



Republic of Kenya

THE KENYA NATIONAL QUALITY INFRASTRUCTURE POLICY

March 2019

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ABBREVIATIONS AND ACRONYMS USED

AU	African Union
BIPM	Bureau International des Poids et Mesures
CAC	Codex Alimentarius Commission
KNBS	Kenya National Bureau Statistics
COMESA	Common Market for Eastern and Southern Africa
DVS	Department of Veterinary Services
EAC	East African Community
ECOWAS	Economic Community for West African States
ERS	Economic Recovery Strategy
EU	European Union
FAO	Food and Agricultural Organization
IAF	International Accreditation Forum
IEC	International Electrotechnical Commission
ILAC	International Laboratory Accreditation Cooperation
IPPC	International Plant Protection Convention
ISO	International Organization for Standardization
KARI	Kenya Agricultural Research Institute
KEBS	Kenya Bureau of Standards
KEPHIS	Kenya Plant Health Inspectorate Services
LMD	Legal Metrology Department
NQP	National Quality Council
NFSCC	National Food Safety Coordination Committee

NMI	National Metrology Institute
NQC	National Quality Council
NQI	National Quality Infrastructure
NSB	National Standards Body
NGO	Non-governmental Organization
OIE	Office International des Epizooties
OIML	Organization Internationale de MetrologieLegale
SME	Small and Medium Enterprise
SPS	Sanitary and Phytosanitary Measures
TBT	Technical Barriers to Trade
UN	United Nations
WHO	World Health Organization
WTO	World Trade Organization

Definition of Terms

Accreditation is the procedure by which an authoritative body gives formal recognition that a **body or person is competent to carry out specific tasks.**

Accreditation body means a body that conveys formal demonstration of the competence of conformity assessment tasks

Calibration is the set of operations that establish, under specified conditions, the relationship between values of quantities indicated by a measuring instrument or measuring system, or values represented by a material measure or a reference material and the corresponding values realized by standards.

Certification is the procedure by which a third party provides written attestation that a product, process or service meets specified requirements.

Conformity assessment means the demonstration that specified requirements relating to a product, process, system, person or body are fulfilled.

Conformity assessment body means an entity that conducts conformity assessment;

Inspection means the examination of a product design, product, process or installation and determination of its conformity with specific requirements or, on the basis of professional judgement, with general requirements.

Kenya Standard means a National Standard developed through the national technical committees, subjected to stakeholder's consultations, approved by the National Standards Council and published in the Kenya Gazette;

Manufacture means produce, assemble, alter, modify, adapt, convert, process, treat, install, test or operate;

Manufacture means any legal or natural person engaged in production, processing, treatment, installation, testing or any other operation in relation to goods or services subject to National Standards or Technical Regulations, and includes a supplier;

Measurement standard means a material measure, measuring instrument, reference material or measuring system intended to define, realize, conserve or reproduce a unit, or one or more values of a quantity, to serve as a reference.

National Quality Infrastructure means the totality of the institutional framework (public or private) required to establish and implement standardization, metrology (scientific, industrial and legal), accreditation and conformity assessment services (inspection, testing and product- and

system certification) necessary to provide acceptable evidence that products and services meet defined requirements, be it demanded by authorities (technical regulation) or the market place (contractually or inferred).

Quality management means the coordinated activities to direct and control an organization with regard to quality.

Standard means a document, established by consensus and approved by a recognized body, that provides, for common and repeated use, rules, guidelines or characteristics for activities or their results, aimed at the achievement of the optimum degree of order in a given context.

Technical regulation means a document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method.

Testing means the determination of one or more characteristics of an object of conformity assessment in accordance with a specified method.

FOREWARD

The National Quality Infrastructure Policy (NQP) of Kenya is underpinned on the motto; Tested once, certified once, and accepted everywhere.

As the globalization of markets continues its relentless pace and as it is shaped by technological developments, more and more governments are carefully reconsidering the overall arrangement of their national quality infrastructure.

The National Quality Infrastructure is taken as the totality of the institutional framework including both the public and private sector that requires an establishment and implementation of standardization, metrology (scientific, industrial and legal), accreditation and on conformity assessment services (inspection, testing and product- and system certification) necessary to provide acceptable evidence that products and services meet defined requirements, be it demanded by authorities (technical regulation) or the market place (contractually or inferred).

Enterprises and manufactures of Kenya face challenges in accessing markets in the more developed economies due to the absence of clear and internationally recognized quality infrastructure. The challenges include quality, financial, management shortcomings, logistics and skills difficulties. The Kenyan Government is keen to ensure that the sector has a supportive and internationally recognized quality infrastructure that can undertake independent attestation of product and/or service quality.

The optimum arrangement of the National Quality Infrastructure in Kenya is as much a government policy issue as a market-related service provision concern. The notion that two separate systems are required, i.e. one for the regulatory authorities and one for the market place, is outdated and leads to unnecessary duplication and inefficiency. In a modern National Quality Infrastructure, the technical competency issues as well as the required legal checks and balances, can appropriately be dealt with.

Hence, a single, coherent National Quality Infrastructure presented by the National Quality Infrastructure Policy will advantageously serve both the regulatory authorities and the market place. In order to comply with Constitutional provisions on protection of consumer rights, the National Quality Infrastructure Policy will promote a quality culture that will in turn ensure the protection of consumer rights as per the Kenya constitution as well as encourage Industries and other organizations to adopt quality improvement practices in their day to day activities.

In order to enhance compliance with the WTO and SPS Agreements, it is necessary to coordinate the activities of the various institutions dealing with technical regulations thereby facilitating trade.

The National Quality Infrastructure Policy aims to link the technical regulation regime of Kenya with the National quality infrastructure.

The Government of Kenya in pursuing good governance in order to better integrate with the international community, it seeks, through this National Quality infrastructure Policy, to strengthen legal and Institutional frameworks conducive to economic, social, and ecological development. The establishment of an effective and efficient quality infrastructure contributes greatly to good governance.

Consequently, it is appropriate that the Government develops the requisite quality policy framework in order to re-engineer quality infrastructure and the Technical regulation regimes, and to determine the proper division of the responsibilities.

Hon. Peter Munya,
Cabinet Secretary Trade, Industrialization and Cooperatives

CHAPTER ONE: INTRODUCTION

1.0 Background and Rationale

Since 2006 the Government of Kenya was engaged in preparation of a major policy document, the Kenya Vision 2030 which implied the need for a national policy that mainstream ideas on country's overall economic policy and development and poverty reduction strategies.

The *Kenya Vision 2030* is the country's development blueprint covering the period 2008 to 2030. Its objective is to help transform Kenya into a, "*middle-income country providing a high quality life to all its citizens by the year 2030*". Developed through an all-inclusive and participatory stakeholder consultative process, the Vision is based on three "pillars": the *economic*, the *social* and the *political*. This Vision's adoption comes after the successful implementation of the Economic Recovery Strategy for Wealth and Employment Creation (ERS), responsible for the country's GDP growth from a low of 0.6% and gradual rise to 6.1% in 2006.

Standards, Metrology and Conformity assessment commonly referred to Quality Infrastructure are important to an economy in a number of interdependent ways which support economic development through the production of competitive products and also enhance the quality of life through the promotion of safety, quality, health and environmental protection. Consequently, an effective quality infrastructure is a vital pillar for a country's sustainable development. The Kenya Government recognizes the importance of a quality infrastructure and has shown commitment to its development.

The Constitution of Kenya under Article 46 provides that Consumers have the right to: --

- a) goods and services of reasonable quality;
- b) the information necessary for them to gain full benefit from goods and services;
- c) the protection of their health, safety, and economic interests; and
- d) compensation for loss or injury arising from defects in goods or services.

The Kenya Bureau of Standards is a governmental agency responsible for maintaining the standardization, metrology (scientific, industrial and legal), and on conformity assessment services (inspection, testing and product- and system certification) in Kenya. KEBS was established by an Act of Parliament of Kenya's National Assembly, *The Standard Act*, and Chapter 496 of the Laws of Kenya. The Bureau started its operations in July 1974. KEBS has main offices in Nairobi, and regional offices throughout Kenya (Mombasa, Kisumu, Nakuru, Garissa and Nyeri).

Since its establishment, The Kenya Bureau of Standards has continued to develop Standards in Kenya relating to products, measurements, materials, processes, services, etc. and their promotion at national, regional and international levels; certification of industrial products; assistance in the production of quality goods; quality inspection of imports at ports of entry and market surveillance; offering the traceability to the SI units of measurements; improvement of measurement accuracies, is overseeing the National Measurement System and dissemination of information relating to Standards. As a sequel to other activities, and to ensure the full implementation of Article 46 of the Constitution, the Kenya Bureau of Standards has determined the need to develop a national policy on standards and quality in Kenya.

1.1 Policy development process

The development of this policy was informed by the need to have harmonized standards for any product or device in Kenya.

Moreover, there was need to develop procedures for all products in Kenya with regards to their manufacture, production processing, treatment or performance of any product or service for any process, installation, construction, testing, operation or use of any article or device in Kenya.

The policy was developed through an evidence based participatory process that covered both National and County Government. Extensive consultations were held with manufacturing organizations, sectoral groups as well as consumers drawn from the pool of members of the public.

The formulation of this policy has been designed to strengthen the national quality infrastructure to achieve accelerated economic growth, export enhancement, ensure supply of safe and quality products in the market and contribute towards environment protection in line with international best practice.

1.2 Linkage with stakeholders

The Kenya Bureau of Standards will continue to play the lead role in formulating strategic plans to implement this policy, building partnerships among stakeholders and ensuring availability of resources.

In addition, the Ministry of Trade, industrialization and cooperatives together with the National and County Government is committed to playing a key role in the participatory partnership with investors, development partners, international agencies, CSOs and other bodies.

The contribution of these Stakeholders has been invaluable and the Kenya Bureau of standards will continue to encourage this collaboration and partnerships for the purposes of realizing

synergies, providing linkages, promoting trust, goodwill and ownership among all stakeholders.

1.3 Purpose and Scope

This policy is informed by the need for a strategic approach to address challenges that continue to undermine the products destined for the Kenya market or manufactured in Kenya, to ensure that they comply with international standards by being subjected to internationally recognized accreditation system of conformity assessment to support the rapidly growing international trade and globalization.

The purpose of this policy is to promote economic prosperity in line with the Government of Kenya policies and objectives in the Vision 2030 economic blue print. Kenya recognizes that quality goods is a pillar for social economic development and gives priority to the adoption of a National Quality Infrastructure Policy.

Thus, the overall purpose of this Policy is to guide the Government on how to achieve an effective regulatory mechanism using accredited laboratories, certification bodies and inspection agencies in line with the Constitution where the rights of the consumers are respected in order to improve the quality of life and lifestyle of the citizens of the Republic of Kenya.

Moreover, this policy seeks to establish a strong and national regulatory, accreditation and certification infrastructure to facilitate production and trade, enhance export, accelerate economic development, and protect the environment, health and safety of the consumers and improve the quality of imports.

This policy covers all public and state officers at both the National and County Governments.

1.4 Objectives of the policy

The aim of this policy is to ensure that goods and services exported from, imported into or traded in Kenya are designed, packaged, labelled, manufactured and supplied in accordance with the needs, expectations and requirements of the purchasers and consumers as well as those of the regulatory authorities in the local and export markets.

The broad objectives of the policy are:

- a) To clearly define the government's commitment to create an environment that allows for the spawning of initiatives, which promote the best quality practices in all sectors of the economy.
- b) To provide the policy level basis for strengthening and upgrading of metrology, standards, accreditation, and conformity assessment systems together with effective enforcement of

- technical regulations as part of the process of building a sustainable national economy.
- c) To facilitate the implementation of a coordinated programme to build, support and sustain a national quality culture
 - d) To establish a framework of enhanced coordination and collaboration among the core National Quality Infrastructure institutions.
 - e) To create awareness and promote the use of standards
 - f) To develop and implement a national quality promotion strategy that builds on the Quality Infrastructure institutions and assists Kenyan enterprises in becoming globally competitive.
 - g) To facilitate measures to improve the quality of goods and services in the marketplace.
 - h) To facilitate improvement in productivity through education and training and the establishment of data banks.
 - i) To facilitate the development/enhancement of technology, goods and services through Research and Development,
 - j) To enable the protection of the rights of consumers through developing an effective technical regulatory mechanism, product certification and other conformity assessments schemes.
 - k) To ensure that goods and services produced in Kenya and supplied in local, regional and international markets meet the stated and intended quality requirements.
 - l) To develop and implement a sustainable National Quality Infrastructure and Code of Practice for the preparation, adoption and implementation of Technical Regulations aligned to and consistent with international best practice and international agreements to which Kenya is a signatory
 - m) To facilitate strengthening of human resource capacity in standards, metrology, accreditation and conformity assessment as well as technical regulatory practice.
 - n) To ensure support for the quality infrastructure requirements of other national policies
 - o) To clarify mandates and elaborate a proper division of work regarding the administration of provisions of technical regulations by various governmental agencies;
 - p) To develop and implement procedures for monitoring the quality of products and services;
 - q) To improve productivity through training and education and establishment of information centers for general public on standardization, metrology and conformity assessment;
 - r) To continuously research, innovate and development of human resources, in the field of quality and to prepare Kenya industries and trade sectors to meet the standards and technical regulations;
 - s) To protect the rights of the consumers through developing an effective regulatory mechanism, product certification and other conformity assessment schemes.

1.5 Key Principles

1.5.1 WTO TBT Agreement principles

The following WTO TBT Key principles will guide the determination of national standards and

conformity assessment in Kenya: -;

Transparency: This principle ensures that documents associated with standardization work are available on request to all interested parties. The identities of organizations represented in the process are in public domain. This is achieved through announcement of approved new work item on the Iso-solution, website, announcement of public draft on the KEBS website and notification to WTO Secretariat, Gazettment of approved, amended or withdrawn standards, Searchable and downloadable standards web-store

Openness: This principal ensures participation in the standardization work is open to all the concerned parties on a non-discriminatory basis. At national level it is important to consider the trade-off between the non-discriminatory approach of openness, and at regional level the members participation in a particular standardization activity takes place through one delegation representing the consensus established by all national stakeholders and also providing exchange of data related to implemented TBT and SPS measures;

Impartiality: This principal ensures that officers, at all times, carry out the duties of the office with impartiality and objectivity in accordance with Articles 10, 27, 73(2)(b) and 232 of the Constitution and shall not practice favoritisms, nepotism, tribalism, cronyism, religious bias or engage in corrupt or unethical practices.

Consensus: This principle ensures general agreement, characterized by the absence of sustained opposition to substantial issues by any important part of the concerned interests and by a process that involves seeking to take into account the views of all parties concerned and to reconcile any conflicting arguments

Relevance and effectiveness: This principle ensures standards are relevant and to effectively respond to regulatory and market needs, as well as current scientific and technological developments. To serve national, regional and international interest of facilitating trade and preventing unnecessary trade barriers, but be relevant and to effectively respond to regulatory requirements, market needs scientific and technological development

Coherence: This principle ensures development of non-conflicting standards, the standards developed have to be coherent set of documents which do not conflict each other. The standards have to be complimentary to existing legislations. To avoid duplication and conflict, cooperation and coordination with the work of other regional and international standardization bodies such as EAC, COMESA, ISO shall be undertaken.

Development dimension: This principle ensures having mechanisms for facilitation of the participation of SMEs and other members in order to assure a real multi stakeholder process in standards development.

1.5.2 ISO principles

The following ISO Key principles will guide the determination of national standards and conformity assessment in Kenya: -;

Stakeholder engagement • This principle ensures inclusiveness in the development, drafting and revision of standards and technical regulations; Stakeholders are important to the NSB and should be actively engaged in the policy and technical level.

Due process: This principle ensures Standards development work is carried out in accordance with established rules.

National implementation/adoption: This principle ensures that the National standards form a coherent system with international and regional standards. National standards should be based on or be adoptions of international standards with as few deviations as possible. National standards conflicting with international standards should be reviewed and withdrawn. The NSB should participate actively in international and regional standards development whenever strategically relevant for the country

CHAPTER TWO

SITUATIONAL ANALYSIS

2.0 Overview

Currently, the quality and standards framework in Kenya is limited and not all deserving sectors have been covered. In addition, some of the parameters required in Kenya standards cannot be tested owing to lack of capacity. Also, an effective monitoring and evaluation system is not in place. Finally, there is the absence of clear policies to address growing competition from emerging quality management ,testing and certification.

The following are the challenges this policy seeks to address;

- a) Conflicting or inexistence of legislations creating overlaps across Agencies and Ministries which leads to lengthy and costly transaction times, role conflict, inefficiency and waste of resources;
- b) Lack of coordination and synergies between National quality infrastructure institutions;
- c) Low capacity and under skilled human and material resources in public and private institutions;
- d) Lack of and/or lag in timely sharing of technical information, with respect to technical regulations and standards, among institutions involved in NQI implementation;
- e) Non-alignment of some of the NQI and Technical Regulation administration and enforcement procedures with international best practices;
- f) Lack of harmonization of enforcement of quality control mechanisms within the region;
- g) Lack of strong consumer associations to influence the quality of Kenya products and services;
- h) Lack of embracement of quality management systems in public and private institutions;
- i) Lack of a quality culture within the Kenyan Private Sector which tends to focus on quantity rather than quality;
- j) Lack of concerted institutional framework for funds mobilization for strengthening of NQI.

2.1 National Quality Policy Content

The present global trading environment is characterized by trade growth that is generally higher than trade growth at the national level. Any country that wishes to develop socio-economically and deal with poverty, environmental challenges and gender issues needs to tap into this global trade growth. It follows that the country needs to understand the challenges its manufacturers, suppliers and exporters face in accessing the international markets. These markets are characterized by:

- (i) High expectations from sophisticated customers,

- (ii) Technical regulations that are becoming more onerous as authorities battle to look after the interests of society and the environment in the face of vast amounts of products of dubious safety and quality flooding the markets, and
- (iii) Product value chains spanning many countries as producers and manufacturers endeavour to bring down costs. Empirical evidence suggests that standardization (i.e. standards, metrology and accreditation) and its conformity assessment companions (inspection, testing and certification) play important roles in technological progress, productivity and trade. Consequently, a country's industry faces a formidable array of challenges at the global level. Over and above issues such as the logistics, management and financial, the required product or service quality demanded by the purchasers and/or regulatory authorities, needs to be achieved. The SME sector in particular is normally very hard pressed in all these challenges. Although the product or service quality is the responsibility of the manufacturer or service provider, they need the unstinting support of an internationally recognized and effective quality infrastructure system. Non-compliance with technical regulations is an offence and punishable by law. Kenya Government has tried to ensure the safety and health of society and the health of the environment for decades. Unfortunately, the regulatory framework is fragmented, with many overlaps amongst regulatory authorities and frequently non-compliant with the WTO TBT Agreement and regional trade agreements. This is because many Ministries are involved, each conducting technical regulation according to own practices in the absence of definitive national guidelines – continuously drifting further apart. Such technical regulations are ineffective, inefficient and add to the transaction costs of the local producers or suppliers rendering them uncompetitive.

2.2 National Quality Policy Environment

The National Quality Policy does not exist on its own. There are a number of policies already in place that contain references to standards, quality and technical regulations. These policies deal with industrial development, enhancement of the export trade, environmental controls, food safety and/or security, science and technology development and similar issues. The references to standards, quality and technical regulation usually do not relate to a holistic view of a quality infrastructure system, nor provide national guidance on a common approach to technical regulation. But, these policies do provide very important interfaces for a National Quality Policy. The National Quality Policy should therefore link the policy measures relating to standards, quality and technical regulation contained in all of these important policies. Actually, this National Quality Policy will provide a formidable opportunity for Kenya to holistically review quality issues mentioned in the other policies and amend/change parts of those policies that may not be in compliance with international guidelines and rules. The other policies may have been formulated at a time and/or by people not fully familiar with international guidelines and rules which may have changed in the meantime. In fact, this National Quality Policy will do this in a meaningful

way.

The policies include:

- a) ***National Food and Nutrition Security policy 2011:*** It is the policy of the government that all Kenyans, throughout their life-cycle enjoy at all times safe food in sufficient quantity and quality to satisfy their nutritional needs for optimal health. The broad objectives of the FNSP are: To achieve good nutrition for optimum health of all Kenyans.
 - i. To increase the quantity and quality of food available, accessible and affordable to all Kenyans at all times.
 - ii. To protect vulnerable populations using innovative and cost-effective safety nets linked to long-term development.
- b) ***Kenya National Trade Policy:*** The Kenya National Trade Policy is a publication by the Ministry of Industry, Trade and Cooperatives State Department for Trade. It seeks to unleash Kenya's potential for targeting domestic, regional and global markets. The multilateral, regional integration and bilateral trade arrangements that currently define the space that Kenya's international trade enjoys present an immense opportunity for pursuit of this policy objective. The Trade Policy articulates provisions that promote efficiency in the growth of domestic trade through transformational measures that address the constraints impeding against the development of the wholesale, retail and informal sectors. Strengthening the current supply chain is a priority for sustainable development of these trade sectors.
- c) ***The National Industrialization Policy:*** This policy framework focuses on value addition for both primary and high valued goods; and linkages between industrial sub-sectors and other productive sectors to drive the industrialization process and aims at providing strategic direction for the sector growth and development by:
 - i. creating an enabling environment for private sector-led industrial development and a business environment capable of attracting local and foreign investments for the sector growth and development;
 - ii. taking into consideration, other existing policies, capacities and capabilities, the country's strengths and weaknesses as well as the challenges and opportunities offered by globalization and regional integration;
 - iii. recognizing the importance of promoting resource based industries, and in particular, labour intensive, export-oriented industries for increased productivity and growth in all the industrial sub-sectors, bearing in mind the impact of forward and backward linkages in the economy;
 - iv. encouraging sustainable creativity and innovation to continually improve production process and the quality of products;
 - v. encouraging effective development of industrial human resource and specific skills for industry to enhance competitiveness;

- vi. identifying the foundational pillars and measures for the vibrancy and growth of the Industrial Sector and recommend appropriate policy interventions for the realization of the sector goals; and
 - vii. providing a legal and institutional framework for substantial improvements in intra-governmental coordination, under a Public Private Partnership arrangement.
- d) ***Science, Technology and Innovation Policy and Strategy:*** The purpose of this policy is to mainstream application of science, technology and innovation in all sectors and processes of the economy to ensure that Kenyans benefit from acquisition and utilization of available capacities and capabilities to achieve the objectives of Vision 2030, by implementing the following strategic objectives;
- i. Governance framework for ST&I to support coordinated and partnership-based application of ST&I, ensure establishment of a national innovation system and facilitate integration of ST&I into all sectors.
 - ii. Facilitate renewal, upgrading and creation of supportive infrastructure for science, technology and innovation.
 - iii. Progressively increase the rate of generation of a high quality skilled human resource at all levels by providing an environment for building a critical mass of human resource capacity, harnessing and effectively participating in the application of science, technology and innovation for value addition activities, solving problems and enhancing human welfare.
 - iv. Encourage and support collaborative, multi-disciplinary scientific research in universities and other academic, scientific and engineering Institutions and promote regional and international cooperation and collaboration in science, technology and innovation specifically targeted towards achieving the goals of national development and security.
 - v. Support application of traditional knowledge in the formal and informal sectors of the economy for enhanced livelihoods and promote the use the full potential viii of science, technology and innovation to protect, preserve, evaluate, update, add value to and utilize the extensive indigenous resources and traditional knowledge available in the various Kenyan communities;
 - vi. Ensure that existing Intellectual Property Rights (IPR) regime are strengthened to maximize incentives for the generation, protection and utilization of intellectual property by all types of inventors and foster achievement of Kenya’s national development objectives.
 - vii. Facilitate technological development, transfer and diffusion for the accomplishment of national strategic development goals by strengthening mechanisms that support technology development, evaluation, absorption and upgrading from concept to utilization.
 - viii. Support and take an active role in research and application of ST&I for forecasting, early warning, prevention and mitigation of emergencies and natural hazards,

particularly, floods, landslides, drought, security threats, acts of terrorism, epidemics and emerging infections.

- ix. Public Communication and Advocacy for ST&I including the ethical and moral, legal, social and economic aspects by facilitating development mechanisms of communicating ST&I results /findings to increase knowledge and understanding for adoption and utilization.
 - x. Support effective and efficient leveraging of reliable and adequate public and private sector as well as domestic and international funding in support of Kenya's national ST&I policy objectives and strategies, including a review of administrative and financial procedures to permit efficient operation of ST&I Institutions in Kenya
 - xi. Integrate ST&I at all levels of education and training by promotion of learning by discovery method, experiential learning, participatory approach and through interactive environments, promoting attitudes receptive to ST&I among all education stakeholders and establishing sustainable centres of excellence to enhance the quality of the product of training at all levels.
 - xii. Development of a comprehensive performance management framework linking programme outcomes to long term impacts of this ST&I Policy and strengthening science-based monitoring and reviewing mechanisms
- e) **National Environment Policy:** It gives the framework to guide the country's efforts in addressing the ever-growing environmental issues and challenges such as:
- i. **Environmental governance:** Many sectoral policies and laws are not harmonized with each other and with the Constitution. These include policies and laws concerning agriculture, land, water, forests, trade and industry, which have significant implications on the environment. The sectoral rather than integrated and ecosystem approach to management of natural resources has proved inadequate in addressing environmental challenges. In addition, weak enforcement of laws and weak implementation of policies remain a major issue of concern in Kenya's environment sector.
 - ii. **Loss of biodiversity:** Kenya continues to lose her biodiversity due to habitat destruction, overgrazing, deforestation, pollution, unsustainable harvesting of natural resources, biopiracy and introduction of invasive and alien species, among others. Invasive and alien species are a major threat to the environment. They threaten indigenous species through the effects of predation, alteration of habitat or disruption of ecosystem processes. The challenge of dealing with loss of biodiversity becomes even more complicated when one is dealing with shared resources where laws and policies of respective countries are not harmonised.
 - iii. **Valuation of environmental and natural resources:** The value of environmental resources is hardly reflected in pricing of marketed goods and services. Environmental and natural resources are largely considered as public goods. This is symptomatic of market failure. Integrating environmental considerations into the

- behaviour of enterprises and consumers would reflect a change in consumption and production patterns. Prioritisation of environment and natural resources remains low among policy makers partly due to inadequate appreciation of the total economic value of the sector. Thus there is less public investment in the sector.
- iv. **Rehabilitation and restoration of environmentally degraded areas:** There are several degraded areas in Kenya which require rehabilitation and restoration. These include wetlands, riverbanks, deforested areas, eroded shoreline, hilltops and disused quarries and mines.
 - v. **Urbanisation, waste management and pollution:** Increasing rates of urbanisation is caused by natural growth of the urban population and rural-urban migration. Urbanisation often leads to destruction of sensitive ecosystems. Poor waste management causes urban pollution and poor health. Thus many urban environmental problems are the result of poor management, planning and absence of coherent urban policies.
 - vi. **Climate change, energy, security and disaster management:** Climate change poses significant environmental challenges for Kenya as evidenced by the frequent droughts and water shortages that even affect power supplies. This is happening at a time when power demand is on the rise and utilisation of renewable energy sources exclusive of hydro remains relatively low. Other adverse impacts of climate change can be seen in the form of frequent and severe natural disasters such as floods, landslides and prolonged droughts. Increased frequency and intensity of extreme climatic conditions continue to undermine the country's sustainable development. Managing climate-related disasters remains a significant challenge.
 - vii. **Public participation, environmental education and awareness:** Broad public participation in decision making processes is one of the fundamental preconditions for sustainable development. This presupposes access to timely and accurate information on the environment. Sound environmental management has to be based on openness and participation at all levels. Therefore, it is imperative that environmental education and public awareness is promoted at all levels.
 - viii. **Data and information:** Inadequate and disaggregated data is a challenge for integrated planning and management of the environment and undertaking total economic valuation. (
 - ix. **Poverty:** Rising poverty levels have impacted negatively on the environment. Poverty is a major cause and consequence of environmental degradation and resources depletion because of lack of alternatives. The poor rely heavily on the environment and natural resources for their livelihoods.
 - x. **Chemicals Management:** Chemicals are an important contributor to national development across all sectors. They form an important input to agriculture, manufacturing, energy, leisure and as ingredients to commonly used materials such as plastics, electronics, refrigerators and air conditioning. They improve the quality

of life as medicines, cosmetics, foods, leisure etc. Unfortunately they can also be dangerous because of their toxic and hazardous nature. Chemicals can be flammable, explosive and carcinogenic directly or through air, water, food and materials. These inherent risks need to be managed at production, use, transport and when it turns to waste disposed in an environmentally sound manner.

This National Quality Policy does not supersede any of these policies, but endeavours to consolidate and bind them together as regards the quality infrastructure and technical regulation regime, in order to provide the country with a particular, effective and efficient system that enjoys international recognition. This policy serves both the authorities and the private sector, supporting all of the above policies and more.

2.3 International and regional obligations

2.3.1 International obligations

Standards and technical regulations together with their conformity assessment services are dealt with decisively in the WTO Agreement on Technical Barriers to Trade (WTO TBT Agreement). The basic tenets of standards development, e.g. transparency, inclusiveness and consensus, are clearly defined. Mutual recognition of conformity assessment outputs is advocated amongst WTO member states. The reasons for technical regulation are enumerated, as are transparency obligations vis-à-vis other WTO member states. This policy will therefore be very important to ensure that all interventions do not conflict with the WTO TBT Agreement. It will also link the policy measures to the obligations Kenya has as a WTO member state in respect of the WTO TBT Agreement. Kenya's obligations with respect to the WTO TBT Agreement will be fulfilled.

2.3.2 Regional obligations

Kenya is a member of EAC and COMESA, which have established mechanisms to promote and sustain mutual trade and economic cooperation. The objectives of the Agreement are to foster, support, and boost regional trade based on common principles, and to reinforce economic cooperation among the Member States through the elimination of nontariff barriers, reduction of tariffs, and exchange of concessions. To help support the implementation of the agreements, harmonisation of the standards at regional level, amongst others, is of utmost importance. This National Quality Policy takes cognisance of the Kenya's obligations. In addition, some Member States have trade agreements with various trading partners not common to all. Such trade agreements will be put into consideration in the implementation of this policy.

2.4 Government commitment

The Kenya Quality Infrastructure (QI) system and its services have become extremely important

in the socio-economic development of the country. The shape of the QI system has many implications, not least those of having to comply with international and/or regional obligations contained in various agreements, but also to link up with the international QI organizations through which international recognition is obtained. The Kenya government assumes overall responsibility for the effectiveness and efficiency of the QI system. Kenya has established various institutions in the Quality Infrastructure e.g Government departments, and state corporations in the past. The way in which these have been organized (independent or integrated organizations, government departments or organizations of public law, etc.), the services they offer or are responsible for, and the way in which they relate to technical regulation implementation, may no longer meet international good practices.

This develops organically for a number of reasons, e.g. a lack of clear policy guidelines, ministries consider the matter too technical and leave it to the institutions to do what they consider appropriate, etc. This policy will provide a quality infrastructure environment that meets international good practices and that is consistent with overall government policies. It will entail the re-engineering of the QI system. In this respect the Kenya Government therefore states its commitment to change and re-engineering the Quality Infrastructure System.

2.5 The Kenya Quality Infrastructure System

The QI system is generally understood to be the totality of the policy, legal, regulatory and administrative frameworks and the institutional arrangements (public and/or private) required to establish and implement standardization, metrology (scientific, industrial and legal), accreditation and conformity assessment services (inspection, testing and product- and system certification) necessary to provide acceptable evidence that products and services meet defined requirements, demanded either by authorities.

The Quality Infrastructure system is a combination of initiatives, institutions, organizations, activities and people. It includes a national quality policy and institutions to implement it, a regulatory framework, quality service providers, enterprises, customers and consumers (who include citizens as “consumers” of government services).

A number of mostly public institutions constitute the NQI of Kenya. The main institutions are the Kenya Bureau of Standards (KEBS), Kenya Accreditation Services, and various government institutions attached to Ministries such as the Public Health (ministry of Health), the Government Chemist (Ministry of Internal Security), The Department of Veterinary Services (Ministry of Agriculture), and others.

2.5.1 The technical regulation regime of Kenya

In Kenya, like in most countries, every Ministry has established one or more regulatory agencies to develop and implement technical regulations within its domain. There is no definitive national guideline for the development and implementation of technical regulations. Hence each Ministry and their Agencies develop and implement technical regulations as they see appropriate. Inevitably, this approach leads has led to divergences in technical regulation development and implementation.

The WTO TBT Agreement requires Kenya to timeously notify all its technical regulations to the WTO Secretariat for comment by other WTO Member States before they are implemented. In the past few years, only the Compulsory Standards of the Kenya Bureau of Standards were notified. Technical regulations developed by other Ministries were not notified.

Many products subject to technical regulation fall within the domain of more than one national Ministry and/or state corporation. But, there is no dedicated mechanism to ensure coordination of their activities. Hence, the result is an overlap in regulatory activity, i.e. the supplier has to deal with more than one regulatory authority that frequently place differing demands on product quality and the supplier. This situation adds tremendously to the cost of products without resulting in better safety for the consumer or the environment, in fact the opposite is often the case. Local products and imported products are frequently handled differently, violating one of the basic tenets of the WTO TBT Agreement.

At the international level, it has become the norm that regulatory authorities should not render conformity assessment services that provide the evidence that a product complies with technical regulation requirements. It is argued that this is a conflict of interest and such a mandate allows the regulatory authority to extract rent from suppliers that have to comply with technical regulation. In Kenya this is amongst others the case for KEBS, as it is responsible for the implementation of Compulsory Standards, yet it also provides conformity assessment services.

2.6.2 Technical regulation authorities in Kenya

Technical regulation authorities and their scope of operation are shown in the Table below.

S/N	Institution	Regulated products and services
1	Kenya Bureau of Standards	Implementation of all Compulsory Standards for manufactured products. Activities and services include, Metrology and calibration, Testing, Product and Systems certification, Training, and market surveillance in Kenya and the inspection of imported products.
2	Department of Veterinary Services	Disease surveillance, vector regulatory and Zoological services; Diagnostics and efficacy trials; Veterinary public

		health and animal products inspection
3	Energy Regulation Commission	Petroleum Products
4	National Transport Safety Authority	Motor vehicles inspections and licensing, and road traffic safety complaints investigations
5	National Environment Management Authority	Waste management and pollution
6	Water Resources management Authority	Water resources
7	Water Boards	Potable water quality
8	Ministry of agriculture through the various directorates	Farm produce
9	Ministry of Health Public Health department	Food business operators, and food substances
10	Pharmacy and poisons Board	Pharmaceuticals and Poisons
11	Pest Products Control Board	Farm Chemicals
12	Kenya revenue Authority	Imports Inspection

CHAPTER THREE

3.0 Policy Vision, Goal, Objectives, Outcomes and Policy Measures

3.1 Vision

Promoting economic and social transformation through sustainable Quality Infrastructure for a globally competitive and prosperous Kenya with a high quality of life by 2030.

3.2 Goal

The purpose of this policy is to promote economic prosperity in line with the Government of Kenya policies and objectives in the Vision 2030 economic blue print. Kenya recognizes that quality goods is a pillar for social economic development and gives priority to the adoption of a National Quality Infrastructure Policy.

The overall purpose of this Policy is to guide the Government on how to achieve an effective regulatory mechanism using accredited laboratories, certification bodies and inspection agencies in line with the Constitution where the rights of the consumers are respected in order to improve the quality of life and lifestyle of the citizens of the Republic of Kenya.

3.3 Objectives

In response to the issues discussed in the earlier chapters, the following policy objectives and strategies have been identified. These policy objectives should be achieved both in the medium term and long term goals of the policy.

Government recognizes that strategic policy considerations should successfully influence the minimization of non-tariff barriers and enhance the competitiveness of Kenya industry and their products and services, but this should come about without weakening (i) the safety and health of the peoples in public places, the workplace and at home, (ii) the health of the fauna, flora and the environment and (iii) the protection of the consumer.

Kenya's National Quality Policy therefore has four main objectives as described in detail below.

3.3.1 Establishment and operationalization of a National Quality Infrastructure

The direct outcome of the implementation of the NQP will be the design and establishment (including promulgation of related legislation) of a metrology, standardization, accreditation, inspection, testing and certification infrastructure appropriate for the needs of Kenya, and to support the application of its techniques, practices and service provision to demonstrably comply with international and regional norms throughout. In this respect international and regional rule

based requirements take precedence over past or current national customs and practices or those of immediate neighbours.

The current quality infrastructure will be reviewed and re-engineered to meet this objective.

3.3.2 Establishment of a technical Regulatory Framework

In parallel to the establishment of the NQI, the technical regulation regime of Kenya (including related legislation) will be reviewed, re-organized and optimized in line with international good practices to consistently meet international requirements such as the WTO TBT and SPS Agreements and the EAC and COMESA Trade Protocol TBT and SPS Annexes. The end-result of this process will be the promulgation and implementation of a national Technical Regulation Framework at both the national and county levels, including the establishment of effective cooperation amongst the NQI institutions and the national as well as the county regulatory authorities, and with their international counterparts.

3.3.3 Improved Skilled workforce

The service delivery of the NQI and the integrity of the Technical Regulation Framework are totally dependent on a trained and skilled workforce. Hence, developing the human resources necessary to support the various standardization, quality and technical regulation programmes is a central theme throughout the NQP.

3.3.4 Improved quality consciousness

The implementation of the NQP should raise the quality consciousness amongst both the suppliers and the consumers, and it is an undertaking by the Government to foster a quality culture in public life and throughout society.

3.4 Policy outcomes

The following are the expected outcomes: -

- a) Export-led growth to ensure that Kenya's export sector plays a key role in the growth and development of the country;
- b) Economic diversification to foster a diversified industrial base so that Kenya's industrial output is not dependent on one or two sectors that, if adversely influenced by the vagaries of the international markets, negatively impacts the country as a whole;
- c) Free market economy to uphold Kenya's free market policy in which both domestic and foreign firms operate under free market conditions, with transparent and consistent regulatory controls only where absolutely necessary;
- d) Market access to create favourable market access for Kenya firms through existing and future bilateral, regional and multilateral agreements;

- e) Global competitiveness to put in place strategies that will assist Kenya firms to penetrate world markets with products and services of high quality and in this manner place the country in the global economic arena as an equal trading partner and beneficiary;
- f) Integration into the global economy to ensure the active participation of the Kenya economy in the global economy through active participation in regional initiatives and multilateral commitments;
- g) WTO compatibility to ensure that all internal systems, trade negotiations and agreements are in line with WTO provisions and obligations, including those at the SADC level;
- h) Private sector development to strengthen the business community to be globally competitive by providing initiatives to build its capacity and enhance its participation in quality policy formulation and implementation as well as affording it to play a leading role in the economy;
- i) Sustainable development to protect and preserve the environment with a view to enabling it to successfully meet the needs of current and future generations;
- j) Citizen economic empowerment to ensure that citizens participate and benefit from all the activities and opportunities provided for in the development of the quality infrastructure and the technical regulation regime;
- k) Social security to ensure that citizens enjoy affordable and uninterrupted access to safe products and services to meet their needs at all times;

3.5 Strategic Policy Measures

The Government recognizes that the strategic policy measures should successfully bring about the realization of the key policy objectives, namely the establishment of an internationally recognized National Quality Infrastructure and an effective and efficient Technical Regulation Framework to be followed by all Ministries and their Agencies thereby minimizing unnecessary trade restrictions and enhancing Kenya industries' competitive position in the global market. The strategic policy measures are described in more detail below.

3.4.1 The overall responsibility of Government

3.4.1.1 The Government has an enabling, coordination and educational role in the implementation of the NQP. Hence, the Government will outline the objectives, propagate the policy, and manage the general framework that will govern the place and activities of the parties concerned.

3.4.1.2 The Government is committed to carry out the necessary restructuring of both the quality infrastructure and the technical regulation regime, and where necessary create new structures as well as a full review of relevant legislation, in order to align them both with international and regional obligations and international good practices.

- 3.4.1.3 The Government takes responsibility to maintain the basic elements of the NQI (i.e. metrology, standards and accreditation) and for the creation of regulatory mechanisms to allow for the protection of the consumer on the one hand, and for full private sector participation on the other.
- 3.4.1.4 The Government will review and consolidate legislation that defines the responsibilities of producers and suppliers to ensure that their goods and services meet legal provisions to encourage fair and effective competition, to provide consumers with the greatest range of products and services, and to ensure that both the public and private sectors have an equal chance with regard to providing conformity assessment services.
- 3.4.1.5 The Government will ensure that the appropriate regulatory authorities with the capacity to conduct the relevant market surveillance for the implementation of technical regulations are established at the national level where appropriate, and that their capacity is maintained in the long term. The Government will furthermore prevail on the county governments to do the same within the scope of their responsibilities.
- 3.4.1.6 To help create a quality culture in Kenya, the Government will promote quality awareness campaigns in general, provide for the integrated approach to quality management in the public sector and promote and support the creation of mechanisms or institutions that contribute to awareness raising and knowledge dissemination regarding quality within all the segments of society.

3.6 National Quality Infrastructure

The National Quality Infrastructure (NQI) consists of a number of organizations that provide the fundamentals namely metrology, standards and accreditation services, which support conformity assessment services, namely inspection, testing and certification. The Government accepts it has a major responsibility to establish and maintain the fundamental services, and it will provide the policy environment enabling private sector advancement in providing conformity assessment services as detailed below.

3.5.1 Scientific Metrology

- 3.5.1.1 KEBS will continue to act as the National Metrology Institute (NMI) of Kenya and retain responsibility for national measurement standards as one of the fundamental building blocks of the quality infrastructure. The Government will facilitate the development of the capacity within KEBS to realize national measuring standards of the appropriate accuracy levels as required by authorities and industry.

- 3.5.1.2 The Government, if expedient, may extend the scientific metrology system to other national Designated Institutes technically competent in specialized fields of measurements (e.g. chemistry, radiation, virology, etc.) so as to maintain national measurement standards capable of providing a reliable and accurate measurement service across all relevant disciplines within Kenya.
- 3.5.1.3 The process of establishing Designated Institutes is subject to a consensus agreement between the Ministry of Trade and Industry, KEBS and the Designated Institute and their line Ministry. In order to ensure appropriate coordination amongst the metrology institutions, no institution purporting to be a Designated Institute may be established without such a consensus. In agreement with BIPM good practices, KEBS has the overall responsibility to ensure that itself and all Designated Institutes implement and maintain quality management systems that comply with the Comité International des Poids et Mesures (CIPM) Multilateral Recognition Arrangement requirements.
- 3.5.1.4 KEBS and all Designated Institutes will, mindful of the demonstrated needs of trade, industry sectors and the authorities, and within their capabilities, link up with the international metrology system. This linkage will be demonstrated through entries of their Calibration and Measurement Capabilities (CMCs) in the international recognition system (i.e. Key Comparison Data Base – KCDB) maintained by the Bureau Internationale de Poids et Mesures (BIPM).

3.5.2 Industrial Metrology

- 3.5.2.1 Calibration services can be provided by the KEBS, legal metrology departments and other public or private calibration laboratories provided that their calibration equipment is traceably calibrated to the national measurement standards kept by the NMI in KEBS, Designated Institutes or a national metrology laboratory abroad with known and recognized measurement capability.
- 3.5.2.2 The NMI in KEBS will actively support calibration services throughout the country to traceably link the national measurement standards into industry, authorities and society so as to ensure that measurements emanating from Kenya are acceptable in trade and law enforcement.
- 3.5.2.3 All calibration laboratories shall be accredited against ISO/IEC 17025 to ensure their technical competency.

3.5.3 Legal Metrology

- 3.5.3.1 The Government will ensure that measurements used in trade, law enforcement, health

services and in environmental management lead to an equitable situation regarding traders and consumers, and correctness of measurements in law enforcement, health services and environmental protection, i.e. the current weights and measures system with limited scope will be progressed to a legal metrology system.

3.5.3.2 The regulations for measuring equipment and pre-packaging will be based as far as is possible on the Recommendations of the Organisation Internationale de Métrologie Légale (OIML), regional standards and international standards published by the International Organization for Standardization (ISO) or the International Electrotechnical Commission (IEC).

3.5.3.3 The type approval of measuring equipment falling within the scope of legal metrology regulations will be the responsibility by the NMI within KEBS. The type approval of such measuring equipment will be based on valid OIML Basic Certificates of Conformity and associated OIML Type Evaluation Reports issued by Authorities appointed by OIML Member States, or in the absence thereof, tests the NMI in KEBS conducts in its own laboratories or subcontracts to an accredited laboratory.

3.5.3.4 Where deemed appropriate for effective and efficient service delivery, the Government may move the legal metrology activities, other than the type approval of measuring equipment of the NMI in KEBS, to another regulatory authority or even separate and establish it as an independent legal metrology authority.

3.5.3.5 For improved enforcement of Legal Metrology, the Government will provide legal metrology divisions with the necessary resources (i.e. funding, accommodation, vehicles, test equipment and trained personnel) to render an effective service, and they shall be accredited to ISO/IEC 17020 to ensure their technical competency.

3.5.4 Standards

3.5.4.1 With regard to national standards, the Government in cooperation with KEBS, will see to it that the national standards development process is a voluntary activity that depends on achieving consensus amongst stakeholders (i.e. public and private sector and civil society), and which takes place within a participatory and transparent system, i.e. fully compliant with Annex 3 of the WTO TBT Agreement. The development of national standards will furthermore be based on the actual needs of the authorities, private sector and civil society.

3.5.4.2 KEBS will establish and maintain the framework to develop and publish national standards and other normative documents, and KEBS has the responsibility to publish all National Standards irrespective of their origin. KEBS will see to it that published national standards

are regularly reviewed and updated to ensure continuous alignment with technological developments, market trends and international or regional requirements.

3.5.4.3 KEBS may develop national standards within its own technical committee structures, or register Standards Development Organizations to do so. KEBS or any Standards Development Organization it registers will comply with international requirements and good practices as defined in the WTO TBT Agreement and ISO/IEC Directives. Standards Development Organizations not registered by the KEBS will not be eligible to develop national standards.

3.5.4.4 KEBS has the responsibility to guide national standards development into the adoption of relevant international and regional standards with minimum deviations so as not to create unnecessary barriers to trade. Any deviations from international or regional standards should be based on demonstrated and scientifically proven reasons, other than the protection of local industry. Standards particular to Kenya should only be developed if relevant international or regional standards are not available.

3.5.4.5 KEBS will actively participate in the process of developing international and regional standards where this is of strategic importance for Kenya, and will coordinate this involvement with the relevant local bodies.

3.5.4.6 Private standards, i.e. standards developed outside the national standards development process, are becoming ever more important in international trade as they are utilized extensively by the major retail organizations in developed countries. KEBS will engage with the organizations developing such private standards as relevant to ensure that Kenya industry and producers are not disadvantaged in their application.

3.5.5 Conformity assessment

3.5.5.1 Inspection, quality assurance and testing services and the certification of products or management systems for the implementation of technical regulations may be provided by inspection bodies, laboratories and certification organizations in both the private and public sector that demonstrably fulfil the requirements of the relevant international standards and are accredited as such by an internationally recognized accreditation body.

3.5.5.2 In implementing the accreditation requirement for conformity assessment service providers, government will be mindful of the time required to obtain accreditation, and will support programmes to develop the required capacity in such service providers within the specified time.

- 3.5.5.3 In order to provide conformity assessment services required by both authorities and the private sector, i.e. especially the SME sector, the government will establish, maintain and continuously improve the capacity and technical competency of conformity assessment service providers in the public domain. These would include inspection agencies, testing laboratories and certification bodies, and all of them should in principle be accredited.
- 3.5.5.4 Whilst enhancing the capacity of the public institutions, the Government will create a policy environment that will not hinder, but facilitate the development of private conformity assessment service providers, and the national government and county governments will utilise their services in public procurement and technical regulation provided that they can demonstrate their technical capability through relevant accreditation.
- 3.5.5.5 The provision of financial incentives by the government for the SME industries to support them in meeting international requirements, i.e. testing and certification, will be part of the overall approach, but it will be in the form of rebate payments to SMEs after testing and certification, and not through the fixing of below cost prices for the services of public service providers that will only lead to their financial unsustainability in the long term.
- 3.5.5.6 As a measure to ensure that the state is provided with quality products and services, the national government and county governments will utilise Kenya Standards (KS) to the fullest extent possible in state purchases, and will demand independent proof of compliance of delivered products and services with such standards through an appropriate mix of inspection, quality assurance, testing and certification. Establishing an incentive, i.e. preferential treatment, for enterprises that distinguish themselves in the process of quality improvement through product and/or system certification will be part of the overall approach.

3.7 Technical Regulation

The government will ensure that technical regulations are developed only for legitimate reasons as defined in the WTO TBT Agreement, namely the safety and health of the population, health of plants and animals, protection of the consumer against deceptive practices, and the protection of the environment. In addition, the government will ensure that technical regulations do not constitute unnecessary barriers to trade, it will take care that products imported from any trading partner are accorded treatment no less favourable than products of national origin, and that products from all trading partners will be dealt with in equal manner. In order to ensure that technical regulations meet all these requirements of the WTO TBT Agreement and those of the EAC and COMESA, the Government will embark on a regulatory reform programme as detailed below.

3.6.1 Technical Regulation Framework

- 3.6.1.1 The Government will cause the development and promulgation of a national Technical Regulation Framework that will provide guidance to all ministries, departments and their agencies at the national and county level in respect of the development and implementation of technical regulations. The Technical Regulation Framework will be fully compliant with the WTO TBT Agreement.
- 3.6.1.2 The Technical Regulation Framework will deal with the necessity to utilise impact assessments before technical regulations are promulgated, define the use of standards, set the norms for the competency of conformity assessment service providers, designate the responsibilities of regularity authorities and describe the imposition of sanctions.
- 3.6.1.3 In order to facilitate its rapid implementation by all ministries, departments and their agencies, and to facilitate notification of the compliance measures the Government takes to ensure the implementation of the WTO TBT Agreement in the country (i.e. Article 15.3 of the WTO TBT Agreement), the Technical Regulation Framework will be given legal certainty in an Act of Parliament.

3.6.2 Technical requirements

The technical requirements of the technical regulations will be based on international and regional standards adopted and published as national standards, where such standards are available and suitable. Requirements unique to Kenya will be avoided as far as possible in order not to establish unnecessary barriers to trade. The technical requirements will be referenced in such a way that technological developments at the international and regional level are incorporated as early as possible

3.6.3 Market surveillance

- 3.6.3.1 Regulatory authorities will require approval of products prior to marketing only in cases where the risks are high; otherwise they will not require it. In all cases, regulatory authorities will be responsible for market surveillance and the imposition of sanctions where necessary.
- 3.6.3.2 Market surveillance will be conducted on products that fall within the scope of technical regulation at the moment of being placed on the market and may include visits to commercial, industrial and storage premises, work places and other premises where products are put into service or on the market. Market surveillance will be conducted following the principles of proportionality, i.e. the taken action will be in accordance with the level of risk or nonconformity, and the influence upon the economic entity will not be more than

necessary for performing the task of market surveillance.

3.6.4 Sanctions

Sanctions are necessary to ensure that suppliers continuously meet the requirements of the promulgated technical regulations. Regulatory agencies will be empowered to impose administrative sanctions that allow suppliers to rectify non-conforming products and services or remove the same from the market place without further penalties. In the case of the failure of suppliers to heed administrative sanctions, provision will be made for legal action, as per the provisions of the Standards Act i.e. to take them to court. Regulatory agencies will not be given the power to impose financial sanctions directly on suppliers.

3.6.5 Coordination of technical regulation activities

In order to oversee the implementation of the Technical Regulation Framework, the Government of Kenya will establish a Technical Regulation Coordination Office in the Kenya Bureau of Standards with the following responsibilities:

- a) Coordination of activities related to technical regulation development and implementation amongst the regulatory authorities and the NQI;
- b) Ensuring that the regulatory authorities follow the defined Technical Regulation Framework in developing and implementing technical regulation;
- c) Ensuring that all the regulatory authorities consistently meet the requirements of the WTO TBT Agreement
- d) Overseeing the review of technical regulation already on the statute books by the regulatory authorities, in order to revise, confirm or withdraw such regulation and to make sure that they comply with the Technical Regulation Framework.

3.6.6 Coordination between TBT and SPS measures

Although Sanitary and Phyto-sanitary (SPS) measures (i.e. specific food safety related issues) are closely related to technical regulations and share many services dealt with in this policy such as standards, metrology, accreditation, testing and certification, SPS measures in Kenya are dealt with in policies and legislation other than covered by this policy. The Government will however, ensure that –

- a) the interfaces between technical regulations and SPS measures are identified and properly defined so as to minimize any overlaps and gaps,
- b) any uncertainties regarding regulatory authorities are set aside
- c) the NQI provides appropriate support services to both.

3.8 Education and training

The availability of a properly trained and skilled workforce is essential in the increasingly complex

systems regarding manufacturing and service delivery. Government cannot provide for this on their own, this needs to be a cooperative endeavour between government, the private sector and civil society, namely:

- a) Government and private academic institutions will take the necessary steps to ensure that various stakeholders have the opportunity to obtain the knowledge and the skills they need to cope with the economy triggered by globalization challenges. Moreover, they should establish appropriate programmes on different education levels including specialised adult training programmes, with the aim to improve the quality culture, and to develop the specialized knowledge and expertise required for implementing the NQP.
- b) The government will strengthen KEBS Certification Body to implement measures to facilitate the training and registration schemes for quality professionals such as assessors/auditors and consultants in quality and environmental management systems, health and safety in the workplace, and other relevant certification activities as defined in international requirements.
- c) The Kenya Institute of Curriculum Development (KICD) will play an important role in assessing the training establishments to ensure an appropriate level of competency in the training curricula.
- d) KEBS will be registering management system assessors/auditors in order to fulfil international requirements.

3.9 Information and awareness

Information is key to the success of any modern economy, as is the general awareness regarding quality. Specific policy measures to enhance both the information systems and the quality awareness in the public and private sectors and civil society are listed below.

3.8.1 National TBT Enquiry Point

The creation of an adequate information network that involves all the various quality infrastructure institutions is decisive in guaranteeing the success of quality related activities. This information network will be spearheaded by KEBS as the appointed national WTO TBT Enquiry Point, but which must be extended to include all the relevant stakeholders. The Government is committed to provide the necessary resources to enable KEBS to play its allocated role in:

- a) Providing information on standards, technical regulations and the concomitant conformity assessment and administrative provisions as required by the WTO TBT Agreement;
- b) Reviewing technical regulation notifications of all WTO member countries to the WTO on a continuous basis so as to inform public and private sector stakeholders in Kenya on trends that will impact on their business and on Kenya as a country; and
- c) Compiling relevant information to be utilised by the government representatives in the relevant WTO and EAC structures to protect the interests of Kenya regarding standards, technical regulations and conformity assessment.

3.8.2 Trade Promotion Organization

- a) The Kenya Investment Authority (Keninvest) is charged with the responsibility to attract and promote investment, and to develop and promote exports, i.e. the promotion of locally manufactured goods to regional and international markets. Hence, Keninvest collects and disseminates trade information of use to exporters in order to increase awareness of product requirements relating to the access of foreign markets. In this respect Keninvest will enhance their data collection to also include the market requirements regarding compliance with standards as well as technical regulation in target markets.
- b) Keninvest and KEBS will establish and maintain coordination of their information regarding product and service requirements in such a way that suppliers and exporters are properly informed as to the market requirements in export markets. Keninvest and KEBS will enter into a formal agreement in this respect, which will see the sharing of relevant information and facilitate support for each other in the collection of the same. Keninvest and KEBS will also ensure that suppliers and exporters can access the information portals of the one through the other.
- c) Keninvest will seek the establishment of relevant consultancies to exporters, especially to the SME sector, in respect of product design, packaging design, and other product or service characteristics relevant to export markets.

3.8.3 Awareness

- a) The government will further strengthen awareness programmes that are aimed at changing practices of the productive work force in respect of day-to-day quality issues such as a positive attitude towards work, orderliness, cleanliness, hygiene, punctuality and timeliness of service, amongst others. It will furthermore encourage the establishment, and support existing activities of associations of industry personnel and other professionals working on the promotion and application of quality.
- b) The government will consistently lobby for the allocation of adequate media time and space in the electronic and the printed media for effective dissemination of concepts, principles, practices and developments of quality, in order to inculcate and reinforce a national quality culture. It will foster the publication of general quality news and bulletins to educate the general public on quality issues and consumer rights.
- c) KEBS and other relevant NQI institutions will take the lead in celebrating international standards, metrology and accreditation days and in this way promote a better understanding in the public and private sectors and in civil society regarding the general and specific

concepts of quality and the role that the fundamentals of the NQI play in this regard.

- d) KEBS will implement the Kenya Quality Awards scheme in the country.

3.10 The role of other stakeholders

The development and implementation of the National Quality Policy is by no means only a government responsibility. The private sector has a major responsibility as has civil society. These are elucidated in the sections below.

3.9.1 The private sector

The private sector has a very important role in the implementation of the National Quality Policy, and its participation in the management of the public NQI is absolutely essential, as is the establishment of private sector conformity assessment service providers. In order to achieve the maximum benefit from the National Quality Infrastructure, the private sector spearheaded by the Kenya National Chamber of Commerce and Industry (KNCCI) and the Kenya Association of Manufacturers (KAM), individual companies as well as its organized structures should -

- a) Improve the quality of its products and services, hasten the introduction of international good practices in the field of quality and so contribute to the competitiveness of Kenya products and services;
- b) Participate actively in the governance, representative structures and technical committees of the public NQI organizations dealing with standardization, accreditation and metrology;
- c) Invest in the development of quality infrastructure such as inspection bodies, test and calibration laboratories and certification organizations thereby benefiting from the improved market opportunities that result from the implementation of the Quality Policy;
- d) Demand accreditation as the prime indicator of technical competence from all its conformity assessment service providers, whether in the public or private sector;
- e) Develop human resources, training the people needed for implementing management systems standards and for improving and maintaining the quality of products and services;
- f) Participate in and promote national quality events, including Kenya quality awards and the like;
- g) Sponsor, participate in and promote quality dissemination activities, such as congresses, seminars and publication of information in journals, magazines and other suitable means for communication; and
- g) Participate in financing activities that support quality.

3.9.2 Non-Governmental Organizations (NGOs)

- a) The successful implementation of the National Quality Policy will require the active involvement of all of society, in particular associations for the promotion of quality and excellence, chambers of industry, trade and commerce, and the media in order to realize

- proclaimed objectives. The same applies to civil society.
- b) Therefore, within the implementation process of the NQP, NGOs are encouraged to take the following initiatives in coordination with relevant partners:
- i. Promote and participate in the education and training activities of quality system professionals; □ Participate in the dissemination of quality related information;
 - ii. Implement activities that promote the improvement of quality;
 - iii. Promote the representation of relevant bodies in the technical committees in the field of standardization, metrology, accreditation and quality; and
 - iv. Propose suggestions on quality policy improvement and better ways to implement the Quality Policy.
- c) The media is encouraged to become actively involved in the dissemination of information related to standardization and quality and the improvement of productivity, thereby contributing to the multiplication effect and national impact.

3.7.3 International Development Partners

A number of international development partners are active in Kenya. A Ministry or Kenya based organization is the designated counterpart for each of their development programmes. All these recipient organizations or counterparts in Kenya of the international development partners should ensure that development and capacity building programmes related to the NQI and Technical Regulation Framework –

- a) Support the implementation of the NQP;
- b) Coordinate support of other partners for the execution of priority programmes;
- c) Support the transfer of quality related technology to the country;
- d) Support the transfer of knowledge and information which allow for the development of adequate quality and technology infrastructure;
- e) Support Kenya's participation in relevant international and regional organizations; and
- f) Provide training for national specialists and technicians necessary to support the implementation of the NQP.

3.11 International liaison

3.10.1 Standards, metrology, accreditation and conformity assessment develop at a rapid pace at the international level and even at the regional level. It is therefore especially important that the NQI institutions of Kenya are actively involved in the appropriate international forums, so that Kenya authorities and industry remain firmly in touch with developments at the international level.

- 3.10.2 All the stakeholders will cooperate to create conditions favourable for active participation in international organizations related to the various functions of the NQI. These would include ISO, IEC, OIML, BIPM, CAC, ITU, IPPC, OIE, IAF, ILAC, EAC, amongst others. Others further afield that may become important from time to time include COMESA and the quality infrastructure organizations at the African level such as AFRAC, AFRIMETS and ARSO.
- 3.10.3 The Government is committed to strengthen the affiliation of the national institutions with these international and regional organizations and support the participation of representatives of Kenya public and private sectors in the general assemblies and especially technical committees where it is of relevance to Kenya. The national institutions will develop and pursue a strategy for such involvement that takes into consideration the needs of the country as a whole.
- 3.10.4 All the stakeholders shall cooperate to create conditions conducive for an effective understanding and participation in the implementation of the WTO TBT Agreement requirements, thereby individually and collectively fulfil Kenya's obligations in international and regional matters related to the NQI and Technical Regulation Framework.

CHAPTER FOUR POLICY, LEGAL AND INSTITUTIONAL FRAMEWORK

4.0 Policy, Legal and Institutional Framework

4.1 Legal Framework

The business environment is affected amongst others by the legal and regulatory framework related to the quality infrastructure and technical regulation. Similarly, the NQI institutions, especially in the public domain, are bound by legislation that governs their objectives, authorities, governance, finances, processes and operations. To facilitate the implementation of this NQP, the Government is therefore committed to review the existing legal framework as a priority measure, to benchmark it against international good practices, and to ensure that it complies with the international and regional obligations of Kenya. Specific measures that will be actioned include the following -

4.1.1 Review of current legislation

Current legislation that will be reviewed and revised as appropriate shall include, but not limited to, the following:

- a) Standards Act (Cap 496),
- b) Weights and Measures Act elevating it to a Legal Metrology Act dealing with the control of measuring equipment in trade, health, law enforcement and environmental control. The revised Act will be an enabling Act covering type approvals of measuring equipment, use of such measuring equipment, pre-packaging requirements and the establishment and mandate of legal metrology offices. The technical details for measuring equipment and pre-packaging will be dealt with in Regulations framed under this Act.
- c) All legislation providing for the establishment and mandates of regulatory authorities in whatever Ministry to ensure that it complies with the Technical Regulation Framework Act, once that has been promulgated.

4.1.2 Developing new legislation

New legislation that will be developed as appropriate shall include legislation for, but not limited to, the following:

- a) Technical Regulation Framework Act that will provide guidance on the development and implementation of technical regulations across all Ministries and State corporations, and county governments. It will provide guidance on the utilization of standards in technical regulations, the provision of conformity assessment services, the utilization of

accreditation as the measure for technical competency, the responsibilities of regulatory authorities and the imposition of sanctions.

- b) Scientific metrology and the establishment of the National Measurement Institution within KEBS.
- c) The establishment of the Technical Regulation Coordination Office in the Kenya Bureau of Standards with the mandate to ensure compliance of Ministries and State corporations and county governments with the Technical Regulation Framework, and to facilitate proper coordination amongst the regulatory authorities and the NQI institutions.

4.2 Financing the NQI and Technical Regulation Framework

It is of vital importance to make the public and private financial resources available for the implementation of the NQP. The Government will be responsible for financing the development, upgrading and restructuring of the existing NQI institutions within the public sector. The financing of private sector institutions and organizations remains the responsibility of the private sector, as is their involvement in technical committees and similar structures at the national, regional and international level.

4.2.1 Government Direct Investment

The Government will assume responsibility for financing those NQI activities for which a specific beneficiary cannot be identified, but where the country as a whole benefits. This does not mean that the private sector is prohibited from sharing the financial burden, and in many cases a useful public-private partnership can be pursued. The Government will in particular, have the main responsibility for financing –

- 4.2.1.1 The development and publication of national standards by KEBS as well as the maintenance of their standards information centre and WTO TBT Enquiry Point.
- 4.2.1.2 The establishment and maintenance of the national measurement standards by the NMI in KEBS, determination of their Calibration and Measurement Capabilities for inclusion in the BIPM key comparison database and support to them to enhance the calibration infrastructure in the country.
- 4.2.1.3 The legal metrology services in so far as they cannot be funded through the fees and levies paid by the users of measuring equipment falling within the scope of legal metrology regulations.
- 4.2.1.4 Establishing and maintaining membership of KEBS and other relevant institutions in international organizations such as ISO, IEC, BIPM, OIML, CAC, IAF, ILAC, etc, and

quality infrastructure organizations at the African level namely AFRAC, AFRIMETS and ARSO relevant to the proper functioning of the NQI activities.

- 4.2.1.5 The establishment and maintenance of regional testing and calibration capacity in support of the authorities and private sector, with the proviso that these services will be commercialized as soon as possible in order not to compete with the private industry on an unequal basis. Strategically important testing capacity that can never be successfully commercialised will continue to receive the appropriate funding until such time as it is no longer a strategic necessity.
- 4.2.1.6 The establishment of proper market surveillance operations (including audit sample testing) to ensure that technical regulations are complied with. The funding for the on-going testing and certification of products falling within the scope of technical regulations will be the responsibility of the suppliers.

4.3 Financial sustainability

- 4.3.1 In order not to distort the market, and to provide for a steady self-earned income of the NQI institutions in the public domain, the private industry, and also government institutions that make use of the conformity assessment services, shall pay for such services.
- 4.3.2 The pricing levels set by the public NQI institutions shall cover costs as well as provide for future expansion, yet at the same time take into consideration the capacity of the SME sector to pay for such services.
- 4.3.3 Any governmental financial support for the SME sector will not be demanded as a reduction of prices of the NQI institutions as this will negatively impact their long term financial sustainability, but will be channelled to the SMEs in another way. The NQI institutions will work closely with the relevant government departments in this respect.
- 4.3.4 The Standards Levy will be increased from 0.2% to 0.5% and the max payable increased from Ksh 400,000 per year to Ksh 1,000,000 per year to support KEBS operations. Annual contributions from both the government and the private sector will be established.

CHAPTER FIVE

MONITORING, EVALUATION, ACCOUNTABILITY AND LEARNING

5.0 Overview

The MEAL system adopted for this policy will be designed to provide feedback to stakeholders to ensure accountability, transparency, facilitate appropriate decisions on future implementation and review of the policy to ensure that the input, delivery, work schedules and target outputs are progressing according to the plan.

The Kenya Bureau of standards will undertake MEAL activities periodically and at the various phases.

This policy makes provisions for establishment of effective monitoring, evaluation, research, learning and application to all programmes. This policy stresses effective MEAL to ensure sustainable, transparency, accountability and professionalism at all levels. The **MEAL** will also include:

- a) Quarterly review and assessment of the goals and strategic interventions
- b) Monthly review of activities and their time schedules of execution to ensure timely service delivery.
- c) Quarterly monitoring of activities and match outcome with the expected results in order to address the variations
- d) Annual review various tools and guidelines to ensure efficiency
- e) implementation and review of CIDP, ADP and annual work plan in the market management

CHAPTER SIX

POLICY REVIEW

6.0 Overview

This policy will be reviewed every three (3) years or as need arises and its implementation monitored systematically due to the markets dynamism.

6.1 Transition and Policy Implementation

Existing structures and initiatives will remain in force and guidelines will be issued by the Kenya Bureau of Standards as and when need arises to operationalize this policy. Such guidelines shall take into consideration the principles of this policy. An appropriate legal framework may be developed for the effective implementation of this policy.

6.2 Implementation

Without a proper Implementation Plan, the NQP will not be realized. The development and oversight of the Implementation Plan will need to incorporate all stakeholders, as it will be cross-cutting in nature within the public service and the private sector.

6.2.1 Lead Ministry and Reference Group

6.2.1.1 The Ministry of Trade and Industry is given oversight responsibility for the implementation of this NQP. The Ministry will establish a Reference Group representing the Ministries involved in the development and implementation of technical regulations, the Ministry responsible for education, the pinnacle NQI institutions as well as organized business and industry. Relevant development partners may be invited as observers. The Permanent Secretary of Trade and Industry, or his/her representative will be the designated Chairperson. The Ministry may expand the Inter-Ministerial Coordination Group membership as and when necessary.

6.2.1.2 The Reference Group is established with the main objective of leading the institutional and legal modernisation of the NQI in order that the concerned institutions provide competent and essential support and services to industries, the government of Kenya and all other stakeholders in line with the international good practices and norms. The same applies to the Technical Regulation Framework until the envisaged Technical Regulation Coordination Office can take over this function.

In discharging its functions, the Reference Group will:

- a) Commission studies, request information from concerned institutions and conduct research to obtain information and data;
- b) Review and adopt findings of investigations on the current status of the national quality infrastructure;
- c) Develop and endorse recommendations with regard to establishing policies, functions and roles of the institutions concerned and in relation to developing or revising the enabling legislation for the national quality infrastructure;
- d) Adopt plans for the modernization of the national quality infrastructure and assign implementation to specific agencies or persons;
- e) Progress the decisions and recommendations made to the highest level of the government for modernizing the legislation, rules and procedures for the concerned departments as provided for in procedures and practices established by the Government; and
- f) Monitor and oversee implementation plans on a regular basis until successful implementation.

6.3 Implementation Plan

6.3.1 In establishing the Quality Infrastructure as envisaged in this policy, the current institutions have to be reviewed, new structures have to be established and responsibilities have to be clarified and allocated to ensure that the quality infrastructure environment is conducive to delivering the services required to support Kenya's Vision 2030 and others that will follow. An integrated approach is required to ensure that there are no oversights, overlaps, duplication and conflicts of interest amongst the various institutions that constitute the NQI and the regulatory authorities in Kenya.

6.3.2 The Ministry of Trade and Industry in cooperation with the Reference Group will develop an Implementation Plan within three months of the promulgation of the NQP that will be followed by all relevant stakeholders, especially all the Ministries, their agencies and local government authorities, in implementing this NQP.

6.3.3 Any changes in the national legislation and infrastructure will be realised on the recognition of the need for modernisation by policy and decision makers. In this regard, the Ministry of Trade and Industry will initiate further consultation, discussion and coordination between all relevant stakeholders for reaching consensus on changes in the infrastructural and institutional arrangements and the associated enabling legislative framework.

6.3.4 The Reference Group will review the National Quality Policy from time to time taking international trends and changing national priorities into consideration, and advise the Government accordingly as regards any changes that have to be made to the National Quality

Policy or its Implementation Plan.

6.4 Implementation responsibilities

6.4.1 Each Ministry, their agencies and local authorities are charged with the implementation of their identified parts of the NQP and the Implementation Plan. The Ministries, their agencies and local authorities will liaise closely with the Reference Group in this regard.

6.4.2 The relevant Ministries are charged with the responsibility to ensure that the implementation of the NQP interfaces seamlessly with the implementation of their own policies wherever these impact on each other.

6.4.3 The Reference Group is charged with the responsibility to review implementation progress of the Implementation Plan at least every six months and to report progress or the lack thereof to the Ministry of Trade and Industries in this regard. The Ministry of Trade and Industry has the responsibility to initiate corrective action. The Ministry will likewise report to Cabinet in intervals not exceeding six months, particularly for corrective action that needs to be introduced by Cabinet.

6.5 Implementation period

The Government is committed to implement the provisions of this NQP within a period of five years from the date of its approval.