



TOWARDS AN IGAD TRANSHUMANCE PROTOCOL

Legal, Policy and Institutional Frameworks on Pastoral Areas and Cross-Border Transhumance in IGAD Region

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ABBREVIATIONS AND ACRONYMS

AGDP	Agricultural Gross Domestic Product
ASAL	Arid and Semi-Arid Lands
AU	African Union
AU/DREA	AU Department for Rural
CBD	Convention on Biological Diversity
CBOs	Community Based Organisations
CEWARN	Conflict Early Warning and Response Network
CEWARU	Conflict Early Warning and Response Unit
COMESA	Common Market for Eastern and Southern Africa
DRC	Democratic Republic of Congo
EAC	East African Community
EAPCCO	Eastern Africa Police Chiefs Cooperation Organisation
FAO	Food and Agriculture Organisation of the United Nations
GDP	Gross Domestic Product
ICPALD	IGAD Centre for Pastoral Areas and Livestock Development
IDDRSI	IGAD Drought Disaster Resilience and Sustainability Initiative
IGAD	Intergovernmental Authority on Development
ITC	IGAD Transhumance Certificate
KIDDP	Karamoja Integrated Disarmament and Development Plan
LITS	Livestock identification and Traceability System
NEALCO	North Eastern Association of Livestock
OIE	World Organisation for Animal Health (Office International des Epizooties)
RECSA	Regional Centre on Small Arms in the Great Lakes Region, the Horn of Africa and Bordering States
SALW	Small Arms and Light Weapons
SNNPR	Southern Nations, Nationalities, and Peoples' Region (Ethiopia)
SPS	Agreement on the Application of Sanitary and Phytosanitary Measures (WTO)
TADs	Trans-boundary Animal Diseases
UNCCD	United Nations Convention to Combat Desertification
Vet-Gov	Reinforcing Veterinary Governance in Africa Programme (AU-IBAR)
WTO	World Trade Organisation



Livestock constitutes a major economic, social and cultural facet of life for about 240 million people of the IGAD region. Livestock contributes 57% of agricultural gross domestic product (AGDP) in this part of the world and supports 70% of the population in terms of livelihoods, nutrition, wealth and social status. Our region has about 520 million livestock of which 242 million (35%) are small ruminants. We are proud to be the one region in Africa that is self-sufficient in terms of meat requirements and we are positioned to achieve the same status in dairy and egg production with the right policies and practices. The region is the leading exporter of livestock in the continent accounting for 42%. The majority of these animals are reared

under a transhumant system that requires regular seasonal migration between feeding and watering grounds.

However, these cycles face a number of serious challenges including changes in land tenures systems and usage, the shrinking of frontier spaces as development encroaches on rangelands, limitations in mobility due to security concerns especially along borderline areas as well as the effects of climate change and weather variability.

Historically, transhumant pastoralists adopted seasonal mobility as an adaptation mechanism to climate variability. Mobility has been a core-adaptation mechanism in pastoral livelihood system and a crucial aspect of risk management in the harsh and unpredictable environments. However, restriction on mobility of pastoral communities and their livestock, conflicts and stricter cross-border control and defective tenure policies pose threats to sustainability of pastoral livelihoods. In order to address these challenges and protect pastoral ecosystem within its Member States, IGAD is supporting Member States to adopt a protocol on transhumance that will facilitate formal livestock cross-border mobility in the region.

This publication documents the regional policies, legislations and institutional framework that will help the region and IGAD Member States to implement the IGAD Protocol on Transhumance. It is anticipated that it will increase knowledge on how to formulate the most practical and effective policy, legislative and administrative frameworks for Transhumance as part of the IGAD regional integration agenda.

Special thanks are due for the financial support of EUTF in both the publication of this report and the funding of the program. We hope that you will find this document useful and that it will inspire improvements to regional frameworks facilitating the free movement of livestock and pastoralist communities as well as joint efforts in natural resource management and conflict reduction within agro-pastoralist lands in order to deliver enduring regional integration and lasting socio-economic transformation for the region.

H.E. Dr. Workneh Gebeyehu
Executive Secretary
Intergovernmental Agency on Development (IGAD)

DIRECTOR'S STATEMENT



The pastoralist way of life is defined by mobility as nomadic communities move their livestock in search of water and pasture. This has been a long-standing and widely recognised adaptive response to the ever-present existential threat of drought and famine that continually looms over the IGAD region. The movement of pastoralists and their livestock is therefore principally dictated by the availability of water and pasture and as a consequence, the movement patterns are usually not fixed to a pre-set and predictable route. The prevailing rule is that flexibility is the key to survival and therefore the tendency is to adapt to patterns that correspond

to local conditions. Tactical mobility that as guided by a strategic response to the availability of natural resources is what allows livestock-keeping nomadic communities to adjust to the effects of climate change and weather variability in order to continue living in the resource-constrained ecosystems of the Arid and Semi-Arid Lands.

In addition to this challenge is the fact that the majority of the nomadic communities in IGAD are residents of the borderline regions between member states. As a result, pastoralist communities in these areas have increasingly found themselves subjected to administrative and regulatory barriers to movement as central authority has progressively made its way to the once far-flung frontier areas. The consequence has been that the migratory patterns of pastoralist communities have been placed under increasing pressure. In other parts of the world, experiments with policies that have attempted to sedentarize pastoralists or contain their movements within national borders have been uniformly disastrous. They have invariably resulted in increasing pressure on land and water resources, increased the voltage of conflicts between and within pastoralist communities and significantly denuded livelihoods.

In the 21st century, transhumant communities are not only living in a 'shrinking' world characterised by the re-emergence of walls and other barriers; but also, a world where cross-border mobility is increasingly being perceived as a security threat. Nomadic communities in this region are increasingly finding themselves in the cross-hairs of negative perceptions as both an environmental and a national security threat. Pastoralists are now discovering that they are living in a world marked by increasing competition for vital pastoral resources such as rangelands and water. Pastoralists in the IGAD region and indeed the African continent are assailed from all sides by population pressure as a result exponential growth, rapid expansion of transport infrastructure, improvements in crop production technology, the growth of manufacturing industries, discovery of mineral and fossil fuel deposits in rangelands, in addition to climate change and destructive environmental management practices. Never has the need to safeguard access to natural resources by pastoralists been more acute.

This protocol on Transhumance is a calculated response from IGAD/ICPALD to these challenges as guided by the IGAD Member States. It is further evidence of ICPALD's commitment to remain at the forefront of formulating actionable regional policy based on credible evidence of the economic and ecological benefits that accrue from pastoralism

and transhumance. ICPALD has spearheaded the drive towards sustainable pastoralism as articulated its calling to promote dry lands and livestock development policies in the IGAD member states and support them to sustainably generate wealth, employment and lasting dignity for livestock-keeping communities that are resident in the drylands. To prepare for an effective implementation of the regional Protocol on Transhumance, ICPALD has carried an assessment on the existing regional and national institutional frameworks that promote and facilitate elaboration and harmonization of regional livestock and dry-lands policies and development. The report has succinct recommendations for the Member States and regional actors the IGAD region.

Dr. Solomon Munyua,

Director,

IGAD Centre for Pastoral Areas and Livestock Development (ICPALD)

FOREWORD FROM THE TECHNICAL BENCH



This report is an output of IGAD's EU-Funded program towards a free movement of persons and transhumance in the IGAD region. The program supports the adoption process of IGAD protocols on free movement of persons and on transhumance, to enhance orderly cross-border mobility and migration, regional economic integration and development. The program is funded under the European Union Emergency Trust Fund for stability and addressing the root causes of irregular migration and displaced persons in Africa.

As IGAD's specialized institution for pastoral areas and livestock development, ICPALD has been leading the adoption process of the IGAD protocol on transhumance. The need for the transhumance protocol in the IGAD region is premised on the understanding that migration in search of pastures and water is paramount to the very survival of transhumant pastoralist communities. An IGAD Protocol on Transhumance is timely and will give an overarching legal framework to provide orderly movement of pastoral livestock and herders through well secured transhumance corridors and grazing zones. The protocol will increase livestock survival and productivity in the region, while improving surveillance, monitoring of cross-border mobility and coordinated joint response to transboundary challenges. So far the region has several agreements and frameworks that provide a support ground for the protocol including the IGAD regional Animal Health MoUs signed between IGAD Member States, the IGAD regional Informal Cross Border Trade Protocol, the Conflict Early Warning Mechanism of IGAD, the IGAD Integrated Early Warning System and IGAD Drought Disaster Resilience And Sustainability Initiative (IDDRSI). The finalization and adoption process of the protocol included national technical consultations with the IGAD Member States, regional technical harmonization meeting, consultations with Member States' legal experts and policy makers and regional negotiation meetings. The process was very robust and an all-inclusive negotiation which culminated into an endorsement of the Protocol by the IGAD Committee of Ambassadors.

Pending final adoption by the Member States, ICPALD undertook a comprehensive review of Legal, Policy and Institutional Framework, Practices and Programs for Pastoral Livestock Development and Livestock Mobility in IGAD Region to facilitate the implementation of the IGAD Protocol on Transhumance. This report of the assessment will be handy in the implementation process of the protocol and it will inform the harmonization process of related national and regional policies, laws and strategies for land use, cross border arrangements for pastoral mobility, rangeland management, resource allocation and management for ASAL regions and institutional alignment in the member states.

Our gratitude to our Member States, stakeholders and partners who generously contributed their time and information for this important report.

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EXECUTIVE SUMMARY

The IGAD region is characterised by arid and semiarid landscapes and environments particularly in the border areas. The border communities in the region have evolved livelihood systems such as pastoralism and agro-pastoralism that are suited to the ASAL conditions. However, this pattern of livelihood is increasingly coming under threat despite the fact that migration in search of pastures and water is central to their survival. The combined effects of among others, insecurity and conflicts, restriction of their mobility, inadequate land security, pastoralism land alienation for other economic activities and adverse climate variability have directly affected the pastoralists' livelihoods.

Although the transhumant pastoralists have been moving across the international borders and considering the number of shared transboundary natural resources in the region, there is no formal legal or institutional framework to promote and secure safe and humane pastoral mobility across the borders in the IGAD region. To address the existing policy and legal gaps and challenges and protect pastoral ecosystems within its Member States, ICPALD is spearheading the process of Member States adopting a regional Protocol on Transhumance (Annex 1). The Protocol will facilitate the free, safe and humane passage of transhumant livestock and herders across the national borders of all the state parties for water and pasture through the establishment of an IGAD Transhumance Certificate (ITC). This assessment seeks to harmonise relevant national and regional policies, laws and strategies for cross border arrangements for pastoral mobility, land use, rangeland management, and resource allocation and management for ASAL regions and institutional alignment in the Member States.

The implementation of the Protocol on Transhumance will impact on a number of national policy areas: livestock production; secure migration; land and natural resources management; governance systems; conflict management; market access and trade; sustainable livelihoods support, and; pastoral risk management at the national and regional levels. An assessment of the IGAD Member States' legal, policy and institutional frameworks applicable to cross-border pastoralism indicates a dearth of appropriate pastoralism friendly laws, policies and institutional frameworks. A few of the countries have barely adequate laws and policies governing pastoralism but with a clear institutional responsibility for its implementation. However, these suffer from lack of human capacity and funds and thus implementation has been uneven. Some of the countries are in the process of developing legal and institutional frameworks to address this deficiency.

The major key concerns vis-à-vis the implementation of the Protocol:

- (i) The lack of dedicated pastoralism development frameworks in the Member States that would ensure that governments allocate sufficient resources to pastoralism including cross-border transhumance. Instead, the pastoralism matters in the Members States are dealt with under one or two sectoral laws (agriculture/livestock sector and natural resources management (rangeland and/or land), the use of which has seen the application of policies that go counter to the pastoralists needs adversely impacting their livelihoods and their ability to sustain their productive capacity. Nevertheless, Ethiopia, Kenya and Uganda are drafting the necessary pastoralism policies.
- (ii) Animal health is critical to livestock movements thus the frameworks efficacy in surveillance and monitoring of TADs is essential for the pastoralists' cross-border

mobility. The coordination of cross border animal health surveillance and provision of vet services is insufficient. Also, a number of the countries have, for instance, laws for branding the herds but none of the Member States has implemented an effective livestock identification and traceability system (LITS) to be used among the cross-border pastoralist communities.

- (iii) Recognition of pastoralists' community land rights is important because the system of tenure among most of the communities is communal, and is governed by traditional customary laws. Yet in most of the Member States, the pastoralist land tenure system is unfavourable, constraining their mobility and has been the source of most of the conflicts in the region. Moreover, their customary laws and practices that govern access to livestock resources such as water and pasture has received little recognition in the formal system.
- (iv) Equally, their traditional authorities and institutions, which they depend on to manage their resources and livelihoods, have been weakened and undermined further marginalising the pastoral communities from the formal governmental processes and decision-making. Though the Member States supreme laws recognise their authority, in practice, they have not been empowered to discharge their functions effectively. The vacuum created by the weakened the traditional authorities' role of conflict prevention and resolution has contributed to the intensification of insecurity and conflicts among the pastoralists' communities, which the governments have failed to address sufficiently.

Therefore, the review determines that though the countries have a number of laws that could be applied to ensure the implementation of the Protocol on Transhumance, these are wholly inadequate for its successful application. To facilitate the successful implementation of the Protocol, the following recommendations apply at the country level (for most of the Member States): -

(1) Pastoralism Development

- Develop and implement a Pastoralism Policy to operationalise all pastoralism and rangelands policies that focus exclusively on issues of pastoralists' development and natural rangeland resources.
- Develop a pastoralism legislation taking into account the Protocol on Transhumance requirements for the establishment of transboundary infrastructure including transhumant corridors, the delivery of services, and cross-border service frameworks.
- Establish institutions at the national level with the appropriate resource allocation to implement the pastoralism policies and laws.

(2) Livestock Resources and Production

- Review and/or develop a livestock sector policy framework with a strong focus on pastoralist and transhumant production system.
- Formulate a policy and law for the implementation of a LITS that complies with international standards.

(3) Land Governance

- Reform the land policy and law to strengthen and secure the property rights of pastoralist and protect them from arbitrary dispossession from their lands.

- Recognise formally the role of the customary resources management system to ensure sustainable peace and natural resource development and conservation.

(4) Governance Structures

- Recognise customary law to have equal force and effect as the other laws of the country to facilitate the pastoral land administration and management, conflict prevention and conflict resolution, and traditional systems of governance.
- Enact laws and establish mechanisms for effective participation of the pastoralists at all levels of governance.
- Allocate adequate resources to customary and traditional institutions, and local governance institutions to empower them to sustainably govern their pastoral resources.

(5) Security and Mobility Frameworks

- Review, strengthen and strictly enforce firearms laws to eliminate the proliferation of firearms among pastoralists' communities.
- Undertake a harmonised disarmament exercise among the border pastoralist communities.
- Implement a LITS in collaboration with cross-border counterparts to curb cattle rustling.
- Develop an inter-governmental policy framework to govern cross-border security management and peace building.

(6) Trading and Marketing Regulations

- Develop capacity for compliance with sanitary and phytosanitary, and traceability measures and quality assurance at all levels in animal value chains.
- Enforce sanitary standards by developing codes of practice that are compliant with national and international standards.
- Develop a livestock trading and marketing policy that includes a special focus on pastoral transboundary exchanges.

(7) Environment and Nature Resources Management

- Establish frameworks for managing natural resources sharing among pastoralist communities and across borders and districts.

To facilitate the implementation of the Protocol on Transhumance, the following recommendations apply at the regional level.

- Simplify the proposed ITC to accommodate the pastoralist literacy level and ensure that it will be easily accessible to the transhumant pastoralists.
- Develop a model transhumance regulation to facilitate the implementation of the Protocol.
- Encourage the Member States to implement the model LITS to facilitate the movement of cross border pastoralists under the Protocol.
- Train and create awareness of the Protocol and the domesticated relevant laws among all stakeholders.
- Establish a framework for regional dialogue and coordination on cross-border transhumance.

- Develop guidelines to encourage increased participation of pastoral communities in the domestication and implementation of the Protocol.
- Harmonise policies such as disarmament initiatives to avoid creating an imbalance in the power relations between the transboundary transhumant pastoralists' communities.
- Encourage Member States to implement regional and sub regional instruments on pastoralist security, environmental and climate change such as the Nairobi Protocol to reduce small arms proliferation in the region.
- Harmonise laws regionally to address inconsistencies and inadequacies in the pastoralists land tenure systems that reduce transboundary mobility and increase insecurity in cross borders.
- Develop model (general, cluster base or subject matter) transboundary legal and administrative frameworks to facilitate the use and management of shared transboundary resources during the pastoral cross-border mobility.
- Initiate the tracking of routes and delineate areas for/as regular transhumance corridors to ensure the maintenance of these ecosystems to address need for migratory corridor flexibility.
- Undertake a study of the cross-border transhumance for reliable statistics to facilitate a comprehensive monitoring and coordination of pastoralist movements, which would enable national and regional authorities to guide pastoralist transhumance in a way that avoids overcrowding and conflict.
- Fast track IGAD's vision to provide a single market to facilitate the movement of persons, animals, capital and the rights of establishment and residency.
- Facilitate the inclusion of WTO standards (SPS measures) in national trade legislations to promote the competitiveness of the Member States' pastoralists' animal products regionally and globally.
- Build knowledge on the Protocol on Transhumance by supporting member states' Protocol sensitisation and awareness programmes.

1.0 INTRODUCTION

1.1 JUSTIFICATION FOR A PROTOCOL ON TRANSHUMANCE

1.1.1 Pastoralism and Pastoralism Services

Pastoralism is a way of life and a production system based on raising and using livestock to optimise the uncertain distribution and availability of grazing and water resources in arid and semi-arid rangelands by adopting strategic mobility. Focusing on land management, pastoralism can be classified into three general systems: settled (sedentary), nomadic and transhumant. Settled pastoralism manages herds from a fixed location where they live throughout the year in areas where pasture is available virtually all year round. Ranching and agro-pastoralism are examples. Agro-pastoralism is a mixed farming system where emphasis remains on livestock production for milk, draught power, meat, and income generation but alongside settled crop production (Herrera et al, 2014).

Transhumant pastoralism is organised around the seasonal migration of people and their livestock between grazing pastures but most transhumant people also engage in some crop cultivation and regularly operate a dual system of production with a permanent home base and a mobile satellite camp (seasonal movements to from floodplain pastures such as along the South Sudan-Sudan border). Nomadic pastoralism is an extensive, subsistence-oriented production system in which herds are purposefully moved between dry lands and wetlands in search of fresh grazing and water. Nomadic pastoralists conduct their herds through vast distances led by the feeding capacity of the rangelands their herds graze, without a fixed path or established periodic route e.g. the Sahelian pastoralists relying on this flexibility for their survival (Herrera et al, 2014).

All these pastoral systems are characterised by pastoralists' mobility, the highly demanding care of their animals, the flexibility and adaptability harnessing climatic variability to raise productivity, knowledge of their territories, and historic links surviving over time. Pastoralists also manage resources communally, and their mechanisms of mutual support and social capital are critical to their management of their rangelands. Pastoralists have adopted migration including transboundary pastoralism as both an adaptation and an income diversification strategy. Transboundary pastoralism is occasioned by the need for resource utilisation and sustainable rangeland management; livelihood diversification and trade; risk and threat minimisation (Herrera et al, 2014).

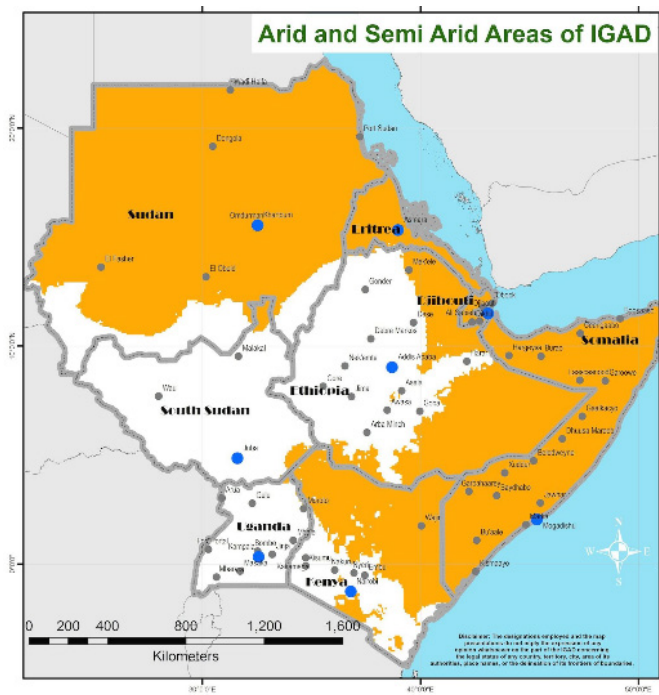
Pastoralism provides important ecosystem services that contribute to improving rangelands and the general environment. Rangelands contribute to the economy because they have major resources such as human capital, wildlife, minerals, livestock, forestry, medicinal plants, scenic landscapes, fodder and water. Animals on the move help maintain biodiversity and soil fertility, sequester carbon, regulate waters, and disperse seeds. The cultural practices of pastoralists encompass valuable indigenous knowledge and regulate land use in a sustainable and inclusive manner. Mobility also serves as a way of connecting different regions and countries, linking isolated communities and providing them with news, information and knowledge (FAO, 2018).

1.1.2 Pastoralism in the IGAD Region

The IGAD region of Africa is characterised by arid and semiarid landscapes and environments.

The IGAD region accounts for 17.3 percent (5.2million square km) of the African land mass and 26 percent of its population at 267.5 million. The arid and semi-arid lands account for over 80 percent of the landmass of the region (see Figure 1.1) showing expanse of ASAL in the IGAD region). These are areas that receive less than 600mm in annual rainfall but support 80 percent of the livestock in the region. Pastoral and agro-pastoral production is the predominant livelihood system (IDDRSI website).

Figure 1.1: Arid and Semi-Arid Areas of IGAD



Source: IDDRSI

IGAD has the highest ruminant livestock concentrations in Africa and in the world, its 3.5 percent of the earth’s surface has 9.3 percent of the cattle, 12 percent of small ruminants and 60.8 percent of the camel population. According to estimates by ICPALD, it accounts for 44.5 percent of the cattle, 38.6 percent of small ruminants and 71.4 percent of the camel population in Africa (see Table 1.1). It is the only region that is self-sufficient in meat requirement and can be the same in milk and egg if well managed (IGAD, 2018). Nevertheless, despite its natural wealth in livestock, the region is the most food insecure part of the world and the region’s pastoralists are among the most vulnerable communities (IGAD ICBT Policy, 2018).

Table 1.1: Livestock Population by IGAD Member States (Millions)

	Country	Cattle	Sheep & Goats	Camel
1	Djibouti	0.04	1	0.05
2	Eritrea	2.3	7.9	0.3
3	Ethiopia	56.7	58.4	1.2
4	Kenya	17.5	44.8	2.97
5	Somalia	5.3	27.1	7.1
6	South Sudan	11.7	24.4	-
7	Sudan	29.8	70.3	4.8
8	Uganda	13.02	18.5	-
9	IGAD	136	253	16

Source: Livestock Contribution to the Economy - Studies of Member States

The border communities in the IGAD region have evolved livelihood systems such as pastoralism and agro-pastoralism that are suited to the ASAL conditions. Pastoralism has been fundamental in the history, culture and identity of the people, who are the custodians of land, indigenous animal breeds and plant varieties. They make the most efficient use of the resource base while ensuring its sustainable management and their mobility including transboundary transhumance is critical to maintaining this lifestyle (Lukenya Declaration, 2016). However, this pattern of livelihood is increasingly coming under threat despite the fact that migration in search of pastures and water is central to their survival. The combined effects of among others conflicts, restriction of the mobility of transhumance communities, weak pastoralism land tenure, pastoralism land alienation for other economic activities and adverse climate variability have directly affected the pastoralists livelihood. In particular, women and vulnerable groups among the transhumant communities bear the brunt of the threat to their livelihoods.

Although the transhumant pastoralists have been moving from one region to another across the international borders and considering the number of shared transboundary natural resources in the region, there is no formal legal or institutional framework to promote and secure healthy, safe and humane pastoral mobility across the borders in the IGAD region. Pastoralism is an adaptation to the unique conditions of rangeland landscapes that requires equally adapted systems of governance and tenure. In West Africa, the adoption of the Economic Community of West African States (ECOWAS) Protocol on Transhumance (1998) and the supporting Regulation of 2003 was a recognition by the Member States that cross-border pastoralist transhumance is a valuable economic activity. The Member States of ECOWAS therefore developed a regional regulatory framework for cross-border transhumance based on the ECOWAS principle of free movement of persons, services and goods (IOM et al, 2019).

In the IGAD region, various policies and development programmes within IGAD States have well-articulated strategies for the agro-pastoral communities, but are silent on cross border transhumant pastoralist communities (Kasimbu, 2014). Moreover, although the IGAD Member States have made commitments to regional and international agreements, which if implemented would improve the lives of pastoralists, these have not been translated into action on the ground, hence the need for the Protocol on Transhumance in the IGAD region to customise and provide a regional framework for mobility within the transhumance pastoralist communities.

1.1.3 The Draft IGAD Protocol on Transhumance

In order to address the existing policy and legal, gaps and challenges (enumerated in detail in the chapter 3) and protect pastoral ecosystem within its Member States, IGAD Centre for Pastoral Areas and Livestock Development (ICPALD) is spearheading the process of Member States adopting a regional Protocol on Transhumance (Annex 1) that will facilitate free safe cross-border pastoral mobility in the region. The IGAD Transhumance Protocol is an acknowledgement of the fact that pastoral mobility is an adaptation strategy to climate change effects and a sustenance mechanism for pastoral livelihood, one of the key economic pillars in the region. The objective of the Protocol on Transhumance therefore is to exploit the full social and economic potential of the pastoral system by (Article 2):

- a) Facilitating the free, safe and humane passage of transhumant livestock and herders across the national borders of all State Parties for water and pasture under the conditions set in this protocol;

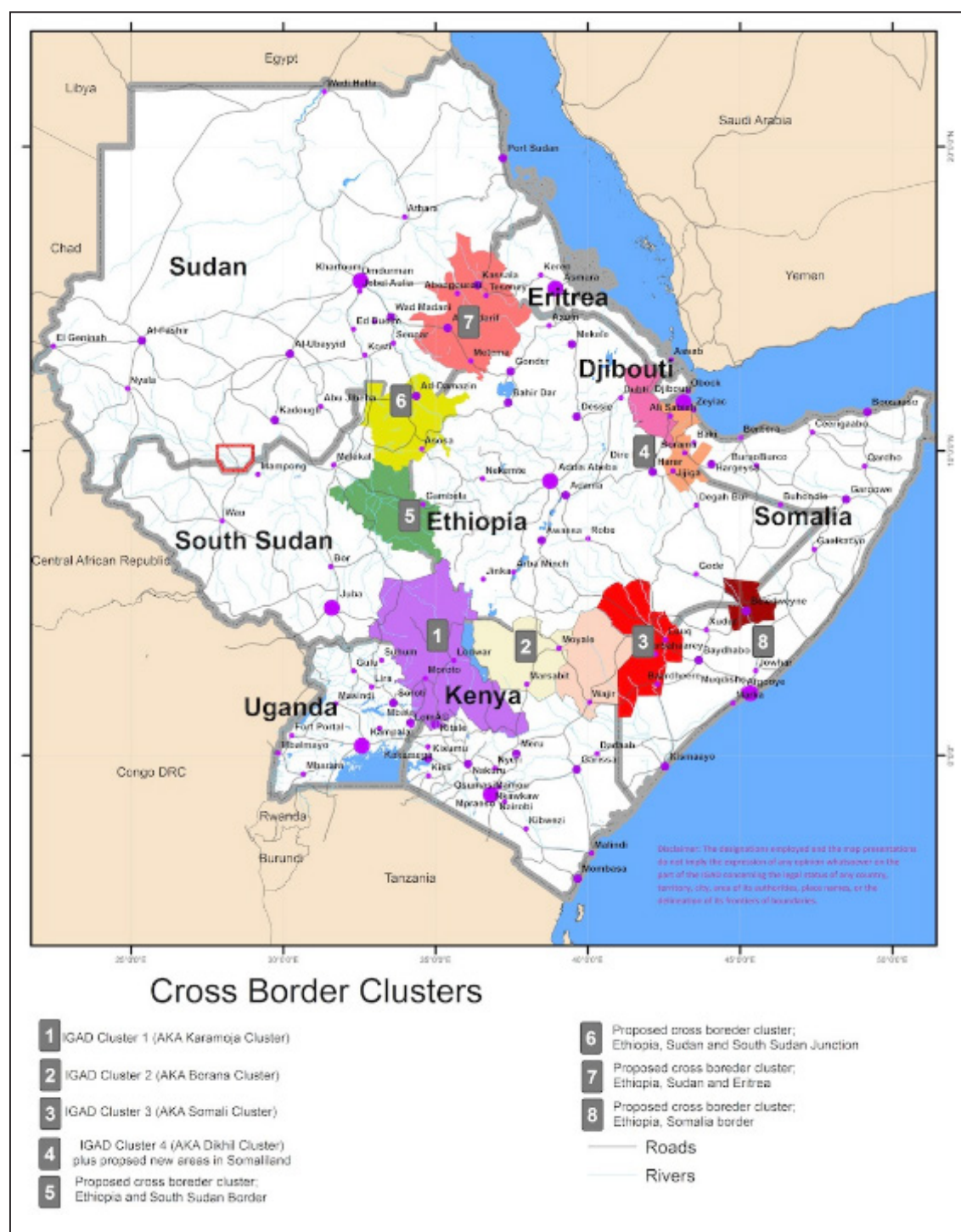
- b) Strengthening existing local cross-border pastoral agreements and encourage State Parties to create conditions favourable for pastoralism in their traditional areas; and
- c) Providing protection to the transhumant herders accompanying their livestock into host countries in accordance with national laws and regulations.

The Protocol seeks to establish an IGAD Transhumance Certificate (ITC), which shall allow free and safe passage across points of entry into and departure from each country provided certain conditions including ownership, composition and number of herd, itinerary and health requirements are met. The use of ITC will help with the implementation of livestock identification and traceability system (LITS) and the identification of persons. IGAD is to coordinate and support the Member States, with the involvement of respective communities, to identify and map the existing and/or new stock routes and resources therein and to designate them as 'migratory corridors' through which transhumant livestock and herders shall travel through (Article 4).

Article 4 of the Draft Protocol envisages a cluster-based mobility in contrast with the ECOWAS Transhumance Protocol where the herders can cross multiple non-contiguous borders in a single trip (IDDRSI website & Herrera et al, 2014). IGAD, the Member States and development partners consider these cross-border clusters as geographical priorities due to their unique nature. A cluster is a 'geographic space cutting across a country border in which stakeholders aim to develop and implement coordinated investments to enhance resilience' (Herrera et al, 2014). The Karamoja cluster encompassing the border communities of Ethiopia, Kenya, South Sudan and Uganda is an example.

It is intended that the Protocol will complement the number of bilateral programmes in the region by creating harmony in the relevant transboundary pastoralism frameworks without compromising the national security of the Member States. This is in line with the growing trend of developing integrated regional pastoral development programmes which shows that policymakers have come to realise the transboundary nature of pastoral production (UNECA, 2017).

Figure 1.2: IGAD Cross-border Clusters



Source: IDDRSI

1.1.4 IGAD Cross-Border Initiatives

IGAD has divided the region into eight (8) cross border clusters (See Figure 1.2) to facilitate the provision of and implementation of services. Cross-border dialogues empower communities to solve their own problems and are instrumental to identify and elaborate cross-border problems, which are cross-sectoral in nature (IDDRSI Strategy, 2016). These cross border clusters, as defined by IGAD Drought Disaster Resilience and Sustainability Initiative (IDDRSI), are: -

1. Cluster 1 Karamoja - The Karamoja area straddles the common boundary between Kenya, Uganda, South Sudan and Ethiopia.
2. Cluster 2 Borana - The scope is the Marsabit of Kenya and Borana & Dawa Zones in Ethiopia.
3. Cluster 3 Somali - This includes border sites of Ethiopia (Dolo Ado, Dolo Bay), Kenya (Mandera County) and Somalia (Dollow and Belet Hawa).
4. Cluster 4 Dhikil – This straddles the borders of Djibouti, Afar and Dire Dawa regions of Ethiopia and Somalia.
5. Cluster 5 Ethiopia and South Sudan 1 – This includes Gambelle Region in Ethiopia and Jonglei and Upper Nile States in South Sudan.
6. Cluster 6 Ethiopia, South Sudan 2 and Sudan - This will cover the Benishagul-Gumaz region in Ethiopia, Upper Nile State in South Sudan and Blue Nile in Sudan.
7. Cluster 7 Ethiopia Sudan and Eritrea – This will include of Eritrea, Amhara and Tigray regions Ethiopia and areas in Gedaref and Kassala states in Sudan.
8. Cluster 8 Ethiopia and Somali –Somali region in Ethiopia and Bakool and Hiraan in Somalia.

1.2 THE ASSESSMENT

1.2.1 Objectives of the Assessment

The purpose of the consultancy is to carry out an assessment of the existing policy and legal frameworks, and support institutions that promote and facilitate pastoral system and cross-border transhumance in the IGAD region. This is one of the activities under the project IGAD is implementing to facilitate free movement of persons and transhumance in the region. This will support the adoption and implementation process of the draft IGAD Protocol on Transhumance and Protocol on Free Movement of Persons, enhance orderly cross-border mobility and migration, regional economic integration and development.

The specific objectives of the assessment are: -

- To review existing relevant laws and policies that promote and facilitate or regulate pastoral livestock development and cross-border transhumance in the IGAD region and its Member States;
- To document institutional frameworks including bilateral cross border agreements and arrangements, good practices and lessons for implementing IGAD transhumance protocol for transboundary pastoralism;
- To identify gaps and the extent of adoption of the laws, policies and regional and national strategies to enhance cross-border transhumance and pastoral livestock system; and

- To develop recommendations on policy change, laws and institutions, and guidelines for best practices towards an effective adoption and implementation of the IGAD protocol on transhumance.

1.2.2 Study Approach and Methodology

The assessment is being undertaken primarily through content analysis thus extensive review of pastoralism related policy, legislation and frameworks and programmes, and related literature. To achieve the assignment objectives, the assessment approach has been mainly qualitative, which relies on: reviewing relevant literature and case studies, and conducting interviews and discussions with key informants. Primary data collection was conducted through in-depth individual key informant interviews and discussions and through observations during the visits to the Member States' institutions and organisations conducted between December 2018 and January 2019 and May 2019. A checklist of the issues for discussion and interviews was developed and shared with the key informants in advance to facilitate the data collection (See Annex 2).

The key informants were identified based on their roles and level of knowledge and organisational representation. They included important officials in ministries responsible for livestock development, pastoralist affairs and regional development; legal experts from these line ministries and ministries of justice and foreign affairs, and; officials from relevant regional institutions and civil society organisations in the IGAD Member States (Annex 2). Secondary data collection was mainly from extensive literature review of the existing laws, policies, strategies, institutions, various governmental publications and reports, programmes and resources on pastoral livestock development and cross border transhumance in the IGAD Member States. In addition, a desk review of reports from various institutions and organisations (IGAD, AU-IBAR, FAO, ECOWAS and civil society), academic articles, and policy papers, and online websites were reviewed.

The countries under review are the seven (7) IGAD Member States of Djibouti, Ethiopia, Kenya, Somalia, South Sudan, Sudan and Uganda. Key informant interviews were conducted with discussants including government and non-governmental stakeholders in livestock production and development, pastoralism, rangeland management and conservation including environment, natural resources and enforcement sectors, and legislators. Inquiries through e-mails were also utilised. The data collected was analysed to produce a draft of this report that was presented for review to a meeting of key stakeholders in the region.

1.2.3 Data Processing and Analysis

An analysis of the data collated to determine the existing needs and gaps, and potential interventions required and model agreements and arrangements that may be adopted to facilitate the implementation of the Draft Protocol on Transhumance was undertaken. The responses by the key informants to the questions, both oral and written, were analysed using thematic and content analysis, and as derived from the literature reviewed. The findings and recommendations from the analysis to facilitate and promote cross-border transhumance in the IGAD Member States have been compiled in this report. Data is presented here in narratives, figures and tables Part 1 presents an overview of the study while Part 2 provides a snapshot of pastoralism in the region. Parts 3 and 4 presents an overview as well as the policy, legal and institutional environment of each Member State,

reviewing their efficacy in facilitating the implementation of the Protocol on Transhumance, highlighting their inadequacies and providing recommendations. Part 5 provides an overview of the regional and international regimes that underpin the development of the Protocol on Transhumance and the relevant national instruments applicable to the Protocol. Part 6 presents the recommendations and best practices that would enhance the successful implementation of the Protocol.

1.2.4 Limitations of the Assessment

The study was a combination of interviews with key informants and desk review of relevant literature. However, not all the key informants/official interlocutors were accessible due to the period and duration of the visits to Member States for reasons including the holiday season, other urgent official commitments, transfers and bureaucratic constraints. The limited time reduced the possibility of alternative visit appointments. A follow up through email with a written checklist was also not as successful as expected but this at least provided more data and guidance on further literature to review. However, the draft report presentation at the meeting yielded more information through interviews and sharing of literature to ensure all the information gaps were addressed.

2.0 PASTORALISM IN THE IGAD REGION

2.1 PASTORALISM IN THE IGAD MEMBER STATES

2.1.1 DJIBOUTI

Djibouti is situated in the Horn of Africa and has a total surface area of about 23,200 km² and a population of approximately 900,000, with more than two thirds of the total population living in urban areas. Djibouti occupies one of the most strategic locations not only for the Horn of Africa but also for the world for trade, security, and humanitarian activities. Djibouti is a key node in the Gulf of Aden and Suez Canal routes, which respectively account for approximately 20 percent and 10 percent of global trade. The country offers sea access to landlocked states in the region, especially Ethiopia - 90 percent of maritime trade. Djibouti is also host to anti-terrorism and anti-piracy operations, and military bases of major powers in the world including the United States, China, Japan, Germany, France and Italy (IDDRSI Djibouti, 2017).

The entire country is arid or semi-arid. This limits production systems and livelihoods due to ecological constraints such as erratic rainfall pattern; heavy showers that are lost as run-off; high rates of evapo-transpiration; highly competitive weeds; and low organic matter content in soils. Over the past decade, economic damages resulting from droughts have amounted to millions of Djibouti Francs caused by climate change. The droughts in 1983–85, 1991–92, 1998–99, 2010–2011 and recently in 2016 have resulted in between 37 and 62 percent of the livestock population perishing, mostly from starvation and lack of water. The fragile resource base in rural areas is very sensitive to changes in climatic conditions, making pastoralists and agro-pastoralists highly vulnerable to climate change (ICPALD, 2015 & IDDRSI, 2017). The contribution of livestock to agricultural GDP was 15.78 Billion Dfs (0.089 Billion USD) in 2013. This value includes 91 percent derived from conventional goods common in agricultural GDP and 9 percent from financial services provided by livestock (ICPALD, 2015).

Pastoralism Dynamics - The livestock sector is the largest component of agricultural production and is mainly nomadic but meets only part of the country's products demand. Despite serious constraints, such as the low productivity of the cattle, poor veterinary services and hence poor control of animal diseases, it is the primary subsistence activity of the rural population, providing 78 percent of their income (Alawan, 2012). The pastoralism mobility is governed by rainfall and the availability of pasturage, which is also a way of managing rangelands for livestock. Transhumance is characterised by a gradual movement of herds and encampments, from coastal areas or low plains to the massive plateaus of the sea as the warm seasons approach (September–April) and according to the (very irregular) variations of the rain regime. Inversely, the pastoralists of the summer pastures (September–April) come to winter (October–March) in case of needs in the coastal zones (Alawan, 2012). Sedentary livestock keeping is practised in the vicinity of population centres and water sources.

Range management data in Djibouti indicates low forage availability, overexploitation of rangelands, particularly in areas where rangeland management is unregulated. In addition, deterioration in water quality with poor maintenance and poor management of water sources is prevalent. The droughts experienced contributed to the worsening of the already fragile situation for the pastoralists (Alawan, 2012).

Livestock Production - Although livestock is the main activity of the rural population, Djibouti is largely a net livestock importer with 29 percent of beef supplies coming from imports in 2013 (ICPALD, 2015). The sector faces a number of constraints hindering its development, which include (Djibouti Vision 2035): -

- (i) the low productivity of livestock due, in particular, to the lack of forage availability;
- (ii) insufficient water supply;
- (iii) existing transboundary animal diseases due to low laboratory diagnostic capacity and insufficient qualified personnel (veterinarian and technician);
- (iv) inadequate marketing of livestock and their products;
- (v) lack of research and development in breeding.

Trading - Djibouti has a regional cattle export centre, which is helping to improve the exportation and exploitation of cattle in conformity with the sanitary and veterinary requirements of the importing countries as the officials from the partner countries regularly inspect this centre. Every year, about two million head of cattle, a large proportion of them from Somalia but also from Ethiopia, transit through this centre before being exported to the Arabian Peninsula (WTO, 2016).

Environment - Djibouti is at high risk of adverse impact of climate change and is part of the 'Great Green Wall' programme to fight desertification. These initiatives will contribute to the protection of the environment, the preservation of biodiversity and the fight against climate change.

2.1.2 ETHIOPIA

Ethiopia's pastoralist community consists of about 12-15 million people (of about 100 million population) who occupy 61 percent of the total landmass of 1.1 million square km. Ethiopian pastoralists live in seven (7) National Regional States, all border regions. Somali, Afar and Oromia pastoralists are the majority in their States and constitute 87 percent of the total pastoralist population, and those in Southern Nations, Nationalities, and Peoples' Region (SNNPR), Benishagul-Gumuz, Dire Dewa and Gambella make up the remainder. They raise a large proportion of the national herd, estimated at 42 percent of the cattle, 7 percent of the goats, 25 percent of the sheep, 20 percent of the equines and all the camels. All live animals and meat exports are exclusively from pastoral sources. In addition, over 70 percent of the wildlife parks and sanctuaries are found in pastoralist areas. These areas contribute significantly to the national economy roughly estimated at 12 percent of the GDP (IDDRSI, 2017). Yet The ASAL zones are relatively underdeveloped, with the lowest indices on many social and economic development parameters.

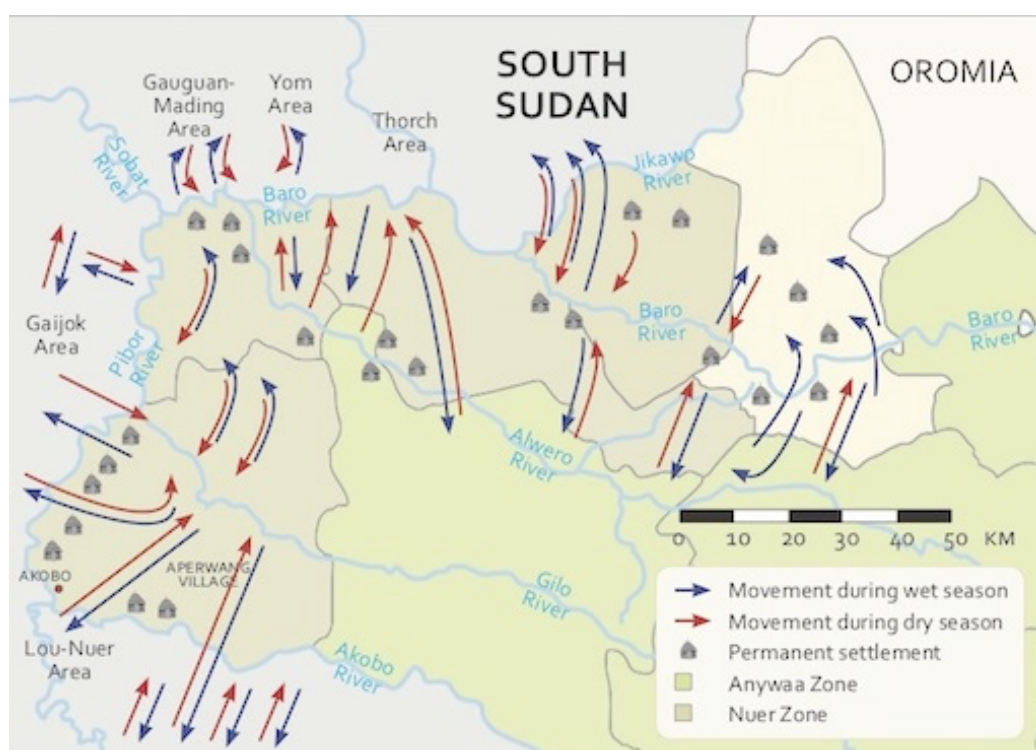
Pastoralism Dynamics - Pastoralism in the country experience seasonal patterns determined by rainfall. The major migration corridors include: Moyale/Marsabit; Mendera; Turkana; Somalia Border; Eritrea, South Sudan (see figure 2.1 shows the cross-border movements of the Nuer between Ethiopia and South Sudan); Kumruk; Central Sudan - Matenia; Humarra Corridor, and; Banburri Corridor. Pastoral livestock production is hampered by among others, lack of an extension system for pastoralist areas, degraded and diminishing rangelands, population pressure and a lack of eco-friendly fodder development. In addition, there is no formal certification and no movement permits to the secondary livestock markets

in Ethiopia and there is a consequent risk of disease spread when the animals congregate at market points (ICPALD Animal Health Guidelines).

The Ethiopian Government in collaboration with development partners initiated special support programmes aimed at building the capacities of the pastoralist regions though some of the measures adopted have been criticised for undermining pastoralists' livelihoods and lifestyles. Through the Ministry of Peace, some of the measures instituted included:

- Voluntary settlement (villagisation).
- Conflict prevention and resolution initiatives.
- Reducing threat and vulnerability to conflicts.
- Women and youth empowerment.
- Pastoral early warning system: All regions have established/strengthened the regional level early warning committees as per the project plan (IDDRSI Ethiopia, 2017).

Figure 2.1: The Transhumance Pattern of the Nuer in Ethiopia



Source: Source: Seide, *The Nuer Pastoralists* 2017

Governance - Due to the lack of proper recognition of the culture and knowledge of the people in the pastoral environment, there has been a weakening of customary institutions, particularly with regard to the management of natural resources and conflict. The pastoral areas, which have some of the oldest and most accepted and traditional community and natural resource management systems that can contribute to the long-term growth, have seen these systems undermined.

Land Use – Inadequate land security policies and governmental actions have contributed to the restriction and loss of the pastoralists' livelihoods. In addition to the government policies of villagisation and increased agro-pastoralism, there has been a prioritisation of large scale-agricultural development in pastoralist areas (building dams and irrigation canals) that further restrict pastoralists' mobility. The voluntary settlement of pastoralists along rivers has resulted in key communal rangelands being converted into irrigated farmland, and enclosed, fenced and privatised a perfect recipe for conflicts. Moreover, the loss of accessible dry season grazing areas has increased stocking rates on less productive pastures fostering land degradation and decreasing productivity (Rettberg et al, 2017). The changes in land ownership has commodified communal land whereby only a few benefit from the production and sale of charcoal or fodder or lease arrangements with agricultural investors (Rettberg et al 2017).

Livestock Production and Trading – Pastoral livestock production is hampered by lack of an extension system for pastoralist areas, and lack of strong grazing and use of ecosystems, and a lack of eco-friendly fodder development. In addition, there is no formal certification and no movement permits to the secondary livestock markets in Ethiopia and there is a consequent risk of disease spread when the animals congregate at market points (ICPALD Animal Health Guidelines). However, the country is developing a LITS, which is being piloted in selected areas of the country to make the export of all live animals and animal products identifiable and traceable (ICPALD, 2017).

Insecurity - As mentioned earlier, land use conflicts between the state and pastoral groups are worsening, conflicts among the communities over resources and with cross-border communities is common. Violent conflicts prevail in the pastoralist regions bordering Kenya, Somalia and Eritrea with border area of Moyale considered a major trafficking (of persons, arms and drugs) hotspot (UNECA 2017).

Environment - Pastures and drylands' forests continue to deteriorate, especially in a context of insecure land rights and weakened customary institutions. The degradation of rangelands has been going on unabated aggravated by the above government policies, population pressure and climate variability. Droughts and floods are frequent with increased severity and a higher variability of rainfall (frequency, intensity, and duration).

The Major Cross-border Transhumance Concern - Ethiopia's major concern for the transboundary transhumance is the role of traditional governance, specifically, how to incorporate traditional governance system with the formal governance regime. The interlocutors for the assessment were of the view that the traditional systems and institutions were not properly considered in the development of the Draft Protocol on Transhumance yet they are essential to the management of pastoral activities. In their view, there is likelihood that the ITC may not be recognised by the communities, and is symptomatic of IGAD's effort to undermine the traditional governance.

2.1.3 KENYA

Kenya has a landmass of 582,650 square kilometres. The savannah and grassland ecosystems (pastoral rangeland) constitute about 84 percent of the landmass. The defining feature of Kenyan rangelands is their aridity. They represent ecosystems characterised by low, erratic, variable precipitation and high inter-annual climatic variability. These areas

support more than 10 million (about 36 percent) of the human population, 70 percent of the country's livestock herd, and home of 85 percent of total wildlife population. Livestock accounts for 53 percent of the agricultural capital stock and contributes 30 percent to agricultural GDP (ICPALD Kenya, 2013). Around 70 percent of the human population is primarily or partly dependent on livestock. Kenya has an estimated population of 14 million beef cattle, 17 million sheep, 24 million meat goats and 3 million camels. The main mode of production systems in the Rangelands is pastoral, agro-pastoral and ranching (IDDRSI Kenya, 2017). But the rangelands are undermined and threatened by land fragmentation, encroachment of farming, invasive plant species, poaching, over-stocking and over-grazing, degradation, negative impacts of climate variability and change characterised by persistent and recurrent droughts and floods and loss of traditional adaptive resource use strategies.

Livestock Production - The pastoralists who are the majority livestock keepers are faced with perennial scarcity of livestock feeds, high transaction costs and are unable to compete fairly in local, national or global markets due to inadequate investments in infrastructure and basic services. Many face long distances to processing plants, lack access to formal markets, poor access to information and fair contracts, lack of financial services such as credit facilities, excessive government bureaucracy and fees, and insufficient and inadequate veterinary services. To sustain the pastoralists during adverse periods, the government buys weak animals and the money is used to restock from pastoralists. This programme is voluntary and channelled through Kenya Meat Commission, a state corporation. Ranching practiced mainly in the medium rainfall zones of the rangelands takes three forms; private ranches which are owned by individuals or limited companies, group (community) ranches and cooperative ranches. A good number of private and community ranches have successfully converted themselves into conservancies specialising in livestock production and wildlife tourism earning them much needed revenue.

Governance - The traditional institutions remain central in creating peace, security, law and order with their roles of community policing and conflict management. Strengthening of surveillance within county boundaries is required and requests for pasture should be procedural.

Security Dynamics - Pastoralists measure their success and wealth based on the cattle owned, which historically encouraged them to engage in cattle raiding. However, this has been co-opted and the conflicts are highly commercialised including highly placed politicians and business people as its main drivers according to the official interlocutors. The other security problem is related to youth unemployment and marginalisation, which leads to the radicalisation of this important group of the society, forcing them to join terrorist groups (GOK, 2018). Other cross-border transhumance concerns include trafficking in persons, small arms and light weapons across the borders adversely impact cross border transhumance. Migration through Marsabit-Ethiopian border can for instance take irregular forms such as human trafficking or people smuggling, or entry into Kenya without proper authorisation or documentation. Although many migrants travel using legal means, irregular migration has become a worrying phenomenon and is contributing to insecurity.

The Major Cross-border Transhumance Concern - Security in the form of terrorism. The country has inadequate security measures to deter cross-border incursions. The entire Ethiopia-Kenya border is pastoral yet there is only one border post with full complement of government agencies to man it including security and immigration services. The dynamics

of ethnic composition in the border areas have complicated the growing tendency of extremism and terrorism strategies particularly along the Somali border where Al Shabaab has been active.

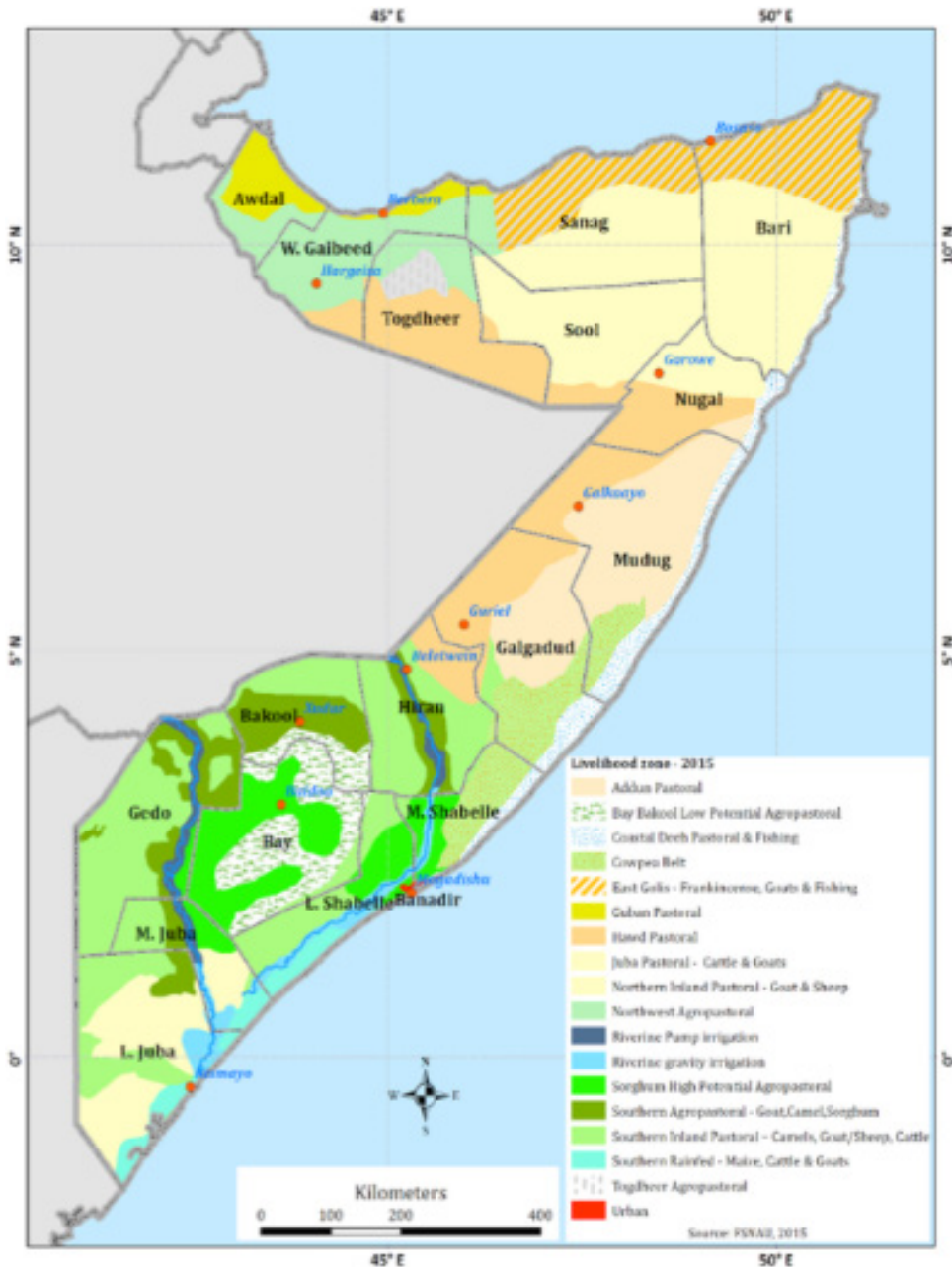
2.1.4 SOMALIA

Somalia occupies a landmass of 637,640 square kilometres with the longest coastline on Africa's mainland at 3,025 km. Nine (9) percent of the land is suitable for cultivation, 17 percent is woodland, 45 percent for grazing and 29 percent for other uses. Per capita GDP was estimated at USD 450 in 2014, making Somalia the fifth poorest country in world. Somalia in general has an arid to semi-arid climate with substantial localised differences throughout the country. Rainfall is the defining characteristic of the climate, and can vary greatly both spatially and temporally. Drought conditions are more common in most of Somalia compared to floods. The mean surface temperature throughout the country is 30°C to 40°C with cooler temperatures in the southern coastal regions and at higher elevations (FRS, 2018).

Livestock Production - pastoralism is the predominant land use and mode of production in Somalia (see Figure 2.2 of livelihood zones) providing the largest source of revenue in the country. The livestock industry employs over 60 percent of the population and livestock earnings account for over 80 percent of Somalia's foreign exchange earnings. Goats, sheep, camels, and cattle are the predominant animals reared by pastoralists. It is also the mainstay in providing food to many households through milk and other by-products. Camel is Somalia's most important source of red meat, supplying 52 percent of meat needed. In terms of contribution to agricultural GDP, milk is about 6 times more important than meat (ICPALD Somalia, 2015). Somalia is a net livestock exporter with the main destinations being Saudi Arabia and Yemen. Climate related droughts have had negative impacts on the livestock numbers in Somalia coupled with the lack of, for instance, fodder reserves and feed alternatives during dry season has led to a large number of animal losses.

Pastoralism Dynamics - The pastoralists move for security, pasture, water and in search of markets. The weak central government and the presence of militias in the borderlands mean that these areas are essentially inaccessible for most government service. Climatic conditions or seasons influence the grazing pattern and movement of livestock as they search for pastures/forages and water. The cross border movements between Somalia and Kenya or Ethiopia are determined by genealogy since the border communities have relatives on either side of the border and at the Somali Cluster III). Animals come from as far as South Somalia and Ethiopia as well as from Somaliland. Border crossing from Ethiopia to Somaliland occurs at several places with Togowochale being the most important crossing point from Ethiopia. The movement of herds is one way from Somalia to Djibouti (for onward export to the Arabian Peninsula) as the latter keeps very few livestock and that shared border climate is highly inhospitable. There has been a loss of traditional grazing lands to private livestock enclosures that has become a source of insecurity. Enclosures were a traditional natural resource management strategy which integrated both wet and dry season grazing areas with dry and drought time grazing reserves. These were well respected and communal areas of reserved grazing existed. But individuals have been making their own private and often extensive enclosures, which limit access to pasture and curtail the mobility of pastoralists during seasonal migrations.

Figure 2.2: Main Livelihood Zones in Somalia



Source: FRS, 2018

Trading and Markets - Somalia exports the most live animals in the world mainly to Saudi Arabia, Oman, Egypt, Qatar and Yemen. The Ministry of Livestock offers support to the pastoralists to access these markets by assisting them comply with certain lab tests, essential vaccines and providing the quarantine system. Each of these export market at the least requires compliance with OIE standards though each country has a different requirement (Saudi Arabia standards are much higher and Egypt much lower).

Governance - The government has established a Council concerned with borders pastoralist to work with the border communities in close cooperation with the three (3) border countries to solve conflicts on a timely basis. The current system is traditional in which the elders of each concerned clan work with the elders from the opposing party.

Security - Pastoralists are under strain from the regular attacks and exaction by Al-Shabaab. In addition, partisan (clan or group) militia and other armed groups proliferate are a national concern and an indicator of a deeper governance problem. They include elements from the police and military, and organised and employed by or with the blessings of local politicians and warlords as a way to maintain and perpetuate power. Criminality is also rampant fuelled by the widespread possession of firearms, the presence of armed groups, and organised crime syndicates engaged in transnational crimes (FRS, 2017). The prevailing insecurity greatly inhibits an already weak government ability to provide services to the pastoralist communities. The early warning systems are in place as well but not in the borderlands. Nonetheless, traditional cross-border transhumance has continued despite the insecurity and the international borders.

The Major Cross-border Transhumance Concern - Identity documentation - the pastoralists do not have nor feel the need to have identity documents or the ITC since they are the owners of the land. The Somali transhumance pastoralists tend to not have a permanent address, and the herders may not know the exact number of animals in their possession. Additionally, they distrust central authority over their lives; the closest authority they respect is at the village or district level. This would naturally impact the adoption and the use of LITS if the pastoralists, for cultural tradition reasons, resist it.

2.1.5 SOUTH SUDAN

The total surface area of South Sudan is approximately 640,000 square km (excluding Abyei 18,000 square km) with a population of 11 million. The country has a tropical climate with wet and dry seasons. From the start of the rainy season in mid-April most of the country will receive an average 750–1,000 mm of rain annually. The White Nile, flowing north out of the uplands of Central Africa, and the Sudd are the major geographic features of the country. South Sudan has immense natural resources that remain virtually untapped as the economy is underdeveloped, fragile and dominated by oil revenues. It is the most oil-dependent country in the world, with oil accounting for almost all of its exports and about 60 percent of its GDP but oil production is expected to decline steadily and will become negligible by 2035 (UNECA, 2017). About 78 percent of the population of South Sudan is predominantly rural, and 60 percent are pastoralists with livestock exceeding 36 million.

The rangelands are a common resource in South Sudan and essential to the country's economy, as well as providing a basis for many rural livelihoods. The vegetation in the rangelands is savannah grassland dominated with acacia trees in the low rainfall areas becoming lush with high value perennial grass species and intermittent woodlands in areas with higher rainfall. These savannahs surround inland floodplains provide animals with good dry season grazing or *toic*. Overgrazing, recurrent droughts and reduction of forest cover are depleting the rangelands and their biodiversity. In addition, regular rangeland burning has resulted in the loss of nutrients and soil organic matter. Shortages of grazing areas due to drought in semi-arid areas and seasonal flooding in flood plain zones are becoming common.

Pastoralism Dynamics - In the easterly, semi-arid parts of Eastern Equatoria bordering Kenya and Ethiopia, the Toposa, Nyangatom, Murle and Jie practice transhumant pastoralism and they move to and from permanent, wet season homesteads (May-October wet season). In the flood plains further north and west, both Nuer and Dinka communities follow seasonal movements as the flood waters rise and fall (map 1 shows the cross-border movements of the Nuer between Ethiopia and South Sudan). Receding floods result in good *toic*. Herds move away from the *toic* as the rains begin because vegetation becomes covered with water. The transhumant movement back and forth from homesteads to *toic* varies from a few hours to several days walk. The borders between South Sudan and its neighbours are long and porous and the transhumance migratory routes are many and informal.

Land Tenure - Inadequate land use planning and security of pastoralists' land tenure has resulted in unmanaged oil and extractive industries exploitation and exploration activities and large scale agricultural production in pastoralists' areas. Land practices that restrict pastoralists' movements contribute to forced settlement, change migratory routes and patterns, or force migration to areas not yet demarcated for large-scale land concession. The insecure rights to land are a concern for most of the country's population, not just the pastoralists. The land tenure insecurity is caused by: -

- Dislocations due to civil war or natural calamities.
- Weak land administration and management - both customary and statutory.
- Lack of transparency and accountability, there are widespread concerns about corruption, favouritism, and capricious actions by leaders in the administration and allocation of land.
- Despite the recognition of the equal rights of women to land, widespread knowledge, recognition and protection of those rights, remains limited.
- Conflicts over access to land with pasture and water especially among pastoralist groups and between pastoralists and agriculturalists.
- Land-grabbing - the acquisition of land without regard for the interests of existing land rights holders.
- Disagreements regarding boundaries between counties and payams.

Livestock Movements - Movement permits are commonly required and quarantines are not well established across the country. Sanitary for food safety and livestock disease control is weak. Currently cattle from South Sudan are marketed in northern Uganda where supply far exceeds demand and South Sudanese traders control the numbers crossing the border to avoid flooding the market (ICPAD Animal Health Guide).

Insecurity - Intra- and inter-communal cattle raiding is common in the country, which negatively impacts on the pastoralists' livelihoods and the economy while hampering institutions from carrying out their mandate. The fact that the oil in the country is produced in areas largely inhabited by pastoralists with the largest groups being the Dinka and Nuer, aggravates the tensions locally and nationally in particular over the pastoralists' grievances emanating from the inequitable distribution of the factors of development. The high stakes involved has seen the government side line traditional governance structures whenever border disputes occur taking the lead in, for instance, negotiating the Baggara (from Sudan) access to grazing land. The border, which has seen the proliferation of small arms, is now resisting any future disarmament efforts (UNECA, 2017).

The Major Cross-border Transhumance Concern – Political instability: In addition to the ravages wrought by the decades long wars, South Sudan has experienced recurrent armed conflicts since independence in 2011. South Sudan pastoralists are confronted by increasing and persistent risks to their livelihoods (including animal diseases, adverse impacts of climate variability, land degradation and weakening traditional structures) occasioned by the recurrent armed conflicts in the face of a fragile government. Past and continuing armed conflicts, and the resulting IDP crisis and proliferation of firearms, which facilitates crimes is rampant

2.1.6 SUDAN

Sudan is a typical Sahelian zone country with low level of rainfall, scarcity of water, and short agricultural season (3-4 month). Though about 60 percent of the country's 1.81 million square km is ASAL, it is endowed with 61 million hectares of arable land, 14 million hectares of natural pasture and 21 million hectares of forests. The rangelands of Sudan support about 104 million heads of cattle, sheep, goats, and camels, and a wide range of wildlife species. The water resources include the country's share of the Nile water, from seasonal rivers, ground water, and annual recharge from seasonal rainfall. The country has a population of 40 million with a poverty incidence averaging 46.5 percent nationally. The livestock industry constitutes 20 percent of the national GDP (ICPALD SS, 2015). Women comprise only 23 percent of the formal economy, but 70 percent of the informal economy, with 53 percent of them focused on agricultural production activities.

Sudan is fast experiencing a reduction in viable rangeland for its pastoralists. Numerous factors have contributed to rangelands degradation; the explosive growth in livestock numbers, a widespread deterioration of the remaining rangelands caused largely by overgrazing, and major reduction in the total area of available rangelands. The latter has been caused by the uncontrolled expansion of mechanised and traditional rain-fed agriculture; the expansion of irrigation schemes, and; desertification, all of which have gravely affected pastoralists' mobility (UNEP, 2007).

Pastoralism Dynamics - Pastoralism varies along the North-South axis to optimise grazing conditions and minimise pest problems with camel pastoralism dominating the desert and semi-desert areas of the North and the cattle herding in the savannah belt towards the south. In the dry season, the movement is southwards towards the better pastures and later rainfall; in the wet season, it is generally northwards to follow new growth and avoid the flooding, mud, and insect-borne diseases. Pastoralists are to be found in all the border areas of the country. South Sudan is the most important cross-border pastoralist neighbouring country. Most Sudanese pastoralists spend an average of 6 months in South Sudan while the South Sudanese herds move during the raining season to avoid the mud and pests. However, this mobility is being restricted by heavily mechanised agriculture that has reduced grazing land considerably and the conflicts in South Sudan where the warring factions confiscate the visiting pastoralists' cattle for food or request payment to allow access to pastures.

Land Tenure Security – this has been the root cause of most of the pastoralists' conflicts in the country. The country's land framework has no security of tenure for pastoralists with the legal system providing that all unregistered land is government land making them more vulnerable to government appropriations. These have witnessed the unrestrained expansion of agricultural activities on pastoral lands reducing their grazing areas and disrupting their

migration corridors (UNEP, 2007). This is the major cause of conflict between pastoralist and agriculturalist societies throughout the drier parts of Sudan.

Governance - The government has undermined the traditional governance systems that historically settled disputes at a local level or negotiated grazing access among communities by denying their role. As an example, the government has used security forces to ensure that the Messeriya traditional administration cannot negotiate bilateral grazing peace deals with the Dinka communities in South Sudan. This has disrupted those pastoralists' historical relationship with the Dinka (UNECA, 2017).

Insecurity - Pastoralists have been forced to pass through agricultural regions in order to reach their increasingly diminishing pastures and water resources. Pastoralists are increasingly being denied grazing rights and finding their traditional migration routes blocked by agricultural land a major source of many local conflicts. With the fast encroaching desert, competition for diminished resources has intensified. The conflicts, which were more controllable through traditional dispute resolutions, are being intensified by the lack of effective action by these institutions and the spread of arms. Cattle rustling has also evolved from a traditional cultural practice of replenishing herds, sourcing dowry and as proof of bravery, to a highly organised crime. In 2016, in Gedaref state that borders Ethiopia at Jebel Halawa, 25 people lost their lives as 700 cattle and 67550 sheep were stolen. Overall cost of cattle rustling to the national budget is USD 6 billion (including livestock loss and displacement of communities) (ICPALD SS, 2017).

The Major Cross-border Transhumance Concerns - The severely adverse impact of climate change on the pastoralists' rangelands which has seen the desert move south by between 50 to 200 km in the country. The appropriation of pastoralist land for agricultural expansion has also seen an increase in pastoralists and agro-pastoralists conflicts over limited natural resources. These have had a disastrous effect on the pastoralists constraining their ability to maintain their lifestyle.

2.1.7 UGANDA

The country covers an area of 241,038 square km with about a third covered by fresh water bodies and wetlands. Uganda's rangelands occupy about 44 percent of the country's total land area, and stretch along a diagonal belt from the southwest to the northeast borders. The rangelands are concentrated in the 'Cattle Corridor' stretching from Karamoja region in northeast to Isingiro and Ntugamo districts in the southwest. Uganda's rangelands contain a population of 6.6 million people of the country's 39 million. Pastoralists hold 80 percent of the national livestock herd including 90 percent of the cattle and are the source of 85 percent of the milk and 95 percent of meat consumed in the country. In addition to livestock pastures, water resources and crops, the rangelands have other valuable assets such as wildlife, woodlands, medicinal plants, minerals, honey, bush meat, scenic landscapes and water shades. Some range areas also have oil and gas reserves. But in spite of this contribution to the economy, over 40 percent of the pastoralists remain poor (Uganda's poverty rate is 27 percent) and some range areas are known hotspots of poverty and food insecurity. Poverty is highest in the Karamoja pastoralist region where 61 percent of the population is income poor (IDDRSI Uganda, 2017).

Pastoralism Dynamics - Pastoralism in the country is changing in response to population pressures, government development programmes, weak land tenure systems, inward

migration and encroachment, agro-pastoralism and commercial farming expansion, and range deterioration and the increasing harmful effects of climate change. Displaced pastoralists overuse what they can access aggravating the degradation process. Some become landless and migrate causing overstocking, encroaching on other land creating tension with settled farmers or managers of protected areas in previously pastoral land. With limited access to external markets pastoral areas still incur high costs of doing business; they lack opportunities for income diversification hence high levels of poverty persist in the region.

The Ugandan government has undertaken a number of initiatives in the pastoralist areas with mixed results. The Initiatives include providing infrastructure and services along the migration corridors especially in the Karamoja Cluster, extension services, disarmament, and sedentarisation (see Figure 2.3 of a Karamoja settlement). Poverty remains high and conflicts still persist including the refugees in the pastoral areas. The country's open-door policy with respect to incoming refugees created settlements in government gazetted land and land provided by the local communities particularly in the pastoralist areas. This has added pressure on the limited resources so that the host communities are pushed further away by the new comers from the border to Acholi and Teso regions where increasing confrontations with the other local communities emerge. In addition, the spill over cross-border security from the neighbouring countries needed to be addressed.

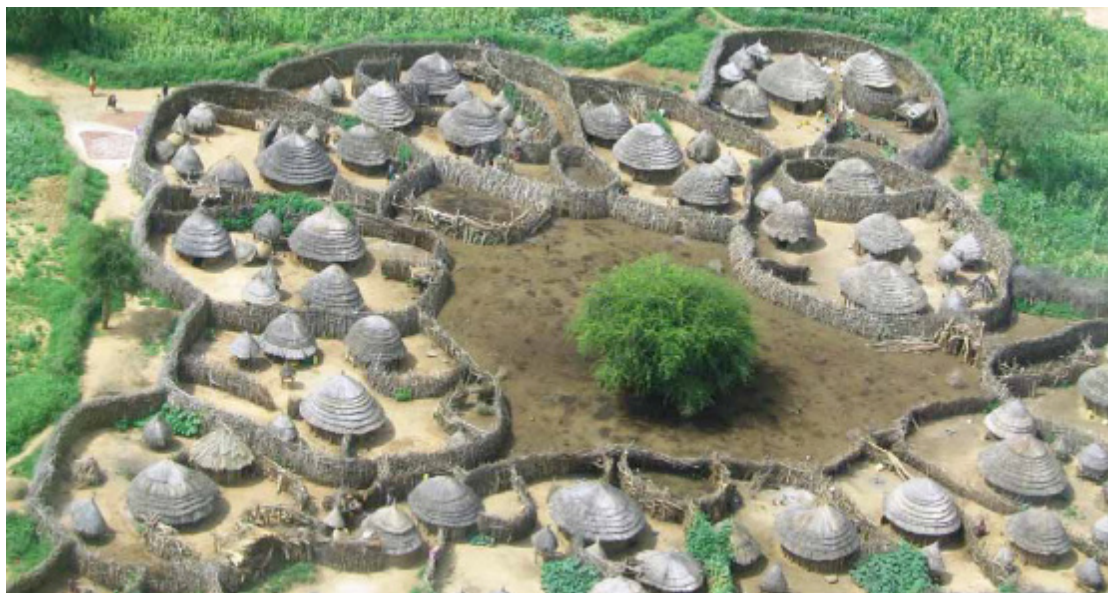
Land tenure system - Uganda's rangelands have been used by pastoralists under a common property system of customary law. The weakening of the communal system and the individualisation of land tenure and the rapid population growth means that traditional pastoral land is being lost to crop farming, agro-pastoralism and commercial agriculture. Weak local government land boards and land committees have insufficient decision-making powers to protect the security of tenure and land rights of pastoralists and agro-pastoralists.

Insecurity – the main sources of insecurity for the pastoralists' communities include conflict over scarce resources, armed conflicts and cattle rustling, which undermine their development and limit pastoral livestock mobility. Competition over dwindling resources and limited livelihood options cause inter-communal conflicts, internal displacement and migration. The country's pastoralists including the Karamoja have traditionally engaged in cultural cattle raiding both within the sub-region and against their neighbours. The Teso, Acholi, Pokot and Lango have historically suffered the effects of cattle rustling arising from the Karamajong raids. The main causes include the collapse of traditional authorities, proliferation of guns, extreme climate shocks, and cultural and political isolation. Despite the government's successful forceful implementation of disarmament process in 2001-2013, the economic impact of cattle rustling remains; the government has never fully restocked the livestock lost during the exercise, and sporadic raids continue. In 2017, the Karamajong raided about 18 head of cattle from the Pokot in Kenya (ICPALD Uganda, 2017).

Environment - Rangeland degradation continues unabated resulting in loss of productivity for pastoralists. The Cattle Corridor is considered over-stocked and degraded with land use trends show an increase in deforestation, reduced fallow periods, overgrazing, bush-burning, etc. Soil erosion by water is the most serious and widespread form of land degradation (soil nutrient depletion and soil erosion are the major forms of land degradation in Uganda and therefore commonly used as indicators for land degradation) (SLM, 2010). Water sources are getting silted or polluted as well. Overgrazing has led to soil compaction, erosion and

the emergence of low-value grass species and vegetation with subsequent declines in the carrying capacity of land and therefore low productivity. Increased pressure on resources in particular deforestation and charcoal burning is also rife.

Figure 2.3: Manyatta Settlement Karamoja



Source: Dr Kajura Stephen, Assistant Commissioner Animal Production, Uganda.

The Major Cross-border Transhumance Concern - Disarmament: Uganda would like the neighbouring countries to undertake an effective disarmament exercise to safeguard the benefits of its own disarmament programme in the Karamoja Cluster I and protect the pastoralists within its borders. Currently, genuine pastoralists are joined by persons whose sole aim is to engage in cross-border criminal activities. Thus for the country, the issue of small arms proliferation and its management is crucial for the successful implementation of the Transhumance Protocol. According to the government, compared to the other Member States in the cluster, pastoralists in Uganda are relatively physically secure.

2.2 CHALLENGES OF MOBILITY FOR PASTORALISTS

The major challenges and threats to pastoralist livelihoods and their mobility as identified and highlighted by most of the Member States in the IGAD region included: -

2.2.1 Legal, Policy and Institutional Deficiencies

The major issue arising was the lack of or weak applicable pastoralism development laws as well as lack of adequate institutional framework to implement any existing relevant laws and policies. None of the Member States has a law dedicated to pastoralists despite the system's major contribution to the regions' economy and society though Ethiopia, Kenya and Uganda have draft policies and strategy. The same concern was expressed both for national and regional frameworks, the latter expected to focus on the international boundaries that hinder secure pastoralist mobility. Also, the disconnect between the pastoralists' expectations from the government (development) and the government's expectation of its

duty to pastoralist (livestock production) has seen most of the government interventions viewed as 'mere infringements on local sovereignty and contributors to the erosion of local governance' (UNECA, 2017). A common complaint is that the government and IGAD seem to be challenging the traditional and local systems in the development of the Protocol.

2.2.2 Erosion of Traditional Governance Systems

There is a perception that the traditional governance and the traditional authorities' role in pastoral land management and mobility concerns has been set aside with the fear of loss of indigenous knowledge institutions. The concerns applied to the disregard of traditional mechanisms and structures governing cattle rustling, warfare, conflict resolution, restitution and peace building in the national regimes. Consequently, disputes and conflicts in pastoral areas are escalating. In addition, the lack of recognition of communal land rights, access, management and use e.g. the common property regime which previously enabled pastoralists to properly manage and utilise the rangelands is being undermined by statutory laws and policies promoting privatisation and subdivision of communal land. There is also a limited involvement of their stakeholders in decision-making processes. Nevertheless, the lack of codification of traditional legal and governance system and written record of how the communities are governed militate against the pastoralists' interests.

2.2.3 Livestock Production

Without tangible productivity increases per unit animal, pastoral communities in the dry rangelands only develop as fast as the animal population they depend on. Thus many tend to overstock and traditionally resist attempts to adjust livestock numbers to match the rangelands available resources. Current practises tend to encourage over-grazing and range degradation in most of the member states. Poor livestock productivity has been caused by among others: -

- The prevalence of transboundary animal and zoonotic diseases.
- Inadequate and fluctuating availability of fodder and water in e.g. Djibouti and Somalia that has to source feed from Ukraine.
- Encroachment of crop production and commercial farming into pastoral land in most of the member states but dire in Ethiopia, Sudan and Uganda.
- Inadequate extension coverage, markets and marketing infrastructure in all the member states.
- Erratic and unpredictable weather conditions in the entire region.
- Economic demand puts pressure on livestock keepers to adopt high-input breeds, mostly exotic, which puts pressure on the sustainable use of indigenous breeds that are better adapted to the current climate variability particularly in Uganda, Kenya and Somalia.

2.2.4 Pastoral Land Alienation

Unfavourable land tenure system, weak and inadequate land policies on access, use and ownership of pastoralists land constrain pastoral mobility in the region. This will become a key source of contention in the implementation of the Protocol on Transhumance. The ECOWAS region has undergone a major shift in the use of land including traditional transhumance corridors, which is creating a volatile situation (see Box 2.1). Land policies

that restrict pastoralists' movements and use contribute have been identified as the main drivers of conflicts among pastoralists and between farmers and pastoralists in the entire IGAD region (UNECA, 2017). Changes in land use such as transition from livestock keeping to expansion of intensive agriculture (in Sudan), the expropriation of pastoral land for extractive industries (oil in South Sudan and mining in Uganda) and establishment of protected areas reduces pasture for pastoralist in particular for mobility purposes. The latter gives rise to livestock-wildlife conflict. This has in many cases seen livestock encroaching into protected areas like game reserves and parks with governments siding with wildlife against the pastoralists (in Kenya, Ethiopia and Uganda). Over 70 percent of the protected areas in most member states are located in pastoral lands.

Box 2.1: Developments and the Changing Environment of the ECOWAS Protocol on Transhumance

Developments and the Changing Environment of the ECOWAS Protocol on Transhumance

Since the adoption of the ECOWAS Protocol on Transhumance in 1998, pastoralism and cross-border transhumance have undergone significant changes.

1. Changes to the rangeland and rural production systems

The major changes in the rangeland were the reduction in available forage and grazing areas, changes in the composition of grass species, and a reduction of surface water resources and quality caused by population growth, climate change and the soil degradation. Farmers are pressed to extend their fields into areas formerly considered unsuitable for agriculture including land formally reserved for transhumance routes and grazing areas. This leads to a growing number of conflicts, which are often framed as conflicts between 'indigenous' farmers and 'foreign' herders. Pastoralists also have to pay for access to water points and grazing areas and conflicts over the modalities of access to pastoral resources are rife. There is also an increased incursion into protected areas.

2. Land tenure of pastoral areas

In almost all ECOWAS states, despite the pastoral land tenure being assured and livestock's significant contribution to the economy of the region, priority is given to crop production. Land is increasingly occupied by crops ignoring requirements for the development of transhumance. Still, innovative local initiatives exist in many parts of the region to facilitate and protect livestock mobility. The traditional transhumance routes and corridors are being renegotiated and defined.

3. Emergence of new actors

With the growing demand for meat on the urban markets, there has been a paradigm shift from pastoralism as a way of life to livestock production as an economic activity. New actors such as government officials, members of the security forces and wealthy businessmen now consider the sector as a profitable investment and way of safeguarding their wealth. These influential actors tend to use their networks to acquire pastures, water points and even agricultural land for their private use. They also employ impoverished pastoralist youth as herders and occasionally equip them with mobile phones and guns to protect the herds. This leads to conflicts between 'traditional' and 'new' herders for the dwindling pastoral resources.

4. Perception of pastoralism as a security issue

Because of their mobility, pastoralists do not enjoy full ownership of pastoral resources and lack local administrative support. They tend to be denied full citizen's rights and often become victims of arbitrary detention, exaggerated fines, cattle rustling and extortion. Pastoralists have responded by breaking traditional ties with farming communities and arming themselves to protect their cattle and themselves while others use the arms to force access to pastoral resources and commit crimes. The easy availability of small weapons due to the region's fragility exacerbates the violence associated with pastoralist conflicts. In Mali, pastoralist youth have also joined armed groups to defend their herds, and secure access to pastoral resources against other pastoralists and against the agricultural expansion and in Nigeria, insurgent groups use pastoralists for cross-border smuggling. This has led to the unhelpful perception of pastoralism as a security issue.

5. Lack of legislative support.

There is a lack of support for the cross-border transhumance in developing policies, legislation and regulation despite the enactment of numerous laws e.g. pastoral codes and charters, rural codes, agro-pastoral acts, etc. Some public policies in recent years focus on the 'modernisation' of pastoralism or the settlement of transhumance. Similarly, development policies could not ensure the provision of services expected from the state (education, health care, security, trade, etc.) because of difficulties associated to remoteness of pastoral areas. However, institutions dealing with pastoralism and thus transhumance are in place at national level including both governments, civil society groups and international development partners involvement.

Sources: IOM et al, 2019 & FAO-ECOWAS, 2012

2.2.5 Insecurity, Conflict and Cross-border Pastoral Mobility

Insecurity and conflicts undermine the pastoralists' socio-economic development and limits pastoral mobility. The main contributing factors to insecurity include competition over dwindling resources (land, water, pasturage) and limited livelihood options; proliferation of arms, transnational crimes and violence in the pastoral areas; cattle rustling, and; state policies and responses that are uneven and unequal (e.g. Karamoja Cluster disarmament) and sedentarisation. The existing conflicts in the IGAD region are fought in pastoral areas and are fought by pastoralists or agro-pastoralists. This and the state's inability to assert its sovereignty over remote and inaccessible pastoral areas contribute to the framing of pastoralism as security threat (UNECA, 2017). Worse still, the historic strained relations between pastoral societies and the State have evolved in recent years, leading to the emergence of so-called 'new pastoralism' (UNECA, 2017). Among the new fringe pastoralists, young people have joined jihadist organisations with connections to transnational extremist groups, and others have become part of other transnational illicit activities. Meanwhile, cattle rustling in the region is now undertaken for economic benefits and is common in pastoral areas along the border regions, exacerbated by proliferation of illicit SALW and the increasing demand for beef. The stolen livestock is irretraceable and disappears quickly into the foreign markets (RECSA, 2014). Arms registration has been used in Kenya and Ethiopia to control illicit SALW and reducing incidence of cattle rustling.

2.2.6 Environment factors and Climate Change

Climate variability brings frequent climatic shocks, mainly unreliable rainfall and scarce water supplies, negatively affect range livestock production and increase conflicts over access to and use of the limited resources. These have been particularly acute for

rise, a majority of which is informal and thus more associated with the spread of animal diseases. Animal diseases pose the highest risk to cross-border trade, followed by insecurity, poor stock-routes infrastructure/high transportation costs, government bureaucracy and corruption, and inadequate market information (ICPALD Cross border Routes & ICPALD, 2017). Considering the contribution of the livestock industry, more investment in trading frameworks and facilities will be required for the implementation of the Protocol.

2.2.8 Social-Economic and Infrastructural Constraints

The socio-economic characteristics of pastoralist areas relative to the rest of a member states populace include: -

- Inadequate service delivery systems - The mobile lifestyle of pastoralists makes it difficult to deliver social services resulting in insufficient government expenditure allocations for extension services, markets, infrastructure (roads, power and communication), health, education and research.
- Low levels of gender development. Public participation of women in decision-making is significantly lower in the region due to cultural, societal and community perceptions of the role of women in society.
- Youth unemployment and marginalisation makes them radicalisation and recruitment by terrorist groups.

2.3 CONCLUSION

Despite these challenges, the region has great potential and opportunities, which include the following:

1. The large number of livestock and its immense rangelands.
2. Trade and economic potential.
3. Potential for eco-tourism.
4. Clean energy – great potential to exploit wind, biogas and solar energy. Investing in clean and renewable energy will have a positive impact on the environment, health and the biodiversity of the region while meeting the energy needs of the communities on both regions.
5. Indigenous Knowledge - The local communities have shown that they have the knowledge, skills and talent that can be useful in the roadmap to peace and development.
6. Efficient natural resources use.
7. Promoting pastoralists internal and cross-border mobility needs as a climate change adaptation strategy.

3.0 OVERVIEW OF MEMBER STATES' PASTORALISM FRAMEWORKS GOVERNING TRANSBOUNDARY TRANSHUMANCE

3.1 INTRODUCTION

This part provides an overview of the analysis of the legal environment for the cross-border transhumance and pastoral livestock system in the IGAD Member States. This is an overview of the national policies, legal instruments and institutional frameworks that directly or indirectly impact on or are affected by the Protocol on Transhumance in the IGAD region. Most pastoralists have retained some of their socio-economic, cultural and political systems and institutions. The protection of pastoralists' way of life demands not just the upholding of traditional individual human rights, but more critically for them, the recognition and protection of community rights and interests. Pastoralism is not an individual pursuit and would never have survived through time and climatic ravages without the collective input of all the community members. Collective rights important to their livelihoods include rights to their pastoral land, to development, to maintain and protect their indigenous knowledge, to free, prior and informed consent, and to their own culture (ACHPR Resolution 2000).

This unique pastoralism lifestyle calls for a review of both their customs and different national laws to understand how the laws impact them. This in turn means that the implementation of the Protocol on Transhumance will have an impact on or be affected by a number of national policy areas. A review of the effectiveness of the ECOWAS Transhumance Protocol after more than twenty years of operations has demonstrated that the lack of better support to the cross-border transhumance in developing national policies, legislation and regulation has been a significant challenge in its implementation (IOM et al, 2019) (see also Box 2.1).

The discussion that follows will focus on the key issues that will directly affect the domestication of the Protocol depending on whether they are compatible or not with the Protocol objectives. The issues highlighted are based on their degree of importance to the successful implementation of the Protocol on Transhumance: livestock production; secure migration; land and natural resources management; governance systems; conflict management; market access and trade – improve market access, livestock insurance, value addition (e.g. protected areas); sustainable livelihoods support, and; pastoral risk management, enhancing drought-related hazards preparedness, prevention and response at the national and regional levels. This study reviewed the following legislative and policy instruments - statutes, policies, strategies, programmes, and institutions.

3.2 PASTORALISM DEVELOPMENT

None of the IGAD Member States has a single policy or law dedicated to holistically addressing pastoralism development. However, Ethiopia, Kenya and Uganda have draft pastoralism policies the most of which have been under development for quite a while. Instead, the pastoralism matters in the member states are dealt with mainly under one or two sectoral laws (agriculture/livestock sector and natural resources management (rangeland and/or land), and mentioned peripherally in other frameworks particularly development policies. All the countries have national livestock policy or equivalent provisions in the agriculture policy that address pastoralism as a livestock production system in some form or the other. Nevertheless, there are pastoralism programmes in the member states and in some

countries, specialised ministries such as Ministry of Peace (Ethiopia) and the Ministry of Karamoja Affairs (Uganda) have been established in recognition of the contribution of pastoralism to the wider economy and the need to secure their livelihoods to enhance security in the countries.

A policy focus on pastoralism development is necessary because pastoralists tend to be marginalised, have the least access to infrastructure and services, and thus one of the poorest segments of a population. Such a pastoralism policy and its implementing law would ensure that governments allocate sufficient resources - human and institutional capacity, social-economic services, infrastructure and investment - to pastoralism including cross-border transhumance. It would also ensure that the primary focus of the national framework is promoting pastoralism lifestyle and development including securing their mobility. The use of sectoral laws to regulate pastoralism has seen the application of policies that go counter to their needs adversely impacting of their livelihoods and their ability to sustain their productive capacity in the increasingly hostile rangelands.

For example, since pastoralism tends to be governed under the broad category of agriculture, the management approach is similar so that policies striving for commercialisation, modernisation and privatisation of the sector are applied to pastoralists without due regard to their unique needs. If general development policies are applied without context, the mobility of the communities creates impediments for the people such as access to social, educational and health services during periods their transhumance. This is what has obtained in the ECOWAS region, where the focus on the 'modernisation' of pastoralism or the settlement of transhumance among the Member States has not necessarily been successful at improving the pastoralists' lives nor has it reduced their mobility; rather it has only made it more insecure (FAO-ECOWAS, 2012). However, support provided to the pastoralists and the cross-border transhumance through the enactment of various laws and regulations (Pastoral codes and charters, Rural code and Agro-pastoral acts) by some of the ECOWAS countries has shown that the Transhumance Protocol will be more successful with better domestic pastoralist legal framework. This is reflective of the emerging trend from livestock to pastoral development has is heralding a shift from national to regional pastoral resilience programmes, with the latter being more sensitive to the regional nature of pastoralists' transboundary migratory patterns (UNECA, 2017).

3.3 LIVESTOCK PRODUCTION AND RESOURCES FRAMEWORK

For secure and convenient cross-border transhumance to occur, the receiving country has to be assured that the incoming herd does not pose a risk to its own herd and maintains the same quality and safety standards to ease any potential exchanges that take place. This assurance is encompassed in among others, the laws affecting livestock production and mobility - disease control, animal movements, veterinary standards, animal feed, and establishment of livestock associations. Animal health is decisive in livestock movements thus the frameworks efficacy in surveillance and monitoring of TADs is essential for the pastoralists' cross-border mobility. The appropriate authorities including the veterinary department and infrastructure need to be available to certify the herds movements.

In addition, it is important to provide both the visiting herders and the hosting communities by means of recorded identifications to ensure the herds are identifiable to avoid any incidents such as movement of diseased animals or to be able to trace the animals in the

case of cattle rustling. The issue of traceability plays a crucial role. IGAD has been at the forefront of encouraging the adoption of a livestock identification and traceability system (LITS) among its Member States to, inter alia, facilitate cross-border movements and exchanges and reduce insecurity occasioned by cattle rustling. A number of the countries have laws for branding the herds but there is no systematic LITS being implemented among the cross-border pastoralist communities. Further, none of the Member States laws conformed to the proposed IGAD Model LITS legislation.

3.4 LAND GOVERNANCE

Land governance is the political and administrative structures and processes through which decisions concerning access to and use of land resources are made and implemented including the manner in which conflicts over land are resolved (Herrera et al, 2016). Land tenure refers to the terms and conditions under which access to land rights are acquired, retained, used, disposed of, or transmitted. The main issue concerning land tenure is the security of rights held by the people - the degree of confidence that users will not be arbitrarily deprived of the rights or economic benefits flowing from land use, the certainty that rights to land will be recognised by others and protected in cases of specific challenges, and the right to effective government protection against forced evictions (Herrera et al, 2016). Land tenure over rangeland constitutes the set of rules, institutions and policies that locally determine how land and its resources are accessed, by whom, when and under what conditions these rights to access and use may be used.

Therefore, the recognition of pastoralists' community land is particularly significant in the ASALs because the system of tenure among most of the communities is communal. This accommodates their need for mobility governed primarily by traditional systems determining its access, use, ownership and management. The scarcity of resources in the ASAL areas means that pastoralists in search of pastures move their livestock, including transboundary movement, which brings them in contact and potential conflict with other such communities or agro-pastoralists. The Member States land tenure systems, favouring the privatisation and commercialisation of land, constitutes another source of conflict by reducing their rangelands and intensifying their degradation (from climate change and overexploitation).

For the Transhumance Protocol and its attendant legislation to be effective, property rights to pastoralist resources must be vested in the pastoral communities. Multiple sources of land tenure include the law, religion, tradition, self-regulation and policies (local, national and international). Ownership of the resources in the region may be granted as community rights, private rights, public rights or national ownership. For group rights, this is further defined by identifying the custodians or holders of the rights vested in the group such as a community. However, where communal land rights have been provided, these have not been implemented.

Most Member States' statutory laws where they exist provide that communities and persons enjoying rights in land shall be consulted in decisions that may affect their rights in lands and resources. However, customary laws and practices govern access to livestock resources such as water and pasture in the region yet customary land management has little recognition in law, and when it has, its application is hampered by capacity constraints. These are hierarchically considered subsidiary to statutory laws resulting in the potential for alienating pastoral community interests and rights over essential transhumant resources

as well as traditionally marginalised groups like women if a statutory law supersedes those interests. This is why it is important to understand the governance structure applicable to the pastoralists and pastoralism in a given country.

The unique relationship that pastoralists communities have with their lands, which tend to be ASAL, requires a review of how the land laws of the country impact on their ability to use the resource optimally and sustainably while they are able to maintain their lifestyle honed from centuries of experience. The issue of land has the potential to be one of the major obstacles to the implementation of the Protocol on Transhumance, specifically, the security of tenure to the pastoral communal land for the transhumant communities.

3.5 GOVERNANCE STRUCTURES

Governance is concerned with the process by which citizens participate in decision-making, how government is accountable to its citizens and how society obliges its members to observe its rules. It is the rules, institutions, and practices that sets limits and provides incentives for individuals, organisations and firms (FAO, 2014). Principles of pastoral governance include: participation, voice and empowerment, equity and gender, accountability and transparency, capacity, and rule of law and policy coherence. The key elements of governance, which are critical to the implementation of the Protocol on Transhumance, are the issues of the role of traditional authorities and systems and decentralisation.

The pastoralist communities rely heavily on their traditional authorities and institutions, and local customs to manage their scarce resources sustainably and resolve conflicts when they arise. This is in contrast to their perception of central government authority and instruments of power such as legislation whose legitimacy is low among them revive to their traditional leaders. Customary systems and informal frameworks governing access, use and sharing rangeland resources and the attendant traditional knowledge associated with animal and pastoral resources for sustainable use and conservation is the norm in the pastoralists' communities. Livestock practice among the pastoralist in the entire region is based on customary law and informal frameworks governing traditional knowledge.

Customary law is the body of traditions, mores, social conventions and rules that through long usage and widespread acceptance direct and govern a given community with most having their customary law systems that reflect individual tribal identities. In addition, the laws or policies that would give traditional knowledge and traditional cultural expressions effective protections would strengthen and legitimise the pastoralist traditions. Considering the general marginalisation of pastoralist from the formal governmental structures, a review of a country's laws to establish the recognition of, and the importance attached to their traditional governance system is salient to the Protocol implementation.

Decentralisation refers to the transfers of authority from central to local government. The Protocol anticipates a distribution of powers among the different levels of governments.

- Regional - IGAD
- State level Government – coordination policies; ministry of livestock and or pastoralism related issues.
- Regional government Level – agriculture; land planning; environmental and rangeland responsibilities; sanitation and veterinary requirements.
- Local government level – trust or ownership in common lands.

Pastoralists in most of the Member States tend to have a lesser social, economic and political standing in relation to other communities in the country. The social and economic marginalisation of the pastoral communities is historical and endemic in the region. Since they tend to be structurally disadvantaged their access rights to natural resources for instance, are considered secondary to those of government extractive projects or agricultural concessions. Decentralisation in itself is insufficient without the appropriate resources and powers devolved (see Box 3.1 on its adverse impact). The nature and effectiveness of the decentralisation structures will determine whether pastoralists have a meaningful participation in the Protocol implementation process or not.

Box 3.1: Effects of Decentralisation

Effects of Decentralisation

Central governments in most instances used decentralisation as reason to withdraw from providing essential services (education, health, and extension, at the local level by devolving those functions to the local government without empowering them to discharge them.

Decentralisation reinforced the influence of the sedentary populations at local level. Due to their mobility, pastoralists are systematically excluded from local elections, local councils and committees. This reinforces the opportunistic behaviour of local sedentary groups that exploit their local influence and the weakness of the central state (IOM et al, 2019).

A further effect of decentralisation is the emergence of a plethora of ad hoc commissions and institutions and the general dilution of responsibility. Traditional authorities lost authority, particularly in their traditional domain of natural resource management, while the new decentralised authorities lack skills and authority to fill this role. The resulting legal and institutional disorder does not favour the representation of pastoralists' interests (IOM et al, 2019).

3.6 MIGRATION AND SECURITY FRAMEWORK

Conflict prone borders affect the mobility and the wellbeing of pastoral communities contributing to their fragility and vulnerability. The conflicts are over scarce natural resources, competition with wildlife, proliferation of arms, and cattle rustling. An understanding of a country's security frameworks including migration and how this impact on the cross-border transhumance is central to the Protocol since member states must safeguard their national borders from what they view as potential sources of insecurity from transnational crimes. Terrorism, trafficking in persons, arms, drugs and wildlife products are high on the list. The border pastoralist communities' knowledge of land and their ability to move and trade often 'under the radar' across borders are valuable skills in conflict zones that are exploited by different parties, often making them victims (UNECA, 2017). Yet while the pastoralists are crossing borders they will come in contact with the border control functions of the state which view of them as a security threat.

In addition, conflicts along the borders have an adverse impact on the pastoralist mobility since their transhumant corridors become physically insecure. In the ECOWAS region, migratory paths have changed periodically as a result of mainly security related factors,

which have disrupted the pastoralists (IOM et al, 2019). The transhumant corridors are the most important infrastructure for pastoralists. The needs of pastoralists on the move include shelter and resting places; water access and availability; adequate supply of fodder or grass; tracks and appropriate ways to securely move livestock, and; other services such as vet services, health and education. The delimitation and protection of transhumant corridors and infrastructure are essential for maintaining pastoralism. But the communal character of the tracks means that often nobody defends the corridors engendering conflicts among the transhumant pastoralists, which become a matter of security, law and order among the member states.

Thus a review of the programmes that address the security of cross-border pastoralists, and their concurrent implementation among the Member States is of interest. Take the disarmament initiatives in the region. Uganda has had a near successful disarmament programme while Kenya has attempted both voluntary and forceful disarmament, both of which have not been successful because they were piecemeal in nature. South Sudan initiated a number of programmes in 2013-2015 but these efforts have not borne fruit due to the fragile political and security situation in the country. Another source of insecurity for transboundary pastoralism is cattle rustling, the efforts against it suffering from a lack of regional harmony in the efforts to combat it, inadequate laws, and lack of effective enforcement. The need for the Protocol on Transhumance as appropriate to ensure the common lands are managed and protected for mobile pastoralist across boundaries is evident to secure their livelihoods and ensure that governments provide security for, rather than victimise the transhumant pastoralists.

3.7 TRADE AND MARKETING REGULATIONS

Laws applying to trading and, marketing standards, and quality standards govern the sale of transhumant animal resources both domestically and across borders. Thus a review of the applicable trading and marketing policies and laws of the member states is important because of the exchanges that transpire among the pastoralists across the borders and when grazing in a neighbouring states. The main laws apply to cross border trading rules and the livestock resources standards. A common pattern across the IGAD region is the existence of multiple policy-regulatory frameworks at the national level (policies and regulation regarding trade and customs) which have yet to be comprehensively harmonised with the provisions of bilateral and multilateral commitments that many member states of the IGAD region are signatories to (IGAD ICBT 2018). With respect to livestock resources standards, this includes enforcing animal health and phytosanitary regulations. Animal and animal products health and welfare regulations are established to promote public health and food safety. These include SPS laws, animal welfare laws, and biosafety laws. All the countries have national public health laws affecting animals, agriculture and domestic commercial activities applied to livestock exchanges and movement.

International standard regimes (OIE, Codex and the WTO) have established rules such as SPS and biosafety laws with regard to movement, exportation or importation of animals; marketing schemes or product development; and animal and animal products health and welfare to promote public health and food safety. There was general reference to international standards forming a benchmark for the relevant provisions in animal health or trading regulations. IGAD region has repeatedly suffered from import bans due to non-compliance with SPS requirements so that Members States have in place disease

prevention/control mechanism such as routine or need based vaccination, active/passive surveillance against notifiable diseases (ICPALD SPS Brief).

Though IGAD Member States are members of the standard setting organisations, the need for highly specialised and technical skills and infrastructure hampers the proper implementation of the international standards. There are four countries acceding to the WTO - Ethiopia, Somalia, Sudan and South Sudan and are expected to use the rigorous accession process to establish credible trading, economic and legal systems to promote transparency, the rule of law and good governance. Additionally, harmonisation efforts are ongoing at the regional level, and IGAD and EAC oversee the development of new standards and the harmonisation of the existing ones.

3.8 ENVIRONMENT AND NATURAL RESOURCES MANAGEMENT

Naturally the environment and natural resources management frameworks of a member state will determine how pastoralists and pastoralism is governed in a country. Natural resources include water, soil, forest, rangelands, biodiversity, ASAL and wildlife. The most important resource is land generally. Nevertheless the need to protect and sustainably use country's natural resources has given rise to various laws general and specific that impact pastoralists' livelihoods. Specific policies directly affect pastoralists, ASAL or Rangelands that in the region are synonymous with pastoralism. Pastoralist mobility is a rational rangeland management strategy since for the pastoralist communities, it is more cost effective to move herds from one area to another than bringing the resources to the herds in the process providing ecosystem services. All the Draft Pastoralism policies under development in the region apply to both rangelands and pastoralists.

In the event of a none-specific pastoralism policy, the general environment and natural resources management framework applies. These may adversely affect the pastoralist in particular, the alienation of pastoral land for protected status and the development of extractive industries especially oil in pastoral lands. They may also provide an avenue to develop pastoralist areas under the climate change climate change frameworks which work to enhance the adaptive capacity and resilience of the communities by providing basic social and economic infrastructure that are essential to the transhumant corridors. Sustainable pastoralism policies should serve to ensure the maintenance of pastoralism resources and ecosystems with direct values for human use including production, ecological, social and cultural values, as well as option values for future use and adaptation.

3.9 CONCLUSION

In sum, the legal, policy and institutional deficiencies of pastoralism frameworks highlighted in the Member States that will affect the implementation of the Protocol on Transhumance are: -

- A lack of appropriate pastoralism development policy.
- A lack of security of tenure for pastoralists land rights in most Member States.
- A lack of institutional framework to implement relevant laws and policies in most of the countries.
- A lack of policy harmonisation of pastoralism relevant frameworks.
- A lack of recognition or total disregard for pastoralist governance structure.

- The marginalisation of pastoralist from the national discourse and decision-making processes.
- A lack of harmonised regional policies, programmes and enforcement regulatory frameworks;
- No coherent and or harmonised policy framework governing shared transboundary natural resources, and human and livestock movements and exchanges.

4.0 PASTORALISM LEGAL, POLICY AND INSTITUTIONAL FRAMEWORK IN THE MEMBER STATES

The following review includes the national policies, legal instruments and institutional frameworks that directly or indirectly impact on or are affected by the Protocol on Transhumance and may facilitate or hinder cross-border transhumance and pastoral livestock system. In some member states, the study had access to a number of frameworks to provide an adequate basis for an assessment. But in other Member States, the relevant information was inadequate to highlight the policy environment adequacy or inadequacy. Thus the lack of information is not indicative of a gap in the country policy environment.

4.1 DJIBOUTI PASTORALISM FRAMEWORK

The Constitution of the Republic of Djibouti 1992 is the highest law of the land. It provides for freedom of movement of all the citizens and the right to establish themselves freely in the country (article 14). In addition, it offers protection to foreigners, their person and for their assets (art. 18). The Constitution assures all of the equality before the law without distinction of language, of origin, of race, of sex or of religion. The country has no dedicated pastoralism law or policy. Instead, pastoral issues are addressed or affected by sectoral laws specifically agriculture, land and environment.

4.1.1 Legislative Framework

Livestock Production and Resources

The Agriculture Code (Law No.200/AN/07/5thL on the Organisation of the Administration of the Ministry of Agriculture, Livestock, Fisheries and Water Resources) is the law that regulates the livestock sector by assisting, developing and promoting animal production; managing the activities of abattoirs; monitoring all animal health activities, and; designing and monitoring programmes and projects relating to the preservation of wildlife and biological diversity (art. 15). Animal production activities involve: -

- The conservation, development and improvement of pastures;
- Conducting studies to increase knowledge of the systems and pastures and build a data bank (of maps, fodder value, etc.) for the benefit livestock breeders and agro-pastoralists production systems;
- Elaboration and application in a participatory way, the pastoral code, whose frame is the customary law;
- Obtaining a better knowledge of zootechnical parameters and the genetic potential of local breeds in order to improve and preserve them;
- Monitoring the supervision of sedentary farms;
- Training extension workers, breeders and agro-pastoralists;
- Promoting the marketing of livestock and animal products; and the organisation of animal production channels; and
- Promoting farms such as poultry and rabbit farming, and any other diversification contributing to the food security in rural areas.

The law regulates animal health including the epidemiological surveillance of major diseases; the prevention, control and eradication of animal diseases and zoonoses; animal health

control of livestock movements; the control and eradication of harmful fauna; certification of animal health; animal health and quarantine measures, and; the professional training of health auxiliaries identified among breeders. The law also provides for the veterinary and food control service to ensure the safety of animal and food health through sanitary and hygienic inspection of food products of animal and vegetable origin, particularly at the level of import, export or transit; and livestock establishments and installations (abattoirs, sale yards, quarantine stations), and; granting authorisations (art. 16).

Land Governance

The Constitution guarantees the right to property, which may not be infringed except in the case of public necessity legally established (art 12). However, it has no provisions on land tenure system and land institutions. Neither is there an overarching national land tenure law established. The existing land laws apply to public state land and private state land with the stipulation that all land belongs to the state. The relevant land laws are: -

The National Domain (Land) Code (Law No.171/AN/91/2ndL on the Setting and Organisation of the Public Domains of the State) provides for the establishment and organisation of the public land. The national domain includes all lands except those classified in the domain public and those that are privately owned. The Code makes the State the guardian of the lands and the Authority empowered to organise their rational use. Article 1 provides that public land consists of all property assets, whatever their nature, whether immovable or movable, classified and delimited as belonging to the public domain, whether they are, or are not, intended for use by the public. The state public land consists of the natural domain and the artificial domain (art. 2).

State Private Domains (Lands) Code (Law No.173/AN/91/2ndL on Organisation of State Private Domains) makes provisions for private state land, which includes free lands without owners and lands acquired by the State, from donations, inheritances, or of any other manners recognised by the law (art. 1). The private land is divided into two categories viz. urban land designated as such by the legislation, and rural land, which is the other land.

The *Land Expropriation Code* (Law No.172/AN/91/2ndL on Regulating the Expropriation for Public Purpose Interest) makes provisions for the expropriation of land for reasons of public utility (construction of public works, agriculture and development projects, and protected sites and areas) in the country and is effected through legal procedures. The state may assign land to persons of Djiboutian nationality while foreigners may invest in agricultural land under a leasing arrangement (IGAD Djibouti Land).

Law No. 117/AN/15/7thL of 2016 amends Law No. 177/AN/91/2ndL of 1991 on the Organisation of land ownership.

Law No. 178/AN/91/2eL lays down the procedures for the application of land tenure laws.

Decree No. 2015-180/PR/SEL of 2015 regulates and organizes co-ownership.

Despite these inadequate land laws especially in relation to national land tenure, land acquisition and resettlement, traditional tenure rights and management practices of pastoralists are respected. Nomadic pastoralists control their traditional pasture areas through customary rights. These traditional tenure systems involve the rights to pasture land and water points. There is little pressure or concern to codify pastoralist-grazing rights

or to title their tribal land (UNECA, 2017). Independent families, in accordance with tribal authorities and traditions, continue to manage the majority of the grazing land. The Afar and the Issa maintain similar customary tenure practices, both investing regional tenure control in tribal groups. A portion of the land traditionally used for transhumant herding is assigned to each family within a tribe. This land remains within a family, and the use rights are inherited by sons of successive generations (UNECA, 2017).

Trade and Marketing Regulations

Orders No. 2000-0727/PR/MAEM on chemical criteria of animals or food of animal origin and No. 2000-0728/PR/MAEM on microbiological criteria for animals or food of animal origin regulate the marketing of imported or local animal products. The import or export of animal products still requires the submission of a sanitary certificate issued by the National Directorate Livestock and Veterinary services (DESV). If an animal disease breaks out, measures are taken immediately by ministerial order. For example, an Order was adopted in 2007 to combat avian flu (Order No. 2007-0193/PRE/MS), creating a steering committee for the project to combat avian flu. According to the authorities, no formal early warning procedure is in place (WTO, 2015).

Environment and Natural Resources Management

Environmental frameworks that impact pastoralists' activities include: -

The Environment Policy whose overall objective is to ensure the sustainability of economic and social development, in a strong growth perspective compatible with the preservation of natural resources and of the environment. The specific objectives of the policy are to:

- Improve the knowledge base of natural resources and the environment to better measure their load capacities;
- Mitigate the degradation of resources by putting in place an institutional and regulatory framework based on international conventions;
- Improve the planning and coordination capacities of conservation actions of the environment in a context of greater accountability of the various actors;
- Promote income-generating activities and community infrastructure combining the fight against poverty and the degradation of the environment;

The Environmental Code (Law No.51/AN/09/6thL) reaffirms the Environment Policy and addresses all water, air, soil and subsoil, flora and fauna resources. The Code covers all sectors working on environmental resources and offers the guiding principles for its good management in whichever field as necessary. This law establishes the fundamental principles for managing and protecting the environment against all forms of degradation or deterioration of the resources with a view to ensure sustainable development in accordance with multilateral environmental agreements (art. 2). It provides that every citizen has the right to a healthy environment under the conditions defined by this law. This right is accompanied by an obligation to preserve and protect the environment. Among others, it seeks to stop any pollution or degradation, or at least limit its negative effects on the environment; restore the elements of the natural and ecological heritage degraded, and; promote the synergistic approach between economic growth, social fulfilment and environmental Protection. *Law No.45/AN/04/5thL* establishing the Terrestrial Protected Areas and Marines provide further safeguards for the environment through the establishment of the institutional framework and the protected areas as well as *Decree No. 2011-036/PR/*

MHUEAT establishing and laying down the rules for the Organisation and Operation of the Project Implementation Office of the Great Green Wall.

Development Policy

The Djibouti Vision 2035 was launched in 2014 to define the guiding framework of the long-term national development policy and its planning framework. Law No.58/AN/14/7thL adopting the “Vision Djibouti 2035” and its Operational Action Plans provides that it will be operationalised through Five-Year Plans (art. 2) .The Vision is built around five (5) pillars that are: peace and national unity; good governance; diversified and competitive economy, driven by the private sector; consolidation of human capital, and; regional integration. The development in the primary sectors that impact the pastoralists targets the following priorities:

- Improved access to water;
- Increased agricultural output and productivity to improve food security and increase the revenue of the operators in the sector;
- Increased productivity of the national herd; and
- Enhanced capacity of producer organisations and institutional structures.

The Vision further notes that the development of the livestock subsector will help improve Djibouti’s supply-side capacity. Accordingly, the government plans a substantial increase in livestock production through the adoption of appropriate animal husbandry and breeding systems, and the construction of appropriate infrastructure such as the livestock port and quarantine centres to enhance the capacity for veterinary controls and develop the subsector. In addition, the vision regards bilateral frameworks such as trade agreements as a means of achieving a high degree of liberalisation more rapidly, which should allow effective access to trading partners’ markets particularly for the livestock subsector. Djibouti’s trade policy facilitates regional trade through the conclusion of trade agreements with countries Ethiopia, Kenya, South Sudan).

Table 4.1: Key Djibouti Pastoralism Legal and Institutional Framework

	Area	Lead Government Agency	Main Legislation and Policy
1	Pastoralism Development	Ministry of Agriculture, Water, Fisheries, Livestock and Marine Resources	Djibouti Vision 2035 The Agriculture Code (Law No.200/AN/07/5 th L)
2	Livestock Production and Resources	Directorate responsible for livestock and veterinary services (DESV) National Water and Sanitation Office of Djibouti National Codex Alimentarius Committee	The Agriculture Code (Law No.200/AN/07/5 th L) Sanitation Code (Law No.145/AN/06/5 th L) Djibouti Vision 2035

	Area	Lead Government Agency	Main Legislation and Policy
3	Land Governance	Ministry of Agriculture, Water, Fisheries, Livestock and Marine Resources	The National Domain Code (No. 171/AN/91/2 nd L) State Private Domains (Lands) (Law no.173/AN/91/2 nd L) Expropriation for Public Purpose Interest (Law no.172/AN/91/2 nd L)
4	Migration and Security Framework	Ministry of Interior Migration Coordination Committee	The Constitution Djibouti Vision 2035
5	Trade and Marketing Regulations	Ministry of the Economy and Finance	Djibouti Vision 2035 Order No. 2000-0728 / PR / MAEM on microbiological criteria for animals or food of animal origin. Order No. 2000-0727 / PR / MAEM on chemical criteria of animals or food of animal origin.
6	Environment & Natural Resources Management	Ministry of Housing, Urban Planning and the Environment	The Environmental Code (Law No.51/AN/09/6 th L) The Environmental Policy Law No. 45/AN/04/5 th L establishing the Terrestrial Protected Areas and Marines Djibouti Vision 2035

4.1.2 Institutional Framework

The Ministry of Agriculture, Livestock, Fisheries and Water Resources is in charge of agricultural policy, water policy and rural development, as well as the definition of strategies to be followed in these areas and their implementation. The Ministry is established by the *Agriculture Code* with a mandate to provide animal production; veterinary and food control; water resources; plant production and improvement of vegetation cover; preparation and control of the sanitation policy, and; rural development services. In particular, the National Directorate of Livestock and Veterinary Services (DESV) deals with production and animal health; and veterinary checks. This includes controls relating to SPS standards with support from the National Codex Alimentarius Committee (CNCA) within the Ministry responsible for trade, which is tasked with aligning its SPS measures with international standards (created by *Decree No. 2011-0204/PR/MDC*). The National Directorate of Agriculture and Forestry deals with all matters relating to the organisation and development of plant production and protection, and the fight against desertification. The latter is undertaken in collaboration with the Ministry of the environment to make available to farmers and agro-pastoralists production systems that best meet the local agro-climates conditions.

The National Office of Water and Sanitation of Djibouti, the Fishing Port, the Laboratory of Hygiene Food and the Damerjog Quarantine Centre are attached to the Ministry (art.44). The *Sanitation Code* (Law No.145/AN/06/5thL) establishes the Water and Sanitation Office, which

supervises sanitation standards in the country as found within various codes (agriculture, hygiene, environment, construction). The law provides for a single and harmonised code of sanitation.

The Ministry of Housing, Urban Planning and the Environment is responsible for the formulation and the implementation of the policy involving housing, town planning, natural resources and the environment. *The Environment Code* grants the Ministry the institutional responsibility of coordinating the implementation of government policy on the environment and monitoring its implementation (art.9).

The Ministry of Interior is responsible for guaranteeing public security and civil, and to design and implement the policy on decentralisation of the services of the State. It facilitates the transfer of skills between the State and the territorial communities for local governance. The Ministry of the Economy and Finance has a deputy minister with special responsibility for trade, including foreign trade. This responsibility includes formulating and implementing trade policies, and negotiating trade treaties and agreements, in consultation with other relevant ministries and agencies.

4.1.3 Country Assessment

Though the country has no formal law or policy for pastoralist (for development, land of governance), the social and economic structure of the country provides inbuilt safeguards at present. The country is largely urbanised and practically all the rural dwellers are pastoralists. In addition, the entire country is ASAL where climate change has had a major impact on agricultural production limiting any crop farming. Moreover, there is no national tenure legislation that favours agriculturalists' rights over pastoralists' rights. Additionally, the increasing droughts and the draw of urban-based amenities and services, has heightened the trend towards sedentarisation. Thus the common tension between pastoralists and agro-pastoralists, as well as state alienation of pastoralist land is largely absent. Thus the outlook for the implementation of the Protocol on Transhumance is positive as none of the laws reviewed present an obstacle.

Nonetheless, Vision 2035 intention to create a more diversified economy driven by the private sector means that pastoralists' interests have to be acknowledged and protected through the formal legal system. The danger of the pastoralist being subordinate to the other economic needs for the country is ever present. In legislative ranking, organic laws follow the Constitution; ordinary laws; decrees; and finally orders while treaties and agreements take precedence over domestic laws. The recognition by the *Agricultural Code* of the Pastoral Code governed by the customary law is commendable but pastoralist development in the country would be better safeguarded with the documentation and formalisation of this Code. The Code should also accommodate the requirements of the Protocol on Transhumance when developed.

4.1.4 Country Recommendations

To facilitate the implementation of the Protocol on Transhumance in the country, the following recommendations apply.

Pastoralism Development

1. Codify the national pastoral code to facilitate the regulation and management of pastoralism development issues in the country.

2. Develop a policy for the sustainable management of natural rangelands and disseminate it to all relevant stakeholders.
3. Establish institutions at the national level with the appropriate resource allocation to implement the pastoralism laws.
4. Formulate regulations to facilitate the implementation of the transhumance Protocol where tenable.

Livestock Resources and Production

5. Formulate a law for the development of LITS.
6. Strengthen the human and material resources for veterinary services among the pastoral communities.
7. Enhance the diversification of livestock activities (poultry, apiculture, and rabbit breeding) among the pastoralist communities for a better adaptive approach to climate change.
8. Develop national livestock programmes with pastoralist mobility in mind.
9. Empower livestock associations and cooperatives among the nomadic pastoralism communities.
10. Update data regularly on livestock systems in the country due to the dynamic and evolving nature of the degradation of the pastoral environment.

Land Governance

11. Develop a national land tenure system that safeguards the pastoral land rights.

Governance Structures

12. Improve governance knowledge and skills of the traditional governance structures.
13. Upgrading the current mutual traditional agreement among the communities to pastoral and transhumance mobility agreement.

Environment and Natural Resources Management

14. Enforce compliance with environmental standards to combat overgrazing and mismanagement of livestock rangelands.
15. Establish frameworks for managing natural resources sharing among pastoralist communities and across borders and districts.

4.2 ETHIOPIA PASTORALISM FRAMEWORK

The Federal Democratic Republic of Ethiopia (FDRE) Constitution (1995) provides that all sovereign powers reside in the Nations, Nationalities, and Peoples of Ethiopia (article 5). It provides for free movement of persons in the country and in and out of the country (art. 32). Women shall have equal right with men in the enjoyment of rights and protections provided for by the Constitution (art. 35). The Constitution guarantees special support for pastoralists (art. 89), and equal opportunity for development (art. 40). It provides constitutional guarantees for self-determination including the right to secession, self-government and participation in development (art. 39, 44). And the states are urged to protect and preserve historical and cultural legacies and to respect the identity of 'nations', 'nationalities' and 'peoples' (art. 88). In addition, Ethiopia has Ministry of Peace mandated to address pastoral development and has been developing a draft pastoralism policy since 2011. Meanwhile, pastoralism matters and interests are addressed under a number of sectoral laws and agencies with the Ministry of Peace taking the lead.

4.2.1 Legislative Framework

Pastoralism Development

Ethiopia endorsed a pastoral policy framework in 2020, which was formulated as *FDRE Pastoral Development Policy and Strategy 2018*. The main purpose of the Policy is to improve the livelihoods of the pastoral community through sustainable development by enhancing the pastoralists' resources and other material and intellectual wealth. The draft policy takes a holistic approach by addressing all facets of pastoralism life. The specific objectives: -

- i. Respond to the demands of pastoralists for growth and development in a holistic manner by taking their livelihood system as the basis;
- ii. Guide sectoral policies and strategies that have been developed in a segmented fashion, on the basis of the constitution, national policies and strategies, and regional conventions, to be revised in light of the livelihood basis and ecology of pastoralists; and coordinate such policies and strategies so that they will be implemented in cooperation;
- iii. Coordinate government and non-government pastoral development actors so that they will work together and exchange experiences for the common purpose and goals;
- iv. Coordinate efforts to make pastoral areas sustainably food secure, peaceful; and where democracy and good governance are enshrined; and
- v. Narrowing down the gaps in development and capability indicators between pastoral areas and relatively developed neighbouring regions and the national average.

Based on the above objectives, four policy areas have been identified encompassing thirteen key policy statements, their strategy issues and their implementation strategies. These are: voluntary settlement, improving water development, livestock sector development, promotion of modern agriculture, improving access and quality of health care, and education, developing integrated urban and industrial development, infrastructure development, traditional conflict prevention and resolution, guarantee the development of peoples centred democracy and good governance, human resource development, eradication of harmful traditional practices and increase benefit for women and youth. The policy areas are: -

- i. *To increase the income of pastoralists and improve their living standards.* One of the strategic areas identified is to conduct a pre-planned and well-organised voluntary Commune Programme to ensure that people in the pastoral areas benefits from settled life in modern ways.
- ii. *To expand the social and economic infrastructure and urban centres and industry to modernise the life of pastoralists.*
- iii. *To ensure the greater participation and benefits for the pastoralist in governance by building their capacity in good governance and constitutional democracy.*
- iv. *To ensure the sustainability and reliability of pastoral development.* Under this section one of the strategic issues is preventing disputes and conflicts, and resolving disputes on the basis of pastoral community customs and knowledge.

The Ethiopian Draft Pastoralism Policy intends to recognise the role of the customary management system in order to prevent conflict and ensure sustainable peace and natural resource development and conservation. It also promises to ensure the participation,

ownership right, and benefit of pastoralists in government and private mega projects working in pastoral areas. It intends to take cross border movement and relationships of pastoralists into consideration; and encourage regional cooperation and collaboration.

The Policy is anchored on two major pillars: First, improving the livelihood standard and income of mobile pastoralists who are moving around the hot and vast expanse of land, through surface and ground water development and increasing animal production and productivity. Second, in areas that are endowed with reliable resources and that are convenient for settled life, settling pastoralists voluntarily in development centres that are well planned and well prepared in advance.

Livestock Resources

Livestock Master Plan 2016-2020 shows the roadmap for the development of the livestock sector for the period from 2016 to 2020. The adopted Master Plan emphasises the need to improve the health, feed, and genetic aspects of the livestock sub-sectors and to overhaul related policies and institutions in order to create an enabling environment for private sector investment. The Master Plan suggests the need for a stronger policy, legal, and institutional framework. This should support sustainable livelihood development in the pastoral and agro-pastoral areas of the country, effectively harmonising the control of trans-boundary animal diseases, development of livestock grading system, and regulation and formalisation of informal cross-border trade. The Animal Health Strategy and Plan were both adopted in 2013.

Rural Development Policy and Strategies 2003 is an agriculture-centred rural development strategy maps out the main development path because it is capable of bringing to fruition the four elements, which constitute the country's economic development objectives as indicated above.

Animal Diseases Prevention and Control Proclamation No.267/2002 primary objective is to prevent and control animal diseases in order to maximise the benefits from the livestock sector. It provides for the mechanisms for prevention and control of animal diseases, registration of animals health professionals and delivery of services, and movement of animals, animal products and by-products. It establishes quarantine stations, entrance and exit posts, and export and import of animals, animal products and by-products standards inlining the need to be accompanied by recognised international animal health or sanitary certificate art. 14). Any person shall obtain animals movement permit with respect to animal disease, from the animals' place of origin to transport animals from Woreda to Woreda and/or from region to region (art.15).

Veterinary Drug and Feed Administration and Control Proclamation No.728/2011 is regulates veterinary drugs, feed and veterinary drug professionals activities. The federal government shall set standards and regulating trans-regional veterinary drug and feed production, distribution, promotion, storage and quality control and veterinary drugs and feed import and export activities. Regional state regulatory bodies shall carry out other functions. It outlines the powers and duties of the Veterinary Drug and Feed Administration and Control Authority.

Land Governance

The Constitution stipulates that 'land is common property of the nations, nationalities and peoples of Ethiopia and shall not be subject to sale or other means of exchange and the 'right of ownership of rural land and urban land as well as of all natural resources is exclusively

vested in the State and the peoples of Ethiopia (art 40(3). In addition, the Constitution recognises and guarantees the communal land holding system of the pastoralists in the country as well as the right not to be displaced from their own lands (art. 40(5). Thus land tenure in the country can apply to the extent of the land use right only. But this provision is circumscribed by the need for a statute to implement it and the current federal land law does not protect this interest. Instead, it denies the communal land ownership of the Ethiopian traditional communities.

FDRE Rural Land Administration and Land Use Proclamation No.456/2005 clarifies in the preamble that it has become necessary to enhance and strengthen the land use right of farmers, and establish a conducive system of rural land administration that promotes the conservation and management of natural resources, and encourages private investors in pastoralist areas where there is tribe-based communal landholding system. Article 5(3) empowers the government, being the owner of rural land, to change communal rural land to private holdings as may be necessary since the pastoralists only have holding rights (to use rural land for purpose of agriculture and natural resource development). Private investors that engage in agricultural development activities, Governmental and non-governmental organisations and social and economic institutions shall have priority right to use rural land ahead of peasant farmers/semi-pastoralists and pastoralist. Thus not only will pastoralists be dispossessed by government, but also by private individuals as necessary denying the customary communal landholding system of pastoral communities.

Expropriation of Landholdings for Public Purposes and Payment of Compensation Proclamation No.455/2005. Provides that a woreda or an urban administration has the power to expropriate rural or urban landholdings for public purpose or where such expropriation has been decided by the appropriate higher regional or federal government organ for the same purpose upon compensation (art. 3). Public purposes mean the use of land in order to ensure the interest of the peoples to acquire direct or indirect benefits from the use of the land and to consolidate sustainable socio-economic development.

There are three types of land tenure systems in pastoralist areas of Ethiopia: State, private, and communal. Similar to the Federal policy, in the Regional States, pastoralists, agro-pastoralists and farmers who are above eighteen (18) years of age can access rural land freely and indefinitely. The right of the rural community to access rural land for grazing, religious or ritual purposes, water points and other social services is also respected. Moreover, the clan holds land in Afar and Somali regions. Furthermore, women are guaranteed equal rights with men in using, administering, and having access to rural land (ICPALD, 2017b).

Based on the *Proclamation No.456/2005*, the Regional States issued policies and legislations concerning pastoralists and agro-pastoralists though some have attempted to enact laws to give effect to the constitutional rights and thus protect the pastoralists land rights.

- (i) *Rural Land Administration and Proclamation of Ethiopian Somali Region (128/2013)* reiterates that the ownership of the right to use the rural land is exclusively confirmed in the Constitution of:
- (ii) Afar Regional Government's Policies and Legislations - the government passed *Land Use and Management Proclamation No 49/2009* which has resulted in the enactment of a number of laws for its implementation; the *Afar Environmental Protection and*

Land Use Regulation No 4/2003 and a directive to implement the proclamation and Regulation.

- (iii) *SNNP Land Administration Proclamation No 110/2007* - is the land use and management law that focuses mainly on peasants; provisions concerning pastoralists and agro-pastoralists are scattered, implying that the proclamation lacks focus on pastoralists' land issues.
- (iv) *Oromia Proclamation No 130/2007* - this land use and administration law focuses on farmers and a few provisions concerning pastoralists and agro-pastoralists.
- (v) *Benishangul Gumuz Regional State Land Administration and Use Proclamation No.85/2010* - provides that land is the common property of the state and people and it shall not be subjected to sale or other means of exchange (art. 5). There is no reference to pastoralists in the law though farmers and agro-pastoralists are mentioned. It provides that communal holding" is a land out of government or individual possession and is being held under the common holding for grazing, forest and other social services. The rural land in the region may be held individually, as a group, communally and by the government (art 11).

Governance Structures

One of the most important features of the Constitution is decentralisation of government power based substantially on ethnic federalism. The way the member states under Ethiopian federalism are constituted under Articles 45-48 are all reflections of the constitutional recognition of the rights, cultures and way of life of various groups of Ethiopian pastoralists. The Constitution refers to the Nations, Nationalities and Peoples of Ethiopia who have rights to self-determination and self-governance, which has enabled the devolution of substantial power to the country's Regional States. In addition, the recognition of individuals and peoples' right to express, develop and promote a peoples' culture; and means of livelihood has enhanced legal recognition of customary land tenure systems in the country. However, the System for the Intervention of the Federal Government in the Regions Proclamation No. 359/2003 permits the government to intervene in Regional States affairs in case of deteriorating security situation, violations of human rights, and when the constitutional order is endangered.

Migration and Security Framework

The *Security, Immigration and Refugee Affairs Authority Establishment Proclamation No. 6/1995* creates the Authority with the objective of executing policies and laws on state and public security, immigration nationality and refugees. The Authority shall have the following powers and duties: (art. 5) to formulate policies and strategy concerning state and public security as well as immigration and refugee affairs; to be responsible for internal and external state and public security activities; in cooperation with the appropriate organs, to provide for the registration and issuance of entry and exit permits to foreign nationals as well as permits to move within the Country; and to issue licences for the possession or use of arms, firearms and explosives; prescribe conditions under which explosives may be sold; issue permits to persons who deal with explosives and to persons who repair arms and firearms.

A major source of insecurity in the pastoralists' areas is the widespread proliferation of arms among the pastoralists. The country has laws restricting the ownership of firearms, which are regulated by the Federal Police Commission and the Ministry of Peace. Private possession of handguns (pistols and revolvers) is permitted under licence. A record of the acquisition, possession and transfer of each privately held firearm is retained in an official register but licensed firearm dealers are not required to keep a record of each firearm or ammunition purchase, sale or transfer on behalf of a regulating authority, though the private sale and transfer of firearms is prohibited. The maximum penalty for unlawful possession of a firearm is 15 years in prison. The Ministry of Peace in collaboration with the Office of the Attorney General is finalising a draft Firearms Bill that will regulate firearms and other weapons commonly used for self-defence. The Ministry would regulate who can import and sell these items and who can own them.

Trading and Marketing Regulations

Livestock Market Proclamation No. 819/2014) aims to develop efficient and cost effective live animals market structure supported by up-to-date information that yields proper benefit to live animal breeders, traders, consumers and the country.

Ethiopian Organic Agriculture System Proclamation No.488/2006 objectives are to facilitate 'international recognition and acceptance' of the Ethiopian organic agriculture system and to ensure the introduction of Ethiopian organic agriculture products in the relevant international markets. The pastoralists' livestock lends itself to exploiting this marketing strategy as the organic products are those produced, processed or handled and distributed without the use of synthetic chemicals and genetically modified organism. This Proclamation shall be applicable to the production, processing, packaging, labelling, storing, transportation, marketing, exportation and importation of agricultural products which carry or are intended to carry labels referring to organic production methods.

The 'Petty Periphery Cross-Border Trade' initiative aims at curbing illegal and informal trade across the border by making it possible for local traders to import basic commodities that do not reach the border area or are expensive because of the distance of border communities from the centre. Directives to regulate this cross-border trade with Djibouti, Kenya, Somalia, and the Sudan have been passed. One such regulation is *Directive No. 4/1992*, which governs the cross-border trade between Ethiopia and Kenya. This directive defines the radius within which cross-border trade is permitted between the two countries and the types of commodities allowed for import and export. Accordingly, traders can only move within a 200 km radius from Moyale, with a maximum monthly capital of Br. 20,000, and may enter Kenya no more than twice per month. Livestock and livestock products comprise the largest traded goods.

Environment and Natural Resources Management

The right to a clean and healthy environment is guaranteed under article 44 of the Constitution and the government has enacted the following instruments: -

Environmental Protection Organs Establishment Proclamation (No.295/2002) creates the Environmental Protection Authority to formulate policies, strategies, laws and standards, which foster social and economic development in a manner that enhance the welfare of humans and the safety of the environment, and to spearhead in ensuring the effectiveness

of the process of their implementation. Sectoral and Regional Environmental Units and Agencies are also established to coordinate and follow-up so that the activities of the competent agency are in harmony with the Proclamation and with other environmental protection requirements (art 14-15). The Independent regional environmental agency ensuring public participation in the decision making process, are to be responsible for coordinating the formulation, implementation, review and revision of regional conservation strategies, and, environmental monitoring, protection and regulation.

Development Conservation and Utilisation of Wildlife Proclamation (No.541/2007) aims to conserve, manage, develop and properly utilise the wildlife resources of Ethiopia; create conditions necessary for discharging government obligations assumed under treaties regarding the conservation, development, and utilisation of wildlife, and; promote wildlife-based tourism and to encourage private investment. It provides for the development of Wildlife Conservation Areas to be administered by Local Communities in addition those administered by the Federal Government and the Regions (art.5-7).

Table 4.2: Ethiopia Pastoralism Legal and Institutional Framework

	Area	Lead Government Agency	Main Legislation and Policy
1	Pastoralism Development	Federal Ministry of Peace (Fr. Federal Affairs & Pastoral Development) The Ethiopian Pastoral Areas Board	The Federal Constitution Draft FDRE Pastoral Development Policy and Strategy
2	Livestock Production and Resources	Ministry of Livestock and Fisheries Directorate of Veterinary Service	Livestock Master Plan 2016-2020 Animal Diseases Prevention and Control Proclamation No.267/2002 Veterinary Drug and Feed Administration and Control Proclamation No.728/2011
3	Land Governance	Ministry of Agriculture and Rural Development	The Constitution FDRE Rural Land Administration and Land Use Proclamation No,456/2005 Expropriation of Landholdings for Public Purposes and Payment of Compensation Proclamation No.455/2005. Rural Land Administration and Proclamation of Ethiopian Somali Region (128/2013) Afar Land Use and Management Proclamation No 49/2009 SNNP Proclamation No 110/2007 Oromia Proclamation No 130/2007 Proclamation of Benishangul-Gumuz No 85/201

	Area	Lead Government Agency	Main Legislation and Policy
4	Migration & Security Framework	Ministry of Interior Ministry of Justice	The Constitution Immigration Proclamation No. 354/2003 Security, Immigration and Refugee Affairs Authority Establishment Proclamation No. 6/1995
5	Governance Structures	Federal Government Regional States	The Constitution Federal Government in the Regions Proclamation No. 359/2003
6	Trade and Marketing Regulations	Ministry of Trade Veterinary Drug and Animal Feed Administration and Control Authority	Livestock Market Proclamation No. 819/2014) Ethiopian Organic Agriculture System Proclamation No.488/2006 Directive No. 4/1992, Ethiopian Meat and Dairy Industry Development Institute Establishment (Regulation No. 295/2013) Animal, Animal products; and By-Products Marketing Development Authority Establishment (Amendment) Proclamation No. 198/2000
7	Environment & Natural Resources Management	Ministry of Environment Environmental Protection Authority	Environmental Protection Organs Establishment Proclamation (No.295/2002). Development Conservation and Utilisation of Wildlife Proclamation No. 541/2007 Forest Development, Conservation and Utilisation Proclamation No.542/2007

4.2.2 Institutional Framework

The Ministry of Peace, whose mandate is derived from *Proclamation 1097/2011*, is overseeing Pastoralism Policy development. The Ministry advises on and supports pastoralist related issues in the country; promotes equitable development in emerging regions; prevent and resolves conflicts; strengthens Federal systems; upholds Federal-Regional relations in the country, and; maintains good relations, peace and tolerance among different religions and beliefs. It deploys technical expertise from the Federal level to the local level. The Ministry has the following pastoralism programmes: -

- (i) Rangeland Development
- (ii) Livelihoods
- (iii) Commercialisation and capacity building
- (iv) Evaluation and cross-country issues

The government has initiated special support programmes that aim at building capacities of some of these regions to effectively translate decentralisation in the whole country. The regional governments also have their projects with support both from regional and federal

governments. The Federal government is creating structures to support pastoralism in the country by drafting Peace and Conflict Resolutions laws, establishing the institutions to oversee them, and finalising and resourcing bilateral agreements with neighbouring countries. The structures mandate include: pastoral affairs, clan levels and regional spill-overs, women and youth empowerment, and voluntary resettlement programmes. The pastoralists are provided with sensitisation, education and registration in addition to being allocated the land by regional government, social services (health, schools) and water.

The Ministry of Livestock and Fisheries is mandated and empowered to prepare and implement livestock development strategies and plans and to create an enabling policy environment as well as oversee and support livestock related investments by the private sector. It has a Directorate dedicated to Pastoral Livelihood Development overseeing the development of pastoral livelihoods and building the resilience of the pastoral community. This includes the Project on Regional Pastoral Livelihoods Resilience Project (RPLRP). There is also a Veterinary Drug and Animal Feed Administration and Control Authority (established by Regulation No.272/2012) to ensure improvement of animal productivity and availability of wholesome animal products to the consumers.

The Federal Ministry of Agriculture and Rural Development has the responsibility to implement land policies by providing the necessary professional support and by coordinating the competent authorities (*FDRE Rural Land Administration and Land Use Proclamation* art.16). Each regional council shall enact rural land administration and Land use law, which consists of detailed provisions necessary to implement this Proclamation (art.17). Regions shall establish institutions at all levels that shall implement rural land administration and Land use systems, and shall strengthen the institutions already established.

4.2.3 Country Assessment

The Constitution of the country reflects the understanding and need to protect the pastoralists and their livelihoods and lifestyles. However, the federal government and the Regional States have been slow to give effect to the constitutional rights of the pastoral communities. The development of the draft pastoralism policy is a case in point; this has been ongoing for more than ten years and has not yet been finalised. The Ministry of Peace, overseeing pastoralism affairs, has been working without proper policy direction and has thus failed to deliver results in implementing pastoralism programmes. The Draft Pastoralism Policy still supports the villagisation programme despite criticisms (Segel, 2018). The voluntary re-settlements, 'villagisation', have been touted as being meant to improve living conditions for pastoralists by providing Infrastructure and resources that ensures an appropriate transition to secure livelihoods. The state claims that moving is optional but the programme has been criticised as a way of clearing land for investment purposes, while also providing locals with electricity, water and health services at the new settlements, and; a way to clear areas for the benefit of land-grabbing, leaving locals without access to land or compensation (Berger, 2014). Stakeholders insist that the core targets of the Draft Policy should be livestock, pastoralists and their way of life and it should aim at reducing vulnerability and building resilience, something that the proposed sedentarisation may fail to work in the dry land regions (Segel, 2018).

In addition to its heavy leaning towards sedentarisation, the policy focus on developing pastoral areas into urban centres will further encourage the loss of pastures and affect transhumant corridors for the local and foreign pastoralists. The policy encourages the

development of crop production that may be inappropriate in the pastoral lands rather designating land for fodder production to address the perennial feed shortage in the country (Segel, 2018). If the draft policy is implemented in its present form, the pastoralists' lifestyle will be affected dramatically and as has happened in the ECOWAS Region, more intense conflicts are inevitable. The need for urbanisation and industrialisation will have to convert pastoral lands to supply these services. Pastoral communities of Ethiopia occupy over 60 percent of the country's total landmass, which makes it tempting for government to dispossess them in the name of 'public interest' projects. These include the hydro-electric dam, agricultural concessions to foreigners and creating protected areas in pastoral land severely reducing their pastures and denying them access to essential water points. The issue of pastoral land rights is aggravated by the implementing laws, which deny the pastoralist their constitutional right to their lands. Without security of tenure over communal land, pastoralists' communities' mobility will be restricted both for their use and for the visiting communities.

The FDRE Rural land Proclamation has set aside the Constitution's recognition of communal land holding systems with the federal state claiming exclusive rights to land ownership. Essentially, it is designed to strengthen the security of private land holders at the expense of communal land holding communities. This is despite the Constitution stating that right of private investors should not prevail over the 'right of Nations, Nationalities, and Peoples to the ownership of land' (art. 40(6) and the collective rather than individual nature of their ownership right (art. 40(5)). The government has appropriated all the land at the expense of the pastoral communities and treats communal lands essentially from the perspective of the interests and rights of settled cultivators.

The regional states with the highest percentage of mobile pastoralists (the states of Afar, Somali, Gambella and Benishangul-Gumuz) have failed to adopt specific land laws suitable to preserve the way of life of these communities, but have instead given effect to the Federal Land law. The meaning of "public purpose" and the benefits this should include is not specified in the proclamation, which allows the government to use its expropriation power without restriction and regardless of its objective. Regional offices have misused the land regulation by deciding who is allowed access to land, based on 'ethnicity' or 'nativity' (Berger, 2014). The 2005 Proclamation formally denies and even abolishes existing traditional, communal landholding systems (Abdulahi, 2007). The rights of Ethiopian pastoralists to ecological self-determination and customary management of natural resources are thus inalienable fundamental rights that impose a duty on the government to take positive measures in ensuring the enjoyment of these rights.

The 2005 Proclamation further subordinates the rights of pastoral communities to those of farmers hence the ongoing claims of pastoral land grabbing for agricultural concessions or huge government projects in the context of its current development model. Land-grab involves the use of natural resources and usually acts as a solution to satisfy the need for food in foreign countries, without sharing benefits with locals where the land-grab takes place. Land-grab is also often associated with lack of consideration for social implications, displacement and dispossession of local populations as is happening the pastoral regions of Ethiopia (Abdulahi, 2007).

The laws facilitating animal movements particularly cross-border trade are unknown among some experts and officers at zonal and district levels. Customs regulations, procedures,

and border control practices on livestock export is perceived trade prohibitive rather than encouraging. There is also a mismatch between customs and trade regulations. For example, the trade regulation permits livestock export but the custom regulation prohibits livestock trekking within 15km on the Ethiopia border and the Moyale-Kenya route. The policy encourages informal trade. Livestock export license can only be issued by the Federal Government to the discouragement of potential traders in the pastoral areas who stay far away from Addis Ababa (the seat of the Federal Government) Enforcement of regulations to curb informal livestock trade is difficult, mainly due to a wide expanse of border areas to control informal livestock trade (ICPALD, 2017).

4.2.4 Country Recommendations

To facilitate the implementation of the Protocol on Transhumance in the country, the following recommendations apply.

Pastoralism Development

1. Approve the Draft FDRE Pastoral Development Policy and Strategy 2018 with appropriate amendments and allocate the resources for its implementation.
2. Develop a pastoralist legislation to implement the Pastoral Development Policy taking into account the Protocol on Transhumance requirements for the establishment of transboundary infrastructure including transhumant corridors, the delivery of services, and cross-border frameworks.
3. Develop regional cooperation and collaboration instruments that take cross border movement and relationships of pastoralists into consideration.
4. Implement the voluntary re-settlements 'villagisation' programme after a thorough review and extensive consultation with the pastoral communities.
5. Undertake comprehensive sensitisation and capacity building initiatives to prepare the pastoralists for the use of the Protocol ITC.

Livestock Resources and Development

6. Formulate a policy and law for the development of LITS.
7. Develop stronger policy, legal, and institutional framework to support sustainable livelihood development in the pastoral and agro-pastoral areas of the country in particular to ensure adequate supply of fodder.
8. Harmonise the control of trans-boundary animal diseases, development of livestock grading system, and regulation and formalisation of informal cross-border trade.

Land Governance

9. Reform the land governance at the national and regional state levels to strengthen and secure the property rights of pastoralist and protect them from arbitrary dispossession from their lands.
10. Reintroduce and grant formal recognition of the pastoral communal landholding systems.
11. Establish institutions at all the Regional states levels that to implement the reformed rural land administration and land use systems, and strengthen the institutions already established.

Governance Structures

12. Enact laws that will facilitate pastoralists' active participation in decision-making processes that directly affect their livelihoods in pastoral areas.
13. Recognise formally the role of the customary resources management system to ensure sustainable peace and natural resource development and conservation.

Trading and Marketing

14. Update and strengthen the Directives that regulate the cross-border trade for low volume transactions with the neighbouring countries taking into account the Protocol on Transhumance.

4.3 KENYA PASTORALISM FRAMEWORK

A number of policies have been or are being formulated in support of pastoralism development in the country. These include the Kenya Constitution 2010, the Draft National Livestock Policy 2019, Draft Rangelands Management and Pastoralism Strategy 2018 – 2028, National Policy for the Sustainable Development of Arid and Semi-arid Lands of Kenya, ASAL Policy Draft 2012, the Community Land Act, and the County Government Act. International obligations are applicable and enforceable in Kenya since any treaty or convention ratified by Kenya shall form part of the law of Kenya (Constitution art. 2(6)). All the constitutional provisions including fundamental rights, community rights and interests, land rights and environmental provisions are justiciable by any person whether or not they are directly affected (art. 258).

4.3.1 Legislative Framework

The following are some pastoralists' development and livelihoods frameworks under development as well as a law that applies exclusively to pastoralists:

Draft Rangelands Management and Pastoralism Strategy 2018-2028 - The strategy document aims at operationalising pastoralism and rangelands policies to ensure that deliberate guided actions are taken by all concerned for the proper and optimal utilisation of the rangelands, while safeguarding the ecosystems and pastoralists livelihoods. The Strategy anchored to the *National Livestock Policy*, is necessary to focus exclusively on issues of pastoralists, natural rangeland resources and the livestock/wildlife interactions which are part and parcel of the rangelands and are mentioned in many policies but lack convergence. This results in overlaps and inefficiency in implementation of programmes. The Ministry of Agriculture, Livestock and Fisheries is the key Ministry responsible for the Strategy.

Key issues addressed by the strategy include the need to: -

1. Develop policy and legal framework to govern the implementation of grazing plans.
2. Identify and map seasonal grazing and movement of livestock.
3. Strengthen the customary and traditional institutions.
4. Enhance social and cultural systems in the rangelands by strengthening traditional institutions that govern natural resource use, and promoting positive and development oriented socio-cultural practices.
5. Streamline land resource use and tenure through the full implementation of *Community Land Act 2016*. The Strategy recognises that more than 80 percent of the

rangelands are located in communal lands and for the communities to utilise their land sustainably, they must have ownership of the land.

6. Improve productivity of livestock by: (i) increasing feed quality and quantity and conservation; (ii) increasing the rearing of appropriate, productive and adapted livestock breeds/species; (iii) Improving animal health and husbandry, and; (iv) promoting the establishment and actual use of feedlots.
7. Enhance appropriate pasture development in pastoral areas by: identifying appropriate pasture production areas, increasing production of appropriate pasture species, and enhancing development of strategic feed reserves.
8. Adequately finance and increase investments in rangeland resource management and utilisation.
9. Enhance rangeland governance and coordination through capacity development of rangelands management, and building and supporting institutions training on rangeland management.
10. Document indigenous coping mechanisms to climate change.

Vision 2030 Development Strategy for Northern Kenya and other Arid Lands, (Sessional Paper No. 8 of 2012(ASAL Policy). The draft Policy aims to accelerate sustainable development in Northern Kenya and other arid lands to address developmental challenges. It calls for a responsive government to the uniqueness of arid lands, which include ecology, mobility, population distribution, economy and social systems. It identifies the primary policy challenge as how to protect and promote mobility and support the customary institutions which underpin pastoralism in a society which is otherwise sedentary and tending towards more individualised modes of organisation and production. The policy also focuses challenges facing the pastoral communities in rangelands and come up with measures to manage drought and strengthen livelihoods.

Grazing Management Acts and Plans: these are community based to control access to and use of the shared resources including pasture, salt licks and dry and wet season grazing areas enacted at the county level. An example of such an Act is the *Tana River Animal Control And Grazing Act, 2016*. The Tana River County is home to both pastoralists and agro-pastoralists. The law intends to, inter alia: -

1. Address the influx of migratory grazing, its exacerbation of resource-based conflicts and the spread of diseases;
2. Deal with issues of tenure security in grazing areas;
3. Identify grazing areas and designate them for planned sustainable use;
4. Promote the role of pastoral communities in the sustainable management in the use of the grazing resources;
5. Guarantee equal access to grazing resources to all members of the county communities including women and people with special needs;
6. Establish process for the resolution of disputes internally, as well as cross-boundary disputes;

The law ensures that no grazing areas shall be established without the involvement and approval of the community in a well-attended qualitative public consultation forum. The grazing rights are determined by the customs and practices related to land use by pastoral communities as long as they comply with all applicable laws (s 60). In resolving disputes, priority shall be given to alternative dispute resolution mechanisms which include dispute resolution processes and mechanisms that fall outside the government judicial processes; and traditional dispute resolution mechanisms. Customary law and practice of the locality shall apply to resolve disputes (s 79).

County Government Act 2012 gives effect to Chapter Eleven of the Constitution, which provides the county governments with the powers to function and take responsibilities for the delivery of services within their designated counties including management of environment and natural resources. Livestock production and extension services are also fall within the county government remit.

Livestock Production and Resources

There is an elaborate legal and regulatory framework for production, movement and slaughter of livestock in Kenya.

The Draft National Livestock Policy, 2019 covers key issues relating to farm animal genetic resources, livestock feeds and nutrition, inputs, animal diseases and pests, livestock marketing, research and extension and food security. The broad objective of the livestock policy is to contribute to food and nutrition security and improved livelihoods while safeguarding the environment. Specific objectives include improving management of livestock, feed and rangeland resources while promoting social inclusion and environmental resilience, and promoting.

The draft Policy addresses cross-border disease management stating that the national Government will collaborate with neighbouring countries to strengthen both national and regional disease surveillance, monitoring and control, as well as provide rapid response to check the effects of disease outbreaks. The county governments will implement disease surveillance and control programmes, projects and strategies and avail reports to the national government. The national Government will develop, using satellite data and other suitable methods, systems to predict forage biomass availability, forecasts and livestock movements. County governments will institutionalise the involvement of the communities in planning, and development of range and pasture rehabilitation programmes.

The National Livestock Policy (Sessional Paper No. 2 of 2008 (revised 2014) outlines, guides and controls operations in the livestock sector and industry. It proposes a number of measures to support rangeland management including that the county governments undertake initiatives to increase the feed availability by encouraging appropriate grazing management strategies, fodder and pasture conservation; and proposes that the national and county governments promote production of irrigated forages and take steps to mitigate the effects of pests and diseases.

The Veterinary Policy 2015 provides a definite roadmap for the development of animal resources in Kenya. It addresses animal health, production, welfare, food safety and trade among other concerns. The broad objective of the policy is to professionally safeguard animal health and welfare, increase animal production and productivity and promote trade

in animals and animal products for sustainable food security, food safety and economic prosperity. The national government, in collaboration with stakeholders, will support the establishment of an animal identification and traceability system that complies with international standards.

The *Animal Diseases Act (Cap 364)* provides for matters relating to animal diseases and empowers the Director of Veterinary Services with a range of sanitary measures including declaring an area to be infected by notifiable disease (s 5); prohibit importation of animals (s 8); direct the slaughter and disposal of diseased carcass, and the to prohibit the use of vaccine or drug among others.

Crop Production and Livestock Act (Cap 321) empowers local authorities to make by-laws (a) prohibiting the keeping or grazing of any livestock on any agricultural land in such area; (b) regulating or controlling the numbers and kinds of livestock which may be kept on any such agricultural land; (c) requiring male livestock to be castrated; (d) licensing male breeding livestock; (e) providing for the compulsory reduction of the numbers of livestock in any such area; and (f) imposing and collecting grazing fees (s 4A).

The Branding of Stock Act (Cap 12) makes provision for the registration of brands of stock and includes how brands are to be imprinted (s 9), publication of registered brands, compiling a brand directory, and inspection of areas where stock is kept to compare the stock with the branding certificate. It creates branding offences such as use of unregistered brands or defacing brands.

Land Governance

The Kenyan Constitution lays the foundation for the land policies stating that the principles of equitability, efficiency, productivity and sustainability are to govern land use and management in the country (art. 60). Land in Kenya is classified as public, community or private land (art. 61).

1. Public land. This includes natural resources (forests, coastal land, minerals) are public land vested in national government to be managed by National Land Commission (NLC); and land held by public institutions,
2. Community land is vested in and is held by communities identified on the basis of ethnicity, culture or similar community of interest, (the county government holds it in trust for the people (art. 63), and;
3. Private land that is held by any person under a freehold and leasehold tenure.

The communal land ownership system is the most common in the pastoral areas of Kenya. The relevant legal, policy and institutional framework on land that will impact on the Protocol include:

The National Land Policy (Sessional Paper No.3 of 2009) overall objective is to secure rights over land and provide for sustainable growth, investment and the reduction of poverty. If natural resources (exploitable) fall under community land, the Policy provides for a benefit sharing mechanism between government and community. The government in order to secure pastoralists livelihoods and tenure to land, shall (par 183):

- Recognise pastoralism as a legitimate land use and production system.
- Establish suitable methods for defining and registering land rights in pastoral areas

while allowing pastoralists to maintain their unique land systems and livelihoods.

- Establish a legislative framework to regulate transactions in land in pastoral areas.
- Ensure that the rights of women in pastoral areas are recognised and protected.
- Provide for flexible and negotiated cross boundary access to protected areas, water, pastures and salt licks among different stakeholders for mutual benefit.
- Ensure that all land uses and practices under pastoral tenure conform to the principles of sustainable resource management.

The National Land Use Policy (Sessional Paper, No.1 of 2017) principal objective is to provide legal, administrative, institutional and technological framework for optimal utilisation and productivity of land and land related resources in a sustainable and desirable manner at all levels. The Policy addresses the problem of rangelands degradation and secure pastoralists livelihoods and tenure to land. Noting that the conservation and management of trans-boundary natural resources is vital for the natural resource and environmental sustainability, the Government to ensure sustainability and harmonious sharing of transnational resources, shall:

- (i) Identify map and plan for all trans-boundary natural resources;
- (ii) Develop trans-boundary conflict prevention resolution mechanisms;
- (iii) Harmonise policies and legal framework for environmental and natural resource management in line with regional and international conventions;
- (iv) Enforce and/or implement existing MEAs related to trans-boundary resource use;
- (v) Promote the use of bi-lateral agreements and other instruments to facilitate sustainable trans-boundary resource use.

Community Land Act (No.7 of 2016): This covers communal land ownership and title of community land. It provides for the recognition, protection and registration of community land rights; management and administration of community land and provides for the role of county governments in relation to unregistered community land. It provides that the County governments shall hold in trust all unregistered community land on behalf of the communities. The *Community Land Regulations, 2017* provides for the recognition, protection and registration of community land rights; conversion of community land into public land through compulsory acquisition; and special rights and entitlement in community land. Any community, including group representatives that intend to register its claim in an interest in land may notify the local community land registrar. The Land Registrar convenes and oversees the process of election of Community Land Management Committee members (s 4). A member of a registered community may apply to the community land management committee for allocation of land for a particular use (s 20). Any disputes arising from community land may be resolved through alternative dispute resolution mechanisms at first instance (s 25).

Land Act (No.6 of 2012) provides for the sustainable administration and management of land and land based resources and gives effect to the constitutional rights. It applies to all land declared as public, private and community land. The forms of land tenure are freehold, leasehold, customary land rights, and such forms of partial interest e.g. easements (s 5). The land rights arising from all the tenure systems are equal before the law. It further defines customary land as private land on which one or more members of the family have customary rights of ownership. *Land Adjudication Act* (Cap 284) provides for the ascertainment and

recording of rights and interests in community land. The *Land Registration Act* (No. 3 of 2012) consolidates and rationalises the registration of titles to land to give effect to the principles and objects of devolved government in land registration and creates a Community Land Register (s 8).

Governance Structures

The Constitution provides for two levels of governments, national and county (47 of them), that are distinct and inter-dependent and which shall conduct their mutual relations on the basis of consultation (art.6 (2)). Thus for instance, livestock extension is the mandate of the county governments while the national government formulates policy, standards and builds capacities of service providers. Public participation is critical in the new governance system thus the pastoralists are empowered to determine the government and development projects implemented in their areas. *The Public Participation Act, 2018* gives effect to the constitutional principles of democracy and participation of the people by providing a general framework for effective public participation and thus promote community ownership of public decisions. The county governments have the responsibility of ensuring and coordinating participation of communities in governance and a number of them have public participation legislation e.g. *Elgeyo Marakwet County Public Participation Act*, (No.5 of 2014).

The Constitution also provides for the strengthening of traditional institutions of pastoral communities. Under article 174, the right of communities to manage their own affairs and to further their development is recognised. It also calls for the protection and promotion of the interests and rights of minorities and marginalised communities. These include traditional communities, indigenous communities and pastoralists (art. 260). The pastoralists' traditional knowledge and cultural expressions is further strengthened through the recognition that the culture is the foundation of the nation and the cumulative civilisation of the Kenyan people and nation (art.11), protection of right to property and protection and enhance meant of intellectual property in, and indigenous knowledge of, biodiversity and the genetic resources of the communities (art. 69(1) (c)). *The Protection of Traditional Knowledge and Cultural Expressions Act*, (No.33 of 2016) provides a framework for the protection and promotion of traditional rights, i.e. traditional knowledge and cultural expressions. The owners and holders of traditional knowledge and cultural expressions shall have the right to protection of that knowledge (s. 9&16).

Security and Mobility Framework

The ASAL Policy seeks reforms through the enactment and implementation the National Peace Building and Conflict Management Policy. It calls for a review the criteria and procedures governing the deployment of security agents, including the ratio of police to citizens in arid areas. It urges for the development of an inter-governmental policy framework to govern cross-border security management and peace building. This is echoed by the Draft National Livestock Policy states that the National Government will strengthen security in all livestock producing areas

To address insecurity due to cattle rustling and other cultural based conflicts among the pastoralists communities, the Draft National livestock Policy, requires the two levels of government to put in place mechanisms to enhance security and minimise conflicts; support and initiate peace forums among the communities; and establish a livestock identification

and traceability system in collaboration with stakeholders. *The Stock and Produce Theft Act* (Cap 355) provides for the offences of the theft of stock and the need to account for the possession of stock in certain cases. Any person who has in his possession any stock, which may reasonably be suspected of being stolen or unlawfully obtained, shall be guilty of an offence (s 9). It prohibits the sale of stock or produce in proclaimed district at night (s 16).

Firearms Act (Cap 114) has provisions for regulating, licensing and controlling the manufacture, importation, exportation, transportation, sale, repair, storage, possession and use of firearms, ammunition, airguns and destructive devices. It establishes the Firearms Licensing Board to certify suitability of applicants and periodically assess proficiency of firearms holders; issue, cancel, terminate or vary any licence or permit issued. No person shall purchase, acquire or have in his possession any firearm or ammunition unless he holds a firearm certificate in force at the time (s 4). The same applies to the manufacture of any firearm or ammunition, save on behalf of the Government (s 9).

Trading and Marketing Framework

According to the *National Trade Policy 2009*, to maintain the safety and quality of livestock and livestock products, the national government will support the relevant institutions to carry out effective safety and quality control measures; strengthen training, supervision and regulation of service providers to assure quality service delivery; facilitate enforcement of the sanitary standards; and facilitate the development of codes of practice that are compliant to national and international standards; and develop and implement a livestock produce traceability system, and develop and implement food safety regulations. In addition, strategies and legislations for the protection and economic utilisation of holding grounds, outspans, and livestock stock routes to be developed and enacted as well as for livestock marketing infrastructure at ports of entry. To take measures to enhance trade in livestock and livestock products, the *Draft National Livestock Policy* urges the national Government to establish an agency to promote marketing of livestock and livestock products; and another agency to control and enforce quality of livestock products.

The *Veterinary Policy 2015* calls on the national government to support capacity development for compliance with, and provide for effective sanitary, phytosanitary and traceability measures and quality assurance at all levels in animal value chains with the county governments enhancing awareness. A few laws that give effect to the above policy requirements include the *Agricultural Produce (Export) Act* (Cap 319), which provides for the grading and inspection of agricultural produce to be exported; the *Dairy Industry Act* (Cap 336), which provides for the improvement and control of the dairy industry and its products; *Meat Control (Importation of Meat and Meat Products) Regulations*, 2001 to grant import permit issued from the Director of Veterinary Services for meat products; *Food, Drugs and Chemical Substances Act* (Cap 254) to prevent the adulteration of food, drugs and chemical substances, and; *Prevention of Cruelty to Animals Act* (Cap 360) to address animals welfare).

Environmental and Natural Resources Management

The Constitution article 69 creates an obligation to ensure that benefits accruing from natural capital are shared equitably and fairly, which includes rangeland resources. All environmental provisions in the Constitution are justiciable and one need not be directly affected to go to court (art.70).

The *National Environment Policy, 2013* purpose is to provide for a better quality of life for present and future generations through sustainable management and use of the environment and natural resources. One of the objectives is to ensure sustainable management of the environment and natural resources, such as unique terrestrial and aquatic ecosystems (e.g. ASAL), for national economic growth and improved livelihoods. *Water Resource Users Associations* are county-based community frameworks that control use and access to water within and across borders. With regard to dryland forests, the *Forest Policy, 2014* requires the Government to (a) promote sustainable management of dryland forests. The *National Wildlife Conservation and Management Policy 2017* includes the wildlife conservation and management on private and community Lands.

The *Environmental Management and Coordination Act (EMCA)* (No 8 of 1999) is the framework law for environment in the country. As a framework law, it means that the responsibility for its enforcement rests with the various sector institutions (wildlife, water forestry, livestock, agriculture, mining) whose laws must be in line with the EMCA. Other relevant laws include the *Wildlife Conservation and Management Act*, (No.47 of 2013) to provide for the protection, conservation, sustainable use and management of wildlife in Kenya; the *Natural Resources (Benefit Sharing) Act, 2018*, which establishes a system of benefit sharing in resource exploitation between resource exploiters, the national government, county governments and local communities; *Forest Conservation and Management Act* (No.34 of 2016), establishes the Kenya Forest Service to conserve, protect and manage all public forests including dryland forests, and; the *Plant Protection Act* (Cap 324) for the prevention of the introduction and spread of disease destructive to plants.

Table 4.3: Kenya Pastoralism Legal and Institutional Framework

	Area	Lead Government Agency	Main Legislation & Policy
1	Pastoralism Development	Ministry of Devolution and ASAL Regions Ministry of Agriculture, Livestock and Fisheries	The Constitution Draft Rangelands Management and Pastoralism Strategy 2018 – 2028 Vision 2030 ASAL Policy 2012 Grazing Management Acts and Plans County Government Act 2012
2	Livestock Production and Resources	Ministry of Agriculture, Livestock and Fisheries Directorate of Veterinary Services Kenya Veterinary Board Kenya Agricultural and Livestock Research Organisation (KALRO) Kenya Animal Genetic Resources Centre	Draft National Livestock Policy 2019 National Livestock Policy 2008 Veterinary Policy 2015 Animal Diseases Act (Cap 364) Crop Production and Livestock Act (Cap 321) Meat Control Act (Cap 356) Veterinary Surgeons and Veterinary Paraprofessionals Act (No. 29 of 2011) Kenya Food and Drugs Authority Bill, 2019 Kenya Agricultural and Livestock Research Act (No.17 of 2013)

3	Land Governance	Ministry of Land National Land Commission County Governments Land Registries Environment and Land Court National Council for Land Use Policy	The Constitution National Land Policy 2009 National Land Use Policy 2017 Land Act (No.6 of 2012) Community Land Act (No. 27 of 2016) Community Land Regulations, 2017 Land Adjudication Act (Cap 284) Land Registration (No.3 of 2012) National Land Commission Act 2012 Environment and Land Court Act, 2011
4	Migration & Security Framework	Ministry of Interior and Coordination of National Government Department of Immigration Services	The Constitution Kenya Citizenship and Immigration Act, 2011 The Stock and Produce Theft Act (Cap 355) Firearms Act (Cap 114) Basic Education Act 2013
5	Governance Structures	National Government County governments	The Constitution County Government Act (No 17 of 2012), The Public Participation Act, 2018 The Protection of Traditional Knowledge and Cultural Expressions Act (No.33 of 2016)
6	Trade and Marketing Regulations	Ministry of Trade and Industry Ministry of Agriculture, Livestock and Fisheries Kenyan Livestock Marketing Council Kenya Meat Commission (KMC) Kenya Trade Network (KENTRADE)	National Trade Policy 2009, Agricultural Produce (Export) Act (Cap 319) Meat Control (Importation of Meat and Meat Products) Regulations, 2001 Prevention of Cruelty to Animals Act (Cap 360) Public Health Act (21 Of 2017) Kenya Food and Drugs Authority Bill, 2019 Livestock and Livestock Products Marketing Board Bill, 2019 Dairy Industry Act (Cap 336),
7	Environment & Natural Resources Management	Ministry of Environment National Environment Management Authority (NEMA) Kenya Wildlife Service (KWS) Ministry of Water, Sanitation and Irrigation	National Environment Policy, 2013 Forest Policy, 2014 The National Wildlife Conservation and Management Policy 2017 Environmental Management and Co-ordination Act (No. 8 of 1999) Environment and Land Court Act 2011 Wildlife Conservation and Management (Protection of Endangered and Threatened Ecosystems, Habitats and Species) Regulations, 2017 Wildlife Conservation and Management Act (No. 47 of 2013)

4.3.2 Institutional Framework

The Ministry of Devolution and ASAL Regions is in charge of pastoralist development in the country. It is also mandated (Executive Order No. 1 of 2018) to promote and manage the cross border initiatives, which will involve programmes implementing the Protocol on Transhumance Protocol. These initiatives include interstate relations and covers issues of livestock production, livelihoods, water and livelihood development programmes (aquaculture, irrigation and apiculture). Thus the Ministry has recently concluded an MoU with Ethiopia, and is currently negotiating MoUs with Uganda over the West Pokot area; South Sudan over the Turkana area, and; Somalia over the North Eastern area. The Ministry of Agriculture, Livestock and Fisheries is responsible for supporting holistic planning for the livestock sector in collaboration with other government agencies and stakeholders. The Ministry includes divisions on Range Resources Development Division, Livestock Production, Livestock Marketing, Animal Resources and Training. The National Veterinary Services provides regulatory services, international veterinary certification services, diagnostic services, disease investigation; capacity building, quality and safety assurance of animal products.

Kenya Agricultural and Livestock Research Act (No.17 of 2013) provides for the establishment and functions of the Kenya Agricultural and Livestock Research Organisation (KALRO) to provide for the co-ordination of agricultural research activities which livestock research activities is well anchored. The *Kenya Animal Genetic Resources Centre Order, 2011* creates the Centre to establish a national livestock resources gene bank and take custody of livestock tissues, DNA, semen and embryos of all livestock in Kenya; conserve and avail livestock genetics for both research and breeding; and engage in strategic semen production.

The main institutions in charge of land use and tenure include the Ministry of Lands and Physical Planning, the National Land Commission (NLC), and the County governments Land Registries. The Ministry of Lands provides advisory and national physical planning services; land adjudication and settlement; land surveying and mapping; administration and management of private land and maintenance of land records; valuation of land and assets for stamp duty; registration of land transactions and other legal documents, and; determination of land and boundary disputes in collaboration with Surveys Department. The mandate of the NLC is drawn from the Constitution of Kenya 2010 among other laws to: -

1. Manage public land on behalf of the national and county governments;
2. Encourage the application of traditional dispute resolution mechanisms in land conflicts;
3. Recommend a national land policy to and advise the national government on a comprehensive programme for the registration of title in land in Kenya;

In addition, the Environment and Land Court is established as a superior court with original and appellate jurisdiction to hear and determine disputes relating to the environment and land. The National Land Use Policy establishes the National Council for Land Use Policy to take full responsibility for coordination, sectoral integration and mobilisation of resources for implementation of the Policy.

The marketing aspects of the livestock sector are addressed under market related provisions of the Draft National Livestock Policy 2019. The Livestock and Livestock

Products Marketing Promotion Board will be the main body dealing with the concerns of the marketing of livestock and livestock products in the country (under the *Livestock and Livestock Products Marketing Board Bill*, 2019). Livestock market trade is also promoted and assisted by the Kenyan Livestock Marketing Council (KLMC). The Kenya Meat Commission (KMC) established under the *Kenya Meat Commission Act* (Cap 363) with the objective of promoting the country's meat industry through the purchase and slaughter of livestock and to act as a strategic drought management agent as a buyer of last resort. Most of the export and import sanitary certification functions have been transferred to the Kenya Trade Network (KENTRADE), an agency of the Ministry of Finance meant to ease the flow of goods between Kenya and importing and exporting partners.

The *Kenya Food and Drugs Authority Bill, 2019* provides for the regulation and management of food, drugs and chemical substances and creates an FDA Authority to ensure adequate and effective standards and guidelines for regulation of health products and technologies (clause 12) including animal and animal products (clauses 97&99).

The National Environment Management Authority (NEMA) under the Ministry of Environment is the premier institution overseeing the implementation of the EMC Act; conducts environment audit in research fields and laboratories, and conducts environmental impact assessment for projects. The *National Drought Management Authority Act (No.4 of 2016)* creates the Authority to exercise overall coordination over all matters relating to drought management; coordinate drought response initiatives being undertaken by other bodies, institutions and agencies, and; take appropriate actions that aim at minimising drought induced risks and building drought and climate change resilience among communities (s 6).

4.3.3 Country Assessment

With the Constitution, the existence of various government departments, and the recognition of the pastoralists' special status in the country as a group deserving affirmative action offer opportunities to promote pastoralists' interests. The need for accelerating pastoralism development in Kenya has long been widely recognised and various attempts have been undertaken to redress the imbalance. However, the actual implementation has not resulted in the desired outcomes; improving service delivery, addressing insecurity and safeguarding their traditional livelihoods. Moreover, the impact of climate change on the region is likely to aggravate the pastoralist situation unless the laws and policies are applied. Though pastoralists face a number of challenges including reduced pasture and water shortage during times of drought, they have been overlooked while commercial livestock production and ranching have enjoyed the benefits of sustained land use planning and support by the government through extension services, market outlets and access to credit.

Despite the numerous livestock laws and policies, poor coordination and collaboration with the neighbours on disease control across the borders means that the control of trans-boundary diseases remains a major challenge. Establishment of disease free zones is sabotaged by private wildlife conservation schemes, which encroach on livestock production areas and spread livestock diseases. The lack of coordinated control on livestock movement and coordinated traceability mechanism makes disease control difficult (ICPALD, 2017a).

Land has been a contentious issue in the country's history. In the development of the 2010 Constitution, land issues took up a lot of the discussion time as well as constituted the most submissions from the public. Therefore, it is no surprise that land rights for all Kenyans, and

particularly for pastoralists, is well entrenched in the legal framework. The acknowledgment of the pastoralists land concerns, the need for legal recognition of communal land governed by customary law has been properly enshrined, and specific laws such as the *Community land Act* are designed to address their concern. Defining and demarcating the essential transhumant corridors, and establishing the necessary infrastructure for the pastoralists under the Protocol can be accommodated under the current legal framework. However, implementation of the laws by both levels of government has been slow.

The country's governance structure should resolve a key challenge regarding rangeland communities' governance. There have always been tensions in the relationship between the formal state institutions and the informal traditional rules and social structures of pastoralists and agro-pastoralists. Traditional institutions are good at enforcing rules for sustainable use of rangelands while formal governance structures tend to weaken or overlook customary institutions and their capacity to manage resources and conflicts. With the introduction of devolution, the governance with meaningful participation and decision-making powers has been taken to the village level. Still, certain issues affecting the pastoralist such as insecurity have to rely on the national government since security is not a devolved function.

Kenya's expansive and porous borders characterised by a lot of cross-border movement to traditional seasonal grazing grounds and for trade, coupled with little national government presence (for service deliver) has provided a fertile ground for insecurity to thrive. The insecurity among the pastoralist border communities affects livestock production and trade. Though the country has the basic framework to reduce incidents of insecurity especially cattle rustling including an Anti-Stock Theft Unit in the police service, it does not have an effective LITS that can assist in the recovery of stolen animals for instance. Animal identification has been accomplished through hot iron branding but, in recent years, efforts have been made to trace animal products throughout the entire food chain and many initiatives are ongoing to implement modern LITS systems of farm animals (Draft National Livestock Policy).

There is currently no national livestock marketing policy, except the provisions for livestock marketing in the Draft National Livestock Policy and the National Trade Policy, which has the potential to develop mismatched cross-border trading and marketing rules. The creation of the Livestock Marketing Board may lead to the formulation of livestock policy framework that incorporates the requirements of the Protocol. And enforcement of regulations to curb informal livestock trade is difficult, mainly as a result of a vast expanse of border areas to control informal livestock trade (ICPALD, 2017a).

4.3.4 Country Recommendations

To facilitate the implementation of the Protocol on Transhumance in the country, the following recommendations apply.

Pastoralism Development

1. Approve and implement the Draft Rangelands Management and Pastoralism Strategy 2018-2028 to operationalise all pastoralism and rangelands policies that focus exclusively on issues of pastoralists and natural rangeland resources.
2. Develop a pastoralism legislation taking into account the Protocol on Transhumance requirements for the establishment of transboundary infrastructure including

transhumant corridors, the delivery of services, cross-border frameworks.

3. Establish a permanent institutional framework for ASAL development coordination, resource mobilisation, research, monitoring and evaluation.

Livestock Resources and Development

4. Approve the draft National Livestock Policy 2019 for immediate implementation.
5. Establish and implement an animal identification and traceability system that complies with international standards.
6. Implement the National Land Use Policy 2017 by establishing a framework for livestock management in rangelands including provision of water, pasture and fodder development.
7. Establish frameworks for collaboration with neighbouring countries to strengthen both national and regional disease surveillance, monitoring and control.
8. Develop a legislative framework for extension service delivery and establish harmonised institutional arrangements for management of extension programmes within the livestock sector.

Land Governance

9. Implement the *Community Land Act 2016* fully to streamline pastoral land resource use and tenure.
10. Implement the National Land Use Policy with respect to conservation and management of trans-boundary natural resources by:-
 - (i) Identifying, mapping and planning for all trans-boundary natural resources
 - (ii) Developing trans-boundary conflict prevention resolution mechanisms;
 - (iii) Harmonising policies and legal framework for environmental and natural resource management in line with regional and international conventions;
 - (iv) Enforcing and/or implementing existing MEAs related to trans-boundary resource use;
 - (v) Promoting the use of bi-lateral agreements and other instruments to facilitate sustainable trans-boundary resource use.
11. Develop a legal framework to effectively streamline the management of trans-boundary ecosystems and harmonise regional legislations/policies that relate to conflicting land use practices.

Governance Structure

12. Empower the customary and traditional institutions systems that govern natural resource use in the pastoral areas and rangelands with the necessary resource to enable them to effectively fulfil their role.
13. Institutionalise the involvement of the communities in planning, utilisation and monitoring and development of range and pasture resources in all the pastoral areas by enacting the country based *Public Participation Acts*.

Security and Mobility Framework

14. Review, strengthen and strictly enforce the cattle rustling law against high-level personalities.
15. Establish a livestock identification and traceability system in collaboration with stakeholders.

16. Develop an inter-governmental policy framework to govern cross-border security management and peace building.
17. Strengthen state security institutions and border control services among the transboundary pastoralists' communities.

Trading and Marketing

18. Enforce sanitary standards by developing codes of practice that are compliant with national and international standards.
19. Develop capacity for compliance with sanitary, phytosanitary and traceability measures and quality assurance at all levels in animal value chains.

Environment and Natural Resources Management

20. Develop the capacity for rangelands management and governance by building and supporting institutions training on rangeland management.
21. Document indigenous coping mechanisms to climate change within the framework of the *Protection of Traditional Knowledge and Cultural Expressions Act*.
22. Develop and implement an Integrated Land Use Master (Development) Plan for the ASALs.

4.4 SOMALIA PASTORALISM FRAMEWORK

Due to the prolonged civil war and political instability in the country, Somalia relies primarily on pre-1990s laws that are inadequate and not fit for purpose with respect to pastoralism and mobility concerns. The laws are being revised and updated but progress is slow. In addition, most of the government institutions responsible for pastoralism matters are either poorly resourced, underdeveloped or have not yet been established. The relevant functions and systems are still to be developed since the Provisional Constitution of the Federal Republic of Somalia (2012) is the only existing basis for most government operations.

The Constitution is the supreme law of the country after the Shari'ah (art. 4) and no law can be enacted that is not compliant with the general principles and objectives of Shari'ah (art. 2(3)). It adds that all the previous existing laws apply unless new laws supersede them but their application is complicated by the reality of applying the laws in a federal system when they were created for a unitary system. Consequently, a plural system of governance exist; the pre-1991 statutory law (secular), the Shari'ah laws and the Somali customary law (known as Xeer) (IGAD Somalia Land). Hence, obtaining the laws from Somalia for review has been difficult partly because the laws are inadequately documented. Moreover, the study has barely been able to obtain policies and laws from Puntland and Somaliland for review, therefore gap in those regions is as result of lack of data rather than inadequacy of their legislative and policy framework.

4.4.1 Legislative Framework

Livestock Production and Resources

The Vet-Gov Act is currently used to supervise the industry according to the official interlocutors but the author has not received a copy for review. The Vet Court was established to deal with any disputes of any aspects of livestock. The Federal Ministry of livestock has a supervisory over the court. The other members are ministries of livestock from the Somali Regions. In addition, a number of policies and statutes are under development, all of which have not

been reviewed. The *Draft Livestock Development Strategy* is under development supported by World Bank and FAO.

Land Governance

The land provisions are under chapter three (3) of the Constitution, which provides that land is Somalia's primary resource and the basis of the people's livelihood (art.43). Land shall be held, used and managed in an equitable, efficient, productive and sustainable manner. The Federal Government shall develop a national land policy that shall be subject to constant review. That policy shall ensure:

- Equity in land allocation and the use of its resources;
- The guarantee of land ownership and registration;
- That land is used without causing harm to the land;
- That any land and property dispute is resolved promptly and satisfactorily for all;
- That the amount of land that a person or a company can own is specified;
- That the land and property market is regulated in a manner that prevents violations of the rights of small land owners.

The Federal Member States are empowered to formulate land policies at their level. No permit may be granted regarding the permanent use of any portion of the land, sea or air of the territory of the Federal Republic of Somalia. The Federal Government, in consultation with the Federal Member States and other stakeholders, shall regulate land policy, and land control and use measures. The allocation of the natural resources of the Federal Republic of Somalia shall be negotiated by, and agreed upon, by the Federal Government and the Federal Member States in accordance with this Constitution (art.4). Every person has the right to own, use, enjoy, sell, and transfer property. The state may compulsorily acquire property only if doing so is in the public interest (art. 26(1). In Somaliland, all land belongs to the state of Somaliland according to the Somaliland Constitution (art. 12(1). The Somaliland *Agricultural Land Law* of 1999 stipulates that no rain-fed agricultural land shall be taken out of the common rangelands (art.17). The authority to manage, appropriate land shall lie with Somaliland Government (Land Management law, No.17 Art 1). In Puntland too, the land belongs to the State and the government is only able to allocate land.

However, no national land tenure and resource management system policy has been formulated. The country is thus using the previously existing laws key of which is the *Agricultural Land Law*. This officially transferred control of tenure rights over all Somali land from traditional authorities to the government. This law does not recognise the customary rules and procedures of the traditional institutions that govern access to land. It abolished private ownership and was embarking on major conversions to leasehold from the state before the outbreak of civil war. However, weak legal enforcement of the law has resulted in disparities between statutory tenure and actual land use and allocation. Subsequently, the use of Xeer law increased in governing land relations between clans with the fall of the national government in the 1990s.

The Xeer law addresses aspects of land management with a focus on pastoral land use and it views rangelands as a collective clan asset though clans allow other clans to graze on the land in times of need. Land is divided along clan lines and commonly called by clan names e.g. Issa land. The second level of division follows the lineage e.g. land of Waheed. Beyond

these geographic divisions, land is shared. It prohibits building enclosures or permanent settlements on pasture land (IGAD Somalia Land). Community-based tenure varies with land quality; the clan as a whole oversees land suitable only for grazing, while land that produces regularly is controlled by individuals to whom use-rights have been allocated. Land left in bush (uncultivated) by a farmer cannot be claimed by anyone else unless it is clear that the farmer intends to abandon the parcel (UNECA, 2017).

Governance Structures

Somalia is founded upon the fundamental principles of power sharing in a federal system (Constitution art 3(3)). The governance structure provides for two levels of government: the Federal Government Level and the Federal Member States Level, which is comprised of the Federal Member State government, and the local governments (art.48.) Somaliland's legislature (Baarlamaanka) has two chambers; the House of Representatives and the House of Elders, representing traditional leaders. Puntland also bases its support upon tribal elders and their way of organisation along lines based on tribe and kinship.

The three systems of law are:

- i. Customary law, (Xeer), is adapted for administering, managing and regulating common property such as pasture, grazing land, forests and water. The elder's court of the clan constitutes the source of Xeer and has the role of the supreme guardian. Customary laws forms the more sophisticated system applied in all regions.
- ii. Secular law are the laws existing before the civil war most of which were enacted in the sixties and seventies and new laws that have been promulgated anchored on the authority of the current constitutional dispensation These are few for areas such as pastoralism and livestock sector or non-existence for land tenure.
- iii. The Shari'ah law, which is the primary source of law for all Somali regions. Shari'ah governs mainly family related issues as marriage, divorce and inheritance.

Though governance in the south and central Somalia is greatly hampered by the Al-Shabaab insurgency, the pastoralists have resorted to traditional systems. The pastoral communities are able to negotiate and resolve conflict over the sharing and use of pasture and water in the dry seasons or during droughts using Xeer law and traditional authorities.

Security and Mobility Framework

Every person lawfully residing within Somalia has the right to freedom of movement, freedom to choose their residence, and freedom to leave the country and every citizen has the right to enter and to remain in the country ((art.21). A major source of insecurity in the pastoralists' areas is the widespread proliferation of arms among the pastoralists. The country has laws restricting the ownership of firearms. The main guiding firearm control legislation in the country includes the 1963 Public Order Law. Only licensed gun owners may lawfully acquire, possess or transfer a firearm or ammunition though the law does not require that a record of the acquisition, possession and transfer of each privately held firearm be retained in an official register.

Border management is very weak and the previous laws do not provide any clarity. There is no legal clarity vis-à-vis the draft Transhumance Protocol since the Constitution is still under development, the finalisation that has been delayed because as a federal system,

all the Regional States need to have an input in each and every national law. Agencies and authorities along the border rely on existing MoUs and such arrangements.

Environment and Natural resources Management

The Federal Government shall give priority to the protection, conservation, and preservation of the environment against anything that may cause harm to natural biodiversity and the ecosystem. The Regional governments affected by environmental damage shall take the necessary measures to reverse desertification, deforestation and environmental degradation, and to conserve the environment and prevent activities that damage the natural resources and the environment of the nation (Constitution art.45). Somaliland has enacted the *Environmental Conservation Act*, but the rest of Somalia regions rely on laws that predate the civil war.

The Ministry of Humanitarian Affairs and Disaster Management developed the *National Multi-Hazard Disaster Monitoring and Response Plan 2018* that aims to establish an understanding of the structure and operating procedures for addressing all aspects of disaster preparedness and response in Somalia. The plan seeks to ensure that disaster preparedness for response is carried in a coordinated and collaborative manner, ensuring the greatest protection of life, property, health and environment.

Development Policy

The *Somalia National Development Plan (NDP) 2017-2019* is the first NDP crafted by the central government of Somalia since 1986. The NDP is being implemented across the federal government and federal member states. Among other benchmarks, the NDP has identified some policy priorities to achieve relevant to pastoralism: more resilient communities that can withstand internal and external shocks' including cyclical droughts and other natural disasters through integrated approaches towards risk management and development, and; vibrant economic sector, with particular focus on agriculture, livestock and fishing aiming for a stable growth of 3-5 percent annually. The NDP proposes to: -

- i. Strengthen the institutional capacity and infrastructure of the Livestock Sector - Ministry, laboratories, research centres and specialised institutions.
- ii. Improve livestock health services and increase the productivity.
- iii. Enhance livestock and livestock products trade (in local, regional and international markets).
- iv. Establish a system for range, forest and wildlife management.

It is targeting the development, approval and enforcement of the National Veterinary Code, policies, sub-sector regulations and strategies including the range, forest and wildlife policies. It seeks to establish five fodder reserve centres in the main pastoral migration routes and five livestock holding grounds along the animal transportation tracks and new quarantine while improving the percentage of the national livestock immunity against major livestock diseases.

Table 4.4: Somalia Pastoralism Legal and Institutional Framework

	Area	Lead Government Agency	Main Legislation and Policy
1	Livestock Production and Resources	Ministry of Livestock, Forestry and Range Directorate of Veterinary Services Ministry of Animals, Plants and Pasture	Draft livestock Development Strategy VET-GOV Act Drafts - Milk Act, Non-Wood Products Act, Goat Production Act, Poultry Act Livestock Health Policy Somalia National Development Plan (NDP) 2017-2019
2	Land Governance	Ministry of Livestock, Forestry and Range Ministry of Agriculture	The Constitution The Agricultural Land Law of 1975
3	Migration & Security Framework	Ministry of Interior and Federal Affairs Ministry of Foreign Affairs and International Cooperation Immigration and Naturalization Department Ministry of Constitutional Affairs Ministry of Justice	The Constitution
4	Governance Structures	Ministry of Constitutional Affairs Ministry of Justice	The Constitution
5	Trade and Marketing Regulations	Ministry of Commerce and Industry Ministry of Foreign Affairs and International Cooperation	Somalia National Development Plan (NDP) 2017-2019
6	Environment & Natural Resources Management	Directorate of Environment of the Office of the Prime Minister Ministry of Agriculture Ministry of Energy and Water Ministry of Natural Resources and Petroleum	National Multi-Hazard Disaster Monitoring And Response Plan 2018

4.4.2 Institutional Framework

The Ministry of Livestock, Forestry and Range of the Federal Government and the Ministries of Livestock and Environment of the Federal States in the regions are responsible for pastoral affairs. Ministry mandate is in three broad areas that include agriculture, food processing and co-operation. In Somaliland the Ministry of Agriculture manages all agricultural land while the Ministry of Environment and Rural Development oversees the management of pastoral land in conjunction with the Ministry of Water Development, Ministry of Mineral Resources and Energy, and the Ministry of Livestock. The Ministry of Environment is also tasked by virtue of the 1999 law with the conservation of the environment.

Livestock sector organisations are organised under NEALCO, which was established to assist livestock producers including pastoralists. It has been at the forefront of encouraging value addition and commercial livestock farms which are active and thriving selling milk, butter cheese, animals in exchange for other goods; animal hides and skins for leather products such as to Athi River Tannery in Kenya, and; promote the transactions and markets. Generally, livestock producers face the challenges of vaccines and feed are unavailability, which must be sourced from as far as Ukraine.

There is no national institution to manage land and land administration in the country is very weak. There is also no specific Ministry that is responsible for land but some institutions are responsible for aspects of land administration. The key ones are the Ministry of Livestock, Forestry and Range and the Local Government structures of the district. These have been empowered to deal with land management. The mayor, with the approval of the municipal council, has the authority to grant permanent ownership over land and this authority can be delegated to a committee appointed by the mayor (IGAD Somalia Land).

Somalia has not had a central body for environmental issues nor functioning environmental policies, environmental management plans or strategies, until the establishment of the Ministry of Environment and Disaster Management in 2005. Instead, a National Environmental Committee, with representatives from 13 Ministries/Agencies, served as the coordination body for environmental governance.

4.4.3 Country Assessment

Somalia's Constitution provides that state shall promote the positive traditions and cultural practices of the Somali people, whilst striving to eliminate from the community customs and emerging practices which negatively impact the unity, civilisation and wellbeing of society (art. 31). In particular, the state shall promote the cultural practices and local dialects of minorities (art. 40(4)). Moreover, the recognition of such fundamental rights does not deny the existence of any other rights that are recognised or conferred by Shari'ah, or by customary law or legislation to the extent that they are consistent with the Shari'ah and the Constitution. Thus pastoralists have constitutional security to maintain their lifestyle and system of livelihood, which has proved to be the best way to secure people's livelihoods while maintaining fragile arid and semi-arid ecosystems.

On the face of it, Somalia has an uphill task to develop the policies and enact the laws that will facilitate the implementation of the Protocol on Transhumance. The country currently lacks the laws, the policies and the institutional framework necessary for the Protocol application. The civil war and ongoing violent conflict has destroyed public and private sector infrastructure including ministry headquarters, specialised institutions, laboratories,

research centres, and livestock export and production and processing infrastructure. The weak institutional capacity of the central and regional governments translates into limited compliance with, or enforcement of regulations, codes and standards that exist. The fragmentation of the country's governance structure without a concomitant strong and or legitimate central government is another source of problem for implementation. Moreover, the federalism and decentralisation in the country means potentially more laws are developed by Regional states that may be incompatible with national laws and hence incompatible with the regional laws. The expected multi-level laws for compliance and the plurality of the legal system constitute a burden for the pastoralists.

Somali pastoralists have lost control over their land to the government-created village council, which replaced the community leaders when the Agriculture law was enacted. That law and continuing legal vacuum has increased land concentration, displaced landholders, and increased tenure insecurity for the remaining landholders without leasehold rights. The loss of traditional grazing lands to private livestock enclosures, and the increased numbers of livestock and the lack of law enforcement force people to demand more and more from their rangelands and woodland and forestlands. As there is an almost complete breakdown of legislative and traditional controls governing use and access to natural resources, there are now clan conflicts over natural resources. The legal system tenure jeopardises the rights of women by allowing only one concession holder per household, since titles were almost always issued in the husband's name (IGAD Somalia Land).

Nevertheless, there still exist the body of customary knowledge and management institutions relating to rangeland management that has survived the country's woes. These customary laws, rules and regulations remain the backbone for local land use management, and for resolving disputes. That it can operate in such a hostile environment means that, if the Protocol is implemented in Somalia, it shall rely heavily on the Xeer system. The difficulty will be in creating that convergence with the formal system that denies traditional governance and authorities a say in managing their pastoral resources.

4.4.4 Country Recommendations

There is need to establish, create, institute a number of items before the Protocol can be implemented. To facilitate the implementation of the Protocol on Transhumance in the country, the following recommendations apply.

Pastoralism Development

1. Develop a pastoralism legislation encapsulating the customary law of the Somalis taking into account the Protocol on Transhumance requirements for the establishment of transboundary infrastructure including transhumant corridors, the delivery of services, cross-border frameworks.
2. Develop the capacity to undertake the legal and institutional reforms necessary for developing the framework for implementing the Protocol.
3. Develop cooperative initiative instruments for transhumant pastoralism along the border with Ethiopia within the context of the Protocol.
4. Undertake a comprehensive sensitisation among the pastoral community leaders for the review the Protocol to create an understanding of the need for ITC and migratory corridors to facilitate their cross-border transhumance.

Livestock Resources and Production

5. Prioritise pastoralism production systems in the development of the livestock production laws and policies such as the Draft Livestock Development Strategy, Milk Act and Non-Wood Products Act.
6. Implement the *Somalia National Development Plan* (NDP) 2017-2019 proposals for the livestock sector:
 - (i) Strengthen the institutional capacity and infrastructure of the Livestock Sector - Ministry, laboratories, research centres and specialised institutions.
 - (ii) Improve livestock health services and increase the productivity.
 - (iii) Enhance livestock and livestock products trade (in local, regional and international markets).

Land Governance

7. Develop a national land policy that guarantees pastoral land ownership and registration, and prevents violations of pastoral land rights. The Federal States in formulating land policies at their level must adhere to the national framework.
8. Consider the use of alternative system while awaiting the development of the national policy such as registering land at the village level and recognising customary tenure systems to continue to govern land access and control.

Governance Structures

9. Establish a system of governance similar to the Somaliland and Puntland where traditional leaders are incorporated into the formal governance structure in the entire country.
10. Recognise legally Xeer, Somali customary law, to have equal force and effect as the other laws of the country to facilitate the pastoral land administration and management and traditional systems of governance.

Security and Mobility Framework

11. Strengthen security for the pastoralists particularly along the borders to enable them access their resources and avoid Al Shabaab exaction.

Environment and Natural Resources Management

12. Establish a system for rangeland management to protect and conserve the ecosystem with pastoralist contribution.

4.5 SOUTH SUDAN PASTORALISM FRAMEWORK

There is no single framework that manages the cross-border pastoralism mobility, but there is long mutual customary agreement among the border traditional leaders and communities. There are some provisions in the land laws and policies that advocate for the protection of pastoralists' rights to land and water. Generally, the rights of pastoralists are enshrined in the Transitional Constitution of the Republic of South Sudan (RSS) 2011. The Constitution urges all levels of government to institute a process of progressively developing and amending the relevant laws to incorporate customary rights and practices and local heritage. The authority of the government at all levels shall be derived from the Constitution and all national and states' laws shall conform to it (art.3). In addition, the following constitute the sources of legislation in: the Constitution; written law; customs and traditions of the people; the will of the people; and any other relevant sources (art.5).

4.5.1 Legislative Framework

Livestock Resources and Development

The needs of the pastoralist as envisaged in the Transhumance Protocol are a policy issue that has not specifically been addressed in livestock development policy of the Ministry of Livestock and Fisheries. The sector's legal framework not yet been developed but it is guided by the following policy documents: -

The *Draft National Livestock Development Policy* has indicated the right of pastoralists to access, manage and use communal rangelands in the traditional grazing areas with the country. There are no clear rangeland entitlements and responsibilities.

The Ministry of Animal Resources and Fisheries *Policy Framework and Strategic Plans 2012 -2016* requires the ministry to promote best animal husbandry practices to reduce environmental degradation; and promote sustainable management of rangelands and pastures through integrated range management practices. The Department of Range Management collaborates with relevant agencies in range and livestock research, wildlife activities and water development for livestock use. Some of the Strategic objectives include improve utilisation and conservation of rangelands and water resources by mapping livestock migratory routes and grazing areas, and establishing of water catchments. Activities include develop mechanisms for drought preparedness and undertake efforts to institutionalise community involvement in natural resources management.

The *National Agriculture and Livestock Extension Policy (NALEP)* aims to guide the establishment and implementation of a pluralistic extension system which will be instrumental in achieving national agricultural and livestock goals, through developing and improving the efficiency of sustainable agriculture, livestock, water, forestry and rangeland resource sub-sector activities based on sound environmental practices. These include the creation of a favourable and enabling environment for and provision of a quality and effective extension services to a broad clientele at all levels. It also promotes a wide range of participatory extension approaches and methods and empowers rural households and their institutions for the use of appropriate rural services and the adoption of appropriate extension messages.

Comprehensive Agriculture Master Plan (CAMP) 2017 is South Sudan's first national agriculture development plan and a very comprehensive set of technical documents to guide the country to achieve the agriculture transformation in 25 years over the period 2015-2040. CAMP is an investment plan covering five sub-sectors (crops, livestock, fishery, forestry and institutional development) for effective and efficient agricultural development by all stakeholders in the country. It aligns with national development policies and objectives and with the policies and strategies of the five sectors.

Land Governance

The country's land law provides for a combination of customary and statutory land ownership and the rights, control, use and its resources and their conservation are governed in the same way.

Part 12 of the Constitution addresses land ownership, tenure and natural resources. The people of South Sudan own all the land and its usage shall be regulated by the government (art.170). It classifies the land tenure in South Sudan as consisting of public land, community

land and private land. Public land is land owned collectively by all people of South Sudan and held in trust by the appropriate level of government. Community land shall be held by communities identified on the basis of ethnicity, residence or interest and includes communal grazing lands, hunting grounds, or locations of traditional sacrifices and worship. Private land includes any registered land held by any person under a freehold tenure or leasehold tenure; or designated private land by law. The rights in land and resources owned, held or otherwise acquired by the Government shall be exercised through the appropriate or designated level of government, which shall recognise customary land rights under customary land law. Article 172 establishes the Land Commission as an independent commission. The Constitution adds that every person has the right to acquire or own property as regulated by law (art.28). It also recognises the right of women to own property and share in the estates of their deceased husbands together with any surviving legal heir of the deceased (art.16).

The Land Act 2009 is the main land legal framework whose primary purpose is the regulation of land tenure and protection of rights in land in the country while creating an enabling environment for economic development in the land and natural resources sectors (s 3). Among others the law seeks to resolve land disputes, taking due consideration of the customary practices and interests of the people; and recognise customary law and practices related to land owned by communities as part of the normative system of land regulation as long as they are consistent with the provisions of the Constitution and other laws.

The law requires the government and state agencies to consult with the communities concerned before any decision related to their land is taken or implemented. Land may be acquired, held and transferred through customary, freehold and leasehold tenure (s.7). Customary land rights including those held in common shall have equal force and effect in law with freehold or leasehold rights acquired through statutory allocation, registration or transaction (s 8(6)). In particular, community land may be registered in the name of the following: a community; a clan or a family in accordance with the customary practices applicable; a community association in accordance with the document constituting the association; or a traditional leader in trust for the community and with the consent of the members of the community (s 58). Customary rights to land (chapter five (V)) include the allocation of customary land rights by the Traditional Authority within a specific community for residential, agricultural, forestry, and grazing purposes. Customary law and practice of the locality shall apply to resolve disputes related to land.

The pastoralists use of, and access to, land are also secured constitutionally. Pastoral land means the land used by livestock for grazing, pasture and watering, including routes provided for their mobility and space ancillary to the activities. Customary seasonal access rights to land shall be respected, provided that these access rights shall be regulated by respective states taking into account the need to protect agricultural production, community peace and harmony, and without unduly interfering with or degrading the primary ownership interest in the land, in accordance with customary law (s 6(5)). Chapter ten (X) of the Act accords protection to the pastoral lands, outlines the communal grazing land rights and stipulates the penalty for contravention of those rights. Pastoral lands shall be delineated, managed and protected by the appropriate level of land administration. Without permission, no person shall obstruct the approaches to any water point in the communal grazing land; or carry out any activity which may prevent or restrict the residents

of the traditional communities concerned from exercising their grazing rights; and take any other measure that the community land users find appropriate to take in order to protect such an area (s 67).

The *Local Government Act 2009* provides for a decentralised system of land administration by establishing the local governments organs and the Local Land Board. It also provides a framework for the management and administration of land and local resources, recognition of the traditional authorities, community rights, and customary law and the courts (ss. 88-92). The customary legal system is the one that is primarily applied in the context of land and natural resources management. Section 91 provides for the establishment of Council Land Committees or Authorities to ease the processes of land management and administration within its jurisdiction.

The *Draft South Sudan Land Policy 2013* objective is to strengthen land tenure security for all the citizens by recommending greater statutory protection for land held under customary tenure arrangements through enactment of a Community Land Act. Such an Act would extend the rights to women to redress past imbalances that limited women's access to, rights over and decision-making powers over land and its biological resources. It provides that communities and persons enjoying rights in land shall be consulted in decisions that may affect their rights in lands and resources. The policy adopted a number of guiding principles, which included security of land rights, equitable access to land and provision of security and diversity in tenure types.

Governance Structures

Under Part 11 of the Constitution, local communities through their administrative structures and representatives are granted rights and powers of decision-making over their natural resources including their pastoral lands. The country has a federal governance structure with the following administrative units: National Government, State Government, Local Government and Traditional Authority. Traditional Authorities are institutions of traditional system of governance. They are semi-autonomous authorities at the State and local government levels which administer customary law and justice in the customary law courts; and exercise deconcentrated powers in the performance of executive functions at the local government levels within their respective jurisdictions.

Two types authorities are recognised under the *Local Government Act 2009* (s 113): -

- (a) Kingdoms with centralised monarchical systems of rule covering the territorial areas of one or more counties, and
- (b) Chiefdoms with decentralised system of rule, which perform traditional and local government functions covering the territorial area of counties where the traditional authorities are organised on the basis of lineages and clans.

The customary court system presided by traditional authorities under customary law is vibrant handling an estimated 90 percent of the disputes (criminal and civil cases) in the country. Chapter 6 of the *Local Government Act 2009* provides that the Customary Law Courts are to decide customary cases within their jurisdiction based on 'the customs, traditions, norms and ethics of the communities' (s 98). The courts are organised at the County ("C" Courts), Payam ("B" (regional) Courts) and Boma ("A" (chief) Courts) levels, and Town Bench Courts (with "A" and "B" competences), with the 'C' courts being the highest customary law courts of the County.

Migration and Security Framework

The framework and process for permits and border crossing include: -

- Local and bilateral agreements between traditional authorities, local governments and the migrating transhumant pastoralists
- MOUs between the neighbouring countries.
- Negotiation and consultation’.
- Movement permits are granted but there is no identification for livestock

There is no system of identification for livestock making it easy for cattle rustling to thrive. Meanwhile, country has laws restricting the ownership of firearms. These are regulated by the Ministry of the Interior, the Central Registry of Firearms, the Police and the Southern Sudan Bureau for Community Security and Small Arms Control under provisions of the *Police Act of 2009*, the South Sudan Police Service Regulations of 2010 and the Firearms Bill of 2016. Only licensed gun owners may lawfully acquire, possess or transfer a firearm or ammunition. A record of the acquisition, possession and transfer of each privately held firearm should be retained in an official register. A unique identifying mark on each firearm is required. The maximum penalty for unlawful possession of a firearm is 10 years in prison and/or a fine.

There are no safe border crossings except the negotiated passages between northern States of South Sudan and southern States of Sudan (Baggara and Fellata). Local agreements between Dinka and Misseriya take place in former Northern Bahr el Ghazal state.

Environment and Natural Resources Management

The *National Environment Policy* 2012 acknowledging the escalating degradation of the rangelands from overgrazing and overstocking calls for adoption of integrated range management practices to promote the sustainable management of pastures and rangelands. Programmes for improving livestock production based on consideration of the specific climates, terrains, and ecosystems particularly in relation to seasonal grazing patterns and the quantity of available water should be designed. Rotational grazing of livestock populations on the rangeland in order to reduce the risks of soil compaction is also advocated. Finally, it calls for the strengthening of local communities’ role in environmental management. These include the establishment of community based organisations which are expected to play a pivotal role in advocacy on sustainable management of natural resources through mobilising and sensitising local people; supporting local group participation in management; and ensuring that the concerns of the underprivileged are integrated in to the national development plans.

Table 4.6: South Sudan Pastoralism Legal and Institutional Framework

	Area	Lead Government Agency	Main Legislation and Policy
1	Livestock Production and Resources	Ministry of Animals Resources and Fisheries (MARF) Directorate of Veterinary Services Department of Livestock and Fisheries Extension	Local Government Act 2009 Sudan Vision 2040, 2011 Draft National Livestock Development Policy National Agriculture and Livestock Extension Policy (NALEP) Comprehensive Agriculture Master Plan (CAMP) 2017
2	Land Governance	South Sudan Land Commission Ministry of Wildlife Conservation and Tourism	The Constitution of RSS 2011 Land Act 2009 Local Government Act 2009 Draft South Sudan Land Policy 2013 South Sudan Vision 2040, 2011
3	Migration & Security	Ministry of Interior Smalls Arms Bureau, Ministry of Internal Affairs Directorate of Nationality, Passports and Immigration	The Constitution of RSS 2011 Police Act of 2009 South Sudan Police Service Regulations of 2010 Firearms Bill of 2016
4	Governance Structures	Local Government Board Minister of Justice Customary Justice System	The Constitution of RSS 2011 Local Government Act 2009
5	Trade and Marketing Regulations	Ministry of Trade, Industry and East Africa Community Affairs	
6	Environment & Natural Resources Management	Ministry of Environment Ministry of Agriculture & Forestry Ministry of Irrigation and Water Resources Minister of Humanitarian Affairs and Disaster Management Ministry of Petroleum	National Environment Policy 2012 Mining Act of 2012 Water Policy 2007

4.5.2 Institutional Framework

The Ministry of Animal Resource and Fisheries is the lead agency for pastoralism matters through its Directorate of Animal Production and Range Management. Its Department of Animal Production formulates and prepares policies, strategic plans and programmes to develop animal production in the country; and coordinates and monitors implementation of animal production programmes in the states. It is also meant to formulate legislation and regulations to ensure that the quality of inputs used in animal production operations meet technical and safety standards as specified in in law and in international standards setting bodies such as the WTO and OIE. The Department of Range Management promotes and

coordinates programmes to improve the productivity and conservation of natural pastures and fodder plants for optimal animal production. It provides guidance to ranchers and pastoralists on matters relating to proper livestock grazing system. Finally, it collects livestock and environmental data, analyse and evaluate for the purpose of drought monitoring, early warning systems and contingency planning.

The Directorate of Veterinary Services (DVS) is responsible for preparing and enforcing the laws governing livestock diseases control/eradication and the safety of food of animal origin. It identifies priority animal health problems that affect animal and public health; and develop control plans and strategies. The Department of Livestock and Fisheries Extension ensures and oversees the establishment of a participatory, demand-driven and pluralistic extension system, as enshrined in the NALEP.

The lead agencies for land use planning and management are the South Sudan Land Commission, established under article 172 of the Constitution as an independent body, and the Ministry of Land, Housing and Physical Planning. The Land Commission's key mandate is the development of land policies and land laws and mediating and arbitrating land disputes. The Ministry of Housing's functions include the formulation of policy, standards and regulations on land management, surveying and mapping of South Sudan and safe keeping of maps and documents. It has established a national land registry and decentralised registries. The Payam Land Council is responsible for the management and administration of land in the different Bomas composing the Payam. There are also the County Land Authority and the State Land Commission responsible for land matters in their respective jurisdictions. The NGO South Sudan Land Alliance (SSLA) works to enhance access and ownership of land for all people of the country, particularly the marginalised, by advocating to influence land policy and legal frameworks.

Key ministries responsible for natural resources management include the Ministry of Environment, Ministry of Agriculture and Forestry and the Ministry of Humanitarian and Disaster Management. These ministries have developed frames on environmental, climate change and disaster management framework.

South Sudan NEALCO *Strategic Plan 2016-2021* and Action Plan for 2016/2017 contains a regulatory framework that promotes the mainstreaming of pastoralist development policy (water infrastructure and rehabilitation of corridors, disease risk management, land use, value addition, mitigation of natural resource based conflicts and other related pastoral development issues).

4.5.3 Country Assessemnt

The South Sudanese legal system is built on a combination of statutory and customary laws. Though the country has attempted to enact the relevant laws required by the Constitution, the progress has been slow, partly hampered by the sporadic violent struggles in the country. South Sudan had only 10 states until the 2016 crisis that saw the birth of 32 new states. This brought further confusion, because the units do not have both human and financial resources to execute their mandates (Jimbo, 2019).

Pastoralism friendly laws have not yet been passed and there is no policy framework in the pipeline. There is also limited legislative and institutional capacity for land administration due to the political instability in the country. The Draft Land Policy 2011 recognises that insecure rights to land are a concern for people throughout the country and has been

the major source of the ongoing conflicts in the country. The various factors of land that exacerbate the fragile country include: -

- Dislocations due to civil war or natural calamities; post-war conflict over land rights.
- Weak land administration and management - Both customary and statutory, have been weakened by decades of civil war and lack of investment in their core capacity and development.
- Lack of transparency and accountability - There are widespread concerns about corruption, favouritism, and capricious actions by some government officials and traditional leaders in the administration and allocation of land.
- Gender bias and discrimination - Despite the existence of legal provisions recognising the equal rights of women to land, widespread knowledge, recognition and protection of those rights, remains limited throughout Southern Sudan.
- Conflicts over access to land with pasture and water - Conflicts among pastoralist groups and between pastoralists and agriculturalists are widespread in Southern Sudan.
- Land-grabbing - The acquisition of land without regard for the interests of existing land rights holders. In many parts of the region, land holdings, large and small, urban and rural, are being allocated or illegally occupied without taking account of the rights of current land holders.
- Disagreements regarding boundaries between counties and payams - There has been considerable conflict between county and payam officials and residents over boundaries between counties and between payams.

Despite the degree of legal recognition provided by the Land Act and Constitution, there is lack of clear implementing policies and regulations and judicial interpretation of provisions, which has undermined the implementation of the Land Act and Constitution. Customary laws and practices govern access to land and tenure in most of South Sudan, and the Constitution has stated that all levels of government should develop the essential frameworks to give effect to the pastoralists' constitutional rights. These are hierarchically considered lesser than statutory laws resulting in the potential for alienating community interests and rights over the resources on their land if a statutory law supersedes those interests. Hence the provisions in the Land Act 2009 giving priority interest to agricultural production over customary seasonal access rights to land. The reliance on the pre-Land Act with each state having its own land policies, laws and regulations is aggravating an already volatile situation. Moreover, in some states, the Payam Land Councils are non-existent, and where they exist they're ineffective (Jimbo, 2019).

Policies and laws that might give greater protection and recognition to community interests over land and its resources have been dragging in their development specifically, the Draft Land Policy. Thus weak land management institutions and the lack of enabling laws have contributed to uncontrolled large-scale land dispossession of pastoralists. Investors' extractive industries and large-scale agricultural schemes have already displaced a large number of pastoralists from their traditional grazing grounds particularly in the northern part of the country (UNECA, 2017). Unfortunately, a number of these agricultural concessions lie idle abandoned by investors because of conflict but denied to pastoralists as they are considered private lands restricting their access to water and grazing lands, and used chemicals that destroy traditional ecosystems (Jimbo, 2019).

Therefore, there is urgent need to enact the Draft Land Policy 2011 and its implementing laws to fast track the process of protecting pastoralists' lands and resources including grazing grounds and cross-border transhumant migratory lands.

4.5.4 Country Recommendations

To facilitate the implementation of the Protocol on Transhumance in the country, the following recommendations apply.

Pastoralism Development

1. Develop a pastoralism policy and initiate the development of pastoral legislation taking into account the Protocol on Transhumance requirements for the establishment of transboundary infrastructure including transhumant corridors, the delivery of services, cross-border frameworks.

Livestock Resources and Production

2. Develop a livestock sector policy framework with a strong focus on pastoralist and transhumant production system.

Land Governance

3. Implement the Constitutional provisions upholding and protecting pastoralists' security of tenure. This includes approving the *Draft South Sudan Land Policy 2013* and the enactment of a Community Land Act.
4. Facilitate the South Sudan Land Commission to enable them to discharge their mandate of securing and protecting pastoralists land rights.
5. Empower the decentralised system of land administration at the local level particularly the Payam Land Council to fully function.

Governance Structures

6. Allocate adequate resources to the local institutions including the local land institutions and the customary court system presided by traditional authorities.
7. Customary laws and practices in the country must be acknowledged as being equal to statutory laws particularly with respect to laws governing access to land and tenure.

4.6 SUDAN PASTORALISM FRAMEWORKS

The country's Constitution, Sudan Interim National Constitution 2005, provides that ethnic and cultural communities shall have the right to freely enjoy and develop their particular cultures; practice their beliefs, use their languages, observe their religions and raise their children within the framework of their respective cultures and customs. It recognises the rights of women and children (art.47). Thus the State is required to guarantee equal right of men and women to the enjoyment of all civil, political, social, cultural and economic rights including by combatting harmful customs and traditions that undermine the dignity and the status of women (art. 32(1). In addition, every citizen shall have the right to freedom of movement and the liberty to choose his/her residence as well as right to leave and return to the country as regulated by law (art. 41).

4.6.1 Legislative Framework

Pastoralism Development

Sudan has no law or policy directed towards the development and improvement of

pastoralism or providing for the pastoral communities livelihoods. However, there are a number of frameworks addressing rangeland management, which are integral to pastoralist lifestyle and productive activities.

Rangelands and Forages Resources Development (Rationalisation) Act of 2015. This law aims at (i) promoting the pasture land being a public natural resource; (ii) addressing the ravages that have a negative impact on its quality and quantity (such as fires, deforestation, overgrazing and expansion of unplanned agriculture), and; (iii) reducing the lack of adequate coordination between the bodies concerned with natural resources and the absence of an integrated plan to exploit them. Special hema (allocated rangelands for specific purposes) are to be established by a decision of a Minister (s 5). The Act provides for the specification, development and protection of routes to facilitate the movement of animals between the grazing sites and water resources in which other uses and certain acts are prohibited (ss. 11-13). This rangeland mapping and registration of lands suitable for grazing includes rangelands recognised among pastoralists. These comprise livestock routes ('Mashiras'), wet and dry grazing areas, and resting sites. The Act empowers communities to manage pastoral reserves under the supervision of State Range and Pasture Department.

The Act's main elements include:

- The development of good governance in pastoral areas to increase the production of pastures.
- The protection of pasture from overgrazing and grazing management and the development of productive capacities of pastoral resources.
- Planting of forage trees using water harvesting techniques and seed dispersal to improve pastures and diversity of vegetation.
- Curbing the deterioration of pastures, and develop natural and pastoral reserves.
- The maintenance of natural pastures and focusing on the production of irrigated pastures.
- The organisation and management of water, according to the needs of livestock.
- Raising public awareness on sustainable pastures management.
- Coordination with the relevant bodies' in particular forestry, mechanised agriculture and water resources.
- The establishment of fire lines and control for the protection of grassland from fires and encroachment of unlawful and unplanned agriculture.
- Identifying nomadic routes and corridors in coordination with the relevant authorities.
- The development of nomadic sector and concern of rural women.

Local Orders and Local Acts have been passed in different states to give effect to the Act and further regulations are to be issued to ensure its effective implementation. These include:

- Rangeland registrations
- Ranches approval
- Water points administration
- Protection of rangelands from natural fire
- Inspection of hema system
- Cultivation inside rangeland
- Fees for rangeland utilisation

The *National Action Plan for the Implementation of the Great Green Wall for the Sahel and Sahara Initiative* has identified 5 components or strategic interventions areas that impact on pastoralists:

1. Restoration of degraded lands
2. Forest and rangeland sustainable management
3. Support to livelihoods and resilience of local communities
4. Capacity development through research and knowledge management and dissemination of best practices
5. Implementation and monitoring framework.

The Initiative involves projects aimed at improving the pastoralist communities' livelihoods. These include projects on: The Integrated management and sustainable use of rangelands; The conservation and utilisation of range plant genetic resources for rangelands rehabilitation and enhancing food security; Fodder production for livelihoods improvement, and; New livestock routes to increase resilience of pastoralists and conserve natural resources in the Northern Kordofan state.

Organisation of Farmers and Pastoralists Act 1992. The law aimed to establish institutional structures to organise nomads and farmers and to assist in the implementation of government programmes for rural development. In particular, a Higher Council for Farmers and Pastoralists was supposed to be established to implement the Act. To date the Act is still by and large awaiting implementation.

The Draft Agriculture and Animal Producers' Legislative Act 2010 is to repeal the *Organisations of Farmers and Pastoralists Act of 1992*. This will eliminate traditional representation of pastoralists and replaced it with a new system that supports government policies of pastoral land alienation for agricultural production and extractive activities. If enacted, pastoralists will lose their own unique nationally representative body and the 1992 Act will not be effective. As membership of the proposed agricultural and animal producers organisations is open to all those who own agricultural and animal resources, it is likely that pastoralist issues will be overshadowed (Young et al, 2012 & UNECA 2017).

Livestock Resources and Development

The Agricultural Revival Programme (ARP) 2008 provides a strategic framework for the prioritisation and planning of investments that will drive Sudan's agricultural growth and development. The ARP emphasises strengthening the commercialisation of the traditional farming sub-sector and envisages substantial private and public investments to stimulate growth in the irrigation and semi-mechanised farming areas. For instance, the Programme is expected to increase the national herd to 142.8 million heads and the improvement of the quality of livestock products by virtue of the expansion of irrigated and rain-fed farms and ranches, increased production of forage crops and feeds and the intensification of the veterinary health care. Noting that 85 percent of the animal resources depend on pastoral and transhumant systems of production, which render the provision of services and the transfer of technology needed for improvement difficult, ARP proposes a project for the legalisation (drafting a law to replace *Farmers and Pastoralist Act, 1992*) and development of pastoralists routes through opening routes, wells, dams, hafirs, and services.

Among others, ARP intends to:

- Create the environment conducive to sustainable development of agricultural productivity and production;
- Resolve the land tenure issues which discourage optimal use of large areas in the irrigated and rain-fed sectors;
- Develop and modernise agricultural systems with a view to increasing the efficiency of utilisation of resources;
- Protect natural resources through the development of forests, pastures and range lands and re-establishment of the vegetative cover and the development of the Gum Arabic Belt and the combat of desertification;
- Protect consumers and promote exports, by implementing the laws and procedures which ensure food safety and control of the quality of plant and livestock products whether processed locally or imported in accordance with the accredited international standards;

The Second Five Year Plan of the ARP (2015 -2019) comprise: control degradation of resources, conserve genetic resources, enhance livelihoods of low income groups, alleviate poverty at household and community levels and increase their resilience under an environment of climate change.

Ordinance No. 4 of 2007 establishing the General Authority for Veterinary Supply - deals with the establishment of the General Authority and defines its objectives and competencies, in particular to provide, import, process, store and deliver veterinary supply.

Quarantine Law No. 18 of 1974 aims to lay down regulations and rules for the management of the quarantine.

Land Governance

The legal framework governing land in Sudan is a complex mix of statutory law and customary law that have evolved over time, with little to no coordination between the two (IGAD, Land Sudan). Land tenure systems in Sudan are complicated and consequently their role for optimum utilisation of natural resources is confused and ineffective. The right to acquire or own property is enshrined in the Constitution, which adds that no private property may be expropriated, save by law in the public interest and in consideration for prompt and fair compensation. Part Thirteen Chapter Two (II) covers land resources and states that regulation of land tenure, usage and exercise of rights thereon shall be a concurrent competence, exercised at the appropriate level of government (art.186). It adds that all levels of government shall institute a process to progressively develop and amend the relevant laws to incorporate customary laws, practices, local heritage and international trends and practices. There is a provision for the establishment of a National Land Commission that shall arbitrate between willing contending parties on claims over land (art. 187). However, these land provisions have never been effected. Instead, the country operates under laws that deny the pastoralist communities security of tenure to their lands and vests nearly all the land in the state.

Customary land tenure systems exist throughout Sudan and govern the practices of pastoralists in defining the use of communal lands. Customary law varies throughout the country but has general features that are summarised as following. In the past the tribe, the

principle unit of social organisation, had the responsibility for allocation of land for various uses within the boundaries of the tribal domain (dar). Land belonged to the people and usufructuary rights, not ownership rights, are the predominant forms. Occupied lands for cultivation, pasture, woodcutting, etc. are not formally registered. Land remains with the tribe or clan and cannot usually be sold to outsiders. The allocation of land rights is vested in the village's headman (Sheikh) who determines who has rights to land and other natural resources and who must seek permission for use of land. Women have restricted access to land rights and in most cases, they do not possess the land, unless inherited from fathers or husbands (IGAD, Land Sudan).

The Land Settlement and Registration Act, 1925, avails the major provisions regarding registration of land rights, at least as to those privately held. It empowers the Attorney General, whenever "it appears expedient" to do so, to publish a notice stating that it is intended to effect a settlement and registration of land within a specified area (s 4). The law specifies in detail the principles to be followed in determining outstanding rights and interests to land and provides dissatisfied parties with a method of appealing the decisions reached. Prior to 1970, the registration and settlement of rights and interests in land had not been effected throughout the Sudan.

The Unregistered Land Act, 1970 (Act no. 23) (repealed in 1984) stated that "all land of any kind whatsoever, whether waste, forest, occupied or unoccupied, which is not registered before the commencement of this Act, shall, on such commencement, be the property of the Government and shall be deemed to have been registered as such as if the provisions of the Land Settlement and Registration Act, 1925, have been duly complied with" (s 4(1)). This applies to rangelands, rural lands and other uncultivated or non-residential lands. The Act abolished the rights of native authorities to allocate land. This major land reform has contributed to the greatest source of conflict in the country as it effectively granted the majority of Sudanese land to the government (estimated at more than 90 percent). Yet in most pastoral and rural areas, land is considered as a communal property belonging to a certain tribe or clan and is largely unregistered thus this law essentially authorised government expropriation of pastoralists' lands.

The Civil Transactions Act, 1984 (CTA) repealed all previous civil legislation including land laws but reaffirmed the 1970 law's provision on state ownership. It stated that the 'Land belongs to God' as provided for in the Quran. However, the state is responsible for the control of land, and is owner of all land, which was not registered in the name of a private party prior to 6 April 1970 (s 559(1)-(3)). That freehold land shall be deemed merely the ownership of the "usufruct" meaning that even land recognised as private under the 1970 legislation reverts to state although the right to use such land may belong to a private party (ss. 559-560). Any right or interest in state-owned land can only be obtained through registration at a government registry (ss. 615(2), 651, 687(2)). The Act provides the following rights to land: -

- (i) Usufruct (Manfa'a) - the right to use land belonging to another person (s 693). It may be acquired through deed, inheritance, will or the exercise of possession. Whoever uses rural waste land through cultivation, building, or irrigation, becomes entitled to usufruct over the land in question.
- (ii) Servitudes (easements).
- (iii) Water Rights - defined as a right to use water for the purpose of irrigating land or plants (s 592(1)).

- (iv) Grazing and Wood-cutting - The central and regional governments have general authority to impose restrictions on animal grazing, taking into account the benefit of the whole community and the protection of animal resources (s 565(1)(a)-(b).
- (v) Cultivation of Crops - The right to grow crops on land belongs to the owner of the land.
- (vi) Oil and Mineral Rights - A general provision of the law provides that the owner of land owns the subjacent soil below it to the extent of its useful limit (s 516(4).

The central and regional governments in Sudan are charged with promoting land use and have the power to divide, survey, and register land. Committees at the central and regional levels, comprised of 3-5 members, are to handle the grant of usufruct over public lands (s 566(1)-(2). The CTA further legalised elements of Shari'ah by stating that in the absence of a legislative provision governing an event, a judge could apply the existing Shari'ah rule as established by the Quran and the Sunna (s 3). Otherwise, the law of Sudan shall govern the possession, ownership and rights regarding land in the Sudan, including contracts with respect to Sudanese land. Three categories of land ownership systems emerged in association with the continuous issuance and amendments of the land use policies. These include: Government, community and private lands. Individuals and entities can obtain leasehold interests of various durations and terms.

The Abolition of the Prescription and Limitation Act - this law ensured that occupation of the land i.e. the use of the land as opposed to registered ownership would confer no legal rights over the land. The fact that a community or an individual has been exploiting a piece of land for generations gives them no rights over its future use.

Amendments to the CTA 1984 (1990, 1991, 1993): These amendments, not only confirm State ownership over unregistered lands, but removed any chance of legal redress against the state. No court is competent to deal with any suit, claim or procedures on land ownership against the Government or any registered owner of investment land allocated to him.

Successive Encouragement of Investment Acts (1996, 1999, amended 2000) - These laws aim to create a dynamic environment for investors by removing administrative and legal constraints through the creation of highly centralised governmental bodies (the General Corporation for Investment, the Ministerial Council) that can allocate land and resources.

Governance Structures

The Constitution outlines the decentralised system of governance for the country under Part 1 chapter IV. The levels of government provided include the national level of government, the state level of government, and the local level of government, which shall be throughout the Sudan.

Abolition of Native Administration Act (1971) - This act, combined with the *Local Government Act* of 1971, abolished the colonial practice of using tribal leaders as local representatives of the state. It also destroyed the legal basis for the dar, or tribal homeland, which guaranteed a community's access to, if not ownership over, resources (land, water, grazing) in a given territory, which is central to the pastoralist way of life. In 1980, the tribal homelands were formally abolished.

The *Native Administration Act (1989)* defines the different native administration levels (the traditional leaders) the act lists the powers of native administration, which include the

conservation of forests, pastures, maintenance of livestock corridors, fire protection (forests and rangeland) and the environment. In addition, the Judiciary (Rural Courts) Regulations assign judicial powers to native leaders. In this respect, local leaders work in collaboration with local governments.

The *Local Government Act 1998* - was an attempt to restore the local governance and land management and administration vacuum at the local level created by the abolition of the Native Administration system in 1971. It established the structures and functions of local governments within the federal system. The Act confers important responsibilities to the States and localities (mahaliyya) and calls for:

- Identification of territories of jurisdiction that reflect rural reality with the possibility of identifying territories of local governance that coincide with customary land management territories;
- Setting and functioning of land management committees. These committees exist in every locality and be functional;
- Development of local bylaws for regulation of land management, including grazing lands and transhumance routes;
- Active and legal involvement of customary authorities and land users in land management, e.g. states, have the authority to formulate their respective Native Administration State Acts.

The *Local Government Act 2003* - this establishes and defines administration units, divide power and assign responsibilities. The law defines the localities (rural councils), their legal entity, powers and responsibilities. The Locality, according to the act, is an autonomous body with its main function contained in provision of services and development of the locality. To that effect, a Legislative Council is to be established.

Trading and Marketing

Law No. 35 of 2004 on Veterinary Quarantine for Import and Export of Live Animals and Meat - aims at establishing health conditions for trading in live animals and meat. Animals can enter the centres for inspections, quarantine centres and slaughterhouses only if accompanied by the Health Certificate approved by the State of origin. The Health Certificate and the seals are needed also for exporting animals.

Environment and Natural Resources

The Constitution guarantees that people shall have the right to a clean and diverse environment and both the State and the citizens have the duty to preserve and promote the country's biodiversity (art.11). The State shall promote, through legislation, sustainable utilisation of natural resources and best practices with respect to their management. The government has undertaken this duty and environmental and natural resources protection frameworks are abundant on paper.

Environmental Protection Act 2001 harmonises the different sectors environmental laws, sets environmental standards, and calls for the protection of biodiversity. It aims at the protection of the environment. It aims to protect the environment, its purity, its natural balance and to preserve its components of the basic elements, its social and cultural systems to lead to safety and sustainable development in the interest of the coming generations. It states

the importance of environmental impact assessment to be carried prior to implementation of any development project. The Act also calls for raising environmental awareness and popular participation in decision-making process and setting policies. It provides for the establishment of the High National Council for Environment and Natural Resources to coordinate regulation and protection of the sector.

The Forests and Renewable Natural Resources Act, 2002, provides the framework for the management and protection of forests and renewable natural resources encompassing pasture and range. The Act deals with both forests and renewable natural resources based on an independent corporation to be established, the 'National Forests and Renewable Resources Corporation'. However, the Act has not yet been implemented.

The Wildlife Conservation and National Parks Act 1986 aims at the conservation of wild animals, game areas and protection of national parks. It also describes the procedure of establishing natural parks.

Water Resources Act 1995 - aims at reforming the organisation of the Nile and Non-Nilotic surface waters as well as the groundwater. It establishes the National Council for Water Resources (NCWR) to design and rationalise the management and use of water resources to mitigate the effects of natural disasters.

Table 4.6: Sudan Pastoralism Legal and Institutional Framework

	Area	Lead Government Agency	Main Legislation and Policy
1	Pastoralism Development	Ministry of Animal Resources, Range and Pasture	Rangelands and Forages Resources Development (Rationalisation) Act 2015 The National Action Plan for the Implementation of the Great Green Wall for the Sahel and Sahara Initiative Organisation of Farmers and Pastoralists Act 1992 Draft Agriculture and Animal Producers' Legislative Act 2010
2	Livestock Production and Resources	Ministry of Livestock, Fisheries and Range Lands, General Directorate of Animal Health and Epizootic Disease Control	The Agricultural Revival Programme (ARP) 2008 Ordinance No. 4 of 2007 establishing the General Authority for Veterinary Supply Quarantine Law No. 18 of 1974

	Area	Lead Government Agency	Main Legislation and Policy
3	Land Governance	Ministry of Environment, Natural Resources and Physical Development Ministry of Agriculture and Forestry Ministry of Livestock, Fisheries and Range Lands,	The Constitution The Unregistered Land Act, 1970 (Act no. 23) The Civil Transactions Act, 1984 The Abolition of the Prescription and limitation Act Organisation of Farmers and Pastoralists Act 1992 Draft Agriculture and Animal Producers' Act 2010
4	Migration and Security Framework	Ministry of Interior, Immigration & Civil Registration, Ministry of Justice Higher Council for Migration Passport and Immigration Department Ministry of Foreign Affairs	The Constitution
5	Governance Structures	The regional states Local government	The Constitution Local Government Act 2003 The Native Administration Act (1989) The Local Government Act 1998
6	Trade and Marketing Regulations	Ministry of Trade	Law No. 35 of 2004 on Veterinary Quarantine for import and export of live Animals and Meat
7	Environment & Natural Resources Management	Ministry of Livestock, Fisheries and Range Lands, Ministry of Agriculture and Forestry Ministry of Environment, Natural Resources and Physical Development Higher Council for Environment and Natural Resources (HCENR)	The Constitution Environmental Protection Act (2001) The Forests and Renewable Natural Resources Act, 2002 The Wildlife Conservation and National Parks Act 1986 Water Resources Act of 1995

4.6.2 Institutional Framework

The key government department with an explicit focus on pastoralists' interest include the Range and Pasture General Directorate within the Ministry of Animal Resources and Fisheries. Its mandate includes policy formulation, monitoring the impact of climate change on the range resources, conservation and sustainable utilisation of range plant genetic resources, providing technical support to States, and realising the coordination and cooperation needed for the protection and improvement of the natural resources of

the pastor sector. The other key department is the Department of Education for Nomads within the Ministry of General Education. This department has set up sub-departments in all northern states for the education of nomads. The aim is to absorb 99 percent of nomadic children into education by paying specific attention to the education of girls (Young et al, 2012).

There are two major bodies representing pastoralists at national level: the Pastoralists Union (PU) and the Nomads Development Council (NDC). The PU is the trade union or guild for Pastoralists in Sudan, acting as coordinator between the pastoralists and other relevant actors. The NDC is a relatively new organisation and is initially focusing its efforts on the Darfur region. The strategic goal of the Council is to create a well-developed nomadic community and promote sustainable development to achieve prosperity and welfare, with particular focus on improving the status of nomadic women as an essential element in the promotion of a spirit of peace and peaceful coexistence (Young et al, 2012).

The Independent National Land Commission (NLC) with representative of all levels of government established by the Constitution (art.187). Its functions are:

- To arbitrate between willing contending parties on claims over land;
- To entertain claims, at its discretion, in respect of land, be they against the relevant government or other parties interested in the land. The parties to the arbitration shall be bound by the decision of the Commission on the basis of mutual consent and upon registration of the award in a court of law;
- Enforce the law applicable to the locality where the land is situated or such other law as the parties to the arbitration agree, including principles of equity;
- Accept references on request from the relevant government or in the process of resolving claims, make recommendations to the appropriate level of government concerning land reform policies and recognition of customary rights or customary land law;
- Assess appropriate land compensation including but not limited to monetary compensation, for applicants in the course of arbitration or in the course of a reference from a court;
- Advise different levels of government on how to coordinate policies on national projects affecting land or land rights; and
- Study and record land use practices in areas where natural resource development occurs.

But the NLC has yet to become operational. Within each state there is also a Land Registration Office that is part of the Civil Court and is responsible for maintaining a state land registry. These institutions' capabilities vary significantly from state to state, but all lack necessary training and resources.

At the local level or mahalliya level, the customary authorities intersect with formal government institutions. Each mahalliya supports a Land Conflict Resolution Committee that is responsible for resolving land disputes. There are customary institutions which function to some degree in rural areas. In some areas, traditional leaders continue to allocate land, and many such leaders maintain some record of land occupancy and transfers according to their norms and traditions.

The Farmers and Pastoralists Unions work is meant to improve the service and production environments for their respective members and to advocate for members' concerns with government and non-government actors. The Sudanese Environment Conservation Society (SECS) is a civil society group concerned primarily with the issue of environment. Its mandate is to raise environmental awareness and to advocate for environmental management and accountability.

The Ministry of Environment and Physical Development was established in 2003 with a mandate covering surveying, construction, urban planning and, more recently, environment, which is derived from the *Environmental Protection Act* of 2001. The Higher Council for Environment and Nature Resources (HCENR) is a technical advisory and coordinating body under the Ministry mandated to assume the role of coordination between the various concerned government agencies and between national and state governments on environment and natural resource management. It is concerned with policies, legislation and strategic planning in relation to environmental and natural resources conservation and management. It undertakes periodic reviewing of environmental legislation to make them more effective instruments for sustainable development, and promotes environmental awareness and education.

4.6.3 Country Assessment

Sudan has no legislative framework dedicated to pastoralism in the country. Instead, pastoralism interests though acknowledged in the Constitution, have to rely on sectoral laws to be advocated. The laws and policies that support institutions working in rangelands (including pasture and fodder) management in particular are the closest institutional framework for the pastoralists. A review makes it clear that upholding and protecting pastoralists' interests is not a priority for them. In fact those sectoral frameworks focus on the importance of increased agricultural production at the expense of pastoralist development. Despite the focus on livestock, there is little acknowledgement of the importance of pastoralist livestock production. Generally MARF is oriented towards commercial productivity – quality and quantity, and generating export revenues (Young et al, 2012).

Moreover, the laws and policies regulating range resource utilisation are uncoordinated, which means that they are still issued locally at State level and lack national interest (Pastoral Society Sudan, 2007). Though the *Rangelands and Forages Act* squarely addresses pastoralist concerns (such as rights to rangelands for transhumant practices) the implementation of the Act has been adversely affected by complicated procedures at the local land registries and high registration fees. So far only Kassala State has registered wet grazing areas enclosures under the Act (Rahim, 2019). The organisational home of the pasture and fodder department has been transferred many times between different ministries related to agriculture, livestock and natural resources, thus stifling its effectiveness. In addition, the dispersal of rangeland resources under multiple ministries poses another challenge. Rangeland management is under Ministry of Animal Resources, forests management is under the Ministry of Agriculture and Forests and wildlife management is under the Ministry of Interior (Rahim, 2019 & Young et al, 2012).

The pastoralist dilemma is worsened by the land tenure system of the country. Land contestation has been at the heart of many conflicts in the country. A survey of the main

policy concerns for pastoralists identified pastoral land use rights as the major issue. Other concern areas included natural resources, conflict and security, education, health and basic services as well as mobility and livestock migration (Young et al, 2012). The land tenure and land use rights are the most important challenges to sustainable resource use as they greatly influence the exploitation of natural resources. The current land law and the lack of a unified legal framework of land tenure are to blame. The CTA 1984 challenged communal and tribal ownership by vesting all land in the government. Since pastoral land is rarely registered, the government took ownership of their lands to do with as it pleased. For pastoralist, other interests on land, access and use, are more important than ownership, and their perennial mobility also means that they have to focus on sharing in order to gain access to their migratory corridors' resources. The CTA empowered the government to sell land and grant leases to the Gulf States and other investors in most parts of the country at the expense of pastoralists. Pastoralists were also dispossessed when the State exploited any land with proven natural resources of national significance (oil, minerals, gas, forests) further reducing their pasturage and restricting or diverting their mobility.

The governance structure introduced in from the 1970s has increased their vulnerability. The systematic undermining of traditional governance systems through the promulgation of the laws withdrew their formal recognition began the journey towards depriving the pastoralists, who rely heavily on local governance to order their lives and manage their scarce resources, of a significant component of their cultural identity. These include the 1970 Land Law and the 1971 Abolition of Native Administration Law. A by-product of the ill-conceived land reform of the 1980s was that it effectively sounded a death knell for the traditional systems and authorities of the pastoralist communities, stripping away their powers to manage their pastoral resources. It eroded the traditional leaders powers to resolve disputes among themselves and increasingly disputes with the farming communities. The later laws attempts to re-empower the local and traditional governance structures do not seem to be working since they were not anchored on a Constitutional foundation.

Therefore, Sudan's pastoralists' framework is not only inadequate, but the existing applicable policies do not recognise their right to maintain their pastoralism livelihood, indicated by the government policy practices. The implementation of the Protocol on Transhumance in the country though welcomed, would require a series of legislative and institutional changes to empower the pastoralists to effectively participate and derive the benefits from its application. The major ones would be to restore their land rights and recognise their traditional governance systems.

4.6.4 Country Recommendations

To facilitate the implementation of the Protocol on Transhumance in the country, the following recommendations apply.

Pastoralism Development

1. Develop a policy and institutional framework devoted exclusively to pastoralism rights and interests to give effect to the constitutional rights of pastoralist in the country including access to basic services such as education.
2. Enact a law for pastoralism resource use and management including migratory corridors, cross-border engagement, mobile services and transhumant infrastructure.

3. Establish a permanent institution concerned with pastoralism matters at the level of a Higher Council to coordinate pastoralism issues in the country including the Protocol on Transhumance.
4. Implement the Organisation of Farmers and Pastoralists Act 1992 to establish national pastoralist institutional structures that are able to participate in the development of policies and laws that impact their development. The pastoralists' voice needs to be distinct from the farmers' voice.
5. Review the Rangelands and Forages Resources Development (Rationalisation) Act to ensure its effective implementation while taking into account the requirements of the Protocol on Transhumance.

Livestock Production

6. Develop a livestock policy that re-orientes from the current focus on pastoralism productivity in terms of growth alone while ignoring the sustainability of pastoral livelihoods. A list of relevant laws identified for review and development are in Box 1.
7. Prioritise the pastoral and transhumant systems of production for increased investment in livestock services provision, development of pastoralists' routes through opening routes, wells, dams, hafirs, and services.
8. Regulate the stocking rates in Sudan's most vulnerable grazing environments such as North Darfur and North Kordofan to regenerate that pasture and other forage vegetation.

The *Agricultural Revival Programme (ARP)* identified the following laws relevant to pastoralists for enactment or reform for its execution in Table 4.7.

Table 4.7: Pastoralism Related Laws for Development and Review

Pastoralism Related Laws for Development and Review			
	A. Proposed Laws		B. Laws to be Modified
1	Proposed Law on Rural Development, Food Security and Poverty Reduction, 2005.	1	Civil Transaction Act, 1984.
2	Proposed Law on Livestock Genetic Resources.	2	Law on Settlement and Registration of Lands, 1925.
3	Proposed Law on Production of Meat and Meat Products.	3	Law on contagious Livestock Diseases, 2001.
4	Law on Dairy and Dairy Products.	4	Laws on Veterinary Quarantines for Lives Animals and Meat, 2004.
5	Law on Forages and Feeds from Animal and Plant By-products.	5	Law on Disease-Free Zone, 1973.
6	Law on Fish and Aquatic Organisms.	6	Law on Cattle Route and Veterinary Surveillance Points, 1974.
7	Law on Protection of Water Catching Areas.	7	Law on Meat Health and Inspection, 1974.

8	Law on Organisation of Livestock Markets.	8	Law on Sudanese Hides and Skins, 1954.
9	Law on Development of Livestock and Fish Exports.	9	Farmers' and Pastoralists' Act, 1992.
10	Law on Strategic Belt of Livestock Export, 2008.	10	Law on Organisation of International Trade.
11	12. Proposed Law on Agricultural Quarantine, 2004.	11	Law on Competition and Dumping
12	13. Proposed Law on Land Commission.	12	Law on Accreditation Council
13	1. Proposed Law on Rural Development, Food Security and Poverty Reduction, 2005.	13	Law on Scientific Research

Land Governance

9. Undertake a comprehensive land reform to develop a national land tenure that secures the pastoralist their land rights through recognition of customary communal land tenure and the role of traditional authorities in managing the pastoral lands.
10. Review and revise existing land laws and policies including putting in place mechanisms for allocation of land and resolving land disputes at community levels and recognise and uphold existing land ownership entitlements.
11. Operationalise the National Land Commission to enable it to protect and advocate for pastoralists land rights and interests as recognised in the Constitution.
12. Establish a transparent and predictable revenue sharing mechanism between the three levels of government in light of the government's pastoral land acquisition

Governance Structures

13. Empower the local governance structures at the mahaliyya to ably represent and protect pastoral interests. This should incorporate the traditional community leaders
14. Formalise the recognition of the traditional governance systems particularly with regard to management of pastoral resources including customary rights and customary land law, and conflict prevention and conflict resolution.
15. Establish mechanisms for effect participation of the citizens in the governance of the local levels.
16. Undertake sensitisation activities to inform and constantly engage the pastoralists with the Protocol.
17. Establish a joint cross-border committee of traditional leaders to promote and be consulted on any negotiations related to pastoralism policy development.

Migration and Security

18. Undertake a disarmament exercise along border among the pastoralist communities and ensure that the police take up the responsibility of securing the pastoral areas.
19. Develop a framework law to coordinate the cross-border movement of with pastoralists across borders with South Sudan.

Trading and Marketing Framework

20. Implement laws and procedures, which ensure food safety and control of the quality of livestock products in accordance with the accredited international standards.
21. Enforce regulation of handling and transport to facilitate livestock marketing and improve the quality of stock routes.

Environment and Natural Resources Management

22. Protect natural resources by developing sustainable pastures and rangelands management and the re-establishment of vegetative cover, and strengthen efforts to halt and reverse desertification.
23. Enforce environmental laws and supporting legislation strictly by enhancing the capacity of both federal and state governments to monitor and enforce laws and regulations.

4.7 UGANDA'S FRAMEWORK ON PASTORALISM

The government of Uganda has streamlined pastoralist activities especially cross-border ones through the development of appropriate laws, policies, institutions, infrastructure and programmes. The Ugandan Constitution 1995 provides for fair representation of marginalised groups (article 6); affirmative action (art.32), and; the right to own property individually or in association (art.26). There are also proposals to enact a Pastoral Code within the framework of a developing pastoralism policy.

4.8.1 Legislative Framework

Pastoralism Development

The country has put pastoralism concerns (livestock production, mobility, security, and governance) right at the forefront. This is manifested with the establishment of a ministry whose sole responsibility is to address the Karamoja region concerns, which has most of the transboundary pastoralists in the country. Additionally, the Rangelands Management and Pastoralism Policy is being finalised.

Draft Rangeland Management and Pastoralism Policy 2017 (Ministry of Agriculture Animal Industry and Fisheries). The Policy aims to contribute to the national goal of wealth creation through sustainable investments, proper management and conservation of rangeland resources for the benefit of all. The policy offers a framework for sustainable management of range resources, with ideas on areas for investments, managing livestock numbers and their water and feed resources, mitigating climate change and degradation, improving agro-pastoralism, protecting biodiversity and indigenous knowledge, research and training, and engaging communities in decision making and range development process.

The government intends to put in place deliberate efforts and interventions to encourage rangeland users to adopt rangeland management best practices that sustain soil fertility, high crop and livestock productivity while protecting the rangeland ecosystem. The policy relates to the objectives of allied sector policies and the National Development Plan, and will be strengthened by a supplementary law to put the policy into practice, and supported by a Rangeland Management and Training Centre, and a Uganda Pastoral Code. The Code shall be enacted through a public and private sector partnership to provide general principles and rules to govern pastoral activities in the country. The Draft Rangeland Policy states that

pastoralism and agro-pastoralism land use systems will be protected and improved where they provide the highest use value (comparative advantage).

The specific objectives of the policy are to:

1. Secure effective participation of pastoralists, agro-pastoralists and other stakeholders in the decision-making and implementation processes for matters relevant to sustainable use and management of rangeland resources.
2. Strengthen research and service delivery systems in the rangelands to increase production and market access for pastoral and agro-pastoral products.
3. Promote environmental conservation and sustainable use of rangelands for improved livelihoods.
4. Set guidelines for development of appropriate feed resources, regulate livestock movements and stocking densities, and facilitate water availability for equitable and optimal use of the rangelands.
5. Attract and guide public, private, government and public-private-partnership investments that are consistent with sustainable rangeland utilisation and management.
6. Strengthen and enforce the existing legal framework for successful implementation of policies relevant to rangeland management and development of pastoral production system.
7. Promote rangeland ecological system management through a comprehensive inventory, monitoring and evaluation system.
8. Establish a framework for formulation and development of a pastoral code to manage conflicts and enhance harmonious mutually beneficial co-existence and sustainable economic utilisation of rangeland resources by all stakeholders.

The Draft Policy states that the sources of conflict in the rangelands shall be identified, analysed and appropriately addressed by the state through public and private sector partnerships. The country works with regional partners to harmonise policies that are applicable on both sides of the drawn border with regard to pastoral land tenure, transhumance, livestock disease management and animal health certification, trade facilitation, livestock markets information, and livestock corridors to support predictable (seasonal) migrations across borders. To improve the capacity to resolve local conflicts, the Draft Policy calls for the Government to strengthen customary institutions assisted by Local Government Land Boards (DLBs), religious leaders, Pastoral Standing Committees (PSCs) and Land Committees in conflict management and resolution and back up these efforts with development of a National Peace Policy.

Livestock Production and Resources

The *National Agriculture Policy 2013* objective is to achieve food and nutrition security and improve household incomes through coordinated interventions that focus on enhancing sustainable agricultural productivity and value addition, and promoting domestic and international trade. Agricultural development strategies will be developed and pursued according to the agricultural production zones through a commodity-based approach.

Other relevant livestock laws include:

The Animal Diseases Act (Cap 38) provides for the procedure to be followed if a disease it

detected from information dissemination, restrictions of animal movement to quarantine and slaughter. This applies to restrictions on importation as well.

Animal Breeding Act, 2001 establishes the National Animal Genetic Resources Centre and Data Bank to promote and encourage optimal utilisation of the adapted and resistant indigenous breeds, and the development and use of animal genetic resources that are relatively more tolerant to disease and environmental stress, and; the registration and issue of animal brands.

Prohibition of the Burning of Grass Act (Cap 33) prohibits the burning of grass in the country unless authorised by the relevant authority or any other written law.

The Cattle Grazing Act (Cap 42) regulates and controls cattle grazing.

Land Governance

The Constitution vests land in the citizens (art. 237) and has provisions outlining land ownership and administration in the country under Chapter fifteen (15). It provides for land tenure systems under which land can be owned as customary tenure, freehold, *mailo*, or leasehold tenure, the last three subject to registration. Further, the customary landholders are urged to get certificates of ownership of their land to secure their interest. Customary tenure is the most common tenure system in the country particularly in pastoral and rural areas (about 80 percent). A number of legislative frameworks have been formulated to give effect to the Constitution.

The *National Land Policy 2013* goal is to ensure an efficient, equitable and optimal utilisation and management of Uganda's land resources for poverty reduction, wealth creation and overall socio-economic development. It seeks to harmonise and streamline the complex tenure regimes in the country for equitable access to land and security of tenure. Another objective is to redress historical injustices to protect the land rights of groups and communities marginalised by history or on the basis of vulnerability such as gender, race, to achieve balanced growth and social equity.

The Policy clarifies that though land is vested in the country's citizens, the State "shall exercise residual sovereignty over all land in Uganda on behalf of and in trust for the Citizens." Along the same vein, it shall also guarantee 'title to land'. The District land Boards shall hold and allocate, in trust for the Citizens, all land that is not owned by any person or authority; and exercise the reversionary interest in public land leaseholds on their behalf (par. 8). It adds that land will also be categorised as private, public and government land (par. 36). It states categorically that the States "shall recognise customary tenure in its own form to be at par (same level) with the other tenure systems" and establish a land registry system for the registration of land rights under customary tenure (par. 39). This will require, inter alia, the documentation of the customary land tenure rules applicable to specific communities at the district or sub-county levels, inventorying common property resources by communities and vesting them in the communities to be managed under their customary law, and strengthening traditional land management and administration institutions.

The land rights of pastoral communities are to be guaranteed and protected by the State (par. 60) through measures that ensure that pastoral lands are held, owned and controlled by designated pastoral communities as common property under customary tenure; promoting the establishment of Communal Land Associations, and; considering swapping,

resettlement or compensation for pastoral communities displaced by government from their ancestral lands. Government is to prescribe clear principles of ownership, control and management of pastoral land in a policy. To support pastoral development, the government is to ensure zoning to establish appropriate agro-ecological zones, pastoral resources areas and access, maintain an equitable balance between the use of land for pasture, agriculture, energy, industry, and wildlife protection. It is also to establish mechanisms for flexible and negotiable cross-border access to pastoral resources among clans, lineages and communities for their mutual benefit.

The Policy further observes that that common property resources (often situated on land owned privately by individuals and/or communities) are usually managed through institutional arrangements, customs and social conventions designed to induce joint solutions to issues of access and benefit-sharing. It recognises the need to protect common resources especially communal grazing land from being grabbed, sold illegally or individualised by some of the community members. To protect such pastoralists land, the government shall take measures to identify and gazette access routes or corridors to common property resources for public use; identify and document all such resources wherever located; enact appropriate legislation to clarify who may have access, category of property and how to secure access, and; develop dispute resolution mechanisms for the common resources (pars. 53-55).

Finally, the Policy calls for the government to develop a framework for participation in development of policies and protocols for the management of trans-boundary and shared natural resources in consultation with Partner States (par. 166).

The *Land Act (Cap 227)* provides for the description land ownership and the establishment of land management institutions. On the face of it, the Act provides some legal basis for pastoral land rights in recognising and articulating the customary land tenure. It provides for incidents of forms of tenure (s 3) as: -

- (i) Customary tenure is applicable to a specific area of land and a specific description or class of persons governed by rules generally accepted as binding and authoritative by the class of persons to which it applies. It applies local customary regulation and management to individual and household ownership, use and occupation of, and transactions in, land; provides for communal ownership and use of land; in which parcels of land may be recognised as subdivisions belonging to a person, a family or a traditional institution; and which is owned in perpetuity.
- (ii) Freehold tenure involves the holding of registered land in perpetuity or for a period less than perpetuity, which may be fixed by a condition and enables the holder to exercise full powers of ownership.
- (iii) Mailo tenure involves the holding of registered land in perpetuity; permits the separation of ownership of land from the ownership of developments on land made by a lawful or bona fide occupant; and enables the holder, subject to the customary and statutory rights to exercise all the powers of ownership of the owner of land held of a freehold title.
- (iv) Leasehold tenure is created either by contract or by operation of law under which one person (the lessor) grants another person (the lessee) exclusive possession of land for a defined period in return for a rent.

The Act further describes how to acquire a certificate of customary ownership, and the conditions under which customary tenure could be converted into a freehold tenure (s 9). It also outlines the establishment, the management and content of areas of common land use in communally-owned land for grazing and watering of livestock; hunting; the gathering of wood fuel and building materials; the gathering of honey and other forest resources for food and medicinal purposes (ss. 24-25). The contents include numbers and types of livestock in respect to each use, location and stock routes.

Communal Land Associations are to be established to manage the land for common uses (ss. 15-18). The basic rights and duties of the members of a community under a common land management are also provided e.g. the right to make reasonable use of the common land, or the duty to bear a reasonable and proportionate share of any expenses or losses incurred in using and managing the common land. Women, children and persons with a disability are granted rights over customary land irrespective of the customary traditions (s 27). Finally, the traditional authorities functions of determining disputes over customary tenure or acting as a mediator between persons who are in dispute over any matters arising out of customary tenure is affirmed (s 88).

Land Acquisition Act 1965 (Cap 226) provides for the compulsory acquisition of land for public purposes.

The Registration of Titles Act (Cap 230) regulates to the transfer of land and registration of titles.

Governance Structures

The Constitution under Chapter eleven (11) specifies the principles and structures of local government. The system of local government in Uganda is based on the district as a unit under which there shall be such lower local governments and administrative units as determined. Decentralisation shall be a principle applying to all levels of local government and, in particular, from higher to lower local government units to ensure peoples' participation and democratic control in decision making (art. 176). This ensures that there is democratic participation by the people in the control of the natural resources.

The Local Governments Act (Cap 243) provides for the decentralisation and devolution of certain powers, functions and services from the Central Government to the Local Governments at the district. A local government shall within its area of jurisdiction 'provide services as it deems fit' except 'the functions, powers and services' reserved to the Central Government (s 31). Pastoralist concerns such as land matters and basic services supply such as water are decentralised functions.

The Local Council Courts Act, 2006 creates the local courts to administer justice at the local level. The courts' legal jurisdiction is limited to specified causes and matters of a civil nature (debts, contracts, assault or assault and battery, conversion, damage to property and trespass); causes and matters of a civil nature governed only by customary law (matrimonial issues, customary heir); causes and matters arising out of infringement of by-laws and ordinances; children civil matters; and matters relating to land held under customary tenure (s 10). There are three levels of the Committee courts - 'Sub county' (level 3), 'Parish' (level 2) and 'Village' and appeals from the highest of the courts (Sub-county) lie with the Chief Magistrate or the High Court. The Parish or Ward Executive Committee Courts are to be the

courts of first instance in respect of land disputes (*Land Act* s 76A). The *Executive Committees (Judicial Powers) Act* (Cap 8) establishes executive committees in every village, parish, and sub-county as courts (s. 2). It shall consist of the members of the executive committee of the village, parish or sub-county. The court may make an order for any one or more of the following reliefs: reconciliation□ declaration□ compensation□ restitution□ costs□ apology□ attachment and sale, and in a case of infringement of by-laws may impose a fine (s 9).

The Constitution also provides that the institution of traditional leader or cultural leader may exist in any area of the country in accordance with the culture, customs and traditions or wishes and aspirations of the people to whom it applies but it shall not have or exercise any administrative, legislative or executive powers of Government or local government (art. 246).

Migration and Security Framework

A major source of insecurity in the pastoralists' areas is the widespread proliferation of arms among the pastoralists. The country has laws restricting the ownership of firearms. *The Firearms Act* (Cap 299) is identified by the Draft Pastoralism Policy as essential to efforts to prevent and manage conflicts in pastoral lands. This is in light of the government voluntary and compulsory disarmament programme. The law relates to the regulation, control, manufacture, import, export, sale, repair, storage and possession of firearms and ammunition. No person shall purchase, acquire or have in their possession any firearm or ammunition unless, they hold a valid firearm certificate (s 3). Dealing in firearms without being registered is also prohibited and registration of all transactions in firearms and ammunition is required (ss. 16-17). The Minister may prohibit the carrying of firearms and ammunition in any place, district or area of Uganda, as deemed fit (s 42). The penalties for violating this law include a maximum penalty of 10 years in prison for unlawful possession of a firearm.

Trade and Marketing Framework

The National Trade Policy 2007 aims to develop and nurture private sector competitiveness, and to support the productive sectors of the economy to trade at both domestic and international levels. In implementing the Policy, the Government will focus on securing and maintaining improved market access to the regional and international, and pursue regional economic integration with a view to increasing effective market access opportunities for Uganda's goods and services and continue to implement trade facilitating measures. It will boost capacities of the socially and economically disadvantaged sections of the community to trade.

The National Agriculture Policy 2013 makes provision for the promotion of domestic, regional and international trade in agriculture, including livestock. This can be achieved by providing support services such as transparent, market information and through improving marketing infrastructure such as livestock markets and abattoirs.

The Cattle Traders Act (Cap 43) regulates cattle trading within the country. Cattle traders are issued licenses by a veterinary officer in the prescribed form, and no exportation of cattle from any declared area is permitted without an exporting licence issued by the commissioner of livestock and entomology. The law grants the Minister power to prohibit or restrict the movement of cattle from any area to any other area (s 5).

The Food And Drugs Act (Cap 278) makes provision for the prevention of adulteration of food and drug.

The Dairy Industry Act (Cap 85) establishes the Dairy Development Authority to provide for the promotion and control of the production, processing and marketing of milk and dairy products and generally to facilitate the development of the dairy industry.

The Sanitary and Phyto-Sanitary (SPS) Policy 2011 brings the country in compliance with the WTO requirements.

Environment and Natural resources Management

Every Ugandan has a right to a clean and healthy environment (art. 39 Constitution) and the State is obligated to protect and preserve the environment from abuse, pollution and degradation; manage the environment for sustainable development; and promote environmental awareness (art. 245). Rangeland communities shall be empowered to adopt range management, pastoral practices and strategies that increase resilience to impacts of climate variability and change and the government will commit to compliance with international conventions on the management of climate change.

National Environment Management Policy, 1994 - The policy sets the overall goals and objectives for environment management in Uganda. It encourages sustainable development by wise use of natural resources while enhancing environmental quality without compromising the ability of future generations to meet their own needs. The policy endeavours to integrate environmental concerns in all development activities and promote participatory integration of environmental concerns in all development policies, planning, and activities at national, district and local levels.

The National Environment Act (Cap 153) is the framework law for the management of environment and natural resources in Uganda. It establishes the National Environment Management Authority (NEMA) whose functions include coordinating, monitoring and harmonising the integration of environmental issues in Uganda.

The Water Act, 1995 provides for use, protection and management of water resources in the country.

The Uganda Wildlife Policy 1999 aims to promote the long term conservation of the country's wildlife and biodiversity in a cost effective manner which maximises the benefits to the people of Uganda.

The National Environment (Minimum Standards for Management of Soil Quality) Regulations, 2001 establishes and prescribes minimum soil quality standards to maintain, restore and enhance the inherent productivity of the soil in the long term; establishes the minimum standards for the management of the quality of soil for specified agricultural practices; establishes the criteria and procedures for the measurement and determination of soil quality; and issues measures and guidelines for soil management.

Uganda Wildlife Act (Cap 200): The law promotes the conservation of wildlife throughout Uganda. It provides for sustainable management of wildlife, consolidates the law relating to wildlife management and establishes the Uganda Wildlife Authority. It makes it an offence to graze animals in protected areas (s 22) but the Authority may establish guidelines for access of communities neighbouring conservation areas to resources, which are crucial to the survival of those communities (s 26).

Development Policy

National Development Plan II (NDPII 2015-2020) highlights the following:

- Protecting, restoring, and maintaining the integrity of degraded fragile ecosystems;
- Increasing sustainable use of environment and natural resources;
- Increasing national forest cover and economic productivity of forests and the national wetland coverage;
- Increasing the functionality and usage of meteorological information systems; and
- Increasing the country's resilience to the impacts of climate change.

Uganda Vision 2040: showcases the government's private sector-led and market-oriented economy. Some of key strategies and policy reforms that must take place to realise the Vision include:

- Making land reforms to facilitate faster acquisition of land for planned urbanisation, infrastructure development, and agricultural commercialisation among other developments.
- Increasing agricultural productivity with specific emphasis on promotion of aquaculture and livestock farming, reform the extension system in the country to increase information access, knowledge and technologies to the farmers; ensure that land fragmentation is reversed to secure land for mechanisation; improve weather information and its dissemination and intensify environmental control measures to halt the decline in soil fertility.
- Undertaking the restoration of degraded wetlands, hilltops, rangelands and other fragile ecosystems to be achieved through the implementation of catchment-based systems, gazettement of vital wetlands for increased protection and use, and monitoring and inspecting restoration of ecosystems (wetlands, forests, catchments).

Table 4.8: Uganda Pastoralism Legal and Institutional Framework

	Area	Lead Government Agency	Main Legislation and Policy
1	Pastoralism Development	Ministry of Karamoja Affairs Ministry of Agriculture, Animals, Irrigation and Fisheries Office of the Prime Minister	The Constitution 1995 Draft Rangelands Management and Pastoralism Policy 2011
2	Livestock Production and Resources	Ministry of Agriculture, Animals, Irrigation and Fisheries Directorate of Veterinary Services	National Agriculture Policy 2013 The Animal Diseases Act (Cap 38) The Cattle Grazing Act (Cap 42) Animal Breeding Act, 2001 Veterinary Surgeons Act (Cap 277) The Dairy Industry Act (Cap 85)

	Area	Lead Government Agency	Main Legislation and Policy
3	Land Governance	Ministry of Lands, Housing and Urban Development Land Committees Uganda Land Commission District Land Tribunals	The Constitution National Land Policy 2013 The Land Act (Cap 227) Land Acquisition Act (Cap 226) The Registration of Titles Act (Cap 230)
4	Migration and Security Frameworks	Ministry of Justice and Constitutional Affairs Directorate of Citizenship & Immigration, Ministry of Internal Affairs, Ministry of Foreign Affairs, Ministry of Security (external and internal security)	The Constitution The Firearms Act (Cap 299) Draft National Migration Policy Uganda Citizenship and Immigration Control Act (Cap 66) National Identification And Registration Act
5	Governance Structures	Local Government The Local Council Courts	The Constitution The Local Governments Act (Cap 243) The Local Council Courts Act, 2006 Executive Committees (Judicial Powers) Act (Cap 8)
6	Trade and Marketing Regulations	Ministry of Trade, Industry and Tourism Local Government Board	National Trade Policy 2007 National Agriculture Policy 2013 Sanitary and Phyto-Sanitary (SPS) Policy 2011 Dairy Industry Act (Cap 85) The Cattle Traders Act (Cap 43) The Food And Drugs Act (Cap 278)
7	Environment & Natural Resources Management	Ministry of Water and Environment	The National Environmental Management Policy 1994 Draft Rangelands Management and Pastoralism Policy 2011 Water Act (Cap. 152) Uganda Wildlife Act (Cap 200) Public Lands Act, Act, 1969 National Environment Act (Cap 153) Forests Act (Cap 146) The National Environment (Minimum Standards for Management of Soil Quality) Regulations, 2001

4.7.2 Institutional Framework

Uganda Karamoja Affairs Ministry's objective is to guide the implementation of Special Programmes and Projects in Karamoja sub region. This includes developing a food security strategy, supervising and monitoring Karamoja activities, and providing for the welfare of the Karamoja offices. One of the major ministry activities is coordination of the implementation of the Karamoja Integrated Development Program (KIDP) and the Drylands Integrated Development Project.

(a) Karamoja Integrated Disarmament and Development Programme (KIDDP)

KIDDP is a medium term development framework specifically tailored to address the unique context and development challenges in the Karamoja region. The aim is to contribute to human security and promote conditions for recovery and development in Karamoja as part of the broader National Development Plan and the Peace, Recovery and Development Programme (PRDP). KIDDP harmonises the various development interventions by Government, bi-lateral and multi-lateral development partners, international and national NGOs and CBOs. The programme has addressed the following: housing facilities, food and nutrition security, crop and livestock production, education, clean and safe water, institutional structures, cattle in high risk areas branded, and gardens opened for crop growing.

Key activities of the Programme include regional meetings, cross border meetings, peace building initiatives, elders' meetings, capacity building and trainings. Within the context of the Programme, by-laws have been established in the relevant districts. Most of the governance is localised and the resolutions are more binding to the communities as they consider them more punitive than the national laws. The local pastoralist communities prefer these laws as they understand them better and are better able to enforce them. These include the Moroti Resolution and the Nabilatuk Resolution. The institutions are effective and well maintained but could do with more resources.

(b) Drylands Integrated Development Project

The development objective of the project is to strengthen the livelihood and reduce vulnerability of pastoralist and agro-pastoralist in the Karamoja region of Northern Uganda. This objective will be achieved through (a) strengthening the pastoralist production system, and (b) improving access to basic rural production and market infrastructure as well as basic social services. The project activities have included supporting agriculture and livestock productivity; building rural and market infrastructure; improving access to basic social services; construction of rural and market infrastructure, and; supporting community development.

The Ministry of Agriculture, Animal, Irrigation and Fisheries mandate is to support, promote and guide production of crops, livestock and fisheries, so as to improve quality and increased quantity of agricultural produce and products for domestic consumption, food security and export. The Directorate of Animal Resources is responsible for quality control of livestock to ensure animal welfare and public and animal health standards and concerns are discharged. It provides guidance, support and advice regarding qualitative and quantitative production, processing and marketing of animal products; ensure quality hygiene and safety of livestock and livestock products so as to meet the required standards for human consumption, and; provides technical advice to farmers and traders to enable them develop profit oriented enterprises while keeping within limits of the relevant regulations. The *Veterinary Surgeons Act* (Cap 277) makes provision for the registration of practitioners of veterinary surgery and for other matters connected with the practice of veterinary surgery.

Administration of land is assigned to both national and local institutions. The Uganda Land Commission (ULC) holds and manages any land in the country that is vested in or acquired by the Government of Uganda (Constitution art. 238 & *Land Act* s 46). District Land Boards are established for each district to hold and allocate land in the district that is not owned by

any person or authority; to facilitate the registration and transfer of interests in land; and to deal with all other matters connected with land in the district. The district land boards are independent of the ULC and are not subject to the direction or control of any person or authority (Constitution art. 240 & *Land Act* s 56). Land Committees (s 64) may be established at the sub-county or Division level by the District Council to exercise the functions at their lower levels. The Committees assist the board in an advisory capacity on matters relating to land, including ascertaining rights in land. In addition, there are District Land Tribunals to hear and determine disputes concerning land matters within the district (*Land Act* s 74). Communal Land Associations should also be created to manage the land for common uses.

The Ministry of Water and Environment is responsible for the overall coordination, policy formulation, setting standards, inspection, monitoring, and technical back-up and initiating legislation in the environment and water sector. It also monitors and evaluates sector development programmes to keep track of their performance as well as efficiency and effectiveness in service delivery.

4.7.3 Country Assessment

Uganda perception of the transboundary transhumance is that it is more beneficial for its neighbours than for the country because Ugandan pastoralists rarely engage in cross-border mobility. Their initial reluctance to embrace the Protocol on Transhumance was based on the view that it might not alleviate the current imbalance. However, it opted to participate in order to ensure its cross-border concerns are addressed on a regional platform. Among the IGAD member states, Uganda has been most active in addressing pastoralist development concern grounded on the constitutional provision for affirmative action in favour of marginalised groups for the purpose of redressing imbalances, which exist against them (art.32).

The country has an advantage over its neighbours in that the transhumant pastoral lands particularly the cross border areas in the Karamoja region constitute a much small portion of the country thus containable and manageable. It has a relatively well resourced high level pastoralism institutional framework. What has been lacking is a holistic legislative framework to support and ensure the government programmes align with the pastoralists' needs and rights. There is no coherent policy that addresses the broad range of development, pastoral livestock production systems, land tenure, environmental issues and transhumance of pastoralists including cross-border transhumance. So the lack of legislative harmony and ensuring compliance with the existing laws remains a challenge, ergo the proposed Pastoralism Policy and Pastoral Code.

Besides, despite the government concentrated focus on the Karamoja pastoralists, incidents of cattle rustling, damage to host communities by visiting pastoralists, the use of unauthorised grazing zones and water, and night movements which is prohibited still take place. The sedentarisation of some of the pastoral communities by adopting crop production as part of government initiative, has increased their vulnerability to climate change. Crop production in the ASAL areas is riskier than the pastoralism, which is an effective adaptation strategy to the adverse climate change impacts (SLM 2010).

The pastoralists land tenure is also not secure. The land administration system does not have adequate resources, which has meant that the pastoralists' rights and interests recognised under the National Land Policy and the Constitution have not been implemented.

Apparently, the current system of land administration as practiced is confusing, breeds conflict, and there are overlapping institutional mandates. The Land Act designed to offer some legal recognition for pastoral land rights, provides for common land management scheme (grazing and watering), which necessitates the establishment of Communal Land Associations. These CLAs are to enable customary owners to acquire certificates of ownership and manage their land sustainably.

The government has failed to operationalise the issuance of Certificates of Customary Ownership and registration of CLAs. Since the practical application of the Land Act has not yet materialised, the government according to the civil society has been dispossessing the communities by gazetting their lands as a nature reserves or for mining activities subverting the Constitution (art. 26 on protection from deprivation of property). They also view the policy of sedentarisation as an instrument to facilitate the grabbing of communal pastoral land. The government has not always compensates the communities in the Karamoja areas for exploiting their land e.g. through gold mining.

The Draft Pastoralism Policy directs the government to strengthen governance structures that support pastoralism by recognising the important role of traditional leaders and institutions in the management of pastoral land rights. The pastoralist traditional systems, knowledge and practices have also been on the wane due to a number of factors including displacements, formal education, which means subsequent generations are learning less. For instance, the traditional peace committee included elders on both sides of a conflict who discussed and agreed on how to share and manage pastoral resources. The formal state institutions, policies of sedentarisation, commercialisation of cattle rustling and modern technology such as arms and communication has further reduced the authority of the traditional leaders and undermined their effectiveness in enforcing rules for the sustainable use of their pastoral resources.

The re-establishment of traditional rulers and cultural institutions, provide for a framework to protect traditional knowledge and systems. A rights based approach in redressing the Uganda's pastors concerns would be appropriate, to enable the pastoralists secure their land and resources and maintain their lifestyle. The Constitution stipulates that every person has a right to, enjoy, practise, profess, maintain and promote any culture, cultural institution, language, tradition, creed or religion in community with others and minorities have a right to participate in decision-making processes, and their views and interests taken into account in the making of national plans and programmes (art. 36-37).

4.7.4 Country Recommendations

To facilitate the implementation of the Protocol on Transhumance in the country, the following recommendations apply.

Pastoralism Development

1. Finalise the development of the Draft Rangeland Management and Pastoralism Policy 2017 for approval and implementation.
2. Initiate the development of the pastoral code taking into account the Protocol on Transhumance requirements for the establishment of transboundary infrastructure including transhumant corridors, the delivery of services, cross-border frameworks. This needs to be a statutory instrument, not a guideline to be effective.
3. Establish a permanent institution for pastoralism development.

4. Review pastoralism programmes such as sedentarisation to ensure that they fully equip the pastoralists to enable them to cope with their new situation.

Livestock Production

5. Harmonise policies that are applicable on both sides of the drawn border with regard to pastoral land tenure, transhumance, livestock disease management and animal health certification, trade facilitation, livestock markets information, and livestock corridors to support predictable (seasonal) migrations across borders.
6. Set guidelines for development of appropriate feed resources, regulate livestock movements and stocking densities, and facilitate water availability for equitable and optimal use of the rangelands.
7. Prioritise pastoralist livestock production needs and extension services over crop production in the pastoral lands.

Land Governance

8. Implement the National Land Policy 2013 provisions with respect to pastoralists land rights.
9. Operationalise the *Land Act* (Cap 227) provisions on the issuance of Certificates of Customary Ownership and registration of Communal Land Associations.
10. Capacitate the local land governance institutions to enable them to secure pastoral land rights. These include the Local Council Courts, Land Committees, the District Land Boards and District Land Tribunals.

Governance Structures

11. Strengthen the governance structures that support pastoralism such as strengthening traditional institutions and leadership to play an effective role in governance of rangeland resources
12. Secure effective participation of pastoralists, agro-pastoralists and other stakeholders in the decision-making and implementation processes for matters relevant to sustainable use and management of rangeland resources.

Security and Mobility Framework

13. Establish a standard framework to facilitate the coordination of cross-border pastoralists' movements through prior notifications and arrangements to prepare the host communities.
14. Initiate dialogue on small Arms proliferation with neighbouring countries.
15. Develop a National Peace Policy to strengthen community based conflict management and resolution.

Trade and Marketing Framework

16. Develop a livestock trading and marketing policy that includes a special focus on pastoral transboundary exchanges.

Environment and Natural Resources Management

17. Promote rangeland ecological system management through a comprehensive inventory, monitoring and evaluation system.

4.8 CONCLUSION

An assessment of the countries in the region's legal and policy frameworks applicable to cross-border pastoralism indicates a paucity of appropriate pastoralism friendly laws, policies and institutional frameworks. The Member States rely on sectoral laws to address pastoralism concerns. For instance, all the countries have national livestock policy or equivalent provisions in the agriculture policy that address pastoralism as a livestock production system in some form or the other. Nonetheless, some of the countries reporting are in the process of developing legal and institutional frameworks to address this deficiency. The review of the IGAD Member States legal, policy and institutional frameworks establishes that though the countries have a number of laws that could be applied to ensure the implementation of the Protocol on Transhumance, these are wholly inadequate for its successful application. Hence the recommendations provided for each Member State.

5.0 EXISTING BILATERAL, REGIONAL AND INTERNATIONAL FRAMEWORKS RELEVANT TO PASTORALISM

5.1 CROSS BORDER AGREEMENTS AND ARRANGEMENTS

The African Union (AU) Convention on Cross Border Cooperation (Niamey Convention, 2012) aims to 'ensure efficient and effective integrated border management' (art. 2(5)) and defines cross-border cooperation as any act or policy aimed at promoting and strengthening good-neighbourly relations between border population, territorial communities and administrations or other stakeholders with the jurisdiction of two or more states, including the conclusion of agreement useful for this purpose. The Niamey Convention forms the legal framework for cross-border cooperation from the local to the national, regional and continental level. It addresses in a holistic manner the multiple dimensions of cross-border cooperation and security.

To that end, the IGAD region has a number of cross border agreements and arrangements that will potential supplement and ensure the successful implementation of the Transhumance Protocol that address issues such as conflict, animal movements, cross border committees, cross border services, and early warning systems. These include bilateral trilateral and multilateral arrangements among the member states; IGAD and other sub regional bodies agreements, AU wide and global agreements. The following discussion provides examples of the different types of arrangements among the IGAD Member States (existing (or developing) followed by a snapshot of the relevant regional, continental and global agreements.

5.2 BILATERAL ARRANGEMENTS

The arrangements among the Member States cover issues of animal health (Ethiopia-Somalia), trading along the shared borders, peace and conflict resolution. Other arrangements are more holistic such as the Ethiopia-Kenya Framework Agreement.

5.2.1 Djibouti

The country has bilateral arrangements with Ethiopia that facilitate the free movement of pastoralists; improve their capacity for disaster relief; and on trading along the shared borders. An example is the *MOU –Ethiopia-Djibouti on Cross Border Cooperation and Collaboration on Animal Health and Sanitary Measures 2018*

Intended to benefit pastoralist communities, traders, livestock and animal health workers, regional governments and customs authorities, the MoU enhances cross-border bilateral cooperation, collaboration and joint coordination and implementation of agreed animal health actions and sanitary measures to improve community livelihoods. The geographic scope of the MoU is the Afar and Somali Regional States of Ethiopia, and Ali Sabieh, Dikhil and Tadjourah Regions of Djibouti. The areas of cooperation include: control of TADs and livestock movements; mapping of stock routes and infrastructure; developing strategic grazing reserve; joint promotion of LITS; and access to relevant infrastructure. A Joint Steering Committee will be responsible for the management and implementation of the joint cooperation and collaboration while a Multidisciplinary Technical Team will be responsible for drawing up the MoU implementation frameworks and programmes.

5.2.2 Ethiopia

MOU –Ethiopia-Kenya on Cross Border Cooperation on Animal Health and Sanitary Measures

With the aim of easing the transactions between veterinary services and deepen animal health related processes through reciprocity in a shared vision while protecting country rights and dignities, the two countries concluded an MoU in 2016. It aims to enhance cross-border bilateral cooperation and joint coordination on agreed animal health issues and sanitary measures to improve community livelihoods and development. The areas of cooperation include:

1. TADs surveillance, prevention/control (vaccination, movement control), reporting information sharing and awareness creation for communities;
2. Mapping of stock routes and natural resources (water and pasture);
3. Enforcement of regulations on vet drug importation and use;
4. Facilitation of livestock trade through quality and sanitary control and certification;
5. Access to livestock related infrastructure including diagnostics laboratory, cold chain and check posts (quarantines);
6. Joint promotion of LITS;
7. Cross-border networking among communities, and;
8. Joint capacity building of stakeholders.

The scope is the counties of Mandera, Wajir, Marasbit and Turkana; and identified areas of Liben zone of Ethiopian Somali (Dolo Odo, Filtu, Mubarak and Moyale district), Borena Zone of Oromia (Moyale, Dhas, miyo, Dire, Dilo and Teltele district), and south Omo Zone of SNNPR, Hamer and Dassenach districts) Regional states of the Ethiopia.

Ethiopia also has trade arrangements with Sudan and Djibouti along the shared borders, while similar agreements are in the pipeline with South Sudan, Somalia and Kenya. These bilateral agreements specify the value and volume limit of goods that can be traded across the border without paying taxes or customs duties and also specify other aspects such as licensing, frequency of trips across the international border by traders. For instance, the Framework Agreement for Trade and Economic cooperation with Sudan provides for an MoU to harmonise customs procedures, and; agreement to implement cooperation projects, including establishment of economic zones and free markets between the two countries.

5.2.3 Kenya

Cross-border Integrated Programme for Sustainable Peace and socio-economic Transformation: Marsabit of Kenya and Borana & Dawa Zones, Ethiopia" (Under development)

Kenya and Ethiopia in partnership with UNCT of Ethiopia and Kenya and IGAD have initiated a cross-border and area based development programme. The main objective of this cross-border and area-based programme is to reduce vulnerability and increase resilience of communities affected by conflict in the border region through identification and promotion of sustainable livelihood projects and conflict management strategies. In the long-run, the programme aims to economically empower the communities through a judicious mix of socio-economic transformative programmes that include infrastructure development, industrial and agricultural development projects, and the development of health and educational facilities.

To achieve these objectives, the programme will focus on long-term conflict transformation initiatives that will be designed and implemented at multiple levels (Immediate emergency and humanitarian phase, building resilience; and sustainable development project phases) aimed at changing the current political landscape and socioeconomic conditions of the Marsabit County and the Southern part of Ethiopia. Tailor-made capacity building programmes on conflict management and peace-building, as well as alternative livelihood projects, will be designed and implemented to improve the skills and knowledge of the local communities in preventing conflict and bringing about sustainable peace and development.

The programme will focus special attention on the concerns of women, youth and disadvantaged groups in the society. The programme will also endeavour to address the clash between formal and customary laws, which have contributed to the erosion of the role, and power of community leaders. There have been consultations to ensure local ownership. The implementation includes the following major activities: (a) Free movement of herders and herds, (b) Seasonal grazing planning to alleviate resource based conflicts, (c) Investment, (d) Trade, (e) Agricultural production, and (f) Cultural exchanges.

5.2.4 Somalia

Bilateral Arrangement with Ethiopia - The Ministry of Livestock, Forestry and Range of the Federal Government of Somalia signed a Cross Border MoU with Ministry of Agriculture of the Federal Democratic Republic of Ethiopia in 2019 to address cross border animal health concerns.

5.2.5 South Sudan

Bilateral cross-border MOU has been developed between South Sudan and Sudan to enhance TADs control and livestock trade. This will address animal health issues such as disease surveillance, disease control and provide for the timely sharing of animal health and enhance livestock trade thereby improving livelihoods of the border communities and the economy of both countries.

5.2.6 Sudan

Sudan has bilateral arrangements with Ethiopia that facilitate the free movement of pastoralists; improve their capacity for disaster relief; and on trading along the shared borders. The border communities are also involved in dialogue for use of resources such as the Dinka (South Sudan) and Misseriya from Sudan.

5.2.7 Uganda

Kenya-Uganda MoU on Animal Diseases

For the past 7 years, Uganda has collaborated with Kenya on Disease Control. An MoU was signed (with FAO and World Bank support) covering among others vaccination. This formed the basis for the current Kenya-Ethiopia MoU.

5.3 TRILATERAL AND MULTI-LATERAL ARRANGEMENTS

5.3.1 Trilateral Arrangements

5.3.1.1 Mandera Triangle Arrangement - The arrangement is established with the aim of ensuring that development interventions and free movements of persons in the area is

enhanced for the Somalis who live within the geographic scope of the agreement in the three countries of Ethiopia, Kenya and Somalia.

5.3.1.2 *The Tripartite Cooperation Agreement* was signed amongst Eritrea, Somalia and Ethiopia in September 2018 in Eritrea with a similar aim.

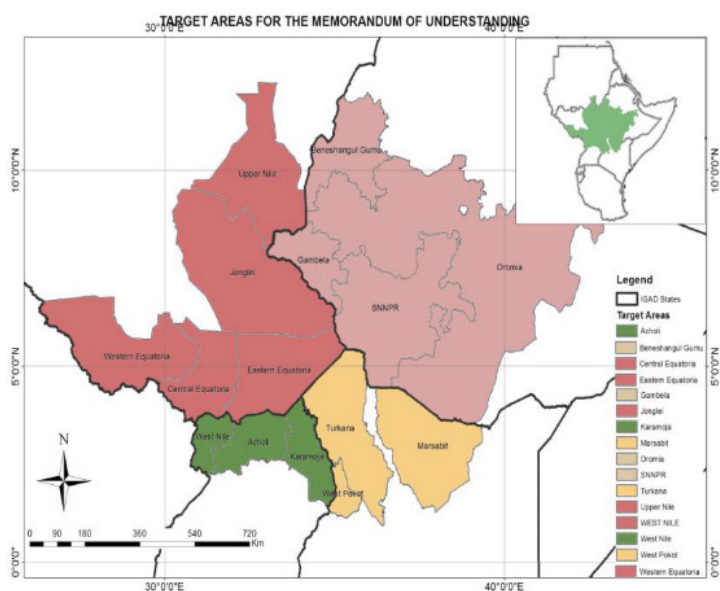
5.3.2 Multi-Lateral Arrangement

Multilateral Memorandum of Understanding Between the Federal Democratic Republic of Ethiopia and the Republic of Kenya and the Republic of South Sudan and the Republic of Uganda on Cross-Border Animal Health Coordination, 2016.

The countries recognising the necessity of establishing a sustainable legal and institutional framework for inter-state co-operation in achieving the objective of the SOPs for animal health within the areas of co-operation, committed themselves to formulate and implement synchronised Joint Programmes for the enforcement of animal health laws and policies within the region and across the common boundary of the four countries. The agreement's main objective is to formally establish the agreed animal health framework and modalities of cooperation, delineate protocols and methods of work and describe the arrangements and related procedures for the joint planning, management and execution of the Joint Programme by the Participating Countries.

The main beneficiaries to this MoU include livestock owners and communities in targeted Border States and Regional States of the countries, and transhumance and sedentary farmers where frequent outbreaks of TADs, zoonoses, and other priority diseases are obstacles of the livestock production of the area. The communities living along the Ethiopia, Kenya, South Sudan and Uganda border and having similar livelihoods include Dasenech and Ngangatom of Ethiopia, in the Pokot and Turkana of Kenya, Karamojong of Uganda and Toposa of of South Sudan (See Figure 5.1).

Figure 5.1: Map of Target Area of the Memorandum of Understanding Between the Countries of the Karamoja Cluster



Source: MoU Between the Four Countries 2016

The areas of collaboration are harmonised surveillance; developing or strengthen animal health information system; harmonised vaccinations and treatments; timely disease reporting and information exchange; mapping of stock routes and natural resources; management of livestock movements through implementing LITS, and awareness creation on animal health issues among communities. The MoU is guided by principles of mutual respect, understanding, and recognition; legitimacy of purpose for which resources are allocated; mutual transparency and accountability; flexibility and local adjustment; maintaining equity amongst partners, and; strategic perspective.

Institutional Framework - There is a Joint Programme Steering Committee (JPSC) to guide, oversee and regulate activities of the Joint Programme. The JPSC comprises of the Directors in charge of Veterinary Services/Animal Resources, one senior technical officer in charge of disease control, and one representative from local government from each Participating Country. A Joint Programme Coordination and Management Unit (JPCMU) operates within their terms of reference and is answerable to the JPSC. The JPCMU comprises the DVOs/State Veterinarians of the target areas, two representatives from local government from each Participating Country, the National Focal Persons for the programme, and a representative from civil society. The participating countries exchange data and information concerning animal health legislation, policies and animal disease outbreak and lessons within the framework of the Joint Programme and the implementation of the MoU. The operationalisation of this MoU is undertaken by the veterinary authorities in the designated areas in the MoU in collaboration with the partners in the animal health sectors.

5.4 SUB-REGIONAL, REGIONAL AND INTERNATIONAL FRAMEWORKS

Table 5.1 provides a review of the key instruments that provide the legal and regional underpinning for the national laws that have been developed or are developing for pastoralism, rangeland management, movement of persons, livestock development and mobility, and cross-border trade. These will provide a firm basis for the domestication and application of the Transhumance Protocol in the Members States for national governments.

5.5 CONCLUSION

The IGAD Member States are members of, or have ratified most of the AU instruments and the international standards regimes. They are also signatories to other sub-regional bodies such as COMESA, EAC and RECSA, some of whose commitments are in harmony with the Protocol on Transhumance objectives. Therefore, these collections of instruments do provide the Member States with a legal basis to undertake the necessary domestic legislative, policy and institutional changes to facilitate the implementation of the Protocol. In addition, they provide a reference framework to adopt the right standards and best practices.

Table 5.1: Regional and International Frameworks Relevant to Cross-border Transhumance

	Organisation	Instruments	Issues Covered
A	SUB-REGIONAL		
1	IGAD Livestock and Pastoralism Instruments	IGAD Center for Pastoral Areas and Livestock Development (ICPALD)	The Centre serves as an advisory centre and a centre of excellence for both ASALs and livestock development issues in the region including articulating, facilitating and supporting the emerging livelihoods, and environment and gender focused policies and programmes in livestock and complementary livelihoods.
		IGAD Regional Policy Framework on Animal Health 2009	It calls for fast tracking a system of free movement of livestock and livestock products across the borders for trade purposes.
		The IGAD Livestock Policy Initiative (IGAD LPI) Working Paper No. 12	Declares an urgent need to facilitate cross-border intra-regional trade and supports the creation of a "Transhumance Certificate" to formalise and facilitate the movement of pastoralists across borders.
		IGAD Model Legal Framework for LITS & Regional Guidelines on LITS in the IGAD Region	LITS provides for the management of herd/flocks, animal health programmes and food safety to reduce the impact of TADs and zoonoses on food security, trade and resilience of livestock farmers.
		IGAD Regional Animal Health Certification (AHC) Guidelines	This provides vet professionals with information on good AHC practice that accord with OIE standards and which are applicable at the different points along the livestock marketing chain.
		IGAD Drought Disaster Resilience and Sustainability Initiative (IDDRSI)	The objective of IDDRSI is to develop a framework for managing disasters in the Horn of Africa based on strengthening pastoral livelihoods through interventions that target livestock production, health and marketing.
		IGAD Land Governance Strategy (2017-2022)	Aims to enhance the integration of land governance concerns into development frameworks for sustainable economic development in the region.

	Organisation	Instruments	Issues Covered
2	IGAD Transboundary Security Instruments	IGAD Conflict Early Warning and Response Mechanism (CEWARN)	Is a platform for regional cooperation on conflict prevention and mitigation through data collection and early warning and response.
		IGAD Policy Framework on the Informal Cross-Border Trade & Cross-Border Security Governance Nexus (ICBT-CBSG Policy Framework)	It seeks to address interconnected issues that characterise borderlands in the region including some of the root causes of the vulnerability of borderland populations from a human security lens. It promotes pastoralists' cross-border trade to become more economically viable by embedding it in the system of intra-IGAD international trade.
		IGAD Protocol on the Free Movement of Persons (Draft)	Provides an effective mechanism that facilitates and promotes the free movement of persons and labour in the IGAD region.
		The IGAD Regional Migration Policy Framework (IGAD-RMPF)	It urges the Member States to adopt and implement appropriate protocols intended to progressively achieve the free movement of persons, the right of residence and the right of establishment.

	Organisation	Instruments	Issues Covered
3	East African Community (EAC) Kenya, South Sudan and Uganda are members of EAC.	EAC Livestock Policy (2014)	Aims to attain an annual growth rate of at least 5 percent with significant livestock contribution to the agricultural GDP surpassing 50 percent and to contribute to the reduction of poverty, hunger, unemployment and degradation of natural resources.
		EAC Treaty & Protocol on Environment and Natural Resources Management	Requires harmony in the management of, inter alia, adopting common policies for management of their natural resources for the conservation of the eco-systems such as rangelands, managing transboundary resources and conservation of biodiversity.
		EAC SPS Protocol	Strengthen cooperation and coordination of SPS measures and activities based on common understanding and application within the Community; and enhance the SPS status through science-based approach.
		EAC Protocol of Common Market	The objectives of the Protocol include the promotion of trade in food and agricultural commodities within the Community and between the Community and other trading partners.
		EAC Strategy on Prevention and Control of TADS & and Zoonoses (2010)	The strategy aims to strengthen surveillance capacity; strengthen diagnosis and lab capacity; improve information, education and communication; enhance prevention and control of TADs; and strengthen capacity for containment and case management.
4	COMESA	Policy Framework on Food Security Pastoralists Areas 2009	The Framework recognising that pastoralists are the most food insecure and vulnerable groups, emphasises the cross-border aspects of their livelihoods. Djibouti, Ethiopia, Kenya, Uganda and Sudan are members of the COMESA
5	RECSA	Nairobi Protocol for Prevention, Control and Reduction of SALW in the Great Lakes Region, the Horn of Africa and Bordering States	The Protocol aims to prevent, combat and eradicate the illicit manufacturing of, trafficking in, possession and use of small arms and light weapons in the sub-region, and; promote and facilitate information sharing and cooperation.

	Organisation	Instruments	Issues Covered
6	EAPCCO Covers all the IGAD States	Protocol on the Prevention, Combating and Eradication of Cattle Rustling in Eastern Africa (Mifugo Protocol) 2008	It calls for State Parties to enact necessary legislation and take measures to make cattle rustling a serious criminal offence, and incorporate provisions promoting legal uniformity and minimum standards in respect of the branding, control, possession, import, export, registration and the movement of livestock in their national laws.
B	REGIONAL		
	African Union (AU)	Policy Framework for Pastoralism in Africa: Securing, Protecting and Improving the Lives, Livelihoods and Rights of Pastoralist Communities (2010)	Aims to secure and protect the lives, livelihoods and rights of pastoral peoples and ensure continent-wide commitment to political, social and economic development of pastoral communities and pastoral areas, and to reinforce the contribution of pastoral livestock to national, regional and continent-wide economies. It urges member States to integrate pastoral development into their national development policies.
		Framework and Guidelines on Land Policy in Africa.	Seeks to offer a basis for commitment by member states to the formulation and operationalisation of sound land policies as a basis for sustainable human development that includes assuring social stability, maintaining economic growth and alleviating poverty and protecting natural resources from degradation and pollution.
		Convention on Cross Border Cooperation (Niamey Convention 2012)	Aims to ensure efficient and effective integrated border management.
		African Union Border Programme	Established to facilitate and assist in border demarcation and delimitation, and to facilitate cross-border cooperation between member states of the AU.
		African Union Continental Free Trade Area (CFTA)	Has the primary goal of creating a single continental market for the trade in goods and services and in the process expand and deepen intra-Africa trade.

	Organisation	Instruments	Issues Covered
C	INTERNATIONAL		
1	United Nations (UNEP)	UN Pastoralism and Rangelands Resolution (Combating desertification, land degradation and drought and promoting sustainable pastoralism and rangelands (2016)	It urges Member States to build the capacity of and increase investment in the pastoral livestock sector, including for sustainable land management practices, improved and/or restored ecosystems, access to markets, and livestock health and breeding. It encourages regional intergovernmental bodies to support joint and cross-border development programmes for neighbouring pastoralist and other communities.
		UN Convention to Combat Desertification	It requires parties to provide for the effective participation of pastoralists and other resources users in policy planning, decision-making, and implementation and review of national action programmes
2	OIE	World Organisation for Animal Health	It is the standard-setting body for animal health and animal health certification.
3	Codex Alimentarius Commission	Codex Alimentarius Commission	CAC is the standard setting body for food, including food of animal origin and animal feeding (except those taken while grazing free-range).
4	WTO (World Trade Organisation)	The WTO Agreement on Agriculture	Governs world trade in agricultural products (includes Livestock resources) and sets out commitments that countries have to reduce barriers and improve market access.
		The WTO Agreement on the Application of Sanitary and Phytosanitary measures (SPS)	Deals with sanitary (human and animal health) and phytosanitary (plant health) measures that can be applied in international trade in, inter alia, plant and animal products. It restricts the use of unjustified SPS measures for the purpose of promoting trade.
5	Convention on Biodiversity (CBD)		The objectives of the CBD are the conservation of biological diversity; the sustainable use of its components, and the fair and equitable sharing of the benefits arising from the utilisation of genetic resources. The latter includes utilisation of the knowledge, innovations and practices of indigenous and local communities.

6.0 RECOMMENDATIONS

6.1 REGIONAL LEVEL ACTION

The following recommendations are presented for the member states at the national level, and at IGAD for the regional level actions in addition to the country specific recommendations detailed above. The policy, legal and institutional recommendations are grounded on the following major instruments: -

- IGAD Regional Policy Framework on Animal Health 2009, which commits the member states to establish regionally acceptable levels of animal health risk and sanitary standards, and; establish minimum standards for veterinary service provision across the region. It calls for fast tracking a system of free movement of livestock and livestock products across the borders for trade purposes and to progressively remove tariff and non-tariff barriers to intra-regional trade in livestock products and services.
- The IGAD Livestock Policy Initiative (IGAD LPI), which declares an urgent need to facilitate cross-border intra-regional trade and supports the call for the creation of a 'Transhumance Certificate' to formalise and facilitate the movement of pastoralists across borders.
- IGAD, Regional Guidelines on Livestock Identification and Traceability (LITS) in the IGAD Region, which provides for the management of herd/flocks, animal health (including zoonoses) programmes and food safety.
- IGAD Drought Disaster Resilience and Sustainability Initiative (IDDRSI) that aims to develop a framework for managing disasters by strengthening pastoral livelihoods through interventions that target livestock production, health and marketing.
- IGAD Policy Framework on the Informal Cross-Border Trade & Cross-Border Security Governance Nexus (ICBT-CBSG Policy Framework (Draft), which seeks to address some of the root causes of the vulnerability of borderland populations in the Horn region from a human security lens.
- AU Policy Framework for Pastoralism in Africa which urges the strengthening of pastoralist access to their rangelands, through appropriate reform of land tenure policy and legislation, and supported by participatory land use planning, and supporting the development of regional and national policies to enable pastoral mobility within and between States, supported by locally relevant livestock disease surveillance and certification systems.
- UN Pastoralism and Rangelands Resolution (Combating desertification, land degradation and drought and promoting sustainable pastoralism and rangelands (2016), which urges Member States to build the capacity of and increase investment in the pastoral livestock sector, including for sustainable land management practices, improved and/or restored ecosystems, access to markets, and livestock health and breeding. It encourages bodies like IGAD to support joint and cross-border development programmes for neighbouring pastoralist and other communities.

The focus on policy formulation and investments targeting cross-border areas in the region is a show of commitment to cross-border cooperation by the IGAD member states (IDDRSI

website). The development of the Protocol on Transhumance addressing cross-border livestock movement, security, trade and animal health is one such cooperative instrument whose success could be achieved if the following recommendations are taken into account. To facilitate the implementation of the Protocol on Transhumance, the following recommendations apply at the regional level.

6.1.1 Pastoralism Development Frameworks

- Simplify the proposed ITC to accommodate the pastoralist literacy level and ensure that it will be easily accessible to the transhumant pastoralists so the issuing authority is important.
- Develop a model transhumance regulation to facilitate the implementation of the Protocol.
- Ensure the harmonisation of national laws and policies affecting pastoralist to apply across countries.
- Sedentarisation should be allowed to evolve naturally, avoid imposing the policy.

6.1.2 Livestock Production

- Conduct baseline studies on transboundary pastoralist clusters.
- Encourage the member state to implement LITS to facilitate the movement of cross border pastoralists under the Protocol.

6.1.3 Institutional Capacity Development

- Train and create awareness on about the Protocol and the domesticated relevant laws among all stakeholders.
- Strengthen interactions and collaborations with local and international research and other institutions and NGOs/CBO working in border pastoralist areas.
- Scale up Karamoja Unit and mainstream the programme in the region.
- Provide a framework for regional dialogue and coordination on transhumance.

6.1.4 Governance Systems

- Design the Protocol on Transhumance implementation process to reinforce the traditional cross-border arrangements through formal recognition of their role.
- Develop guidelines to facilitate the incorporation of customary law use in the Protocol implementation taking into account that certain customary practices must be prohibited particularly discrimination against the rights of women.
- Develop guidelines to encourage increased participation of pastoral communities in the domestication and implementation of the Protocol.
- Increase research and document pastoralist governance system - Identification, synthesis and documentation of relevant indigenous knowledge.

6.1.5 Security and Mobility

- Harmonise policies such as disarmament initiatives to avoid creating an imbalance in the power relations between the transboundary transhumant pastoralists' communities.

- Consider providing for free movement without requiring the ID Documents up to a certain zone such as natural barriers e.g. River Tana in Kenya if Somalia Somali pastoralists are visiting.
- Develop a policy for conflict resolution among the pastoralist to minimise resources-generated conflict during the cross-border transhumance.
- Encourage member states to implement regional and sub regional instruments on pastoralist security, environmental and climate change, e.g. the Nairobi Protocol to reduce small arms proliferation in the region.

6.1.6 Land Governance

- Harmonise laws regionally to address inconsistencies and inadequacies in the pastoralists land tenure systems that reduce transboundary mobility and increase insecurity in cross borders bearing in mind the danger of pastoralists losing their flexibility in accessing the land due to the formal structures of the tenure system (see Box 6.1).

Box 6.1: The Paradox of Pastoral Land Tenure

The danger is that if tenure institutions become more formal and rigid, it will limit pastoralist mobility with potentially negative consequence for the resilience of the socio-ecological system. The pastoralist themselves talk about open access not in terms of an absence of rules, but in terms of rights for all. In the Chad basin, mobile pastoralism have the freedom to move within and between states and the pastoral system is best described as an open system in which there are no social or natural boundaries. All pastoralists regardless of class, ethnicity, or nationality have free access to common-pool grazing resources.

Governments in the basin support the open system through laws that support open access to common-pool grazing resources e.g. Cameroon's Ordinance No 74-1 of 1974. The only caveat is that the pastoralist must vaccinate their animals and pay their taxes. National and international policies protect transhumance corridors that allow pastoralist to move between seasonal grazing areas in the Chad basin.

However, there is danger in the delimitation of transhumance corridors. It has the potential to reduce pastoralist flexibility in mobility, it not only fixes the infrastructure but also the institutions that govern these infrastructure which means pastoralist are no longer flexible in their conflict resolution; they can no longer find their own negotiated and flexible low stakes solutions. The conflict may reduce but their intensity increases to larger conflict. Also, there is a tension between national and local governments as pastoralist pay taxes to national government while the local government derive levies primarily from agricultural populations.

Hence, the 'paradox of pastoral land tenure', since pastoralist need secure access to pasture and water but they also need flexibility in resource use to adapt to weather and climatic variability and land use changes.

Source: Brouwer 2014

6.1.7 Transboundary Transhumant Resources

- Develop model (general, cluster base or subject matter) transboundary legal and administrative frameworks to facilitate the use and management of shared transboundary resources during the pastoral cross-border mobility.

- Delineate areas for/as regular transhumance corridors to ensure the maintenance of these ecosystems to address need for migratory corridor flexibility.
- Initiate the tracking of routes for the regular movement of the transhumant livestock in the member states to establish the migratory corridors to avoid potential conflicts between pastoralists and agro-pastoralists.

6.1.8 Transhumant Pastoralism Data

- Undertake a study of the cross-border transhumance for the purpose of getting reliable statistics to facilitate a comprehensive monitoring and coordination of pastoralist movements across the region that would allow national and regional authorities to steer pastoralist transhumance in a way that avoids overcrowding and conflict.
- Oversee the national databases to feed into a regional of transboundary pastoralism database.

6.1.9 Trade and Marketing

Based on the ICBT Framework recommendations: -

- Fast track IGAD's vision to provide a single market to facilitate the movement of persons, animals, capital and the rights of establishment and residency.
- Develop an inter-IGAD livestock market especially in a 3-country boundary zone including the necessary infrastructure.
- Facilitate the inclusion of WTO standards (in SPS measures) in national trade legislations to promote the competitiveness of the member states' animal products regionally and globally.
- Develop mechanisms to improve intra-regional trade liberalisation in animal products by eliminating procedural barriers, and tariff and non-tariff barriers to intra-regional trade.
- Develop eco-labels and related certification process, private standards for environmental and social purposes in conjunction with major regional retailers for indigenous animal products.
- Develop model biocultural community protocols for transhumant pastoralist communities.

6.1.10 Cross-border Initiatives

- Support inter-country programmes harmonisation during designing and implementation e.g. livestock vaccinations, mapping of migratory and marketing routes, water and pasture, conflict resolution and peace building.
- Facilitate information sharing and exchange, and cross-border interagency collaboration.
- Provide a platform for resolution of transboundary transhumance disputes.
- Sensitisation of pastoralists on how to comport themselves in the countries they visit.
- Facilitate benchmarking sessions to learn from other government intuitions and organisations in terms of overcome challenges, the establishment of

migratory corridors, transhumant studies undertaken, the financial implication of implementation, impact of migration influence statelessness, etc.

6.1.11 Compliance with the Transhumance Protocol

- Build knowledge on the Protocol on Transhumance by supporting member states' Protocol awareness programmes.
- Ensure member state take appropriate measures within their competence to adopt the laws and regulations, administrative actions and enforcement measures, to ensure compliance with the Protocol on Transhumance.
- Review and monitor compliance with the Protocol by the Member States to promote secure movement of pastoralist across the borders in the region.

6.2 COMPONENTS OF A MODEL TRANSHUMANCE LEGISLATION

The regulation on transboundary transhumance will facilitate the development of coordinated policies, laws, mechanisms and standards to ensure coherence of pastoralism cross border movements, their adoption and adaptation. The law would seek to eliminate the adverse impact of conflicting national laws for transboundary communities and pastoralists and ensure they engage in activities beneficial to their livestock and natural resources. This will ensure the smooth running and management transhumant pastoralist implementation and cooperation across the region. The law would take cognisance of the following key policy environment: -

- Pastoralism policies
- Rangeland Policies
- Livestock Policies
- Migration and Security Policies
- Trading and Marketing Policies
- Environment and Natural Resources Management Policies

A comprehensive national transhumance law must address the issue highlighted in Box 6.2.

Box 6.2: Key Legal Elements of Importance to Pastoralism

Key legal elements of importance to pastoralism

1. State and local authority

- Pastoral land institution
- Coordinating function
- Distribution of responsibility
- Levels of responsibility
- General functions of a pastoral land institution
- Functional areas of a pastoral land institution
- Monitoring

2. Participation and information

- Community participation in pastoral land-use decision-making
- Information for interested persons
- Right to information

3. Specific legal requirements for pastoralism

- Rights and duties to use
- Mobility

Formulating legislation that supports the spatial and temporal dynamism of natural resource use is an important challenge for pastoral land management. To support herd mobility, a state should include procedures to:

- ensure that where customary law applies, that all rights and responsibilities of customary people can be exercised accordingly and to safeguard their land tenure;
- ensure the use of livestock mobility remains an important pastoral land management strategy;
- maintain livestock corridors and associated natural and artificial infrastructure including water points;
- address animal health to prevent obstacles to pastoral mobility, paying particular attention to the effective control of livestock diseases (may be addressed specifically under disease control legislation) to minimise restrictions to livestock movement, bearing in mind the potential risks to mobility and herd management of veterinary cordon fences.

4. Enforcement

Access to justice - States need to procure the removal of normative, social and economic obstacles that prevent or limit the possibility of access to justice. It refers to effective judicial and administrative solutions and procedures available to a person who is aggrieved or likely to be aggrieved by environmental harm. The term includes not only the procedural right of appearing before an appropriate body, but also the substantive right of compensation for harm done.

In many contemporary indigenous communities, dual justice systems exist. One is based on a statutory paradigm of justice, and the other is based on an indigenous paradigm. For many traditional societies, law and justice are part of a whole that prescribes a way of life. Relevant legislation should outline procedures for respective parties in legal proceedings. These should cover (Banjul 2003):

- access to relevant information relating to breaches of the legislation, through freedom of information provisions;
- access to information regarding land tenure;
- provision of financial assistance for individuals and groups to bring civil enforcement actions;
- prosecutions for a breach of pastoral land legislation.

In some circumstances, a community service order may be appropriate. Such orders are sometimes used as an alternative to a fine in a variety of jurisdictions. They involve tasks carried out on a periodic basis as a contribution to a community, and are often related to the nature of the offence.

5. Dispute resolution

Source: FAO Governance

6.3 PROGRAMMES, LAWS AND POLICIES TO LEARN FROM

6.3.1 A Pastoralist Legislation

The pastoral code and subsequent legislation are important as reference documents for structuring the cross border transhumance and for resolving conflicts related to transhumance (IOM et al, 2019).

A. Pastoralist legislation is developed in order to meet the following objectives: -

1. Ensure non-discrimination and equality to guarantee for instance, equal access to grazing resources to all members of the communities residing in the country and or area including women and people with special needs; includes full and equal enjoyment of rights of use and access.
2. Inclusivity - open to all pastoralists.
3. Strategic mobility that should include transboundary transhumance. The Malian Pastoral Charter, the Niger the Code Rural and the Pastoral Code in Mauritania recognise and protect mobility.
4. Sustainability of the pastoral resources.
5. Recognition of 'productive' pastoral land use e.g. in the Malian Pastoral Charter defines productive use of pastoral land in a positive way.

B. The principles that underpin the Pastoralist legislation are: -

- Respect for traditional systems including respect for traditional governance, communal land use, grazing rights.
- Security of land rights.
- Economic (production system and way of life).
- Environmental sustainability - tackle frequent and severe droughts coupled with overstocking and degradation of the environment.
- Participatory decision-making such as no grazing areas can be established without the involvement and approval of the community in a well-attended qualitative public consultation forum.
- Pastoral sustainability and indigenous knowledge preservation.
- Sustainable and productive management of pastoral land resources.
- Elimination of gender discrimination in law, customs and practices.

C. The main Issues to cover by the pastoral code shall include but are not limited to the following: -

- The objectives which address land use, property rights and the need for compliance with international law e.g. in the Mali Pastoral Code.
- Rights and obligations - Recognition of priority use rights over resources: the Rural Code in Niger recognises that residents are 'primary users' and have priority rights of access and use.
- Resources - grazing land, water and salt lick.
- Zones - identify grazing areas and designate these areas for planned sustainable use.
- Livestock routes.
- Diversification.
- Climate change.
- Learnings (meaningful).
- Health and sanitary.
- Governance.
- Development.

D. The governance and implementation structure shall provide for meaningful involvement of pastoralists from the local level to the regional level. The structure shall provide for the: -

- The laws, codes, MoUs (ensure free movement treaties and laws are in harmony)
- The actors
- The programmes
- The campaigns and education
- The networking
- The operational capacity to ensure compliance, monitoring and enforcement.

E. Finally, the Code must have provision to ensure its compliance and a dispute resolution mechanism.

F. A Proposed Pastoral Code in IGAD Region: The Draft Uganda's Rangeland and Pastoralism Policy proposes establishing a taskforce to prepare Uganda Pastoral Code to justify pastoralism as a coping mechanism to deal with the harsh climatic and ecological conditions in the rangelands. The code will:

1. Define a set of guidelines for exercising pastoral activities including pastoral livestock mobility, environmental conservation and sustainable use of resources, right of access to pastoral resources, fight against desertification, enhancing environmental monitoring;
2. Identify mechanisms for effective cross border liaison arrangements and community structures for resource sharing;
3. Prescribe regulations and identify the infrastructure to govern the movement of livestock within the country and across international borders;
4. Define the access rights to resources and services in pastoral areas; including pastures, water, trade markets, stock routes, agricultural advisory services, animal health and crop production support services;
5. Highlight the quarantines procedures to control livestock movement to stop the spread of diseases;
6. Identify how indigenous knowledge and the breeds of pastoralists can be optimised while also protecting their intellectual property rights;
7. Provide guidelines for undertaking restocking and destocking programs in rangeland areas;
8. Identify how best the RMTC shall contribute to a multi-disciplinary participatory approach to the management of rangeland pastoral and agro-pastoral resources;
9. Point out how local rules may be established and implemented through legitimate and democratic processes to promote sustainable use of rangeland resources; and
11. Gazette and define livestock migration or tracking routes and provide them with proper infrastructure and security.

6.3.2 ECOWAS Regional Transhumance Frameworks

The major instruments are *Decision A/DEC.5/10/98* Relating to the regulations on transhumance between ECOWAS Member States. Abuja (1998) and *ECOWAS Regulation C/REG 3/01/0 3* Relating to the implementation of the regulations on transhumance between the ECOWAS Member States. Dakar (2003). The ECOWAS Transhumance Protocol was formulated to address livestock breeding and transhumance, which is integral to the food security and for safeguarding and increasing agricultural production. The scope of the

Protocol is caprine, bovine, asinine, ovine, equine and cameline. The critical issue is the free movement on production of the ECOWAS International Transhumance Certificate (ITC). The major actors are the livestock department, which issues the ITC at the initiation of the local administration authorities. The aim of the ITC is to (i) monitor the herd before they leave a country, (ii) protect the health of local herds, and (iii) inform the host communities of arriving herds. The details included in the certificate are: -

1. Composition
2. Vaccinations
3. Itinerary
4. Border Posts to Cross
5. Final Destination

Other elements provided for in the Protocol include: timing for herd arrivals; stocking zone including maximum herd; rights and obligations of the herdsman including environmental protection; dispute resolution, and: the main actors for dispute resolution, issuance of certificate, etc. The ECOWAS Secretariat provides technical and financial support (campaigns, certificates, studies, programmes, pilots, briefs especially on impact on health, meetings). Member States were expected to undertake the following measures to implement the Protocol.

- Undertake information awareness campaigns.
- Establish and promote pastoralists organisations especially breeder's associations.
- Establish Transhumant communities and networks.
- Ensure strict compliance.

The Member States and ECOWAS are to provide the transhumant pastoralists with the following: -

1. Coverage of all routes.
2. Establish information and communications networks for transhumance and monitoring diseases.
3. Ensure tax involvement of herdsmen and association of professional in implementation.
4. Pastoralist development Programmes - map preparations of grazing areas, transhumance zones and watering points.
5. Establish a Ministerial monitoring Committee on Transhumance.
6. Establish a transhumance observatory to monitor compliance.
7. Formulate pastoral resources strategy.
8. Include transhumance related issues in training programmes.
9. Promote dialogues.
10. Disseminate information on animal health.

The following are shortcomings and lessons that have been learnt from implementing the ECOWAS Transhumance Protocol in the past 20 years include:

- Uneven development of the institutional structures required for the implementation of the ECOWAS Transhumance Protocol.
- Insufficient implementation of grazing routes and grazing areas.
- Focus on control instead of coordination as the Protocol aims to facilitate, but also control pastoralist movements in the ECOWAS area.

- Focus on pastoralist mobility instead of access to pastoral resources.
- Incoherent approaches to pastoralist transhumance.
- Insufficient involvement of pastoralists in the implementation of the Protocol.
- Limited domestication in national laws and contradictory approaches by sahel and coastal states.
- Many herders are still unaware of ITC documentation.
- African borders are porous and herders may follow traditional migration routes unique to families.
- Administrative impediments, delays, and illegal taxation of pastoralists are common (IOM et al, 2019).

Under the aegis of the Protocol, six (6) Member States proclaimed the *Nouakchott Declaration* on Pastoralism Mobilising Jointly an Ambitious Effort to Ensure Pastoralism without Borders (2013). The Declaration aimed to secure the lifestyle and means of production of pastoral populations and increase the gross output of livestock production by at least 30 percent in the 6 concerned countries over the next 5 years with a view to significantly increasing the incomes of pastoralists within a period of 5 to 10 years. It was a call for an ambitious commitment of all stakeholders to build a solid alliance around pastoralism, enhance the existing frameworks for concerted action in order to create a multi-actor platform enabling sustainable actions promoting pastoralism, and accelerate the formulation, financing, and implementation of national, multi-country, and cross-border programmes. The main pillars and scope of these programmes include:

1. Enhancing production services: This includes accelerating reforms to ensure improved governance of basic services to producers (animal health services, advisory support and action-research, access to credit, and access to water).
2. Improving the competitiveness of the livestock sector and market access.
3. Strengthening the security of the assets, rights, and lifestyles of pastoral people, access to basic services, and political inclusion.

The N'djamena Declaration concerning the contribution of pastoral livestock to the security and development of the Saharo-Sahelian areas is another such instrument.

An ECOWAS implementation study recommended the following (IOM et al, 2019): -

1. To ECOWAS
 - (i) Understand pastoralism as a development issue, not a security issue.
 - (ii) Develop a regional approach to the future of pastoralism.
 - (iii) Develop more inclusive institutions.
 - (iv) Provide a framework for regional dialogue and coordination on transhumance.
 - (v) Revise and monitor the Protocol on Transhumance.
 - (vi) Build knowledge on the Protocol.
 - (vii) Involve pastoralists and their organisations.
2. To ECOWAS Member States - Domesticating provisions of the ECOWAS Protocol on Transhumance and build necessary institutions.

3. To ECOWAS partners - Support ECOWAS in facilitating dialogue and cooperation on cross-border transhumance.

6.3.3 KIDDP - Uganda's Disarmament Programme

The Disarmament Process

A study was conducted to find out why the pastoralists needed to be armed. They discovered the people kept the guns for security, cattle rustling, and to reduce vulnerability because their neighbours were armed. To address the above, the government established the Karamoja Integrated Development and Disarmament Programme (KIDDP). The Programme aimed to provide security; strengthen the borders; provide alternative livelihoods to enable them to abandon the gun; improve the quality of livestock; environment improvement, and; establish institutions including a full Ministry of Karamoja Affairs.

Phase 1 of the Disarmament began in 2001 December and the disarmament was voluntary and the persons were compensated by items such as ox-ploughs, seeds, money and iron sheets for the guns surrendered. The Government recovered at least 10,000 guns.

Phase 2 - the national army initiated a 'cordon and search' operation to forcefully remove weapons. Communities that were forcefully disarmed were never compensated and the operation netted 30,000 guns.

The weakness of the exercise was that the neighbouring communities across the borders were never disarmed which had the consequence of making the Karamajong vulnerable to attacks from their neighbours.

Nabilatuk-Moruitit Resolutions (Nabilatuk 2013 and Moruitit 2014)

The Nabilatuk Resolution was a post disarmament intervention to address the continuing insecurity despite the disarmament facilitated by the army (CEWERU Uganda and Mercy Corps, 2018). It acted as a deterrent and social justice system. The Resolution decreed that cattle rustling perpetrators would be required to pay back double the number of animals stolen plus one additional animal as a deterrent (clause 1). Also, that in a situation where cows are stolen using guns, the kraal leader where the stolen cows are found shall take responsibility to recover the guns involved in the theft (clause 5). Communities and local authorities in both Uganda and Kenya implement the Resolutions.

The Resolutions have reasserted the role of elders and have become widely respected. They have been very relevant and functional across pastoralist communities in Kenya and Uganda. They have contributed to peace that has in turn facilitated growth in livestock and their productivity, robust trade and resource sharing arrangements within the region. There have been significant reduction of the violent incidences, fewer livestock losses, fewer deaths, it is safer to travel in the region, and previously abandoned areas have been resettled. It has also helped the army in the disarmament process. (CEWERU Uganda and Mercy Corps, 2018). However, losses of livestock are still experienced especially among the non-signatory communities. In addition, the victims from these areas are not compensated using the full prescriptions of the Nabilatuk/Moruitit Resolutions. There are also calls to strengthen the inclusion of politicians from Karamoja and non-signatory communities in the implementation processes in order to secure their goodwill that is crucial in mitigating conflict in their respective areas of jurisdiction (CEWERU Uganda and Mercy Corps, 2018).

The Lessons learnt in the implementation of the Resolution:

1. It has served as useful first-line mechanism of resolving conflicts within and among the former warring communities.
2. Translation of the Resolution into local language is critical to increase awareness among the targeted population.
3. Locally driven peace initiatives command high levels of legitimacy.

Other KIDDP initiatives included building infrastructure, basic service delivery, introduced, water harvesting techniques, cattle restocking, and introduce programmes to provide support to women and youth livelihoods. Currently, the area has been provided with roads, water, electricity, and is networked with the rest of Uganda. With respect to the outcomes of the disarmament programme and the larger KIDDP, Uganda's would like the neighbouring countries to respect the established water and grazing integrity; develop the infrastructure for their pastoralists, and embark on an effective disarmament exercise to harmonise with Uganda's.

Annex 1 – List of Key Member States’ Policies and Laws

Republic of Djibouti

Decree No. 2011-0204/PR/MDC

Decree No. 2011-036/PR/MHUEAT establishing and laying down the rules for the Organisation and Operation of the Project Implementation Office of the Great Green Wall

Decree No. 2015-180/PR/SEL of 2015 on the regulation and organisation of the co-ownership.

Djibouti Vision 2035

Law No. 117/AN/15/7thL of 2016 amending Law No. 177/AN/91/2ndL of 1991 on the Organisation of land ownership.

Law No. 178/AN/91/2eL laying down the procedures for the application of land tenure laws.

Law No.45/AN/04/5thL establishing the Terrestrial Protected Areas and Marines

Law No.58/AN/14/7thL adopting the “Vision Djibouti 2035” and its Operational Action Plans

Order No. 2007-0193/PRE/MS

Orders No. 2000-0727/PR/MAEM on chemical criteria of animals or food of animal origin and No. 2000-0728/PR/MAEM on microbiological criteria for animals or food of animal origin

State Private Domains (Lands) Code (Law No.173/AN/91/2ndL on Organisation of State Private Domains)

The Agriculture Code (Law No.200/AN/07/5thL on the Organisation of the Administration of the Ministry of Agriculture, Livestock, Fisheries and Water Resources.

The Constitution of the Republic of Djibouti 1992

The Environment Policy

The Environmental Code (Law No.51/AN/09/6thL)

The Land Expropriation Code (Law No.172/AN/91/2ndL on Regulating the Expropriation for Public Purpose Interest)

The National Domain (Land) Code (Law No.171/AN/91/2ndL on the Setting and Organisation of the Public Domains of the State)

The Sanitation Code (Law No.145/AN/06/5thL)

Federal Democratic Republic of Ethiopia (FDRE)

Afar Environmental Protection and Land Use Regulation No 4/2003

Afar Regional Government’s Policies and Legislations - the government passed Land Use and Management Proclamation No 49/2009

Animal Diseases Prevention and Control Proclamation No.267/2002

Animal Health Strategy and Plan both adopted in 2013

Animal, Animal products; and By-Products Marketing Development Authority Establishment (Amendment) Proclamation No. 198/2000

Benishangul Gumuz Regional State Land Administration and Use Proclamation No.85/2010

Development Conservation and Utilisation of Wildlife Proclamation No. 541/2007

Directive No. 4/1992, which governs the cross-border trade between Ethiopia and Kenya.

Draft FDRE Pastoral Development Policy and Strategy 2018.

Environmental Protection Organs Establishment Proclamation (No.295/2002).

Ethiopian Meat and Dairy Industry Development Institute Establishment (Regulation No. 295/2013)

Ethiopian Organic Agriculture System Proclamation No.488/2006

Expropriation of Landholdings for Public Purposes and Payment of Compensation Proclamation No.455/2005

FDRE Constitution (1995)

FDRE Rural Land Administration and Land Use Proclamation No.456/2005

Forest Development, Conservation and Utilisation Proclamation No.542/2007

Immigration Proclamation No. 354/2003

Livestock Market Proclamation No. 819/2014)

Livestock Master Plan 2016-2020

Oromia Proclamation No 130/2007

Rural Development Policy and Strategies 2003

Rural Land Administration and Proclamation of Ethiopian Somali Region (128/2013)

Security, Immigration and Refugee Affairs Authority Establishment Proclamation No. 6/1995

SNNP Land Administration Proclamation No 110/2007

Veterinary Drug and Feed Administration and Control Proclamation No.728/2011

Republic of Kenya

Agricultural Produce (Export) Act (Cap 319),

Animal Diseases Act (Cap 364)

Community Land Regulations, 2017

County Government Act 2012

Crop Production and Livestock Act (Cap 321)

Elgeyo Marakwet County Public Participation Act, (No.5 of 2014),

Environment and Land Court Act

Firearms Act (Cap 114)

Food, Drugs and Chemical Substances Act (Cap 254)

Forest Conservation and Management Act (No.34 of 2016),

Forest Policy, 2014

Tana River Animal Control And Grazing Act, 2016

Kenya Agricultural and Livestock Research Act (No.17 of 2013)

Kenya Constitution 2010

Kenya Food and Drugs Authority Bill, 2019

Kenya Meat Commission Act (Cap 363)
 Land Act (No.6 of 2012)
 Land Adjudication Act (Cap 284)
 Land Registration Act (No. 3 of 2012)
 Livestock and Livestock Products Marketing Board Bill, 2019.
 Meat Control (Importation of Meat and Meat Products) Regulations, 2001
 Meat Control Act (Cap 356)
 National Trade Policy 2009
 Plant Protection Act (Cap 324)
 Prevention of Cruelty to Animals Act (Cap 360)
 The Animal Diseases Act (Cap 364)
 The Branding of Stock Act (Cap 12)
 The Community Land Act (No.7 of 2016)
 The County Government Act
 The Dairy Industry Act (Cap 336),
 The Draft National Livestock Policy 2019
 The Draft Rangelands Management and Pastoralism Strategy 2018-2028
 The Environmental Management and Coordination Act (No 8 of 1999)
 The Kenya Animal Genetic Resources Centre Order, 2011
 The Meat Control (Cap 356)
 The National Environment Policy, 2013
 The National Land Policy (Sessional Paper No.3 of 2009)
 The National Land Use Policy (Sessional Paper No.1 of 2017)
 The National Livestock Policy (Sessional Paper No. 2 of 2008 (revised 2014)
 The National Wildlife Conservation And Management Policy 2017
 The Natural Resources (Benefit Sharing) Act, 2018,
 The Protection of Traditional Knowledge and Cultural Expressions Act (No.33 of 2016)
 The Stock and Produce Theft Act (Cap 355)
 The Veterinary Policy 2015
 Veterinary Surgeons and Veterinary Paraprofessionals Act (No. 29 of 2011)
 Vision 2030 Development Strategy for Northern Kenya and other Arid Lands, (Sessional Paper No. 8 of 2012(ASAL Draft Policy)
 Wildlife Conservation and Management (Protection of Endangered and Threatened Ecosystems, Habitats and Species) Regulations, 2017
 Wildlife Conservation and Management Act, (No.47 of 2013)

Federal Republic of Somalia

Agricultural Land Law 1974
 Draft Livestock Development Strategy:
 National Multi-Hazard Disaster Monitoring And Response Plan 2018
 Public Order Law 1963

Somalia Disaster Response Plan 2018 ((FRS, 2018)
Somalia NDP 2017-2019 (FRS (2017)
Somaliland Agricultural Land Law of 1999
Somaliland Government (Land Management law, No.17 Art 1)
Somaliland Environmental Conservation Act
The Somalia National Development Plan (NDP) 2017-2019
The Vet-Gov Act

Republic of South Sudan

Comprehensive Agriculture Master Plan (CAMP) 2017
Firearms Bill of 2016
Police Act of 2009
South Sudan Police Service Regulations of 2010 and the
The Draft National Livestock Development Policy
The Draft South Sudan Land Policy 2013
The Land Act 2009
The Local Government Act 2009
The Ministry of Animal Resources and Fisheries Policy Framework And Strategic Plans
2012 -2016
The National Agriculture and Livestock Extension Policy (NALEP)
The National Environment Policy 2012
Transitional Constitution of the Republic of South Sudan (RSS) 2011

Republic of Sudan

Abolition of Native Administration Act (1971)
Environmental Protection Act 2001
Ordinance No. 4 of 2007 establishing the General Authority for Veterinary Supply
Organisation of Farmers and Pastoralists Act 1992
Quarantine Law No. 18 of 1974
Rangelands and Forages Resources Development (Rationalisation) Act of 2015
Successive Encouragement of Investment Acts (1996, 1999, amended 2000)
Sudan Interim National Constitution 2005
The Abolition of the Prescription and Limitation Act
The Agricultural Revival Programme (ARP) 2008
The Civil Transactions Act, 1984
The Draft Agriculture and Animal Producers' Legislative Act 2010
The Forests and Renewable Natural Resources Act, 2002
The Land Settlement and Registration Act, 1925
The Local Government Act 1998
The Local Government Act 2003

The National Action Plan for the Implementation of the Great Green Wall for the Sahel and Sahara Initiative

The Native Administration Act (1989)

The Unregistered Land Act, 1970 (Act no. 23) (repealed in 1984)

The Wildlife Conservation and National Parks Act 1986

Veterinary Quarantine for Import and Export of Live Animals and Meat, Law No. 35 of 2004

Water Resources Act 1995

Republic of Uganda

Animal Breeding Act, 2001

Draft Rangeland Management and Pastoralism Policy 2017

Land Acquisition Act 1965 (Cap 226)

Land Act (Cap 227)

National Development Plan II (2015-2020)

National Environment Management Policy, 1994

National Land Policy 2013

Prohibition of the Burning of Grass Act (Cap 33)

The Animal Diseases Act (Cap 38)

The Cattle Grazing Act (Cap 42)

The Cattle Traders Act (Cap 43)

The Dairy Industry Act (Cap 85)

The Executive Committees (Judicial Powers) Act (Cap 8)

The Firearms Act (Cap 299)

The Food And Drugs Act (Cap 278)

The Local Council Courts Act, 2006

The Local Governments Act (Cap 243)

The National Agriculture Policy 2013

The National Agriculture Policy 2013

The National Environment (Minimum Standards for Management of Soil Quality) Regulations, 2001

The National Environment Act (Cap 153)

The National Trade Policy 2007

The Registration of Titles Act (Cap 230)

The Sanitary and Phyto-Sanitary Policy 2011

The Uganda Wildlife Policy 1999

The Ugandan Constitution 1995

The Water Act, 1995

Uganda SIF for SLM 2010 – 2020 (SLM 2010)

Uganda Wildlife Act (Cap 200)

Veterinary Surgeons Act (Cap 277)

Annex 2 – Checklist Utilised and/or Sent to Key Stakeholders

Assessment of Legal, Policy and Institutional Frameworks for Pastoral Livestock Development and Livestock Mobility in the IGAD Region

April 2019

The purpose of the assignment is to undertake a comprehensive assessment of Legal, Policy and Institutional Framework, Practices and Programmes for Pastoral Livestock Development and Livestock Mobility in IGAD Region to facilitate the implementation of the IGAD Protocol on Transhumance. The assessment seeks to harmonise relevant national and regional policies, laws and strategies for land use, cross border arrangements for pastoral mobility, rangeland management, resource allocation and management for ASAL regions and institutional alignment in the member states.

In summary, the information sought includes (what is referred to as Frameworks in the checklist below): -

1. Laws, policies, strategies, practices and programmes including those under development affecting the implementation of the draft IGAD Protocol on Transhumance.
2. The institutions, both formal and customary and their competence to implement the Protocol.
3. Recommendations and proposals to harmonise national laws and policies with the Protocol to ensure its successful implementation.
4. Existing bilateral agreements, pastoral codes, programmes, practices and other arrangements to form a basis and best practices for implementing the Protocol at the national and regional level.

Kindly provide information in the following areas as appropriate to the institution or organisation. The information may be listed, described and documents attached and web links provided where available.

1. **Cross-border Pastoralism Frameworks**

Kindly provide any existing or proposed pastoralism related frameworks that directly impact on transboundary pastoralists' movements. These frameworks may impact on the following components of the Transhumance Protocol:

- Safe border crossings for transhumant communities
- Description of grazing routes, pastures, grazing seasons, timing and duration, and migratory corridors
- Processes for permits and border crossings
- Rights and obligations of transboundary herders
- Provision of relevant identification documents for herders and animals
- Sanitary requirements and disease-control measures
- Cross-border transhumant institutions

2. **Security Frameworks Affecting Cross-Border Pastoral Mobility**

Kindly provide any current or proposed frameworks affecting the security and stability of pastoralists that would hamper the implementation of the Transhumance Protocol or

bilateral agreements developed regulating cross-border mobility for these communities, both persons and animals. These include security and immigration frameworks and local peace agreements.

3. Security of Tenure

This refers to the land tenure and resources management system and its impact on the pastoralists livelihoods particularly transboundary mobility. Kindly provide existing or proposed frameworks that apply to pastoralism rights to manage, own, access and use land and essential natural resources such as water that would support or hamper the implementation of Transhumance Protocol.

4. Institutional Governance of Cross-border Pastoral Mobility

Kindly outline the institutions that govern transboundary pastoralists' mobility outlining their competence. The role of local community norms in governing cross-border livestock movement corridors, pastures and watering holes and resources sharing should be highlighted.

5. Environmental, Climate Change and Disaster Management Frameworks

Kindly provide the existing or proposed environmental, climate change adaptation, disaster risk reduction and disaster management frameworks that would impact the implementation of the Transhumance Protocol.

Member States

Government Ministries, Departments and Agencies (MDA) and other National, Regional and International Institutions and Organisations

	Country	MDA/Organisation	Remarks
1	Djibouti	Ministry of Justice	
		Ministry of Agriculture, livestock and fisheries	
		NEALCO	
		Ministry in charge of Immigration and or Interior Affairs	
		Ministry of Foreign Affairs	
		Parliamentary Committee on Livestock and Pastoralism	
2	Ethiopia	Office of the Attorney General - Legal Expert for Horn of Africa Affairs	
		IGAD CEWARN	
		AU DREA	
		Ministry in charge of Immigration	
		Parliamentary Committee on Livestock and Pastoralism	
3	Kenya	Attorney General's Office	
		Ministry of Agriculture, Livestock and fisheries	
		Ministry in charge of Immigration and or Interior Affairs	
		Parliamentary Committee on livestock and Pastoralism	
		EAPCCO	
		AU-IBAR	
		Pastoralists Development Network	

4	Somalia	Office of the Prime Minister or Ministry in charge of Immigration	
		Ministry in charge of Environment	
		NEALCO	
		Ministry of Livestock and Pasture	For documents only
5	South Sudan	Ministry of Animal Resources and Fisheries	
		Ministry of Justice	
		Parliamentary Committee on livestock and Pastoralism	
		Ministry in charge of Immigration and or Interior Affairs	
		NEALCO	
6	Sudan	Ministry of Animal, Range and Pasture	
		Ministry of Justice	
		Ministry in charge of Immigration and or Interior	
		NEALCO	
		Council for Humanitarian Affairs	
7	Uganda	Ministry of Karamoja Affairs	
		Parliamentary Committee on Livestock and Pastoralism	
		Ministry of Justice	
		Ministry of Foreign Affairs	
		Ministry in charge of Immigration	
		PENHA Uganda	

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1. Relevant National, Regional and International Instruments

IGAD

Agreement Establishing the Inter-Governmental Authority on Development
IGAD Regional Policy Framework on Animal Health 2009
IGAD Drought Resilience and Sustainability Initiative Strategy 2013
IGAD Model Legal Framework for Livestock Identification and Traceability System
IGAD Policy Framework on the Informal Cross-Border Trade and Cross-Border Security Governance Nexus - Enhancing Cross-Border Cooperation and Cross-Border Economic Exchanges in the IGAD Region (2018) (IGAD ICBT 2018)
IGAD Regional Policy Framework on Animal Health 2009
IGAD Regional Programming Paper (RPP) for the Drought Disaster Resilience and Sustainability Initiative (IDDRSI) 2013
IGAD Regional Strategy Volume I The Framework
IGAD Regional Strategy Volume II Implementation Plan 2016-2020
IGAD, Model Legal Framework for Livestock Identification and Traceability System (LITS) 2016
IGAD, Regional Animal Health Certification Guidelines
IGAD, Regional Guidelines on Livestock Identification and Traceability (LITS) in the IGAD Region
IGAD Protocol on the Establishment of Conflict Early Warning and Response Mechanism; 2002
Protocol for the Establishment of IGAD Centre for Pastoral Areas and Livestock Development (ICPALD) 2015
The IGAD Land Governance Strategy 2017-2022

Bilateral and Multilateral Arrangements

Cross-border Integrated Programme for Sustainable Peace and socio-economic Transformation: Marsabit of Kenya and Borana & Dawa Zones, Ethiopia" (Under development)
MOU –Ethiopia-Djibouti on Cross Border Cooperation and Collaboration on Animal Health and Sanitary Measures 2018
MOU –Ethiopia-Kenya on Cross Border Cooperation on Animal Health and Sanitary Measures
Multilateral Memorandum of Understanding Between the Federal Democratic Republic of Ethiopia and the Republic of Kenya and The Republic of South Sudan and the Republic of Uganda On Cross-Border Animal Health Coordination, 2016.
The Tripartite Cooperation Agreement by Eritrea, Somalia and Ethiopia of September 2018

Other RECs and Organisations

EAC Protocol on Environment and Natural Resources Management

EAPCCO Protocol on the Prevention, Combating and Eradication of Cattle Rustling in Eastern Africa 2008

Economic Community of West African States (ECOWAS), The Decision is supported by rule C/REG.3/01/03 adopted in 2003 for the implementation of the regulation of transhumance between ECOWAS Member States

ECOWAS Decision A/DEC.5/10/98 Relating to the regulations on transhumance between ECOWAS Member States. Abuja (1998)

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ECOWAS Commission, Strategic Action Plan for the Development and Transformation of Livestock Sector in the ECOWAS Region (2011-2010). Abuja, 2010

ECOWAS, Regional Agricultural Investment Plan (RAIP). Abuja, 2015

Nouakchott Declaration on Pastoralism Mobilising Jointly an Ambitious Effort to Ensure Pastoralism without Borders 2013

The EAC Strategy on Prevention and Control of TADS and Zoonoses

The East African Community Livestock Policy 2013

The Nairobi Protocol on for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Regions and the Horn of Africa 2004

Treaty for the Establishment of the East African Community

African Union

African Charter on Human And Peoples' Rights (Banjul Charter)

African Convention on The Conservation of Nature and Natural Resources

African Union Policy Framework for Pastoralism in Africa: Securing, Protecting and Improving the Lives, Livelihoods and Rights of Pastoralist Communities, 2010

Comprehensive Africa Agriculture Development Programme

The Framework and Guidelines on Land Policy in Africa - Land Policy in Africa: A Framework to Strengthen Land Rights, Enhance Productivity and Secure Livelihoods, AUC-ECA-AfDB Consortium 2010

The Livestock Development Strategy for Africa (LiDeSa) 2015-2035

International Instruments

Climate Change Convention 1992

Combating desertification, land degradation and drought and promoting sustainable pastoralism and rangelands, UNEP/EA.2/L.28

UN Convention to Combat Desertification 1994

WTO Agreement on Agriculture

WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS)

National Laws

Benin Law on the common pasture of 1987 (87-013)

Burkina Faso Law no. 006/97/ADP 1997 Forest Code

Burkina Faso Law No. 055-2004/AN 2004 General Local Authorities Code in Burkina Faso

Burkina Faso Law no. 14/96/ADP 1996 on agrarian and land reform

Burkina Faso Law no. 34-2002/AN 2002 concerning orientation law on pastoralism

Burkina Faso Law on Agrarian and Land Reform (RAF), 1984

Guinea Pastoral Code (Law No L/95/51/CTRN 1995)

Mali Pastoral Charta (Charte Pastorale, 2001)

Mauritania Pastoral Code

Niger the Code Rural - Decree No.: 97-008/PRN/MAG/EL 1997

2. Resource Guides

IGAD Reports and Publications

Federal Government of Ethiopia (2017), Review of Resilience Initiatives in Ethiopia (2011-2016), Prepared by Tesfaye Beshah, (available from <http://www.resilience.igad.int>)

Government of Kenya (2017), Ending Drought Emergencies (EDE) Progress Report), Ministry of Devolution and Planning & National Drought Management Authority, (available from <http://www.resilience.igad.int>)

Government of Somalia (2017), Country Progress Report on IGAD Drought Disaster Resilience and Sustainability Initiative (IDDRSI) implementation in the past 5 years (2011-2016), prepared by Abdullahi Hassan Hussein (available from <http://www.resilience.igad.int>)

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