foreign Trade and Development. The main objective of the project is to catalyze the development of a regional trade and investment plan for the counties through identification of areas of synergy within the counties to spur economic trade and development. This will allow the counties to take advantage of economies of scale that arise when one combines their total populations, the availability of resources therein, and combined financial contributions from both the County governments and the local investors.

Some of the proposed priorities under this project include:

- i. Revamping of the Sugarcane sector, setting up a regional bank, developing legislation to govern the inter-county trade and lastly, development of lake transport system such as ferries to provide an alternate means of travel for the region.
- ii. Development of a grain and cereal handling and processing plant and revamping the Cotton industry for Busia County – to serve the entire region;
- iii. Kisumu County proposed the development of a major Fish Handling plant that maximizes the entire value chain including fish by products processing and export;
- iv. Siaya County proposed the specialization in sorghum and cotton industries.

#### 4.8 Knowledge management and information sharing

Knowledge Management (KM) has become an integral part of performance and service delivery in the public service. KM involves identifying, capturing, evaluating, retrieving, documenting, storing, packaging and ultimately disseminating knowledge assets. These could be in the form of research and case studies, data, project and activity reports, annual reports, policy documents (strategies, laws, regulations, guidelines, etc.), policy briefs and position papers, publications and databases.

With devolved units being closer to the citizens, the demand for quality, accessible and affordable services have increased. This has triggered innovation and application of sustainable solutions towards service delivery at the County level. It is important for a County to document the best practices and innovative solutions that they have adopted and are implementing. This is aimed at the following:

1. Influence performance and keep the County Government accountable to its citizens;
2. Harness institutional memory in the respective County's institutions;
3. Enhance inter-County knowledge exchange (peer to peer learning); and
4. Facilitate effective communication within the County and with external stakeholders.

Access to information is essential in trade development and regulation. There are various platforms where counties can access data and information relevant for trade in the country and outside the country. Some of the existing platforms include the Kenya Trade e-portal, Maarifa Centre, Kenya Institute for Public Policy Research and Analysis Repository (KIPPRA), and Kenya Information portal among others as discussed below.

**Table 10: Knowledge management and information sharing platforms**

Source	Category of data/information	Link
<b>Maarifa Centre of Governors (COG)</b>	COG's Maarifa Center serves as a platform for documenting and sharing experiences, best practices, innovations and solutions on Kenya's devolution journey for effective governance and service delivery in counties.	<a href="https://maarifa.co.ke/">https://maarifa.co.ke/</a>

Source	Category of data/information	Link
<b>Kenya Trade e-Portal</b>	Portal provides trade information for the counties. This includes applicable trade licenses, Cess Fees and County Markets, County Products (Agricultural, industrial products and other products) based on Kenya National Bureau of Statistics (KNBS) Statistical Abstract. Potential for business development at county level is also available through revealed domestic market potential information that is computed from Kenya import statistics. Kenya's imports, especially of products that the country is endowed with resources to produce, convert to be domestic market potential that counties give businesses opportunities to pursue through setting up operations geared towards producing similar products targeting domestic and international markets.	<a href="https://kenyatraportal.go.ke/counties">https://kenyatraportal.go.ke/counties</a>
<b>Kenya Institute for Public Policy Research and Analysis Repository (KIPPRA)</b>	Access to National and County Government policy documents. The goal of the repository is to strengthen the research-to-policy linkage, through availing to both internal and external users, an open access platform for all the national policies organized by sectors for ease of retrieval.	<a href="https://repository.kippira.or.ke/">https://repository.kippira.or.ke/</a>
<b>Kenya's Trade Information Portal</b>	Portal is a trade facilitation platform implemented by the Kenya Trade Network Agency (KenTrade) under the supervision of the National Trade Facilitation Committee <ul style="list-style-type: none"> <li>i. Provide a step-by-step guide on foreign trade procedures.</li> <li>ii. Provide trade database, statistics and market access tools</li> </ul>	<a href="https://infotradekenya.go.ke/#">https://infotradekenya.go.ke/#</a>
<b>Kenya Bureau of Standards (KEBS) catalogue</b>	A full list of all KEBS standards is given in the Catalogue of Kenya. This is useful for the enterprises across the country in ensuring that their products are in line with the standards provided for by the regulatory agencies.	<a href="https://webstore.kebs.org/index.php?route=product/category&amp;path=8">https://webstore.kebs.org/index.php?route=product/category&amp;path=8</a>

#### 4.8.1 Maarifa Centre

CoG is aware that knowledge is increasingly being recognized as a core strategic asset in good governance, and this calls for a structured and systematic mechanism of capturing and sharing knowledge at the CoG level and also at the County level. Further the mandate of the CoG under section 20(b) is to promote sharing of information and best practices amongst Counties. It is with this understanding that the Maarifa Centre was established.

Maarifa Centre serves as a knowledge hub for innovations and success stories emerging from the 47 County Governments in the course of performance of their functions. It serves as Kenya's premier knowledge sharing and learning platform and conducts peer-to-peer learning activities among Counties. To solidify KM practices at the County level, Maarifa Centre developed a short ***Handbook for County Governments on Knowledge Capturing and Sharing*** that provides steps and standard templates for Counties interested in KM. The Centre has further proposed a model County KM Office aimed at guiding Counties who wish to institutionalize KM. The best practices and innovations documented from Counties on service delivery and other publications can be accessed at: <https://maarifa.cog.go.ke>.

## CHAPTER FIVE

### LESSONS LEARNT, ACHIEVEMENTS, CHALLENGES AND EMERGING ISSUES

#### 5.1 Introduction

As the government seeks to promote domestic trade geared towards ensuring that domestic products remain competitive in the domestic market against imported products entering the country as a result of open market trade policies that Kenya has committed to under the various regional and multilateral trade agreements. The country continues to experience challenges in the sector which has resulted into the decline in the balance of trade while also exploiting the huge market potential in regional and global markets. These challenges create an opportunity within which both the National and County Governments can rally the entire country behind a single agenda of promoting the competitiveness of domestic products in the domestic markets while also enhancing competitiveness of Kenya's products in the international markets through enabling domestic and international trade policies. Since devolution, there are various lessons and achievements that can be documented in the trade sector.

#### 5.2 Lessons Learnt

Since devolution, a lot has happened in the trade sector. The decentralization of trade development and regulation has brought in equal measure success and challenges that can be documented as learning lessons. In addition, the dynamic nature of the trade and emerging trade agreements also introduces emerging lessons in the sector. Some of these lessons are discussed below:

- i. There is need to address the existing policy gaps in Kenya that are relevant for trade competition. For instance, in developed countries, trade opportunities are largely driven by their trade policies rather than by the region's competitive advantage. This includes policies on the terms and conditions of the pact's renewal. This calls for diversification of markets beyond the normal trade partners.
- ii. There is need for local industries to be globally competitive. This include having a good supply of the inputs, infrastructure and technology they need to thrive in business.

Improvements in transport infrastructure, for instance, would speed up and reduce costs of moving inputs in and finished goods out.

- iii. The need to encourage the foreign direct investment in the country. For instance, the vast majority of the Kenya's export processing zone investments are foreign-owned. This call for capacity building of not only the local investors but also the workers in the sector to meet the human resource demand that may arise. Further, this can be achieved through creation of a favourable export policy environment which is globally competitive to attract substantial manufacturing investments to the country. In Kenya, this is currently undermined by high levels of corruption and mismanagement.
- iv. The need to strengthen the country's trade negotiation ability to make the most out of the new international trade agreements. In today's world, the difference between winning and losing in trade substantially comes down to one's ability to negotiate good trade deals. Therefore, Kenya must not only invest in high quality capacity building training for their trade negotiators, but they must also keep, and empower the right people for these roles.

### **5.3 Challenges**

The trade sector has made significant contribution to the country's economy. However, there still exist some challenges and constraints affecting the trade development and regulation in the country. The cross-cutting challenges include:

#### **5.3.1 Legal and regulatory challenges affecting wholesale trade and distribution**

The lack of a clear legal and regulatory framework for the distribution and wholesale subsector has impeded its growth, especially because of the conflict arising due to lack of clear legal demarcation of wholesale and retail businesses. This has limited private sector response to opportunities for investment in the sector as well as business linkages between the suppliers and wholesalers. In addition, the subsector is regulated by several licensing agencies. These agencies require wholesalers to obtain annual licenses to authorize them to trade within their respective areas of jurisdiction. Apart from the annual fees and multiple charges by the two levels of government and regulatory agencies, the procedure of acquiring

these licences are has been reported by some traders as cumbersome thus increasing the cost of doing business.

### 5.3.2 Constraints and challenges affecting retail markets and business premises

The growth and development of retail sub-sector is constrained by lack of access to affordable business finance due to high interest rates, processing and administrative costs and lack of collateral. The situation is also compounded by lack of an effective credit system that allows retail business to procure goods on credit, lack of initiatives to mobilize savings among the trades as a way of boosting access to affordable credit, and prevailing high lending rates.

### 5.3.3 Challenges affecting traders from tapping into international trade

As Kenya seeks to unleash the Country's trade potential in domestic, regional and global market by signing into agreements and treaties globally, there are still constraints and challenges affecting their potential in the market. These include:

- i. Lack of competitiveness due to inefficient trade facilitation infrastructure, low levels of productivity and un-conducive business regulatory environment. **Intervention** measures need to be initiated and aimed at further improving the business climate in terms of an enabling regulatory environment and greater access to finance and infrastructure development.
- ii. Increased use of non-tariff barriers in export markets
- iii. Limited capacity for diversification and low value addition in production
- iv. Lack of medium and long-term finance for SMEs
- v. Limited negotiation capacity and uncoordinated negotiation processes

The drive-in pursuit of solutions to these constraints and challenges is the central role that government, especially in the trade sector plays in the country's growth and development as well as poverty eradication. This is through its linkages with all the sectors of the economy where trade creates markets through which goods and services get to the consumers. Trade also plays a critical role in poverty reduction through employment creation in informal, retail,

and wholesale trade and provides MSMEs with opportunities of accessing more favourable prices in regional and international markets thereby ensuring equitable income distribution.

### 5.3.3 Challenges affecting Cooperatives in Kenya

The Cooperative sector continues to experience various challenges affecting their existence and hindering their development.

- a. **Poor leadership and governance issues** affects the operations of cooperatives in Kenya. Some of the cooperatives have reported cases of mismanagement of savings largely due to lack of poor leadership and regulations.
- b. **Lack of modern technology to facilitate innovation.** With the growing financial needs, an urgent need for proper modern management system is also growing. This will reduce cases of errors, frauds and mismanagement of information and data.
- c. **Limited awareness on the principles and values guiding the cooperatives.** This has resulted in slow growth of cooperatives and disagreements in implementing various decisions for cooperatives in existence.
- d. **Financial mismanagement.** Because of poor book keeping and lack of requisite skills, the sector has been experiencing cases of mismanagement of cooperative funds against the intended objectives resulting in low dividends accruing to the members.

## 5.4 Achievements

Some of the achievements made by the sector in facilitation of trade across the counties include:

### 5.4.1 Policy and Legal Framework

In the legislative and policy front, 14 Counties had domesticated the Kenya Investment Policy by 2022. The aim of the policy is to create an enabling investment climate, and promote investment for inclusive growth and sustainable development. Further, during the COVID-19 period, the county governments relaxed some of the taxes and levies imposed on the traders. This includes:

- i. Waiver of agricultural produce cess.

- ii. Waiver of market entry fees.
- iii. Waiver single business permit late payment penalty.
- iv. Waiver of rates penalty for 60 days.
- v. Reduced Single Business Permit fees.
- vi. Land rate waivers etc.

#### 5.4.2 Support towards trade development

The County Governments have also continued to support trade development in various ways including rehabilitation, construction and upgrade of the markets. For instance, in 2021, 27 Counties constructed 127 new markets while 25 Counties having rehabilitated 118 old markets.

Further, the County Governments have initiated mechanisms to support access to affordable credit to address the financial needs of SMEs. This has been done through engagements with financial institutions including Kenya Development Corporation. ***The case of Laikipia County Government partnering with Banks to facilitate Access to Affordable Credit***

##### **Laikipia, Banks Partner to Facilitate SMEs Access to Affordable Credit**

The partnership of the County Government of Laikipia and Several financial institutions sought to offer loans at affordable interest rates to enterprises in the county to cushion them from the adverse effects of Covid-19. As of 2021, about 109 SMEs had their loans approved by the banks. The purpose for this initiative was to support SMEs access loans in form of working capital, assets finance, invoice discounting, local purchase orders (LPOs), group loans, and agribusiness loans.

*Source: Laikipia Weekly Bulletin Issue 0060*

In addition, as of 2021, at least 20 Counties had established the County Investment Units as required in the Kenya Investment Policy to act as a focal point and deliver investment promotion services to both prospective and already established investors. The Council of Governors will continue working with different stakeholders to make counties become desirable investment destinations.

### 5.4.3 Initiatives to support MSMEs

County Governments in their efforts to promote local trade development have implemented a number of initiatives to support the growth of the MSME sector in Kenya. These include:

- i. **Development and adoption of Policies and Legislations** to provide a legislative conducive environment for the private sector to thrive. Counties have implemented the County Trade and Enterprise Act, County Cooperatives Act, the Trade and Markets Act among others.
- ii. **Establishment of Enterprise Development and Cooperatives Funds** to support the MSMEs. By 2021, 19 Counties have established the County Business Enterprise and Cooperatives Funds to provide affordable loans.
- iii. **Improvement of Infrastructure** to facilitate business. This includes construction of markets, and maintenance of roads and bridges to connect producers to the markets among others.
- iv. **Tax Incentives** introduced by the County Governments to woo investors in the sector and reduce and/or exempt such enterprises from certain taxes. Some of the incentives include: waivers on agricultural produce cess, land rates, market entry fees, and single business permit late payment penalty; and reduced Single Business Permit fees.
- v. **Doing business with SMEs** to supply goods previously imported. The County Governments are in talks with MSMEs to relax its tender requirements and procurement barriers in a bid to accommodate MSMEs while providing an enabling environment for MSMEs to thrive.
- vi. **Market exposure** to help MSMEs with the marketing of their products. This has been done through organization of events such as expos and supporting MSMEs to participate in trade fairs, with the recent one being establishment of trading bazaar to help local business owners and traders sell their products in a common place during the Africities Conference.
- vii. **Capacity Building** through training and sensitization programmes for traders/ entrepreneurs in collaboration with key stakeholders.

- viii. **Tapping into value addition** for example Makueni County mango processing plant that has been keen to improve the returns of mangoes through value addition and modernization of mango farming.

Further, the County Governments are in talks with the MSMEs on how to enhance ease of doing business by addressing the bureaucratic restrictions on licensing and registration to support the registration of MSMEs, noting that 79 percent are still operating informally.

#### **5.4.4 Support towards Local Manufacturers**

County Governments' commitment to creating job opportunities and increasing our local manufacturing. Some of the achievements include:

- a) The Partnership between Laikipia County Government and Dedan Kimathi University has seen the production of local tuk-tuks.
- b) Kitui County KIKOTEX production in the textile sector, especially the
- c) production of Surgical masks; and
- d) Makueni value chain production of Mango puree, among others.
- e) The setting up Ksh 150 million Milk, and Ksh 50 million Mango, Processing Plants in West Pokot County.
- f) Promoting value addition like in the potato value chains and Yoghurt making by local cooperatives in Nyandarua County.
- g) Construction and operationalization of Maoi Abattoir, Milk processing plant in Ravine, Honey processing initiatives, Mogotio Tannery, Cotton revival, and sisal manufacturing in Baringo County.
- h) Construction and operationalization of Fish Processing Plant, tea and dairy factory in Kakamega County.

#### **5.4.5 Facilitation of International agreements and treaties**

The Council of Governors in collaboration with the Ministry of Trade supports the domestication of national policies arising from the international agreements. The views from the County Government have also been considered in some of the international agreements, however more awareness is still need.

#### **5.4.6 Achievements in the Cooperative Sector**

##### **i. Development of County Cooperative Model Bill**

Domestication of the Model Co-operative Bill by the counties. The Model Bill was developed to assist Counties in coming up with their bills. County Governments are in the process of domesticating the Model Bill for presentation to the County Assemblies.

##### **ii. In Agro-processing sector**

The cooperatives have recorded significant contributing to Industrialization in Kenya especially in the Agro-processing sector. The notable successful cooperative in the sector includes the Githunguri dairy, Limuru dairy, Meru dairy which are processing and marketing their products in Supermarkets in Nairobi and other areas. Meru Central Union is manufacturing animal feeds products and milling maize flour for the local market.

The Kenya Co-operative Coffee exporters Ltd is assisting the farmers to access international market but is geared towards processing and marketing Kenya Coffee as finished products in the international market.

##### **iii. In Jua Kali Industry**

In the retail trade Vision 2030 envisages the transformation of informal sectors into an efficient, multi-tiered and production of diversified product range. In this regard the Co-operatives have transformed Jua Kali informal sector with particular reference to transport, community-based interest groups, Youth groups into organized Co-operative enterprises.

##### **iv. Housing**

The National Co-operative housing Union (NACHU) and Kenya Union of Savings and credit Co-operative society Ltd, through housing scheme are financing long term mortgages for individuals and societies to put up houses. Some of the land mark buildings in Nairobi e.g., Harambee, Imenti and Ukulima Plaza are owned by co- operatives.

The Co-operative active participation complements government efforts of putting up 150,000 housing units in urban areas. The Co-operative will play pivotal role in realization of the social pillar in Vision 2030.

## 5.5 Emerging Issues

1. Multiplicity of taxes and levies which has increased the cost of doing business. This is reflected on the final consumer price which is high hence making it a challenge for local products to compete in the global market.
2. Market competition is still not conducive for the MSMEs across the counties. Despite of the existence of Trade regimes and treaties such as COMESA, MSMEs still faces stiff competition from imports from partner states and countries bordering the counties.
3. Effect of international agreements and treaties. For instance, the African Continental Free Trade Area (AfCFTA) which began in 2021, creates a risk to MSMEs of being crowded-out in the market by the large traders. For instance, the ease and cost of doing business in the country is still high due to high logistic costs.
4. Existing regional economic blocks' agreements has the potential of creating own challenges which weakens competitive advantage.
5. Challenges in the distribution, wholesaling and retailing activities. For instance, manufacturers distributing their own products; large scale importers retailing their merchandise and major supermarkets, shopping and exhibition malls springing up to retail common user products in major urban centres, this crowds-out the MSMEs.

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## APPENDICES

NAME OF COUNTY	NAME OF THE TRADE, INVESTMENT & COOPERATIVE BILL/LEGISLATION PASSED	PURPOSE OF THE BILL/LEGISLATION	LEGISLATION COMMENCEMENT DATE (IF ALREADY ENACTED)
<b>Vihiga</b>	Vihiga County Trade and Enterprise Fund Act, 2018	Provide a legal and institutional frame work for the fund	2018
	Vihiga County Cooperative Enterprise Development Fund Act,2019	Establish mechanism of pulling resources together	2019
	Vihiga County Trade and Market Management Act, 2018	Promote and regulate trade and enterprise development in the county	2018
	Vihiga County Weights and Measure Act, 2018	Provides a framework within which the county government may perform its functions and exercise powers under constitution to inspect ,license use of weights and measure equipment	
	Vihiga Tourism Development Bill,2018	Increase tourism earnings and product diversification	
	Vihiga County Trade Licensing Act,2017	Provide a framework within which the county government may perform its function and exercise its powers under the constitution to license certain business activities. Establish a framework to conduct, regulate and raise revenue for the county operations	2017
<b>Marsabit</b>	Marsabit County Trade and Investment policy	Policy articulates provisions that are geared towards promoting efficiency in the growth of domestic trade through transformational measures that address the constraints impeding against the development of the wholesale, retail, N/A N/A Policy has undergone up to public participation level and to be tabled to the cabinet soon for onward transmission to the County Assembly Informal sectors and Cross border trade.	
	Marsabit County Food Safety and Quality strategy [FSQ Strategy]	Strategy will go a long way in not only giving mechanisms to manage Food Safety and Quality standards but also addressing and arresting them before they occur.	
<b>Kilifi</b>	Kilifi County Trade Licence Act 2016	To Provide for the Grant of Trade Licenses and for connected purposes within the County	June 10 2016
	Kilifi County Microfinance (Mbegu) Fund ACT 2016	To provide for the establishment and administration of the Kilifi County Microfinance (Mbegu) Fund, for the provision of seed capital for micro and small enterprises within Kilifi	Did not commence as there were issues raised by the Controller of Budget, necessitating amendments to the Act
	Kilifi County Micro Finance Fund (Mbegu Fund) (Amendment) Act, 2018	To amend the Kilifi County Microfinance (Mbegu Fund) Act, 2016	August,2018
	Kilifi County Trade Development Policy	To govern and regulate trade functions in the County	
	Kilifi County Trade and Markets Bills 2019	To promote and regulate trade and oversee the establishment and management of markets within the county to spur economic development.	

	Kilifi County Investment Policy	Provides an institutional framework that guides attraction, facilitation, retention, monitoring and evaluation of private investment within Kilifi County.	
	The Kilifi County Investment and Development Corporation Act, 2019	Awaiting to be operationalized	
	Kilifi County Cooperative Development Policy	To promote the growth of co-operatives in the county and align the sector to the devolved structure of governance	
	Kilifi County Cooperative Societies Bill	To make provisions related to the formation, registration and regulation /supervision of Co-operatives in the county.	
<b>Bungoma</b>	(Draft)Bungoma County Cooperative Policy 2019	To Promote sustainable and competitive societies for an enhanced role in industrialization and improved socio-economic development	Not Enacted as yet
	(Draft)Bungoma County Cooperative Bill	A county Act relating to the constitution, registration and regulation of cooperative societies and for purposes of incidentals thereto	Not yet Enacted
	Cooperative Development Fund Policy	Promotion of education, training, research, consultancy and other related activities in the cooperative sector	Not yet enacted
	County Cooperative Mushroom Policy	Guide investment, cultivation, standardization and reduce vulnerability to poverty and strengthen livelihoods	Not yet enacted
	Human Resource Policy for Cooperative Movement Staff	Establishing and maintaining consistent human resource practices for cooperative movement staff.	Not yet enacted
	Bungoma County Investment Policy	To encourage increased flow of Foreign Direct (FDI) and Domestic Investment into Bungoma County through creating an enabling environment with robust and diverse opportunities to spur growth of the local economy and enhanced participation in local and international trade.	Not yet enacted
	Bungoma County Investment Bill	To improve the living standards of the citizens of the county through the achievement of sustainable economic and social development aspirations	Not yet enacted
	Policy Framework for Markets Development and Management in Bungoma County	to provide an efficient, effective and responsive framework for the development, maintenance, operations and management of all markets in the county to enhance access to the same.	Not yet enacted
	The Bungoma County Trade and Markets Bill	To promote trade in the county and regulate the development, management and maintenance of public markets.	Not yet enacted
	Bungoma County Investment and Development Corporation Bill	Bungoma to provide for the establishment of legal and institutional framework for promotion and coordination of investment and development; including the establishment of Industrial Parks, promotion and facilitation of foreign and local investors; the development of an enabling environment for such investments and connected purposes	Enacted in 2020
	Bungoma County Trade and Development Policy	“To stimulate the development and growth of trade in the County through enhancing competitiveness aimed at rapid socio-economic development.”	Under Development
<b>Kericho</b>	Kericho County Alcoholic Drinks Control Act, 2014	Regulate liquor businesses within the County	16th May, 2014

	Kericho County Enterprise Fund Act, No. 4 of 2014	Facilitate access to affordable credit to MSEs	1st July, 2014
	Kericho County Trade Licensing Act, No. 5 of 2017	Regulate trade within the County.	8th June, 2017
	Kericho County Cooperative Societies Act, No. 4 of 2017	To make provisions relating to the formation, registration and regulation of Co-operative Societies	8th June, 2017
	Kericho County Betting, Lotteries and Gaming Bill, 2021	Regulate betting, lotteries and gaming within the County	
	Kericho County Trade and Markets Bill, 2021		
<b>West Pokot</b>	The West Pokot County Trade License Act, 2015	To provide for the grant of trade licenses and for connected purposes.	8th June, 2015
	The West Pokot County Biashara Mashinani Fund Act, 2016	To provide for the establishment and administration of the Biashara Mashinani Fund; application and processing of loans and for connected purposes	41th July, 2016
	The West Pokot County Co-operative Development Fund Act, 2018	To provide for the establishment and administration of the Co-operative Development Fund; application and processing of loans and for connected purposes.	24th May, 2018
<b>Uasin Gishu</b>	Uasin Gishu Trade licensing Act 2016	Provides a legal framework for business registration and issuance of permits	2016
	Uasin Gishu Inua Biashara Act 2018	Provides a legal framework for the issuance of soft loans for SMEs in the county	2019
	Uasin Gishu Trade and Markets Bill	To provide a legal framework for the regulation of trade and guide markets operation in the county	
	The Uasin Gishu Markets Policy	To provide a policy framework for the establishment regulations and management of markets	
	The Uasin Gishu County Hawkers Bill	To provide a legal framework for the management of hawking activities in the county	
	The Uasin Gishu County Public Commuter Policy	To provide a policy framework for the management of public commuter vehicles in the county	
	The Uasin Gishu Weights and Measures Bill	To provide legal framework for the regulation of legal metrology standards in the county	
	The Uasin Gishu County Gaming and Betting Control Bill	To provide a legal framework for the regulation of gaming and betting of activities in the county	
	The Uasin Gishu County Co-operative Enterprise Development Fund Act, 2016	To provide low-interest loans to cooperative societies. To support revive and initiate cooperative sector institutions in areas that can have an immediate impact to household economy. To promote value additional investment impact through co-operatives. To promote and facilitate marketing of products for cooperatives societies locally and internationally. To carry out specialized training for cooperatives societies to build their capacities .To identify develop and promote entrepreneurial skills in cooperatives	

	The Uasin Gishu County Co-operatives Societies	To provide the legislative and institutional framework to the promotion and development of co-operative societies pursuant to section 7e of part II of the fourth schedule to the constitution. Formation, registration and licensing of co-operative societies. Promotion of cooperation between the national and county governments in matters relating to co-operatives societies. Promotion of corporate governance of cooperative societies	2021
<b>Machakos</b>	Machakos County Public Markets and Stalls Act	Provide for the management of market stalls	Year 2016
	Machakos County Trade License Act	Provide for the grant of trade licenses	Year 2014
	Machakos County Investment Promotion Bill	Promote and facilitate investment for wealth and employment creation in the County	Not yet enacted
	Machakos County Trade Development and Regulations Bill	Provide for a legislative framework for the development and regulation of trade	Not yet enacted
	Machakos County Industrialization Policy Framework	Provides regulations for strengthening of local production capacity in the County to increase domestically manufactured goods	Not yet enacted
	Machakos County Enterprise Development Fund Bill	Provides for the establishment and administration of the Machakos Enterprise Development Fund	Not yet enacted
<b>Siaya</b>	Siaya County Co-operative Development Act 2019	A development fund for the co-operative organizations in Siaya County that provide affordable loans to cooperative organizations that promote welfare and economic wellbeing of the people of Siaya County	Apr-21
	Siaya County Alcoholic Drinks Act, 2016	Control production, sale, distribution use and licensing of alcoholic drinks. It also provides for research, treatment and rehabilitation of dependents of alcoholic drinks	Oct-16
<b>Nyeri</b>	Nyeri County Co-operative Societies Act	Implement section 7(e) of part two of the Fourth Schedule to the Constitution by providing the legal and institutional framework for the constitution, registration and regulation of co-operative societies in the County.	19th April, 2016
	Nyeri County Enterprise Development Act	To provide framework and implementation of enterprise development fund.	4th April, 2018
	Nyeri County Market management bill	Establish structures for managing public markets	
	Nyeri County Investment and Development Corporation	Provide for the establishment of the legal and institution framework for promotion and coordination of Nyeri County Investment and Development Corporation	
<b>Kitui</b>	The Kitui County Corporation Bill, 2018	Provide a legal framework for the establishment, management, operation and regulation of county corporations - To provide a uniform code of governance for county corporations	2018
	The Kitui County Corporation (Kitui County Textile Centre) Regulations, 2019	Provide for the formation of the Kitui County Textile Centre; - Provide a framework for the establishment, management and administration of the garment and apparel manufacturing and value addition sub sector in Kitui County; - Provide for the framework for the development of garment and apparel manufacturing with the benefit of informed, effective, efficient and sustainable stakeholder engagement.	2019
	Public Finance management (Kitui	Provide loans directly to affirmative action groups or any other group duly registered and qualifying for finance	2021

	County Empowerment Fund) Regulations 2021	under these regulations for entrepreneurship development.	
	Kitui County Cooperative Societies Bill	To provide a comprehensive, harmonized, efficient and effective legal and regulatory framework for development and regulation of the cooperative sector in the County	
	Kitui County Branding and Marketing Guidelines	To provide legal background on branding and marketing function of the County	
	The Kitui County Corporation (Kitui Foods) Draft Regulations, 2020	To provide legal platform for production and marketing of Kitui horticultural products	
	Kitui County Sorghum Act, 2013	To accelerate the growth and development of sorghum industry, enhance productivity and incomes of farmers and the rural population, - Improve investment climate and efficiency of agribusiness, through promotion of the production, processing, marketing, and distribution of crops in suitable areas of the country	2013
	Kitui County Youth Enterprise Development Centre Regulations (Draft Regulations)	To improve industrial and manufacturing base of the county - To accelerate the growth and development of construction industry and promote use of locally produced construction materials	
<b>Migori</b>	Migori County trade and markets act 2016	Establishes directorate of trade and market. Offers framework for regulation if trade and markets within the county.	21 St April 2016
	Migori County trade licensing Act 2016	Regulatory frame work for issuance if trade licenses	23-Mar-16
	Migori County trade development credit scheme Act.	Creation of County credit scheme fund. A framework for supporting small and microenterprises in the County.	7th January 2016
	Migori County alcoholic drinks control Act. 2016	Provide a frame for the regulations for the production, sale and consumption of alcoholic drinks and for connected purposes	Sep-16
<b>Kakamega</b>	Kakamega County Cooperatives Development policy	The policy has given direction on proper management of the cooperatives and capacity building for good governance and support.	
	Kakamega County Cooperatives Enterprise Development Fund Bill	The Bill aims at increased and sustainable capitalization of the cooperatives in the County.	
<b>Garissa</b>	GARISSA COUNTY REVOLVING FUND	The funds aim to offer non-interest loans credit facilities to SMEs	Jul-19
<b>Samburu</b>	Samburu County Cooperatives Societies Act, 2020	To provide legal and institutional framework for the constitution, registration, and regulation of cooperative societies.	Mar-21
	Samburu County Youth and Women Enterprise Development Fund Act, 2014	To establish and provide for the administration of youth and women enterprise fund.	Jul-15
	Samburu County trade Bill, 2018	To provide for the promotion, development and regulation of trade	Yet to be enacted
<b>Kiambu</b>	Kiambu County Investment & Development Authority Bill	To provide for the establishment of a legal framework for managing County investment	
	Kiambu County Trade Licensing Act, 2016	To provide with respect to licenses to conduct business within the County	29th November, 2016

	Kiambu County Trade & Market Bill	To provide for the regulation of trade, markets and industry and related purposes.	
	Kiambu County Co-operative Development Policy	To provide for the establishment of a legal framework for managing all public markets in the County	
<b>Baringo</b>	Baringo County Cooperative Development Fund (Amendment) Regulations 2020	To provide guidelines in issuing loans to Cooperative societies, strengthen Institutional capacity and enhance business competitiveness	Mar-20
	Baringo County SME Regulations (Amendments)	To provide legal framework in support of SME enterprises with affordable credit	Mar-20
	Baringo County Ward Development Fund Act & Regulations	To provide a legal framework for issuing grants to Ward fund supported projects	Awaiting enactment by County Assembly
	Baringo County Economic & Investment Bill	To provide a legal framework for County Public Private Partnerships (PPPs)	Awaiting publishing & Gazettement at the Government Printers
	Baringo County SME Policy (Engendering)	To provide legal framework in equity distribution of SME fund to all Genders	At draft stage
<b>Kirinyaga</b>	The Kirinyaga County Business Licensing Act ,2014	To provide for licensing of business and trade activities and for related purposes	12TH November 2014
	Kirinyaga Investment and Development Authority (Kida)	To provide for establishment of legal and institutional framework for promotion and coordination of investment and development and for related purposes	14TH AUGUST 2018
	County Cooperative Development Policy	Promote growth and development of county cooperative movement	
	Trade And Markets Bill	Enable regulation and growth and development of trade and county markets and for related purposes	
<b>Meru</b>	Meru County Cooperative Societies Act of 2014	To promote establish, develop and regulate cooperative societies	2014
	Meru Country Cooperative Rules of 2016	Provide guidelines/procedures on operationalization of Meru County Cooperative Societies Act	2016
<b>Taita-Taveta</b>	The Taita Taveta County Trade Licensing Bill, 2020	AN ACT of the County Assembly of Taita Taveta to establish a framework and provide a mechanism for the imposition of certain charges, fees and for the grant of trade licenses for all businesses and trade within the county and for connected matters and incidental purposes	
	The Taita Taveta County Trade and Markets Bill, 2020	AN ACT of the County Assembly of TAITA TAVETA to provide for the regulation of trade and other business activities, the establishment and management of markets and for related purposes	
	The Taita Taveta County Investment and Development Corporation Bill, 2020	A BILL the of County Assembly of Taita Taveta to provide for the establishment of legal and institutional framework for investment and development management and for connected purposes	
	The Taita Taveta County Outdoor Advertising Bill, 2020	A BILL of the County Assembly of Taita Taveta to provide for regulation and management of outdoor advertising and for connected purposes	

	Taita Taveta County Co - Operative Societies Rules, 2017	To guide and regulate the legal operations of Co - operative Societies in Taita Taveta	
	Co -Operative Development Policy Proposal	To provide operational guidelines, regulations and mandates of Co - operative Societies in Taita Taveta	
<b>Tharaka Nithi</b>	Trade and Investment Act, 2016	To enhance trade and investment in the county (currently being amended to conform to the stipulations of the PFM Act)	Apr-16
	Co – operatives societies Bill 2021	To provide for governance and proper running of cooperative societies in the county	
	Livestock Saleyards Bill, 2021	To provide for structured manner of managing livestock saleyards in the county	
	Youth Empowerment Act, 2020	To support youths' groups undertaking various business ventures in the county	May-20
<b>Kwale</b>	Kwale County Trade Revolving Fund 2020	To provide for a legal framework for establishment of a Revolving Fund to be called the Kwale County Trade Revolving Fund and committee to promote micro and small enterprises in the County.	10th February 2021
	Kwale County Trade Revolving Fund Act 2014	To provide for a legal framework for establishment of a Revolving Fund to be called the Kwale County Trade Revolving Fund and committee to promote micro and small enterprises in the County.	
	Kwale County Trade & Markets Act 2017.	To provide for a legal framework for the regulation of trade, markets, and other business activities.	Not yet
	Kwale County Cooperative Societies Act, 2016	To Facilitate the implementation of section 7 (e) of part 2 of the fourth schedule of the constitution and to provide for establishment of legal and institutional framework for establishment and regulation of cooperative societies.	18th September, 2019
	Kwale County Economic Development Corporation (KEDEC) Bill 2014	The object and purpose of this Act shall be to provide for a) the establishment and administration of the Kwale Economic Development Corporation. b) the establishment of the Kwale Economic Development Corporation Board. c) the promotion of savings, investment, and entrepreneurial culture amongst the locals; and d) the promotion and establishment of both new and existing business enterprises in the county.	
<b>Murang'a</b>	Murang'a County Trade licensing Bill No.3 of 2015	To provide for the trade licensing process and for connected purposes	May 04, 2015
	Murang'a county Hawkers and Street Vendors (The Street Vendors (Protection of Livelihood Bill, 2018)	The bill envisions an end to the running battles between hawkers and the authorities.	2019
	Murang'a county Small Traders Empowerment Fund (Regulation 2021)	To provide hawkers, street vendors and market traders with the opportunity to access loans to develop and improve their economic and social status through increased work capital.	19-Jan-21
	Murang'a County Cooperative Societies Bill 2020,	To promote growth and development of cooperative Societies and enhance good governance in the cooperative societies.	
	Dairy Stabilization Fund Regulations (PFM)	To define eligibility and criteria for the management of the fund.	
<b>Kajiado</b>	Kajiado County Investment Authority Bill 2021	Promotion of Investments	

	Market Management Bill	Management of retail markets	
<b>Tana River</b>	Liquor Licencing Act,2016		
	Trade Licencing Act,2017		
	Investment and Development Corporation Act,2016		
	The Tana River County Inuka Fund(Amendment Act), 2020		
<b>Lamu</b>	Lamu County Tourism Bill,2014		
	Trade Licence Bill 2015		
<b>Narok</b>	Narok County Trade Licensing bill	A trade licensing bill that is supposed to establish a framework and provide a mechanism for grant of licenses within Narok County and for connected matters	2020
	Narok County Investment Promotion act	An act to promote, encourage and facilitate investment by providing an enabling environment for investment and matters incidental there to	2015
	Narok County Alcoholic Drinks Control Bill	Control production, sale, distribution, use and licensing of alcoholic drinks	2018
<b>Busia</b>	Busia County Trade Act 2017	Promote the development and regulation of trade. Provide mechanisms for licensing and private sector engagement	2020 after regulations were gazetted
	Busia County Trade Development Revolving Fund of 2016 and regulations 2019	To provide a legal framework for the establishment of a fund to give low interest loans to individual traders in the country	2019
	Busia County Cooperative Enterprise Development Fund Act 2014	To provide a legal framework for the establishment of a fund to give low interest loans to cooperative societies	2014
<b>Kisumu</b>	Kisumu County Trade Fund Act, 2016	Support Trade growth in the County. Cushion traders against business challenges	2016
	Kisumu County Enterprise Fund Act, 2018	Facilitate access to credit for business capital, Promote enterprise development among the youth, women and PWDs	2018
	Kisumu County Alcoholic Act, 2014	Enforcement on adherence to law	2014
	Kisumu County Betting and Gaming Bill, 2021	Enforcement on adherence to law	
	Kisumu County Co-operative Society Bill,2015	promoting co-operative philosophy, principles, practices and objectives; protecting the interests of Co-operatives, their members and the public in the operations and activities of Co-operatives	
<b>Nandi</b>	Nandi County Alcoholic Drinks Control Act 2014	Protect the health of individuals in the line of the dangers of excessive consumption of alcoholic drinks. Protect persons under the age of 18 years from negative impact on health and social development from exposure to advertisement of alcoholic drinks. Ensure fair and ethical business practices related to production, distribution, promotion and sale of alcoholic drinks.	Nov-14

	Nandi County Betting, Lotteries and Gaming Act 2017	Provide control of betting, lotteries and gaming activities. Licensing of betting and gaming premises imposition and recovery of tax on betting, lotteries and gaming.	Not Yet
	Nandi County Enterprise Development Fund Bill	Provide access to affordable credit by micro, small and medium enterprises to stimulate the development of existing small businesses and advocate for value addition programs in the county promote the establishment of small businesses and cottage industries	Not Yet
	Nandi County Alcoholic Drinks Control Act Amendment Bill 2017	Proposed amendment of alcoholic drinks control act 2014	NOT YET
	Nandi County Investment Policy	Provide reliable and efficient infrastructure. Create an enabling investment climate for local and international investors facilitate PPPs	NOT YET
	Nandi County Single Business License Act 2017	Business licensing and control	Apr-17
	Nandi County Boda-Boda Operators Empowerment Policy 2018	Increase access to capital by existing and potential entrepreneurs in the industry	NOT YET
		Provide business development services	
		Facilitate creation of commercial infrastructure to support growth of operators in the sector	
<b>Wajir</b>	Wajir Revolving Fund Act	Legislate on the structure and management of the Revolving Fund administered by the Department	2014
	Trade Licensing Act	Regulate licensing of businesses in the county	Not enacted
	Wajir Market Management Bill	To regulate the operations of the markets in the county	Not enacted
	The Domestication of the National Cooperative laws	To regulate the running of the cooperative Societies in the county	Not enacted
<b>Nyamira</b>	The Nyamira Trade and Investment Development Act 2014	Trade development and promotion. Development and regulation of Micro and small enterprises in the county. Promote and facilitate investment within the county, Establishment of the trade and investment board and for connected purposes	2014
<b>Trans Nzoia</b>	Trans Nzoia Investment and development corporation bill	To establish an investment corporation for the county to aid in attracting additional funds to the county for investment	2019
	Alcoholic Drinks Control Bill	To control the sale and consumption of alcoholic drinks	2019
	Trade and markets bill	To regulate trade and operation of markets within the county	Not yet
	Nawiri fund bill	To regulate the grant of small loans to MSMEs within the county	2014
	Investment policy	To control and encourage investment in the county	
<b>Nairobi</b>	Nairobi City County Trade Policy	A framework for providing for promoting and supporting trade development and regulation in the country	Not enacted
	Nairobi city county trade and industry bill	To provide for the establishment of legal and institutional framework for promotion and coordination of trade and industrial development and MSME support	Not enacted
	Nairobi city county markets bill	For establishment development management and regulation of public markets and for connected purposes	Not enacted

	Nairobi city county betting, lotteries and gaming act 2021	For the control and licensing of betting gaming and totalisator premises and other forms of gaming within the county for authorization of prize competitions and public lotteries within the county for the imposition of the entertainment tax and for connected purposes	enacted
	Nairobi city county trade licensing act 2019	provide for legal framework for business licensing management framework	enacted
	Nairobi City County alcoholic drinks control and licensing act 2014	Provide for the implementation of the national governments policy on alcoholic drinks and for controlling licensing and regulating and general regulation of manufacture advertisement sale and consumption of alcoholic drinks in the county and for connected purposes	enacted
	Nairobi City County Alcoholic drinks control and licensing draft policy	A framework for providing controlling regulating and managing alcoholic drinks in the county and connected purposes	Not enacted
<b>Embu</b>	Embu County Trade Development and Regulation Bill, 2018	Development and regulation of markets · Promotion, development and regulation of trade · Fair trading practices · Promotion of public private partnerships and private investments	
	Embu County Investment and Development Corporation Act, 2018	Enhance financial and economic prudence in county government investments · Establish an efficient and effective instrument for managing county government investments · Enhance competitiveness of county government investments · Promote local investment and economic development · Assist in enhancing county revenue base · Provide for mobilization of finances for investment · Provide for investment in socially beneficial projects · Facilitate and encourage investments by county residents · Co-ordinate and facilitate investments in the county · Enable the county government to undertake public private partnership and joint ventures in areas that are beneficial to the county.	31 <sup>ST</sup> December, 2018
	Embu county Tourism Act, 2018	Promotion and facilitation of growth and development of tourism sector and tourism related business · Promotion of the county as a sustainable tourism destination · Promotion of sustainable local tourism · Promotion and facilitation of development of a conducive investment and business operating climate in the sustainable tourism sector · Promotion of sustainable local tourism led economic development · To safeguard against negative impacts associated with tourism in Embu County as identified in relevant tourism laws and policies in Kenya	31 <sup>ST</sup> December, 2018
	Embu County Tourism Regulation fund, 2019	Carry out research and maintaining such data and statistics related to tourism · Finance the development of tourism products and services · Finance the marketing of Embu as a tourist destination Finance the activities of the tourist sector safety, Communication and Crisis management centre to be established and managed by the Department · Facilitate the community and private sector participation in tourism development · Facilitate training and capacity building of players on sustainable to tourism · Mobilize resources to support tourism related activities.	

The Tourism Promotion and Development regulations, 2019	Promotion and facilitation of growth and development of tourism sector and tourism related business · Promotion of the county as a sustainable tourism destination · Promotion of sustainable local tourism · Promotion and facilitation of development of a conducive investment and business operating climate in the sustainable tourism sector · Promotion of sustainable local tourism led economic development · Safeguard against negative impacts associated with tourism in Embu County as identified in relevant tourism laws and policies in Kenya	
The Embu County Alcoholic Drinks Control Act, 2021	Provide for licensing of alcoholic drinks by the County government pursuant to Part 2 of the Fourth Schedule to the Constitution so as to control the production, sale, distribution, promotion and use of alcoholic drinks and the promotion of research, treatment and rehabilitation for persons' dependent on alcoholic drinks in order to— 1. protect the health of the individual in light of the dangers of excessive consumption of alcoholic drinks; 2. Protect persons under the age of eighteen years from negative impact on health and social development from exposure to advertisements of alcoholic drinks 3. Protect consumers of alcoholic drinks from misleading or deceptive inducements and inform them of the risks of excessive consumption of alcoholic drinks; 4. Protect the health of persons under the age of eighteen years by preventing their access to alcoholic drinks; 5. Inform and educate the residents in the county on the harmful health, economic and social consequences of the consumption of alcoholic drinks; 6. Adopt and implement effective measures to eliminate illicit 4. trade in alcohol including smuggling, illicit manufacturing and counterfeiting; 5. Ensure fair and ethical business practices related to production, distribution, promotion and sale of alcoholic drinks; 6. Reduce and mitigate the negative health, social and economic impact on communities resulting from production, sale and consumptions of alcoholic drinks;	Jun-21
The Embu County Cooperative Societies Bill 2019	Promote growth and development of cooperative societies by fostering cooperation between the National and County Government in matters relating to the societies. It will also be geared towards enhancing good governance in cooperative societies and managing conflicts and disputes amongst members.	Dec-19

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Delta Corner, 2nd floor, Opp PWC  
Chiromo Road, off Waiyaki Way  
P.O. Box 40401 - 00100, Nairobi, Kenya  
Tel: 254 (020)240333/4  
Email: [info@cog.go.ke](mailto:info@cog.go.ke)  
Website: [www.cog.go.ke](http://www.cog.go.ke)