

Veterinary Legislation Support Programme

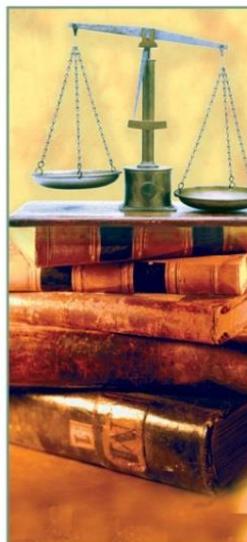
KENYA

Veterinary Legislation Identification Mission Report

Code compliance



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November
2015

Dr John D Woodford (Team Leader)
Dr Raymond Briscoe, Graham Hamley

VETERINARY LEGISLATION SUPPORT PROGRAMME

REPORT OF THE VETERINARY LEGISLATION IDENTIFICATION MISSION

KENYA

16th – 20th November 2015

Dr John Woodford (Team Leader)

Dr Raymond Briscoe (Technical Expert)

Graham Hamley (Technical Expert)

Disclaimer

This mission has been conducted by an OIE PVS Team authorised by the OIE. However, the views and the recommendations in this report are not necessarily those of the OIE.

The results of this report remain confidential between the evaluated country and the OIE until such time as the country agrees to release the report and states the terms of such release.

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List of acronyms, abbreviations and/or special terms

AHA(s)	Animal Health Assistant(s)
AHITI	Animal Health and Industry Training Institute
ASALs	Arid and Semi-Arid Lands
ASF	African Swine Fever
AU	African Union
BIP	Border Inspection Post
BSE	Bovine Spongiform Encephalopathy
CAHNET	Community based Animal Health Network
CAHW	Community based Animal Health Worker
CBPP	Contagious Bovine Pleuropneumonia
CE	Continuing Education
COMESA	Common Market of Eastern and Southern Africa
CPD	Continuing Professional Development
CVA	County Veterinary Authority
CVL	Central Veterinary Laboratory
CVO	Chief Veterinary Officer
DFZ	Disease Free Zone
DVM	Doctor of Veterinary Medicine
DVS	Department of Veterinary Services
EAC	East African Community
EU	European Union
FAO	Food and Agriculture Organisation of the United Nations
FMD	Foot and Mouth Disease
GDP	Gross Domestic Product
HACCP	Hazard Analysis Critical Control Point
HPAI	Highly Pathogenic Avian Influenza
IBAR	Inter-African Bureau for Animal Resources (AU)
ISO	International Organization for Standardization
IT	Information Technology
KARI	Kenya Agricultural Research Institute
KEBS	Kenya Bureau of Standards
KES	Kenya Shilling
KMC	Kenya Meat Commission

KNBS	Kenya National Bureau of Statistics
KVA	Kenya Veterinary Association
KVB	Kenya Veterinary Board
KWS	Kenya Wildlife Service
LD	Livestock Development
LITS	Livestock Identification and Traceability System
MoH	Ministry of Health
MoU	Memorandum of Understanding
MTI	Meat Training Institute
ND	Newcastle Disease
NGO	Non-Governmental Organisation
NVA	National Veterinary Authority
OIE	World Organisation for Animal Health
OIE-PVS	OIE Tool for the Evaluation of Performance of Veterinary Services
PPB	Pharmacy and Poisons Board
PPLDU	Policy, Planning and Legal Development Unit
PPP	Public – Private Partnership
PPR	Peste des petits ruminants
PRSP	Poverty Reduction Strategy Paper
RFID	Radio Frequency Identification Device
RVF	Rift Valley Fever
RVIL	Regional Veterinary Investigation Laboratory
SAP	Structural Adjustment Programme
SPS	Sanitary and Phyto-Sanitary Agreement
TADs	Transboundary Animal Diseases
TAHC	OIE Terrestrial Animal Health Code
USD	United States Dollar
VLIM	Veterinary Legislation Identification Mission
VMD	Veterinary Medicines Directorate (in proposed draft legislation)
VPH	Veterinary Public Health
VS	Veterinary Service(s)
VSF	Veterinary Statutory Body as per OIE Code definition
VSDF	Veterinary Services Development Fund
WHO	World Health Organisation
WTO	World Trade Organisation

Acknowledgements

This OIE PVS Veterinary Legislation Identification Mission conducted by Dr John Woodford (Team Leader), Dr Raymond Briscoe (Technical Expert - Veterinary) and Mr Graham Hamley (Technical Expert - Legal), hereinafter referred to as “the Team” has been formally authorised by the OIE. The support provided by OIE to this mission is acknowledged with thanks.

Firstly, the Team would like to thank Dr Kisa Ngeiywa, Director of Veterinary Services, State Department of Livestock, Ministry of Agriculture, Livestock and Fisheries (MALF), for his oversight during the organisation of this mission and for his excellent guidance, towards the end of the mission when he was able to participate in meetings.

The Team wishes to express its sincere thanks to Prof. Fred H. K. Segor, Principal Secretary, State Department of Livestock, Ministry of Agriculture, Livestock and Fisheries (MALF). Dr Segor met with the Team at the beginning of the mission, providing an insight into the overarching policies of the Ministry, especially with respect to issues related to the recent changes in the Constitution of Kenya and the devolution of responsibilities from the central government to the 47 counties, and again at the end of the mission, for a debriefing on the key Findings and Recommendations of the Team and the veterinary legislation working groups.

The Team would like to take this opportunity to thank the Department of Veterinary Services (DVS) for their extremely generous hospitality in hosting this mission.

The Team is especially grateful to Dr Cathryn Wanjohi (Policy Coordination, DVS) and Dr Christopher Wanga (Policy and Legislative Affairs Officer, DVS) who served as the focal point for the mission, for their tireless efforts in ensuring the timely completion of the two Questionnaires prior to the mission, for arranging the mission itinerary and for re-scheduling, when necessary, stakeholder meetings that we attended during the mission.

In addition, we would like to acknowledge and give thanks to all the other members of staff of the DVS and the representatives of other agencies, departments and ministries, who freely gave of their time and experience to assist in the successful accomplishment of this mission:

Finally, we would like to thank Joseph, our driver, who looked after our logistical arrangements during the mission, often giving up his precious free time to be available to us outside his normal working hours.

Executive Summary

Kenya has been an active participant in the OIE PVS Pathway over recent years, having completed a PVS Evaluation mission in July 2007, a PVS follow-up mission in April 2011, a Gap Analysis mission in July 2011 and now a Veterinary Legislation Identification Mission (VLIM) in November 2015.

The VLIM Team were specifically requested to provide assistance with updating the legislation in order to bring it in line with OIE and other international standards and also to provide guidance as to how new legislation could be developed in such a way as to accommodate the recent changes in the Constitution, promulgated in 2010, most notably the establishment of 47 County governments to replace the former 8 Provincial and 290 District authorities. The sections of the Constitution that define the respective roles and responsibilities of the national and county governments, in particular in relation to agriculture and the delivery of Veterinary Services (VS), are reviewed in Section 3 of this Report.

In line with the recent changes of the Constitution, the national government has responsibility for developing and defining policies, setting standards for the regulation of the functions related to animal health, production, welfare, food safety of animal products, domestic and international trade of animals and animal products, for training and developing capacity at the county government level and for the regulation of the veterinary profession and veterinary para-professions. The national government is wholly responsible for implementing legislation related to international trade of animals, animal products, and other commodities which may pose a threat to human or animal health or life and the environment and veterinary medicines and biologicals. Through devolution, county government is responsible for implementation of legislation governing animal disease surveillance, the prevention and control of animal diseases, animal breeding, animal production, food safety of animal products destined for domestic human and animal consumption and animal welfare.

Shortly before the promulgation of the new Constitution, the government of Kenya published a national development programme known as the Kenya Vision 2030 Project¹. This policy is being implemented through a series of medium term (5 year) development strategies, the first of which ran from 2008 – 2012. The State Department for Livestock has used the Vision 2030, (as it has become known), as the basis for developing its own draft national Veterinary Policy document. The draft national Veterinary Policy, as indeed does the Vision 2030, places the development of livestock marketing, and especially gaining access to export markets for meat, as being a high priority. In view of the Constitutional changes with regard to the respective roles and responsibilities of national and county governments, the national Veterinary Policy also gives high priority to reviewing and revising the veterinary legislation. For the purpose of providing county veterinary officers with guidance in setting up their county veterinary authorities the DVS has also published a document entitled “Guidelines for the Delivery of Veterinary Services in Kenya” (undated), State Ministry for Livestock, MALF. These guidelines provide detailed guidance for the county governments to establish their veterinary authorities and clearly define the chain of command for animal disease surveillance, the prevention and control of animal diseases and other important areas of the veterinary domain as well as the lines of communication between the central DVS and the county governments.

During the conduct of this mission, the Team found that the DVS has a cadre of well qualified veterinarians who are dedicated to meet the challenges brought about through the process of devolution as well as to refine their legislation to bring it in line with international standards.

¹ Kenya Vision 2030 – (2007) (http://www.fao.org/fileadmin/user_upload/drought/docs/Vision%202030-%20Popular%20Version.pdf)

The DVS has access to a lawyer who is permanently employed within the State Ministry of Agriculture but not well grounded in legislative drafting. Whilst this lawyer may be able to provide assistance with developing new or amending existing legislation it is the Office of the Attorney General where lawyers with legal drafting experience reside. In view of the heavy workload of the existing legal counsel within the MALF it is recommended that a lawyer with experience in legal drafting shall be identified to support the DVS from the Office of the Attorney General as a focal person in order to assist with the enormous task which the DVS now faces in order to update and bring all of its legislation into line with OIE and other international standards.

There is considerable evidence that the most important stakeholders who have a role to play in livestock development have actively participated in shaping the more recently developed pieces of legislation; especially the Veterinary Surgeons and Veterinary Para-professions Act, (Cap 366, 2011) and Regulations (2013) and the draft Animal Welfare Act. It is recommended that a manpower needs assessment for the country is conducted by the DVS in partnership with all the county governments covering the ASALs, and other stakeholders, including private veterinarians and veterinary para-professionals, livestock keepers, the KVB, the NGOs and donors, all of whom have an interest in improving the quality and access to animal health services in these areas.

On misuse of veterinary medicines it was agreed that the Veterinary Medicines Directorate (VMD) established by the Veterinary Surgeons and Veterinary Paraprofessionals (VSVP) Act No.29 of 2011 whose relevant regulations were gazetted vide Kenya Gazette Supplement No.174 of 9th October 2015 ought to be operationalized. The VMD shall regulate the manufacture, importation, exportation, registration, distribution prescription and dispensing of veterinary medicines and the practice of veterinary pharmacy in Kenya. The VMD shall focus on reduction or eliminating violative drug residues in animal products and safeguarding human health and animal welfare.

It was also felt that it might also be necessary to strengthen the manpower and financial resources of the KVB to enable it to perform its regulatory functions more effectively. The use of appropriately trained and supervised Community Animal Health Workers (CAHWs) in the more remote areas of the ASALs would not only augment the efficiency of disease prevention and control interventions, animal disease surveillance would also be greatly enhanced, thus helping to generate confidence in Kenya's ability to accurately report its animal health status to the OIE and its more important international trading partners.

Summary of Findings and Recommendations

The main piece of legislation covering animal health is the Animal Disease Act (Cap 364 of 1965, revised Edition 2012). Although this Act identifies the Director as being the Director of Veterinary Services, and provides the Director with some powers and authority, the Act does not identify the Department of Veterinary Services as the Competent Authority responsible for regulation of the following more important areas of the veterinary domain:

- animal disease surveillance;
- the prevention, control and eradication of animal diseases and zoonotic diseases in animals;
- the regulation of the activities of veterinary diagnostic laboratories for the conduct of official tests and analyses;
- the safety and quality of animal products destined for human consumption or other purposes, and animal feeds;
- the regulation of the import and export of animals, animal products and other commodities which may present a risk to human or animal health or life; or
- animal welfare.

There are however, a number of other Acts that fall under the control of the DVS which make provisions for the regulation of specific areas of the veterinary domain. These include, for instance, the Rabies Act (1932), the Branding of Stock Act (1907), the Stock and Produce Theft Act (1933), the Cattle Cleansing Act (1929), the Meat Control Act (1972), the Kenya Meat Commission Act (1950), the Hides Skins and Leather Industry Act (1987) and the Fertilisers and Animal Foodstuffs Act (1982) amended in 2015. Each of these Acts partially covers the regulation of the prevention and control of animal diseases, animal identification, stock theft, the use of insecticides for tick control, the food safety of animal products and the safety and quality of animal feeds. However, in each case, as discussed in more detail in section 4.1 of this report, these Acts are largely outdated and are not fully compliant with OIE and other international standards.

In view of the implications of the changes brought about by the new Constitution, whereby many powers which were formerly held by the DVS but which are now devolved to county governments as well as the many gaps, overlaps of roles and responsibilities and other shortcomings in the existing animal health and veterinary legislation, it is recommended that any new law proposed or review of the existing laws must be geared towards addressing current challenges. The proposed new legislation should identify the Department of Veterinary Services as the Competent Authority to regulate some or all of the above (bullet points) areas of the veterinary domain. The preparation of any proposed new legislation or amendments to existing legislation should be undertaken in close collaboration with all stakeholders, especially the development of the Food and Drug Administration Bill, which is being developed by the PPB and which will affect the regulation of food safety and veterinary medicines, bearing in mind that the respective roles and responsibilities of each of the Competent Authorities responsible for the regulation of food safety of animal products and veterinary medicines must be clearly defined before these are put into legislation.

The proposed new legislation should include provisions which define a clear chain of command and lines of communication between the central government headquarters and county governments. It is further recommended that a Technical Standing Committee is established within the DVS and that this committee is given the responsibility for developing draft regulations which define the standards through which each area of intervention is implemented nationally and by county governments. It may be considered necessary to define, under a Schedule, a list of animal diseases comprising the most important transboundary animal diseases (TADs) and those zoonotic diseases which the government wishes to control through national control programmes, under the legislation and in order to provide for enforceable cooperation between national and county governments in the development and implementation of national disease control strategies for these particular diseases. It is important that livestock keepers are made aware of which diseases fall under the control of the national government, which diseases are to be prevented or controlled through county government project assistance and which diseases are left to be controlled by the owners of animals, themselves. It is recommended that the Minister is empowered to make Regulations, but only upon the advice of the Technical Standing Committee, in order to ensure the technical independence of the DVS.

Such Laws and Regulations would set the standards under each major area of the veterinary domain, as follows:

- **Animal health:**
 - disease surveillance;
 - disease prevention, control and eradication;
 - animal identification, movement control and traceability;
 - animal gatherings including animal markets, licensing and inspections;
 - zoning and compartmentalisation

- **Animal production:**
 - setting standards for safety and quality of animal genetics;
 - setting sanitary standards, licensing and inspection of animal breeding centres;
 - setting standards for the safety and quality of animal feeds.
 - licensing and inspection of animal feed manufacturers / premises;
- **Safety and quality of animal products** – following discussions with the MoH in relation to their preparation of a draft Food and Drugs Administration Bill:
 - defining the respective roles and responsibilities of the Veterinary Authorities (national and county government) for regulation of the safety and quality of animal products, from “farm to fork”;
 - setting sanitary standards for construction and management of food processing establishments for all types of animal products;
 - providing accurate definitions of primary, unprocessed animal products and animal by-products and the procedures for ensuring their safety and quality;
 - placing the primary responsibility for safety and quality of animal products on the owner of a food processing premises;
 - provisions for the recall of animal products destined for human or animal consumption.
- **Import and export of animals, animal products and other commodities:**
 - definitions of animal products, and other commodities which may present a risk to human or animal health or life and the environment;
 - the prohibition of import or export of animals, animal products or other commodities unless subject to issuance of a permit (for import) and an international veterinary certificate (for export);
 - defining the procedures before and during import at Border Inspection Posts (BIP);
 - designation of ports of entry or export for defined commodities;
 - defining standards for sanitary measures to be applied on imported animals, animal products or other commodities, based on OIE standards or on scientific justification, developed through risk analysis in accordance with the relevant international standards;
 - equivalence of standards of an exporting country which result in a similar level of protection to that required by the importing country;
 - harmonising with standards set by regional and international standard setting bodies, especially regional trade organisations such as the EAC and COMESA
- **Veterinary medicines and biologicals** – following discussions with MoH/Pharmacy and Poisons Board (PPB) related to the review of the Pharmacy and Poisons Act Cap 244 and subsequent preparation of a draft Food and Drug Authority Bill and the current initiatives to operationalize the Veterinary Medicines Directorate (VMD), it is necessary to:
 - protect the gains made in the establishment of the VMD by engaging constructively with the PPB to ensure that veterinary medicines are appropriately regulated
 - establish maximum residue levels (MRLs) and sampling and testing for residues

- in animal products;
- set conditions related to supervision and direction of VPPs authorised to use prescription only medicines.
- **Animal Welfare** – following further discussions with animal welfare NGOs and county veterinary authorities:
 - the principles of animal well-being, a good definition of what is meant by “cruelty” under Cap 360 Prevention of Cruelty to Animals Act;
 - definitions of “humane slaughter”, “slaughter animals”, “humane destruction” and for other purposes such as “journey”, “resting points” space allocation” etc., in the case of transportation of animals, “working animals”;
 - prohibition to cause cruelty or to compromise animal well-being;
 - provisions to establish an animal welfare Advisory Board and an inspectorate;
 - funding mechanisms for humane control of stray animals and other animal welfare control activities such as creation of public awareness;
 - authority for Competent Authority to set animal welfare standards for: management of animals and animal nutrition, transportation of animals, humane slaughter of slaughter animals, working conditions for working animals, standards for animals used in sport, exhibition or for experimentation, powers to enforce Act and Regulations by the competent authorities.

It is recommended that the DVS undertakes a continuous process of impact assessment of the veterinary legislation during the stages of drafting in order to assess the likely costs and benefits and later, during implementation, in order to assess the levels of compliance with a view to making adjustments as and when necessary. Such an assessment should include a detailed analysis of budget allocations and the levels of performance in the delivery of all clinical, preventive or other regulatory veterinary services currently available and being delivered by the Veterinary Services at the national and county levels.

It is further proposed that the DVS reviews the recommendations made in previous OIE PVS pathway mission reports, especially with regard to recommended allocation of resources to provide an improved level and more cost effective delivery of services to livestock keepers and the public (Gap Analysis Report 2011). The review and revision of the veterinary legislation should be undertaken in the wider context of bringing about structural and functional reforms of the Veterinary Services, exploiting opportunities, where they exist, for facilitating the transfer of private goods services to private sector service providers, and at the same time placing greater importance on investment in developing capacity for the DVS to provide effective regulatory services.

The DVS in updating legislation should focus on thematic, broad-based areas that can result in no more than five main legislations covering all areas of veterinary interest with the details covered under subsidiary legislations to the required extent of focus for the various veterinary domains. The thematic areas include but are not limited to governance; animal health and production; safety and quality of animal products and inputs; animal welfare.



Report

1. Background to the mission

The Veterinary Legislation Identification Mission (VLIM) to Kenya, conducted in November 2015 follows a PVS Evaluation Mission conducted in July 2007, a PVS Follow-up mission conducted in March 2011 and a PVS Gap Analysis mission conducted in July 2011. This VLIM was conducted by Dr John Woodford, (Team Leader), Dr Raymond Briscoe, (Technical Expert – Veterinary), and Graham Hamley, (Technical Expert – Legal), at the request of Dr Kisa Ngeiywa, Director of Veterinary Services, State Department of Livestock, Ministry of Agriculture, Livestock and Fisheries (MALF), and OIE Delegate representing the State Department of Livestock, Kenya.

This mission is especially relevant at this point in time since a new Constitution, promulgated in 2010, has established 47 counties as devolved regional governments with many new powers and responsibilities that were formerly managed by the central government.

The DVS informed the Team at the beginning of the mission that one of the most pressing challenges facing the Veterinary Services (VS) is to develop a national policy and legislative framework that would allow them to retain the necessary powers and authority to ensure well-coordinated and harmonised systems for the protection of animal health and public health throughout the territory of Kenya and at the same time to respect the principles of devolution, defined by the new Constitution.

Whilst it has been acknowledged that county governments have made significant progress in developing infrastructures and providing some of the more essential public services, they generally lack capacity in public administration and reportedly have a poor record in terms of facilitation of public engagement in the development of investment programmes². In some instances, it was reported to the Team during the mission that there has been a tendency for some counties to develop legislation largely for the sake of revenue generation without necessarily understanding the full cost / benefit implications to the public and livestock owning communities, in particular. The DVS informed the Team that they have been able to develop a very constructive dialogue with many county directors of VS and are confident that this relationship will ensure that the national VS can be re-shaped and developed with their full cooperation.

The overall objectives of the Veterinary Legislation Identification Mission are:

- (i) to evaluate Kenya's veterinary legislation and its compliance with Chapter 3.4 of the OIE Terrestrial Animal Health Code (TAHC),
- (ii) to support the preparation of Kenya's national priorities in terms of veterinary legislation, and
- (iii) to identify the available human resources, and
- (iv) to propose a comprehensive plan to modernise Kenya's veterinary legislation.

² Kenya Economic Update - June 2015, Edition No. 12. World Bank Group.

2. Methodology

The VLIM was conducted in English, the official language of the Government of Kenya. The overall responsible person for the conduct of the mission was Dr Kisa Ngeiywa, Director of Veterinary Services. The OIE veterinary legislation focal point was identified as Christopher Wanga who was based in the Policy Coordination and Capacity Building Division of the DVS headed by Dr Catherine Wanjohi where the two were identified as contact persons with whom the Team Leader coordinated stakeholder meetings and a draft itinerary for the mission through an exchange of email messages prior to the arrival of the Team in Kenya.

The mission itinerary was developed and conducted in the light of an offsite review of some of the more important legal texts covering the veterinary domain that were provided to the Team prior to the mission by the contact persons and responses to Questionnaires I and II.

Some amendments to the draft proposed itinerary were made during the mission in order to accommodate the varying availability of some of the key stakeholders. The Team was able to meet with many of the principal actors involved with review as well as implementation of the key Acts and Regulations covering the veterinary domain including representatives of the Ministry of Health (MoH) represented by the Pharmacy and Poisons Board (PPB) in the area the control of veterinary medicines and biologicals.

The responses to Questionnaire Part I were complete and required no further amendment during the mission, however there were some inconsistencies and misunderstandings with regard to some of the responses to Questionnaire Part II and these were dealt with during a comprehensive review of Questionnaire Part II that was conducted during meetings with senior managers of the DVS and external stakeholders, throughout the mission.

The offsite review of existing legislation carried out before, during and after the mission combined with the detailed onsite review of the Questionnaires is the basis for the assessment of Kenya's veterinary legislation to determine compliance with the standards defined in Chapter 3.4 of the OIE TAHC.

During the mission, the Team held meetings attended by representatives of several NGOs and other organisations involved in livestock production or wildlife management, including the Kenya Veterinary Association (KVA), the Kenya Veterinary Board (KVB), the Kenya Livestock Technicians Association (KALT), the Kenya Veterinary Para-professionals Association (KVPA) the Africa Network for Animal Welfare (ANAW), the Kenya Society for the Prevention of Cruelty to Animals (KSPCA), the Donkey Sanctuary Kenya, Vétérinaires sans Frontières (VSF) Suisse, World Animal Protection (WAP), VSF Germany, the Pan African Animal Welfare Alliance (PAAWA), and the Kenya Wildlife Service (KWS).

The Team made visits to the Office of the Attorney General and the Pharmacy and Poisons Board (PPB). At the first of these meetings the Team sought clarification on the roles and responsibilities for the national and county governments, respectively, as defined in the new Constitution. Options for the DVS to retain the necessary degree of control over disease surveillance and the prevention, control or eradication of specified transboundary animal diseases (TADs), for the food safety of animal products and the prudent use of veterinary medicines and biologicals, amongst other important issues, were discussed. In the case of the meeting with the PPB, the discussions centred on the regulation of the sale and use of veterinary medicines, especially with respect to the issues of antimicrobial resistance and the potential presence of drug and pesticide residues in products of animal origin destined for human consumption because of a lack of respect for withdrawal periods of medicines and pesticides used in food-producing animals.

3. Socio-economic and policy context of the veterinary services

The current Constitution for Kenya was promulgated in 2010. Amongst the many reforms, the Constitution devolves the responsibility for implementation of agricultural policies to 47 new county governments and sub-units of wards and village councils, that replace the former administrative regions consisting of 8 provinces, (Central, Coast, Eastern, North Eastern, Nyanza, Rift Valley, Nairobi and Western and 290 Districts, that were previously administered by the central government, but which are no longer recognized.

The Kenya Vision 2030 Project³ provides a blueprint for social, political and economic development, based on 5 year medium-term development and investment plans, the first of which ran from 2008 - 2012. Amongst the “flagship projects” for economic growth, the Vision 2030 identifies the following project targeting the livestock sub-sector:

“Disease Free Zones”: *The Government will establish at least four Disease-Free Zones including in the ASAL regions. The performance of the livestock sector has been below potential because of limited investments in past decades. To revive the sector and turn Kenya into an exporter of high-quality beef and other livestock products, targeted livestock development programmes will be implemented revolving around a series of strategically-placed Disease-Free Zones. A nationwide livestock census will be undertaken to facilitate the selection and location of the Disease-Free Zones. Within the zones, abattoirs and storage facilities will be established. The facilities will include a tannery to begin the process of formalization and of the leather sector, and to stimulate its growth”.*

The OIE Gap Analysis, conducted in August 2011 reported that the DVS identified the following priorities for the development of the Veterinary Services:

“The main priorities which will guide the future development and investment plan are closely related to the overall livestock development policy which aims to increase food security and sustainable income for rural communities, as well as to increase competitiveness and access to (foreign) markets. This priority is translated in the animal health priorities, which consist of a poverty reduction strategy (based on the national Poverty Reduction Strategy Paper) and a market oriented strategy to establish disease free-zones for trade-sensitive cattle diseases (FMD and CBPP mainly) in order to export beef to high-value markets by 2030.

The veterinary public health priorities are to strengthen the control of the veterinary services over meat inspection services at district (local) level and to take over from the current system whereby numerous local abattoirs are being inspected by the Ministry of Health (MoH). The second priority consist of strengthening the veterinary public health controls and impacts over non-meat commodities, such as milk, eggs, honey as well as meat products from non-traditional or emerging farmed animal species, such as ostriches, rabbits, snails, etc. The only priority, as far as the Department of Veterinary Services is concerned, is to maintain its current chain of command to the underlying layers of the veterinary services delivery throughout and after the constitutional and institutional reform process that is underway and which will lead to the devolution of powers from central government, to county-based authorities (47). Due consideration and attention will have to be given to the regional integration, in particular the EAC Customs Union, Common Market and Monetary Union which are rapidly turning to reality.”

In practice, to date there has been very little evidence of the implementation of this investment plan. It was reported that many county governments are facing challenges in terms of recruitment of suitably qualified personnel and have been allocating the limited resources available to them to perform other more visible functions at the expense of the VS. The mission Team was informed that the process of devolution of core functions formerly administered at the central level to county governments has absorbed almost all of the available funds for capital and recurrent expenditure for the delivery of public services in the

³ Kenya Vision 2030 – (2007) (http://www.vision2030.go.ke/wp-content/uploads/2015/06/Popular_Version1.pdf)

livestock sector.

The new Constitution assigns veterinary policy and setting national standards for the regulation of the functions related to animal health, production, welfare, food safety and trade to the national government and devolves specified functions in the animal resource industry to the county governments while stipulating that the two levels of government shall conduct their mutual relations on the basis of consultation and cooperation (Article 6 (2) of the Constitution). Article 189 1(C) further provides that governments at each level shall liaise with government at the other level for the purpose of exchanging information, coordinating policies, administration and enhancing capacity. The 4th schedule of the Constitution provides for county and national governments functions in the agricultural sector and the Intergovernmental Relations Act (2012) provides for interaction and collaboration between the two levels of government on a regular basis to ensure availability of affordable quality veterinary services all times. The leadership in the national and county governments, respectively, take responsibility for development of annual implementation plans for this policy. Whenever appropriate, the national and/or county governments should individually or concurrently establish institutions to address new developments in veterinary services⁴. To this end there have already been established the Joint Committee for Veterinary Services & the County Veterinary Services Committee.

In response to the challenges largely brought about through the recent changes in the Constitution, a new national “Veterinary Policy” has been drafted. This new draft Veterinary Policy focuses on defining objectives and development goals through the implementation of interventions in animal health, production, welfare, food safety and trade. The draft Policy is made in the light of the constitutional obligations of each level of government, national and county, with regard to development of animal resources and outlines functional relationships between the two levels of government. The Veterinary Policy forms the basis of the “Guidelines for the Delivery of Veterinary Services” (undated but signed by the Cabinet Secretary for Agriculture, Livestock and Fisheries, the Chairman, Agriculture Committee, Council of Governors, the Principal Secretary, State Department of Livestock and the Acting Director of Livestock Services), which goes into some detail in describing the respective roles and responsibilities of the National Veterinary Authority (NVA) and County Veterinary Authorities (CVAs)

Economic Factors

The agriculture sector is the single largest contributor to Kenya’s national GDP at 27.3%. The contribution of livestock (4.9% of national GDP) is just less than 18% of the total agricultural GDP, and in 2014 had an estimated value of KES 263 billion (approximately US\$ 2.5 billion)⁵. However, a recent study undertaken by the Intergovernmental Authority on Development (IGAD) reported that livestock’s contribution to Kenyan agricultural GDP was more than two and a half times larger than the official estimate for 2009, the most recent year for which there was complete data. This increase over official estimates means that the livestock contribution to agricultural GDP was only slightly less than that from crops and horticulture, about \$4.54 billion US dollars for livestock in 2009 versus \$5.25 billion US dollars for arable agriculture⁶.

The livestock sub-sector employs 50 per cent of the agricultural labour force and more than 10 million Kenyans, almost one quarter of the total population, living in the Arid and Semi- Arid Lands (ASALs) derive their livelihood largely from livestock. About 60 per cent of Kenya’s livestock herd is found in the ASALs. Livestock and wildlife grazing is the dominant land-use in these rangelands. Kenya’s fisheries sub-sector is mainly composed of freshwater (lakes, rivers and dams) and marine (Indian

⁴ Draft National Livestock Policy (August 2015).

⁵ Kenya National Bureau of Statistics, 2015

⁶ IGAD LPI, (2013). The Contribution of Livestock to the Kenyan Economy [ICPALD 4/CLE/8/2013

Ocean) sources with the rest coming from aquaculture. Fish production is estimated at 150,000 MT annually, the sub- sector contributes about 0.8 per cent of the country's National GDP and 5 per cent of agricultural GDP (KNBS, 2015).

Following the recent introduction of the process of devolution of government responsibilities to county governments a number of national, sectoral and sub-sectoral policies have been developed. The most important overarching policy guiding national development is the "Kenya Vision 2030 Project" that aims to transform Kenya into a "middle income" country by the year 2030. The economic pillar of the Vision 2030 has set a target of an annual growth in GDP of 10%, beginning in 2012. For the agriculture sector, the vision is to increase producers' income through processing and value addition and improving access to markets. One of the "flagship projects" targeting the livestock sub-sector that is expected to contribute to economic growth is the development of 4 – 5 Disease Free Zones (DFZs) and livestock processing facilities in order to allow livestock producers to meet domestic demand as well as to improve access to international markets. The expected outputs of DFZs include:

- *increased supply of quality meat, by 48,000 MT, for the domestic market and export;*
- *the creation of more than 100,000 jobs in the production and processing industries;*
- *a reduction in human deaths arising from zoonoses;*
- *increased milk production for sale or household consumption by five million litres;*
- *increased hides and skins value; and*
- *rangeland and environmental improvement of two million hectares a year. The value of benefits is estimated at KES 16.2 billion annually.*

According to both the PVS follow-up and Gap Analysis missions, for some years the state VS have been suffering from a lack of capital and recurrent funding allocations. This has had a serious impact resulting in particular, in a lack of replacement of obsolete laboratory equipment and lack of maintenance of buildings, equipment and vehicles. It was stated in the PVS Gap Analysis report of March 2011 that the recurrent budget is mainly dedicated to the payment of salaries (83%) while the development budget provides the operational means and supports counterpart contributions in public development aid projects. The approach of the Gap Team was therefore to promote financial support for operational costs balancing these resources with the available personnel and the current administration. In addition, rather than to foresee new recruitments for new areas of intervention or inspection of the VS, redeployment of existing staff has been promoted as much as possible. In addition, other strategic options favoured by the Gap Team were to strengthen training efforts including Continuing Education (CE), adopt a programmatic approach to disease prevention, control and eradication programmes, establishing Public Private Partnerships, applying Standard Operating Procedures, rationalising the veterinary field network and re- assessing the laboratory service delivery. It was acknowledged by the DVS during the VLIM that very little has been achieved in implementing the investment programme proposed by the Gap Analysis, since most of the available budget allocations have been absorbed in developing infrastructures and administrative capabilities at the 47 County Veterinary Offices.

Social Factors

Kenya has an estimated human population of 45.5 million which is growing at the rate of approximately 1 million per annum. A National Census conducted at the household level in 2009 established Kenya's animal resource base to be 17.5 million cattle, 27.7 million goats, 17 million sheep, three million camels, 300,000 pigs, 31.8 million domestic birds, 1.8 million donkeys and an undetermined number of companion, game and aquatic animals. The livestock sector employs 50 per cent of the agricultural labour force and more than 10 million Kenyans living in the ASALs derive their livelihood largely from livestock.

Kenya has a total area of 582,650 square kilometres, of which the ASALs, in the north and north east of the country, constitute about 80 per cent of the land mass and are where the majority of the country's national parks and game reserves are to be found.

The ASALs are not suitable for rain-fed agriculture but support more than 60 per cent of the country's livestock herd and many species of wildlife. Despite being the areas where livelihoods are almost entirely dependent on animal resources, the animal resource industry infrastructure in the ASALs is considered to be seriously understaffed, infrastructures are generally in a poor state of repair and the areas are frequently affected by insecurity. The remaining 20 per cent of Kenya's landmass is suitable for rain-fed crop agriculture and holds the national herds of dairy cattle, poultry and pigs, among other animal species.

Animal Health and the Veterinary Services

The public Veterinary Services of Kenya comprise both National and County VS. The National VS are managed by the Director of VS who is the de facto Chief Veterinary Officer (CVO). The national arm of VS mainly performs the following functions: development and review of veterinary-related policies; regulation of veterinary services, veterinary certification for import and export of animals and animal products, veterinary diagnostic laboratory services, disease surveillance in collaboration with county veterinary services, capacity building and the control of national trans-boundary animal diseases. An organogram depicting the structure of the DVS in 2011, is given in Appendix 2 to this report.

The county governments are responsible for the following VS among others:

- animal disease and pest prevention and control;
- livestock sale yards;
- registration and inspection of county abattoirs;
- food safety of animal products destined for domestic human consumption;
- animal (movement) control and animal welfare.

The national veterinary diagnostic and quality control laboratory infrastructure includes two national laboratories, namely: Central Veterinary Laboratories (CVL) located in Kabete and the National Veterinary Quality Control Laboratory, Embakasi. In addition, there are six regional referral laboratories located in Nakuru (for Southern and Central Rift Valley region), Kericho (for Nyanza, Western and South Western Rift Valley regions); Karatina (Central and Eastern regions); Mariakani (Coastal region); Garissa (North Eastern region and parts of Coastal region) and Eldoret (Northern Rift Valley and Northern part of Western region) and a few county laboratories. There are no veterinary laboratories in the regions of northern Kenya (apart from Garissa), where most of the livestock are and where most people depend on them for their livelihood. The veterinary diagnostic laboratory network remains the responsibility of

the national government VS, following the changes brought about following the promulgation of a new Constitution in 2010.

Slaughter facilities for meat animals exist in all parts of the country. In 2014, there were 1,850 local and eight export slaughterhouses in the country. The current delivery of veterinary public health services is mainly limited to meat and meat products and does not include the regulation of all animal source foods. Meat inspection services are governed by the Meat Control Act (1972), which provides codes of inspection for cattle, goats, sheep, pigs and poultry meat. Codes of inspection for camel, rabbit and donkey meat and other animal species products are still to be developed. The DVS has so far taken over meat inspection services in the whole country except for a few slaughterhouses in the ASAL counties that are still under the Ministry of Health of Health and relevant state Departments. The responsibility for registration, hygiene inspection and ante- and post mortem inspection in county abattoirs and other slaughter facilities will now become the responsibility of county governments.

Private veterinary services have become established throughout much of Kenya, following the Structural Adjustment Programmes (SAPs) during the 1990s when government was obliged to withdraw from providing routine clinical services to livestock keepers in the more rain fed areas of the country, where mixed crop and livestock production systems predominate. However, the government has maintained responsibility for delivery of these services in the ASALs where it was felt that private sector service delivery could not be established due to the unique geo-climatic and demographic characteristics that determine the largely extensive system of migratory human and livestock populations. In those higher rainfall areas of Kenya where private veterinary practices have become established the services provided include routine clinical practice, herd health advisory services, the sale of veterinary products, reproductive technology services including artificial insemination (AI) and some vaccination services, among others. However, for most areas of Kenya, the government has retained control over the provision of vaccination services, which are often only provided when funds are available and do not always achieve good coverage.

Some public Veterinary Services can be delegated to private veterinary service providers, as was the case during the latter stages of the Rinderpest eradication programme. The main challenges facing the expansion of private sector delivery of veterinary services is the lack of start-up capital and the high cost of credit as well as competition from large numbers of unregulated entrepreneurs, selling cheap and often poor quality medicines and other inputs. An important new development in the non-governmental sector delivery of animal health services has been the establishment of an animal health service franchise known as "SIDAI"⁷. SIDAI is owned by the non-governmental organisation (NGO) Farm Africa. The first phase of this project was established in 2012 under a grant provided through the Bill and Melinda Gates Foundation. SIDAI works in partnership with the Equity Bank and the Global Alliance for Veterinary Medicines (GALVMED) (amongst other local and regional organisations) in order to ensure access to credit and a high quality animal health service, livestock extension services and supplies of quality assured products. SIDAI aims to establish up to 150 franchise animal health centres throughout the lower potential areas of Kenya where access to inputs and services for livestock production has been weak due to the geo-climatic and demographic conditions that characterise the ASALs. A number of other NGOs, including VSF Germany and VSF Suisse are also active in the ASALs and work in collaboration with the state VS to augment animal health service delivery to the more remote communities where the state VS cannot reach easily.

⁷ <http://www.sidai.com/index.php>

The professional conduct of veterinary service delivery in Kenya is regulated by the Kenya Veterinary Board (KVB), established under the Veterinary Surgeons and Veterinary Paraprofessionals Act (2011) to supervise and regulate the training, business practices and the employment of veterinary surgeons and veterinary paraprofessionals (VPPs) in Kenya. The KVB provides advisory services to the government in relation to all aspects of veterinary service delivery. KVB registers and licenses veterinary surgeons and veterinary paraprofessionals as well as regulating the education and training of veterinary surgeons and veterinary paraprofessionals and the inspection of private veterinary service providers and facilities. For these purposes, the KVB has proposed to establish 8 regional offices throughout Kenya.

The other more important institutions which support the livestock industry in Kenya include the following institutions:

- Kenya Meat Commission (KMC)
- Kenya Dairy Board (KDB)
- Kenya Animal Genetics Resource Centre – (KAGRC),
- Kenya Veterinary Vaccines Production Institute - (KEVEVAPI)
- Kenya Tsetse and Trypanosomiasis Eradication Council (KenTTEC) –
- Kenya Agricultural and Livestock Research Organisation – (KALRO).

Veterinary Education and training institutes

The veterinary education and training institutes in Kenya are comprised of the Faculty of Veterinary Medicine at the University of Nairobi and a Veterinary Faculty at Egerton University. In addition, there are three additional categories of training institutes: The Animal Health and Industry Training Institutes (AHITIs), The Meat Training Institute (MTI) and The Dairy Training Institute (DTI). The AHITIs are based at Kabete, Nyahururu and Ndomba were established in 1963, 1979 and 1984, respectively and train the various categories of veterinary para-professionals, largely to serve the needs of government veterinary services. Many AHITI graduates now also work in the private sector.

Affiliation with regional / international organisations / institutions

The government of Kenya and the VS are active participants at meetings and conferences of the following regional and international institutions:

- African Union – International Bureau of Animal Resources (AU-IBAR)
- East African Community (EAC)
- Common Market of Eastern and Southern Africa (COMESA)
- Inter-Government Authority on Development (IGAD)
- World Organisation for Animal Health (OIE)
- World Trade Organisation (WTO)
- World Health Organisation / Food and Agriculture Organisation (WHO / FAO) (Codex Commission)

Draft Veterinary Policy

In order to address the challenges brought about by devolution as well as to provide a strategic vision for the development of the livestock industry, the delivery of services and inputs and the expansion of markets, the DVS has prepared a draft Veterinary Policy (August 2015) from which the following extracts have been taken:

“The Veterinary Services are classified as a global public good for which the Veterinary Authority takes primary responsibility with regard to good governance and service delivery in accordance with national and international standards and public expectations.

The pre-devolution organisation of the Veterinary Services was by all standards comprehensive despite not having a dedicated risk analysis or import/export unit. The current numbers of personnel at National and County levels are not based on a needs assessment, but on the political and administrative breakdown of government structures. The human resource capacity of the competent veterinary authority is aging and requires appropriate succession planning. The distribution of professionals and paraprofessionals is skewed against the ASALs where the sub-optimal animal: professional ratio encourages use of inadequately trained community members.” (underlining made by the author of this report).

The draft Veterinary Policy goes on to state that:

“The National Government will:

1. Provide institutional and legal frameworks for the improvement in the delivery of Veterinary Services.
2. Ensure the Veterinary Services has the authority and the capability to carry out its functions through national legislation and regulations.
3. Ensure the Veterinary Services maintains an internationally recognised competent veterinary command structure in the service delivery and reporting.
4. Provide guidelines for optimal human resource capacity for service delivery.

Both levels of government will:

1. Strengthen veterinary governance through provision of adequate human, material and financial resources for effective delivery of veterinary services.
2. Prioritise development of an effective consultation and cooperation mechanism in line with Kenyan laws as well as international treaties ratified by Kenya.
3. Provide an enabling environment for the private sector to operate in delivery of animal health, production, welfare and food safety services.
4. Ensure that the distribution and availability of qualified human resources is strengthened for the effective delivery of animal health and food safety services and in particular in the ASALs”

Table 1, – The respective roles and responsibilities of national and county governments for the regulation and delivery of public animal health, welfare and veterinary public health services as defined in the draft Veterinary Policy below, provides a functional analysis defining the respective roles of the national DVS and those of county governments, and their shared responsibilities.

This analysis thus provides a basis for developing the legislative framework to govern the veterinary domain. In some instances, the VLIM Team has made some

recommendations (sections in italics) for the sake of completeness and to provide guidance for establishing the authority of the central level DVS to set standards and for ensuring compliance and enforcement of the law by county government veterinary services, particularly with regard to: animal disease surveillance; the strengthening and utilisation of veterinary diagnostic laboratory services; food safety of animal products and veterinary public health (supporting a One Health approach); the sale and prudent use of veterinary medicines and biologicals; and the delivery of animal health services in ASAL areas, where almost one quarter of Kenya's human population are holding more than 60% of the total livestock resource.

Considerable discussions occurred during the mission with various stakeholders with regard to the roles and level of training of Community-based Animal Health Workers (CAHWs), and the coverage of animal health services in the ASALs. In view of the importance of the ASALs as a major livestock production system it would seem that priority should be given to determine a more equitable distribution of animal health service providers allowing livestock keepers in these regions to have improved access to affordable services and inputs that are regulated through the development of appropriate mechanisms for the supervision or direction of different categories of veterinary para-professionals (VPPs).

The VLIM Team recommends that the DVS undertakes a manpower needs assessment in collaboration with stakeholders in the ASALs, including NGOs, private veterinarians and veterinary para-professionals and livestock keepers in order to rationalise their approach towards animal health service delivery. It is important that the very low numbers of state employed professional and para-professional animal health service providers deployed at the county veterinary authority headquarters and their limited mobility relative to the human and animal population distribution in the ASALs is taken into consideration as well as the educational level of most livestock keepers living in ASAL regions who should be considered as the most appropriate candidates for training and deployment as CAHWs, under professional supervision.

The Team noted that the draft Veterinary Policy would set a standard limiting CAHWs to a certificate level of training. Consistent with Article 3.4.6 of Chapter 3.4 of the OIE TAHC, such a standard would be more appropriately set by the Veterinary Statutory Body, the KVB.

Table 1 The respective roles and responsibilities of national and county governments for the regulation and delivery of public animal health, welfare and veterinary public health services as defined in the draft Veterinary Policy (August 2015) (N.B. Text *in italics* are recommendations made by the Team)

Discipline/Policy objective	National level roles & responsibilities	County level roles & responsibilities	Shared responsibilities
<p>Animal Health – To improve the management of animal diseases and ensure compliance with sanitary requirements along animal value chains.</p>	<ul style="list-style-type: none"> • Develop strategies, protocols and contingency plans for the control and eradication of animal diseases, vectors and parasites. • Coordinate and enforce disease control, emergency responses, animal health mitigation measures and management of animal diseases that have the potential to affect more than one county including animal movement control. • Provide for implementation of collaborative national, cross border and inter county strategies for management of trans- boundary animal diseases. • Enforce domestic health standards to safeguard public health and safe domestic and international trade in <i>terrestrial and</i> aquatic animals and their products. • Uphold the responsibility for certification of domestically produced animals and their products. • Support measures to eliminate spread of domestic animal diseases via inter-county and international trade while avoiding unjustified sanitary barriers to trade. • Provide for a framework for public-private partnership for effective delivery of veterinary services. • Provide for regulation of the provision of animal health services. • Provide for compensation mechanism and funds to aid disease control and eradication. 	<ul style="list-style-type: none"> • Implement measures for control of animal diseases and pests. • Enhance animal vaccination coverage to attain optimal levels and implement the national standards in the control of livestock movement at all times. • Provide data and report disease outbreaks to the DVS. • Prioritise regular and targeted surveillance for animal diseases and pests, <i>in accordance with the national standards</i> • Support private sector animal health service providers through research agenda setting, technology transfer and disease control measures. • Implement national disease control policies and strategies. • Provide data and report disease outbreaks to the Competent Authority. 	<ul style="list-style-type: none"> • Provide for protection of public land set aside for establishment of quarantine stations, holding grounds, outspans, veterinary demonstration farms, veterinary investigation laboratories, stock routes and other veterinary institutional lands. • Collaborate in the implementation of disease free zoning.
<p>Epidemio-surveillance To collect, record, analyse and report animal disease information in accordance with OIE standards</p>	<ul style="list-style-type: none"> • Develop and implement national epidemio-surveillance framework and guidelines. • Conduct, coordinate and regulate epidemio-surveillance. • Collate and share surveillance data. • Report disease outbreaks at regional, continental and international levels as well as to the counties. • Develop national capacity for epidemio-surveillance. 	<ul style="list-style-type: none"> • Implement surveillance in partnership with private practitioners and the public. • Report occurrence of notifiable diseases to the DVS. 	<ul style="list-style-type: none"> • Strengthen the epidemio-surveillance system to integrate terrestrial, aquatic and wildlife health information. • Support the participation of the public and private animal health service providers in epidemio-surveillance. • Strengthen the participation of the public in disease surveillance and reporting.

Discipline/Policy objective	National level roles & responsibilities	County level roles & responsibilities	Shared responsibilities
<p>Veterinary diagnostic laboratory services – <i>To provide accurate diagnostic information in order to report animal health status based on laboratory confirmation and for the certification of animals and animal products in accordance with OIE and Codex standards – (recommended by VLIM Team)</i></p>	<ul style="list-style-type: none"> Enhance capacity of public veterinary laboratories to provide quality, efficient and competent laboratory services in line with national and international standards. Improve laboratory infrastructural capacity. Establish national and regional referral laboratory networks to increase access to laboratory services. Provide for improvement of the capacity of the public diagnostic, research and quality assurance laboratories for animal inputs and products. Provide for accreditation of public and private animal-based laboratories 	<ul style="list-style-type: none"> Enhance use of laboratory diagnostic services. Provide for county laboratory services. 	<ul style="list-style-type: none"> <i>Develop animal disease surveillance systems (passive surveillance) to provide laboratory samples for confirmation of clinical suspicion of outbreaks of notifiable disease.</i> <i>Utilise laboratory services for active surveillance of disease prevention and control programmes (recommended by VLIM Team)</i>
<p>Food safety of products of animal origin – <i>To safeguard public health and enhance domestic and international trade in animals and animal products.</i></p>	<ul style="list-style-type: none"> Provide standards for safety of foods of animal origin. Develop protocols for quality assurance of all food types of animal origin. Provide for data and information management for food safety. Establish mechanisms for regulation of food safety for all animal products. Enforce compliance to food safety and food defense standards. Provide for certification of products of animal origin. Provide for data and information management for food safety surveillance. 	<ul style="list-style-type: none"> Implement appropriate sanitary measures in the food animal value chains' food safety surveillance. Adhere to food safety standards. Implement strategies for elimination of residues in food of animal origin. Promote food traceability. Adhere to the laws governing food safety and food defense. Report to the Competent Authority the findings of food safety surveillance. 	<ul style="list-style-type: none"> <i>Establish "One Health" collaborative platforms, in partnership with stakeholders, for managing zoonotic disease events and other animal-based hazards to public health.</i> <i>Development of an appropriate legislative framework for the "One-Health" approach.</i>

Discipline/Policy objective	National level roles & responsibilities	County level roles & responsibilities	Shared responsibilities
<p>Zoonotic disease control – <i>To ensure interdisciplinary collaboration for the prevention and control of zoonotic and emerging diseases supporting a One Health approach (recommended by VLIM Team)</i></p>	<ul style="list-style-type: none"> • develop mechanisms for effective management of zoonotic diseases • Mobilise resources for effective control of zoonoses. • Review and develop appropriate legislative framework. • Coordinate and implement the management of trans-county and transboundary zoonotic diseases. 	<ul style="list-style-type: none"> • Implement the strategies and policies for zoonotic disease control. • Provide regular reports to the Competent Authority. • Manage of zoonotic diseases in collaboration with other stakeholders. 	<ul style="list-style-type: none"> • Establishment of collaborative platforms supporting a One Health approach, in partnership with stakeholders, for managing zoonotic disease events and other animal-based hazards to public health. • Development of an appropriate legislative framework for the “One-Health” approach.
<p>Animal production / breeding – To enhance the development of the animal resources industry through provision and conservation of safe and healthy genetic resources and adoption of modern breeding technologies.</p>	<ul style="list-style-type: none"> • In partnership with stakeholders, support the development and review of breeding programmes for animal resources. • Regulate the veterinary components in breeding including standardization, inspection and approval of hatcheries, breed multiplication farms, AI and other breeding technologies. • Provide for artificial insemination and other appropriate breeding technologies and improvement of animal resource genetics. • Provide for the conservation of beneficial genetic resources of veterinary importance. 	<ul style="list-style-type: none"> • Promote suitable breeding programmes for animals. • Support and promote artificial insemination and other breeding technologies. 	<ul style="list-style-type: none"> • support research and innovation to improve the quality of animals and animal products in order to ensure their safety and? enhance their competitiveness in the domestic, regional and international markets.
<p>Safety and quality of animal feeds – To improve the quality and safety of inputs including feeds for optimum production and productivity.</p>	<ul style="list-style-type: none"> • Develop standards for production of safe and quality animal feeds and fodder. • Provide <i>standards</i> for regulation of animal feeds manufacture including registration and approval of establishments and the provision of health requirements for relevant operations. 	<ul style="list-style-type: none"> • Ensure compliance with health standards in the production and composition of animal feeds. • <i>Enforce licensing and inspection of manufacturers of animal feeds</i> • Support the continuous improvement of safe and quality fodder production including rangeland pastures. Ensure the approval and registration of establishments for feed manufacture to safeguard animal and human health. • Support feed subsidies to increase • marketability of animals and animal products 	

Discipline/Policy objective	National level roles & responsibilities	County level roles & responsibilities	Shared responsibilities
<p>Veterinary Medicines and biologicals – To ensure provision and appropriate use of safe and efficacious veterinary pharmaceuticals and biologicals.</p>	<ul style="list-style-type: none"> Integrate international veterinary pharmaceutical standards at the national level. Provide for effective regulation of production, quality assurance, import and export, marketing, sale and use of veterinary pharmaceuticals, poisons, pesticides and ethno- veterinary medicines. Provide for the separation of the management of human and veterinary medicines regulation and provide appropriate linkages to facilitate effective administrative mechanisms for the control and implementation of quality standards, and regulation of veterinary medicines and biologicals. 	<ul style="list-style-type: none"> promote and enforce the appropriate use and disposal of veterinary pharmaceuticals, poisons, pesticides and ethno- veterinary medicines, according to the Regulations. 	<ul style="list-style-type: none"> <i>Create public awareness of the consequences of misuse of antimicrobials and especially the presence of residues in animal products destined for human consumption</i> <p><i>(recommended by VLIM Team)</i></p>
<p>Animal Welfare standards – To improve and mainstream Animal Welfare in the animal resource industry.</p>	<ul style="list-style-type: none"> Develop policies, strategies, guidelines, laws and standards for animal welfare. Provide for regulation of animal welfare based on national guidelines and international standards. Provide an enabling environment for the private sector involvement. 	<ul style="list-style-type: none"> Promote animal welfare through creation of awareness. Develop appropriate legislation based on national guidelines. Provide animal control services including, control of stray animals and licensing of companion animals. Provide for facilities, for accommodation, care and proper disposal of animal carcasses. 	<ul style="list-style-type: none"> <i>Work in close collaboration with NGOs to support enforcement of animal welfare standards set through Regulations</i> <p><i>(recommended by VLIM Team)</i></p>

Discipline/Policy objective	National level roles & responsibilities	County level roles & responsibilities	Shared responsibilities
<p>Domestic and international trade in animals & animal products – To promote compliance with sanitary measures in domestic and international trade involving animals and animal products <i>in accordance with SPS, OIE and Codex standards (Recommended by VLIM Team)</i></p>	<ul style="list-style-type: none"> • Integrate international standards on trade. • Ensure certification of all animals and animal products in accordance with set standards • Provide for participation in formulation of international standards. • Support capacity development for compliance with sanitary measures and quality assurance at all levels in animal value chains. • Develop standards and Regulations for the marketing infrastructure to enable compliance with sanitary, phytosanitary measures along the marketing value chains. • Provide an enabling environment for the private sector to access lucrative markets. Strengthen national enquiry points and notification authority in line with the WTO-SPS agreements. 	<ul style="list-style-type: none"> • Enhance awareness of sanitary measures along animal value chains. • Enforce standards necessary for trade in animals and animal products. • Implement food defense and food safety measures for animal products. Provide for an efficient marketing infrastructure for different animal species and animal products. • Support the organization of producers, processors and marketers into viable groups that can access credit, improve on their powers of negotiation and entrepreneurship, maximize on the economies of scale and reach agreements and contracts on the supply of animals and animal products to markets <i>in order to harmonise adoption and implementation of production and safety standards.</i> • Provide for tailor made mechanisms and products to support marketing 	<ul style="list-style-type: none"> • Provide an enabling environment for private sector investments in marketing infrastructure. • Continually monitor, evaluate and regulate levies and taxes charged on animals and animal products in order to ensure a favourable trading environment. • provide for infrastructural development with in-built features for compliance with sanitary measures.

Discipline/Policy objective	National level roles & responsibilities	County level roles & responsibilities	Shared responsibilities
<p>Animal Identification and traceability – To establish and apply animal identification and traceability procedures that ensure sanitary controls and consumer protection.</p>	<ul style="list-style-type: none"> Establish a regulatory framework for animal identification and traceability. Develop strategies, guidelines and procedures for identification and traceability. In collaboration with stakeholders, coordinate the establishment of animal identification and traceability mechanisms. Establish a national database to support the management of disease outbreak, food safety incidence, vaccination programs, herd/flock husbandry, animal movement control, inspection, certification, fair practices in trade and utilisation of veterinary drugs, feed and pesticides at farm level. 	<ul style="list-style-type: none"> promote the application of identification and traceability measures to animals and animal products in compliance with national guidelines and international standards. Enforce animal identification and traceability measures. Provide feedback to national government on animal identification and traceability data. 	<ul style="list-style-type: none"> Provide infrastructural development for compliance with sanitary measures. Develop strategies for the eradication of animal diseases including disease-free zoning and compartmentalisation in line with the Kenya Vision 2030 and other national and regional priorities.
<p>Biosecurity – To ensure bio-security in establishments that handle animal hazards.</p>	<ul style="list-style-type: none"> Develop biosecurity standards and protocols. Provide capacity building on bio-security and bio-preparedness. Strengthen bio-security legislation in collaboration with the Competent Authority and stakeholders. 	<ul style="list-style-type: none"> Support the enforcement of biosecurity standards and Regulations at the county government level <i>(VLIM Team recommendation)</i> 	<ul style="list-style-type: none"> Mainstream bio-security risk management in the animal resource industry. Improve infrastructure in relevant facilities to ensure biosecurity.

Discipline/Policy objective	National level roles & responsibilities	County level roles & responsibilities	Shared responsibilities
<p>Veterinary governance To ensure effective and efficient veterinary governance for management of veterinary services.</p>	<ul style="list-style-type: none"> • Provide institutional and legal frameworks for the improvement in the delivery of Veterinary Services. • Ensure the Veterinary Services has the authority and the capability to carry out its functions through national legislation and Regulations. • Ensure the Veterinary Services maintains an internationally recognised competent veterinary command structure in the service delivery and reporting. • Provide guidelines for optimal human resource capacity for service delivery • Strengthen and empower the veterinary statutory body to develop autonomy, professional and financial independence and capacity, supported by appropriate legislation. • Provide for minimum qualifications for Community-based Animal Health Workers to attain, <u>at least, a certificate qualification in animal health from an institution recognized by the Kenya Veterinary Board.</u> • Ensure that practitioners in animal health attain, at the minimum, qualifications recognized by KVB <p><i>NB - VLIM Team recommends that this standard may be revisited in response to the demand for services in the ASALs and the current availability of Certificate holders – an initial (minimum) 6 month training curriculum may be found to be useful and effective in the short to medium term until sufficient numbers of certificate level service providers are able to meet the demand for animal health services in ASAL areas -</i></p>	<ul style="list-style-type: none"> • <i>Support and facilitate the development of private veterinary practice especially in areas where the state veterinary service lacks the manpower and resources to provide an effective coverage of primary animal health services.</i> • <i>Support the enforcement of regulatory standards to ensure the quality of services provided by veterinary para-professionals under the supervision or direction of registered veterinary surgeons</i> <p><i>(VLIM Team recommendation)</i></p>	<ul style="list-style-type: none"> • Strengthen veterinary governance through provision of adequate human, material and financial resources for effective delivery of veterinary services. • encourage professional associations to regulate the conduct of their members and provide advocacy services for improvement of the animal resource industry. • Prioritize development of an effective consultation and cooperation mechanism in line with Kenyan laws as well as international treaties ratified by Kenya. • Provide for institutional and legal frameworks for the animal resource industry. • <i>Undertake a manpower needs assessment based upon available human and financial resources and consumer demand, especially in the ASAL areas (recommended by VLIM Team)</i>

National legal framework

The Republic of Kenya is a unitary state with a constitutional democracy. The levels of administration in the country are national and county governments.

The current Constitution of the Republic of Kenya was promulgated on 27th August 2010, having been subject to national referendum on 4th August 2010. The Constitution ascribes the national values and principles of governance that include national unity, sharing and devolution of powers, the rule of law, democracy and participation of the people, good governance, transparency and accountability, and sustainable development.

The Constitution guarantees human dignity, equality, social justice, inclusiveness, human rights, non-discrimination and protection of the marginalised. Fundamental rights and freedoms afforded through the Constitution include the rights to privacy, protection of the right to property, and fair administrative action.

The system of devolution within Kenya is redefined under the new Constitution, establishing 47 counties each headed by a Governor and afforded their own legislative mandates through the Fourth Schedule of the Constitution. In accordance with this Schedule, functions assigned exclusively to the county governments include i) agriculture, including animal husbandry, livestock and sales yards, and county abattoirs, and ii) county health services, including veterinary services (excluding regulation of the profession).

Consequently, various veterinary matters including animal disease control fall under the authority of the Counties, which could impact significantly upon the ability to take harmonized, effective responsive action nationwide in the event of a disease outbreak. However, in accordance with the Fourth Schedule the national government retains sole responsibility for the development of veterinary policy and for the “protection of the environment and natural resources with a view to establishing a durable and sustainable system of development, including (...) protection of animals and wildlife.” As such, the national government retains strong legal authority to take action to ensure harmonized disease response measures nationwide through the development of policy, standards or legislation.

This may, for example, be achieved through amendment of the Animal Disease Act (Cap 364) to include a list of notifiable diseases and corresponding contingency plans for each, prescribing standardized response measures for each notifiable disease, thus ensuring a harmonized action nationwide.

This competency of the National Government is further reinforced by Article 191 of the Constitution, which prescribes that in the event of a conflict between national and county legislation in respect of matters falling within the concurrent jurisdiction of both levels of government, national legislation prevails provided that the national legislation applies uniformly across the territory of Kenya and:

- (i) the national legislation provides for a matter that cannot be regulated effectively by legislation enacted by the individual counties;
- (ii) the national legislation provides for a matter that, to be dealt with effectively, requires uniformity across the nation, and the national legislation provides that uniformity by establishing norms and standards, or national policies; or
- (iii) the national legislation is necessary for, amongst other things, the maintenance of national security.

The democratic structure in the Republic of Kenya comprises of a tripartite government, composed of the Executive, the Legislature and the Judiciary. The National Executive is comprised of the President, the Deputy President and the rest

of the Cabinet. The President is the Head of State and Government and, in turn, is responsible for the appointment of Principal and Cabinet Secretaries.

The Legislature takes the form of a bicameral Parliament, composed of the National Assembly and the Senate. The National Assembly is composed of 290 members elected by voters of single member constituencies; 47 women elected by voters of the counties, each constituting a single member constituency; 12 members nominated by parliamentary political parties; and the Speaker). The Senate is composed of 47 members each elected by the registered voters of the counties, each county constituting a single member constituency; 16 women members nominated by political parties; two members, one male and one female, representing the youth; two members, one male and one female, representing persons with disabilities; and the Speaker.

The Judiciary is divided into two tiers of institutions:

- i) **The Superior Courts:** the Supreme Court, the Court of Appeal, the High Court, and any other courts established by Parliament with the status of High Court, to hear specific types of dispute; and
- ii) **The Subordinate Courts:** the Magistrates courts, the Kadhis' courts, the Courts martial, and any other court or local tribunal as may be established by an Act of Parliament

Each county government consists of a County Assembly and a County Executive. The County Assembly, the core mandate of which includes oversight and passage of legislation, comprises of a speaker and Members representing each ward within the counties, of which there are 1450 across Kenya. The County Executive in turn comprises of the County Governor, the Deputy County Governor and Members appointed by the Governor.

The Republic of Kenya has a mixed legal system based on English common law, customary law and Islamic law. The Constitution is the supreme legal instrument in the country, binding all persons and all state organs, and any law deemed inconsistent with the Constitution is void. The Constitution vests the power to make legislation in the National Assembly and in the county assemblies. As noted earlier, their respective legislative jurisdictions are prescribed in the Fourth schedule of the Constitution.

The veterinary legislative process is initiated by the development of a policy paper by the Department of Veterinary Services (DVS), or the County Veterinary Services in the case of devolved legislation. The policy paper is presented to the Cabinet or the County Executive Committee that determines whether legislation may be developed to implement the policy. If approval is granted, the policy paper is then developed into draft legislation by legislative drafters, firstly, employed in the MALF and available to the DVS, acting in accordance with a detailed legislative plan created by the veterinary authority and then forwarded to the office of the Attorney General for correction and final drafting. Once drafted, the Bill is published in the Kenya Gazette to notify the public and invite input through elected officials, or through direct submission of memoranda or petitions.

The Bill then undergoes a rigorous review and amendment process, as follows⁸:

- (i) **First reading:** The Bill is introduced to the National Assembly or the County Assembly. At this stage the Bill will be issued a tracking number and a title that reflects the subject matter. The Bill is then subject to high-

⁸ For further information on the legislative drafting process in the Republic of Kenya, see *A Guide to the Legislative Process in Kenya*, Kenya Law Reform Commission (2015), available at: <http://www.klrc.go.ke/index.php/reports-and-publications/> (accessed 9th December 2015).

level review of the title and basic principles, and may be referred to the relevant Sectorial Committee for further consideration.

- (ii) **Second reading:** The purpose and objectives of the Bill are presented in detail and subject to further discussion. Findings of the Sectorial Committee are also shared to support discussion. At this stage, no amendments may be proposed to the text, and the only amendment that may be proposed is to defer the second reading for six months.
- ~~(iii)~~(iii) **Committee of the whole House:** During this stage the Bill is reviewed at a granular level, clause by clause. Amendments may be proposed by Members of the House. No amendment can be made that would fundamentally deviate from the original purpose of the Bill.
- ~~(iii)~~(iv) **Report stage:** The Committee reports its findings to the whole House sitting in Plenary.
- ~~(iv)~~(v) **Third reading:** During the third and final reading, Members may again discuss the fundamental principles of the Bill in its current formulation. However, no further amendments to the Bill may be proposed at this stage, and it may either be accepted or rejected.
- ~~(v)~~(vi) **Presidential or County Governor assent:** Having been passed by the National or County Assembly, the President or County Governor must, within fourteen days, grant assent or refer the Bill back to the Assembly for further consideration, noting any specific reservations.
- (vii) **Gazettement:** Upon receipt of assent, the Bill must be published in the Kenya Gazette, and the relevant County Gazette in the case of county legislation, within 7 days as an Act of Parliament. In accordance with Article 116 of the Constitution, the Act shall enter into force fourteen days after its publication in the Gazette.

It is noteworthy that the legislative development process at a national and county level are the same. The differences lie in the institutions involved in the respective process, as highlighted where relevant in the step-by-step overview above.

A complete inventory of national and county bills, legislation and case law in Kenya is made available online at www.kenyalaw.org by the Kenyan National Council for Law Reporting as established under the National Council for Law Reporting Act (Cap 1A).

Kenya has enacted extensive legislation covering the veterinary domain. A notable challenge to be addressed is the amendment of existing legislation to reflect the reapportionment of responsibilities in the veterinary domain between the National and county governments. Article 11 of the Interpretation and General Provisions Act (Cap 2) demands that legislation must be interpreted:

“with such formal alterations as to names, localities, courts, officers, persons, moneys, penalties or otherwise as may be necessary to make it applicable to the circumstances,” thus preserving the existing legislations’ validity. Regardless, legislative reform of key areas impacted by this reapportionment of responsibilities would promote legal clarity and minimize ambiguity in the interpretation of veterinary legislation.

The implications of the new Constitution with regard to devolution of responsibilities for implementation of animal health, animal welfare and veterinary public health services by County governments are embodied in the following Articles of the Constitution, which are quoted here in order to provide guidance in determining the structure of future national legislation covering the veterinary domain.

Article 174

- *To give powers of self-governance to the people and enhance participation of the people in making decisions affecting them.*
- *To facilitate the decentralization of State organs, their functions and services, from the capital of Kenya.*
- *To promote social and economic development and the provision of proximate, easily accessible services throughout Kenya;*

Article 185

A county assembly may make any laws that are necessary for, or incidental to, the effective performance of the functions and exercise of the powers of the county government under the Fourth Schedule.

Article 186

- *If a function or power is transferred from a government at one level to a government at the other level (Art. 187):*
- *arrangements shall be put in place to ensure that the resources necessary⁹ for the performance of the function or exercise of the power are transferred and*
- *constitutional responsibility for the performance of the function or exercise of the power shall remain with the **government to which it is assigned by the Fourth Schedule.***

Article 189

Government at either level shall:

- *assist, support and consult and, as appropriate, implement the legislation of the other level of government and*
- *liaise with government at the other level for the purpose of exchanging information, coordinating policies and administration and enhancing capacity.*
- *Government at each level, and different governments at the county level, shall co- operate in the performance of functions and exercise of powers and, for that purpose, may set up **joint committees and joint authorities.***

A Joint Committee for Veterinary Services and a County Veterinary Services Committee have already been established and may be cited in proposed new legislation as bodies responsible for harmonizing and coordinating the implementation of standards to be set (through the promulgation of Regulations) by the national veterinary services for:

- ***__** animal disease surveillance;*
- *animal disease prevention, control and eradication;*
- ***__** regulation and enforcement of food safety of animal products destined for human consumption;*
- ***__** regulation of the use / safe disposal etc. of animal by-products;*
- ***__** the sale and use of veterinary medicines and biologicals;*
- ***__** animal welfare and any other regulatory functions of the veterinary services at the county level.*

⁹ **Bold type-face placed in this section by the authors of this report**

Article 191

National legislation prevails over county legislation if: National legislation provides uniformity by establishing:

- norms and standards or
- national policies

The national legislation is aimed at preventing unreasonable action by a county that-

- is prejudicial to the economic, health or security interests of Kenya or another county or
- impedes the implementation of national economic policy.

Fourth Schedule

Part 1 National government responsibilities: - selected key statements related specifically to the livestock industry, animal health, welfare and veterinary public health are: (underlining made by the Team to emphasise relevance for animal health and the veterinary domain)

1. Foreign affairs, foreign policy and international trade.
9. National Economic Policy and Planning
14. Consumer Protection
22. Protection of the environment and natural resources with a view to establishing a durable and sustainable system of development including in particular: (b) protection of animals and wildlife;
24. Disaster management.
29. Agricultural policy
30. Veterinary policy
32. Capacity building and technical assistance to the counties
33. Public investment.

Part 2 County government responsibilities: extracts pertaining specifically to animal health, welfare, livestock services and veterinary public health.

1. Agriculture, including
 - (a) Crop and animal husbandry;
 - (b) Livestock sale yards;
 - (c) County abattoirs;
 - (d) Plant and animal disease control;
 - (e) Fisheries.
6. Animal control and welfare, including –
 - (a) Licensing of dogs and
 - (b) Facilities for the accommodation, care and burial of animals
14. Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for effective exercise of the functions and powers and participation in governance at the local level.

The above key statements, extracted from the Constitution, provide the basis for shaping the structure of any new legislation to be developed to cover the veterinary domain. The law can be structured in such a way that the national Veterinary Authority is empowered through provisions made in the draft Bill to set standards through Regulations. The county governments are authorised to enforce the Regulations, and where necessary, can make by-laws for the implementation of the standards that have been set by the NVA in Regulations under the national law(s).

4. Review of the national veterinary legislation

The levels of advancement of the critical competencies related specifically to the veterinary legislation at the time of the PVS follow-up mission (March 2011) and those to which the DVS aspired at the time of the Gap Analysis (August 2011), were as follows:

PVS Critical Competency	Level of advancement (out of 5)	
	VS Follow-up March 2011	Gap Analysis August 2011
IV-1 Preparation of legislation and regulations	3	4
IV-2 Implementation of legislation and regulations and compliance thereof	2	4
IV-3 International harmonization	3	4
IV-4 International certification	3	3

The specific critical competencies and levels of advancement hoped to be achieved at the time of the Gap Analysis were:

Preparation of legislation and regulations - *The authority and capability of the VS to actively participate in the preparation of national legislation and regulations in domains that are under their mandate, in order to guarantee its quality with respect to principles of legal drafting and legal issues (internal quality) and its accessibility, acceptability, and technical, social and economical applicability (external quality). This competency includes collaboration with relevant authorities, including other ministries and Competent Authorities, national agencies and decentralised institutions that share authority or have mutual interest in relevant areas*

Level 4 - *The VS have the authority and the capability to participate in the preparation of national legislation and regulations, with a relevant formal methodology to ensure adequate internal and external quality, involving participation of interested parties in most fields of activity.*

Implementation of legislation and regulations and compliance thereof - *The authority and capability of the VS to ensure compliance with legislation and regulations under the VS mandate.*

Level 4 - *Veterinary legislation is implemented in all domains of veterinary competence and the VS work to minimise instances of non-compliance.*

International harmonisation - *The authority and capability of the VS to be active in the international harmonisation of regulations and sanitary measures and to ensure that the national legislation and regulations under their mandate take account of relevant international standards, as appropriate.*

Level 4 - *The VS are active in reviewing and commenting on the draft standards of relevant intergovernmental organisations.*

International certification - *The authority and capability of the VS to certify animals, animal products, services and processes under their mandate, in accordance with the national legislation and regulations, and international standards.*

Level 3 - *The VS develop and carry out certification programmes for certain animals, animal products, services and processes under their mandate in compliance with international standards.*

The draft Veterinary Policy (2015) has specifically identified the need to review and revise the veterinary legislation – “*in Kenya, animal health, welfare and production are governed by more than 24 laws, which need to be reviewed. This policy will inform the review and consolidation of the veterinary laws in line with international, regional and national guidelines.*” and, “*The existing national veterinary laws need to be **reviewed** and **consolidated** to address existing challenges and to achieve conformity with the Constitution and relevant international treaties ratified by Kenya.*”

For the purposes of undertaking a review and revision of the legislation covering the veterinary domain the DVS have divided their legislation into two categories. Category 1 consists of the Acts and Regulations that fall under the direct management of the DVS, whilst category 2 consists of other Acts and Regulations that have a direct bearing on the veterinary domain but which are administered and implemented by other Ministries.

Category 1 legislation:

1. Animal Disease Act, Ch.364 (1965, revised edition 2012)
2. Meat Control Act, Ch.356 (1972)
3. Rabies Act, Ch.365 (1932)
4. Veterinary Surgeons & Veterinary Para-professionals Act, No.29 (2011) and Regulations (2013)
5. Branding of Stock Act, Ch.357 (1907, revised 2012)
6. Prevention of Cruelty to Animals Act, Ch.360 (1962)
7. Cattle Cleansing Act, Cap 358 (1937)
8. Hides, Skins & Leather Industry Act, Ch.359 (1987)

Category 2 Legislation

1. Public Health Act, Chapter 242, (1921) in collaboration with MoH);
2. Food, Drugs and Chemical Substances Act, Chapter 254 (1965), in collaboration with MoH);
3. Pharmacy and Poisons Act, Chapter 244, (1957 revised Ed 2009) in collaboration with the MoH);
4. Fertilizers and Animal Foodstuffs Act – Cap 345 (1962); with other Departments - MALF
5. Narcotics, Drugs and Psychotropic Substances Control Act, Chapter 245 in collaboration with the MoH);
6. Pest Control Products Act, Chapter 346, (1983) in collaboration with the State Department for Agriculture;
7. Standards Act, Chapter 496, in collaboration with the Ministry responsible for Trade and Industrialization;
8. Fisheries Act, Chapter 378, in collaboration with the Ministry responsible for fisheries development;

9. Wildlife Conservation and Management Act, 2013, in collaboration with the Ministry responsible for wildlife;
10. Customs and Excise Act, Chapter 472, in collaboration with the Ministry responsible for customs;
11. Bio-safety Act, Number 2 of 2009, in collaboration with the Ministry responsible for Science and Technology;
12. Witchcraft Act, Cap 67, in collaboration with the Ministry responsible for culture;
13. Dairy Industry Act, Chapter 336;
14. Kenya Meat Commission Act, Chapter 363.

County laws: Various laws are to be developed by respective county governments. They shall apply within the county only and must be in line with relevant national policies and laws. At present the only county law related to the veterinary domain which has been proposed for enactment is the following:

1. Nairobi City Council Dog Control and Welfare Bill (August 2015)

During and prior to this mission it has not been possible to review all of the Regulations or other pieces of subsidiary legislation that have been promulgated under the above Acts. In the case of the draft Animal Welfare Bill, which was reviewed by the Team, many of the provisions made in this Bill would be more appropriately placed in Regulations, where, as and when necessary, they may be amended.

The more recently drafted and promulgated Acts and Regulations reviewed during this mission were generally found to have been well drafted and there was found to be good cross referencing within each of the newer pieces of legislation. Most areas of the veterinary domain, as defined by the OIE, have been well covered. The more important drafting errors and gaps identified are covered in the analysis given in the following sections of this Report, where each of the more important Acts covering the veterinary domain are examined in some detail.

In general, it has been found that the internal quality of the legislation is good, however some important shortcomings in terms of internal quality relate to the lack of appropriate definitions for many terms that are used in the legislation, inconsistency in the use of definitions, different definitions used for the same term in different pieces of legislation, and in a few cases the use of subjective adjectives such as “*fit persons*” (s.3 (1) ADA (1965, revised edition 2012), “*adequate measures*” (s.131, PHA), “*without reasonable cause*” (s.8(b) VS &VPA), “*carefully conveyed*” (s.18 Nairobi City County Dog Control & Welfare Bill) etc. which can lead to legal uncertainty. In some instances, especially the older legislation there are references to administrative authorities such as provinces and districts, which are no longer relevant. There are instances where some of the provisions made in Acts would be more appropriately placed in Regulations. One such example is the draft Animal Welfare Bill (2015).

4.1 Detailed assessment of selected subject areas

It is stated in the draft Veterinary Policy (pp (x) and 20) that there is a need for the review and consolidation of the existing veterinary and animal resource legislation. The *Animal Disease Act* (1965 revised edition 2012) does not comprehensively cover the protection of animal health and welfare, nor veterinary public health and is not fully compliant with OIE and other international standards. There are both overlaps and gaps in some of the other existing legislation covering the veterinary domain with regard to the respective roles and responsibilities of the DVS and the Ministry of Health with regard to food safety of animal products and the regulation of veterinary medicines and biologicals.

The analysis given below describes the areas of the veterinary domain which are covered by the existing legislation, highlights some of the more important shortcomings and makes recommendations as to how these might be dealt with in proposed new or revised existing legislation in order to address the specific needs determined by the new Constitution as well as to comply with OIE standards outlined in Chapter 3.4 of the Terrestrial Animal Health Code (TAHC) and other international standards, in particular, the WTO / SPS Agreement and the Codex Alimentarius.

4.1.1 Animal Disease Act- Cap 364 (1965, revised edition 2012)

Section 2 ADA (1965 revised edition 2012) – Interpretation

“notifiable disease” - In spite of the provision that the Minister may declare any other disease as a notifiable disease, or remove one of the listed diseases from the list given in this definition, through publication of a Notice in the Gazette, the inclusion of a list of diseases under the definition of “notifiable disease” in the Act is not altogether appropriate since it may be necessary to make frequent changes to this list and referencing would become cumbersome when such changes are made through a series of Gazetted notices. In the future, it is advised to place any such lists of notifiable or specified diseases in a Schedule(s), which can then be amended at any time, as and when necessary by the Minister, on the advice of a Technical Standing Committee. In this way, the entire list of notifiable and/or specified diseases is always found in the same place and is readily accessible for reference. In the future, it is recommended that a definition of “emerging disease”, as given in the Terrestrial Animal Health Code (TAHC), is also provided in the animal health legislation. There may be a number of provisions in the Act which would apply to both notifiable as well as emerging diseases.

“stock” – This definition is restricted to a list of selected farm animal species and does not include wild animals kept in captivity, dogs or fish. Section 7 paragraph (1) (a) mentions “stock” with regard to a restriction of movement into or out of an infected area. This restriction should be applicable to all susceptible animal species for any particular notifiable disease. There are other instances in the ADA (1965, revised edition 2012) and other Acts (*Branding of Stock Act* (1907), *Public Health Act* (1921)), where the term “stock” is used but where it may be more accurate to use the word “animal” or “food animal”, meaning any animal whose meat or other products are destined for human consumption. It is therefore recommended to make a single definition respectively, for “animal” and “food animal”, and use those words consistently throughout all of the veterinary legislation, as appropriate.

There is no comprehensive definition of “animal by-product” as being an animal product which is not destined for human consumption in any of the existing legislation. Instead, the regulation of certain animal by-products (bone or any substance derived from an animal carcass and “animal foodstuffs”, as defined in S.2.(Interpretation) of the *Fertilisers and Animal Foodstuffs Act* (1962), paragraph (a) (iii)), hides and skins and products of slaughter stock by the Kenya Meat Commission (KMC), is provided for piece-meal in several different pieces of legislation, including: The *Fertilisers and Animal Foodstuffs Act* (1962), The *Kenya Meat Commission Act* (1950), the *Hide, Skin and Leather Trade Act* (1987). It is recommended that a definition of “animal by-product” to include all products of animal origin that are not destined for human consumption but may be used for incorporation into animal feeds or for other commercial purposes. Such a definition would then provide the basis for establishing the authority of the NVA to set standards for the importation or export of any type of animal by-product as well as the authorisation and management of premises at which animal by-products are processed, the safety and quality of animal by-products, the use of animal by-products, and the control of disposal of animal by-

product waste materials.

There are no definitions which consistently define biological products, or biological substances or infected or contaminated articles in any of the existing legislation. For the purposes of developing precise Regulations for the import and export of animals, animal products and other commodities that may present a risk to animal or human health or life or the environment, it is recommended that such definitions are developed in future legislation.

Section 3 – Inspectors –

S.3 paragraph (1) the use of the word ‘fit’ to describe a category of persons is not considered good use of language and could lead to legal uncertainty. It would be better to say, any person holding a “prescribed qualification”. Then there would be the need for a definition of “prescribed” which would define prescribed as meaning “prescribed by regulation”.

paragraph (2) identifies “livestock officers” as being eligible to be appointed as an “inspector”. Since there is no definition of “livestock officer”, this leads to uncertainty as to whether a livestock officer would be suitably qualified to perform all of the functions of an inspector. Furthermore, inspectors would have a wide range of different functions, many of which would need specialised training.

The enforcement of veterinary legislation in Kenya has been found to be extremely weak (OIE PVS and Gap Analysis reports). The new Constitutional arrangements devolve the responsibility for most regulatory functions of the DVS to the County veterinary authorities (CVA). At the same time, it is the responsibility for the national government to build the capacity of county government authorities to implement the policies set by the national government.

It is therefore recommended that the DVS strengthens its Department within the headquarters which is dedicated to developing and implementing training programmes to help to build the capacity of a strong inspectorate to be deployed by the CVAs, in the future. Some of the training courses of this type could be considered not only as “in-service” training but also may be used to count as meeting CE requirements for annual retention of registration with the KVB.

It is recommended that provisions are made in the national legislation to set the standards of specialised training for officers to perform their specialised functions, especially inspectors, analysts and those responsible for issuance of certificates to support domestic and international trade of animals, animal products and other commodities. Such standards can then be defined in Regulations, that will need to be observed by county veterinary authorities.

As has been mentioned earlier in this report, national and county veterinary inspectors will need to be trained in a wide range of specialist subjects, the most important of which include:

- abattoir construction and management, abattoir facilities including laboratories required for self-assessment;
- food safety management systems such as the Hazard Analysis and Critical Control Point (HACCP) systems;
- ante- and post mortem meat inspection;
- the inspection of milk collection centres and milk processing facilities (sampling and testing of milk and milk products);
- the management of border inspection facilities and regulation of import and export of animals, animal products and other commodities;
- inspection of Disease Free Zones (DFZs) and compartments in order to

ensure biosecurity and surveillance systems are fully compliant with OIE standards;

- inspection of animal breeding centres and associated laboratories;
- the regulation of animal identification, movement control and traceability of animals and animal products;
- inspection of veterinary medicines and biologicals wholesale and retail outlets;
- the inspection of private veterinary practices and public and private veterinary diagnostic laboratories;
- the enforcement of animal welfare standards.

As and when the DVS and county veterinary authorities start to contract out certain defined public functions to private sector service providers, there will be a need to regulate the performance of contracts, which will further increase the range of regulatory functions to be performed at the level of county veterinary authorities.

The Kenya Veterinary Board will also need to strengthen its presence in the field. The proposal for deployment of 8 regional branches throughout Kenya may not be sufficient for the regulation of all registered veterinarians and VPPs as well as the sale and use of veterinary medicines and vaccines. It is recommended that the KVB undertakes a needs assessment in relation to its defined functions and capacity to enforce the Act and Regulations.

Section 4 - Animals affected with notifiable disease –

S.4, paragraph 1(b) ADA (1965, revised edition 2012) – the word ‘forthwith’ – does not precisely define a time limit – in the case of reporting of a notifiable disease occurrence, the sooner the event is brought to the notice of the NVA or CVA, the sooner an appropriate response can be put in place. It is recommended to specify the time limit as being “immediately” in this case. Furthermore, such report should be made to the nearest Veterinary Authority officer, rather than to an “administrative officer”, who may not always pass the message on to the Veterinary Authority as quickly as would be needed, particularly in the case of epidemic notifiable diseases or zoonotic diseases.

paragraph (2) might also include a veterinary para-professional (VPP), since there are more VPPs than registered veterinarians working at the front line and in daily contact, especially with farm animals.

S.4 paragraph (3) places the responsibility for the collection and submission of samples for laboratory confirmation of a suspected occurrence of a notifiable disease on the owner or person responsible for the care of the animal(s). This is not at all appropriate, since sample collection requires special knowledge and skills, particularly if the result of such tests is to be used for international notification or for any certification purpose. It would therefore be more appropriate for a provision to be made whereby an inspector or authorised person shall immediately investigate such suspected outbreak of notifiable disease and collect and submit appropriate samples to the nearest county, regional or national reference laboratory for laboratory confirmation. Such provision should also authorise the same inspector or authorised person to impose any temporary movement restriction or other appropriate administrative sanction on the owner of the animal or premises or owners of other premises in the locality of the suspected notifiable disease outbreak.

paragraph (4) states that an administrative officer or an inspector, *on being satisfied of the existence or suspected existence of a notifiable disease [] shall cause []*. Since administrative officers are unlikely to have had any veterinary training, it would not seem appropriate that they could know whether or not a disease

outbreak may be a notifiable disease. It would therefore not necessarily be appropriate for an administrative officer to be empowered to make such n

otification to owners of animals in the neighbourhood, since such person would not necessarily be qualified to ascertain the existence or suspected occurrence of all notifiable diseases, nor to take the appropriate control action in the case of certain notifiable diseases.

Such notifications should only be made by a veterinary officer or an authorised person who is qualified to make such decisions.

Section 5 – Power to declare areas infected -

This section is the first point in the ADA (1965, revised edition 2012) where a power or authority is given to the Director. In effect it starts to establish a “Chain of Command”. Although the Director is identified as the head of the Veterinary Services in the definitions, there is no statement in the Act whereby the Director is identified as the Executive officer responsible for the overall management of the Veterinary Authority (VA), and neither has the Department of Veterinary Services (DVS) been established as the “Competent Authority”.

For the purposes of transparency, for ensuring technical independence and in order to establish short and direct lines of communication from the headquarters down to the field level of operations of the VS and back up to the headquarters so that animal disease or public health emergencies can be dealt with appropriately and in a timely manner, it is recommended that a clear chain of command is established in the proposed new legislation.

Under the proposed new legislation, it is recommended that firstly, the DVS, (the national Veterinary Authority (NVA), is designated as the Competent Authority, being the government body responsible for setting national standards with regard to the control of the following:

- animal health, including the prevention, control and possible eradication of notifiable animal diseases, and formulation of contingency plans for the control of selected notifiable diseases of national importance;
- animal disease surveillance, including outbreak investigation and confirmation of suspected occurrences of notifiable diseases;
- the management of animal disease information derived from active and passive disease surveillance;
- the records that are required to be kept by the owners of animals or the owners of premises where animal products are processed
- standards of training and facilities and the records to be maintained at veterinary educational and training establishments;
- animal identification, movement control and traceability;
- animal welfare;
- the designation and authorisation of veterinary diagnostic laboratories;
- the conduct of official tests and analyses and the regulation of laboratory diagnostic reagents;
- the safety and quality of animal products (including animal by-products and animal feedstuffs);
- the import and export of animals, animal products and other commodities;
- The initial and continuing educational requirements for all officers appointed to perform technical veterinary functions.

Thereafter it is recommended that the Director of the NVA is designated as Chief Veterinary Officer and executive officer responsible for the overall management of the NVA, under the supervision of the Minister. In so far as the Director is provided with certain powers and authorised to perform certain functions there is then a need to make a provision that authorises the Director (NVA) to delegate certain of his or her powers or authority to specified state employed officers depending upon their technical qualification, at the levels of the NVA and CVA respectively. A separate provision to specifically identify the Directors of CVAs as being officers responsible for implementation and enforcement of the standards set by the NVA and communicating information back to the Director NVA, as provided for in the Regulations would then complete the establishment of a robust chain of command.

There are currently no provisions in any existing legislation that authorises the Director to delegate or assign any of his powers or functions to private registered veterinarians or VPPs. With the emergence of private veterinary practice, throughout Kenya, it is recommended that a provision be made to allow the Director of the NVA or a CVA to engage a private registered veterinary surgeon or private registered veterinary para-professional to perform certain defined public services or public functions on his/her behalf, under the terms of a (sanitary mandate) contract. Such a contract would only be awarded to persons registered with the KVB who had undergone a prescribed course of training and would define the area or locality where the service or function was to be undertaken, the duration of the contract, the precise nature of the work to be undertaken, the scale of remuneration and any eligible expenses and the conditions under which the contract may be suspended or revoked.

It is also recommended (also mentioned under Section 9, Rules, below) that a Technical Standing Committee shall be established within the NVA and any other specialised bodies, such as for instance, the proposed Veterinary Medicines Directorate (VMD), be established under the same section of the law, thereby defining the chain of command and the specialised roles and responsibilities of each person or institution identified therein.

Section 8 - Power to prohibit importation of animals – The title of this section is incomplete, since it includes a restriction on export as well as import.

This provision empowers the Director to prohibit the import and export of animals and a wide range of specified animal products and “*live viruses*” – (but not other types of infectious organisms).

The list of restricted items may be extended by Notice in the Gazette. This mechanism for identifying restricted items in terms of import and export is cumbersome. It is recommended, firstly to create a definition of “animal product” to include meat, milk, honey, eggs, and animal by-products etc. and separate definitions of “biological product” and perhaps “infected articles” that would include animal feeds, dung, litter, harness, infectious organisms, etc. Secondly, the prohibition for import and export of animals, animal products and infected articles can then be made in the Act. Any person wishing to import or export any of these items shall then be required to apply for a permit to import, or an international veterinary certificate in the case of export, to be issued by the Director, in the manner prescribed by regulation. Since international trade is included in the Constitution, as a national responsibility, the authority to issue or revoke import and export permits or certificates should be retained by the NVA only. This power may then be delegated to specified officers working under the authority of the Director of the NVA.

In Section 8 (for the regulation of import and export), there is no reference to the standards set by the SPS Agreement, the TAHC or the Codex Alimentarius. At the very least, there is a need to make a provision that specifies that when a sanitary

requirement is prescribed as a restriction on the import of an animal, animal product or other commodity and this standard differs from the recommended OIE or Codex standard then such standard should be based upon scientific justification and upon a risk analysis performed in accordance with the relevant international standard. Furthermore, provisions should exist for the recognition of equivalence of sanitary measures applied in an exporting country that are deemed to achieve the same level of protection as that required by and applied within, the importing country. There is a need to make provisions in the law to define the standards to be applied before and at entry (border inspection etc.) of an imported animal, animal product or other commodity. For the purposes of export, it is necessary to make provisions to ensure that export certification is conducted in accordance with the standards set by the OIE in the TAHC.

Section 9 – Rules – In this section the Minister is authorised to make technical decisions that may interfere with the technical independence of the Veterinary Authority. It is recommended that in the future, the Minister be authorised to make any such rules only on the advice of a Technical Standing Committee. Such a Technical Standing Committee should be established within the chain of command, under the chairmanship of the Director, as a body established in order to propose standards to be set, develop contingency plans for the control of outbreaks of diseases of national importance, draft and propose Regulations and make decisions affecting the implementation of the law, especially in cases of animal disease or public health emergencies.

The current list of areas requiring rules to be made in the ADA (1965, revised edition 2012) is incomplete. The most important gaps are related to animal disease surveillance and veterinary diagnostic laboratories. Some of the existing rules relate to controls placed on animals only and do not include animal products or other infected or contaminated articles that may also present a risk to human or animal health or the environment. There are no rules relating to the licensing of animal gatherings or the control of animal gatherings including markets, other than for their disinfection (S.9 (h) (ii)).

There is a comprehensive set of rules made under Section 9 of the ADA (1965, revised edition 2012) for the control of animal breeding at the levels of animals, genetic materials, establishments and operators, (Animal Diseases (Control of Breeding Diseases) Rules, 2014).

It is recommended that as well as the provisions already made in Section 9 of the ADA (1965, revised edition 2012), the list should be extended in new draft legislation to include the following:

1. The manner in which and the standards to be set for the conduct of animal disease surveillance and the management of animal disease information at the national and county veterinary authority levels;
2. The designation of a national reference laboratory or laboratories, the authorisation and accreditation of all other veterinary diagnostic laboratories (public and private), the standards for the conduct of “official tests and analyses” and the regulation of laboratory diagnostic reagents; (official tests and analyses will then need to be defined as being those tests or analyses used to confirm the existence of notifiable disease or for any purpose requiring certification).
3. The standards of construction and management of premises where raw animal products (including animal by-products) are processed and prepared for human consumption or other purposes.

4. The standards for inspection and, when necessary, the testing and certification of animal products (including animal by-products) as being fit for human consumption or for other purposes.
5. The licensing and control of animal gatherings, including sale yards and other markets;
6. The standards for animal welfare in relation to stray or abandoned animals, the management and handling of animals, transportation of animals, humane slaughter or destruction of animals, working animals and animals used for sport, exhibition, or experimentation.

In the case of the sale and use of veterinary medicines and biologicals, there could be a provision made here, and it might then be necessary to establish the proposed Veterinary Medicines Directorate (VMD) within the Veterinary Authority, which would be responsible for the setting of standards for the regulation of veterinary medicines. Whether or not this authority would include the regulation of the registration, import, export or manufacture of veterinary medicines and biologicals would need to be negotiated with the Pharmacy and Poisons Board during discussions related to the development of the proposed Food and Drug Administration Bill, which is already underway.

Similarly, in the case of regulation of the food safety of animal products a clear distinction needs to be made in Regulations in order to precisely define the respective roles and responsibilities of the MoH and the MALF. The DVS is recommended to become fully involved in the development of the proposed legislation to establish a Food and Drug Administration, and that strictly “veterinary” responsibilities, relating to food safety of animal products and the sale and use of veterinary medicines and biologicals do become established under the NVA and where appropriate, the CVAs’ mandates.

In view of the special circumstances regarding the application of withdrawal periods for medicines being administered to and pesticides used on food-producing animals and the detection of drug and pesticide residues and trace-back of the misuse of such medicines and pesticides along the animal production value chain, it is recommended that responsibility for inspection, sampling and testing for such residues in foods of animal origin be placed under the direct supervision of the NVA (to set standards) and CVAs (to enforce standards set by the NVA), respectively.

Section 10 Slaughter of infected animals – S.10 of the ADA (1965, revised edition 2012) makes provisions for the Director, or persons authorised in writing, to cause the compulsory “*slaughter of animals infected or suspected of being infected with a notifiable disease*”. It is recommended that any such provision should be accompanied by provisions for the payment of compensation under whatever conditions may be defined, by regulation. Unless compensation is provided for here, there will be a tendency for under-reporting of suspected occurrences of notifiable disease by the owners of animals which may be infected with a notifiable disease. It is further recommended that the word “slaughter” only be used in relation to killing of a food-animal at the time of harvest. In the case of killing an animal for disease control purposes the words “humane destruction” may be used. Additional provisions relating to the conditions of eligibility or otherwise concerning compensation, as provided under Sections 12 and 13, can be combined with this proposed addition. There is no mention in this section, or other areas of the legislation where slaughter or destruction is mentioned, for the requirement for slaughter (or destruction) to be performed using a “humane” method of slaughter or destruction. In future, it is recommended that wherever reference is made to either slaughter or destruction of animals that this is performed using “humane” techniques in accordance with prescribed animal welfare standards.

Section 14 The power to search for infected animals, etc. – S.14 of the ADA (1965, revised edition 2012) provides the Director, an administrative officer or inspector with the power of entry to determine the existence or otherwise of a notifiable disease or to ensure that any provisions of the Act are being met. Firstly, it is considered inappropriate to confer this power to an administrative officer, unless such person holds a veterinary qualification. The power should be limited to an authorized, (by the Director), registered, veterinary surgeon or an authorized, registered, veterinary para-professional, holding a prescribed qualification.

It is recommended that all of the special powers which should be conferred upon the Director and officers working under his authority be placed in one Section of the legislation and this should include:

- the power of entry into any premises or onto any land when a notifiable disease is suspected or when an inspection is warranted in order to confirm compliance with the Act and Regulations;
- the power to seize, detain, destroy and dispose of any infected animal, animal product or infected or contaminated article;
- the power to gain access to any information or records held by the owner in respect of the operation of a premises, an animal, animal product or infected or contaminated article.
- The power to order the disinfection or disinfestation, of an animal, vehicle, premises or article and, when necessary, using a specified disinfectant or pesticide;
- The power to suspend or terminate authority to operate an inspected premises.

Section 16 - Power to prohibit use of vaccine or drug – S.16 of the ADA (1965, revised edition 2012) provides the Director with the authority to prohibit the use of any veterinary medicine or vaccine and overlaps with the powers provided to the Pharmacy Board under Section 44 (Rules) of the *Pharmacy and Poisons Act* (1957, 2009 Edition) and the *Food, Drugs and Chemical Substances Act*, (1965), which confers similar authority on the Minister of Health, in Section 28 (Regulations). In practice, these overlaps of responsibilities in different pieces of legislation may lead to legal uncertainty in some cases and duplication of effort on the part of the two Competent Authorities.

There are currently no provisions in any of the existing legislation to regulate the labelling of withdrawal periods on the packaging of veterinary medicines, nor the enforcement of withdrawal periods. Section 134 (b) of the *Public Health Act* (1921) makes provisions for the sampling and testing of foods of animal origin, but makes no reference specifically to the detection of drug or pesticide residues. Section 28 of the *Food, Drugs and Chemicals Act* (1965) does however have all of the necessary provisions to authorise the Minister, on the advice of the Public Health (Standards) Board, to make Regulations related to the standards of purity and regarding importation, manufacture, distribution and sale of all types of food, drugs and chemicals, as well as the raw materials to be used for the manufacture of drugs. There is however no veterinary representative on this Board. No Regulations made under the *Pharmacy and Poisons Act* (1957) nor the *Food, Drugs and Chemical Substances Act* (1965) were seen by the Team, before or during this mission.

During the VLIM the Team was informed that neither the DVS nor the Kenya Veterinary Board are satisfied that the regulatory provisions in the existing legislation regarding the sale and use of veterinary medicines and biologicals are being implemented effectively by the PPB. There was reported to have been some dialogue

between the DVS and the PPB, but it was not clear to the Team whether or not such discussions had resulted in full agreement on the part of the PPB as to whether the DVS should take responsibility for setting any standards or for making Regulations regarding the sale or use of veterinary medicines and vaccines. Nevertheless, Section 39 (2) (a) of the Veterinary Surgeons and Veterinary Para-professionals Act (2011) authorises the Cabinet Secretary (or Minister, by amendment - Act No.18 of 2014) to establish a Veterinary Medicines Directorate (VMD) to “regulate the manufacture, importation, exportation, registration, distribution, prescription and dispensing of veterinary medicines and poisons.” This provision overlaps with the same authority given to the PPB in the PPA (1957) and although now given in law, is likely to be challenged by that authority.

The mission was informed that the Regulations to establish a VMD had been gazetted. Once (and if) approved, the proposed VMD established under the authority provided in the Veterinary Surgeons and Veterinary Para-professionals Act (2011) would be the most obvious institution to set all the standards required for the control of the sale and use of veterinary medicines and to ensure that withdrawal periods are clearly marked on the labelling of medicines for use in food-producing animals and that all animal health service providers are made aware that it is their responsibility to inform the owners of food-producing animals which have been given a treatment with a veterinary medicine that is subject to a withdrawal period that such withdrawal period is respected. Furthermore, the VMD should set the standards for Maximum Residue Levels (MRLs) in animal products, utilising the Codex standards, and make provisions for inspection, sampling and testing of imported or locally manufactured or processed animal products destined for human consumption by the county veterinary authorities, since the responsibility for regulation of animal product processing facilities falls under the county government mandate. A word of caution here, whilst the PPB may not be enforcing the rules related to the distribution of medicines and vaccines, it also has been noted that the DVS was not providing/maintaining sufficient cold chain equipment at former District Veterinary Offices to maintain an adequate cold chain when distributing and using vaccines in the field (PVS Report 2011).

During the mission the Team was informed that the MoH is in the process of reviewing and revising the Public Health Act (1921) with a view to establishing a Food and Drug Administration (FDA), similar in structure to the FDA established in the United States of America. In the case of the US FDA, this has established within it, a “Center for Veterinary Medicine” (CVM). It is recommended that the DVS plays an active role in developing the respective roles and responsibilities of the NVA and CVAs with regard to both food safety of animal products as well as the control of the import, export, manufacture, distribution, sale and use of veterinary medicines and biologicals.

Major gaps in the Animal Health legislation - Disease surveillance

The inclusion of a list of diseases within the definition of “notifiable disease” has been discussed above. It is recommended that the list of notifiable diseases for Kenya should be updated to include all OIE listed diseases which are known to occur in Kenya and should in addition include other diseases which may exist in neighbouring countries and might be transmitted by vectors or be imported through illegal trade or movement of animals across Kenya’s borders. There are currently no further provisions in the legislation which define the procedures required for confirmation of the clinical suspicion of a suspected notifiable disease occurrence other than the requirement for the owner of an animal to collect and submit samples to the laboratory which was also discussed above. It is recommended that provisions are made which define the responsibilities of the county veterinary authorities to conduct an outbreak investigation on all suspected outbreaks of a notifiable disease and to

collect laboratory samples for submission to the nearest regional laboratory for laboratory confirmation of the provisional diagnosis made in the field. There should also be provisions for the establishment of an animal disease information management system linking county animal disease information to the central Epidemiology Department of the DVS, and the requirement to maintain records of all suspected and confirmed cases of notifiable diseases.

Animal Identification, Movement Control and Traceability

Some aspects of animal identification and traceability have been covered in the Branding of Stock Act (1907), but this legislation was primarily established to control stock theft. It is recommended that provisions are made in the proposed new or amended legislation to define the scope of a national animal identification, movement control and traceability system to be established for the purpose of tracing animals and animal products back to the location of production in order to confirm animal disease status and for tracing undesirable residues in animal products on the domestic market as well as for international trade. Additional provisions would be required to define the devices and applicators to be used, the alphanumeric code to be adopted nationwide, the records to be kept and the reporting requirements of owners of identified animals, limitation of access to animal identification information data management systems, and confidentiality of information.

Veterinary Diagnostic Laboratories

There is one Central Veterinary Laboratory (CVL) located at Kabete and a second National Veterinary Quality Control Laboratory at Embakasi. In addition, there are six regional referral laboratories located in Nakuru (for Southern and Central Rift Valley region), Kericho (for Nyanza, Western and South Western Rift Valley regions); Karatina (Central and Eastern regions); Mariakani (Coastal region); Garissa (North Eastern region and parts of Coastal region) and Eldoret (Northern Rift Valley and Northern part of Western region) and a few county laboratories. There are no veterinary laboratories in the regions of northern Kenya (apart from Garissa), where most of the livestock are and where most people depend on them for their livelihood. The veterinary diagnostic laboratory network remains the responsibility of the national government VS, following the changes brought about following the promulgation of a new Constitution in 2010.

According to the OIE PVS follow-up and Gap Analysis reports there is an urgent need for a thorough review of the national veterinary diagnostic laboratory services since much of the laboratory infrastructure is in a poor state of repair and most items of equipment need to be repaired or replaced, especially at the regional laboratories which were visited during the PVS follow-up mission.

It is understood that the provisions which cover the licensing of laboratories which are found in the *Veterinary Surgeons and Veterinary Para-professionals Act* (2011) are largely for the purpose of regulating laboratories which are used to support the clinical services offered at private veterinary practices. Currently there are no provisions in the veterinary legislation for the following important areas of regulation over veterinary diagnostic laboratories which are responsible for the conduct of official tests and analyses:

- to designate the CVL as the national reference laboratory nor any other laboratories as being officially recognised to conduct any official tests or analyses;
- to define the roles, responsibilities and quality assurance requirements for reference laboratories nor to ensure that official tests and analyses are performed according to defined standard operating procedures;

- for the competent authority to recognise certain laboratories as being authorised to conduct analyses for the purpose of quality control – for instance in abattoirs or breeding centres;
- to delegate the responsibility for the conduct of tests and analyses to private veterinary laboratories on behalf of the state veterinary services, when the technology for such test procedures are not available in their own laboratories;
- procedures for authorisation of laboratory reagents that are used to perform official tests and analyses;
- to regulate the quality assurance of manufacturers of laboratory test reagents and test kits used to perform official tests and analyses;
- the surveillance of the marketing of reagents where these can affect the quality of tests and analyses used for official purposes.

It is recommended that a new Part is included within the proposed draft new or amended legislation which authorises the DVS to become the competent authority for ensuring the safety and quality of all veterinary laboratory services, both public and private, with the exception of clinical laboratories used to support private veterinary practice, which can be adequately regulated by the KVB.

The remaining provisions of the ADA (1965, revised edition 2012) are sufficient for the purpose for which they were designed and may be incorporated into draft proposed new legislation, as appropriate. In the future, there will be a need to take into consideration the new relationship that will be developed between the NVA and CVAs in order to ensure that all areas of the veterinary domain are being regulated and enforced in accordance with the Constitution, the Veterinary Policy and the regional and international conventions to which Kenya is a signatory.

The following sections of this report briefly describe the provisions of the remaining Category 1 and selected Category 2 legislation in order to compare these with the OIE standards set out in Chapter 3.4 of the Terrestrial Animal Health Code.

4.1.2 The Meat Control Act (MCA) (1972, revised edition 2012), The Public Health Act (PHA) (1921), and the Food, Drug and Chemical Substances Act (FDCSA) (1965)

There is no statement in any of the existing legislation which states that it is an offence to sell meat which has not been subjected to ante- and post-mortem inspection by a veterinary inspector. However, Section 134 of the *Public Health Act* (1921) makes provisions for *“the taking and examination of samples of milk, dairy produce, meat or other articles of food and the removal or detention, pending examination or inquiry, of animals or articles which are suspected of being diseased or unsound or unwholesome or unfit for human consumption, and the seizure and destruction or treatment, or disposal so as not to endanger health, of any such article which is found to be unwholesome or unsound or diseased or infected or contaminated, and of diseased animals sold or intended or offered or exposed for sale for human consumption; and such rules may empower a medical officer of health, or in the case of meat a veterinary officer, to detain, seize or destroy any diseased, unsound or unwholesome article of food, but shall not confer on any other person any power beyond that of detention of such article for the purpose of examination by a medical officer of health, or in the case of meat a veterinary officer;”*

Section 2 of the MCA (1972), (Interpretation) defines animal as being any animal or bird declared by the Minister by Notice in the Gazette. It is recommended in future that a “food-producing animal” should be defined and this definition should refer to a list of all known species of animals that are currently being produced and

whose products are processed as food for human consumption, and that this list of species of food animals be made in a Schedule, which may, from time to time be amended as necessary, thereby making such list more readily accessible in a single piece of legislation than in a series of separate, gazetted Notices.

Section 3 of the MCA (1972) makes provisions for the Minister (of Agriculture) to make Regulations for the registration and inspection of abattoirs and the inspection of meat. The PHA (1921) makes similar provisions in Section 134 (h) where it is stated that the Minister may, on the advice of the Board, (Central Board of Health) make rules regarding, *“the establishment, locality, supervision, equipment, maintenance and management of slaughterhouses and the disposal of the waste.”* In these instances, whilst there is considerable overlap in the roles and responsibilities of the different Competent Authorities, there is no cross referencing to either of the other Acts, respectively. To complicate matters further, Section 10 of the *Food, Drug and Chemical Substances Act* (FDCSA) (1965) establishes the Public Health (Standards) Board, which is authorised to set standards for the quality and safety of all types of food destined for human consumption. There is no veterinary representation on this Board.

It is recommended that the DVS works closely with the MoH in developing a robust system for licensing and inspection of premises where animal products are processed and at the same time the inspection of slaughter animals and meat and other animal products destined for human consumption. Any proposed new legislation should include provisions for the prohibition of the sale of meat or other animal products unless these have been certified as being fit for human consumption by an authorised veterinary inspector. Additional provisions can be made to ensure that ante- and post-mortem inspections are carried out in accordance with Standard Operating Procedures (SOPs). In future, it is recommended that there should be strong veterinary representation on any Food Standards Board or within the proposed new Food and Drug Administration.

It is implied in the *Meat Control Act* (1972), although not specifically mentioned, that the responsibility for the hygiene of meat that has been inspected and declared as being fit for human consumption, ends with the regulation of the transport used to convey such meat from the primary processing facility to wholesale or retail premises or to other meat processing facilities. However, although not a legally binding document, the Guidelines for the Delivery of Veterinary Services in Kenya (undated) states that CVAs will have responsibility for *“Licensing of premises that sell meat, milk, hides, skins and other products of animal origin.”* There is currently no specific reference to the utilisation of any formal food safety management system, such as HACCP or ISO 17025/2005 accreditation to be employed in any food processing premises.

Sections 134 and 135 of the PHA (1921) make provisions for rules to be made or notices to be issued in the Gazette relating to setting standards for dairy production, the processing, storage and retail sale of milk and in some instances, other dairy products.

There is currently no legislation which includes measures for ensuring the food safety of eggs and honey under the control of any jurisdiction, although it is assumed that the safety and quality of these commodities would fall under the authority of the MoH since these commodities would be classified as “food”.

None of the existing legislation makes provision for placing the responsibility for the recall of food that has been found to be unfit for human consumption on the owner of the premises where the food was prepared or on the distributor of the food.

It is recommended that a Part of the proposed draft new legislation be devoted to making provisions for the NVA to set standards for the quality and safety (production

and processing) of all animal products. Such standards should be made in accordance with OIE and Codex standards. In addition, provisions should be made to ensure that CVAs enforce the standards set by the NVA.

There are no provisions in any of the MCA (1972), the PHA (1921) or the FDCSA (1965) or any requirement for the Ministry of Agriculture, Livestock and Fisheries to cooperate or collaborate with the Ministry of Health with regard to the safety and quality of animal source foods destined for human consumption. It is strongly recommended that formal systems for communication and coordination are established with other competent authorities such as the Ministry of Health and if appropriate, local authorities, at both national and county levels, respectively. It is expected that such mechanisms for coordination and harmonisation of the regulation of food safety of animal products as well as the importation, manufacture, distribution, sale and use of veterinary medicines and biologicals will be made in new legislation which it is expected will establish a Food and Drug Administration. It is therefore recommended that the DVS becomes fully engaged in the process of developing such legislation in order to ensure that the full range of “veterinary” responsibilities for ensuring the safety and quality of animal products destined for human consumption and for other purposes, as recommended in Chapter 6 of the TAHC are given to the NVA and CVAs, respectively.

Rabies Control Act (1932), the Prevention of Cruelty to Animal Act (PCAA) (1972), Nairobi City Council Dog Control and Welfare Bill (2015) Draft Animal Protection Bill.

The Rabies Control Act makes provisions for the control of stray dogs and cats and to control outbreaks of rabies. Section 7A confers authority on the Director to lay poisoned bait for the purpose of killing stray dogs and cats and other species of animals. However, Section 3 (1) (g) of the PCAA (1972) defines cruelty to an animal as “*wilfully, without reasonable cause or excuse, administers any poisonous or injurious drug or substance to an animal or causes any such substance to be taken by an animal.*” Thus these provisions are in contradiction of one another. The practice of using poisoned bait as a means of dog population control is no longer considered as being a humane means of destruction of dogs and cats or any species of animal and is strongly discouraged.

The PCAA provides the Minister with a wide range of responsibilities, but the Ministry to which the Minister belongs has not been identified in the Act. Furthermore, there is no Competent Authority identified which would be responsible for the enforcement of this Act. Under Section 36 of the Act, the Minister has been authorised “*after consultation with the East African Society for the Prevention of Cruelty to Animals, by notice in the Gazette, to appoint such persons as he thinks fit to be authorized officers for the purposes of this Act*”. There is no guidance here to determine the educational or training standards of “authorised officers”. Although Section 37 of the PCAA authorises the Minister to make Regulations, no such Regulations have been promulgated under this Act. Nevertheless, some welfare standards have been incorporated into the Rules pertaining to the conduct of meat inspections and the *Pig Industry Act* Cap 361, (undated) which establishes a Pig Industry Board which is authorised to set standards for the housing of intensively farmed pigs and the licensing of pig meat processors.

Section 2 of the PCAA (1972) (Interpretation) provides a definition of an experiment - “**experiment**” means any experiment performed on an animal and calculated to give pain, but does not include an operation; It is hoped that no experiment on any animal would be calculated to give pain. The definition of “operation” in the PCAA (1972) is also not well phrased - “**operation**” means an operation performed on an animal by a person legally permitted to operate for the purposes of—

- (a) saving or prolonging the life of an animal; or
- (b) alleviating the suffering of an animal; or
- (c) the practice of good animal husbandry; or
- (d) enhancing the value or the appearance of the animal;

A definition of “surgical operation” would be more useful here and also in relation to the prerogatives of registered veterinary surgeons as opposed to those of VPPs.

The draft Animal Protection Bill (APB) comprehensively covers all aspects of animal welfare as required by the OIE, however the Act itself is unnecessarily complex. The most important issue with regard to the internal quality of this Bill is that the conventional hierarchy of primary and secondary legislation has not been correctly observed.

For instance, Section 7 of the draft APB provides a long list of provisions, covering each separate animal species. It would be more concise to define “working animals” in Section 2 of the Bill and then prescribe by Regulations the standards to be complied with in relation to working animals. Similarly, Sections 9, 10, 12, 13, 14 and 15 are unnecessarily detailed since animal welfare standards pertaining to the housing, handling or management, and transportation of any species of animal would better be prescribed by Regulations in accordance with the OIE standards set out in Chapter 7 of the TAHC.

It is recommended that this Bill is reviewed and much of its current content be placed in accompanying Regulations. The Act itself should make provisions for the Animal Welfare Advisory Board to set animal welfare standards. The Board itself should be composed of at least some members who have undergone specialised training in animal welfare. Provisions should also be included to ensure that animal welfare inspectors have been provided with a standard training package.

The species specific conditions pertaining to management (space allocation) transport (space allocation, duration of journey, stopping points etc.) stunning or other methods of pre-slaughter treatment of slaughter animals can all be defined using the OIE standards, in such Regulations. Throughout this draft Bill there are several instances where subjective adjectives have been used, such as “comfortable accommodation” Such use of language should be avoided in order to ensure legal certainty of the texts.

Many of the provisions of the *Rabies Act* (1932) could readily be incorporated into proposed new legislation covering animal health, under the section dealing with the prevention and control of notifiable animal diseases. Rabies may be considered to be a disease of national importance, in which case it could be considered to be included in the proposed list of “specified diseases”, for which the NVA accepts full responsibility for its prevention and control (see section of this report dealing with s.2 of the ADA (1965, revised edition 2012).

Branding of Stock Act – (1907, revised 2012)

The *Branding of Stock Act* (1907, revised 2012), makes provisions for the identification of stock using brands that identify animals down to the District level. Some small amendments have been made to this Act in order to include the possibility of supporting other means of identification, however, the existing provisions are not fully in conformity with OIE standards that are set out in Chapters 4.1 and 4.2 of the TAHC. It is recommended that a section dealing with animal identification, movement control and traceability is included in proposed new draft legislation. Such a section should make provisions to describe the scope of an official animal identification system, official approval of identification devices and device applicators, the alphanumeric numbering system to be used, the authorised persons and

authorised access to animal identification information management systems, records to be kept by the owners of officially identified animals, including a definition of “movements”, and most importantly, the confidentiality of animal identification information, all of which may be prescribed by Regulations.

The Cattle Cleansing Act (1937, revised edition 2013)

The *Cattle Cleansing Act* (1937) is largely outdated, being developed for the designation of cattle cleansing areas and the control of ticks and East Coast Fever. Since the control of both ticks and tick-borne disease is now considered as a private good, the role of the NVA and CVAs is to monitor the efficacy of chemicals used for tick control and to regulate their use. The provisions of this Act have largely been superseded by the ADA (1965, revised edition 2012) and to some extent by the Pest Control Products Act (1983). Provisions for the regulation of chemicals used as insecticides on cattle (and other species of animals) are useful but may, in future be provided under the Part of the proposed draft legislation that makes provisions to authorise the Minister to make Regulations for the control of medicines and vaccines including all types of chemicals including disinfectants or insecticides for the control of animal disease agents or vectors of animal disease.

Fertiliser and Animal Foodstuffs Act (FAFA) (1962)

The regulation of Fertilisers and Animal Foodstuffs is provided for in the FAFA (1962), however, it was noted during the mission, that it was considered inappropriate for the Director of Veterinary Services to be responsible for the regulation of fertilisers. The FAFA has provisions for the control of the importation, manufacture, storage, distribution and sale of animal feedstuffs. Authority is provided for the seizure and destruction of infected or contaminated foodstuffs. However, some of the provisions rely on the development of Regulations, for instance under Section 4 (91) (b) related to a prohibition on the importation of bones, an exemption is provided whereby a person may apply for authorisation subject to producing a certificate “certifying that such bone or substance has been effectively and completely sterilized in such manner as may be prescribed.” The Team has not been apprised of any Regulations made to this effect. Although this Act is very comprehensive in that it makes provision for the Minister to make rules, it is not known to what extent such rules have been made or how they are enforced. As with other legislation covering manufacture or processing of animal products, there are no provisions in the FAFA (1962) which place the responsibility for the recall of a product that is found unfit for animal consumption on the manufacturer or distributor.

The regulation of the safety and quality of animal by-products is not well covered in any of the existing legislation. Specific animal by-products are covered separately in different pieces of legislation. For instance, as mentioned above, the importation of bones and other substances derived from an animal carcass for the purpose of manufacturing animal foodstuffs are covered under the FAFA (1962). The safety and quality of animal hides and skins is covered under the Hides, Skins and Leather Trades Act (1987). There is no provision in any of the existing legislation for the recall of contaminated or infected animal feedstuffs. It is recommended that a definition of “animal by-products” is made in any proposed new draft legislation and that authority to set standards covering all aspects of regulatory control over import and export, processing premises, the safety and quality of animal by-products as well as animal feedstuffs, and the safe disposal of waste by-product materials are given to the NVA. Such standards should then be placed in regulations for enforcement by CVAs.

Veterinary Surgeons and Veterinary Para-professionals Act (2011) and Regulations (2013)

The *Veterinary Surgeons and Veterinary Para-Professionals Act* (VS&VPPA) (2011) establishes a Veterinary Statutory Body (VSB), the Kenya Veterinary Board (KVB), to

regulate veterinary surgeons and veterinary para-professionals (VPPs), veterinary practice facilities and the education and training standards to be met by all veterinary training institutes in Kenya. According to the new Constitution the regulation of professionals and para-professionals shall be retained by national government.

Although there is no provision for the extension of the KVB activities beyond its Nairobi headquarters, the KVB have inspectors in 8 Regional offices. Concerns were raised during meetings with the Board with regard to VPPs many of whom are engaged in private veterinary practice but who do not adhere to the conditions of registration as defined in the Second Schedule of the Act. Since the KVB is a national institution with a wide mandate it is recommended that the number of its inspectors be increased in order to meet the increasing workload, especially if the regulation of the sale and use of veterinary medicines and vaccines becomes part of its mandate once full agreement has been reached with the Pharmacy and Poisons Board and such authority is provided for in the proposed draft Act to establish a Food and Drug Authority.

It is recommended that provisions are made in an amendment to the VS&VPPA (2011) which describes the general system of control of the veterinary professions and veterinary para-professions in terms of the political, administrative and geographic configuration of the country. It is important that there is an effective regulatory system in place which ensures that the standards set by the NVA and KVB to ensure the quality of public and private veterinary services, respectively, are applied throughout all of Kenya's territory.

Under Section 14 a definition of "practice" clearly defines the prerogatives of a registered veterinary surgeon. A minor improvement to this definition would be a supplementary definition of the exact meaning of "surgical operation", since this would help to create greater legal certainty in cases where veterinary para-professionals may go beyond the limits of the defined veterinary acts which they are authorised to perform.

In the case of VPPs, the range of interventions which may be performed by a practicing VPP are defined in the Second Schedule to the Act. However, although it is stated in Section B (7) Second Schedule - "*Under the responsibility or direction of a veterinary surgeon*", the word "direction" as used in this instance, has not been defined. There is a definition (Section 2 VS&VPPA *Regulations* (2013) of "direction" but this definition is applied specifically to the level of supervision to be provided by a supervisor of an "intern" undergoing an internship. It is recommended that definitions of the words "direct supervision", meaning in the physical presence of the supervisor and "indirect supervision" meaning supervision of a procedure in the absence of, but under the advice and direction of, the supervising registered veterinary surgeon, be included in Section 2 of the Act. Although a Form 7 - *Licence to practice under a Veterinary Surgeon by a Veterinary Paraprofessional* is appended to the VS & VPPA (2011), there is no provision in the Act which obliges a VPP to enter into such an agreement with a registered veterinary surgeon. The only place in any of the current legislation where the requirement for supervision of VPPs by a registered veterinary surgeon is found in the code of ethics, which has its legal basis in Section 6 (2)(f) of the VS & VPPA (2011).

It is recommended that Section 26 – *Annual Licence* - of the VS & VPPA (2011) is amended to include a provision for the licensing of VPPs to practice only when such licensed VPP is working under the direct or indirect supervision of a named registered veterinary surgeon and upon submission of a completed Form 7, (in addition to payment of annual retention fees and any other specified conditions (e.g. CPD). Consideration may be given to developing a statutory contractual agreement between a practising VPP and a registered veterinary surgeon which explicitly defines the

supervisory responsibilities of the supervisor and, at the same time the obligations of the supervised person.

Sections 15 and 16 of the VS & VPPA (2011) provide the requirements for registration of veterinary surgeons. Section 15 (1) (b) stipulates that an applicant should hold a degree in veterinary medicine from a university “*recognised in Kenya*”. For the sake of transparency, it is recommended that a provision is made for the Board to prescribe by regulation the Veterinary Degrees of other countries which it accepts as being a sufficient qualification for registration without having to undergo an examination set by the Board. It is also considered unusual for there to be a statutory requirement for a veterinary surgeon to be a member of the KVA (S.15 (1) (c), which is a voluntary organisation representing the interests of the veterinary profession. There is no provision in the Act for the temporary registration of veterinary students. Since it is accepted that veterinary students would normally perform surgical operations during their undergraduate training, it is recommended that provisions are made for their temporary registration in order to ensure that any such surgical operations are carried out under the direct supervision of a registered veterinary surgeon. In this case, the Act may be amended to include a provision for the temporary registration of veterinary students who are enrolled on a full time course leading to a degree in veterinary medicine and surgery.

The requirements for registration of different categories of VPP are provided for in Section 17 of the VS&VPPA (2011) and *Regulations* (2013). In these sections, two categories of VPP have been recognised in the *Regulations* (2013), “Veterinary Technologist” and “Veterinary Technician”. In the case of the former, the requirement for registration is a two year diploma or a three year degree in animal health, whilst for the latter it is an academic certificate in an animal health course of at least two years study, or, in accordance with Section 17 (1) (b) (ii), a course of not less than one year in animal health, prescribed by the Board. In spite of these differences in registration requirements for each category of VPP the range of interventions which may be performed by any VPP as defined in the Second Schedule of the VS & VPPA (2011) is the same. It is recommended that the range of interventions allowed to be performed by any cadre of VPP is tailored to the knowledge and skills acquired through the specific course of training successfully completed.

There are two errors in the Forms in the Fourth Schedule to the VS & VPPA (2011). Firstly, Form 3 - *Application for Registration as a Veterinary Paraprofessional* states “ [] hereby make an application for registration as a Veterinary Surgeon...” - This should be amended to Veterinary Paraprofessional. Secondly, the reference in the enclosures required to be submitted together with an application for registration, states: 2)[] “*oath as required by section 16(3) of the VS& VPPA* – should read section 17(4) of the VS & VPPA.

There is as yet no category of Community-based Animal Health Worker, recognised by the Board, although the draft Veterinary Policy (2015), with the objective of “*ensuring effective and efficient performance of veterinary practice*” states that the National Government will: “*Provide minimum qualifications for Community-based Animal Health Workers to attain, at least, a certificate qualification in animal health from an institution recognized by the veterinary statutory body*”. Thus, according to national policy CAHWs shall be recognised but will be required to obtain the same minimum level of education (and one year of internship under the supervision of a registered veterinary surgeon) as that required for registration as a Veterinary Technician, as prescribed in Section 17 (1) (b) (ii) of the VS&VPPA (2011). In view of the unique characteristics of the ASALs where more than 60% of the national herds of cattle, sheep and goats and almost 100% of the camel herd are found and where access to secondary education, let alone certificate level courses in animal health for

pastoralist community members is very limited, it is recommended that the KVB and the DVS jointly undertake a manpower needs assessment for animal health service delivery in the ASALs taking into consideration human and animal population distribution and education and training opportunities for potential CAHW candidates into consideration. Depending on the outcome of such a study consideration may then be given to amending the registration requirements for CAHWs in order that the majority of livestock keepers in the ASALs are able to gain access to an affordable and useful level of primary animal health care service provider. The current requirements for registration of Veterinary Technician would seem to be over restrictive given the opportunities that currently exist and which are unlikely to change to any great extent for the foreseeable future, in much of the territory which is classified as ASAL.

Although Section 45 (2) (p) of the VS&VPPA (2011) gives the Cabinet Secretary authority to make regulations for “*anything required by this Act to be prescribed*”, there is no specific legal basis for the imposition of the requirement to meet minimum continuous professional development (CPD) requirements as provided for in Section 17 of the VS&VPP Regulations (2013). In order to ensure the technical independence and the autonomy of the KVB it is recommended that the Cabinet Secretary should only be authorised to make Regulations on the advice of the Board. Furthermore, it is also recommended that an additional provision which specifies authority to make regulations concerning the requirements for CPD to be made in Section 45 of the Act, as a condition of retention on one or other of the respective registers.

Finally, the inclusion of Section 39 in the law to establish the Veterinary Statutory Body seems misplaced. It is considered unusual to provide a mandate for the management of the entire animal resource industry to a VSB, which is normally only delegated to regulate the veterinary professions and veterinary para-professions as well as veterinary education and training. The establishment of the institutions included in paragraph (2) of this Section would not normally be under the mandate of the VSB.

In the case of the establishment of a Veterinary Medicines Directorate, it is recommended that before the DVS attempts to push through their proposed draft Regulation to establish this institution, further dialogue with the Pharmacy and Poisons Board is required, especially in consideration of the fact that the MoH is in the process of developing legislation to create a Food and Drugs Administration. It was unclear from our discussions during the mission as to whether the proposed VMD would become a wing of the KVB or of the DVS. The procedures for the regulation of the importation, manufacture and registration of veterinary medicines are complex and would go beyond the technical capability of a VSB per se, unless the VSB is provided with an additional staff and funding and access to laboratories. The VSB can and should, however have a role to play in the regulation of the sale and use of veterinary medicines since this area of regulation is intimately connected with the practice of veterinary medicine and surgery.

The inspectorate referred to in Section 39 (2) (b) would include the regulation of the importation, manufacture, distribution, sale and use of animal feeds, animal genetic material, medicines and vaccines and animal products. The mandate for these areas of regulatory control would normally be the responsibility of the Veterinary Authority.

It is recommended that consideration be given to reviewing Section 39 of the VS & VPPA (2011) and to transfer much of this section to the proposed draft animal health legislation.

5. Overall conclusions and recommendations

During this mission the VLIM Team has found that there is an experienced team of senior officers in the DVS and amongst other stakeholder groups including particularly the KVB and the KVA and some NGOs with an interest in animal production and animal welfare who are capable to take forward the process of review and reform of the veterinary legislation. The Ministry of Agriculture, Livestock and Fisheries has at least one permanent legal counsel and the DVS has access to this person although the team was informed that the person was not well grounded in legislative drafting. However, during this mission the legal counsel of the MALF, although invited, was not able to attend any of our meetings due to a heavy workload. In view of the considerable amount of legislative drafting which is now required to be undertaken by the DVS it is recommended that a legal counsel with skills in legislative drafting is required to assist the DVS for a period of up to two years in order to assist with the preparation of new or amendment of existing legislation.

The more recently promulgated Acts and Regulations covering the veterinary domain have been well drafted although there are some shortcomings with respect to the use of subjective language, poorly formulated definitions or a lack of definitions for important words used in the legal texts. In some cases, especially the draft Animal Welfare Bill, the hierarchy of the law has not been well respected. It is recommended to ensure that in all cases, the Act is used, *inter alia*, to establish institutions with the authority to enforce the provisions of the Act (a Competent Authority), to establish a chain of command, to confer powers to set standards through Regulations and to define areas of prohibition which compromise rights of privacy, title to property or the rights to engage in practices which in one way or another may present a risk to human or animal health or life or the environment. Regulations are used to define how the law is enforced and to provide specific standards, for safety and quality, for instance, which may from time to time be changed as technology or other circumstances change.

There is some degree of overlap in the existing legislation with regard to the defined roles and responsibilities of the established competent authorities for the regulation of food safety of animal products, the sale and use of veterinary medicines and biologicals, the import and export of animals, animal products and other commodities and the regulation of animal welfare and stray animals.

The most important gaps identified by the Team in existing Kenya law relative to the OIE standards found in Chapter 3.4, Veterinary Legislation, of the TAHC are as follows:

1. the requirements for conducting an outbreak investigation by a state veterinary officer to confirm the clinical suspicion of a case or outbreak of a notifiable disease;
2. the requirements for establishing and maintaining an animal disease information management system to record and communicate all suspected or confirmed cases of notifiable disease;
3. the development of contingency plans for the prevention and control of exotic or emerging diseases and the administrative and logistical organisation of such plans;
4. the circumstances (animal disease or veterinary public health emergencies) under which the Competent Authority may exercise “exceptional powers”;
5. access to emergency funding for the purpose of controlling outbreaks of animal disease or for dealing with public health emergencies;
6. the designation, roles, responsibilities, obligations and quality requirements for national or other reference laboratories for the conduct of official tests and analyses;

7. the authorisation of public or private veterinary diagnostic laboratories to perform official tests and analyses or to conduct tests for the purpose of quality control;
8. the accreditation and approval of procedures for conducting official tests or analyses;
9. the authorisation of reagents used to perform official tests and analyses;
10. the control of quality assurance of manufacturers of reagents used to perform official tests and analyses;
11. the surveillance of marketing of (official) test reagents;
12. provisions describing the scope of an official animal identification system;
13. the approved devices and applicators for use in an official national animal identification system;
14. the alphanumeric numbering system which shall be adopted for the identification of all animals being identified for the purposes of movement control and traceability;
15. limitation of access to animal identification, movement control data managements systems and the confidentiality of animal identification information and confidentiality of information;
16. the precise roles and responsibilities of each of the Competent Authorities responsible for the safety and quality of animal products, from farm to fork;
17. the recall of animal products destined for human consumption and animal foodstuffs;
18. the correct definition of “animal”, “cruelty”, “humane killing” in relation to animal welfare regulation;
19. the provision of authority to make regulations for setting standards of transportation, management, handling and nutrition of animals, the humane slaughter of (slaughter) animals and the humane destruction of animals for other reasons, the control of stray animals;
20. the definition of what is a “veterinary medicine” or “biological substance” in legislation related to the control of veterinary medicines and biologicals;
21. the control of quality of raw materials used to manufacture veterinary medicines or biologicals;
22. the qualifications of people conducting clinical trials on veterinary medicines or biologicals;
23. the establishment / labelling of withdrawal periods of veterinary medicines at the time of dispensing, and for setting the maximum residue levels (MRL) of veterinary medicines or other contaminants which may be detected in animal products destined for human or animal consumption or other commercial uses;
24. The requirement that food producers, processors and sellers have primary responsibility for the safety and quality of food of animal origin destined for human consumption as well as for other purposes;
25. the use of risk-based management procedures at food processing premises handling products of animal origin destined for human consumption;
26. import and export - reference to compliance with WTO and other international standards for international trade of animals, animal products and other commodities which may present a risk to human or animal health or life or the

environment.

The changes brought about by the new Constitution in Kenya have resulted in an urgent need to prepare new legislation to replace the *Animal Disease Act* (1965, revised Edition 2012), which is largely outdated and does not conform with OIE or other international standards. As a consequence, many of the provisions given in several other Acts, that have been made over the years to cover other areas of the veterinary domain and which are also largely outdated, could now also be incorporated into the same proposed new legislation. These include, amongst others, the *Rabies Act* (1932), the *Branding of Stock Act* (1907), the *Cattle Cleansing Act* (1929), the *Stock and Produce Theft Act* (1933), the *Fertiliser and Animal Feedstuffs Act* (1962). The *Meat Control Act* (1972), and to a great extent, the *Prevention of Cruelty to Animals Act* (1962).

It is recommended that the DVS shall develop a new Animal Health Bill or to amend the existing *Animal Disease Act* (1965, revised edition 2012), in which the DVS is established as the Competent Authority for setting standards specifically in the area of animal health and thereafter establishes a chain of command and formal systems of communication between national and county governments for areas of activity specifically related to animal health. Other Bills should then be developed or existing Acts amended to define the roles of the DVS, and as necessary other Competent Authorities in areas such as, import and export of animals, animal products and other commodities, food safety of animal products, the sale and use of veterinary medicines and animal welfare.

The specific areas of the veterinary domain which should be covered by the proposed new legislation and Regulations would include following:

- **Animal health:**
 - disease surveillance - disease reporting and notification, outbreak investigation, the confirmation of clinical suspicion of suspected outbreaks of notifiable disease;
 - disease prevention, control and eradication, especially TADS and other diseases of national importance;
 - contingency plans and access to emergency funding;
 - powers of entry, power to inspect animals and animal products and to collect samples, to have access to relevant documents, to seize, destroy and dispose of infected or contaminated animals, animal products and other commodities and the powers to suspend or terminate the activities of inspected premises;
 - animal identification, movement control and traceability, including the scope of the animal identification system, the respective roles and responsibilities of the national and county veterinary authorities and owners of identified animals, approved identification devices and applicators, the alphanumeric code to be adopted in Kenya, animal identification information management system, limitation of access to animal identification data management system, confidentiality of animal identification information movement control and traceability;
 - animal gatherings including animal markets: licensing and inspections.
- **Veterinary diagnostic laboratories and laboratory reagents:**
 - designation and roles and responsibilities for quality assurance of national reference laboratories;
 - classification and supervision of different categories of veterinary diagnostic laboratories, including laboratories which undertake in-house quality control testing, e.g. at abattoirs;
 - authorisation of official tests and analyses (according to standards set in the

-
- OIE Terrestrial Manual for Diagnostic Tests and Vaccines and Codex Alimentarius);
- accreditation of veterinary diagnostic laboratories (ISO 17025/2005 and regional / international accreditation systems);
 - standards to ensure biosafety and biosecurity;
 - authorisation and delegation of authority to undertake official tests and analyses by private veterinary laboratories on behalf of the state veterinary services;
 - authorisation of reagents to be used for official tests and analyses;
 - quality assurance of manufacturers of laboratory reagents;
 - surveillance of marketing of laboratory reagents used for official tests and analyses.
- **Animal production:**
 - safety and quality of animal genetics (semen, ova and embryos);
 - sanitary requirements, licensing and inspection of animal breeding centres;
 - authorisation of animal feed manufacturers;
 - safety and quality of animal feeds;
 - recall of infected or contaminated animal feeds.
 - **Food safety of animal products** – following discussions with the MoH in relation to their preparation of a draft Food and Drugs Administration Bill, provisions to include:
 - Prohibition of the sale of animal products unless these have been inspected and certified as being fit for human consumption or other commercial purposes by an authorised veterinary inspector;
 - the precise roles and responsibilities of the Veterinary Authorities (national and county government) for the regulation of the safety and quality of animal products (for human and animal consumption as well as other commercial purposes) from “farm to fork”;
 - setting sanitary standards for construction and management of food processing establishments for all types of animal products;
 - setting standards for ante- and post-mortem inspection at slaughter facilities and standards for the inspection of meat and other animal products destined for human consumption or other commercial purposes;
 - providing accurate definitions of primary, unprocessed animal products and animal by-products and the procedures for ensuring their safety and quality;
 - placing the primary responsibility for safety and quality of animal products placed on the market on the owner of a food processing premises;
 - provisions for the recall of animal products destined for human or animal consumption.
 - **Import and Export of animals, animal products and other commodities::**
 - definitions of animal products, and other commodities which may present a risk to human or animal health or life and the environment;
 - the prohibition of import or export of animals, animal products or other commodities unless subject to issuance of a permit (for import) and an

- international veterinary certificate (for export);
- defining the procedures before and during import at Border Inspection Posts (BIP);
 - designation of ports of entry or export for defined commodities;
 - defining standards for sanitary measures to be applied on imported animals, animal products or other commodities based on OIE standards or on scientific justification, developed through a risk analysis in accordance with the relevant international standards;
 - equivalence of standards of an exporting country which result in a similar level of protection to that required by the importing country;
 - regional standards being set by local and international standard setting bodies, especially regional trade organisations such as the EAC and COMESA.
- **Veterinary medicines and biologicals** – following discussions with MoH/Pharmacy and Poisons Board (PPB) related to the review of the Pharmacy and Poisons Act Cap 244 and subsequent preparation of a draft Food and Drug Authority Bill and the current initiatives to operationalize the Veterinary Medicines Directorate (VMD), it is necessary to:
 - protect the gains made in the establishment of the VMD by engaging constructively with the PPB to ensure that veterinary medicines are appropriately regulated
 - establish maximum residue levels (MRLs) and sampling and testing for residues in animal products;
 - set conditions related to supervision and direction of VPPs authorised to use prescription only medicines.
 - **Animal Welfare**, following further discussions with animal welfare NGOs and county veterinary authorities -
 - the principles of animal well-being, a good definition of what is meant by cruelty;
 - definitions of “humane slaughter”, “slaughter animals”, “humane destruction” and for other purposes such as “journey”, “resting points”, “space allocation” etc., in the case of transportation of animals, “working animals”;
 - prohibition to cause cruelty or to compromise animal well-being;
 - provisions to establish an animal welfare Competent Authority and inspectorate;
 - funding mechanisms for humane control of stray animals and other animal welfare control activities such as creation of public awareness;
 - authority for Competent Authority to set animal welfare standards for:
 - management of animals and animal nutrition;
 - transportation of animals;
 - humane slaughter of slaughter animals;
 - working conditions for working animals;
 - standards for animals used in sport, exhibition or for experimentation;
 - powers to enforce Act and Regulations by the competent authorities.

For each of the above areas of the veterinary domain there would then be the requirement for separate Regulations which set the standards and define precisely how the Act(s) shall be implemented and enforced.

The national coverage of Veterinary Services and the regulation of the practice of veterinary medicine and surgery by registered veterinary surgeons and veterinary para-professionals

The Veterinary Surgeons and Veterinary Para-professionals Act (2011) and Regulations (2013) are well prepared and are almost fully compliant with OIE standards. Small improvements can be made as recommended in the detailed discussion found in Section 4.1.7 of this report.

The major concern of the Team and the OIE experts who had previously conducted the PVS evaluations and Gap Analysis relates to the spatial distribution of Veterinary Services in the ASALs. It has been stated in several policy documents, “Vision 2030”, and the draft national Veterinary Policy, in particular, that an expansion of access to international markets is a high priority of the Kenyan government with respect to the livestock industry. The ASALs are home to more than 60% of the livestock herds of cattle sheep and goats and almost 100% of the camel herd, and yet livestock producers living in these areas have very limited access to any meaningful animal health services, apart from some routine vaccination programmes, with limited coverage, as and when funding is available. Although it has been stated that “disease free zones” with respect to diseases which compromise international trade (FMD, CBPP, CCPP, PPR and RVF, in particular) are to be established, these alone will not completely satisfy international standards for trade purposes. There is a need to establish animal health services in these regions which comprehensively cover the routine treatment of animals as well as essential disease prevention and control programmes and most importantly, an animal disease surveillance system which will allow the Veterinary Authorities to be in a position to accurately report real time animal health status throughout the entire territory of Kenya.

In consideration of the current difficulties imposed by poor levels of education, socio-economic and geo-physical characteristics, including the diverse tribal and clan relationships, the low densities of human and animal populations and lack of access to formal tertiary level animal health training for community members in the ASALs, it is recommended that the DVS joins forces with the multitude of stakeholders, including livestock keepers, private veterinarians and veterinary para-professionals with an interest in developing and improving livestock production in the ASALs and undertake a comprehensive manpower needs assessment for animal health service delivery. Based on the outcomes of such a needs assessment, the KVB could clearly identify and categorize all the levels of veterinary para-professionals required within the country along with their range of qualifications and responsibilities.

Whilst it is acknowledged that there have been enormous challenges in the past with regard to the regulation of VPPs in Kenya, dating from the time when government withdrew from the provision of routine clinical veterinary services, it is suggested that such regulation may be improved through the creation of a contractual relationship between a supervising veterinarian and (a group of) supervised VPPs. Such a contract would define the respective roles and responsibilities of the supervisor and the supervised persons. Definitions of “direct” and “indirect” supervision and the range of interventions which may be performed by each separate category of VPP, depending on his or her knowledge and skills, as determined by the training standards, can be defined in Terms of Reference which would become an integral component of such a veterinary practice contract. In this way most of the important concerns of the veterinary profession with regard to professionalism and the potential misuse of prescription only medicines can be effectively mitigated.

Kenya has the most recent and progressive constitution. It provides for a veterinary policy that forms a strong basis for the review of veterinary laws. Consequently, and in keeping with the progressive attributes of the Constitution, the review of veterinary laws has a great potential to generate an excellent roadmap for good veterinary practices in the region.

6. Evaluation of capacity to undertake future work on legislation

During the conduct of this mission the VLIM Team was impressed with the extensive knowledge and capacity of the members of the DVS and other stakeholders who have played an active role in reviewing and developing new veterinary legislation. Furthermore, the Team was left in no doubt as to the high level of motivation and commitment on the part of this team for bringing Kenya's legislation into line with OIE and other international standards.

The Team was impressed with the interest and commitment shown by the Principal Secretary for Livestock and were assured that the necessary resources would be made available for the Policy and Regulatory Department to continue their work in developing appropriate new veterinary legislation. The Policy and Regulatory Department of the DVS has access to an experienced lawyer who is seconded to the Ministry of Agriculture, Livestock and Fisheries and has established a good working relationship with the Office of the Attorney General.

The promulgation of a new Constitution, which has an important bearing on the respective roles and responsibilities of national and county governments presents an enormous challenge, but at the same time offers a golden opportunity to address the need for veterinary legislation reform via one of the various approaches proposed in this report.

The document entitled "Guidelines for the Delivery of Veterinary Services in Kenya" (undated) already demonstrates that the senior officers responsible for formulation of Policy and legislation have a good understanding of the standards set in the OIE Terrestrial Animal Health Code, the SPS Agreement of the World Trade Organisation and the Codex Alimentarius. The team of senior managers also demonstrated that they have grasped the implications of the Constitutional changes as they affect the devolution of authority and powers from central government to county veterinary authorities.

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Appendix 1 Correspondence between the OIE and the country

REPUBLIC OF KENYA

**MINISTRY OF AGRICULTURE, LIVESTOCK &
FISHERIES STATE DEPARTMENT OF
LIVESTOCK****Office of the Director of Veterinary Services**

Telephone: 020 — 8043441

VETERINARY RESEARCH LABORATORIES

E-mail: veterinarvdepfn2@gmail.com PRIVATE BAG, 00625 KANGEMI NAIROBI

When replying, please quote:

REF: NO. OIE/I/VOL.XXIII/109

All correspondences should be addressed to:

The Director Of Veterinary Services

Date: 22nd October 2014

Dear Director General,

RE: REVIEW OF VETERINARY LEGISLATION IN KENYA

Since Kenya received a mission for the Evaluation of the Performance of Veterinary Services (OIE-PVS Evaluation) in April 2007 and the Final 0113 — PVS report was finalized, I am writing to request further assistance from the OIE in sending an OIE Mission to Kenya to review the current status of Veterinary Legislation and advise on the necessary updating and modification to bring the legislation into closer alignment with OIE recommendations as found in the OIE Terrestrial Animal Health Code,

I look forward to receiving your reply to this request and I will be pleased to provide any information you may need to facilitate the conduct of the OIE Mission (s). Please be advised that the focal point for the Veterinary Legislation mission is Dr. Charles Ochodo, Deputy Director of Veterinary Services in charge of Policy. His contact details are email address: ochodoc@yahoo.com; telephone number: +254722439224.

Kind regards,

Yours sincerely,
Yours sincerely,

A handwritten signature in black ink, appearing to read 'Kisa J. Z. Juma Ngeiywa'.

Dr. Kisa J. Z. Juma Ngeiywa,

OGW Ag. Director of Veterinary
Services



Organisation
Mondiale
de la Santé
Animale

World
Organisation
for Animal
Health

Organización
Mundial
de Sanidad
Animal

The Director General

Our Ref.: 15.306 FC/DS

30 June 2015

Dr Kisa Juma Ngaiya
Acting Director
Veterinary Services
State Department of Livestock
Ministry of Agriculture, Livestock and Fisheries
PO Private Bag Kabete
Kangemi Post Code 00625
Nairobi
KENYA

OIE Veterinary Legislation Identification Mission

Dear Delegate,

I refer to your letter dated 22 October 2014 (Reference No. OIE/1/VOL. XXIII/109) in which you requested the OIE to conduct a Veterinary Legislation Identification Mission. I am pleased to propose a team of technical experts certified by the OIE, comprising Dr John Woodford as Team Leader, Dr Raymond Briscoe as Technical Expert and Mr. Graham Hamley as Legal Expert. The proposed dates for the mission would be 16-20 November 2015.

The aim of this mission will be to i) evaluate your veterinary legislation and its compliance with Chapter 3.4 on Veterinary Legislation of the OIE Terrestrial Animal Health Code; ii) support the preparation of your national priorities in terms of veterinary legislation; iii) identify the available human resources; and iv) propose a comprehensive plan to modernise your veterinary legislation.

For further information on the Veterinary Legislation Support Programme (VLSP), I recommend that you consult the OIE website <http://www.oie.int/en/support-to-oie-members/veterinary-legislation/> which also includes a link to Chapter 3.4.

International travel costs, per diem allowances (to cover hotel and other accommodation costs and meals) and remuneration of the OIE experts that will participate in this mission will be covered by the OIE. It is expected that your government will take care of any expenses related to local travels, logistical support to the experts, the cost of the participation of the local team from your services, and any other expenses deemed appropriate to support the mission.

I would appreciate if you could confirm your official acceptance of the proposed experts and dates for the mission. Additionally, please designate a contact person who will collaborate with Dr Woodford to organise the mission and to provide him, beforehand, with the requested documents to ensure the appropriate preparation of the evaluation and to guarantee the quality of the results.

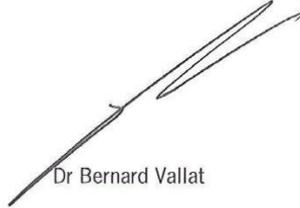
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12, rue de Prony • 75017 Paris, France • tel. +33 (0)1 44 16 18 68 • fax +33 (0)1 42 67 05 87 • www.oie.int • oie@oie.int

Should this proposal be acceptable, we would ask you to please provide a personalised invitation letter to the experts based on the information about them that will be provided to you by the Team Leader. This is intended to facilitate the visa issuing process and other procedures.

Yours sincerely,



Dr Bernard Vallat

- CC:
- Dr M. Eloit, Deputy Director General;
 - Dr A. Dehove, Coordinator of the World Animal Health and Welfare Fund;
 - Dr F. Caya, Head of the Regional Activities Dept;
 - Dr M. Gonzalez, Deputy Head, Regional Activities Dept;
 - Dr D. Chaisemartin, Head of the Administrative, Logistic & Publication Dept;
 - Dr D. Sherman, Coordinator for the Veterinary Legislation Programme;
 - Dr Y. Samaké, OIE Regional Representative for Africa;
 - Dr W. Masiga, OIE Sub-Regional Representative for Eastern Africa and the Horn of Africa



REPUBLIC OF KENYA

MINISTRY OF AGRICULTURE, LIVESTOCK & FISHERIES
STATE DEPARTMENT OF LIVESTOCK
Office of the Director of Veterinary Services

Telephone: 020 – 8043441
E-mail: infodvs@go.ke

Veterinary Research laboratories
Private Bag, Kangemi 00625
Nairobi

When replying, please quote:
Ref: OIE/1VOL.XXIII/148
All correspondences should be addressed to:
The Director of Veterinary Service

Date: 16th September , 2015

Director General
World Organization for Animal Health (OIE)
12,rue de Prony
75017 PARIS, FRANCE

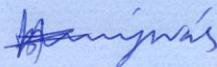
OIE Veterinary Legislation Identification Mission

I refer to your letter dated 30th June, 2015, referenced 15.306 FC/DS.

I am pleased to confirm I have no objection to the proposed experts and 16th to 20th November 2015 as the dates for the mission.

Dr. Cathryn Wanjohi is designated as the contact person who will collaborate with Dr. Woodford to organise the mission. She will provide any documents required before the start of the mission. The Kenyan government will facilitate local travels and provide logistical support to the experts.

I appreciate this support and look forward to a successful mission locally.



Dr. Kisa J. Z. Juma Ngeiywa, OGW
Director of Veterinary Services

The Director of Veterinary Service

Date: 16th September , 2015

Director General
World Organization for Animal Health
(OIE) 12,rue de Prony
75017 PARIS, FRANCE

OIE Veterinary Legislation Identification Mission

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Dr. Kisa J. Z.Juma Ngeiywa,
OGW Director of Veterinary
Services

REPUBLIC OF KENYA

MINISTRY OF AGRICULTURE, LIVESTOCK AND FISHERIES
STATE DEPARTMENT OF LIVESTOCK

E-mail: pslivestock@kilimo.go.ke
Telephone: 2718870
Fax No. 2713207

KILIMO HOUSE
CATHEDRAL ROAD
P.O. Box 58187 00200
NAIROBI

When replying please quote

Our Ref: OIE/11/12/2

12th November, 2015

The Director
Department of Immigration Services
P.O BOX 30191, Nairobi
Tel: 020-2222022
E: mail: dis@immigration.go.ke
Nairobi

RE: SUPPORT FOR VISA APPLICATION

The Directorate of Veterinary Services in Kenya has received technical support from the World Animal Health Organization (OIE) for improvement of the veterinary and related legislation. In this respect the OIE has honoured Kenya by sending international experts who will audit relevant laws that affect the Veterinary Services in Kenya between 16th and 20th November 2015 and the OIE has met their travel and accommodation costs.

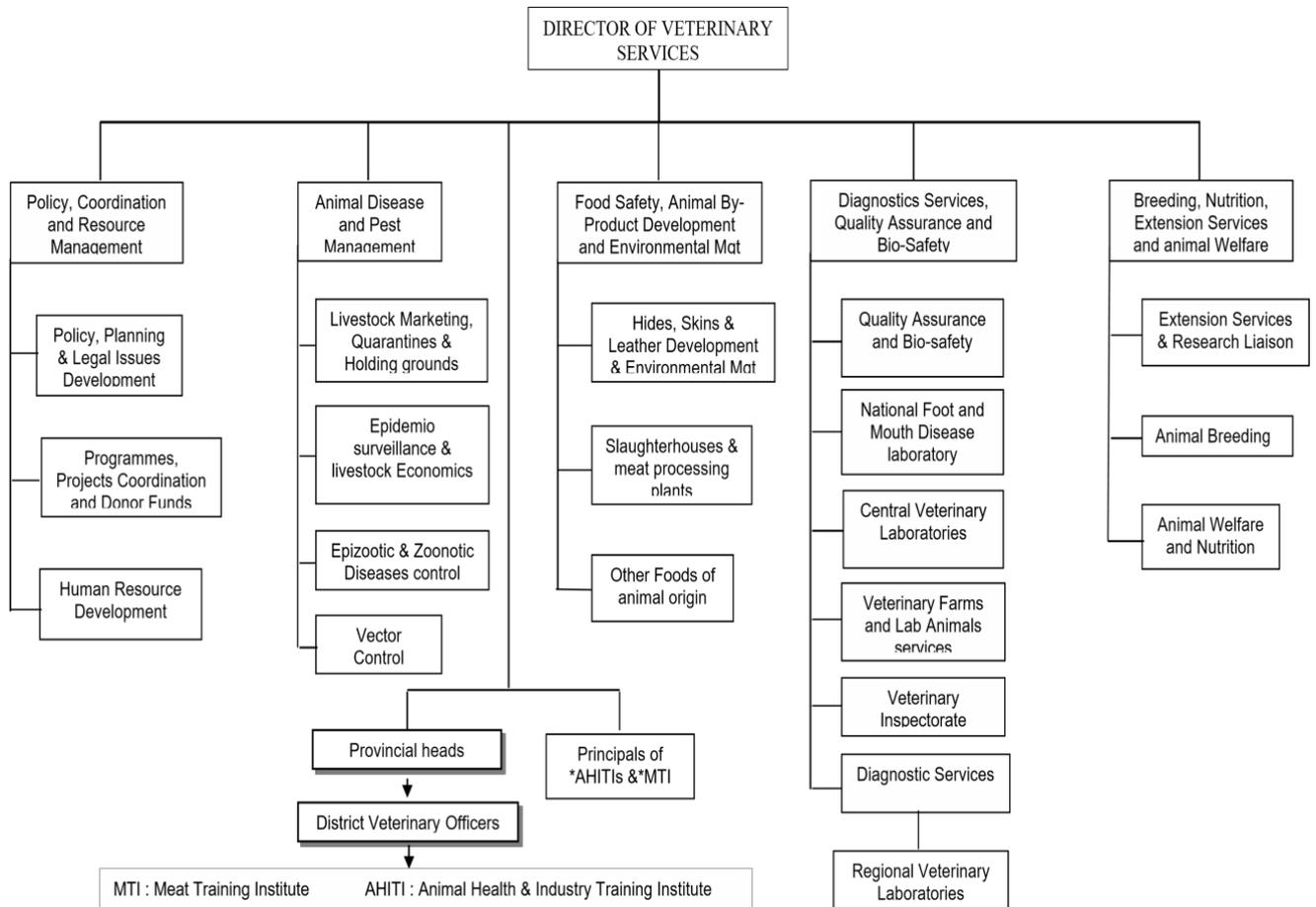
They are expected to arrive on Sunday as follows: Dr John Woodford arrives on ET 0302 at 10.20 am on Sunday 15th November 2015 while both Dr Raymond Briscoe and Mr Graham Hamley arrive on Emirates EK 719 at 14:45 pm Sunday 2015. The purpose of this request is to prioritize their Visa application and any work permits if necessary. We shall be gratified by your support

Thank you



**LORNAH A. ODERO, OGW
FOR PRINCIPAL SECRETARY**

Appendix 2 Organogram of the Veterinary Services



Appendix 3 Mission Itinerary

15th November 2015 –Arrival of OIE Mission Team		
Day One: 16th November 2015		
Time	Activity	Responsibility
08.30 – 0900	Meeting with Acting CVO/DVS	Dr Rees Mureithi
09.30 – 10.15	Presentation by the DVS – Constitution / Vet Policy	Dr Charles Ochodo
10.15 – 10.30	Health Break	OIE Mission Team Leader
10.30 – 12.30	OIE Opening meeting presentation	All
12.30 – 13.00	Question and Answer session	OIE Mission Team
13.00 – 14.00	Lunch Break	All
14.00 – 15.00	Presentation by KVA	Dr. Victor Yamo
15.00 – 17.00	Courtesy call on Principal Secretary	PS - SDL
Day Two: 17th November 2015		
09.00 – 11.00	Meeting with NGOs: VSF, AWAKE, KSPCA, KWS	NGO Heads, Dr J. Magero and Dr. C. Wang
11.00 – 11.30	Health Break	All
11.30 – 1.00	Meeting with Private Veterinarians / Questionnaire II	Dr. Derrick Chibeu and Dr. C. Wang
13.00 – 14.30	Lunch Break	All
14.00 – 16.00	Attorney General (Head of Legislative Drafting)	Ms. Elizabeth Nga'nga' and Dr. C.Wanga
Day Three: 18th November 2015		
08.30 – 10.00	Meet DVS - Divisions/Sections/Units – Questionnaire II	DVS / OIE Team
10.00 – 10.15	Health Break	All
10.15 – 13.00	Meet DVS - Divisions/Sections/Units – Questionnaire II	DVS / OIE Team
13.00 – 1400	Lunch Break	All
14.00 – 15.00	Meet Kenya Veterinary Board – Questionnaire II Veterinarians and VPPs	Dr. Mwenda Mbaka / OIE Team
15.00 – 16.00	Veterinary Paraprofessionals – Q II	KALT and KVPA Chairmen
Day Four: 19th November 2015		
09.00 – 10.00	Meet FVM	Prof. Charles Mulei
11.00 –	Meet PPB	Dr. Kipkerich Koskei and Dr. C.

12.30		Wanga
13.00 – 14.00	Lunch Break	All
14.00 – 17.00	OIE Mission Preliminary Findings and Recommendations	OIE Mission Team – Q part II
Day Five: 20th November 2015		
0800 – 0900	Meet Principal Secretary – De-briefing	Dr Kisa Ngeiywa and OIE Team
09.30 – 12.30	OIE Closing Meeting – with all DVS staff	OIE Mission Team
13.00 – 14.00	Lunch Break	OIE Mission Team
14.00 – 15.30	To airport	OIE Team
End of Mission		

Appendix 4 Persons met during the Mission

MEETING 16TH NOVEMBER 2015 - DVS BOARDROOM WITH THE DVS STAFF

No.	Name	Organization	E.mail
1	Dr Rukenya ZM	DVS	mrukenya@gmail.com
2	Dr Mwanziki Naphthali	DVS	mwanziki@yahoo.com
3	Dr George S Mukok	DVS	Dr.mukok@gmail.com
4	Dr Patrick Mwanyumba	DVS	pmmwanyumba@yahoo.com
5	Dr Catherine Wanjohi	DVS	cwwanjohi@yahoo.com
6	Dr Francis G. Nga'nga'	DVS	drfrancisgathuku@gmail.com
7	Dr Charles Ochodo	DVS	ochodoc@yahoo.com
8	Dr Nathan Songok	DVS	songoknat@yahoo.com
9	Dr Christopher Wanga	DVS	chriswanga1@yahoo.com
10	Dr John Woodford	OIE Mission	
11	Dr Graham Hamley	OIE Mission	
12	Mr Raymond Briscoe	OIE Mission	
13	Dr Muriithi Mbabu	DVS	murithi.mbabu@gmail.com
14	Dr Jane Njiru	DVS	janewacira@yahoo.com
15	Dr Nelson Ombwayo	DVS	nelsonlubanga@yahoo.com
16	Dr Gachugia Kuria	DVS	wilsonkuria2003@yahoo.com
17	Ms Irene Onyango	DVS	Ironya2000@yahoo.com
18	Dr George Njogu	DVS	Njorogen2003@yahoo.com
19	Dr Stella Kiambi	DVS	gaichugi@yahoo.com
20	Dr Salome Kairu	DVS	swwanyoike@yahoo.com
21	Dr Hary Oyas	DVS	harryoyas@yahoo.com
22	Norah Kandie	DVS	norajeruto65@gmail.com
23	Njagi JR	DVS	richardnjagi06@yahoo.com
24	Dr Rinah Sitawa	DVS	stawarinah@yahoo.co
25	Mr James Charo	DVS	jamescharo@yahoo.com
26	Dr Leonard Njagi	DVS	lrdnjagi@yahoo.com
27	Dr Kimutai Maritim	DVS	smapdvs@gmail.com

MEETING 17TH NOVEMBER 2015 - DVS BOARDROOM - GOVERNMENTAL AND NON GOVERNMENTAL AGENCIES

No.	Name	Organization	E.mail
1	Dr Maryanne Kagai	Africa Network for Animal Welfare	maryanne@anaw.org
2	Dr David Obiero	Donkey Sanctuary Kenya	dr.obiero@gmail.com
3	Dr Davis Ikiror	VSF SUISSE	dikiror@vsfsuisse.org
4	Dr Nick De Souza	World Animal Protection	nickdesouza@worldanimalprotection.org
5	Wachira Kariuki	PAAWA	benson@paawa.org
6	Dr Ismail Thaya	KSPCA	drismailthaya@gmail.com
7	Dr Agoi Lumadede	VSF-SUISSE	agoi@vsfsuisse.org
8	Ms Jean Gilchrist	KSCPA	jean@kspca-kenya.org
9	Dr Christopher Wanga	DVS	chriswanga1@yahoo.com
10	Dr John Woodford	OIE Mission	
11	Dr Graham Hamley	OIE Mission	
12	Mr Raymond Briscoe	OIE Mission	
13	Dr Dominic Mijele	Kenya Wildlife Services	dmijele@kws.go.ke
14	Dr Catherine Wanjohi	DVS	cwwanjohi@yahoo.com
15	Mr Maurice Kiboye	VSF Germany	mkiboye@vsfg.org

MEETING 18TH NOVEMBER 2015 DVS BOARDROOM WITH KENYA VETERINARY BOARD (KVB)

No.	Name	Organization	E.mail
1	Dr Risper Orwe	KVB	ris_opere@yahoo.com
2	Dr Mwenda Ibiri	KVB	mwendaibiri@gmail.com
3	Dr Mwenda Mbaka	KVB	mwendambaka@gmail.com
4	Dr Patrick Mwanyumba	DVS	pmmwanyumba@yahoo.com

5	Dr Odhiambo Godia	KVB	diagoh08@yahoo.com
6	Dr Jane Njiru	DVS	janewacira@yahoo.com
7	Dr Charles Ochodo	DVS	ochodoc@yahoo.com
8	Dr Nathan Songok	DVS	songoknat@yahoo.com
9	Dr Christopher Wanga	DVS	chriswanga1@yahoo.com
10	Dr John Woodford	OIE Mission	
11	Dr Graham Hamley	OIE Mission	
12	Mr Raymond Briscoe	OIE Mission	
13	Dr Jane Lwoyero	DVS	jlwoyero@gmail.com
14	Dr Leonard Njagi	DVS	lnrdnjagi@yahoo.co.uk

18TH NOVEMBER 2015 DIRECTOR OF VETERINARY SERVICES (DVS) BOARDROOM WITH VETERINARY PARAPROFESSIONALS

No.	Name	Organization	E.mail
1	Mr. Kennedy Owino	Kenya Association of Livestock Technicians (KALT)	Kowino25@gmail.com
2	Mr. Benson Ameda	KALT	b.ameda@yahoo.com
3	Ms Mary Njogu	Kenya Veterinary Paraprofessionals Association (KVPA)	marynjogu24@gmail.com
4	Mr. Mwit Marete	KVPA	mwitimiriti@yahoo.com
5	Mr. Muhoro Thuo	KVPA	muhorothuo@gmail.com
6	Mr. Mutegi P.E	DVS	paulmutegi@yahoo.co.uk
7	Ms Norah Kandie	DVS	Norahjeruto65@gmail.com
8	Dr Odhiambo Godia	KVB	diagoh08@yahoo.com
9	Dr Allan Azegele	DVS	ae_allan@yahoo.com
10	Dr Rinah Wangila	DVS	stawarinah@yahoo.com
11	Dr C. Wanga	DVS	chriswanga1@yahoo.com
12	Dr J. Woodford	OIE Mission	
13	Dr R. Briscoe	OIE Mission	
14	Mr Graham Hamley	OIE Mission	

**18TH NOVEMBER 2015 DIRECTOR OF VETERINARY SERVICES
(DVS) BOARDROOM WITH FACULTY OF VETERINARY MEDICINE**

No.	Name	Organization	E.mail
1	Dr Christopher Wanga	DVS	chriswanga1@yahoo.com
2	Dr Gitao Chege	Acting Dean Faculty of Veterinary Medicine University of Nairobi	cggitao@gmail.com
3	Dr Charles Ochodo	DVS	ochodoc@yahoo.com
4	Dr C. Wanjohi	DVS	cwwanjohi@yahoo.com
5	Dr J. Woodford	OIE Mission	
6	Dr R. Briscoe	OIE Mission	
7	Mr Graham Hamley	OIE Mission	

**19TH NOVEMBER AT THE PHARMACY AND POISONS BOARD
(PPB) BOARDROOM**

No.	Name	Organization	E.mail
1	Raymond Briscoe	OIE Mission	
2	Graham Hamley	OIE Mission	
3	Mr Peter Ikamati	PPB	mbwiiri@yahoo.com
4	Ms Adongo Dourine	PPB	omdii05@gmail.com
5	Dr Jonathan Meriakol	PPB	meriakol@yahoo.com
6	Dr Eric Apiyo	PPB	eoapiyo@gmail.com
7	Dr Ali Arale	PPB	aliarale@yahoo.com
8	Dr Mwanziki Naphthali	DVS	mwanziki@yahoo.com
9	Dr Nathan Songok	DVS	songoknat@yahoo.com
10	Dr Charles Ochodo	DVS	ochodoc@yahoo.com
11	Dr John Woodford	OIE Mission	
12	Dr Fred Siyoi	PPB	fmsiyoi@gmail.com
13	Dr Ahmed Mohammed	PPB	aimhusseni@yahoo.com
14	Dr Christopher Wanga	DVS	chriswanga1@yahoo.com

FINAL MEETING AT THE DVS BOARDROOM ON 20TH NOVEMBER 2015

No.	Name	Organization	E.mail
1	Mr. Mutegi Paul	DVS	paulmutegi@yahoo.co.uk
2	Dr Paul Marigi	DVS	drmarigi@gmail.com
3	Dr Francis G. Nga'nga'	DVS	drfrancisgathuku@gmail.com
4	Dr Hesbon Awando	DVS	ahesbon@gmail.com
5	Dr Odhiambo Godia	KVB	diagoh08@yahoo.com
6	Dr Nathan K Songok	DVS	songoknat@yahoo.com
7	Dr Charles Ochodo	DVS	ochodoc@yahoo.com
8	Dr Muriithi Mbabu	DVS	murithi.mbabu@gmail.com
9	Dr Christopher Wanga	DVS	chriswanga1@yahoo.com
10	Dr John Woodford	OIE Mission	
11	Dr Graham Hamley	OIE Mission	
12	Mr Raymond Briscoe	OIE Mission	
13	Dr Moses Gichia	DVS	mosesgichia@gmail.com
14	Dr Leonard Njagi	DVS	lnrdnjagi@yahoo.co.uk
15	Dr Kisa Juma Ngeiywa	DVS	kngeiywa@kilimo.go.ke
16	Dr Naphtali Mwanziki	DVS	mwanziki@yahoo.com
17	Dr Catherine Wanjohi	DVS	cwwanjohi@yahoo.com
18	Dr Charity Nguyo	DVS	charitynguyo@gmail.com
19	Dr George S Mukok	DVS	Dr.gmukok@gmail.com
20	Dr Jane Njiru	DVS	drfrancisgathuku@gmail.com

Appendix 5a Country's responses to the OIE questionnaire Part I

OIE VETERINARY LEGISLATION SUPPORT PROGRAMME VETERINARY LEGISLATION IDENTIFICATION MISSION QUESTIONNAIRE: PART I

1 – Information on the state's political, administrative and legal organisation

Identify the fundamental legal instrument (e.g. constitution) in force relating to the distribution of powers. Attach the document or provide an electronic link or internet address.

The Kenya Constitution 2010, the country laws and their attendant regulations see attached list. Find them on the internet by google and add Kenya to differentiate them from other countries. Most are on the website of Kenya Law Reporting

Describe the various administrative divisions in the country and their legal responsibilities, from the central state to the local administrative division with respect to the veterinary domain.

Director of Veterinary Services (DVS) who is the head of the services in the whole country responsible for policy and regulating the industry. Immediately below are the County Directors of Veterinary Services (CDVS) – Sub County Veterinary Officers and Ward Veterinary Services who are responsible for implementing the whole Veterinary Services (VS) .

Please indicate if the legal system is mainly based on civil law, common law, religious law or customary law. Describe how the legal system supports the enforcement of the veterinary legislation in your country.

Legal system is based on civil and common law and all offenders of the various laws are punished through the criminal justice system. Q2 – Hierarchy of the veterinary legislation

Veterinary legislation created and adopted by the central state:

(1) Level of legal instrument	(2) Category	(3) Type	(4) Issuing authority	(5) Source of law and procedure for creation

See attached list of national legislation

Veterinary legislation created and adopted by decentralised authorities:

(1) Level of legal instrument	(2) Category	(3) Type	(4) Issuing authority	(5) Source of law and procedure for creation

Not conclusive. Initiatives on going

Veterinary legislation created and adopted by authorities holding delegated powers (if applicable): N/A

(1) Level of legal instrument	(2) Category	(3) Type	(4) Issuing authority	(5) Source of law and procedure for creation

Veterinary legislation created and adopted by private sector organisations (if applicable): N/A

(1) Level of legal instrument	(2) Category	(3) Type	(4) Issuing authority	(5) Source of law and procedure for creation

Comments: Law in Kenya is governmental function

Q3 – Publication and management of legal documents

3.1. Is there an official legal database relating to veterinary legislation?

First level legislation?: Yes No

Second level legislation? Yes No

Information on the procedures for the implementation of legislation? Yes No If the answer is 'Yes' to any of these questions:

Computerised or manual database: Computerised Manual Both

Manager(s) of the database: Kenya Law Reporting, government printer and the implementing agencies

Method of accessing the database:

For the Veterinary Services: Google/Internet and

hardcopies For the public: Google/Internet and hardcopies

3.2. Is there a system of consolidation?

No Yes, computerised Yes, manual Both

Person(s) in charge: Diverse agencies

Is veterinary legislation codified? Yes

No Title of the Code: N/A

Person in charge :N/A.....

Does other legislation contain legal tools that are used by the VS? If so, please provide examples.

Civil law: Land use, Cities and Urban planning laws etc

Penal law: Criminal Procedure Code (CPC) of Kenya

Penal procedure: Penal Code

Administrative law: Intergovernmental Relations Act

Environment: Environmental Management and Coordination

Act

Consumer protection: Public Health Act

Customs and finance: Kenya Revenue Authority and a host of Finance Acts

Other: Many laws please Kenya Law Reporting Website

Legal publication

Procedures for legal publication: Technical drafting, stakeholder consultation, parliamentary processing, presidential assent and subsequent publication
Title of the official publication: Kenya Gazette

Are the Veterinary Services subscribers? Yes No ✓

Is there a system of distribution within the civil service? Yes No ✓

Kenya gazette is the only official means for documentation of legal issues

Are there rules for distributing veterinary legislation other than by legal publication?

Within the Veterinary Services: Yes No ✓

To other administrations: Yes No ✓

To organised groups of stakeholders: Yes No ✓

To the public: Yes No ✓

If you answered 'Yes' for at least one of the above categories:

Reference document setting out the rules:

Method of dissemination:

Distribution lists:

Are there rules for disseminating information that is subordinate and relevant to regulatory texts?

Within the Veterinary Services: Yes No ✓

To other administrations: Yes No ✓

To organised groups of stakeholders: Yes No ✓

To the public: Yes No ✓

If you answered 'Yes' for at least one of the above categories:

Reference document setting out the rules:

Method of dissemination:

Distribution lists:

Rules regarding confidentiality:

Comments: Once a legal instrument is published in the Kenya gazette users disseminate to stakeholders using diverse methods based on the target audience.

Q4 – Creation and adoption of legal instruments

What is the procedure for creating and approving primary veterinary legislation from initial preparation of a draft bill to final enactment in your country? Identify all steps and the administrative divisions involved as well as the range of time from initial preparation to passage.

Draft legislation referred to as a bill is initiated by the technical team/users that have identified the challenge to be addressed under the guidance of legal drafters, the draft is then subjected to stakeholders and a final draft made and forwarded to parliament for interrogation and passage. The parliamentary product is a bill which is forwarded to the president for assent which must be done within 14 days after which it becomes a law referred to as an Act of Parliament. The president can reject the bill with reasons for parliament to consider. Members of parliament can also originate bills which can follow the same process. There is no time frame for legislative processes due to the multiplicity of stakeholders involved.

What is the procedure for creating and improving the secondary legislation (regulations) in your country? Identify all the steps, the administrative divisions involved as well as the range of time from initial preparation of the draft regulation to final adoption.

Draft regulations are developed by the implementing agency with legal support of drafters, stakeholder input is sought and then the final draft is prepared and published in the Kenya gazette under the authority and signage of the relevant Cabinet Secretary. The draft is then forwarded to parliament for interrogation by the committee on delegated legislation who on concurrence present the same for a procedural approval by parliament. After this stage the regulations are in force. Parliament can cause alteration of this regulations.

Are there formal rules for legal drafting? Yes No

If 'Yes', please indicate the reference: This is acquired through formal training and or experience

For the creation or updating of veterinary legislation:

Are the legal instruments always an initiative of the Veterinary Services? Yes No Most of the time

Are legal experts involved at the design stage? Yes No Sometimes

Do veterinarians/technicians systematically work with legal experts? Yes No Sometimes

Is consultation undertaken during legal drafting?

With the general public? Yes No

Is there a formal procedure? Yes No

With regulated parties? Yes No

Is there a formal procedure? Yes No

With professionals? Yes No

Is there a formal procedure? Yes No

With public administrations? Yes No

Is there a formal procedure? Yes No

If formal procedures are in place, please briefly describe.....

Is there a formal evaluation of the applicability and impact of the legal instruments as part of their creation (e.g. regulatory impact assessment)?

For primary legislation? Never Sometimes Always It is expected to be done

For secondary legislation? Never Sometimes Always It is expected to be done

If formal evaluations occur, please describe the process or give an example: In Kenya one is expected to be guided by the Statutory Instruments Act if the regulation is procedural

What do these evaluations usually take into account?

If a template exists for these evaluations, please attach a copy or provide an electronic link or address on a website.
See the Act

Are performance indicators developed in parallel with the legal instruments to monitor the success of the legal provisions when they are implemented?
Yes No

Is there usually a defined or expected timetable for implementation? Yes No Only for commencement

When primary legislation is drafted, is the relevant secondary legislation drafted at the same time? Yes No

Some may be done at the same time but majority of the secondary legislations are drafted after the passage of the primary legislation.

4.11. What is the status of the pre-existing secondary legislation when new primary legislation is adopted?

Comments: The pre-existing secondary legislation becomes part of the new law automatically till the new regulations are published. Q5 – Definition of veterinary domain and distribution of responsibilities

Is the 'veterinary domain' defined for official purposes? Yes No

If you answered 'Yes', please state the definition and give the reference for the legal text: Definition is as stated in the OIE Code and mandate provided by legislation and the presidential circulars.

For each element of the veterinary domain identified in the following table, please indicate the distribution of responsibilities. The table should best have been completed upon your arrival jointly with ourselves because it lacks clarity and there are a multiplicity of functional overlaps.

Element		Legislation			Control		Texts (8)
Code Chapter 3.4 Article (1)	Primary (2)	Secondary (3)	(4)	Authority responsible for preparation (5)	First level of control (6)	Second level of control (7)	Pertinent texts and comments
3.4.6	Veterinary profession	Private	<input type="checkbox"/>	Kenya Veterinary Board (KVB)	Kenya Veterinary	Kenya Veterinary Board (KVB)	Laws have the implementing

		<input type="checkbox"/>		Board (KVB)		agencies stated
	Public	<input type="checkbox"/>	Ministry of Agriculture Livestock and Fisheries (MOALF), County relevant ministries, Kenya Veterinary Board (KVB)	MOALF, County relevant ministries and KVB	MOALF, County relevant ministries and KVB	-do-
	Initial education	<input type="checkbox"/>	Universities Acts, and Kenya Veterinary Board (KVB)	Universities Acts, and KVB	Universities Acts, and KVB	-do-
	Continuing education	<input type="checkbox"/>	Kenya Veterinary Board (KVB)	KVB	KVB	-do-
	Veterinary para-professionals	<input type="checkbox"/>	KVB	KVB	KVB	-do-
	Public	<input type="checkbox"/>	KVB, MoALF, relevant county ministries	KVB, MoALF, relevant county ministries	KVB, MoALF, relevant county ministries	-do-
	Initial education	<input type="checkbox"/>	KVB, Individual training institutions laws	KVB, Individual training institutions laws	KVB, Individual training institutions laws	-do-
	Continuing education	<input type="checkbox"/>	KVB	KVB	KVB	-do-
Element			Legislation	Control		Texts (8)
Code Chapter 3.4 Article (1)	Primary (2)	Secondary (3)	(4) Authority responsible for preparation (5)	First level of control (6)	Second level of control (7)	Pertinent texts and comments
3.4.7	Laboratories for Animal Health	Facilities	<input type="checkbox"/> DVS, CDVS and Kenya Bureau of Standards (KBS)	<input type="checkbox"/> DVS, CDVS and Kenya Bureau of Standards (KBS)	<input type="checkbox"/> DVS, CDVS and Kenya Bureau of Standards (KBS)	Law is deficient
		Reagents	<input type="checkbox"/> Multiple agencies	<input type="checkbox"/> Multiple agencies	<input type="checkbox"/> Multiple agencies	-do-
	Laboratories for Food Safety	Facilities	<input type="checkbox"/> DVS, CDVS, KBS	<input type="checkbox"/> DVS, CDVS, KBS	<input type="checkbox"/> DVS, CDVS, KBS	-do-
		Reagents	<input type="checkbox"/> Multiple agencies	<input type="checkbox"/> Multiple agencies	<input type="checkbox"/> Multiple agencies	-do-
3.4.8	Animal	Identification of animals	<input type="checkbox"/> DVS, CDVS	<input type="checkbox"/> DVS, CDVS	<input type="checkbox"/> DVS, CDVS	Law requires updating

	production	Animal		DVS, CDVS	DVS, CDVS	DVS, CDVS	Pieces of legislation
		reproduction	<input type="checkbox"/>				require consolidation
		Animal feed	<input type="checkbox"/>	KBS, DVS, CDVS	KBS, DVS, CDVS	KBS, DVS, CDVS	Laws require updating
		Environmental impact	<input type="checkbox"/>	National Environmental Management Authority (NEMA)	National Environmental Management Authority (NEMA)	National Environmental Management Authority (NEMA)	Law is robust
		Animal markets /other gatherings	<input type="checkbox"/>	DVS, CDVS, County Legislations	DVS, CDVS, County Legislations	DVS, CDVS, County Legislations	Laws require updating
		Animal by-products	<input type="checkbox"/>	DVS, CDVS, Public Health	DVS, CDVS, Public Health	DVS, CDVS, Public Health	-do-
		Disinfection	<input type="checkbox"/>	Public Health, DVS, CDVS	Public Health, DVS, CDVS	Public Health, DVS, CDVS	-do-
3.4.10	Animal welfare	General	<input type="checkbox"/>	DVS, CDVS Kenya Society for the Protection and Care of Animals (KSPCA)	DVS, CDVS, KSPCA	DVS, CDVS, KSPCA	-do-
		Stray/free roaming animals	<input type="checkbox"/>	DVS, CDVS, KSPCA	DVS, CDVS, KSPCA	DVS, CDVS, KSPCA	-do-
	Protection of species	CITES	<input type="checkbox"/>	Kenya Wildlife Service (KWS)	KWS	KWS	-do-
Element				Legislation	Control		Texts (8)
Code Chapter 3.4 Article (1)	Primary (2)	Secondary (3)	(4)	Authority responsible for preparation (5)	First level of control (6)	Second level of control (7)	Pertinent texts and comments
3.4.9	Animal diseases	Surveillance	<input type="checkbox"/>	DVS,CDVS	DVS,CDVS	DVS,CDVS	Law in place
		Disease prevention & control	<input type="checkbox"/>	DVS,CDVS	DVS,CDVS	DVS,CDVS	-do-
		Emerging diseases	<input type="checkbox"/>	DVS,CDVS, Public Health	DVS,CDVS, Public Health	DVS,CDVS, Public Health	-do-

3.4.12	Human food production chain	Milk production: <input type="checkbox"/>	MoALF, County Ministries and Kenya Dairy Board (KDB)	MoALF, County Ministries and KDB	MoALF, County Ministries and KDB	Law requires updating
		Meat production <input type="checkbox"/>	MoALF, County Ministries and Kenya Meat Commission (KMC)	MoALF, County Ministries and Kenya Meat Commission (KMC)	MoALF, County Ministries and Kenya Meat Commission (KMC)	-do-
		Poultry meat <input type="checkbox"/>	MoALF, County Ministries	MoALF, County Ministries	MoALF, County Ministries	-legal vacuum
		Egg production <input type="checkbox"/>	MoALF, County Ministries	MoALF, County Ministries	MoALF, County Ministries	Legal vacuum
		Food of aquatic origin <input type="checkbox"/>	DVS, CDVS, Fisheries Authorities and KWS	DVS, CDVS, Fisheries Authorities and KWS	DVS, CDVS, Fisheries Authorities and KWS	Laws require strengthening
		Food processing <input type="checkbox"/>	Relevant government ministries at the national and county level	Relevant government ministries at the national and county level	Relevant government ministries at the national and county level	Laws are in place
		Transport <input type="checkbox"/>	Relevant government ministries at the national and county level	Relevant government ministries at the national and county level	Relevant government ministries at the national and county level	Laws are in place
		Retail <input type="checkbox"/>	Relevant government ministries at the national and county level	Relevant government ministries at the national and county level	Relevant government ministries at the national and county level	Laws are in place
		Restaurants <input type="checkbox"/>	Relevant government ministries at the national and county level	Relevant government ministries at the national and county level	Relevant government ministries at the national and county level	Laws are in place

3.4.11	Veterinary medicines & biologicals	Production	<input type="checkbox"/>	Pharmacy and Poisons Board (PPB) and the Pest Control Products Board (PCPB)	PPB and PCPB	PPB and PCPB	Law is undergoing review to enable the Veterinary Services play an effective role
		Licensing &	<input type="checkbox"/>				
		registration	<input type="checkbox"/>				
		Retail	<input type="checkbox"/>	PPB and PCPB	PPB and PCPB	PPB and PCPB	-do-
		Residue control	<input type="checkbox"/>	PPB and PCPB	PPB and PCPB	PPB and PCPB	-do-
Element		Legislation			Control		Texts (8)
Code Chapter 3.4 Article (1)	Primary (2)	Secondary (3)	(4)	Authority responsible for preparation (5)	First level of control (6)	Second level of control (7)	Pertinent texts and comments
3.4.13	Export certification	Animals	<input type="checkbox"/>	DVS	DVS	DVS	Law needs strengthening
		Animal products	<input type="checkbox"/>	DVS	DVS	DVS	-do-
3.4.13	Import requirements	Animals	<input type="checkbox"/>	DVS	DVS	DVS	-do-
		Animal products	<input type="checkbox"/>	DVS	DVS	DVS	-do-
		Veterinary medicines and biologicals	<input type="checkbox"/>	PPB,DVS,PCPB	PPB,DVS,PCPB	PPB,DVS,PCPB	New legislation is required
		Animal feeds/feed additives	<input type="checkbox"/>	DVS and KBS	DVS and KBS	DVS and KBS	-do-

Comments: Some mandates of the various agencies overlap...

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Appendix 5b Country's responses to the OIE questionnaire Part II

OIE VETERINARY LEGISLATION SUPPORT PROGRAMME

VETERINARY LEGISLATION IDENTIFICATION MISSION

QUESTIONNAIRE: PART II

Comparison of Existing Legislation with Chapter 3.4 of the *Terrestrial Code*

Introduction

This questionnaire provides the opportunity to compare existing country legislation with the standards for veterinary legislation presented in Chapter 3.4 of the OIE *Terrestrial Animal Health Code*. Chapter 3.4 identifies those elements considered necessary for ensuring good governance of the entire veterinary domain.

Veterinary legislation should address each of these elements, as relevant to the country's situation, in order to ensure that Veterinary Services have the necessary legal basis and authorities for carrying out their necessary functions.

Completion of this questionnaire will help to identify gaps in current legislation. Identification of such gaps will serve to inform the focus and activities of the VLSP Identification Mission. Therefore, it should be completed and returned to the Team Leader at least two weeks before the start of the mission.

Each bold-faced section of this questionnaire corresponds to a particular article in Chapter 3.4, which is indicated in parentheses for your reference. For the various points in each section, please indicate if that point is addressed in your country legislation and, if it is, then whether it is either completely or partially addressed. If completely or partially addressed, then please provide references to the pertinent Acts and Regulations that address the particular point as well as any additional explanatory comments you would like to add.

1. Competent Authorities (Article 3.4.5)

Do the Competent Authorities have the legal mandate, capacity and organisation to ensure that all necessary actions are taken quickly and coherently to address animal health, public health and animal welfare emergencies effectively?

Yes:

No:

Partially: √

Pertinent legislation: Animal Diseases Act, Meat Control Act among others

Comments: Several laws are in place but devolution of Veterinary Services by the Constitution provides a particular challenge.

Are the responsibilities and powers of Competent Authorities clearly defined in legislation, so that a clear chain of command is evident, from the central level to those responsible for the implementation of legislation in the field? Where more than one Competent Authority is involved, e.g. in relation to environmental, food safety or other public health matters, is there a reliable system of coordination and cooperation in place?

Yes:

No:

Partially: √

Pertinent legislation: Several legislations

Comments: A consultant is needed to help assess the compliance levels of our legislations.

Do the Competent Authorities appoint technically qualified officials to take any actions needed for implementation or verification of compliance with the veterinary legislation? (Note that the principles of independence and impartiality prescribed in Article 3.1.2 of the OIE *Terrestrial Code* are relevant here.)

Yes: √

No:

Partially:

Pertinent legislation: Animal Diseases Act among others

Comments: Technical decisions are based on science and are backed by law
Necessary powers of the Competent Authority

Does the veterinary legislation ensure that:

a) officials have the legal authority to intervene in accordance with the legislation and the penal procedures in force?

Yes: No: Partially:

Pertinent legislation: Animal Diseases Act among others

Comments: A governance Act is required to coordinate veterinary services beyond diseases

b) while executing their legal mandate in good faith, officials are protected against legal action and physical harm?

Yes: No: Partially:

Pertinent legislation: Animal Diseases Act, and the Veterinary Surgeons and Veterinary Paraprofessionals Act among others

Comments: Laws can be updated

c) the powers and functions of officials are explicitly and completely identified to protect the rights of stakeholders and the general public against an abuse of authority? This includes respecting confidentiality, as appropriate;

Yes: No: Partially:

Pertinent legislation: Animal Diseases Act, Meat Control Act and the Veterinary Surgeons and Veterinary Paraprofessionals Act among others.

Comments: The laws can be improved further

d) certain essential powers are specifically identified and made available through primary legislation, as exercise of these powers can result in actions that may conflict with individual rights ascribed in fundamental laws. The powers identified, at a minimum, should include:

i) access to premises and vehicles for carrying out inspections?

Yes: No: Partially:

Pertinent legislation: See attached list

Comments: Inspection involves interference with privacy

ii) access to records?

Yes: No: Partially:

Pertinent legislation: See attached list

Comments: Various laws have different provisions

iii) taking samples?

Yes: No: Partially:

Pertinent legislation: See attached list

Comments: Various laws have differing provisions

iv) retention (setting aside) of animals and goods, pending a decision on final

disposition? Yes: No: Partially:

Pertinent legislation: See attached list

Comments: Various laws have diverse provisions

v) seizure of animals, products and food of animal origin?

Yes: No: Partially:

Pertinent legislation: See attached list

Comments: Various laws have diverse provisions

vi) suspension of one or more activities of an inspected establishment?

Yes: No: Partially:

Pertinent legislation: See attached list

Comments: Various laws have diverse provisions

vii) temporary, partial or complete closure of inspected establishments? and

Yes: No: Partially:

Pertinent legislation: See attached list

Comments: Various laws have diverse provisions

viii) suspension or withdrawal of official authorisations or approvals?

Yes: No: Partially:

Pertinent legislation: See attached list

Comments: Various laws have diverse provisions

Delegation of powers by the Competent Authority

Does the veterinary legislation provide the possibility for Competent Authorities to delegate specific tasks related to official activities to veterinarians or veterinary para-professionals who are not civil servants?

Yes: No Partially:

Pertinent legislation: See attached list

Comments: Various legislations have diverse provisions – no specific provision in Animal Disease Act but the VS

& VPP Act has “Delegated duties pertaining to regulated animal diseases, including the various eradication schemes.” There is no definition of what are ~”regulated animal disease”

Does the veterinary legislation:

a) define the field of activities, the bodies to which the tasks are delegated and the specific tasks covered by the delegation?

Yes: No Partially:

Pertinent legislation:

Comments: Clear delegation roles need to be defined

b) provide for the control, supervision and, when appropriate, financial remuneration of the

delegation? Yes: No Partially:

Pertinent legislation:

Comments: This is part of the strengthening of the laws required

c) define the procedures for making delegation?

Yes: No Partially:

Pertinent legislation:

Comments:

d) define the competencies to be held by persons receiving delegation? and

Yes: No Partially:

Pertinent legislation:

Comments: This is part of the strengthening of the laws required

e) define the conditions of withdrawals of delegations?

Yes: No Partially:

Pertinent legislation:

Comments: This is part of the strengthening of the laws required

2. Veterinarians and veterinary para-professionals (Article 3.4.6)

Veterinary medicine/science

In order to ensure quality in the conduct of veterinary medicine/science, does the veterinary legislation:

a) define the prerogatives (i.e. rights and responsibilities) of veterinarians and of the various categories of veterinary para-professionals that are recognised in the Member Country?

Yes: No Partially:

Pertinent legislation: Veterinary Surgeons and Veterinary Paraprofessionals Act

Comments: Exhaustive however other laws require the same. No definition of what is meant by “direction” when applied to the giving of injections or medicines to animals by VPPs.

b) define the minimum initial and continuous educational requirements and competencies for veterinarians and veterinary para-professionals?

Yes: No Partially:

Pertinent legislation: Veterinary Surgeons and Veterinary Paraprofessionals Act

Comments: Exhaustive however other laws require the same. Provisions for defining initial qualifications do exist, but no provisions for requirement of CPD – Yes, in the Regulations

c) prescribe the conditions for recognition of the qualifications for veterinarians and veterinary para-professionals?

Yes: No

Partially: Pertinent legislation:

Veterinary Surgeons and Veterinary Paraprofessionals Act Comments: Exhaustive

however other laws require the same. - Section 15 of the Act

d) define the conditions (e.g. licensing) for the exercise/practice of veterinary medicine/science by veterinarians and veterinary para-professionals

Yes: No

Partially: Pertinent legislation:

Veterinary Surgeons and Veterinary Paraprofessionals Act Comments: Exhaustive

however other laws require the same.

e) identify the exceptional situations, such as epizootics, under which persons other than veterinarians can undertake activities that are normally carried out by veterinarians?

Yes: No

Partially: Pertinent legislation:

Veterinary Surgeons and Veterinary Paraprofessionals Act Comments: Exhaustive

however other laws require the same.

The control of veterinarians and veterinary para-professionals

To provide a basis for regulation of veterinarians and veterinary para-professionals in the public interest, does the veterinary legislation:

a) describe the general system of control in terms of the political, administrative and geographic configuration of the country?

Yes: No Partially:

Pertinent legislation:

Comments: Not done – There is a need to define how veterinary services are established to ensure adequate geographical coverage

b) describe the various categories of veterinary para-professionals recognised by the Member Country according to its needs, notably in animal health and food safety, and for each category, prescribe the training, qualifications, tasks and extent of supervision required?

Yes: No Partially:

Pertinent legislation: Veterinary Surgeons and Veterinary Paraprofessionals Act

Comments: Based on level of education – but “supervision” and/or “direction” are not defined....and also the contractual relationship Section 17, Schedule 2 .

Meat Act has provision to define “the professional control, supervision and licensing of persons appointed to carry out any inspections in specified areas under the Regulations for food safety of “meat”

c) prescribe the powers to deal with conduct and competence issues, including licensing requirements that apply to veterinarians and veterinary para-professionals?

Yes: No

Partially: Pertinent legislation:

Veterinary Surgeons and Veterinary Paraprofessionals Act Comments: As stated

above

d) provide for the possibility of delegation of powers to a professional organisation such as a veterinary statutory body? and

Yes: No Partially:

Pertinent legislation:

Comments: No provisions – The KVB is mandated as the VSB

e) describe the prerogatives (i.e. rights and responsibilities) and the functioning of the mandated professional organisation where powers have been so delegated?

Yes: No Partially:

Pertinent legislation N/A

Comments: None – Vet surgeons and VPPs Act

3. Laboratories in the veterinary domain (Article 3.4.7)

Facilities

Does the veterinary legislation define the role, responsibilities, obligations and quality requirements for:

a) reference laboratories? (These are responsible for controlling the veterinary diagnostic and analytical network, including the maintenance of reference methods);

Yes: No Partially:

Pertinent legislation:

Comments: None

Pertinent legislation -

b) laboratories designated by the Competent Authority for carrying out the analysis of official

samples? Yes: No Partially:

Pertinent legislation:

Comments: None

c) laboratories recognised by the Competent Authority to conduct analyses required under the legislation,

e.g. for the purposes of quality control?

Yes: No

Partially: X Pertinent legislation:

Comments: None – Constitution

d) Does the veterinary legislation define the conditions for the classification, approval, operations and supervision of laboratories at each level?

Yes: No Partially:

Pertinent legislation:

Comments: None – VS and VPPs Act allows the Board to licence private veterinary laboratories

3. 2. Reagents

Does the veterinary legislation provide a basis for actions to address:

a) procedures for authorising reagents that are used to perform official

analyses? Yes: No

Partially: Pertinent legislation:

Comments: None

Pertinent legislation

b) quality assurance by manufacturers of reagents used in official analyses?

Yes: No Partially:

Pertinent legislation:

Comments: None

c) surveillance of marketing of reagents, where these can affect the quality of analyses required by the veterinary legislation?

Yes: No Partially:

Pertinent legislation:

Comments: None

4. Health provisions relating to animal production (Article 3.4.8)

Identification and traceability

Does the veterinary legislation provide a basis for actions to address all the elements in Article 4.2.3.6, identified as follows?

a) the desired outcomes and scope of animal identification;

Yes: No Partially:

Pertinent legislation: The Branding of Stock Act

Comments: Law requires updating to take on board modern identification methods – Draft Vet Policy

b) the obligations of the Veterinary Authority and other parties;

Yes: No Partially:

Pertinent legislation: Several legislation

involved Comments: Better provisions

required

c) management of animal movement;

Yes: No Partially:

Pertinent legislation: Animal Diseases Act

Comments: Movement control to limit disease

spread d) data access/accessibility;

- Yes: No Partially: √
- Pertinent legislation: The branding of Stock Act
 Comments: Various brands identify various animals and their regions
 e) organisational arrangements, including the choice of technologies and methods used for the animal identification system and animal traceability;
- Yes: No Partially: √
- Pertinent legislation: The branding of Stock Act
 Comments: Requires updating
 f) checking, verification, inspection and penalties;
- Yes: No Partially: √
- Pertinent legislation: The branding of Stock Act
 Comments: Updating of law required
 g) confidentiality of data;
- Yes: No √ Partially:
- Pertinent legislation:
 Comments: None
 i) where relevant, funding mechanisms;
- Yes: No √ Partially:
- Pertinent legislation:
 Comments: This has to be done
 i) where relevant, arrangements to support a pilot project.
- Yes: No Partially: √
- Pertinent legislation:
 Comments: Pilot projects do not require legislation
 imal markets and other gatherings
- Does the veterinary legislation address, for animal markets and other commercially or epidemiologically significant animal gatherings, the following elements:
 a) registration or other official approval?
- Yes: No Partially: √
- Pertinent legislation: Animal Diseases Act – Movement rules (Section
 (e) County law -
 Comments:
 b) measures to prevent disease transmission, including procedures for cleaning and disinfection, and animal welfare measures?
- Yes: No Partially: √
- Pertinent legislation: See attached list AHA Section 9 (h) (ii)
 Comments: measures for cleaning and disinfection not elaborate
- c) provision for veterinary checks?
- Yes: No Partially: √

Pertinent legislation: See attached list

Comments: Some services do not provide for veterinary checks
Animal reproduction

Does the veterinary legislation provide a basis for actions to address the health regulation of animal reproduction as appropriate? (Measures may be implemented at the level of animals, genetic material, establishments or operators.)

Yes: No Partially: √

Pertinent legislation: Draft Rules -

Comments: some repealed laws need relevant aspects to animal breeding taken on board by existing or new legislation
Animal feed

Does the veterinary legislation provide a basis for actions to address the elements listed below:

a) standards for the production, composition and quality control of animal feed to control biological, chemical and physical hazards to animal and public health?

Yes: No Partially: √

Pertinent legislation: see attached list – Fertilizer and Animal Foodstuffs Act (2012 version)

Comments: existing laws require updating – is it relevant for the DVS to control fertilisers- for crop production ???

b) registration or other procedures for approval of establishments and the provision of health requirements for relevant operations?

Yes: No Partially: √

Pertinent legislation: – rely on Kenya Bureau of

Standards Comments: poor coverage of the listed

issues

c) recall from the market of any product likely to present a hazard to human health or animal health? Yes: No Partially:

√

Pertinent legislation: see attached list

Comments: there is need for a focussed legislation – provisions for seizure and destruction / disposal but not recall per se

Animal by-products (not intended for human consumption, e.g. meat and bone meal, tallow)

Does the veterinary legislation:

a) define the animal by-products subject to the legislation?

Yes: No Partially: √

Pertinent legislation: see attached list

Comments: new legislation is required – No definition of animal by-product but provision exist for control of import and manufacture of animal foodstuff - for animal foodstuff which contains bone or any other substance derived from an animal carcass; or

Fertiliser & Animal Foodstuffs Act Section 2a(iii)

b) provide for rules for collection, processing, use and disposal of animal by-

products? Yes: No X

Partially:

Pertinent legislation: see attached list – animal by-products not defined nor adequately catered for in the legislation except for the KMC Act – which controls the sale of “fresh products derived from “slaughter stock” – which does not include poultry or pigs

Comments: Hides & Skins

c) provide for registration or other procedure for approval of establishments and the provision of health requirements for relevant operations?

Yes: No Partially:

Pertinent legislation: see attached list – Meat Control Act, Hides and Skins Act

Comments: new legislation required

d) provide for rules, if any, to be followed by animal owners in preparation and handling of animal by-products.

Yes: No Partially:

Pertinent legislation:

Comments: comprehensive legislation required
Disinfection

Does the veterinary legislation provide a basis for actions to address the regulation and use of products and methods of disinfection relating to the prevention and control of animal diseases?

Yes: No Partially:

Pertinent legislation: Animal Diseases Act, Rabies Act etc – only for a few specific diseases -

Comments: more elaborate Regulations are required

5. Animal diseases (Article 3.4.9)

Does the veterinary legislation provide a basis for the Competent Authority to manage diseases of importance to the country and to list those diseases, guided by the recommendations in Chapters 1.1 and 1.2 of the OIE *Terrestrial Code*?

Yes: No Partially:

Pertinent legislation: Animal Diseases Act, Rabies Act etc

Comments: Law adequate however it requires to be updated – Notifiable disease are listed in the definition but do not include all OIE listed diseases which occur in Kenya or might be imported from a neighbouring country or trading partner - unless a Notice has been published in the Gazette to that effect eg PPR, RVF, HPAI, CCPP, Surveillance

Does the veterinary legislation provide a basis for the collection, transmission and utilisation of epidemiological data relevant to diseases listed by the Competent Authority?

Yes: No Partially:

X Pertinent legislation: Animal Diseases Act, Rabies Act etc

Comments: Law adequate however it requires to be updated – only partially, since there is no obligation on the part of the DVS to investigate or maintain any records of reported notifiable disease occurrences
Disease prevention and control

a) Does the veterinary legislation include general animal health measures applicable to all diseases and, if necessary, additional or specific measures such as surveillance, establishment of a regulatory programme or emergency response for particular diseases listed in the country?

Yes: No Partially: X Pertinent legislation: Animal

Diseases Act, Rabies Act etc

Comments: Law adequate however it requires to be updated – does not cover “all diseases” of importance – only give power to prevent or control “notifiable” diseases – No measures for emergency response

b) Does the legislation provide a basis for contingency plans, for use in disease responses, including:

i) administrative and logistic organisation?

Yes: No X

Partially: Pertinent legislation: Animal

Diseases Act, Rabies Act etc

Comments: Law adequate however it requires to be updated – No provisions exist for formulation of Contingency plans or for emergency disease response

ii) exceptional powers of the Competent Authority?

Yes: No Partially:

Pertinent legislation: Animal Diseases Act, Rabies Act etc

Comments: Law adequate however it requires to be updated – not really since most rules relate to “notifiable disease” only – No exceptional powers are provided for in the ADA

iii) special and temporary measures to address all identified risks to human or animal

health? Yes: No Partially:

Pertinent legislation: Animal Diseases Act, Rabies Act, Meat Control Act, Public Health Act etc

Comments: Laws adequate however they require to be updated

c) Does the veterinary legislation provide for the financing of animal disease control measures, such as operational expenses and, as appropriate, owners’ compensation in the event of killing or slaughtering of animals and seizure or destruction of carcasses, meat, animal feed or other things?

Yes: No Partially:

Pertinent legislation: Animal Diseases Act

Comments: The rates for compensation are inadequate – The rates are determined by regulated assessors and are defined as being market values of animals immediately prior to compulsory slaughter
Emerging diseases

Does the veterinary legislation provide for measures to investigate and respond to emerging

diseases? Yes: No

Partially: X

Pertinent legislation: Animal Diseases Act

Comments: Requires updating – There is no mention of “emerging diseases” in any Act

6. Animal welfare (Article 3.4.10)

General provisions

The animal welfare requirements are found in Section 7 of the OIE *Terrestrial Code*.

Does the veterinary legislation contain a legal definition of cruelty as an offence, and provisions for direct intervention of the Competent Authority in the case of cruelty or neglect by animal keepers?

Yes: No XPartially:

Pertinent legislation: The Prevention of Cruelty to Animals Act (1963)

Comments: The role of the Competent Authority is not explicit cruelty is defined but Implied under section 3 part 2 (i) – giving some instances of cruelty but not necessarily comprehensive - incomplete-**“experiment”** means any experiment performed on an animal and calculated to give pain, but does not include an operation;

Specific provisions

Does the veterinary legislation provide a basis for actions to address the animal welfare requirements of the OIE Codes, notably in relation to:

a) transport (by sea, by land or by air) and handling?

Yes: No Partially:

Pertinent legislation: The Prevention of Cruelty to Animals Act and the Meat Control Act

Comments: Updating the legislation is required – Prevention of Cruelty of Animals & Meat control Act - Rules
b) accepted practice in animal production (e.g. beef cattle production)?

Yes: No Partially:

Pertinent legislation: The Prevention of Cruelty to Animals

Act Pig Industry Act has standards for the management of pig farms

Comments: Law inadequate- Battery hens (layer units are being encouraged by cage manufacturers
c) slaughter for human consumption?

Yes: No Partially:

Pertinent legislation: The Prevention of Cruelty to Animals Act and the Meat Control Act

Comments: Updating the legislation is required – PCAA – animals must be killed “humanely” but this is not defined. – MCA – has detailed standards for method of slaughter
d) killing for disease control purposes?

Yes: No

Partially: Pertinent legislation: Animal

Diseases Act

Comments: None

e) the use of animals in research and education?

Yes: No Partially:

Pertinent legislation: The Prevention of Cruelty to Animals Act, The Veterinary Surgeons and Veterinary Paraprofessionals Act, The Wildlife Act among others

Comments: issues scattered in various legislation- University / Research institutions protocols – for animals used in research – do they fit ?
Stray dog population control

Does the veterinary legislation provide a basis for actions to effectively control stray dog

populations? Yes: No Partially:

Pertinent legislation: The Prevention of Cruelty to Animals Act and the Rabies Act

Comments: laws require updating – but humane standards not defined

Abandoned animals

Does the veterinary legislation make provision for prohibition of the abandonment of animals, and management of abandoned animals, including transfer of ownership, veterinary interventions and euthanasia?

Yes: No Partially:

Pertinent legislation: The Prevention of Cruelty to Animals Act and the Rabies Act among others

Comments: laws require updating – County of Nairobi Control of Dogs and Welfare Bill (2015)– Animal Welfare Bill – well advanced

7. Veterinary medicines and biologicals (Article 3.4.11)

This question seeks to determine whether the veterinary legislation provides a basis for assuring the quality of veterinary medicines and biologicals and minimising the risk to human, animal and environmental health associated with their use.

General measures

Does the veterinary legislation provide a basis for actions to address:

a) definition of veterinary medicines and biologicals, including any specific exclusions?

Yes: No Partially:

Pertinent legislation: Veterinary Surgeons and Veterinary Paraprofessionals act (VSVP) and Pharmacy and Poisons Act also ADA 16. Power to prohibit use of vaccine or drug

(1) The Director may prohibit the use of any vaccine or drug for the treatment of animal disease in Kenya.

(2) Any person who knowingly supplies, sells, purchases, obtains or uses any vaccine or drug for the treatment of animal diseases, the use of which has been prohibited by the Director, shall be guilty of an offence.

Comments: VSVP Act defines while Pharmacy and Poisons Act gives the implementation detail.

b) regulation of the importation, manufacture, distribution and usage of, and commerce in, veterinary medicines and biologicals.

Yes: No Partially:

Pertinent legislation: PPB Act, partially ADA

Comments: Relevant law is under the human pharmacists: Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly

Also :ADA Minister may make rules for: prescribing standards for locally manufactured biological and chemical products used for the control of animal disease and prohibiting the manufacture of any such product.

Raw materials for use in veterinary medicines and biologicals

Does the veterinary legislation provide a basis for actions to

address:

a) quality standards for raw materials used in the manufacture or composition of veterinary medicines and biologicals and arrangements for checking quality?

Yes: No Partially:

Pertinent legislation:

Comments: Relevant law is under the human pharmacists: Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly.

b) establishment of the withdrawal periods and maximum residue limits for veterinary medicines and biologicals, as appropriate?

Yes: No Partially:

Pertinent legislation:

Comment: Relevant law is under the human pharmacists: Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly.

c) requirements for substances in veterinary medicines and biologicals that may, through their effects, interfere with the conduct of veterinary checks?

Yes: No Partially:

Pertinent legislation:

Comment: Relevant law is under the human pharmacists: Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly.

Authorisation of veterinary medicines and biologicals

a) Does the veterinary legislation ensure that only authorised veterinary medicines and biologicals may be placed on the market?

Yes: No Partially:

Pertinent legislation:

Comment: Relevant law is under the human pharmacists: Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly.

b) Does the veterinary legislation make special provisions for:

i) medicated feed?

Yes:

No

Partially:

Pertinent legislation:

Comments:

ii) products prepared by authorised veterinarians or author

ised pharmacists?

Yes: X

No

Partially:

Pertinent legislation:

Comment: Relevant law is under the human pharmacists: Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly.

iii) emergencies and temporary situations?

Yes:

No

Partially:

Pertinent legislation:

Comment: Relevant law is under the human pharmacists: Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly.

c) Does the veterinary legislation address the conditions associated with the granting, renewal, refusal and withdrawal of authorisations?

Yes: X

No

Partially:

Pertinent legislation:

Comment: Relevant law is under the human pharmacists: Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly.

d) In defining the procedures for seeking and granting authorisations, does the veterinary legislation:

i) describe the role of the relevant Competent Authorities?

Yes: X

No

Partially:

Pertinent legislation:

Comment: Relevant law is under the human pharmacists: Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly.

ii) establish rules providing for transparency in decision making?

Yes: X

No

Partially:

Pertinent legislation:

Comment: Relevant law is under the human pharmacists: Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly.

e) Does the veterinary legislation provide for the possibility of recognition of the equivalence of authorisations made by other countries?

Yes:

No

Partially:

Pertinent legislation:

Comment: Relevant law is under the human pharmacists: Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly.

Quality of veterinary medicines and biologicals

Does the veterinary legislation address the following elements:

a) the conduct of clinical and non-clinical trials to verify all claims made by the manufacturer?

Yes: X No Partially:

Pertinent legislation:

Comment: Relevant law is under the human pharmacists: Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly.

b) conditions for the conduct of trials?

Yes: X No Partially:

Pertinent legislation:

Comment: Relevant law is under the human pharmacists: Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly.

c) qualifications of experts involved in trials?

Yes: No X Partially:

Pertinent legislation:

Comment: Relevant law is under the human pharmacists: Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly.

d) surveillance for adverse effects arising from the use of veterinary medicines and biologicals?

Yes: X No Partially:

Pertinent legislation:

Comment: Relevant law is under the human pharmacists, the Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly.

Establishments producing, storing and wholesaling veterinary medicines and biologicals

Does the veterinary legislation provide a basis for actions to address:

a) registration or authorisation of all operators manufacturing, importing, storing, processing, wholesaling or otherwise distributing veterinary medicines and biologicals or raw materials for use in making veterinary medicines and biologicals?

Yes: X No Partially:

Pertinent legislation:

Comment: Relevant law is under the human pharmacists, the Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly.

b) definition of the responsibilities of operators?

Yes: X No Partially:

Pertinent legislation:

Comment: Relevant law is under the human pharmacists, the Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly.

c) good manufacturing practices?

Yes: X Partially:

Pertinent legislation:

Comment: Relevant law is under the human pharmacists, the Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly.

d) reporting on adverse effects to the Competent Authority?

Yes: No

Partially: X Pertinent legislation:

Comment: Relevant law is under the human pharmacists, the Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly.

e) mechanisms for traceability and recall?

Yes: X No Partially:

Pertinent legislation:

Comment: Relevant law is under the human pharmacists, the Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly. But recall is not explicitly mentioned – Onus is on manufacturer / distributor

Retailing, use and traceability of veterinary medicines and biologicals

Does the veterinary legislation provide a basis for actions to address:

a) control over the distribution of veterinary medicines and biologicals and arrangements for traceability, recall and conditions of use?

Yes: X No Partially:

Pertinent legislation:

Comment: Relevant law is under the human pharmacists, the Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly.

b) establishment of rules for the prescription and provision of veterinary medicines and biologicals to end users?

Yes: X No Partially:

Pertinent legislation:

Comment: Relevant law is under the human pharmacists, the Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly.

c) restriction to authorised professionals and, as appropriate, authorised veterinary para-professionals of commerce in veterinary medicines and biologicals that are subject to prescription?

Yes: X No Partially:

Pertinent legislation:

Comment: Relevant law is under the human pharmacists, the Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly.

d) the supervision by an authorised professional or organisations approved for holding and use of veterinary medicines and biologicals?

Yes: X No Partially:

Pertinent legislation:

Comment: Relevant law is under the human pharmacists, the Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly.

e) the regulation of advertising claims and other marketing and promotional activities?

Yes: X No Partially:

Pertinent legislation:

Comment: Relevant law is under the human pharmacists, the Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly.

f) reporting on adverse effects to the Competent Authority?

Yes: No

Partially: X Pertinent legislation:

Comment: Relevant law is under the human pharmacists, the Pharmacy and Poisons Act however we have developed Regulations under the VSVP Act to address this anomaly. Not being enforced for VMPs

8. Human food production chain (Article 3.4.12)

The role of the Veterinary Services in food safety is described in Chapter 6.1 of the OIE *Terrestrial Code*.

General provisions

Does the veterinary legislation provide a basis for:

a) controls over all stages of the production, processing and distribution of food of animal

origin? Yes: No

Partially: √

Pertinent legislation: Meat Control Act, Dairy Industry Act

Comments: Does not cover other foods of animal origin

b) recording all significant animal and public health events that occur during primary production (i.e. pre- slaughter)?

Yes: No Partially:

Pertinent legislation: Branding Act, Cattle cleansing

Comments: Does not cover other foods of animal origin – No requirement for owners to keep records of notifiable or other animal disease / zoonotic disease events

c) giving operators of food production premises the primary responsibility for compliance with food safety requirements, including traceability, established by the Competent Authority?

Yes: No Partially:

Pertinent legislation: The Public Health Act – but, “adequate measures”

Comments: The Act is overseen by the Ministry of Health

d) inspection for compliance with food standards that are relevant to health or

safety? Yes: No

Partially: Pertinent legislation: The

Public Health Act, Standards Act

Comments: The Acts are overseen by the Ministry of Health and KBS – But MRLs not covered under any Regulations

e) inspection of premises?

Yes: No Partially:

Pertinent legislation: The Public Health Act, The Meat Control Act, Food, Drugs & Chemical Substances Act

Comments: The Act is overseen by the Ministry of Health

f) prohibition of the marketing (i.e. sale) of products not fit for human

consumption? Yes: No

Partially:

Pertinent legislation: The Public Health Act, Standards Act, Meat Control Act, Food D &

C Act Comments: The Acts are overseen by the Ministry of Health and KBS

g) provisions for recall from the marketplace of all products likely to be hazardous for human or animal health?

Yes: No Partially:

Pertinent legislation:

Comments: The Acts are overseen by the Ministry of Health and KBS

Products of animal origin intended for human consumption

Does the veterinary legislation provide a basis for actions to address:

a) arrangements for inspection and audit?

Yes: No Partially:

Pertinent legislation: Meat Control Act, PHA, FD&CS

Comments: Inadequate legislation – No other products of animal origin other than meat -

b) the conduct of inspection and audit?

Yes: No Partially:

Pertinent legislation:

Comments: No access – Only for slaughter premises where meat is processed

c) food safety standards?

Yes: No

Partially: Pertinent legislation: Rules

under Meat Act, PHA

Comments: Other agencies are in charge -

d) the application of health identification marks that are visible to the intermediary or final

user? Yes: No

Partially: Pertinent legislation: Meat Control Act

Comments: Inspection cuts and marks that are distinct – maybe under Regulations, but not specified as such – no official stamp saying the meat has been inspected and is “fit for human consumption – No

provisions for identification of animal parts for purpose of traceability back to area of production
Does the Competent Authority have the necessary powers and means to rapidly withdraw any products deemed to be hazardous from the food chain and to prescribe uses or treatments that ensure the safety of such products for human or animal health?

Yes: X No Partially: $\sqrt{\quad}$

Pertinent legislation:

Comments: Several agencies have overlapping mandates – the Public Health Act
Operators responsible for premises and establishments pertaining to the food chain

Does the veterinary legislation provide a basis for actions to address, as appropriate:

a) registration of premises and establishments by the Competent Authority?

Yes: X No

Partially: Pertinent legislation: see attached list

Comments: restricted to slaughter facilities

b) the use of risk-based management procedures?

Yes: No Partially: $\sqrt{\quad}$

Pertinent legislation:

Comments: There is need for capacity building – Meat Act rules can specify management practices at slaughter facilities only

c) prior authorisation of operations that are likely to constitute a significant risk to human or animal

health? Yes: No Partially: $\sqrt{\quad}$

Pertinent legislation: see attached list

Comments: several agencies involved

9. Import and export procedures and veterinary certification (Article 3.4.13)

Does the country belong to the World Trade Organization?

Yes: $\sqrt{\quad}$ No Partially:

Pertinent legislation: WTO Treaty ratified in 1995

Comments: Compliance with WTO Provisions

Does your veterinary legislation make specific reference to the World Trade

Organization? Yes: No $\sqrt{\quad}$ Partially:

Pertinent legislation:

Comments: The legislations embrace the principles and measures without specific reference

Does the veterinary legislation provide a basis for actions to address the elements relating to import and export procedures and veterinary certification referred to in Section 5 of the OIE *Terrestrial Code*, including:

a) certification procedures?

Yes: $\sqrt{\quad}$ No Partially:

Pertinent legislation: see attached list

Comments: most laws are lined up for updating to comply with the OIE Standards – but do not currently have provisions to ensure that import permits or export certification is carried out in accordance with OIE / SPS standards

b) animal health measures applicable before and at departure?

Yes: $\sqrt{\quad}$ No Partially:

Pertinent legislation: see attached list

Comments: most laws are lined up for updating to comply with the OIE Standards – no law has specific rules to be applied at or before borders – only for “animals” does not include animal products or biologicals

c) border posts and quarantine stations?

Yes: $\sqrt{\quad}$ No

Partially: Pertinent legislation: see

attached list ADA – Section 9 sub-sections d,f, and g Comments: most laws are

lined up for updating to comply with the OIE Standards

d) animal health measures applicable on arrival?

Yes: $\sqrt{\quad}$ No Partially:

Pertinent legislation: see attached list

Comments: most laws are lined up for updating to comply with the OIE Standards
e) classification, importation and laboratory containment of animal pathogens?

Yes: No Partially:

Pertinent legislation: see attached list

Comments: most laws are lined up for updating to comply with the OIE Standards
f) quarantine measures applicable to non-human primates?

Yes: No Partially:

Pertinent legislation: see attached list

Comments: most laws are lined up for updating to comply with the OIE Standards –ADA has no specific rules relating to non-human primates

Appendix 6 List of acts and subordinate legislation consulted

Acts and Regulations under the management of the Ministry of Agriculture, Livestock & Fisheries

- 1 Animal disease Act, Ch.364 (1965)
- 2 Meat Control Act, Ch.356
- (1972) 3 Rabies Act, Ch.365 –
- (1932)
- 4 Veterinary surgeons & veterinary paraprofessionals Act, Ch. 366 (2011)
- 5 Veterinary surgeons & veterinary paraprofessionals (Regulations) (2013)
- 5 Branding of Stock Act, Ch.357 – (1907)
- 6 Prevention of Cruelty to Animals Act, Ch.360 – (1962)
- 7 Cattle Cleansing Act, Cap 358 – (1929)
- 8 Stock and Produce Theft Act, Cap 355 – (1933, revised 2012)
- 9 Hides, Skins & Leather Industry Act, Ch.359 – (1987)
- 10 Fertilizers & Animal Foodstuffs Act Cap 345 – (1962)
- 10 Pest control Products Act, Cap 346 – (1982)
- 11 Dairy Industry Act Cap 336 (1958)
- 12 Kenya Meat Commission Act Cap 366 - (1950)
- 13 Pig Industry Act Cap 361 (undated)
- 13 Fisheries Act (1989, revised 2012)

Acts under the management of the Ministry of Health

- 1 Public Health Act - (1921)
- 2 Food, Drugs & Chemical Substances Act Cap 254 – (1965)
- 3 Pharmacy and Poisons Act, Cap 244 – (1957, revised 2009)
- 4 Narcotics Drugs & Psychotropic Substances Control Act

Acts under the management of other Ministries

- 1 Standards Act (1974, revised 2012)
- 2 Wildlife Conservation & Management Act (1976 revised 2009)
- 3 Customs & Excise Act (1978)
- 4 Biosafety Act – (2009, revised
- 2013). 10 Witchcraft Act – (1925,
- revised 2012)

Appendix 7 List of reports consulted during the mission

- [National Livestock Policy \(Draft\) August 2015 IGAD LPI, \(2013\).](#)
- The Contribution of Livestock to the Kenyan Economy [ICPALD 4/CLE/8/2013]
- FAOSTAT. (2015). *FAOSTAT Database*. Rome: FAO.
- [Kenya Vision 2030 <http://www.vision2030.go.ke/> visited 03/12/15](#)
- KNBS. (2015). *Economic Survey*. Nairobi, Kenya: Kenya National Bureau of Statistics, Government of Kenya.
- [Guidelines for the Delivery of Veterinary Services in Kenya \(undated\). State Ministry for Livestock, MALF](#)

Appendix 8 PowerPoint presentations used at entry/exit meetings

Appendix 8a Opening Meeting presentation

03/12/2015





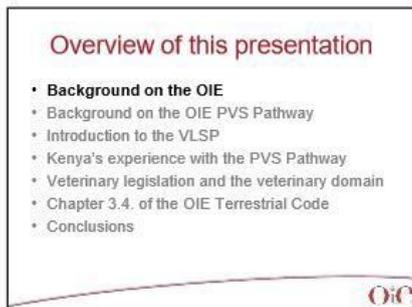
OIE Veterinary Legislation Support Programme (VLSP)
 Veterinary Legislation Identification Mission for Kenya
 16th – 20th November 2015
 John Woodford, Raymond Eriscoe & Graham Hamley



OIE now has a mandate far wider than when it was first created

The OIE was created in 1924 → To prevent the spread of animal diseases throughout the world

The 4th Strategic Plan 2006-2010 extended the OIE's mandate to → "The improvement of animal health worldwide"



Overview of this presentation

- **Background on the OIE**
- Background on the OIE PVS Pathway
- Introduction to the VLSP
- Kenya's experience with the PVS Pathway
- Veterinary legislation and the veterinary domain
- Chapter 3.4. of the OIE Terrestrial Code
- Conclusions



OIE and the World Trade Organization

- The global visibility of the OIE increased in 1995 with the adoption by the World Trade Organization (WTO) of the Agreement on Sanitary and Phytosanitary (SPS) Measures.
- OIE became the WTO's standard setting organization for safe trade in animals and animal products.



WTO functions:

- Facilitate free trade,
- Negotiate trade rules,
- Implement trade agreements,
- Resolve trade disputes,
- Review national trade policies



Brief History of the OIE

- Founded in 1924 in Europe in response rinderpest outbreak.
- Headquarters in Paris.
- Objective was to coordinate activities in neighboring countries to effectively control outbreak.
- OIE evolved into a global, international organization, now with 178 member countries and territories.
- In 2003, The International Office of Epizootics became the World Organisation for Animal Health, but kept its historical acronym, OIE




The Global Expansion of Trade

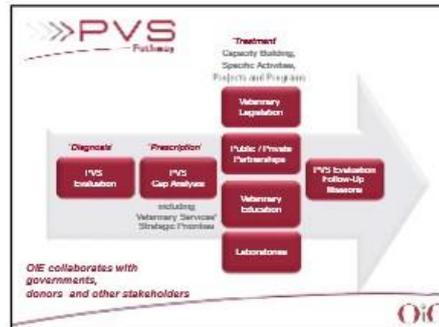
- International trade is an engine for economic growth
- Trade in livestock and foods of animal origin is especially important to developing countries with agriculture-based economies
- Control of livestock and zoonotic disease creates new opportunities for trade
- Global cooperation and coordination on standards for health and safety are essential
- Sanitary and Phytosanitary (SPS) Measures of the WTO
 - FAO/WHO Codex Alimentarius for trade in food
 - OIE for trade in livestock and aquatic animals



03/12/2015

Increased trade is not the only benefit of compliance with international standards

- The activities of the OIE to strengthen Members' Veterinary Services and their compliance with international standards can also:
 - Improve the health and productivity of national flocks and herds,
 - Increase the supply of animal protein for domestic consumption,
 - Improve food safety,
 - Reduce the incidence of zoonotic diseases, and
 - Improve the general health and welfare of the nation's people and animals.



Overview of this presentation

- Background on the OIE
- **Background on the OIE PVS Pathway**
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- Conclusions

OIE PVS Pathway

is a continuous process aiming to sustainably improve compliance of Veterinary Services with international standards and their sustainable efficiency

OIE Assistance to Members: The PVS Pathway

- PVS Evaluations (Performance of Veterinary Services) – Terrestrial and Aquatic
- PVS Gap Analysis
- Veterinary Legislative Support Programme (VLSP)
 - Identification Mission
 - Agreement
- **Twinning Programmes**
 - Laboratories
 - Veterinary Education Establishments
 - Veterinary Statutory Bodies
- Follow up evaluations

Overview of this presentation

- Background on the OIE
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03/12/2015

Structure of the VLSP

- The VLSP is a 'treatment' in the PVS Pathway
- Two key VLSP components
 - Veterinary Legislation Identification Mission
 - Veterinary Legislation Agreement




Component Two of the VLSP: Legislative Agreement

- **Objectives**
 - To establish specific objectives of legislative reform/modernization
 - To sharpen skills in legislative drafting
 - To develop specific new laws and regulations according to the Member's priority needs
- **Logistics**
 - Based on findings of the Identification Mission, Member may request to enter into an agreement
 - 6 month preparatory phase to identify work plan, working group, and benchmarks
 - One year agreement working with OIE expert to implement plan.
 - Role of expert is to provide methodological support, not to draft text.
 - Renewable for an additional year.



Component One of the VLSP: Identification Mission - Objectives

- Raise awareness of the importance of veterinary legislation for modern, effective operation of the veterinary services
- Review principles for developing high quality veterinary legislation
- Review the current status of the Member's legislation relative to the OIE standards for veterinary legislation presented in Chapter 3.4



Overview of this presentation

- Background on the OIE
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- Conclusions



Component One of the VLSP: Identification Mission - Logistics

- Initial request, OIE Team selection & designation of local contact
- Pre-mission information gathering
 - Constitution, key veterinary laws and questionnaires
- On-site mission of one week by OIE Team of experts
 - VLSP tools and concepts presented and overview of the current situation is discussed
 - Current legislation and questionnaires are reviewed to determine existing coverage of the veterinary domain
 - Needs are assessed, especially regarding methodology of legal drafting and provisional findings and recommendations presented
- Follow up report and recommendations
- Possible recommendation for an OIE Legislation Agreement



PVS Pathway Participation in Kenya



- PVS Evaluation Mission in conducted May 2007
- PVS Follow-up Mission – March 2011
- PVS Gap Analysis in July 2011
- VLSP Veterinary Legislation Identification Mission November 2015
- Future Activities?



3

03/12/2015

Sample PVS Follow-up Evaluation, & Gap levels of advancement for Kenya in 2011 & projected for 2016

PVS Critical Competency	Level of advancement (out of 5)	
	2011	2016
IV-1 Preparation of legislation and regulations	3	4
IV-2 Implementation of legislation and regulations and compliance thereof	2	4
IV-3 International harmonisation	3	4
IV-4 International certification	3	3

Levels of Advancement CC IV-3

IV-3. International harmonisation	Levels of advancement
<p>The authority and capability of the VS to be active in the international harmonisation of regulations and sanitary measures and to ensure that the national legislation and regulations under their mandate take account of relevant international standards, as appropriate.</p>	1. National legislation, regulations and sanitary measures under the mandate of the VS do not take account of international standards.
	2. The VS are aware of gaps, inconsistencies or non-conformities in national legislation, regulations and sanitary measures as compared to international standards, but do not have the capability or authority to rectify the problems.
	3. The VS monitor the establishment of new and revised international standards, and periodically review national legislation, regulations and sanitary measures with the aim of harmonising them, as appropriate, with international standards, but do not actively comment on the draft standards of relevant intergovernmental organisations.
	4. The VS are active in reviewing and commenting on the draft standards of relevant intergovernmental organisations.
	5. The VS actively and regularly participate at the international level in the formulation, negotiation and adoption of international standards, and use the standards to harmonise national legislation, regulations and sanitary measures.

Levels of advancement CC IV-1

IV-1. Preparation of legislation and regulations	Levels of advancement
<p>The authority and capability of the VS to actively participate in the preparation of national legislation and regulations in domains that are under their mandate, in order to guarantee its quality with respect to principles of legal drafting, and legal issues (internal quality) and its accessibility, acceptability, and technical, social and economic applicability (external quality).</p> <p>This competency includes collaboration with relevant authorities, including other ministries and Competent Authorities, national agencies and decentralised institutions that share authority or have mutual interest in relevant areas.</p>	1. The VS have neither the authority nor the capability to participate in the preparation of national legislation and regulations, which result in legislation that is outdated or of poor quality in most fields of VS activity.
	2. The VS have the authority and the capability to participate in the preparation of national legislation and regulations and can largely ensure their internal quality, but the legislation and regulations are often lacking in external quality.
	3. The VS have the authority and the capability to participate in the preparation of national legislation and regulations, with adequate internal and external quality in some fields of activity, but lack the formal methodology to develop adequate national legislation and regulations regularly in all domains.
	4. The VS have the authority and the capability to participate in the preparation of national legislation and regulations, with a relevant formal methodology to ensure adequate internal and external quality, involving participation of interested parties in most fields of activity.
	5. The VS regularly evaluate and update their legislation and regulations to maintain relevance to evolving national and international contexts.

Levels of Advancement CC IV-4

IV-4. International certification	Levels of advancement
<p>The authority and capability of the VS to certify animals, animal products, services and processes under their mandate, in accordance with the national legislation and regulations, and international standards. Certification procedures should be based on relevant OIE and CODE Alimentarius standards.</p>	1. The VS have neither the authority nor the capability to certify animals, animal products, services or processes.
	2. The VS have the authority to certify certain animals, animal products, services and processes, but are not always in compliance with the national legislation and regulations and international standards.
	3. The VS develop and carry out certification programmes for certain animals, animal products, services and processes under their mandate in compliance with international standards.
	4. The VS develop and carry out all relevant certification programmes for any animals, animal products, services and processes under their mandate in compliance with international standards.
	5. The VS carry out audits of their certification programmes, in order to maintain national and international confidence in their system.

Levels of Advancement CC IV-2

IV-2. Implementation of legislation and regulations and compliance thereof	Levels of advancement
<p>The authority and capability of the VS to ensure compliance with legislation and regulations under the VS mandate.</p>	1. The VS have no or very limited programmes or activities to ensure compliance with relevant legislation and regulations.
	2. The VS implement a programme or activities comprising inspection and verification of compliance with legislation and regulations and recording instances of non-compliance, but generally cannot or do not take further action in most relevant fields of activity.
	3. Veterinary legislation is generally implemented. As required, the VS have the power to take legal action/issue prosecution in instances of non-compliance in most relevant fields of activity.
	4. Veterinary legislation is implemented in all domains of veterinary competence and the VS work to increase instances of non-compliance.
	5. The compliance programme is regularly subjected to audit by the VS or external agencies.

Overview of this presentation

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03/12/2015

Objectives of Veterinary Legislation

- To provide a legal basis for effective regulation of the veterinary domain in order to achieve:
 - Food security through the protection of the primary resource (livestock health);
 - Food safety (through involvement from farm to fork);
 - Human health and safety (through control of dangerous animals and zoonoses);
 - Human welfare, through assurance of animal welfare and animal health;
 - Safety of international trade in animals and animal products through compliance with the SPS.

Principles of Veterinary Legislation

- Veterinary legislation must be designed holistically, i.e.:
 - Legal aspects
 - Technical veterinary aspects
 - Organisational and administrative aspects
- With the development of a full set of measures including:
 - Basic laws
 - Derived regulations
 - Evaluation measures
 - Effective administration
 - Financial provisions
- Improvement of veterinary legislation is a prerequisite to improving capacity of VS

Quality of Veterinary Legislation

- Good legislation must have **internal quality** and **external quality**
- Internal quality** relates to the legal aspects of the law. **Good internal quality**
 - Respects the principles of the Constitution,
 - Respects the hierarchy of legislation,
 - Is clearly written for legal certainty,
 - Does not contradict other laws.
- External quality** relates to the technical aspects of the law
 - All necessary activities are included
 - Proper authorities and powers are identified

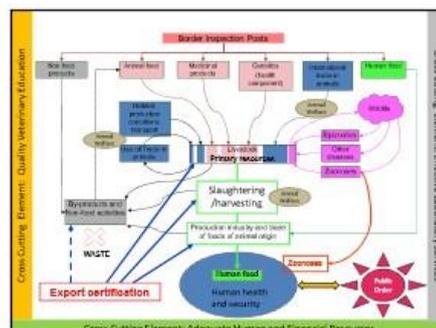
Definition of the veterinary domain

“All actions directly or indirectly related to animals, their products and by-products, whenever such actions help to protect, maintain and improve human health, namely the physical, moral and social welfare of humans”

Principles of Veterinary Legislation

- The veterinary legislation must have its basis in **established veterinary policies** and objectives and represent those policies & objectives.
- There cannot be only one veterinary law
- The whole is necessarily very complex
- Practically we need a definition of veterinary legislation for the VLSP
- And so, the definition is:

« the set of legal texts necessary for the governance of the veterinary domain »



03/12/2015

Overview of this presentation

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Chapter 3.4 of the OIE Terrestrial Animal Health Code

"The objective of this chapter is to provide advice and assistance to Member Countries when formulating or modernising veterinary legislation so as to comply with OIE standards, thus ensuring good governance of the entire veterinary domain."



Brief history of Chapter 3.4

- The Veterinary Legislation Support Programme (VLSP) was inaugurated as part of the PVS Pathway in 2008
- In 2009, at Members' request, the OIE developed **Guidelines on Veterinary Legislation**, identifying the essential elements that should be covered by legislation to meet the OIE standards. These were posted on the OIE website.
- In December 2010, the first **OIE Global Conference on Veterinary Legislation** was held in Djerba, Tunisia.




Overview of Chapter 3.4 Veterinary Legislation

General matters

- > Introduction & objectives
- > Definitions
- > General principles
- > The drafting of veterinary legislation

Specific matters

- > Competent authorities
- > Veterinarians & veterinary para-professionals
- > Laboratories in the veterinary domain
- > Health provisions relating to animal production
- > Animal diseases
- > Animal welfare
- > Veterinary medicines & biologicals
- > Human food production chain
- > Import & export procedures & veterinary certification



Brief history of Chapter 3.4

- A recommendation of the Djerba Conference was that the OIE propose the adoption & publication of the current **Veterinary Legislation Guidelines as standards in the Terrestrial Code**
- In response to this recommendation, OIE convened an **Ad Hoc Group on Veterinary Legislation** to develop the draft chapter on veterinary legislation.
- The **draft chapter on veterinary legislation** was unanimously adopted by the World Assembly of Delegates at the 80th OIE General Session in May 2012.
- **It is now Chapter 3.4 of the OIE Terrestrial Animal Health Code**



Conclusions

- Veterinary legislation is necessary to provide a **legal basis for the Competent Authority** to properly & effectively regulate the veterinary domain.
- The OIE Veterinary Legislative Support Programme (VLSP) is an integral component of the OIE's PVS Pathway which is dedicated to the robust development of Members' Veterinary Services consistent with international standards.
- The VLSP serves specifically to provide advice and assistance to Members on the formulation or modernisation of high quality veterinary legislation so as to comply with OIE standards, thus ensuring good governance of the entire veterinary domain.



Appendix 8b Closing Meeting presentation

03/12/2015



Veterinary Legislative Identification
Mission for Kenya

Preliminary Findings and Recommendations

20th November 2015

John Woodford, Raymond Briscoe & Graham Hamley



Legislative Drafting Process

1. **Publication & circulation** – Published in the Gazette
2. **First reading** – Draws the attention of Parliament to the Bill for high-level review of title and purpose
3. **Second reading** – Parliamentary review of the overall purpose and objectives of the Bill in detail. May be deferred for 6 months
4. **Committee of the whole house** – Clause-by-clause analysis and proposal of amendments
5. **Report stage** – Committee reports consideration to the House
6. **Third reading** – Debate principles, but not propose amendments
7. **Assent by President or Governor**
8. **Gazettement**



Legal Framework of Kenya

- **The Nation**
 - Unitary state
- **Constitution** – New Constitution promulgated in 2010
- **Legal System** - is a mixed legal system of English common law and African Customary law.
- **Democratic Institutions**
 - National Executive: President, Deputy President and Cabinet
 - Legislature: Bicameral Parliament - National Assembly and Senate
 - Judiciary:
 - *Superior Courts*: Supreme Court, Court of Appeal, High Court
 - *Subordinate Courts*: Magistrates Courts, Kadhis' Courts and Courts Martial.
- **Levels of Administration**
 - National, County Governments



Constitution and Devolution

Roles and responsibilities of National and County Governments

National Government:

- Protection of environment and Natural resources – establishing a sustainable system of development including [...] protection of animals & wildlife
- Veterinary Policy

County Governments:

- Agriculture, including, *inter alia*:
 - Animal husbandry, Livestock sale yards, County abattoirs, Animal disease control
- County health services, including, *inter alia*:
 - Veterinary services (excluding regulation of the profession)



Types of Legislation in Kenya

Primary

- **Acts of Parliament**

Secondary

- **Statutory instruments**
 - Rules, orders, regulations, directions, etc (*Statutory Instruments Act 2013, s.2*)



Current Veterinary Legislation under MALAF

Animal Health & Production

- Animal Diseases Act,
- Fertilizers and Animal Foodstuffs Act,
- Meat Control Act;
- Rabies Act,
- Branding of Stock Act,
- Cattle Cleansing Act,
- Hides, Skins and Leather Industry Act, Chapter 359;
- Dairy Industry Act, Chapter 336;
- Uplands Bacon Factory Act, Chapter 362;
- Kenya Meat Commission Act, 363

Veterinary Profession and para-professions

- Veterinary Surgeons and Veterinary Paraprofessionals Act No. 29 of 2011



03/12/2015

Current Veterinary Legislation under MALAF

Animal Welfare
Prevention of Cruelty to Animals Act
Veterinary Surgeons and Vet. Para-professionals Act

Food safety
Meat Control Act
Veterinary Surgeons & Vet para-professions Act

Animal Feed
Fertilisers and Animal Foodstuffs Act

Miscellaneous
Uplands Bacon Factory Act
Kenya Meat Commission Act
Wildlife Management and Conservation Act, in collaboration with Ministry responsible for wildlife and tourism;
Customs and Excise Act, Chapter 472, In collaboration with Ministry responsible for customs
Pest Control Products Act, Chapter 346
Fisheries Act, Chapter 378



Legislation relevant to the Veterinary Domain which is under Development

- Animal Welfare Bill
- Regulation creating Veterinary Medicines Directorate
- Kenya Food and Drug Administration Draft Act



Current Veterinary Legislation under MoH

Food safety
Public Health Act
Food, Drug & Chemical Substances Act

Medicines
Pharmacy & Poisons Act
Narcotics Drugs and Psychotropic Substances Control Act, Chapter 245



Strengths Noted in the Legislation Reviewed

- Generally good quality drafting, especially in the more recently enacted Acts and Regulations
- Excellent cross referencing within each piece of legislation
- Well formulated draft policy defining a livestock development strategy
- Coverage of most areas of the veterinary domain
- Good stakeholder consultation involved in legislation development
- Excellent commitment on the part of senior management to take forward the process of legislative reform
- Availability of legal counsel within MALAF
- Good technical capacity to undertake review and revision of the veterinary legislation



Current Legislation having a bearing on the veterinary domain under other Ministries

Ministry of Trade
Standards Act, Chapter 496

Ministry of Finance
Customs and Excise Act, Chapter 472

Ministry of Education, Science and Technology
Biosafety Act, Number 2 of 2008

Ministry of Sports, Culture and the Arts
Witchcraft Act, Cap 67, Chapter 321



General legal drafting issues - Internal quality

- National legislative framework-
 - Currently does not respect national administrative hierarchy
- Interpretation –
 - Lack of terms to define words which deviate from common meaning or have more than one meaning;
 - Lack of consistency in the use of defined terms;
 - Imprecise meaning;
- Drafting issues –
 - Use of subjective adjectives e.g. "such fit persons" (s.3(1) ADA), "adequate measures" (s.131, PIA), "without reasonable cause" (s.33) VS s(PA), "carefully conveyed" (s.18 Nairobi City County Dog Control & Welfare Bill)
 - Lack of identification of Ministry to which Minister belongs (PoCAA)



2

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General issues – External quality

- Lack of provisions to identify national reference laboratory, for designation of other labs authorised to carry out official tests by the CA and Lack of provisions to define the conditions for the classification, approval, operations and supervision of laboratories at each level;
- Lack of procedures for authorising reagents that are used to perform official analyses;



Issues for improvement in Legislation for the Veterinary Domain (TAHC Chapter 3.4)

- Veterinarians & veterinary para-professionals (VPPs) Art. 3.4.6) – Existing legislation - Veterinary Surgeons and Veterinary Para-professionals Act (2011)
- There is a need to specify the prerogatives of registered veterinary surgeons and VPPs more precisely e.g. definition of "surgical operation" would be useful in this regard;
- Lack of a description of the general system of control in terms of the political, administrative and geographic configuration of the country – There must be a means of ensuring that the rules are being applied and the manner in which this control is exercised must be described by the law



General issues – External quality

- Lack of provisions to authorise the Veterinary Authority to delegate the performance of certain public functions to be performed by private vets and VPPs
- Inconsistent definition of "animals" e.g. bees included in ADA but missing from VS VPPA;
- Incomplete reference to and compliance with international conventions (SPS, Codex, TAHC)
- No mechanism for impact evaluation, including costing and human resources for implementation and enforcement before a law is enacted.



Issues for improvement in Legislation for the Veterinary Domain (TAHC Chapter 3.4)

- **Veterinary diagnostic laboratories (Art 3.4.7)**
There is a lack of provisions in the legislation to:
- Identify the DVS as the Competent Authority for authorization and inspection of state & private veterinary diagnostic labs (currently with Veterinary Surgeons Board);
- Designate a national reference laboratory and defining its roles, responsibilities and obligations
- Designate which laboratories can carry out analysis of official samples and analyses required under the legislation, e.g. quality control
- Define the conditions for classification, approval, operations and supervision of laboratories (public and private) at each level



Issues for improvement in Legislation for the Veterinary Domain (TAHC Chapter 3.4)

- Governance of the VS – Competent Authorities – (Art 3.4.5)
- Validating technical competence of officer (through specification of necessary qualifications e.g. Job Description)
- Improving coordination / removing overlaps between respective roles and responsibilities of Competent Authorities (MALAF / MoH) re: Regulation of Veterinary Medicines & biologicals
- Defining clear chain of command to allow rapid and effective management of sanitary emergencies and two way flow of information through most direct line of communication



Issues for improvement in Legislation for the Veterinary Domain (TAHC Chapter 3.4)

- **Veterinary diagnostic laboratories (Art 3.4.7)**
- Authorize private laboratories to perform specified public functions on behalf of DVS
- Recognize laboratories required by law to carry out "self-inspection" / QA test controls – e.g. Abattoir labs;
- Ensure quality assurance by manufacturers of reagents used in official analyses;
- Ensure surveillance of marketing of reagents, where these can affect the quality of analyses required by the veterinary legislation;
- The provision for the collection and submission of samples by owners is considered inappropriate;



3

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Issues for improvement in Legislation for the Veterinary Domain (TAHC Chapter 3.4)

- Animal production (Art 3.4.8) – Provisions are required for:
- Defining the scope / outcomes of an animal identification, movement control & traceability system;
- Progressive compulsory identification of individual animals for purpose of traceability;
- Defining the technology to be employed for the identification of animals and data management;
- Authorizing persons to place identification devices on animals;
- Obligation of owners to provide information on identified animals and maintenance of confidentiality of data
- Defining animal movements to include births, deaths, sales;
- Defining the organizational relationships between the DVS and farmers for management of the I/D – Trace-back system



Issues for improvement in Legislation for the Veterinary Domain (TAHC Chapter 3.4)

- **Animal Welfare – (Art 3.4.10 / Section 7)**
- Competent Authority not specified
- Need for animals to be killed humanely, including during emergencies;
- Need for regulations to cover:
 - animal management,
 - transportation,
 - slaughter,
 - humane management of stray animals,
 - animals used in exhibitions, sport, research



Issues for improvement in Legislation for the Veterinary Domain (TAHC Chapter 3.4)

- Animal feeds (Art 3.4.8) Provisions required for:
- Clarifying responsibility for regulation of inclusion of by-products in animal feed;
- Defining the standards of animal feeds;
- Provisions for recall of contaminated / infected animal feeds;
- Coordination between relevant institutions involved in the regulation of collection, processing, use and disposal of animal by-products;
- Rules governing the preparation and handling of animal by-products by animal owners;



Issues for improvement in Legislation for the Veterinary Domain (TAHC Chapter 3.4)

- **Veterinary medicines & biological products (Art 3.4.11)**
- Use of equivalence of authorisations made by other countries for purpose of registration;
- Establish and communicate withdrawal periods and MRLs;
- Appropriate authorisations, dispensing and use of veterinary medicinal products / biologicals;
- Incomplete enforcement of reporting of adverse effects arising from the use of VMPs / biologicals;
- Requirements for substances in veterinary medicines and biologicals that may, through their effects, interfere with the conduct of veterinary checks.



Issues for improvement in Legislation for the Veterinary Domain (TAHC Chapter 3.4)

Animal Diseases (Art 3.4.9)

Animal Disease Surveillance

- Notifiable disease listing –to be placed in Schedule /subsidiary legislation according to OIE standards Chapt. 1.1 & 1.2 TAHC
- Obligation of VS to perform outbreak investigation to confirm clinical suspicion of notifiable animal disease through laboratory diagnosis;
- Provisions for the collection, transmission & utilization of epidemiological information;

Disease prevention and control

- Incomplete contingency plans and emergency preparedness / exceptional powers, including rapid access to funds for implementation



Issues for improvement in Legislation for the Veterinary Domain (TAHC Chapter 3.4)

- **Human food production chain – (Art 3.4.12)**
- Refining recording system to enable risk analysis of significant animal & public health events occurring during primary production;
- Establishing primary responsibility for safety of animal products on the part of the owners of animal product processing premises;
- Inspection / testing for safety according to food standards (Codex);
- Lack of provisions for recall of infected or contaminated foods of animal origin
- Lack of provisions for setting standards of MRLs
- Incomplete coverage of all animal products (e.g. honey and eggs)
- Incomplete authorisation for inspection and audit of premises (Milk processing)



4

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Issues for improvement in Legislation for the Veterinary Domain (TAHC Chapter 3.4)

- Import / Export procedures / certification (Art 3.4.13)
- Reference to international standards, e.g. Codex, OIE, SPS
- Declaration of sanitary measures for import of animals & animal products based on Risk analysis and scientific justification before and at departure;
- Equivalence of measures of exporting country;



Legislation Agreement with the OIE

- Preconditions: a PVS mission, a legislative identification mission, a formal request from the country concerned and approval by the OIE Director General.
- Country commits to a **strategic plan** and designation of a project leader to undertake a 6 month preparatory phase.
- The OIE provides methodological support and external references via an accredited expert with possible advice and participation of the OIE Regional Representation.
- If approved after the preparatory phase, a 1 year Agreement is signed which can include 1 or 2 country missions by the expert.
- Between visits, the country takes primary responsibility for the preparation of new legislation with consultation by the expert from a distance.
- The OIE does not draft legislation on behalf of the country concerned or finance its activities.



Conclusions

- 1 Most Acts require to be aligned with new Constitution
- 2 Internal and external quality of more recently promulgated legislation is generally satisfactory - minor deficiencies observed
- 3 Existing legislation covering the veterinary domain requires to be updated and aligned with international standards.
- 4 Large number of legal instruments, some of which are likely to become redundant, if ADA is updated - offers opportunity for consolidation.
- 5 Respective roles and responsibilities of MALAF and MoH relating to sale and use of veterinary medicinal products & biologicals require to be defined in appropriate legislation;



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Recommendations

- 1 Consider the possibility of consolidation of many of the provisions of existing legal instruments
- 2 Consider integration of Animal Welfare into AHA and then make AW specific regulations;
- 3 Open dialogue with MoH regarding division of responsibilities for regulation of sale and use of veterinary medicinal products and biologicals
- 4 Strengthen enforcement of all legislation covering the veterinary domain
- 5 Expand programmes for creation of awareness – in order to improve understanding and compliance



Thank you for your attention

...questions..?



Organisation mondiale
de la santé animale

World Organization
for Animal Health

Organización Mundial
de Sanidad Animal

12 rue de Prony, 75017 Paris, France
www.oie.int info@oie.int

