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REPUBLIC OF KENYA



THE PARLIAMENT

ELEVENTH PARLIAMENT-FOURTH SESSION

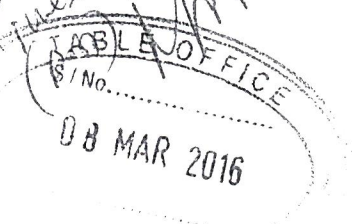
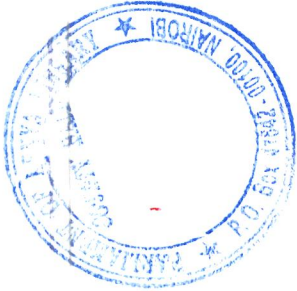
MEDIATION COMMITTEE ON THE MINING BILL

(NATIONAL ASSEMBLY BILL NO. 9 OF 2014)

REPORT ON THE MINING BILL, 2014

(NATIONAL ASSEMBLY BILL NO. 9 OF 2014)

*Paper Label*  
*By Hon. Amna Abdalla*  
*Chair, Medication*  
*Committee (Mining Bill)*  
*Tuesday, March 08, 2016*



JOINT CLERKS' CHAMBERS  
PARLIAMENT OF KENYA  
NAIROBI

MARCH, 2016

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## 1.0 INTRODUCTION

### 1.1 Establishment of the Committee

The Mediation Committee on the Mining Bill (National Assembly Bill No. 9 of 2014) was constituted by the Speaker of the National Assembly pursuant to Standing Order 149 (2) of National Assembly and the Speaker of the Senate pursuant to Standing Order 154 (2) of the Senate on 28<sup>th</sup> October, 2015, and 4<sup>th</sup> November, 2015, respectively.

The members of the Committee were:-

- |   |                  |
|---|------------------|
| 1. Sen. Lenny Kivuti, M.P.                | - Chairperson    |
| 2. Hon. Amina Abadalla, M.P., CBS         | - Co-Chairperson |
| 3. Sen. Billow Kerrow, M.P.               | - Member         |
| 4. Sen. (Dr.) Agnes Zani, M.P.            | - Member         |
| 5. Hon. Ejidius Njogu Barua, M.P.         | - Member         |
| 6. Hon. Chachu Ganya, M.P.                | - Member         |
| 7. Sen. Isaac Melly, M.P.                 | - Member         |
| 8. Sen. Henry Tiolo ole Ndiema, M.P.      | - Member         |
| 9. Hon. Andrew Mwadime, M.P.              | - Member         |
| 10. Hon. George Peter Opondo Kaluma, M.P. | - Member         |

### 1.2 Mandate of the Committee

The Mediation Committee derives its mandate from Article 113 of the Constitution of Kenya and the National Assembly Standing Order No. 149 and Senate Standing Orders No. 154.

The Committee was established to develop a version of the Mining Bill (National Assembly Bill No. 9 of 2014) and in particular Clauses 4 (a) and (c), 7, 16, 30, 33, 34, 37, 40, 49, 51 and 149 of the Bill that would be presented to both Houses for approval as provided for under National Assembly Standing Order No. 149 (6) and Senate Standing Order No. 154 (6).

The specific clauses of the Bill that were in contention were Clauses **4 (a) and (c), 7, 16, 30, 33, 34, 37, 40, 49, 51 and 149.**

### 1.3 Committee Sittings

The Committee held its first meeting on 27<sup>th</sup> November, 2015 and elected Sen. Lenny Kivuti, M.P and Hon. Amina Abdalla, M.P, CBS as Chairperson and Co-Chairperson respectively.

The Committee thereafter deliberated on Clauses 4 (a) and (c), 7, 16, 30, 33, 34, 37, 40, 49, 51 and 149 of the Mining Bill (National Assembly Bill No. 9 of 2014) which were in contention. The Committee held other sittings on 16<sup>th</sup> February, and 1<sup>st</sup> March, 2016 (Appendix I).

#### **1.4 Committee Resolutions**

The Committee deliberated on the contentious clauses and unanimously agreed on a version of the Bill to be presented to both Houses for approval. The agreed version of the Bill is hereby appended to this report.

#### **1.5 Adoption of the Report**

We the Members of the Mediation Committee on the Mining Bill (National Assembly Bill No. 9 of 2014) have adopted this report pursuant to Standing Order 155 (1), and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity as per the attached schedule (Appendix II)

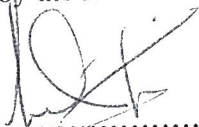
**ACKNOWLEDGMENT**

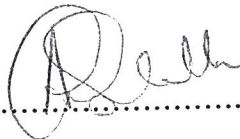
The Committee thanks the Offices of the Speakers and the Clerks of the National Assembly and the Senate for the necessary support extended to it in the execution of its mandate.

The Chairperson thanks all the Members of the Committee for their sacrifice, commitment and selflessness to the cause of the mediation process until common ground was arrived at.

**Mr. Speaker Sir,**

It is my pleasant duty, pursuant to Standing Order 155 (1), to present a report of the Mediation Committee on the Mining Bill (National Assembly Bill No. 9 of 2014) for consideration by the House.

SIGNED.....

SIGNED: .....

SEN. LENNY KIVUTI, M.P.

HON. AMINA ABDALLA, MP

CHAIRMAN

CO-CHAIRPERSON

DATE.....4/3/2016.....

DATE.....3/3/2016.....

## **2.0 BACKGROUND ON THE MINING BILL (NATIONAL ASSEMBLY BILL NO. 9 OF 2014)**

The Mining Bill (National Assembly Bill No. 9 of 2014) was published in the Kenya Gazette Supplement No. 28 of 31<sup>st</sup> March, 2014 as a Bill originating in the National Assembly. The Bill underwent the First and Second readings and subjected to public participation as required by the Kenya Constitution, 2010 and National Assembly Standing Orders and was passed on 29<sup>th</sup> October, 2014.

The Bill was referred to the Senate for consideration pursuant to National Assembly Standing Order No. 142 where it was read for the first time on 26<sup>th</sup> November, 2014. The Bill was passed by the Senate with amendments on 16<sup>th</sup> September, 2015, 2015.

Pursuant to Article 110 (4) of the Constitution and the provisions of Standing Orders 40 (1) and 149 of the Senate Standing Orders, the Senate conveyed a message to the National Assembly seeking the concurrence of the National Assembly to the amendments made to the Mining Bill (National Assembly Bill No. 9 of 2014).

The National Assembly, on its Sitting of 22<sup>nd</sup> October, 2015 considered the proposed amendments by the Senate and by a resolution rejected the Senate's amendments on Clauses 4 (a) and (c), 7, 16, 30, 33, 34, 37, 40, 49, 51 and 149 of the Bill. Consequently, and pursuant to National Assembly Standing Order No. 149 and Senate Standing Order No. 154 the Bill and specifically Clauses 4 (a) and (c), 7, 16, 30, 33, 34, 37, 40, 49, 51 and 149 of the Bill were referred to a Mediation Committee with the sole objective of developing a version of the Bill that would be presented to both Houses for approval.

**3.0 CONSIDERATION OF THE MINING BILL (NATIONAL ASSEMBLY BILL NO. 9 OF 2014)**

**3.1. Senate amendments to the Mining Bill (National Assembly Bill No. 9 of 2014)**

**CLAUSE 4**

**THAT** Clause 4 of the Bill be amended –

- (a) by deleting the definition of the word “community” and substituting therefor the following new definition –  
“community” means a people living in a ward or wards within which minerals are situated and who are affected by the exploration of the minerals or mining operations with respect to the minerals;
- (b) by inserting the following new definition immediately after the definition of the word “corporation” –  
“Council of County Governors” means the Council of County Governors established under section 19 of the Intergovernmental Relations Act;
- (c) by deleting the definition of the word “strategic minerals” and substituting therefor the following new definition –  
“Strategic minerals” means minerals declared as such by the Cabinet Secretary with the approval of the Cabinet and by notice in the Gazette;

**CLAUSE 5**

**THAT** Clause 5 of the Bill be amended by inserting the words “and the principles of leadership and integrity set out under Chapter Six of the Constitution” immediately after the words “of the Constitution”.

**CLAUSE 7**

**THAT** Clause 7 of the Bill be amended in sub-clause (2) by inserting the words “in consultation with the Mineral Rights Board” immediately after the words “in the Gazette”.

**CLAUSE 9**

**THAT** Clause 9 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (1) –

(1A) The Cabinet Secretary shall, immediately upon receipt of a report under subsection (1) issue to the person an acknowledgement in writing of the receipt of the report.

**CLAUSE 16**

**THAT** Clause 16 of the Bill be amended in sub-clause (3) by inserting the words “in consultation with the Mineral Rights Board” immediately after the words “Cabinet Secretary shall”.

**CLAUSE 20**

**THAT** clause 20 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (4) –

(5) A person whose land or property is damaged as a result of the exercise of the powers of the Director of Mines under subsection (1) is entitled to fair, prompt and full compensation for such damage in accordance with this Act.

**CLAUSE 21**

**THAT** Clause 21 of the Bill be amended by inserting the following new subsections immediately after subsection (2) –

(3) In exercising the powers under subsection (2), the Director or a duly authorized officer shall ensure that as little damage or inconvenience as possible is caused to the legitimate owner or lawful occupier of the land in respect of which the powers are exercised.

(4) A person whose land or property is damaged as a result of the exercise of the powers of the Director of Geology under subsection (1) shall be entitled to fair, prompt and full compensation for such damage in accordance with this Act.



**CLAUSE 30**

**THAT** Clause 30 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause (2) –

(2) The Mineral Rights Board shall comprise of –

- (a) a chairperson with demonstrable knowledge and experience of the minerals and mining sector, who shall be appointed by the President;
- (b) the Principal Secretary responsible for matters relating to mining;
- (c) the Principal Secretary responsible for the National Treasury;
- (d) one person who shall be nominated by the Council of County Governors from amongst the Governors;
- (e) the Chairperson of the National Land Commission;
- (f) the Director of Mines who shall be the secretary to the Mineral Rights Board;
- (g) the Director of Geological Surveys; and
- (h) two persons with professional qualifications and experience in the mining industry who shall be appointed by the Cabinet Secretary.

**CLAUSE 33**

**THAT** Clause 33 of the Bill be amended by deleting sub-clauses (7) and (8).

**CLAUSE 34**

**THAT** Clause 34 of the Bill be amended in sub-clause (4) by deleting paragraph (a).

**CLAUSE 37**

**THAT** Clause 37 of the Bill be amended in sub-clause (1) by deleting the words “A prospecting and” appearing at the beginning of the sub-clause.

**CLAUSE 38**

**THAT** Clause 38 be amended in sub-clause (1) by deleting the word “un-alienated” appearing at the end of paragraph (b) and substituting therefor the word “unregistered”.

**CLAUSE 40**

**THAT** Clause 40 the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause --

(1) The Cabinet Secretary may submit a request under section 107 of the Land Act for the compulsory acquisition of land or rights or interests in land, to vest the land or area in question, or rights or interests in such land or area, in the Government or on behalf of the Government, where the consent required under sections 36, 37 or 38 is—

- (a) unreasonably withheld; or
- (b) the Cabinet Secretary considers that withholding of consent is contrary to the national interest.

**CLAUSE 41**

**THAT** Clause 41 be amended in sub-clause (2) by deleting the words “which recognize the uniqueness of procurement and tendering process of minerals” appearing at the end of the sub-clause.

**CLAUSE 46**

**THAT** Clause 46 of the Bill be amended in sub-clause (3) by deleting the words “number of expatriates per capital investment” appearing immediately after the words “shall serve”.

**CLAUSE 47**

**THAT** Clause 47 of the Bill be amended in sub-clause (1) by inserting the words “members of the community and” immediately after the words “in employment to”.

**CLAUSE 49**

**THAT** Clause 49 of the Bill be amended in sub-clause (2) by deleting the word “four” appearing immediately after the words “exchange within” and substituting therefor the word “three”.

**CLAUSE 50**

**THAT** Clause 50 of the Bill be amended in paragraph (b) by inserting the words “members of the community and” immediately after the words “offered by”.

**CLAUSE 51**

**THAT** Clause 51 of the Bill be amended –

- (a) by deleting sub-clause (2) and substituting therefor with the following new sub-clause –
  - (2) The Cabinet Secretary shall not unreasonably withhold consent to assign, transfer, mortgage or trade a mineral right and shall inform an applicant of the decision within thirty days of receipt of an application to assign, transfer, mortgage or trade a mineral right.
- (b) By inserting the following new subsection immediately after subsection (8)–
  - (8A) The Cabinet Secretary shall, in consultation with the Mineral Rights Board, prescribe a criteria for the conditions required to be met by an applicant for an assignment, mortgage or trade in a mineral right.

**CLAUSE 53**

**THAT** Clause 53 of the Bill be amended –

- (a) in sub-clause (1) by inserting the words “and the Kenya Revenue Authority” immediately after the words “the Cabinet Secretary”; and
- (b) inserting the following new sub-clause immediately after sub-clause (1) –
  - (1A) The Cabinet Secretary shall submit to the National Assembly and the Senate, an analysis of the audited annual financial statement submitted under subsection (1).

**CLAUSE 67**

**THAT** Clause 67 of the Bill be amended in sub-clause (1) by deleting paragraph (e) and substituting therefor the following new paragraph --

(e) inform and consult on an ongoing basis with the national and county government authorities and communities about the reconnaissance operations that require physical entry onto the land within their jurisdiction;

**CLAUSE 77**

**THAT** Clause 77 of the Bill be amended in sub-clause (2) by deleting the words “by the Cabinet Secretary” appearing at the end of the sub-clause and substituting therefor the words “Regulations made under this Act”.

**CLAUSE 106**

**THAT** Clause 106 of the Bill be amended by inserting the following new paragraph immediately after paragraph (i) –

(j) such other information as the Cabinet Secretary may consider necessary.

**CLAUSE 117**

**THAT** Clause 117 of the Bill be amended in sub-clause (5) by deleting the word “Parliament” appearing immediately after the words “submitted to” and substituting therefor the words “the National Assembly and the Senate”.

**CLAUSE 120**

**THAT** Clause 120 of the Bill be amended in sub-clause (2) by deleting the word “Parliament” appearing immediately after the words “submitted to” and substituting therefor the words “the National Assembly and the Senate”.

**CLAUSE 149**

**THAT** Clause 149 of the Bill be amended by deleting sub-clause (3) and substituting therefor the following new sub-clauses -

(3) All immovable assets of the holder under the mining licence shall vest in the County Government from the effective date of the surrender or termination of the licence upon payment of the book value of the assets by the County Government.

(3A) Where the County Government is unable to pay for the assets under subsection (3), the assets shall vest in the National Government from the effective date of the surrender or termination of the licence upon payment of the book value of the assets by the National Government.

### 3.2. The National Assembly Comments on Senate Amendments

The Committee considered the Senate amendments to the Mining Bill (National Assembly Bill No. 9 of 2014) and resolved as follows:-

#### **CLAUSE 4**

**THAT** Clause 4 of the Bill be amended –

(a) by deleting the definition of the word “community” and substituting therefor the following new definition –

*“community” means a people living in a ward or wards within which minerals are situated and who are affected by the exploration of the minerals or mining operations with respect to the minerals;*

**The Committee rejected the proposed definition to the word community.**

**Justification:** The amendment excludes the people who have been displaced.

(b) by inserting the following new definition immediately after the definition of the word “corporation” –

*“Council of County Governors” means the Council of County Governors established under section 19 of the Intergovernmental Relations Act;*

**The Committee agreed to the proposed amendment.**

(c) by deleting the definition of the word “strategic minerals” and substituting therefor the following new definition – *“strategic minerals” means minerals declared as such by the Cabinet Secretary with the approval of the Cabinet and by notice in the Gazette;*

**The Committee rejected the proposed definition to the “strategic minerals”.**

**Justification:** The strategic mineral is already defined in clause 16.

#### **CLAUSE 5**

**THAT** Clause 5 of the Bill be amended by inserting the words *“and the principles of leadership and integrity set out under Chapter Six of the Constitution” immediately after the words “of the Constitution”.*

**The Committee agreed with the proposed amendment.**

**Justification:** The amendment seeks to include the principles under Chapter six as part of the guiding principles.

#### **CLAUSE 7**

**THAT** Clause 7 of the Bill be amended in sub-clause (2) by inserting the words *“in consultation with the Mineral Rights Board” immediately after the words “in the Gazette”.*

**The Committee rejected the proposed amendment.**

**Justification:** The amendment suggests that there ought to be a process of negotiations and agreements between the Cabinet Secretary and the Mineral Rights Board. This is problematic as it does not place authority for decision making in one or the other body and does not state as to what happens when consultations fail to reach an agreement. The Mineral Rights Board is understood to be an advisory body to the Cabinet Secretary and should remain the same.

#### **CLAUSE 9**

**THAT** Clause 9 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (1) –

*(1A) The Cabinet Secretary shall, immediately upon receipt of a report under subsection (1) issue to the person an acknowledgement in writing of the receipt of the report.*

**The Committee agreed with the proposed amendment.**

**Justification:** The amendment provides for the issuance of an acknowledgement in writing of the receipt of the report made under subsection (1).

#### **CLAUSE 16**

**THAT** Clause 16 of the Bill be amended in sub-clause (3) by inserting the words “*in consultation with the Mineral Rights Board*” immediately after the words “*Cabinet Secretary shall*”.

**The Committee rejected the proposed amendment.**

**Justification:** The amendment suggests that there ought to be a process of negotiations and agreements between the Cabinet Secretary and the Mineral Rights Board. This is problematic as it does not place authority for decision making in one or the other body and does not state as to what happens when consultations fail to reach agreement. The Mineral Rights Board is understood to be an advisory body to the Cabinet Secretary and should remain the same.

#### **CLAUSE 20**

**THAT** Clause 20 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (4) –

*(5) A person whose land or property is damaged as a result of the exercise of the powers of the Director of Mines under subsection (1) is entitled to fair, prompt and full compensation for such damage in accordance with this Act.*

**The Committee agreed with the proposed amendment.**

**Justification:** The amendment seeks to provide for compensation for damage as a result of the exercise of the powers of Director of Mines.

## CLAUSE 21

**THAT** Clause 21 of the Bill be amended by inserting the following new subsections immediately after subsection (2) –

*(3) In exercising the powers under subsection (2), the Director or a duly authorized officer shall ensure that as little damage or inconvenience as possible is caused to the legitimate owner or lawful occupier of the land in respect of which the powers are exercised.*

*(4) A person whose land or property is damaged as a result of the exercise of the powers of the Director of Geology under subsection (1) shall be entitled to fair, prompt and full compensation for such damage in accordance with this Act.*

**The Committee agreed with the proposed amendment.**

**Justification:** The amendment seeks to provide for compensation for damage as a result of the exercise of the powers of Director of Geological Survey. Also for the Director in exercise of his powers to ensure minimal damage or inconvenience is occasioned on the owner or lawful occupier of the land in respect of which the powers are exercised.

## CLAUSE 30

**THAT** Clause 30 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause (2) –

*(2) The Mineral Rights Board shall comprise of –*

*(a) a chairperson with demonstrable knowledge and experience of the minerals and mining sector, who shall be appointed by the President;*

*(b) the Principal Secretary responsible for matters relating to mining;*

*(c) the Principal Secretary responsible for the National Treasury*

*(d) one person who shall be nominated by the Council of County Governors from amongst the Governors;*

*(e) the Chairperson of the National Land Commission;*



*(f) the Director of Mines who shall be the secretary to the Mineral Rights Board;*

*(g) the Director of Geological Surveys; and*

*(h) two persons with professional qualifications and experience in the mining industry who shall be appointed by the Cabinet Secretary.*

**The Committee agreed with the proposed amendment.**

**Justification:** There is need to have a representative from the Council of Governors because mining happens in every county.

The Director of mines being the officer charged with day-to-day management of mining will be the most competent custodian of documents-minutes, grant concessions and notices.

**CLAUSE 33**

**THAT** Clause 33 of the Bill be amended by deleting sub-clauses (7) and (8).

**The Committee rejected the proposed amendment.**

**Justification:** The Senate proposal deletes the provision for application for review of the decision of by the Cabinet Secretary to reject an application for a mineral right and subsequent provision for the communication of the on the decision in relation to the review. Therefore one can only apply to the High Court if dissatisfied with decision of the Cabinet. However there is need for an internal mechanism for review of decisions by the Cabinet Secretary, this will assist in quick resolution of disputes as the Court process sometimes can be lengthy and expensive.

**CLAUSE 34**

**THAT** Clause 34 of the Bill be amended in sub-clause (4) by deleting paragraph (a).

**The Committee rejected the proposed amendment.**

**Justification:** The amendment makes the subelause silent on the provision on the objection with regards to an application for a prospecting licence and reconnaissance licence. This is essential for the protection of Community rights.

#### CLAUSE 37

THAT Clause 37 of the Bill be amended in sub-clause (1) by deleting the words “*A prospecting and*” appearing at the beginning of the sub-clause.

**The Committee rejected the proposed amendment.**

**Justification:** there is need for a grant of prospecting rights over private land to be subject to the consent of the owner of the land.

#### CLAUSE 38

THAT Clause 38 be amended in sub-clause (1) by deleting the word “*un-alienated*” appearing at the end of paragraph (b) and substituting therefor the word “*unregistered*”.

**The Committee agreed with the proposed amendment.**

**Justification:** The amendment provides more clarity on the consent to be given by the National Land Commission.

#### CLAUSE 40

THAT Clause 40 the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause –

(4) *The Cabinet Secretary may submit a request under section 107 of the Land Act for the compulsory acquisition of land or rights or interests in land, to vest the land or area in question, or rights or interests in such land or area, in the Government or on behalf of the Government, where the consent required under sections 36, 37 or 38 is—*

(c) *unreasonably withheld; or*

(d) *the Cabinet Secretary considers that withholding of consent is contrary to the national interest.*

**The Committee agreed with the proposed amendment; however the House Rejected the Proposed amendment.**

#### CLAUSE 41

THAT Clause 41 be amended in sub-clause (2) by deleting the words "*which recognize the uniqueness of procurement and tendering process of minerals*" appearing at the end of the sub-clause.

**The Committee agreed with the proposed amendment.**

**Justification:** The amendments deletes the provision for the CS to take into consideration uniqueness of procurement and tendering process of minerals while coming up with regulations on tendering guidelines for mineral rights.

#### CLAUSE 46

THAT Clause 46 of the Bill be amended in sub-clause (3) by deleting the words "*number of expatriates per capital investment*" appearing immediately after the words "*shall serve*".

**The Committee agreed with the proposed amendment.**

**Justification:** The amendment deletes the making of regulations that cover the number of expatriates per capital investment by the Cabinet Secretary.

#### CLAUSE 47

THAT Clause 47 of the Bill be amended in sub-clause (1) by inserting the words "*members of the community and*" immediately after the words "*in employment to*".

**The Committee agreed to the proposed amendment.**

**Justification:** The amendment clearly provides for an additional preference of members of the local community in employment.

#### CLAUSE 49

THAT Clause 49 of the Bill be amended in sub-clause (2) by deleting the word "*four*" appearing immediately after the words "*exchange within*" and substituting therefor the word "*three*".

**The Committee rejected the proposed amendment.**

**Justification:** The amendments reduces the time within which a holder of the mining licence whose planned capital expenditure exceeds the prescribed amount lists its equity on the stock exchange from **four years to three years**. This is unfriendly to investors.

#### **CLAUSE 50**

*THAT* Clause 50 of the Bill be amended in paragraph (b) by inserting the words “*members of the community and*” immediately after the words “*offered by*”.

**The Committee agreed with the proposed amendment.**

**Justification:** The amendment adds members of the community as additional preference by a holder of a mineral right shall, in the conduct of prospecting, mining, processing, refining and treatment operations, transport or any other dealings in minerals give

#### **CLAUSE 51**

**THAT** Clause 51 of the Bill be amended –

*(a) by deleting sub-clause (2) and substituting therefor with the following new sub-clause –*

*(5) The Cabinet Secretary shall not unreasonably withhold consent to assign, transfer, mortgage or trade a mineral right and shall inform an applicant of the decision within thirty days of receipt of an application to assign, transfer, mortgage or trade a mineral right.*

*(b) By inserting the following new subsection immediately after subsection (8)–*

*(8A) The Cabinet Secretary shall, in consultation with the Mineral Rights Board, prescribe a criteria for the conditions required to be met by an applicant for an assignment, mortgage or trade in a mineral right.*

**The Committee rejected the proposed amendment.**

**Justification:** The timeframe is too short for the regulator to carry out any meaningful due diligence on a prospective assignee or transferee especially for large scale projects. Additionally, the introduction of a new sub-cause to provide the criteria for such transfer, mortgage or assignment is already provided in the Bill.

## CLAUSE 53

THAT Clause 53 of the Bill be amended –

- (a) *in sub-clause (1) by inserting the words “and the Kenya Revenue Authority” immediately after the words “the Cabinet Secretary”; and*
- (b) *inserting the following new sub-clause immediately after sub-clause (1) –*  
*(1A) The Cabinet Secretary shall submit to the National Assembly and the Senate, an analysis of the audited annual financial statement submitted under subsection (1).*

**The Committee agreed with the proposed amendment (a) and rejected (b).**

**Justification:** The amendment seeks to interfere with the private sector.

## CLAUSE 67

THAT Clause 67 of the Bill be amended in sub-clause (1) by deleting paragraph (e) and substituting therefor the following new paragraph –

*(e) inform and consult on an ongoing basis with the national and county government authorities and communities about the reconnaissance operations that require physical entry onto the land within their jurisdiction;*

**The Committee agreed with the proposed amendment.**

**Justification:** The amendment includes consultation with the national and County Governments’ authorities about the reconnaissance operations that require physical entry onto the land within their jurisdiction and excludes consultation with traditional authorities.

## CLAUSE 77

THAT Clause 77 of the Bill be amended in sub-clause (2) by deleting the words “*by the Cabinet Secretary*” appearing at the end of the sub-clause and substituting therefor the words “*Regulations made under this Act*”.

**The Committee agreed with the proposed amendment.**

**Justification:** The amendments provides for the payments into the ministry expenditure specified in the approved programme for prospecting operations which is not expended during the term of prospecting licence, in a manner as may be prescribed by regulations made under the Act and not by the Cabinet Secretary.

**CLAUSE 106**

**THAT** Clause 106 of the Bill be amended by inserting the following new paragraph immediately after paragraph (i) --

*(j) such other information as the Cabinet Secretary may consider necessary.*

**The Committee agreed with the proposed amendment.**

**Justification:** The amendment makes provision for mining licence to contain any other information the Cabinet Secretary may require. It gives the Cabinet Secretary discretion to request for other information.

**CLAUSE 117**

**THAT** Clause 117 of the Bill be amended in sub-clause (5) by deleting the word "*Parliament*" appearing immediately after the words "*submitted to*" and substituting therefor the words "*the National Assembly and the Senate*".

**The Committee agreed with the proposed amendment.**

**Justification:** The amendment requires mineral agreements to be submitted for ratification to both the National Assembly and the Senate.

**CLAUSE 120**

**THAT** Clause 120 of the Bill be amended in sub-clause (2) by deleting the word "*Parliament*" appearing immediately after the words "*submitted to*" and substituting therefor the words "*the National Assembly and the Senate*".

**The Committee agreed with the proposed amendment.**

**Justification:** The amendment requires that agreement relating to large scale mining operations on terrestrial and marine areas shall be to be submitted for ratification to both the National Assembly and the Senate.

**CLAUSE 149**

**THAT** Clause 149 of the Bill be amended by deleting sub-clause (3) and substituting therefor the following new sub-clauses –

- (6) All immovable assets of the holder under the mining licence shall vest in the County Government from the effective date of the surrender or termination of the licence upon payment of the book value of the assets by the County Government.*
- (3A) Where the County Government is unable to pay for the assets under subsection (3), the assets shall vest in the National Government from the effective date of the surrender or termination of the licence upon payment of the book value of the assets by the National Government.*

**The Committee rejected the proposed amendment.**

**Justification:** This proposal is unconstitutional as Article 62(1) (f) and (3) classifies minerals as public land which vests on the national government. The National Government decided to create a national mining corporation to also participate in mining and mineral activities as it is in other countries such as Namibia, DRC, South Africa among others. It is important the corporation is equipped properly with assets to enable it carry out its function.

#### 4.0 RESOLUTIONS OF THE MEDIATION COMMITTEE

The Committee held three sittings on 27<sup>th</sup> November, 2015, 16<sup>th</sup> February and 1<sup>st</sup> March, 2016 and unanimously resolved the contention on Clauses 4 (a) and (c), 7, 16, 30, 33, 34, 37, 40, 49, 51 and 149 as follows:-

##### CLAUSE 4

THAT,

4 (a) The definition of the word “community” be retained as is defined in the Bill-  
“community” means-

(a) *a people living around an exploration and mining operations area; or*

(b) *a group of people who may be displaced from land intended for exploration and mining operations*

**Justification:** The definition is broad as it includes people who are displaced due to mining operations.

(c) Retain the definition of the word “strategic minerals” provided in clause 16.

**Justification:** The definition provided in clause 16 is sufficient.

##### CLAUSE 7

THAT, clause 7 of the Bill be amended in sub clause (2) by inserting the words “and with the advice of the Mineral Rights Board” immediately after the words “in the Gazette”.

**Justification:** this takes into account the need for the advice of the Mineral Rights Board as it has the technical expertise to advise the Cabinet on materials of customary usage.

##### CLAUSE 16

THAT, clause 16 of the Bill be amended in sub clause (3) by deleting the word “shall” and inserting the words “may with the advice of the Mineral Rights Board”.

**Justification:** this takes into account the need for the advice of the Mineral Rights Board to the Cabinet Secretary on how to deal with strategic minerals.



### CLAUSE 30

THAT, clause 30 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause (2) –

- (2) The Mineral Rights Board shall comprise of –
- (a) a chairperson with demonstrable knowledge and experience of the minerals and mining sector, who shall be appointed by the President;
  - (b) the Principal Secretary responsible for matters relating to mining;
  - (c) the Principal Secretary responsible for the National Treasury;
  - (d) one person who has relevant qualifications or experience in mining, geology, geophysics or engineering, nominated by the Council of County Governors;
  - (e) the Chairperson of the National Land Commission;
  - (f) the Director of Mines who shall be the secretary to the Mineral Rights Board;
  - (g) the Director of Geological Surveys; and
  - (h) two persons with professional qualifications and experience in the mining industry who shall be appointed by the Cabinet Secretary.

**Justification:** 30 (d) provides for nomination of a representative of the council of governors into the Board, it also provides that the nominee shall be a professional on matters of mining. 30 (f) provides for Director of mines to be the secretary to the Mineral Rights Board since he /she is the officer charged with day-to-day management of mining and is therefore the most competent custodian of documents-minutes, grant concessions and notices. The Committee noted that the Principal Secretary responsible for matters relating to mining may not necessarily have the technical expertise on mining.

### CLAUSE 33

THAT Clause 33 of the Bill be amended by deleting sub-clauses (7) and (8) -

(7) Where the Cabinet Secretary has rejected an application, the affected applicant may apply to the Cabinet Secretary for the review of the decision.

(8) The Cabinet Secretary shall within thirty days communicate with the applicant on the decision in relation to the review.

**Justification:** once an application has been rejected, an applicant should have a different appeal mechanism.

#### **CLAUSE 34**

**THAT,** clause 34 of the Bill be amended sub clause (4) by deleting the words “and reconnaissance licence” appearing in paragraph (a).

**Justification:** this provides for doing away with the need for consent by a person or community for granting a reconnaissance licence.

#### **CLAUSE 37**

**THAT,** the words “A prospecting” appearing before the words “mining rights” be retained and insert the word “registered” after the words “consent of the”:

- (1) *A prospecting and mining rights shall not be granted under this Act with respect to private land without the express consent of the registered owner, and such consent shall not be unreasonably withheld.*

**Justification:** There is need for a grant of prospecting rights over private land to be subject to the consent of the owner of the land hence the need to retain the words “A prospecting”. Further there is need for the consent of the owner to be registered.

#### **CLAUSE 40**

**THAT,** clause 40 sub-clause (1) be retained;

- (1) *The Cabinet Secretary may take steps under the law relating to the compulsory acquisition of land or rights or interests in land, to vest the land or area in question, or rights or interests in such land or area, in the Government or on behalf of the Government, where the consent required under sections 36, 37 or 38 is..”*

**Justification:** Referring to a specific Section of a particular law poses a challenge when other laws are enacted relating to compulsory acquisition.

#### CLAUSE 49

THAT, clause 49 of the Bill be amended in sub-clause (2) by deleting the word “four” appearing immediately after the words “exchange within” and substituting therefor the word “three”.

**Justification:** Three years after commencement of production is sufficient time for the holder of a mining license to stake at least twenty percent of its equity on a local stock exchange.

#### CLAUSE 51

THAT Clause 51 of the Bill -

a) be amended by deleting sub-clause (2) and substituting therefor with the following new sub-clause

*(2) The Cabinet Secretary shall not unreasonably withhold consent to assign, transfer, mortgage or trade a mineral right and shall inform an applicant of the decision within thirty days of receipt of an application to assign, transfer, mortgage or trade a mineral right.*

**Justification:** Thirty days is sufficient time for the Cabinet secretary to make a decision on an application to assign, mortgage or trade a mineral right.

b) The Committee rejected the Senate proposal to insert a new sub-clause (8 A)  
*(8A) The Cabinet Secretary shall, in consultation with the Mineral Rights Board, prescribe a criteria for the conditions required to be met by an applicant for an assignment, mortgage or trade in a mineral right.*

**Justification:** the criteria for eligibility of mineral rights are clearly provided in clause 11 of the Bill. The amendment is therefore not necessary.

#### CLAUSE 149

Retain sub-clause (3) of the Bill

*(3) All immovable assets of the holder under the mining licence shall vest in the Republic from the effective date of the surrender or termination of the licence.*

**Justification:** The constitution in Article 62(1) (f) and (3) classifies minerals as public land which vests on the national government. The National Government decided to create a national mining corporation to also participate in mining and mineral activities as it is in other countries such as Namibia, DRC, South Africa among others. It is important the corporation is equipped properly with assets to enable it carry out its function.

**Appendix I: Minutes of the Committee**

**Appendix II: Report Adoption List**

**MINUTES OF THE MEDIATION COMMITTEE ON THE CONSIDERATION OF THE MINING BILL (NATIONAL ASSEMBLY BILL NO. 9 OF 2014) HELD ON FRIDAY 27<sup>TH</sup> NOVEMBER, 2015 AT MAIN PARLIAMENT BUILDINGS, CPA ROOM AT 9:00 A.M.**

**Members Present**

- |                               |                   |
|-------------------------------|-------------------|
| 1. Sen. Lenny Kivuti, M.P.    | - Chairperson     |
| 2. Hon. Amina Abadalla, M.P.  | - Co- Chairperson |
| 3. Sen. Isaac Melly, M.P      | - Member          |
| 4. Sen. (Dr.) Agnes Zani, M.P | -Member           |
| 5. Hon. Andrew Mwadime, M.P.  | - Member          |
| 6. Hon. Njogu Barua, M.P.     | - Member          |

**Apologies**

- |                                    |          |
|------------------------------------|----------|
| 1. Sen. Billow Kerrow, M.P         | - Member |
| 2. Hon. Ganya, Francis Chachu, M.P | - Member |
| 3. Hon. George Peter Opondo Kaluma | - Member |
| 4. Sen. Henry Tiole Ole Ndiema     | - Member |

**In- attendance Secretariat**

- |                       |                                      |
|-----------------------|--------------------------------------|
| 1. Ms. Chebet Koskei  | -Clerk Assistant (National Assembly) |
| 2. Mr. Charles Ngatia | -Clerk Assistant (Senate)            |
| 3. Ms. Lynette Otieno | -Legal Counsel (National Assembly)   |
| 4. Ms. Caro Cheruiyot | -Legal Counsel (Senate)              |

**MIN. NO. KNA/SEN/MED/MINING BILL/1/2015: PRAYERS**

The meeting was called to order with a word of prayer by Sen. Lenny Kivuti at 9.20 a.m.

**MIN. NO.KNA/SEN/MED/MINING BILL/2/2015: ELECTION OF CHAIRPERSON & CO- CHAIRPERSON**

Sen. Lenny Kivuti was elected as Chairperson of the Committee after he was proposed by Hon. Amina Abdalla, M.P. and seconded by Hon. Andrew Mwadime, M.P.

Hon Amina Abdalla was elected as the Co-Chairperson of the Committee after she was proposed by Sen. Lenny Kivuti, M.P. and seconded by Hon. Njogu Barua, M.P.

**MIN. NO.KNA/SEN/MED/MINING BILL/3/2015: PRELIMINARIES**

Introductions were done, following which the Chairperson informed members on the agenda of the meeting as follows:-

1. Prayer

2. Election of Chairperson & Vice Chairperson,
3. Consideration of Clauses 4 (a) and (c), 7, 16, 30, 33, 34, 37, 40, 49, 51 and 149 of the MiningBill, 2014
4. Any Other Business,
5. Adjournment.

The Agenda was adopted after being proposed by Sen. Isaac Melly, M.P and being seconded by Hon. Andrew Mwadime, M.P.

**MIN. NO.KNA/SEN/MED/MINING BILL/4/2015: CONSIDERATION OF CLAUSES 4 (A) AND (C), 7, 16, 30, 33, 34, 37, 40, 49, 51 AND 149 OF THE MINING BILL, 2014**

**CLAUSE 4**

**THAT,**

The definition of the word “community” be retained as is defined in the Bill-  
“community” means-

- (a) *a people living around an exploration and mining operations area; or*
- (b) *a group of people who may be displaced from land intended for exploration and mining operations*

**Justification:** The definition is broad as it includes people who are displaced due to mining operations.

**CLAUSE 7**

- i The National Assembly’s views were that the Cabinet Secretary has the executive authority to sign leases and revocations, therefore consultation was not necessary.
- ii The Senate views were that the Cabinet Secretary had been given too much power and there was need to regulate it

**RESOLUTIONS OF THE COMMITTEE**

**THAT,** clause 7 of the Bill be amended in sub clause (2) by inserting the words “and with the advice of the Mineral Rights Board” immediately after the words “in the Gazette”.

**Justification:** this takes into account the need for the advice of the Mineral Rights Board as it has the technical expertise to advise the Cabinet on materials of customary usage.



## CLAUSE 16

**THAT**, clause 16 of the Bill be amended in sub clause (3) by deleting the word “shall” and inserting the words “may with the advice of the Mineral Rights Board”.

**Justification:** this takes into account the need for the advice of the Mineral Rights Board to the Cabinet Secretary on how to deal with strategic minerals.

## CLAUSE 30

**THAT**, clause 30 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause (2) –

- (2) The Mineral Rights Board shall comprise of –
- (a) a chairperson with demonstrable knowledge and experience of the minerals and mining sector, who shall be appointed by the President;
  - (b) the Principal Secretary responsible for matters relating to mining;
  - (c) the Principal Secretary responsible for the National Treasury;
  - (d) one person who has relevant qualifications or experience in mining, geology, geophysics or engineering, nominated by the Council of County Governors;
  - (e) the Chairperson of the National Land Commission;
  - (f) the Director of Mines who shall be the secretary to the Mineral Rights Board;
  - (g) the Director of Geological Surveys; and
  - (h) two persons with professional qualifications and experience in the mining industry who shall be appointed by the Cabinet Secretary.

**Justification:** this provides for nomination of a representative of council of governors into the Board, it also provides that the nominee shall be a professional on matters of mining.

## CLAUSE 33

**THAT** Clause 33 of the Bill be retained as is in the Bill-

**Justification:** The Clause 33(7) and (8) basically provides a room for the Cabinet Secretary to review his/her decision in the event an application is rejected.

#### CLAUSE 34

**THAT**, clause 34 of the Bill be amended sub clause (4) by deleting the words “and reconnaissance licence” appearing in paragraph (a).

**Justification:** this provides for doing away with the need for a consent by a person or community for granting a reconnaissance licence.

#### CLAUSE 37

**THAT**, clause 37 of the Bill be amended in sub clause (1) by inserting the words “which shall be registered” immediately after the words “consent of the owner - a) ”.

**Justification:** There is need for a grant of prospecting rights over private land to be subject to the consent of the owner of the land hence the need to retain the words “A prospecting”. Further there is need for the consent of the owner to be registered.

#### CLAUSE 40

**THAT**, clause 40 sub-clause (1) be retained as is in the Bill;

*(1) The Cabinet Secretary may take steps under the law relating to the compulsory acquisition of land or rights or interests in land, to vest the land or area in question, or rights or interests in such land or area, in the Government or on behalf of the Government, where the consent required under sections 36, 37 or 38 is..”*

**Justification:** Referring to a specific Section of a particular law poses a challenge when other laws are enacted relating to compulsory acquisition.

#### CLAUSE 49

**THAT**, clause 49 of the Bill be amended in sub-clause (2) by deleting the word “four” appearing immediately after the words “exchange within” and substituting therefor the word “three”.

**Justification:** Three years after commencement of production is sufficient time for the holder of a mining license to stake at least twenty percent of its equity on a local stock exchange.

## CLAUSE 51

THAT Clause 51 of the Bill -

- a) be amended by deleting sub-clause (2) and substituting therefor with the following new sub-clause

*(2) The Cabinet Secretary shall not unreasonably withhold consent to assign, transfer, mortgage or trade a mineral right and shall inform an applicant of the decision within thirty days of receipt of an application to assign, transfer, mortgage or trade a mineral right.*

**Justification:** Thirty days is sufficient time for the Cabinet secretary to make a decision on an application to assign, mortgage or trade a mineral right.

- b) The Committee rejected the Senate proposal to insert a new sub-clause (8 A)

*(8A) The Cabinet Secretary shall, in consultation with the Mineral Rights Board, prescribe a criteria for the conditions required to be met by an applicant for an assignment, mortgage or trade in a mineral right.*

**Justification:** the criteria for eligibility of mineral rights are clearly provided in clause 11 of the Bill. The amendment is therefore not necessary.

## CLAUSE 149

Retain sub-clause (3) of the Bill

*(3) All immovable assets of the holder under the mining licence shall vest in the Republic from the effective date of the surrender or termination of the licence.*

**Justification:** The constitution in Article 62(1) (f) and (3) classifies minerals as public land which vests on the national government. The National Government decided to create a national mining corporation to also participate in mining and mineral activities as it is in other countries such as Namibia, DRC, South Africa among others. It is important the corporation is equipped properly with assets to enable it carry out its function.

## MIN. NO.KNA/SEN/MED/MININING BILL/5/2015: ADOPTION OF MEDIATION COMMITTEE REPORT

The report of the Committee was unanimously adopted for tabling in both Houses.

MIN. NO.KNA/SEN/MED/MINING BILL/6/2015:

ANY OTHER BUSINESS

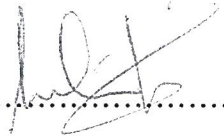
The Chairperson thanked the Members of the Committee for their dedication in resolving the contentious clause expeditiously.

MIN. NO.KNA/SEN/MED/MINING BILL/7/2015:

ADJOURNMENT

Having concluded the business of the day, the meeting was adjourned at Twenty Minutes past Eleven O'clock (11.20 a.m.).

SIGNATURE.....

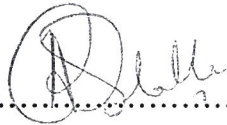


DATE.....

4/3/2016

(SEN. LENNY KIVUTI, M.P - CHAIRPERSON.)

SIGNATURE.....



DATE.....

3/3/2016

(HON. AMINA ABDALLA, M.P - CO CHAIRPERSON)

**MINUTES OF THE 2<sup>ND</sup> SITTING OF MEDIATION COMMITTEE ON THE CONSIDERATION OF THE MINING BILL (NATIONAL ASSEMBLY BILL NO. 9 OF 2014) HELD ON TUESDAY 16<sup>TH</sup> FEBRUARY, 2016 AT MAIN PARLIAMENT BUILDINGS, CPA ROOM AT 10:00 A.M.**

**Members Present**

- |                                    |                   |
|------------------------------------|-------------------|
| 1. Hon. Amina Abadalla, M.P.       | - Co- Chairperson |
| 2. Sen. Henry Tiolo Ole Ndiema     | - Member          |
| 3. Hon. Andrew Mwadime, M.P.       | - Member          |
| 4. Sen. Billow Kerrow, M.P         | - Member          |
| 5. Hon. George Peter Opondo Kaluma | - Member          |
| 6. Sen. (Dr.) Agnes Zani, M.P      | -Member           |
| 7. Hon. NjoguBarua, M.P.           | - Member          |
| 8. Sen. Isaac Melly, M.P           | - Member          |

**Apologies**

- |                                    |               |
|------------------------------------|---------------|
| 1. Sen. Lenny Kivuti, M.P.         | - Chairperson |
| 2. Hon. Ganya, Francis Chachu, M.P | - Member      |

**In- attendance Secretariat**

- |                       |                                      |
|-----------------------|--------------------------------------|
| 1. Ms. Chebet Koskei  | -Clerk Assistant (National Assembly) |
| 2. Mr. Charles Ngatia | -Clerk Assistant (Senate)            |
| 3. Mr. Hasan Arale    | -Clerk Assistant (National Assembly) |
| 4. Mr. Ronald Walala  | -Legal Counsel (National Assembly)   |
| 5. Ms. Caro Cheruiyot | -Legal Counsel (Senate)              |
| 6. Mr. Leonard Koech  | -Legal Counsel (Senate)              |
| 7. Mr. James Muguna   | -Research Officer                    |
| 8. Ms. Ann Kigoro     | -Research Officer                    |

**MIN. NO. KNA/SEN/MED/MINING BILL/8/2016: PRAYERS**

The meeting was called to order at 10:15 a.m. and there followed a word of prayer by the Clerk Assistant (National Assembly).

The Co-Chairperson welcomed the members to the meeting and this was followed by introductions.

**MIN. NO.KNA/SEN/MED/MINING BILL/9/2016: CONSIDERATION OF CONTENTIOUS CLAUSES 4, 5, 7, 9, 16, 20, 21, 30, 33, 34, 37, and 38 OF THE MINING BILL.**

The Co-Chairperson noted that several members were not in attendance in the previous meeting which had made a raft of resolutions.

The Committee was taken through the draft report on the resolutions made in the last meeting and made the following observations and resolutions;

1. Clause 4 (c): the decision of the Committee be included in the report;
2. Clause 30: Should not have been included as being in contention because there was consensus with the amendment; and
3. Clause 33: be amended by deleting Sub Clauses (7) and (8).

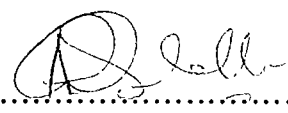
**MIN. NO.KNA/SEN/MED/MINING BILL/10/2016: ADJOURNMENT**

The meeting was adjourned at five minutes to Eleven O'clock (10.55 a.m.) until Tuesday 16<sup>th</sup> February, 2016 at 6:30 p.m.

SIGNATURE.....

DATE.....4/3/2016

(SEN. LENNY KIVUTI, M.P.- CHAIRPERSON.)

SIGNATURE.....

DATE.....3/3/2016

(HON. AMINA ABDALLA, M.P. - CO CHAIRPERSON)

**MINUTES OF THE 3<sup>RD</sup> SITTING OF MEDIATION COMMITTEE ON THE CONSIDERATION OF THE MINING BILL (NATIONAL ASSEMBLY BILL NO. 9 OF 2014) HELD ON TUESDAY 1<sup>ST</sup> MARCH, 2016 AT MAIN PARLIAMENT BUILDINGS, COMMITTEE ROOM 5 AT 10:00 A.M.**

**Members Present**

- |                                     |                   |
|-------------------------------------|-------------------|
| 1. Hon. Amina Abdalla, M.P, CBS     | - Co- Chairperson |
| 2. Sen. Henry Tiolo Ole Ndiema, M.P | - Member          |
| 3. Hon. Ganya, Francis Chachu, M.P  | - Member          |
| 4. Hon. Andrew Mwadime, M.P.        | - Member          |
| 5. Sen. (Dr.) Agnes Zani, M.P       | -Member           |
| 6. Hon. NjoguBarua, M.P.            | - Member          |
| 7. Sen. Isaac Melly, M.P            | - Member          |

**Apologies**

- |                                    |               |
|------------------------------------|---------------|
| 1. Sen. Lenny Kivuti, M.P.         | - Chairperson |
| 2. Sen. Billow Kerrow, M.P         | - Member      |
| 3. Hon. George Peter Opondo Kaluma | - Member      |

**In- attendance - Secretariat**

- |                       |                                      |
|-----------------------|--------------------------------------|
| 1. Ms. Chebet Koskei  | -Clerk Assistant (National Assembly) |
| 2. Mr. Charles Ngatia | -Clerk Assistant (Senate)            |
| 3. Mr. Hasan Arale    | -Clerk Assistant (National Assembly) |
| 4. Mr. Ronald Walala  | -Legal Counsel (National Assembly)   |
| 5. Ms. Caro Cheruiyot | -Legal Counsel (Senate)              |

**MIN. NO. KNA/SEN/MED/MINING BILL/11/2016: PRAYERS**

The meeting was called to order at 10:15 a.m. and there followed a word of prayer by the Clerk Assistant (National Assembly).

The Co-Chairperson welcomed the members to the meeting and introduced the Agenda of the day.

**MIN. NO.KNA/SEN/MED/MINING BILL/12/2016: CONSIDERATION & ADOPTION OF THE MEDIATION COMMITTEE ON THE MINING BILL (NATIONAL ASSEMBLY BILL NO. 9 OF 2014)**

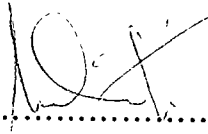
The Committee considered the Report and noted that the resolution on Clause 37 was not well captured and the clause should instead read as follows:

- 37 (1) *A prospecting and mining rights shall not be granted under this Act with respect to private land without the registered express consent of the owner, and such consent shall not be unreasonably withheld.*

Following the correction, the Report was unanimously adopted after being proposed by Sen. Isaac Melly, M.P and being proposed by Hon. Francis ChachuGanya, M.P.

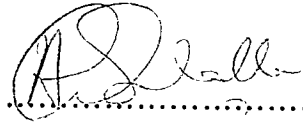
MIN. NO.KNA/SEN/MED/MINING BILL/12/2016: ADJOURNMENT

The meeting was adjourned at five minutes past Eleven O'clock (11.05 a.m).

SIGNATURE.....

DATE.....4/3/2016

(SEN. LENNY KIVUTI, M.P.- CHAIRPERSON.)

SIGNATURE.....

DATE.....2/3/2016

(HON. AMINA ABDALLA, M.P., CBS - CO CHAIRPERSON)

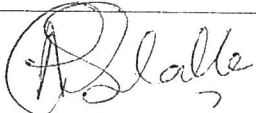
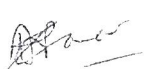
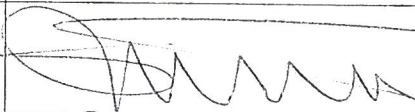
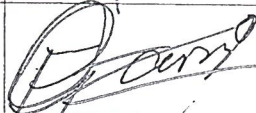
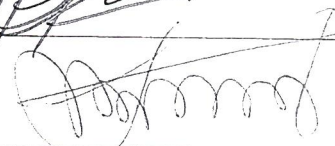
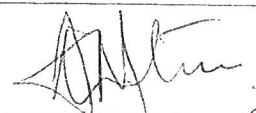


Appendix II

ADOPTION LIST OF THE REPORT OF THE MEDIATION COMMITTEE ON THE  
MINING BILL (NATIONAL ASSEMBLY BILL NO. 9 OF 2014)

DATE: 16/02/2016

VENUE: CPA ROOM

	NAME	SIGNATURE
1.	Sen. Lenny Kivuti, M.P – <b>Chairperson</b>	
2.	Hon. Amina Abadalla, M.P., CBS – <b>Co-Chairperson</b>	
3.	Sen. Billow Kerrow, M.P.	
4.	Sen. (Dr.) Agnes Zani, M.P.	
5.	Hon. Ejidius Njogu Barua, M.P	
6.	Hon. Chachu Ganya, M.P	
7.	Sen. Isaac Melly, M.P	
8.	Sen. Henry Tiolo ole Ndiema, M.P	
9.	Hon. Andrew Mwadime, M.P	
10.	Hon. George Peter Opondo Kaluma , M.P	