

Approved for tabling.

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PARLIAMENT OF KENYA

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PAPER LAID

REPUBLIC OF KENYA



NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – FOURTH SESSION – 2016

DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES

REPORT ON THE PETITION BY THE MACADAMIA FARMERS FROM MARAGWA ON LIFTING THE BAN ON SALE AND EXPORT RAW MACADAMIA.

FAPEL  
By the Vice  
Chamberlain  
Hon. Karene  
Mburu  
on Wednesday  
3.8.2016  
[Signature]

DIRECTORATE OF COMMITTEE SERVICES,  
CLERK'S CHAMBERS  
PARLIAMENT BUILDINGS  
NAIROBI

AUGUST, 2016

**ANNEXES**

Adoption List

Committee Minutes

Copy of the Petition

## 2.0 EXECUTIVE SUMMARY

This report has considered and responded to the prayers sought by residents of Maragwa Constituency in a petition on the ban on sale and export of raw Macadamia nuts in Kenya. The Committee found out that the prayer pursued by the petitioners is reasonable given that Section 43 of the Agriculture Food and Fisheries Act ,2013 provided for the ban on the sale and export of raw.

The Nuts industry is regulated by the Nuts and Oil Crops Directorate, an arm of Agriculture, Fisheries and Food Authority (AFFA) mandated to develop, promote and regulate the nuts and oil crops industry in Kenya. Before the enactment of AFFA Act 2013 and Crops Act 2013, the role of developing, promoting and regulating the nuts and oil crops subsector was largely amorphous.

The Nuts and Oil Crops Directorate regulate the following scheduled nuts and oil crops: macadamia, cashew nuts, oil palm; ground nuts; sesame; sunflower; safflower; castor bean; jojoba; linseed, and oil seed rape. Among other mandate of the Nuts and Oil Crops Directorate include:

- a) Administer the Crops Act, in accordance with the provisions of the said Act, as it relates to Nuts and Oil Crops industry;
- b) Regulate the production, post-harvest handling and marketing of Nuts and Oil Crops produce and its by-products;
- c) Provide advisory and regulatory services on matters related to the industry to the Agriculture, Fisheries and Food Authority and government for planning purposes;
- d) Recommend general industry agreements and vet contracts between players especially growers associations and processors of scheduled crops;
- e) Arbitrate and mediate disputes arising between growers and/or other players in the industry; Co-ordinate matters of international protocols and conventions
- f) Regulate imports and exports of the produce and by-products for the efficient management of the Nuts and Oil Crops industry and

### 3.0 MANDATE OF THE COMMITTEE

The Committee under Standing Order 227 is mandated to respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the floor of the House

The Committee is established in accordance with the provisions of Standing Order No. 216, with the following terms of reference: -

- i. To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- ii. To study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
- iii. To study and review all legislation referred to it;
- iv. To study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
- v. To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House or a Minister;
- vi. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments); and
- vii. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

#### 4.0 OVERSIGHT

In executing its mandate, the Committee oversees the following Government Departments and agencies, namely:-

- i. The State department of Agriculture
- ii. The State Department of livestock
- iii. The State Department for fisheries
- iv. The State Department of Cooperatives
- v. The State Department of Irrigation

## 6.0 COMMITTEE SECRETARIAT

<b>First Clerk Assistant</b>	Mr. Benjamin Magut
<b>Clerk Assistant</b>	Ms. Naserian Lotuai
<b>Clerk Assistant</b>	Mr. Ahmad Guliye
<b>Legal Counsel</b>	Ms. Brigita Mati
<b>Research &amp; Policy Analyst</b>	Mr. David Ngeno
<b>Fiscal Analyst</b>	Ms. Lucy Makara

## 8.0 INTRODUCTION

The petition by Macadamia Farmers from Maragwa Constituency regarding the Ban of Sale or Export of Raw Macadamia was tabled in the House by pursuant to Standing Order 225 (2) (a) by the Hon. Peter Kamande , MP on Wednesday 4<sup>th</sup> May , 2016.

Pursuant to the House rules, the petition was referred to the Committee on Wednesday 4<sup>th</sup> May , 2016. for consideration and preparation of a report within 60 days. The Committee considered the petition pursuant to the provisions of Standing Order 227.

The Petitioners wished to draw to the attention of the House on the following, that:

1. Section 43 of the Agriculture ,Fisheries and Food Authority Act 2-13 prohibits export of raw produce such as raw macadamia ,raw cashew nuts, raw pyrethrum among other products except with written authority from the Cabinet Secretary and with the approval of National Assembly
2. Due to said prohibition , the macadamia farmers in the country are suffering and macadamia industry is on the verge of collapse;
3. With the collapse of Coffee farming , macadamia has been the main source of income thereby ensuring financial stability to those farmers;
4. Since 2004 macadamia farmers experienced a steady rise in macadamia price from KES 10 to KES 50 per Kilogram , and further the emergence of foreign investors in the year 2014 and 2015 led to rapid increase in prices to KES 130 per Kilogram;
5. The implementation of the Agriculture Food and Fisheries Act, 2013 led to decrease in macadamia prices and deregistration of firms dealing with raw macadamia;
6. The implementation of the Act has led to loss of employment and closure of business;

- vi. Some of the processors that have been denied licenses by AFFA include Quwei and Asia star who have since shifted their operations to Zimbabwe last year. These processors have been willing to buy the macadamia nuts at KES. 170 per kilogram as opposed to the current price of KES 40 per kilogram.
- vii. The industry value has diminished significantly owing to the sharp decrease in prices.
- viii. Between the years 2002-2010 the prices of Macadamia per kilogram have averaged at KES.120. However in the current year the market price per kilogram has dipped to KES.40
- ix. There is a sharp decrease in production of macadamia nuts in the country for the last two years from 30,000 Metric tonnes to 10,000 Metric tons per year.
- x. The Committee considers amendment of the AFFA Act, 2013 to allow the export of raw nuts.

The petitioners requested the Committee to consider their recommendations as follows;

- i. Suspend all macadamia licenses to create room for foreign and local investments
- ii. Scrap off the macadamia nuts from the prohibitory under section 43 of the AFFA Act, 2013 to encourage a competitive trade among the farmers, marketers and processors.
- iii. Investigate the composition of NutpacK Association with a view of establishing whether it exhibits oligopoly tendencies and whether it has been exploiting the farmers.



- vi. Farm gate Price discovery will play out steadily as opposed to bullish price shifts, farm-gate Price stability will level out mid-season (July/August) and get to peak Oct/Nov.
- vii. AFFA & KRA strong anti-smuggling efforts have made quality improve and remove the bullish buying behavior that had prevailed for a long time.
- viii. There is need for patience to allow market adjustment whereby buying will be spread for more than six months as opposed to two months as is the current scenario. The highest price ever recorded in Kenya per kilogram of macadamia nuts was KES. 150 in 2015 and currently the processors are offering KES. 80 per kilogram to the farmers
- ix. Over 180,000 farmers throughout the country are engaged in the macadamia farming. During the period 2010/15 farmers planted over 1.5 million seedlings in the country. However there are only 20 companies that are licensed to process the nuts in Kenya.
- x. Kenyan processors have a combined processing investments of over KES 1.5 billion including own orchards in five estates estimates at 15,000hectares; processing and factory facilities, mechanized cracking machines, nut drying, color sorting machines, storage, and processing (cracking, inspection, and roasting).
- xi. The Processed export value estimated at KES 6B while Farm-gate value annually is estimated at KES 2.5B. Additionally this industry employs an estimated 1,500 youths and traders and provide direct employment to 13,850 Kenyans spread in the industrial drying, cracking and value addition.
- xii. The industry is labor intensive and average wages and salaries paid to production and related workers ranges from KES 240m- KES 310m annually.

- c) Adopt new planting materials and installation of cutting edge macadamia processing facilities.
- d) Provide certified seedlings, by using improved planting materials and improved husbandry practices.
- e) Encourage cushioning fund for Macadamia farmers.
- f) Invest in research institute that will undertake research of nuts in the country and improve the crop to meet the international standards.

### **9.3 Presentation by Cabinet Secretary from the Ministry of Agriculture, Livestock and Fisheries.**

Through written submission Mr. Willy Bett , Cabinet Secretary Ministry of Agriculture , Livestock and Fisheries informed the Committee that

- i. The Agriculture Food and Fisheries Act , 2013 was enacted in 2013 with commencement date of August 2014. The objective of the creating a AFFA Authority that shall house all agencies mandated to implement the various policies that relate to Agricultural and Food commodities. The objectives of the Authority are
  - a) Reduced regulatory bureaucracy, and over-regulation of the crops subsector;
  - b) Greater efficiency in service delivery, resulting from enhanced synergies, and faster decision making processes;
  - c) Reduced costs running the previous institutions through centralized operations;
  - d) Rationalized taxation through reduction of levies, taxes and other barriers, in order to facilitate free movement of crop products;
  - e) Reduced duplication and overlap of functions among institutions previously involved in the regulation of crops;

- ix. In the first quarter of the year the international prices of wide range of nuts has had a downing trend, this nuts includes Almond ,Peanuts ,Macadamia , Cashew nuts and Oil Palm

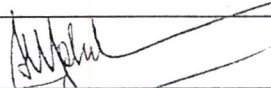
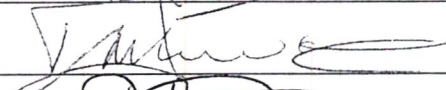
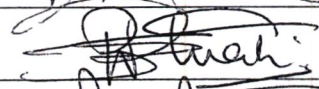
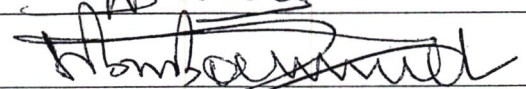

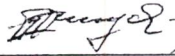
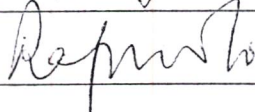


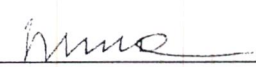
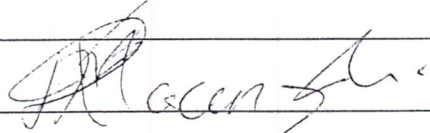

## 10.0 FINDINGS AND OBSERVATIONS

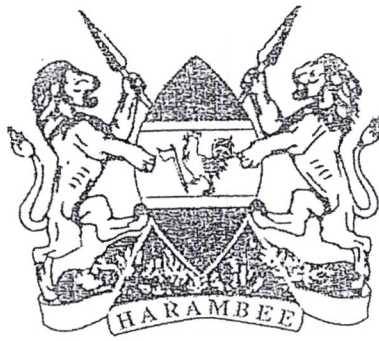
The Committee made the following observations from evidence adduced in the meetings that:-

- I. Section 43 of the AFFA Act, 2013 prohibits the sale and export of the raw nuts. The spirit of this legislation to encourage value addition on locally produced agricultural commodities to enhance its ccompetitive value in the international and local market.
- II. Kenya is the 3<sup>rd</sup> largest producer of Macadamia nuts in the world after Australia and Hawaii. In Kenya the traditional macadamia farming areas include Central Kenya, Bungoma and Taita.
- III. There are an estimated 180,000 farmers throughout the country who are engaged in the macadamia farming and during the period 2010/15, these farmers planted over 1.5 million seedlings in the country.
- IV. There are only 20 companies that are licensed to process the nuts in Kenya which have a combined processing investments of over KES 1.5 billion including own orchards in five estates estimates at 15,000 hectares; processing and factory facilities, mechanized cracking machines, nut drying, color sorting machines, storage, and processing (cracking, inspection, and roasting).
- V. NutPaK Association of Kenya is an association of Nut processors in Kenya who has a membership of eight (8) companies. The association mission is to create a platform and mouthpiece for Nut processors in Kenya. It provides forum and platform to the processors and manufacturers of tree and ground nuts related products, in order to further the sustainability of the nuts industry in Kenya.

- d) It is important to license all players to stop smuggling of raw macadamia at the port.
- e) Prices are set by external markets and trading partners.

ADOPTION LIST FOR THE REPORT REGARDING PETITION BY THE MACADAMIA FARMERS FROM MARAGWA ON LIFTING THE BAN ON SALE AND EXPORT RAW MACADAMIA ON THURSDAY 28<sup>TH</sup> JULY, 2016

NO	NAME	SIGNATURE
1	The Hon. Adan Mohamed Nooru, CBS, MBS,MP	
2	The Hon. Japhet M. Kareke Mbiuki, M.P.	
3	The Hon. Benjamin Jomo Washiali, M.P	
4	The Hon. John Bomett Serut, M.P.	
5	The Hon. KabandoWa Kabando, M.P.	
6	The Hon. (Dr.) Victor K Munyaka, M.P.	
7	The Hon. Raphael Letimalo, M.P.	
8	The Hon. Millie Odhiambo, M.P.	
9	The Hon. Fredrick Outa, M.P.	
10	The Hon. Benjamin Andayi, M.P.	
11	The Hon. Mary Wambui Munene, M.P.	
12	The Hon. Francis Munyua Waititu, M.P.	
13	The Hon. Peter Njuguna Gitau, M.P.	
14	The Hon. Maison Leshoomo, M.P.	
15	The Hon. Anthony K. Ichung'wah, M.P.	
16	The Hon. Aisha Jumwa, M.P.	
17	The Hon. Patrick Wangamati, M.P.	
18	The Hon. Maanzo, Daniel Kitonga, M.P.	
19	The Hon. Justice Kemei, M.P.	



THE REPUBLIC OF KENYA

PETITION BY CONCERNED KENYAN MACADAMIA FARMERS ON THE PROHIBITION OF EXPORT OF RAW MACADAMIA AND MINISTRY'S REFUSAL TO ISSUE LICENCES TO FOREIGN INVESTORS.

NO	NAME	PHONE NUMBER	ID NUMBER	SIGNATURE
1.	Samuel Kimani Njoroge	0725540179	003957	
2.	Michael Karuki Mungu	0722428456	13260014	
3.	JOHN MWANGI, MURUKI	0720543423	22927565	
4.	STEPHEN MBUNUA LUTHI	0724746399	12992944	
5.	JACKSON NJARANBO NDIRITU	0721518065	9075919	
6.	Christopher thogo Riai	0729534980	1219386	
7.	Edwin Murangari	0716367009	24570637	

## **In Attendance:**

### **Kenya National Assembly Secretariat**

- |                          |                         |
|--------------------------|-------------------------|
| 1. Mr. Benjamin Magut    | - First Clerk Assistant |
| 2. Ms. Angeline Naserian | -Third Clerk Assistant  |
| 3. Mr. Ahmad Guliye      | - Third Clerk Assistant |
| 4. Ms. Christine Maeri   | -Audio Officer          |
| 5. Mr. David Ngeno       | - Research Officer      |

### **Petitioners**

- |                           |  |
|---------------------------|--|
| 1. Hon Peter Kamande, M.P | - Member of Parliament Ndaragua Constituency |
| 2. Mr. Mugi Nahashon      | -Farmer                                      |
| 3. Mr. Stephene Githuthi  | -Farmer                                      |
| 4. Mr. Christopher Kiai   | -Farmer                                      |
| 5. Mr. Jackson Ndiritu    | -Farmer                                      |
| 6. Mr. Samuel Rimaru      | -Farmer                                      |
| 7. Mr. Stanley Kirima     | -Farmer                                      |

### **Nut Processors Association**

- |                         |                                       |
|-------------------------|---------------------------------------|
| 1. Mr. Michael N. Gatua | - Operations Director Sagana Nuts Ltd |
| 2. Mr. Charles R Muigai | - Managing Partner Nut Processors     |
| 3. Mr. Frank Omondi     | -Managing Director Ten Senses Africa  |

### **Min. 134/2016: Preliminaries.**

- I. The meeting was called to order at 10:30am and agenda was adopted as stipulated in the notice of the agenda, prayers was said by Hon. Justice Kemei ,M.P

### **Min 135/2016: Presentation by the Hon. Peter Kamande ,MP**

- II. Hon .Peter Kamande ,MP said that the price of Macadamia nuts has lost its value due to decrease in prices. He stated that in the years 2002-2010 the prices of Macadamia per kilo was averagely at Ksh.120, and the current market price is at Ksh. 40 per kilo.
- III. He further said that there has been tremendous decrease in production of macadamia from 30,000 Metric tons to 10,000 Metric tons per year.

- In Kenya other areas such as Taita, Bungoma and West.Africa are emerging areas that produce macadamia.
- Mr. Charles Muigai said that there is lack of buffer zone in terms of international swings in pricing.
- He stated that market correction is common in any market thus leading to reduction in prices.
- He went further and informed the meeting that the highest price recorded was at KSH. 150 per kilo and Ksh. 80 this year.
- The quality of macadamia matters a lot in any market, for example in Kenya our produced quality is not among the best in international standards.
- Post-harvest tendencies does not give the best produce due production of low quality macadamia.
- Mr. Charles Muigai recommended a cushioning fund for farmers that will allow for quality production of macadamia.
- Mr. Muigai stated some of the fundamental issues that will cope with the challenges faced by the farmer:
  - a) Undue influence from the Chinese counterpart to create jobs in their own countries, it is therefore important to protect this industry.
  - b) Kenyan Macadamia is not planted professionally thus leading to poor quality productivity.
  - c) It is important to license all players to stop smuggling of raw macadamia at the port.
  - d) The Government should consider streamlining the sector as it will allow for more farming of macadamia and participations of farmer in processing of macadamia.

**Min.132/2016: AOB**

- I. It was communicated that there will be a breakfast meeting on Thursday 26<sup>th</sup> May 2016 on Biosafety Act and its derived regulations organized by National Biosafety Authority . The following members were nominated to represent the Committee.
  - a) Hon. Kareke Mbiuki,M.P
  - b) Hon. Daniel Maanzo, MBS, M.P
  - c) Hon. John Serut, M.P
  - d) Hon Florence Mutua, M.P
  
- II. The meeting was told that there is another meeting to be held on Tuesday 31<sup>st</sup> May 2016 as the 1<sup>st</sup> EAC roundtable to be held at KICC. The Committee nominated the following members to represent the Committee:
  - a) Hon. John Kobado, M.P
  - b) Hon. Korei Ole Lemein ,MP



MINUTES OF THE 41<sup>st</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES (Adoption of the Committee Reports on Potato Produce and Marketing Bill , 2014 and the Public Petition on the Lifting of the Ban and Sale of Raw Macadamia Nuts) HELD ON THURSDAY 28<sup>TH</sup> JULY 2016, AT NEW MEMBERS LOUNGE, MAIN PARLIAMENT BUILDINGS AT 10.30 A.M.

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**Present**

1. Hon. Adan Mohamed Nooru, MBS, CBS, M.P - **Chairperson**
2. Hon. Kareke Mbiuki, M.P - **Vice Chair**
3. Hon. Ferdinand Wanyonyi, M.P - **Session Chair**
4. Hon. John B. Serut, M.P
5. Hon. Fredrick Outa, M.P
6. Hon. (Dr.) Victor Munyaka, M.P
7. Hon. Raphael Letimalo, M.P
8. Hon. Peter N. Gitau, M.P
9. Hon. Maison Leshoomo, M.P
10. Hon. Patrick Wangamati, M.P
11. Hon. Daniel Maanzo, M.P
12. Hon. Paul SimbaArati, M.P
13. Hon. Justice Kemei, M.P
14. Hon. Korei Lemein, M.P
15. Hon. Silas Tiren, M.P
16. Hon. Waititu Munyua, M.P
17. Hon. Florence Mutua, M.P

**Apologies**

1. Hon. Benjamin Washiali, M.P
2. Hon. Kabando Wa Kabando, M.P
3. Hon. Millie Odhiambo - Mabona, M.
4. Hon. John Kobado, M.P
5. Hon. Alfred K. Keter, M.P
6. Hon. Kimani Ichung'wah, M.P
7. Hon. Ayub Savula Angatia, M.P.
8. Hon. Benjamin Andayi, M.P
9. Hon. Hezron Awiti Bollo, M.P
10. Hon. Aisha Jumwa, M.P
11. Hon. Mary Wambui, M.P
12. Hon. Jude Njomo, M.P

### **Min. 174/2016: Matters Arising**

- I. Members reiterated their concerns that minutes of a Committee sitting should be confirmed in the subsequent sitting for ensure effective confirmation of minutes by Members. This will help in the appropriate consideration of matters arising from the previous meeting.
- II. Under minute 119/2016:
  - a) The Committee noted that, it is directive to the Ministry to furnish the Committee with documentations by on various response specifically response to Hon Njoroge Barua ,MP on his question dealt during the sitting has not been adhered to, to-date.
  - b) The Secretariat was asked to remind the Ministry to avail the requested documents in the meeting scheduled for the following week.
- III. The Committee was informed that the State Department of Irrigation still remains under the purview of the Departmental Committee on Agriculture, Livestock and Cooperatives as per the Standing Orders irrespective of the Ministry that it domiciled under.
- IV. The Committee deliberated on whether the vote of KES 4.8 billion has been transferred to the State Department of Irrigation from the State Department of Agriculture following the Second Supplementary estimates.
- V. The Committee resolved to invite the Cabinet Secretary for Water and Irrigation and Cabinet Secretary the National Treasury to shed light on the matter.
- VI. The Committee was informed that the Cabinet Secretary of Agriculture, Livestock and Fisheries is scheduled to appear before the Committee in August ,2016 to appraise the Members on the Programs and Projects that will be undertaken by the Ministry in the Financial Year 2016/2017.

### **Min.175/2016: Adoption of the Report of the Potato Produce and Marketing Bill, 2014**

The Committee after considering and deliberating on the Potato Produce and Marketing Bill, 2014 a Senate Bill No 22 of 2014 recommends that:

- I. Various clauses of the Potato Produce and Marketing Bill, 2014 are inconsistent with the current legislation that governs the agricultural industry and therefore should be reconsidered by the mover of the Bill.
- II. The Bill creates duplicity of roles as it attempts to re-create the functions of an existing Authority (AFFA) established under the AFFA Act and the Crops Act to the proposed new National Potato Council hence should not be approved.
- III. Parliament should ensure that the existing structures established under the AFFA Act and the Crops Act are adequately funded to ensure that they discharge their various mandates under the various legislations dealing with agriculture in order to avoid inefficiency in the implementation.

**Min. 177/2016: Any Other Business (A.O.B)**

The Committee resolved to invite the Principal Secretary, State Department of Fisheries to appear before the Committee on Tuesday, 2<sup>nd</sup> August 2016 to deliberate Senate Amendments on the Fisheries Management and Development Bill, 2015.

**Min. 178/2016: Adjournment**

There being no other business to discuss, the meeting was adjourned at 12.27 p.m.

Signature .....



HON. ADAN MOHAMED NOORU, MBS, CBS, M.P.

(Chairperson)

Date.....

2-8-2016