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THE KENYA WAREHOUSE RECEIPT SYSTEMS BILL, 2015: KENAFF PROPOSITIONS

Special points of interest:

- Kenya Warehouse Receipt Systems Bill 2015 KENAFF proposition
- Lobby and advocacy Training workshop
- Promoting Biogas Technology
- Mainstreaming Human Right Based Approach in the Agricultural Sector

Have you taken a chance to look at the Draft bill of the Kenya Warehouse Receipt System Bill, 2015? If not take time to read the Draft Bill to get an insight as the review process is ongoing.

The Federation compiled a report that contains comments discussed and agreed upon by different stakeholders representing the producers of Kenya which was submitted to the National Assembly. The stakeholders are coordinated by KENAFF, and include: Cereal Growers' Association of Kenya, Skimas Community Based Organization, farmer organization operating a certified warehouse in Eldoret, (Uasin Gishu) and Kitale, (Trans Nzoia) Wamuiini Soko Huru Community Based Organization, SNV, an agro-based development organization, Eastern Africa Farmers' Federation (EAFF) and Eastern Africa Grain Council (EAGC)

The following comments were submitted

S/ No	Chapter	Section	Comment / proposal	Justification
1	Part I - Preliminary	2	Propose to include the following definitions: <ul style="list-style-type: none"> • <i>Agent</i>: defined under the NCPB Act • <i>Stakeholders</i>: actors relevant to a functioning WRS, including producers, financiers, grain traders, grain handlers, grain processors, among others • <i>Financiers</i>: financial institutions such as that provide credit to holders of a warehouse receipt • <i>Warehouse inspectors</i>: this term is used in Clause 18 (5) but is not defined. 	To reflect terminology already used in the Bill, and additional terms in this proposal
2.	Part II- Establishment of WRS Council	3(e)	Propose that the Cabinet Secretary appoints the five (5) persons to the WRS Council, <i>in close consultation with the stakeholders</i> .	This is to make the Council more representative, and ensure stakeholder engagement in the process. This is also in line with the Kenya constitution (Article 118) which encourages public participation.
3		4	Propose to add an additional function to "approve and gazette a list of warehouse inspectors and agents". The approval should be done in consultation with the stakeholders	To make the inspectors and agents credible
4		4	Propose to include an additional function of the Council to create awareness on WRS, in collaboration with stakeholders	There is insufficient information on WRS by the farmers, reducing the rate at which it is adopted
5.		8. 3(a)	The Bill states that the CEO must hold a degree from a recognized university in Kenya. Propose that this is revised to read "from a recognized university".	This would limit the pool of candidates to Kenyan nationals who are Kenya-trained, yet there may be other potential nationals who are trained outside Kenya.

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6		9(2)	There is need for clear distinction of roles for the Chief Executive Officer and the Corporation Secretary. There is need to clarify whether the Corporation Secretary will report to the Council, or to the CEO, as this position entails working closely with the CEO. We propose that the Corporation Secretary reports to the CEO.	There is a potential clash between the two positions.
7		12(b)	The clause refers to " <i>the Service</i> " which is not defined in the Interpretation. Propose to replace this with " <i>the Council</i> "	For consistency of language
8.	Part III – Licensing and inspection of warehouses	New clause	Warehouse operators licensed under this Act, should be recognized as agents, under the NCPB Act (CAP 338).	This would enable the government to use these operators to buy and store grain, among other activities. In addition, this would link more farmers to these warehouses, and indirectly increase the level of awareness on WRS.
9.		17(4)	Propose that the license issued under this Act should be valid for a period of three (3) years, instead of only one (1) year. As opposed to annual licensing, warehouses should be subject to impromptu inspections, to check for compliance. Failure to ensure compliance would lead to revoking of the warehouse license.	To reduce the cost of certification.
10.	Part III - Licensing and inspection of warehouses and additional Part		Part III is titled "Licensing and inspection of <u>warehouses</u> " yet the sections therein, focus on the <u>warehouse operator</u> , and not the <u>warehouse</u> . Propose the following: <ul style="list-style-type: none"> This part focuses on clauses related to the licensing of warehouse operators, and the title is revised to read "warehouse <i>operators</i>", and not "warehouse"; A new part titled "licensing and inspection of warehouses" is inserted- clauses related to licensing and inspection of the warehouse; who issues the license; duration of the license; categories of licenses; who conducts inspection; among other clauses 	To clearly define and distinguish clauses pertaining to warehouses (the buildings) and warehouse operators (individuals).
11.		22	The Bill only permits the Chief Executive Officer and officers of the Council to conduct inspection of warehouses. Propose that the Council should approve and gazette a list of authorized warehouse inspectors. The details of how this list will be derived, will be outlined in the Regulations	It may not be efficient for the Chief Executive and his officers to inspect all the warehouses, especially in the event that they increase in number. Further, there are already several private-sector based professional institutions that have the capacity to inspect warehouses.
12	Part IV – Warehouse receipts		Propose to insert a new clause, titled " <i>Obligations of financiers</i> ", which defines the obligations of the financiers. The obligations should include recognizing a warehouse receipt as security/ collateral	This will enable the holders to access financial credit, using the warehouse receipt as collateral
13	Missing Part VII and Part VIII		The Bill is missing Part VII (Clauses 40-43), and Part VIII (incorrectly referred to as Part VII in the Arrangement of Clauses). Both Parts are mentioned in the Arrangement of Clauses, but are not included in the main text	For completeness and consistency between the Arrangement of Clauses and the text of the Bill

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14	Part VII – Penal Provisions		This part is missing. Nevertheless, we propose that the warehouse operator should not take full responsibility for fraudulent goods/commodities under his/her custody before thorough investigations are done. The council should provide for processes and procedures to investigate the source of fraud.	The fraud may have resulted from the individual delivering the goods/commodities. If the warehouse operator is found guilty then the responsibility will solely lie with him/her
15	Part VII - Miscellaneous provisions	44	The Council should develop regulations, in close consultation with the stakeholders	To ensure that the stakeholder bring valuable industry experience into the formulation of the regulations.

LOBBY AND ADVOCACY TRAINING WORKSHOP IN KISUMU

KENAFF is implementing a project on Strengthening ‘Farmers’ Organizations in organizational development and Lobby and Advocacy (FOLA) through the support of VI-agro forestry in Trans Nzoia and Kisumu Counties which are situated in the Lake Victoria basin in Kenya.

In the month of June, the Federation organised for a training workshop in Lobby and Advocacy skills using Farmers Advocacy and Consultation Tool (FACT). Thirty farmer group leaders in Kisumu County benefitted

from the training. The purpose of the training was to build the capacity of the leaders with relevant skills in order to engage the County government with issues affecting the agricultural sector in the County.

Five policy related issues were raised that include access to agriculture financing, poor resource allocation to research, over reliance of rain fed agriculture and poor access roads. These will be taken through participatory research to identify policy and legislative gaps, weaknesses or absence of legisla-

tion. The process will inform the third stage (pillar) in FACT methodology of preparing technical position papers or SMART proposals that will be used in lobbying the county government to address the issues most importantly through writing/improving on existing policies and legislations or enacting new ones. The other pillars are Consultations to membership, participatory research and lobby mapping & stakeholders’ analysis.

Issues highlighted are as follows

Issues Raised	Proposed Solution
Non-encompassing farm input subsidy and distribution mechanisms to farmers	Subsidy to include other crops not currently covered including affirmative action & wider distribution outlets for subsidized government fertilizers
Access to timely and reliable market information for agricultural produce	Market information needs to be availed a manner that it is adequately useful to the producers
Inadequate agriculturally designated wholesale markets	Development of wholesale market infrastructures at strategic points Development of storage facilities targeting horticultural produce
Poorly maintained service roads	A system for ensuring that a percentage of cess (levies) is used to maintain service roads
Lack of a legitimate and accountable framework for engagement with the County government	Need for the establishment of a transparent and consultative structures for engagement with the farming community. The Governor was proposed to chair the Fora
Over dependence on rain-fed agriculture	Introduction of irrigation along the rivers
Unreliable AI services	A comprehensive framework for upgrading of the capacities of farmers to utilize the Artificial Insemination technology
Inadequate and poorly financed research institutions within the county	Improve on existing research institutions, partner with and advance research in relevant commodities of interest to the county.
Access to agricultural finance/capital for farm development	Loans /subsidies for farm development Initial capital from government/County based bank where they can take loans i .e. agricultural machinery service
Cattle rustling and insecurity	Rampant cattle rustling along border villages i.e. Chemelil, Muhoroni and Sondu areas.

PROMOTING BIOGAS TECHNOLOGY



Farmers keenly following explanation about biogas technology in one of the field days held in Kiambu County

During the month of June, the Federation participated in 5 field days in Kiambu, Nakuru and Nyandarua Counties that reached out to over 2,000 farmers. This was a good platform for creating awareness of Biogas technologies in lighting and cooking as well as use of bio slurry in crop production. This was through the Kenya National Domestic Biogas Programme and 4S@Scale whose target is to construct 4,200 biogas plants by the end of the year (2015).

The exercise created a lot of interest in adaptation of the biogas technology, as well as addressing of concerns on some already constructed plants by Biogas Contractor Enterprise.

MAINSTREAMING HUMAN RIGHTS AND CROSS-CUTTING ISSUES IN THE AGRICULTURAL AND NATURAL RESOURCE SECTORS IN KENYA-PHASE II

KENAFF is implementing phase two of mainstreaming Human Rights Based Approach (HRBA) concept and cross-cutting issues in the agricultural and natural resource sector in Kenya. The HRBA is supported by Embassy of Finland. This intervention seeks to identify and effectively package the relevant human rights concerns affecting the resource poor smallholder farming communities in Kenya.

The Federation organized county trainings to empower and build the capacity of farmers on HRBA. It aimed at strengthening farmer's knowledge on human right based concept and identifying the human rights issues that affect the agricultural sector within the counties. The training covered 18 counties i.e. Bomet, Busia, Elgeyo Marakwet, Embu, Homabay, Kakamega, Kirinyaga, Kisii, Kwale, Meru, Muranga, Nakuru, Nandi, Narok, Siaya, Tana River, Trans Nzoia and West Pokot.

The training was an eye opener to the farmer's leaders who will now cascade the information to the KENAFF membership at the county level. Some of the issues raised as rights violations by the leaders are; -

1. Lack of farmer involvement and representation in decision making at the county level.
2. Land
 - Grabbing -This denies land for local communities, destroys livelihoods, reduces space for agriculture.
 - Violation of right to access land for farming
 - Land ownership and tenure issues – No legal ownership of land by farmers because of the high economic

implications and legal costs involved.

- Land utilization issues – Uncontrolled land use where agricultural land is converted to development of housing estates and then the state spends millions trying to make unproductive land productive.
 - Lack of awareness of the new land laws.
 - Widows denied access to land and property by relatives -Some cultures do not allow women to own land and this hinders agricultural growth.
3. Human-wild life conflicts- Lack of compensation for crops and livestock destroyed by wildlife
 4. Farmers are not involved in budget making process
 5. Exploitation of small scale farmers by buyers- A clear violation of farmers' rights was manifest in the sub-county by middlemen who have continued buying from farmers at very low prices and selling it back to the farmers at very high prices
 6. Rights to food- access to raw materials and inputs is low and thus food security issues have not been fully addressed– Farmers get uncertified and cheap quality seeds and other farm inputs which perpetuates poverty amongst the farming community.

Hence, the property rights, especially the right to own land, the right to conditions which are favorable to the generation of employment, rights with regard to production methods and the right to organize collectively and form trade unions are highly relevant to the achievement of sustainable development in agriculture and are mutually interlinked