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KENYA NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT

(THIRD SESSION-2015)

REPORT OF THE

DEPARTMENTAL COMMITTEE ON AGRICULTURE,

LIVESTOCK AND CO-OPERATIVES

ON THE

**PUBLIC PETITION ON THE IMMINENT COLLAPSE OF
SUGAR INDUSTRY IN WESTERN KENYA DUE TO
RAMPANT SUGARCANE POACHING AND SMUGGLING
OF CHEAP SUGAR IMPORTS**

12 MAR 2015

(Prepared and submitted pursuant to direction by the Speaker and SO 220)

CLERKS CHAMBERS
PARLIAMENT BUILDINGS,
NAIROBI

MARCH, 2015

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3.0 FINDINGS OF THE COMMITTEE	34
3.1 Presence of Cheap and Unregulated Sugar in the Local Market	34
3.2 Cane Poaching.....	34
3.3 Industry Challenges	35
3.4 Observations	36
CHAPTER 4.....	38
4.0 RECOMMENDATIONS OF THE COMMITTEE.....	38
4.1 ADOPTION OF THE REPORT	40
Committee Members present	Error! Bookmark not defined.
ANNEX I: Minutes of the Committee deliberations	
ANNEX II: PETITION on the Imminent collapse of Sugar Industries in Western Kenya	
ANNEX III: Documents of imports by Mumias Sugar Company	
ANNEX IV: KRA's Report on Mumias Sugar Company Exports	
ANNEX V: Exports by Mumias Sugar Company	
ANNEX VI: Documents of purchase by Nesredin Mohamed of Ethiopia	

FINAL ADOPTED



DPL	-	Dantes Peak Limited
GK	-	Government of Kenya
AFFA	-	Agriculture Fisheries and Food Authority
EACCMA	-	East African Community Customs Management Act
SDF	-	Sugar Development Fund
LATF	-	Local Authorities Trust Fund
CDF	-	Constituencies Development Fund
VAT	-	Value added Tax
NSE	-	Nairobi Stock Exchange
MT	-	Metric Tones
TCD	-	Tones Crushed Daily;
FCB	-	Fives Call Babcock
SCT	-	Single Customs Territory
KPMG	-	A merger leading audit firm between <i>Klynveld Main Goerdeler</i> and <i>Peat Marwick</i>
MW	-	Mega Watts
MSS	-	Mauritius Sugar Syndicate

FINAL DRAFT



(f) to vet and report on all appointments where the Constitution or any other law requires the National Assembly to approve, except those under Standing Order 204 (**Committee on Appointments**); and

(g) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

The Committee is also mandated to scrutinize the budget of line Ministries and Departments as provided under Standing Order No. 235 states which that:-

(a) Upon being laid before the House, the Estimates shall be deemed to have been committed to each Departmental Committee without question put, for each such committee to deliberate upon according to their respective mandates.

(b) Each Departmental Committee shall consider, discuss and review the Estimates according to its mandate and submit its report and recommendations to the Budget and Appropriations Committee within twenty-one days, after being laid before the House.

(c) The Budget and Appropriations Committee shall discuss and review the Estimates and make recommendations to the National Assembly, taking into account the recommendations of the Departmental Committees, the views of the Cabinet Secretary and the public.

Section 124 of the Constitution (2010) also provide for the establishment of the Committees by Parliament.

The Committee oversees the performance of the following Ministries and Government department:-

- (i) Agriculture,
- (ii) Livestock,
- (iii) Irrigation,
- (iv) Fisheries development,
- (v) Co-operatives development, and
- (vi) Production and marketing.

Under the above Ministries, the Committee covers the following subjects;

- (i) Agriculture policy;
- (ii) Veterinary policy
- (iii) Fisheries policy



Mr. Speaker,

This Report was considered at length by the Committee in a retreat at Windsor Golf Hotel and Country club March, 2015 and the resolution to adopt this Report was reached unanimously in a meeting attended by a majority of the Members of the Committee Members. It is our hope that this Report will guide and inform the House on the status of sugar industry.

The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the support and services extended to the Members to enable the Committee complete this report smoothly.

I am grateful for the Members of the Committee whose support enabled the Committee to accomplish this task. Special thanks to the secretariat for their support at all times.

On behalf of the Committee, I now have the honour and pleasure to present this Report to House for consideration and adoption.

Thank You

We the undersigned

1. The Hon. Adan Mohamed Nooru, MBS, M.P.-

Chairman 

2. The Hon. Japhet M. Kareke Mbiuki, M.P. -Vice


Chairman 

3. The Hon. Kabando Wa Kabando, M.P. 

4. The Hon. Raphael Letimalo, M.P. 

5. The Hon. Mary Wambui Munene, M.P. 

6. The Hon. Francis Munyua Waititu, M.P. 

7. The Hon. Peter Njuguna Gitau, M.P. 



CHAPTER 1

1.0 PETITION ON THE IMMINENT COLLAPSE OF SUGAR INDUSTRY IN WESTERN KENYA DUE TO RAMPANT SUGARCANE POACHING AND SMUGGLING OF CHEAP SUGAR IMPORTS

Mr. Speaker,

Pursuant to Standing Orders 219 and 220, a Petition on **the imminent collapse of Sugar Industry in Western Kenya** drawn on 23rd August, 2013, addressed to the Speaker and copied to the Clerk of the National Assembly, was tabled on the floor of the House and committed to the Departmental Committee on Agriculture, Livestock and Co-operatives on September 18, 2013. The Petition was presented to the House by the Western Development Initiative Association (WEDIA) and signed by three (3) Petitioners who prayed that the National Assembly:

- (a) Conducts an investigation on the role of the Kenya Sugar Board (KSB), the National Environment Management Authority (NEMA) and the West Kenya Sugar Company in triggering and sustaining the sugarcane crisis in Western Kenya;
- (b) Conducts an investigation on the sugarcane poaching and smuggling of cheap imported sugar into the Country.

Following the tabling of the petition in line with Standing Orders No. 220, 223, 225 and 227, the Speaker directed the Departmental Committee on Agriculture, Livestock and Co-operatives chaired by the Hon. Adan Mohamed Nooru, MBS, MP, to investigate the matter and table the report in the House within 60 days.

CHAPTER 2

2.0 EVIDENCE AND SUBMISSIONS FROM WITNESSES

2.1 Submissions by Western Development Initiative Association (WEDIA)

Appearing before the Committee on 16th October, 2013, WEDIA made the following submissions: -

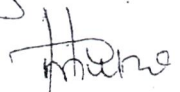
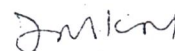
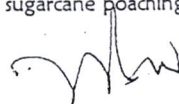
- (a) WEDIA was registered as an association in 2010 and that it represents development interests of sugarcane farmers and other sectors in Western Kenya;
- (b) It was among the first entities to raise the issue of cane poaching and was also at the fore-front in stopping the attempted disposal of land belonging to defunct Busia Sugar Company (BSC);
- (c) Sugarcane poaching started about the year 2000 after the establishment of Butali Sugar Mills in Kakamega County.
- (d) Sugar factories in Western Kenya, including Mumias Sugar Company, Nzoia Sugar Company and Butali Sugar Mills, have signed contracts with their cane farmers except West Kenya Sugar Factory;
- (e) To-date, West Kenya Sugar Factory does not have any single contracted sugarcane farmer but has since inception been buying cane from farmers contracted by other millers, hence promoting poaching;
- (f) West Kenya Sugar Factory does not have cane development programmes for farmers but harvests cane from farmers in Western Kenya. The factory has continued to buy cane from Busia Sugar Zone (*contracted by Mumias Sugar Company*), Nzoia Sugar Zone and Butali Sugar Mills farmers even when they (West Kenya) have no contracted farmers in those zones;
- (g) West Kenya has gone ahead to construct a weighbridge at Tangakona area in Busia County where all the poached cane is collected for transportation to the factory in Kakamega County;
- (h) The presence of the weighbridge has led to disputes and conflicts among the surrounding local communities/millers and at one point a tractor

- iv. The Company operates an Outgrowers Cane Development Scheme within Kakamega, Bungoma, Busia and Siaya counties and spends over Kshs 2.8 billion to provide services for land preparation, fertilizer/input supply, extension support, harvesting and transport to over 110,000 farmers;
- v. MSC signs cane farming contracts with the farmers committing them to supply their cane to MSC to enable recovery of what the Company has invested in cane development expenses to contracted farmers;
- vi. MSC appreciates fair competition in the sector and wants emerging issues to be addressed as a policy intervention to restore sanity and fair practices in the industry;
- vii. There is no fair competition in the sugar sector and unless the emerging issues are addressed from both policy and legislative fronts, then the industry is headed for collapse as rightfully observed by the Petitioners. There is urgent need to restore sanity and the rule of law in the industry.

2.3 Submissions by Nzoia Sugar Company (NSC)

Appearing before the Committee on 5th November 2013, the Managing Director for Nzoia Sugar Company made the following submissions;

- i. NSC was established in 1975 under the Company's Act Cap 486 of the Laws of Kenya with the Government as the majority shareholder owning 98% shares while Fives Call Babcock (FCB) and Industrial Development Bank (IDB) owning the remaining;
- ii. NSC serves over 67,000 farmers in the larger Bungoma, Kakamega, Lugari, and Malava Districts;



against it in regard to cane poaching;

- ii. Kenya Sugar Board should come up with regulations in respect contractual obligations on the parts of contracted farmers and respective millers;
- iii. The creation of too many weighbridges had contributed to cane poaching;
- iv. West Kenya Sugar Company pays farmers after seven days.
- v. BSC received funding from Kenya Sugar Board for construction of weigh bridges and cane development.

2.5 Submissions by Kenya Sugar Board (KSB)

Appearing before the Committee on 7th November, 2013, 28th March 2014 and 16th February, 2015 the Kenya Sugar Board made the following submissions:

- i. KSB was established by an Act of Parliament, the Sugar Act of 2001, with the main function of regulating and facilitating growth of the sugar industry in the country. The Sugar Act 2001 is subject for repeal with the commencement of the Crops Act, 2013 and the implementation of the AFA Act, 2013;
- ii. KSB is charged with the role of developing regulations to guide the sugar sub-sector and the issuance of licences to import or export sugar and sugar by-products and manages jointly with the KRA any restrictions on imports and exports of sugar and sugar by-products;
- iii. KSB also licences the establishment of sugar mills and defines zones with which they operate;
- iv. KSB identified West Kenya Sugar Factory as the main sugarcane poacher in Western Kenya and had received complaints from neighbouring millers;
- v. KSB identified **Kenafriic Industries** as one of the manufactures that repackages imported industrial sugar in locally manufactured branded sugar packages for sale as table sugar;



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2.6 Submission by West Kenya Sugar Factory (WKSF)

Appearing before the Committee on 5th November 2013, the Managing Director for West Kenya Sugar Factory submitted as follows:-

- i. West Kenya Sugar Factory was the second largest Miller in Kenya and had grown from TCD 500 TCD (Tonnes Crushed Daily) in 1979 to its current crushing capacity of 5000 TCD and employs 2000 workers apart from indirect employment to harvesters, loaders and transporters;
- ii. Until 2005 when the Kenya Sugar Board licensed Butali Sugar Mill Limited in controversial circumstances, the then existing millers sourced cane from their clearly demarcated zones and each miller was able to invest in cane development within their respective zones;
- iii. When Kenya Sugar Board licensed Butali Sugar Mill Limited and supported its commissioning in the name of free competition in a liberalized market, cane zones were hitherto respected;
- iv. A miller who buys cane from a farmer in an area presumed to belong to another miller cannot be deemed as either stealing or poaching cane;
- v. The Cane farmer has the right to sell his or her cane to a miller of his or her choice as guaranteed by article 40 of the Constitution and the Sugar Act 2001, which specifies that the farmer is the owner of the cane on his farm;
- vi. West Kenya Sugar denied it was engaged in cane poaching activities and had taken legal action against the Ministry of Agriculture and the Kenya Sugar Board and Butali Sugar Mills Limited on the licensing of the mill against existing laws and regulations;
- vii. The sugarcane crisis in western Kenya was occasioned by the licensing of Butali Sugar Mills Limited and the commencement of its operation in 2011, which has increased the number of millers competing for decreasing cane;
- viii. West Kenya Sugar Company pays farmers after seven days with competitive prices and it charges them a flat rate of Kshs.39,000 per tonne irrespective of

- ii. That the role of NEMA in the establishment of a weighbridge at Tangakona in Busia County was to coordinate the various environmental management activities undertaken by the lead agency, West Kenya Sugar Factory (WKSF);
- iii. That due diligence environmental assessment test was done on the land Tangakona and a report issued to West Kenya Sugar Factory to go ahead with the intended development on the said land;
- iv. That NEMA is not involved in the issuance of Permits or Licences for trade;
- v. NEMA also establishes and reviews land use guidelines, examines land use patterns to determine their impact on the quality and quantity of natural resources and carries out surveys, which assist in the proper management and conservation of the environment.

2.9 Submission by Commissioner General – Kenya Revenue Authority (KRA)

Appearing before the Committee on 24th April, 2014 and 16th February, 2015, the Commissioner General of KRA made the following submissions:

- i. KRA was established by an Act of Parliament, Chapter 469 of the Laws of Kenya, which became effective on 1st July 1995. was aware of the presence of contraband sugar in the country, which had seriously affected the local industry;
- ii. KRA was aware Mumias Sugar Company imported 10,000 MT of sugar in 2012 through a third party called Dantes Peak Limited (DPL) and that Mumias paid all the duty for the consignment which was cleared in 2013;
- iii. The Commissioner-General admitted that KRA did not have the capacity to verify all containers of commodities imported but does random verification and scanning of the Cargo before release;
- iv. The Commissioner-General was aware Mumias Sugar Company exported sugar to various countries between 2006 and 2012 but was not in a position to confirm if the sugar had indeed left the country as that would require confirmation from border officers and counterparts in countries of destinations;

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decision to impose 10% duty on industrial sugar imported from Egypt (the matter is still pending in Court).

- xii. KRA could confirm exports of sugar by MSC worth Kshs 3.5 billion as this information could not be confirmed through Simba System hence KRA confirmed that government lost Kshs **720,560,000** in terms of the VAT exemption on purported Sugar exports

2.10 Submissions by Kenya Ports Authority (KPA)

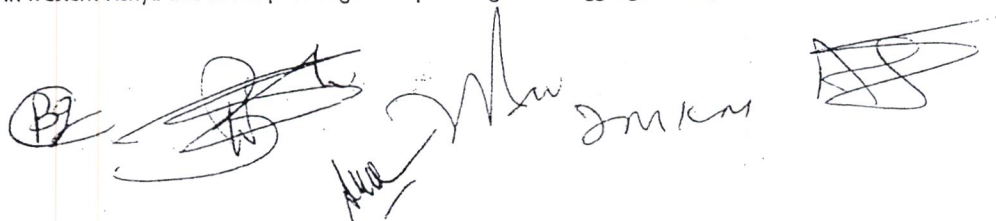
Appearing before the Committee on 14th May, 2014, Managing Director for Kenya Ports Authority informed the Committee that: -

- i. KPA's mandate was to handle inbound and outbound cargo once they have been cleared by relevant authorities;
- ii. KPA handled 40x20ft containers of sugar belonging to Mumias Sugar Company but imported through Dantes Peak Ltd;
- iii. KPA waived a total of 15 million shillings in demurrage charges that accrued following delay of clearance the cargo after anomalies were detected by KRA and the interventions of Mumias Sugar Company accepted;
- iv. KPA works in collaboration with KRA and KSB in monitoring the flow of sugar through the port.

2.11 Submissions by the Inspector General of Police (IG)

Appearing before the Committee on 29th April 2014, the Inspector General of Police made the following submissions: -

- i. National Police Service was established by Act of Parliament and mandated to enforce the law which includes surveillance of all goods, including sugar, entering or being traded within but some borders are extensive, porous and some areas may not be manned;
- ii. The Kenya Police Service, Immigration Department, Kenya Revenue Authority, Kenya Ports Authority and Kenya Airports Authority work



- xii. Police Officers are routinely seconded to the Kenya Revenue Authority to oversee operational matters including revenue collection and compliance to statutory requirements; and
- xiii. The various government agencies at the border points need to appreciate security as a cross-cutting issues and an important aspect of our national development.

2.12 Submission by Kenya Bureau of Standards (KEBS)

Appearing before the Committee on 14th May, 2014 the Managing Director for Kenya Bureau of Standards submitted as follow: -

- i. Kenya Bureau of Standards (KEBS) was established in July 1974 under CAP 496 of the laws of Kenya. It offers several services including Standards development and harmonization, Testing, Measurement (Calibration), Enforcement of standards, Product inspection, Education and training in Standardization, Metrology and Conformity Assessment, Management Systems Certification and Product Certification;
- ii. KEBS analyses sugar imports coming into the country on request and notification of arrival of the same by Kenya Ports Authority and Kenya Revenue Authority;
- iii. Since 2012, seven consignments of sugar had been recommended for destruction by KEBS and other government agencies for non-conformance to quality specifications and KEBS is among the state agencies charged with destruction of goods that do not conform to the standard s;
- iv. KEBS was aware of the impounding of a consignment of sugar that had been imported by Mumias Sugar Company although the IDF was reading Dantes Peak Limited;
- v. KEBS was facing the challenge of determining the importers of industrial sugar meant for manufacturing but which was being repacked for domestic consumption against the regulations;
- vi. KEBS does not have up-to-date equipments and infrastructure for analysis of various commodities imported and exported;

- vii. The Board admitted that it was having challenges from neighbouring Companies that had taken advantage of delay in payments for sugarcane by MSC to poach cane from its contracted farmers.

2.14 Submissions by the Director General of the National Intelligence Services (NIS)

Appearing before the Committee on 10th July, 2014, the Director General of NIS made the following submissions: -

- I. That the function of NIS was to gather intelligence and compile reports on the same for action by the relevant authorities;
- II. That NIS has no prosecutorial powers;
- III. The sugar industry was crippled by among other issues, high cost of production and obsolete technology hence Kenya was a very lucrative market for the commodity and that has been a catalyst for sugar smuggling in the Country.

The Committee expressed disappointment over the information presented by the Director General and informed him that Kenyans had very high expectations of his office. The DG expressed his appreciation of the Committee's need to deal with the sugar issue and requested that the Committee details out the information they required from him and he would respond within two weeks.

The Committee therefore acceded to his request and outlined the required information as follows:-

- I. Provide information on illegal sugar importation, exportation and smuggling*
- II. Provide the name of the illegal importers and smugglers and their local partners within and outside government Institutions*
- III. Provide information in the custody of National Intelligence Service if any concerning smuggling of sugar into the Country through Kismayu and along Kenya's border with Somalia*

The names of companies, traders, dealers, transporters and any other persons involved in the alleged sugar exports by Mumias Sugar Company to regional

2.16 Submissions by the Cabinet Secretary Ministry of Agriculture, Livestock and Fisheries

Appearing before the Committee on Tuesday 9th September, 2014, the Cabinet Secretary made the following submissions on the status of the sugar sector in the country and other matters affecting the industry: -

2.16.1 On the Status of the Sugar Sector in Kenya the Cabinet Secretary informed that: -

- (i) The sugar subsector plays a major role in the Kenyan economy and was a source of income for millions of citizens. The Country was producing about **600,000 MT** of sugar against the annual domestic requirements of **800,000 MT**, running a deficit of about **200,000 MT**.
- (ii) There were **11 operational sugar mills** in the country, **1 additional new mill was** to be commissioned in Kwale while **2 other** mills (Muhoroni/Miwani) were under receivership.
- (iii) The combined installed crushing capacity of operational mills was about **29,990 MT** of cane per day. The current capacity was sufficient to produce about **1 million tons** of sugar per annum. The target was to expand this capacity to approximately **50,000 MT** in order to produce **1,350,000 MT** to make Kenya a sugar surplus producer.
- (iv) The sugar closing stocks held by the factories at the start of the year **2013/14** was at **27,392 MT** up from **19,205 MT** at the end of **2012/13**. The stock level increased to a high of **42,845 MT** in **February, 2014** against optimal level of **9,000 MT**.
- (v) The Ministry embarked on a strategy to decrease the sugar stock to an acceptable level of **8,478 MT**, which was achieved by **20th August 2014**.
- (vi) The increased sugar stock was attributed to;
 - Sustained high sugar production;
 - Carrying forward huge stocks from the previous year;
 - Surplus balances in the world market and depressed prices; and
 - Increased presence of uncustomed sugar in the country attracted by our high cost of production.

- Insufficient and unsustainable technical support to out-growers;
- Frequent cane shortages which lead to immature cane;
- The high and rising cost of inputs such as diesel, imported fertilizers and machinery;
- High harvesting and transport costs;
- Sugarcane is grown by small holder farmers under rain-fed conditions;
- Poor roads within the cane catchment areas;
- Lack of sufficient finance for Government owned sugar factories to rehabilitate the machineries;
- Length of cane harvesting and milling time; and
- Lack of capacity to utilize the by-products for ethanol and power generation.

b) Illegal sugar imports

That the high presence of illegal imports earlier in the year saw the industry continue to experience stock piles and declining ex-factory prices of sugar. The **Un-customed sugar** imports were re-packaged into local bags to conceal identity and evade the surveillance network. In the period **January to July 2014** the market had experienced declining sugar prices to a low of **Kshs.3, 200** for a **50 kg** bag against an average industry break-even of **Kshs.3, 800** pushing down cane prices to lows of **Kshs.3,000** per ton.

c) Intra Regional Trade

That this was especially for **net deficit sugar countries** that exported substantial amounts of sugar to partner states with disregard and /or compromise or laxity in the enforcement of the Rules of Origin. Egypt for example, despite being a net importer, is a significant supplier of sugar to Kenya.

2.16.3 Recommendations on how to streamline the Sugar Industry

The Cabinet Secretary told the Committee that to mitigate these challenges, the following strategies were recommended and the Ministry had initiated a number of them with a view to streamlining the Kenyan sugar sector as follows:

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f) Development of a seed cane policy

This will guide the industry in the development and adoption of high yielding, early maturing and disease resistant certified seed cane of relevant varieties. This policy is targeted to be in place by **June 2015**.

g) Sugar production and consumption

In order to validate our statistics on the national sugar demand and supply, an independent study will be undertaken by **30th December 2014** to confirm the updated status based on changed fundamentals such as population and production growth.

h) Improvement/ Management of roads infrastructure

This will be done to encourage collaborative management of infrastructure in the sugar belt that will enhance the impact of the available pool of funds to the sugar value chain within the various agencies in the sugar belt.

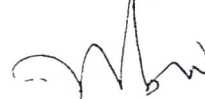
(ii) Intra Regional Trade and Rules of Origin

There is an urgent need for verification missions to deficit countries which have high export history to satisfy authenticity and the harmonization of regulatory/administrative processes within the trading blocks. A case should be put forward for the establishment of competent authorities in respective partner states for purposes of liaison on sugar matters. This specifically applies to Uganda and Rwanda who do not have regulatory bodies' specific to the sugar sector. Kenya and Tanzania have in place such authorities making collaboration and administration smoother. This should be done **by 30th October 2014**.

(iii) Single Customs Territory

On the impact of the Single Customs Territory (SCT), a position paper seeking an amendment to exclude sugar based on its unique challenges will be submitted immediately.

In the meantime Agriculture, Fisheries and Food Authority (AFFA) will in collaboration with Kenya Revenue Authority station officers within the partner states and in Mombasa to ensure the sectors' interests are protected.



CHAPTER 3

3.0 FINDINGS OF THE COMMITTEE

Mr. Speaker,

The committee investigations, which included site visits to the various areas of interest to the Sub-Committee terms of reference, came up with the following findings.

3.1 Presence of Cheap and Unregulated Sugar in the Local Market

The Committee's investigations established that a huge quantity of sugar enters the Kenya market unregulated and untaxed. In the last six years, the country has consumed approximately 335,000 MT (*KSB statistics*) of sugar, either illegal or meant for industrial manufacturing. The sugar is re-packaged by unscrupulous business people in packages similar to those used by local millers which, is against regulations governing food products. Apart from such sugar not meeting the Kenya Bureau of Standards (KEBS) specifications for domestic consumption, the government loses in terms of taxes.

The flooding of illegal sugar is the cause of the evident market distortions as it is posing unfair price competition to the disadvantage of local sugar millers and cane farmers. KSB identified **Kenafric Industries, Rising Star**

It is good to note that in 2001 Parliament passed the then Sugar Act number 10 of 2001 which outlined well the requirements for licensing of sugar millers and the functions of the then Kenya Sugar Board

3.2 Cane Poaching

Mr. Speaker,

Allow me to explain to the House what cane poaching is and how it operates. Traditionally, the Kenyan cane growing model has operated on an outgrowers model whereby farmers are supported to grow cane on their farms and in turn they are expected to supply the cane to the millers who have provided cane development services, which include land preparation, supply of seed cane, supply of fertilizer, farmer extension services, harvesting and transport of the cane to the millers where the cost will be recovered.

- h. Failure to enforce the legislation on licensing of some millers and importers leading to licensing of too many millers in close proximity in disregard of the law and optimal operation of other existing mills as per the installed capacity of already established millers.

3.4 Observations

(i) Repackaging of contraband and Industrial sugar

Substantial amounts of illegal sugar imports is repackaged into locally branded bags to conceal identity and evade the surveillance network. Industrial sugar has been found repackaged and ends up on the market to compete with table sugar that has been subjected to full duty hence loss of taxation by the following companies: - Kenafric Industries, Czarnikov E. A Ltd and Rising Star Commodities Ltd. **See Annex VI**

(ii) Flouting sugar Import license limits

Rising Star Commodities Ltd (RSCL), a licensed sugar importer, imported sugar beyond approved quantities and had denied the then Kenya Sugar Board (KSB) access to its go-downs for verification. It was found that Rising Star Commodities repackages imported sugar into bags with Mumias brand details. Incidentally, their go-downs in Changamwe, Mombasa, are manned by Kenya Police who are offering protection.

- (iii) The Committee observed that the Kenya Police offered protection to the Rising Star Commodities Ltd go-downs in Changamwe Mombasa.

(iv) Compromised consumer safety.

Sugar auctioned by Kenya Revenue Authority is allowed back into the local market without KEBS verifying if it is suitable for direct consumption or manufacturing.

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CHAPTER 4

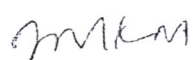
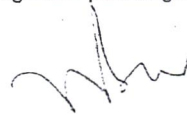
4.0 RECOMMENDATIONS OF THE COMMITTEE

The Committee recommends;

- (i) **THAT**, the government implements the sugar industry strategic agenda for increased competitiveness and reduction in consumer prices. There is need to lower production cost, improve extension services among others to reduce and eventually eliminate the incentive to smuggle sugar into the country
- (ii) **THAT**, the government establishes a permanent inter-agency enforcement unit on sugar trade which should enhance capacity to verify, scrutiny and monitor cross-border trade and step up border patrols to eradicate sugar smuggling. The unit should draw membership from KPA, Public Health, AFFA, KEBS, the Kenya Police, KRA and any other relevant government agencies.
- (iii) **THAT**, KRA officer(s) should be investigated and appropriate action taken clearing sugar without permit from the sugar regulator. Equally any company that imported sugar without a permit from the regulator should be banned.
- (iv) **THAT**, relevant laws and regulations governing sugar imports and exports should be amended to provide for higher accountability and public health standards for re-packaged sugar and for stiffer penalties for offenders. The Government should cancel the trading licences for the following companies:
- Kenafriic Industries, Czarnikov E. A. Ltd and Rising Star Commodities Ltd.
- (v) **THAT**, the reinforcement of re-packaging regulations to ensure consumer safety and that KEBS be held responsible for failure to prevent abuse of its seal which is supposed to be a standard measure for safety of goods in the country but has consistently been abused.

Handwritten signatures and initials are present at the bottom of the page, including a large signature on the left, a signature in the center, and several other initials and signatures on the right side.

FINAL ADOPTED REPORT



5.0

ANNEX I: Minutes of the Committee deliberations on the Petition by Western Development Initiative Association on the petition of imminent collapse of sugar industry in western province due to rampant sugarcane poaching and smuggling of cheap sugar imports and the PETITION on the Imminent collapse of Sugar Industries in Western Kenya due to rampant sugarcane poaching crisis and smuggling of cheap sugar imports

ANNEX II: Documents of Imports and Exports by Mumias Sugar Company

ANNEX III ,IV and V: KRA's Report on Mumias Sugar Company Exports

ANNEX VI: East Africa Customs Management Act 2005

ANNEX VII: Documents by Kenya Sugar Board

ANNEX VIII: Draft Factual Findings Report

MINUTES OF THE THIRTY EIGHTH SITTING OF THE DEPARTMENTAL
COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD ON
WEDNESDAY, 16TH OCTOBER, 2013 IN COMMITTEE ROOM 9, MAIN
PARLIAMENT BUILDINGS AT 9.30AM

PRESENT

- | | | |
|--------------------------------------|---|---------------|
| 1. Hon. Adan M. Nooru, M.P. | - | Chairman |
| 2. Hon. Kareke Mbiuki, M.P. | - | Vice Chairman |
| 3. Hon. Kabando Wa Kabando, M.P. | | |
| 4. Hon. (Dr.) Victor Munyaka, M.P. | | |
| 5. Hon. Phillip Rotino, M.P. | | |
| 6. Hon. Millie Odhiambo, M.P. | | |
| 7. Hon. Ayub Savula Angatia, M.P. | | |
| 8. Hon. Waititu Munyua, M.P. | | |
| 9. Hon. Peter N. Gitau, M.P. | | |
| 10. Hon. Maison Leshoomo, M.P. | | |
| 11. Hon. Kimani Inchung'wah, M.P. | | |
| 12. Hon. Patrick Wangamati, M.P. | | |
| 13. Hon. Florence Mutua, M.P. | | |
| 14. Hon. Silas Tiren, M.P. | | |
| 15. Hon. Ferdinand Wanyonyi, M.P. | | |
| 16. Hon. John B. Serut, M.P. | | |
| 17. Hon. James Opiyo Wandayi, M.P. | | |
| 18. Hon. Maanzo Daniel Gitonga, M.P. | | |
| 19. Hon. Mary Wamboi Munene, M.P. | | |
| 20. Hon. Korei Ole Lemein, M.P. | | |
| 21. Hon. Paul Simba Arati, M.P. | | |
| 22. Hon. Hezron Awiti Bollo, M.P. | | |

ABSENT WITH APOLOGY

1. Hon. Benjamin Washiali, M.P.
2. Hon. Fredrick Outa, M.P.
3. Hon. Raphael Letimalo, M.P.
4. Hon. Zuleikha Hassan, M.P.
5. Hon. John Kobado Kobado, M.P.

- (a) WEDIA was registered as an association in 2010 and that it represents development interests of sugarcane farmers and other sectors in Western Kenya;
- (b) It was among the first entities to raise the issue of cane poaching and was also at the fore-front in stopping the attempted disposal of land belonging to defunct Busia Sugar Company (BSC);
- (c) Sugarcane poaching started about the year 2000 after the establishment of Butali Sugar Mills in Kakamega County.
- (d) Sugar factories in Western Kenya, including Mumias Sugar Company, Nzoia Sugar Company and Butali Sugar Mills, have signed contracts with their cane farmers except West Kenya Sugar Factory;
- (e) To-date, West Kenya Sugar Factory does not have any single contracted sugarcane farmer but has since inception been buying cane from farmers contracted by other millers, hence promoting poaching;
- (f) West Kenya Sugar Factory does not have cane development programmes for farmers but harvests cane from farmers in Western Kenya. The factory has continued to buy cane from Busia Sugar Zone (*contracted by Mumias Sugar Company*), Nzoia Sugar Zone and Butali Sugar Mills farmers even when they (West Kenya) have no contracted farmers in those zones;
- (g) West Kenya has gone ahead to construct a weighbridge at Tangakona area in Busia County where all the poached cane is collected for transportation to the factory in Kakamega County;
- (h) The presence of the weighbridge has led to disputes and conflicts among the surrounding local communities/millers and at one point a tractor transporting sugarcane for Nzoia Sugar Company was burnt and six tractors belonging to West Kenya impounded by Nzoia Sugar Company;
- (i) Kenya Sugar Board has allowed West Kenya to operate in Western Kenya despite the company failing to honour the licence issued to it to construct a factory in Kimilili area of Bungoma County way back in 2008;
- (j) Kenya Sugar Board gave West Kenya a two-year reprieve under questionable circumstances even after failing to construct a factory in Kimilili and continued harvesting cane from farmers contracted by other factories;

MINUTES OF THE FOURTY SECOND SITTING OF THE DEPARTMENTAL
COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD ON
TUESDAY, 29TH OCTOBER, 2013 IN COMMITTEE ROOM 4TH FLOOR,
CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00AM

PRESENT

- | | | |
|--------------------------------------|---|---------------|
| 1. Hon. Adan M. Nooru, M.P | - | Chairman |
| 2. Hon. Kareke Mbiuki, M.P | - | Vice Chairman |
| 3. Hon. Justice Kemei, M.P. | - | Chairing |
| 4. Hon. Benjamin Washiali, M.P. | | |
| 5. Hon. Phillip Rotino, M.P. | | |
| 6. Hon. Fredrick Outa, M.P | | |
| 7. Hon. Kabando Wa Kabando, M.P. | | |
| 8. Hon. (Dr.) Victor Munyaka, M.P | | |
| 9. Hon. Maison Leshoomo, M.P. | | |
| 10. Hon. Waititu Munyua, M.P. | | |
| 11. Hon. Kimani Inchung'wah, M.P. | | |
| 12. Hon. Paul Simba Arati, M.P. | | |
| 13. Hon. Raphael Letimalo, M.P. | | |
| 14. Hon. Silas Tiren, M.P. | | |
| 15. Hon. Ferdinand Wanyonyi, M.P. | | |
| 16. Hon. John B. Serut, M.P. | | |
| 17. Hon. Florence Mutua, M.P | | |
| 18. Hon. Maanzo Daniel Gitonga, M.P. | | |
| 19. Hon. Mary Wamboi Munene, M.P. | | |
| 20. Hon. John Kobado Kobado, M.P. | | |
| 21. Hon. Hezron Awiti Bollo, M.P. | | |

ABSENT WITH APOLOGY

1. Hon. James Opiyo Wandayi, M.P.
2. Hon. Patrick Wangamati, M.P.
3. Hon. Peter N. Gitau, M.P
4. Hon. Millie Odhiambo, M.P.
5. Hon. Korei Ole Lemein, M.P.

270,000 MT sugar plant, 38MW Co-generation Plant, 22 million - litre Ethanol Distillery and 15 million - litre Water Bottling Plant;

- ii. The Company is listed on the Nairobi Stock Exchange and there are over 145,000 shareholders including Kenyan investors and the Government of Kenya which holds a 20% stake in the Company, pays approximately Kshs. 2.5 billion in taxes and remits Kshs. 500,000 million to the Sugar Development Fund (SDF) annually;
- iii. MSC supports a population of 2 million people directly and over 5 million indirectly and the Company has a workforce of 1,896 permanent employees and 40,000 seasonal and contracted workers;
- iv. The Company operates an Outgrowers Cane Development Scheme within Kakamega, Bungoma, Busia and Siaya counties and spends over Kshs 2.8 billion to provide services for land preparation, fertilizer/input supply, extension support, harvesting and transport to over 110,000 farmers;
- v. MSC signs cane farming contracts with the farmers committing them to supply their cane to MSC to enable recovery of what the Company has invested in cane development expenses to contracted farmers;
- vi. MSC appreciates fair competition in the sector and wants emerging issues to be addressed as a policy intervention to restore sanity and fair practices in the industry;
- vii. There is no fair competition in the sugar sector and unless the emerging issues are addressed from both policy and legislative fronts, then the

- iii. Illegal and uncoordinated imports aimed at bridging the demand deficit thus denying the government revenue
- iv. Disadvantaged consumers due to high sugar prices
- v. Insecurity in the sugar zones due to scramble for the scarce raw materials and lack of subsequent cane crop
- vi. Disregard to the rule of law regarding cane zoning as defined in the Sugar Act, 2001
- vii. Possible loss of jobs due to possible collapse of the sugar industry
- viii. Distortions in the cane harvesting schedules resulting in harvesting of very young cane and increased costs of production
- ix. Depressed sugar prices
- x. An uncompetitive sugar sector
- xi. Late payment to farmers due to inability of the local sugar to compete with imported sugar

Measures taken by Mumias Sugar Company against smugglers of cheap sugar imports

These include the following: -

- 1) Engagement with KRA to enforce importation requirements including collecting due taxes and seizure of illegal imports
- 2) Engagement with GOK security agents on enforcement of border patrols
- 3) Enhancement of market intelligence and reporting of any suspected illegal imports
- 4) Suits against sugar importers who ride MSC brand, and
- 5) Lobbying KSB to enforce regulations on source of origin of imported sugar being sold as house hold brands

Support received from KSB as a regulator

Mumias Sugar Company receives the following support from Kenya Sugar Board

1. Road maintenance grants to build bridges and purchase of equipment, and
2. Cane development loans although not to the required levels.

Arising from submission by the MD MSC, the Committee made the following observations: -

- a) Mumias Sugar Company imports sugar to meet the shortfall in the market during Factory service period.

2. Mr. Tejveer S. Rai	-	West Kenya Sugar Company (WKS)
3. Mr. Raymond Olendo	-	WKS
4. Mr. Kibe Mungai	-	WKS
5. Ms. Wairimu Gachuhi	-	WKS
6. Ms. Njeri Ngunju	-	WKS
7. Mr. Daniel Kiyondi	-	Butali Sugar Mills (BSM)
8. Mr. Jayantilal Patel	-	BSM
9. Mr. Miller W. Bwire	-	BSM
10. Mr. Saul S. Wasilwa	-	Nzoia Sugar Company (NSC)
11. Mr. Godfrey S. Wanyonyi	-	NSC
12. Mr. Mcklins Wasike	-	NSC
13. Ms. Rita Mukhangu	-	NSC

Kenya National Assembly

1. Mr. Oscar Namulanda	-	Senior Clerk Assistant
2. Mr. Abdullahi Aden	-	First Clerk Assistant

MIN.NO.149/2013:

PRELIMINARIES

The meeting was called to order at Ten O'clock with a word of prayer. The Chairman welcomed the Members to the meeting to deliberate on the challenges facing the Sugar Industry in the Country.

MIN.NO.150/2013:

MEETING WITH WEST KENYA SUGAR COMPANY (WKSCO)

The Chairman West Kenya Sugar Company Mr. Jasmat S. Rai informed the Committee that:

- West Kenya Sugar Company (WKSCO) is the second largest Miller in Kenya whose efficiency and prudent management is underscored by the fact that it has grown from a jiggery in 1979 to miller. It has grown from a miller of 500 TCD (Tonnes Crushed Daily) in 1999 to its current crushing capacity of 5000 TCD. It has employed 2000 workers and offers indirect employment to harvesters, loaders and transporters.

Cane Poaching

The Chairpman West Kenya Sugar Company, informed the Committee that;

- Article 40 of the Constitution and the Sugar Act 2001, the farmer is the owner of the cane on his farm. Freedom of contract is an integrated part of the right of ownership. Therefore the Cane farmer has the legal right to sell his or her cane to a miller of his or her choice. Accordingly, a miller who buys cane from a farmer in an area presumed to

belong to another miller cannot technically be deemed as either stealing or poaching cane.

- Until 2005 when the Kenya Sugar Board licensed Butali Sugar Mill Limited in controversial circumstances, the existing millers namely Mumias Sugar Company Limited, Nzoia Sugar Company and West Kenya Sugar Company sourced their cane from clearly demarcated zones. Each miller was able to invest in cane growing within its zone. However the Kenya Sugar Board abandoned the *de facto* zones when it licensed Butali Sugar Mill Limited and supported its commissioning in the name of free competition in a liberalized market.
- West Kenya Sugar Company pays farmers after seven days with competitive prices and it charges them a flat rate of Kshs.390 per ton irrespective of the distance with the option of the farmer using own transport.
- The Chairman further informed the Committee that West Kenya Sugar has been in the fore front to fight the alleged cane poaching activities, it engaged the Ministry of Agriculture, the Kenya Sugar Board and Butali Sugar Mill Limited in a protracted legal battle as the other millers watched, the Company has never participated in cane poaching and hence its operation regarding cane sourcing and harvesting is well coordinated effort that also involves local community and the provincial and County administration.
- West Kenya Sugar Company has been in the forefront championing for the rights of innocent farmers by taking them in as its development partners and empowering them economically by ensuring the farmer get correct tonnage for his cane, better prices that are paid on time coupled with efficient extension services.
- The Sugarcane crisis in western Kenya was worsened and aggravated by the licensing of Butali Sugar Mills Limited and commencement of its operation in 2011. Throughout 2011 to date cane poaching has become a growing menace as cane shortage worsens throughout Western province as too many millers have to share decreasing amount of cane.

MIN.NO.151/2013:

MEETING WITH M.D BUTALI SUGAR MILLS
COMPANY

The Managing Director Butali Sugar Mills Mr. Jayantilal Patel informed the Committee that;

- Butali Sugar Mills Limited is not aware of any poaching of cane in the Country and the Company has no case in court with any miller in regard to Cane poaching in the Country.

- iii. NSC produces sugar and supports cane production through the provision of extension services to farmers through extensive Company Nucleus Estate covering 3600ha;
- iv. NSC provides cane development services including supply of fertilizers and provision of extension services to outgrower cane farmers contracted by it;
- v. West Kenya was poaching cane from farmers contracted by Nzoia Sugar, Mumias Sugar and Butali Sugar factories;
- vi. There were individuals acting as cane poaching brokers based at various points within Bungoma and Busia Counties;
- vii. NSC sensitizes farmers on obligations of signed contracts with them and other millers and campaigns against cane poaching;
- viii. In 2008, NSC set an anti-poaching unit comprising of NSC and the Kenya Police Officers that used to monitor cane poaching and later in 2010 an *ad hoc* committee of the Board was set up to help manage cane poaching which was at an all time high;
- ix. NSC had instituted Court proceedings against West Kenya Sugar Factories (WKSF) in 2012 on the matter of cane poaching; and
- x. NSC has not been able to pay farmers in good time due to low sales as a result of a depressed sugar market;
- xi. NSC has lobbied the government not to allow cheap sugar into the Country as it negatively affects sales, payment to farmers and other obligations.

MIN.NO.153/2013:

ANY OTHER BUSINESS

Land Grapping in Machakos County

- The Hon. Fred Outa, MP informed the Committee that, the land owned by the Ministry of Agriculture in Machakos County has been grabbed by the Machakos County Governor
- The Committee was further informed that the title deed of the land is there and genuinely belongs to the Ministry of Agriculture in Machakos County.
- The Committee said there was a need to establish the legal ownership of the land, and the name registered in the title deed.

MINUTES OF THE SIXTY EIGHTH SITTING OF THE DEPARTMENTAL
COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES (with the
Commissioner-General - KRA) HELD ON THURSDAY, 24TH APRIL, 2014 IN
COMMITTEE ROOM 2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT
BUILDINGS AT 10.30AM

PRESENT

1. Hon. Kareke Mbiuki, M.P. - Vice Chairman
2. Hon. Benjamin Washiali, M.P.
3. Hon. Justice Kemei, M.P.
4. Hon. KabandoWa Kabando, M.P.
5. Hon. John B. Serut, M.P.
6. Hon. (Dr.) Victor Munyaka, M.P
7. Hon. Phillip Rotino, M.P.
8. Hon. Patrick Wangamati, M.P.
9. Hon. James Opiyo Wandayi, M.P.
10. Hon. Florence Mutua, M.P
11. Hon. Maison Leshoomo, M.P.
12. Hon. John Kobado Kobado, M.P.
13. Hon. Paul Simba Arati, M.P.
14. Hon. Silas Tiren, M.P.
15. Hon. Peter N. Gitau, M.P
16. Hon. Alfred K. Keter, M.P.
17. Hon. Ayub Savula Angatia, M.P.
18. Hon. Millie Odhiambo, M.P
19. Hon. Hezron Awiti Bollo, M.P.
20. Hon. Ferdinand Wanyonyi, M.P.
21. Hon. Raphael Letimalo, M.P.
22. Hon. Maanzo Daniel Kitonga, M.P.

ABSENT WITH APOLOGY

1. Hon. Adan M. Nooru, MBS, M.P - Chairman
2. Hon. Fredrick Outa, M.P
3. Hon. Waititu Munyua, M.P.
4. Hon. Korei Ole Lemein, M.P.
5. Hon. Kimani Inchung'wah, M.P.
6. Hon. Zuleikha Hassan, M.P

position to confirm if the sugar had indeed left the country as that would require confirmation from border officers and counterparts in countries of destinations;

- v. The Commissioner-General said if indeed the sugar never left the country then Mumias Sugar Company is duty bound to pay the equivalent of VAT exempted;
- vi. KRA does not have infrastructure at all borders of our country especially in Eastern and North Eastern where smuggling is rampant but they have formed a joint team with the Kenya Police Service and the Kenya Sugar Board to address the issue of illegal sugar entering the Country unregulated and untaxed;
- vii. Sugar imports into Kenya is restricted under the 2nd Schedule Part B (1) of the East African Community Customs Management Act of 2004 where any import into Kenya must therefore first get approval from Kenya Sugar Board through a non-transferable Permit containing details of the importer, tonnage, origin of sugar and other relevant details, information which is used during clearance;
- viii. The revenue or duty collected and paid is determined by the type of sugar whether it is industrial or table sugar and also the origin of the sugar. Sugar from COMESA region are exempted from duty while non-COMESA sugar attracts 100% duty;
- ix. KRA has created special units to address non-compliance with KSB sugar import regulations and it was through such a unit that the case of non-compliance of the Mumias Sugar Company sugar import of 10,000 MT of 2012 was detected leading to a delay in clearance;
- x. In 2011 KRA noted increased importation of Industrial sugar from Egypt as a result of which joint investigations were conducted that revealed most of the said sugars were trans-shipments from Brazil. Thereafter, KRA in consultation with KSB implemented restrictions on Industrial Sugar imports from Egypt by imposing 10% duty as is the case with non-COMESA imports;

MINUTES OF THE SEVENTY SEVENTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES (with the Former MD – Mumias Sugar Company – Dr. Evans Kidero) HELD ON MONDAY, 19TH MAY, 2014 IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 2.30PM

PRESENT

1. The Hon. Adan M. Nooru, MBS, M.P - Chairman
2. Hon. Kareke Mbiuki, M.P - Vice-Chairman
3. Hon. Peter Njuguna Gitau, M.P
4. Hon. Ferdinand Kevin Wanyonyi, M.P
5. Hon. James Opiyo, M.P
6. Hon. Justice Kemei, M.P.
7. Hon. Benjamin Washiali, M.P.
8. Hon. Phillip Rotino, M.P.
9. Hon. Kabando Wa Kabando, M.P.
10. Hon. Millie Odhiambo, M.P.
11. Hon. Korei Ole Lemein, M.P.
12. Hon. John B. Serut, M.P.
13. Hon. Florence Mutua, M.P
14. Hon. Maanzo Daniel Kitonga, M.P.
15. Hon. Mary Wamboi Munene, M.P.
16. Hon. John Kobado Kobado, M.P.
17. Hon. Paul Simba Arati, M.P.
18. Hon. Kimani Inchung'wah, M.P.

ABSENT WITH APOLOGY

1. Hon. Silas Tiren, M.P
2. Hon. Zuleikha Hassan, M.P
3. Hon. Ayub Savula Angatia, M.P.

farmers in good time and even the value of its shares at the Nairobi Stock Exchange was reasonable

MIN.NO.092/2014: - ANY OTHER BUSINESS

There being no other business, the Chairman adjourned the meeting at 4.30pm.

Signature



HON. ADAN NOORU MOHAMED, MBS, M.P.
(Chairman)

Date.....

22-05-2014

MINUTES OF THE SEVENTY FIFTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES (with the CS –Industrialization and Enterprise Development) HELD ON WEDNESDAY, 14TH MAY, 2014 IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 2.30PM

PRESENT

1. The Hon. Adan M. Nooru, MBS, M.P - Chairman
2. Hon. Kareke Mbiuki, M.P - Vice-Chairman
3. Hon. Peter Njuguna Gitau, M.P
4. Hon. Ferdinand Kevin Wanyonyi, M.P
5. Hon. James Opiyo, M.P
6. Hon. Justice Kernei, M.P.
7. Hon. Benjamin Washiali, M.P.
8. Hon. Phillip Rotino, M.P.
9. Hon. Kabando Wa Kabando, M.P.
10. Hon. Millie Odhiambo, M.P.
11. Hon. Korei Ole Lemein, M.P.
12. Hon. John B. Serut, M.P.
13. Hon. Florence Mutua, M.P
14. Hon. Maanzo Daniel Kitonga, M.P.
15. Hon. Mary Wamboi Munene, M.P.
16. Hon. John Kobado Kobado, M.P.
17. Hon. Paul Simba Arati, M.P.
18. Hon. Kimani Inchung'wah, M.P.

ABSENT WITH APOLOGY

1. Hon. Silas Tiren, M.P
2. Hon. Zuleikha Hassan, M.P
3. Hon. Ayub Savula Angatia, M.P.

Kenya National Assembly

1. Mr. Oscar Namulanda - Senior Clerk Assistant
2. Tracy Chebet Emily Koskei - Clerk Assistant II
3. Ahmad Adan Guliye - Clerk Assisant III
4. Mr. Rodgers Kilungya - Hansard Reporter

- v. KEBS was facing the challenge of determining the importers of industrial sugar meant for manufacturing but which was being repacked for domestic consumption against the regulations;
- vi. KEBS does not have up-to-date equipments and infrastructure for analysis of various commodities imported and exported;
- vii. KEBS also lacks capacity for enforcement of standards and market surveillance and therefore cannot cope with demands like single window and 24 hour operations at the port of clearance or entry/exit.

MIN.NO.086/2014:

ANY OTHER BUSINESS

Mumias Sugar Company Management


- The Committee agreed that the clerk writes to the Management of Mumias sugar Company requesting them to provide details of trucks that transported sugar across the exit and entry points between 2006 - 2013 during their appearance before the committee.

Coffee

- The trip to Sagana Coffee Mills is still scheduled for Friday 16th May 2014.

There being no other business, the Chairman adjourned the meeting at 5.30pm until Monday, 19th May, 2014 at 2.30pm.

Signature


HON. ADAN NOORU MOHAMED, MBS, M.P.
(Chairman)

Date.....

20-05-2014

MINUTES OF THE SEVENTY EIGHTH SITTING OF THE
DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND
COOPERATIVES HELD ON TUESDAY, 27TH MAY 2014 AT
CONTINENTAL HOUSE 5TH FLOOR 2.30 PM

Present

1. Hon. Adan Mohamed Nooru, MBS, M.P - Chairman
2. Hon. Benjamin Washiali, M.P
3. Hon. Victor Munyaka, M.P
4. Hon. Gitau Peter, M.P
5. Hon. Simba Arati, M.P
6. Hon. John Kobado, M.P
7. Hon. Fred Outa, M.P
8. Hon. Millie Odhiambo, M.P
9. Hon. Justice Kemei, M.P
10. Hon. Mary Wamboi, M.P
11. Hon. Ayub Savula Angatia, M.P
12. Hon. Kabando Wa Kabando, M.P
13. Hon. Korei Ole Lemein, M.P

ABSENT WITH APOLOGIES:

1. Hon Kareke Mbiuki, M.P - Vice Chairman
2. Hon. Raphael Letimalo, M.P
3. Hon. Francis Munyua Waititu, M.P
4. Hon. Maison Leshoomo, M.P
5. Hon. Kimani Ichung'wah, M.P
6. Hon. Alfred Keter, M.P
7. Hon. Philip Rotino, M.P
8. Hon. Silas Tiren, M.P
9. Hon. John Serut, M.P
10. Hon. Daniel Maanzo, M.P
11. Hon. James Wandayi, M.P
12. Hon. Patrick Wangamati, M.P
13. Hon. Ferdinand Wanyonyi, M.P
14. Hon. Florence Mwikali, M.P

MIN 094/2014:

SUBMISSIONS BY THE MANAGEMENT AND
BOARD OF MUMIAS SUGAR COMPANY
LIMITED

The Board of Directors of Mumias Sugar Company submitted as follows:

- i. The Board was aware that the Company exported sugar to several European and African countries between 2006 and 2012 and concerns that the sugar may not have left the country and that revenue in the form of VAT payable could have been lost;
- ii. The Board was also aware that certain information regarding the exports was missing from the Company's records and promised to institute forensic audit of all Mumias sugar exports in view of the fact that some of the key managers had since left the Company and would report the findings to this Committee;
- iii. The Company was in a crisis as a result of serious management short fallings and the company was unable to meet its obligations including payment to farmers;
- iv. The Company was on a restructuring process to address serious management bottlenecks and disciplinary measures had been taken against some managers following the findings of the forensic audit on sugar imports and other management shortfalls;
- v. The Board was not involved in the decision to import the consignment of the 10,000 MT of sugar in 2012 and there was an on-going Board investigation on the same and undertook to submit the outcome of the investigations to the Committee within two months;
- vi. The report of the Forensic Audit by KPMG on sugar imports by the Company could not be released to the Committee at that stage because there were certain transaction details that had not been captured in the report and the Board undertook to submit the report in two months when those aspects had been addressed; and
- vii. The Board admitted that it was having challenges from neighbouring Companies that had taken advantage of delay in in

MINUTES OF THE EIGHTY SECOND SITTING OF THE DEPARTMENTAL COMMITTEE
ON AGRICULTURE, LIVESTOCK AND COOPERATIVES (meeting with Mumias Sugar
Co.) HELD ON THURSDAY, 12TH JUNE, 2014 IN COMMITTEE ROOM 5TH FLOOR
CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.30AM

PRESENT

1. Hon. Adan M. Nooru, MBS, M.P - Chairman
2. Hon. Kareke Mbiuki, M.P - Vice Chairman
3. Hon. Kabando Wa Kabando, M.P.
4. Hon. Phillip Rotino, M.P.
5. Hon. James Opiyo Wandayi, M.P.
6. Hon. Paul Simba Arati, M.P.
7. Hon. Peter N. Gitau, M.P.
8. Hon. Alfred K. Keter, M.P.
9. Hon. Kimani Inchung'wah, M.P.
10. Hon. Maanzo Daniel Kitonga, M.P.
11. Hon. Fredrick Outa, M.P.
12. Hon. Mary Wambui, M.P.
13. Hon. Benjamin Washiali, M.P.
14. Hon. Silas Tiren, M.P.
15. Hon. Korei Ole Lemein, M.P.
16. Hon. Maison Leshoomo, M.P.
17. Hon. Mary Wambui, M.P.
18. Hon. Justice Kemei, M.P.

ABSENT WITH APOLOGIES:

1. Hon. Millie Odhiambo - Mabona, M.P.
2. Hon. Florence Mutua, M.P.
3. Hon. Zuleikha Hassan, M.P.
4. Hon. Patrick Wangamati, M.P.
5. Hon. John Kobado, M.P.
6. Hon. Ayub Savula Angatia, M.P.
7. Hon. Hezron Awiti Bollo
8. Hon. Waititu Munyua, M.P.
9. Hon. (Dr.) Victor Munyaka, M.P.
10. Hon. Raphael Letimalo, M.P.
11. Hon. Ferdinand Wanyonyi, M.P.

INATTENDANCE:

- vi. That importation 10,000 metric tons of sugar was necessitated by the closing of the factory for servicing.
- vii. That Mumias Sugar Company factory produces 20 MTC per month and the factory was closed for 3 weeks for servicing.
- viii. That due diligence was followed in the importation of the said consignment and that there was an audit report conducted by KPMG which answers all the queries raised. He was required to table the report before the committee in a week's time.
- ix. That the company was in position to influence the price of the shares and the trend of the company shares at the Nairobi Stock Exchange (NSE) only if it was in the interest of the company.

Committee Observations

The Committee observed that: -

- There was doubt and less credibility in the information given by the Ag. MD and warned that he could be culpable and held responsible should it find the information given as incorrect.
- That, should it find sugar bound for export getting its way into the local market, MSC will be held liable and pay all the VAT to KRA.
- That the Ag. MD could not properly respond to questions raised and that there were possibilities of corruption in the importation of the 10,000 metric tons of sugar.

MIN. NO. 106/2014:

ANY OTHER BUSINESS


The Committee rescheduled commencement date for a report writing retreat from 30th June, 2014 to 22nd June 2014 since the financial year was coming to a close on 30th June, 2014.

MIN NO.107/2014:

ADJOURNMENT

There being no any other business to the chairman adjourned the meeting at 1.10pm

Signature


HON ADAN NOORU MOHAMED, MBS, M.P.
(Chairman)

Date..... 17-06-2014

MINUTES OF THE NIGHTY FIRST SITTING OF THE DEPARTMENTAL COMMITTEE
ON AGRICULTURE, LIVESTOCK AND COOPERATIVES (*with Mumias Sugar
Management (MSC)*) HELD ON THURSDAY 10TH JULY, 2014 IN COMMITTEE ROOM
2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 2.30PM

PRESENT

- | | | |
|------------------------------------|---|---------------|
| 1. Hon. Adan M. Nooru, MBS, M.P. | - | Chairman |
| 2. Hon. Kareke Mbiuki, M.P | - | Vice Chairman |
| 3. Hon. Maanzo Daniel Kitonga, M.P | | |
| 4. Hon. Fredrick Outa, M.P | | |
| 5. Hon. Mary Wambui, M.P | | |
| 6. Hon. Silas Tiren, M.P | | |
| 7. Hon. Justice Kemei, M.P | | |
| 8. Hon. Raphael Letimalo, M.P | | |
| 9. Hon. Kabando Wa Kabando, M.P. | | |
| 10. Hon. Phillip Rotino, M.P. | | |
| 11. Hon. James Opiyo Wandayi, M.P. | | |
| 12. Hon. Maison Leshoomo, M.P | | |
| 13. Hon. John B. Serut, M.P | | |
| 14. Hon. Patrick Wangamati, M.P | | |
| 15. Hon. Benjamin Washiali, M.P | | |
| 16. Hon. Alfred K. Keter, M.P. | | |
| 17. Hon. Paul Simba Arati, M.P. | | |
| 18. Hon. Florence Mutua, M.P | | |
| 19. Hon. John Kobado , M.P | | |

ABSENT WITH APOLOGIES:

1. Hon. Kimani Inchung'wah, M.P
2. Hon. Ferdinand Wanyonyi, M.P
3. Hon. Korei Ole Lemein, M.P
4. Hon. Zuleikha Hassan, M.P.
5. Hon. Peter N. Gitau, M.P
6. Hon. Millie Odhiambo - Mabona, M.P

- v. A list of vehicles used to transport the sugar from the factory to various destinations was available, some of them with vehicle registration numbers. However, the Company did not have documents evidencing the ownership of the vehicles;
- vi. The Committee should request the history of the ownership of the said vehicles from the KRA;
- vii. The Committee may choose to summon directly, the persons who held senior positions in the Company during the period when the exports were executed.

MIN.NO. 153/2014:

ANY OTHER BUSINESS

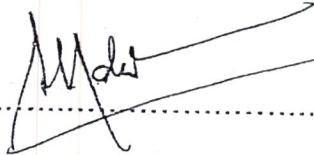
- I. The members of the Committee expressed disappointment over barring of the Media yet nothing sensitive had been disclosed by the DG. Hon. Opiyo Wandayi, MP argued that the Committee had a duty to uphold media freedom.
- II. The Committee resolved that since it had a petition pending, it should go ahead and prepare a petition report but continue investigations of illegal sugar importation which would then make up a much bigger report that would be debated on the floor of the house.

MIN.NO. 154/2014:

ADJOURNMENT

There being no other business the chairman adjourned the meeting at 13.30 hrs.

Signature



HON ADAN MOHAMED NOORU, MBS, M.P.

(Chairman)

Date.....

~~29~~ 15-07-2014

MINUTES OF THE NINETIETH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES (*Meeting with Director General, National Intelligence Service (NIS)*) HELD ON THURSDAY 10TH JULY, 2014 IN COMMITTEE ROOM 2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.30AM

PRESENT

1. Hon. Adan M. Nooru, MBS, M.P - Chairman
2. Hon. Kareke Mbiuki, M.P - Vice Chairman
3. Hon. Maanzo Daniel Kitonga, M.P
4. Hon. Fredrick Outa, M.P
5. Hon. Mary Wambui, M.P
6. Hon. Silas Tiren, M.P
7. Hon. Justice Kemei, M.P
8. Hon. Raphael Letimalo, M.P
9. Hon. Kabando Wa Kabando, M.P.
10. Hon. Phillip Rotino, M.P.
11. Hon. James Opiyo Wandayi, M.P.
12. Hon. Maison Leshoomo, M.P
13. Hon. John B. Serut, M.P
14. Hon. Patrick Wangamati, M.P
15. Hon. Benjamin Washiali, M.P
16. Hon. Alfred K. Keter, M.P.
17. Hon. Paul Simba Arati, M.P.
18. Hon. Florence Mutua, M.P
19. Hon. John Kobado, M.P

ABSENT WITH APOLOGIES:

1. Hon. Kimani Inchung'wah, M.P
2. Hon. Ferdinand Wanyonyi, M.P
3. Hon. Korei Ole Lemein, M.P
4. Hon. Zuleikha Hassan, M.P.
5. Hon. Peter N. Gitau, M.P
6. Hon. Millie Odhiambo - Mabona, M.P

Members held varied views and interpretations of the phrase with others upholding that the DG should inform the Committee of what he knows while others supported the withdrawal of it. However, despite the varied opinions the meeting proceeded.

MIN.NO. 147/2014:

SUSPENSION OF A MEMBER DUE TO
GROSSDISORDERLY CONDUCT

The Member for Nyando Constituency Mr. Fred Outa was suspended pursuant to standing order number 107.

MIN.NO. 148/2014:

SUBMISSION BY THE DIRECTOR GENERAL
NATIONAL INTELLIGENCE SERVICE (NIS)

The DG informed the Committee that the sugar industry was crippled by among other issues, high cost of production and lack of proper technology. He stated that Kenyan sugar was more expensive than imported sugar and that given the high demand of the commodity, Kenya is a very lucrative market and this has fueled sugar smuggling.

The Committee expressed disappointment over the information presented by the DG and informed him that Kenyans had very high expectations of his office. The DG expressed his appreciation of the Committee's need to deal with the sugar issue and requested that the Committee details out the information they required from him and he would respond within two weeks. The Committee acceded to his request and outlined the required information as below:

- I. Provide information on illegal sugar importation, exportation and smuggling
- II. Who are the importers and who are they colluding with
- III. How did sugar from Kismayu come into the Country
- IV. Who was exporting sugar from Mumias Sugar Company since the same sugar was dumped back into the country.
- V. The circumstances under which sugar meant for industrial use ended up being used as table sugar

A letter detailing the above was to be sent for action.

MIN. NO.149/2014:

ANY OTHER BUSINESS

- I. The members of the Committee expressed disappointment over barring of the Media yet nothing sensitive had been disclosed by the DG. Hon. Opiyo Wandayi argued that the Committee had a duty to uphold media freedom.
- II. The Committee resolved that since it had a petition pending, it should go ahead and prepare a petition report but continue investigations of illegal sugar

MINUTES OF THE NIGHTY FIFTH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD ON THURSDAY 17TH JULY, 2014 IN COMMITTEE ROOM 9TH FLOOR, HARAMBEE SACCO PLAZA, PARLIAMENT BUILDINGS AT 10.30 AM.

PRESENT

1. Hon. Adan M. Nooru, MBS, M.P. - Chairman
2. Hon. Karekē Mbiuki, M.P. - Vice Chairman
3. Hon. Maanzo Daniel Kitonga, M.P.
4. Hon. Fredrick Outa, M.P.
5. Hon. Mary Wambui, M.P.
6. Hon. Silas Tiren, M.P.
7. Hon. Justice Kemei, M.P.
8. Hon. Raphael Letimalo, M.P.
9. Hon. Kabando Wa Kabando, M.P.
10. Hon. Phillip Rotino, M.P.
11. Hon. James Opiyo Wandayi, M.P.
12. Hon. John B. Serut, M.P.
13. Hon. Patrick Wangamati, M.P.
14. Hon. Benjamin Washiali, M.P.
15. Hon. Alfred K. Keter, M.P.
16. Hon. Paul Simba Arati, M.P.
17. Hon. John Kobado, M.P.
18. Hon. Ferdinand Wanyonyi, M.P.
19. Hon. Korei Ole Lemein, M.P.
20. Hon. Peter N. Gitau, M.P.
21. Hon. Millie Odhiambo - Mabona, M.P.
22. Hon. Ayub Savula Angatia, M.P.

ABSENT WITH APOLOGIES:

1. Hon. Maison Leshoomo, M.P.
2. Hon. Kimani Inchung'wah, M.P.
3. Hon. Hezron Awiti Bollo, M.P.
4. Hon. Zuleikha Hassan, M.P.

1. Prayer
2. Meeting with the Board of Directors Mumias Sugar Company
3. Any other Business

MIN.NO. 172/2014: SUBMISSION BY THE CHAIRMAN, MUMIAS SUGAR
COMPANY BOARD

The Chairman informed the Committee that: -

- I. There was massive corruption and lack of clear management direction in MSC in the past, to this effect some officers had been sent home pending investigation.
- II. The KPMG report was only a preliminary report and the Board had asked KPMG to investigate into whose accounts money from the imports went. He asked for three more months so that he could present the final report to the Committee.
- III. The final report would also shed light on exactly how much monetary loss MSC incurred through fraudulent activities.
- IV. There were reforms going on at MSC to clean the mess and also to recover money lost. The company did not have an Internal Audit Department and the chairman promised to have a new department reconstituted.
- V. No Board Resolution had been made allowing MSC to import sugar, and thus the decision and the whole process of importation was flawed.
- VI. Noting the Committee's concern over missing documents, the Chairman promised that those who were in charge of the missing documents will have to produce them.

MIN.NO. 173/2014: OBSERVATIONS BY THE COMMITTEE

The Committee appreciated the Submissions by the Chairman of the Board of MSC but informed him that three months was too long since the Committee had to table a report on a petition on the Collapse of the Sugar Industry that was long overdue. The committee asked the Chairman to present the documents he had so far, including the preliminary report, immediately and table the final one in two months and not three as he had requested.

MIN. NO.174/2014: ANY OTHER BUSINESS

Hon. Kabando Wa Kabando, M.P requested for the visit to KPCU sites to be shelved for now since the president was scheduled to visit the site soon and it would be prudent if the Committee could wait to a time when the visit would be seen as independent.

MINUTES OF THE 105th SITTING OF DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD ON 29TH AUGUST 2014 AT 10.30 AM IN COMMITTEE ROOM, 5TH FLOOR, CONTINENTAL HOUSE.

PRESENT:

1. Hon. Adan Mohamed Nooru, M.P - Chairperson
2. Hon. Kareke Mbiuki, M.P – Vice Chair person
3. Hon. Fred Outa, M.P
4. Hon. Raphael Letimalo, M.P
5. Hon. James Opiyo Wandayi, M.P
6. Hon. Maison Leshoomo, M.P
7. Hon. Mary Wamboi, M.P
8. Hon. Daniel Maanzo, M.P
9. Hon. Philip Rotino, M.P
10. Hon. Patrick Wangamati, M.P
11. Hon. Kimani Ichung'wah, M.P
12. Hon. Korei Ole Lemein, M.P
13. Hon. Silas Tiren, M.P
14. Hon. Simba Arati, M.P
15. Hon. Millie Odhiambo, M.P
16. Hon. John Serut, M.P

APOLOGIES:

17. Hon. Kabando wa Kabando, M.P
18. Hon. Francis Waititu, M.P
19. Hon. Peter Gitau, M.P
20. Hon. Alfred Keter, M.P
21. Hon. Ayub Savula, M.P
22. Hon. Justice Kemei, M.P
23. Hon. Benjamin Washiali, M.P
24. Hon. Dr. Victor Munyaka, M.P
25. Hon. Ferdinand Wanyonyi, M.P
26. Hon. Florence Mutua, M.P
27. Hon. Zuleikha Juma, M.P
28. Hon. John K'Obado, M.P
29. Hon. Hezron Awiti, M.P

see that there is less tax on tea and the cess issues are handled by the Ministry of Agriculture.

The CS confirmed that the import of sugar by Mumias Sugar Company was done by a third party. In 2013, 10,000 metric tonnes of sugar was imported on behalf of Mumias Sugar Company by a third party, The consignment took 46 days to be cleared by KPA due to clarification issues and attracted a penalty of 8.8 million payable to KRA and undisclosed amount of millions to KPA. The members finally concluded that the permit transfer to a third party was unprocedurally.

The KRA official clarified to the members that the import license issued to MSC cannot be used more than once as it shuts down when the system captures the consignment name and code.

The CS confirmed that Mumias Sugar exports were done from 2006 to 2012 and hence there were no exports done in the year 2013.

The CS assured the members of his commitment to brief them on the privatization of sugar sector and proposed for a joint meeting for the Committee on Agriculture and Finance.

MIN. NO. 228/2014 - ANY OTHER BUSINESS

The members requested the CS to organize a retreat on the privatization of sugar sector for the Committees on Agriculture and Finance. The get-away event will increase attendance and the success of the exercise.

MIN. NO. 229/2014 - ADJOURNMENT

There being no other business to discuss, the meeting adjourned at 12.30 p.m.

~~27~~ 02-09-2014

MINUTES OF THE 106th SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES (with Cabinet Secretary, MOALF on G.M.O, Sugar and Tea matters) HELD ON TUESDAY 9th SEPTEMBER, 2014 AT COMMITTEE ROOM 7, PARLIAMENT BUILDINGS AT 10.30 A.M.

PRESENT:

1. Hon. Kareke Mbiuki, M.P - Vice Chairman
2. Hon. Maanzo Daniel Kitonga, M.P
3. Hon. John B. Serut, M.P
4. Hon. Justice Kemei, M.P
5. Hon. Korei Ole Lemein, M.P
6. Hon. Kimani Inchung'wah, M.P
7. Hon. Maison Leshoomo, M.P
8. Hon. Florence Mutua, M.P
9. Hon. Patrick Wangamati, M.P
10. Hon. Paul Simba Arati, M.P.
11. Hon. Alfred K. Keter, M.P.
12. Hon. Ayub Savula Angatia, M.P.
13. Hon. (Dr.) Victor Munyaka, M.P
14. Hon. James Opiyo Wandayi, M.P
15. Hon. Millie Odhiambo - Mabona, M.P

ABSENT WITH APOLOGIES:

1. Hon. Adan M. Nooru, MBS, M.P - Chairman
2. Hon. Zuleikha Hassan, M.P
3. Hon. Silas Tiren, M.P
4. Hon. Phillip Rotino, M.P.
5. Hon. Raphael Letimalo, M.P
6. Hon. Kabando Wa Kabando, M.P.
7. Hon. Benjamin Washiali, M.P
8. Hon. Ferdinand Wanyonyi, M.P
9. Hon. Munyua Waititu, M.P.
10. Hon. Mary Wambui, M.P
11. Hon. Peter N. Gitau, M.P

ABSENT:

1. Hon. Fredrick Outa, M.P
2. Hon. John Kobado, M.P

- c) The Ministry was planning to undertake the following measures to remedy the situation;
- I. Developing disease resistant and high yielding seeds;
 - II. Shifting from weight payment system to quality payment system based on Sucrose content;
 - III. Extending fertilizer subsidy program to non-food crops such as sugar;
 - IV. Marketing sugar as a single Kenyan brand and not as different specific brands.
- d) Privatization of the sugar industry should be fast tracked so that they take charge of the management and deliver better results;
- e) The bailout is a loan from Kenya Sugar Board which is loaned to the millers at a 5% interest; and
- f) Single custom territory has been passed by Parliament and the Ministry and promised to consult on how it can be handled.

2) On Tea:

- I. Kenya produces one type of tea known as black CTC;
- II. Four (4) kilograms of green leaves constitutes one (1) kilogram of made tea;
- III. The *Ad Valorem* levy is minimal and doesn't have negative impact on the farmers' earnings;
- IV. The Government is expanding markets into new areas such as Poland, India etc; and
- V. The Government is undertaking measures of automating Tea auctions in Mombasa.

3) On Genetically Modified Organisms (GMOs):

MINUTES OF THE FOURTY FIFTH SITTING OF THE DEPARTMENTAL
COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD ON
THURSDAY, 7TH NOVEMBER, 2013 IN COMMITTEE ROOM 4TH FLOOR,
CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 9.30AM

PRESENT

- | | | |
|--------------------------------------|---|---------------|
| 1. Hon. Adan M. Nooru, M.P | - | Chairman |
| 2. Hon. Kareke Mbiuki, M.P | - | Vice Chairman |
| 3. Hon. Justice Kemei, M.P. | | |
| 4. Hon. Fredrick Outa, M.P | | |
| 5. Hon. Kabando Wa Kabando, M.P. | | |
| 6. Hon. Benjamin Washiali, M.P. | | |
| 7. Hon. Maison Leshoomo, M.P. | | |
| 8. Hon. Raphael Letimalo, M.P. | | |
| 9. Hon. Peter N. Gitau, M.P | | |
| 10. Hon. Silas Tiren, M.P. | | |
| 11. Hon. Waititu Munyua, M.P. | | |
| 12. Hon. Kimani Inchung'wah, M.P. | | |
| 13. Hon. Paul Simba Arati, M.P. | | |
| 14. Hon. Ferdinand Wanyonyi, M.P. | | |
| 15. Hon. John B. Serut, M.P. | | |
| 16. Hon. Ayub Savula Angatia, M.P. | | |
| 17. Hon. Florence Mutua, M.P | | |
| 18. Hon. Maanzo Daniel Gitonga, M.P. | | |
| 19. Hon. Mary Wamboi Munene, M.P. | | |
| 20. Hon. Korei Ole Lemein, M.P. | | |
| 21. Hon. John Kobado Kobado, M.P. | | |
| 22. Hon. Patrick Wangamati, M.P. | | |
| 23. Hon. James Opiyo Wandayi, M.P. | | |
| 24. Hon. Hezron Awiti Bollo, M.P. | | |
| 25. Hon. Alfred K. Keter, M.P. | | |

ABSENT WITH APOLOGY

1. Hon. (Dr.) Victor Munyaka, M.P
2. Hon. Millie Odhiambo, M.P.
3. Hon. Phillip Rotino, M.P.
4. Hon. Zuleikha Hassan, M.P

- iii. KSB also licences the establishment of sugar mills and defines zones with which they operate;
- iv. KSB identified West Kenya Sugar Factory as the main sugarcane poacher in Western Kenya and had received complaints from neighbouring millers;
- v. KSB identified Kenafric Industries as one of the manufactures that repackages imported industrial sugar in locally manufactured branded sugar packages for sale as table sugar;
- vi. KSB issues licenses for importation and the role of verifying quality, quantities and values as specified in the KSB permit rests with KEBs and KRA before the consignments are released into the market;
- vii. That KSB issued the licence to import 10,000 MTs of sugar in 2012 to MSC and it was unprocedural for the Permit to have been used by a Third Party, Dantes Peak Ltd since the permit is non transferable;

Committee Observations

Members observed that KSB was weak in the regulation of the sugar sector and could not the ills befalling the industry.

MIN.NO.156/2013:

SUBMISSIONS BY NATIONAL
ENVIRONMENT MANAGEMENT
AUTHORITY (NEMA)

he Director-General for NEMA made the following submissions:

- i. That National Environment Management Authority (NEMA), was established under the Environmental Management and Co-ordination Act No. 8 of 1999 (EMCA) as the principal instrument of Government for the implementation of all policies relating to environment;
- ii. That EMCA 1999 was enacted against a backdrop of 78 sectoral laws dealing with various components of the environment, the deteriorating state of Kenya's environment, as well as increasing social and economic inequalities, the combined effect of which negatively impacted on the environment. The supreme objective underlying the enactment of EMCA 1999 was to bring harmony in the management of the country's environment;

MINUTES OF THE 120TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD ON THURSDAY 13TH NOVEMBER, 2014 AT HARAMBEE SACOO PLAZA 9TH FLOOR, PARLIAMENT BUILDINGS AT 11.00 A.M.

Present

1. Hon. Adan M. Nooru, MBS, M.P - Chairman
2. Hon. Kareke Mbiuki, M.P - Vice Chairman
3. Hon. James OpiyoWandayi, M.P
4. Hon. Silas Tiren, M.P
5. Hon. Raphael Letimalo, M.P
6. Hon. Phillip Rotino, M.P.
7. Hon. Alfred K. Keter, M.P.
8. Hon. (Dr.) Victor Munyaka, M.
9. Hon. Waititu Munyua, M.P
10. Hon. Maison Leshoomo, M.P
11. Hon. Kabando Wa Kabando, M.P.
12. Hon. Mary Wambui, M.P
13. Hon. Korei Ole Lemein, M.P
14. Hon. Florence Mutua, M.P
15. Hon. Benjamin Washiali, M.P
16. Hon. FredrickOuta, M.P
17. Hon. Kimani Inchung'wah, M.P
18. Hon. Maanzo Daniel Kitonga, M.P
19. Hon. Millie Odhiambo - Mabona, M.P
20. Hon. Peter N. Gitau, M.P
21. Hon. Justice Kemei, M.P
22. Hon. John B. Serut, M.P
23. Hon. Patrick Wangamati, M.P
24. Hon. Paul SimbaArati, M.P.
25. Hon. John Kobado, M.P
26. Hon. Ayub Savula Angatia, M.P

Apologies

1. Hon. Zuleikha Hassan, M.P

Absent

1. Hon. Ferdinand Wanyonyi, M.P
2. Hon. HezronAwiti Bollo, M.P

Min. No. 305/2014: Committee Resolutions

Upon deliberations the Committee made the following resolutions:

- I. The names of Dr. Evans Kidero and Ms. Rosemary Mkok be removed from the report with a dissenting view by Hon. Fred Outa, M.P who was of the view that the names remain in the report.
- II. The Committee to recommend that Kenya Revenue Authority, Mumias Sugar Company and Sugar exporters mentioned in the report be investigated and the officers found culpable be prosecuted and barred from holding public office:
- III. It should be recorded in the report that Hon. Fred Outa, M.P had a dissenting view.

Min. No. 306/2014: Adjournment

There being no other business to discuss, the meeting was adjourned at 2.46 pm.

Signature


HON ADAN MOHAMEDNOORU, MBS, M.P.

(Chairman)

Date

18/11/2014

MINUTES OF THE 8TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES MEETING WITH KRA & KENYA SUGAR BOARD HELD ON MONDAY 16th FEBRUARY, 2015 AT CONTINENTAL HOUSE 2ND FLOOR, PARLIAMENT BUILDINGS AT 2:30 PM.

Present

1. Hon. Adan M. Nooru, MBS, M.P - Chairman
2. Hon. Kareke Mbiuki, M.P
3. Hon. Benjamin Washiali, M.P
4. Hon. Mary Wambui, M.P
5. Hon. Phillip Rotino, M.P.
6. Hon. Silas Tiren, M.P
7. Hon. Florence Mutua, M.P
8. Hon. Daniel Maanzo, M.P
9. Hon. James Opiyo Wandayi, M.P
10. Hon. Millie Odhiambo - Mabona, M.P
11. Hon. John B. Serut, M.P
12. Hon. (Dr.) Victor Munyaka, M.P
13. Hon. Justice Kemei, M.P
14. Hon. Raphael Letimalo, M.P
15. Hon. Peter N. Gitau, M.P
16. Hon. Korei Ole Lemein, M.P

Apologies

1. Hon. Kimani Ichung'wah, M.P
2. Hon. John Kobado, M.P
3. Hon. Waititu Munyua, M.P
4. Hon. Zuleikha Hassan Juma, M.P
5. Hon. Maison Leshoorno, M.P
6. Hon. Ayub Savula Angatia, M.P
7. Hon. Patrick Wangamati, M.P
8. Hon. Fredrick Outa, M.P
9. Hon. Paul Simba Arati, M.P
10. Hon. Alfred K. Keter, M.P
11. Hon. Hezron Awiti Bollo, M.P
12. Hon. Ferdinand Wanyonyi, M.P
13. Hon. Kabando Wa Kabando, M.P.

Whether the Government lost any revenue through the Sugar export transactions by Mumias Sugar Company.

- (a) It was noted that Government had lost a lot of revenue because KRA did not show any record in the meeting on how sugar has been exported in and out of the Country, but promised to submit Mumias sugar exportation Simba Analysis. The analysis shows how sugar moved in and out of the Country.
- (b) The approximate value of revenue lost through KRA is about 3.2 billion Kenya shillings and that is 70.7 Metric tones.

Min. 032/2015: Presentation by Kenya Sugar Board

- (a) That exportation permit is submitted to Kenya Sugar Board and upon approval a letter is done to KRA, and that is when exportation is granted.
- (b) She added that in 2008 KSB noticed discrepancies on how sugar was being exported. KSB later wrote to KRA but was not able to get any information and further held several joint meetings and no solution was found.
- (c) Kenya sugar board was granted permission by the Government to ban exportation of sugar from the Country.
- (d) The officers from KSB informed the Committee that the ban was triggered by how Mumias Sugar exported sugar and yet there was no enough sugar in the Country. She further explained that the monthly return from KRA compared to the quantities being exported was not valid.
- (e) The committee requested Kenya Sugar Board to submit minutes of the meetings held jointly by the two parties and letters that were submitted to KRA.

Min. 033/2015: Any Other Business

Friend to the Committee Hon Ken Okoth M.P Kibra requested the Committee to include Urban Agriculture in the Agriculture policy.

Min. 034/2015: Adjournment

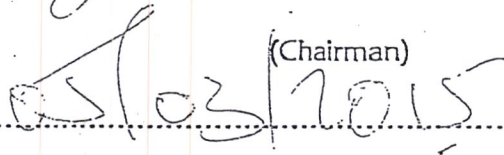
The meeting was adjourned at 12.50 hours to 15.00 hours in the afternoon.

Signature


HON ADAN MOHAMEDNOORU, MBS, M.P.

(Chairman)

Date


05/03/2015

MINUTES OF THE 8TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES MEETING WITH KRA & KENYA SUGAR BOARD HELD ON MONDAY 16th FEBRUARY, 2015 AT CONTINENTAL HOUSE 2ND FLOOR, PARLIAMENT BUILDINGS AT 2:30 PM.

Present

1. Hon. Adan M. Nooru, MBS, M.P - Chairman
2. Hon. Kareke Mbiuki, M.P
3. Hon. Benjamin Washiali, M.P
4. Hon. Mary Wambui, M.P
5. Hon. Phillip Rotino, M.P.
6. Hon. Silas Tiren, M.P
7. Hon. Florence Mutua, M.P
8. Hon. Daniel Maanzo, M.P
9. Hon. James Opiyo Wandayi, M.P
10. Hon. Millie Odhiambo - Mabona, M.P
11. Hon. John B. Serut, M.P
12. Hon. (Dr.) Victor Munyaka, M.P
13. Hon. Justice Kemei, M.P
14. Hon. Raphael Letimalo, M.P
15. Hon. Peter N. Gitau, M.P
16. Hon. Korei Ole Lemein, M.P

Apologies

1. Hon. Kimani Ichung'wah, M.P
2. Hon. John Kobado, M.P
3. Hon. Waititu Munyua, M.P
4. Hon. Zuleikha Hassan Juma, M.P
5. Hon. Maison Leshoomo, M.P
6. Hon. Ayub Savula Angatia, M.P
7. Hon. Patrick Wangamati, M.P
8. Hon. Fredrick Outa, M.P
9. Hon. Paul Simba Arati, M.P
10. Hon. Alfred K. Keter, M.P
11. Hon. Hezron Awiti Bollo, M.P
12. Hon. Ferdinand Wanyonyi, M.P
13. Hon. Kabando Wa Kabando, M.P.

Whether the Government lost any revenue through the Sugar export transactions by Mumias Sugar Company.

- (a) It was noted that Government had lost a lot of revenue because KRA did not show any record in the meeting on how sugar has been exported in and out of the Country, but promised to submit Mumias sugar exportation Simba Analysis. The analysis shows how sugar moved in and out of the Country.
- (b) The approximate value of revenue lost through KRA is about 3:2 billion Kenya shillings and that is 70.7Metric tones.

Min. 032/2015: Presentation by Kenya Sugar Board

- (a) That exportation permit is submitted to Kenya Sugar Board and upon approval a letter is done to KRA, and that is when exportation is granted.
- (b) She added that in 2008 KSB noticed discrepancies on how sugar was being exported. KSB later wrote to KRA but was not able to get any information and further held several joint meetings and no solution was found.
- (c) Kenya sugar board was granted permission by the Government to ban exportation of sugar from the Country.
- (d) The officers from KSB informed the Committee that the ban was triggered by how Mumias Sugar exported sugar and yet there was no enough sugar in the Country. She further explained that the monthly return from KRA compared to the quantities being exported was not valid.
- (e) The committee requested Kenya Sugar Board to submit minutes of the meetings held jointly by the two parties and letters that were submitted to KRA.

Min. 033/2015: Any Other Business

Friend to the Committee Hon Ken Okoth M.P Kibra requested the Committee to include Urban Agriculture in the Agriculture policy.

Min. 034/2015: Adjournment

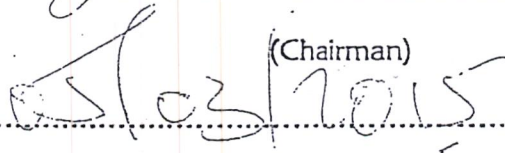
The meeting was adjourned at 12.50 hours to 15.00 hours in the afternoon.

Signature


HON ADAN MOHAMEDNOORU, MBS, M.P.

(Chairman)

Date.....


02/03/2015

MINUTES OF THE OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE,
LIVESTOCK AND COOPERATIVES (FOR THE ADOPTION OF THE REPORT OF
PUBLIC PETITION ON THE IMMINENT COLLAPSE OF THE SUGAR INDUSTRY IN
WESTERN KENYA DUE TO RAMPANT SUGARCANE POACHING AND
SMUGGLING OF CHEAP SUGAR IMPORTS) HELD ON FRIDAY 6TH MARCH, 2015
AT WINDSOR GOLF HOTEL & COUNTRY CLUB, NAIROBI AT 9.00 A.M.

Present

1. Hon. Adan M. Nooru, MBS, M.P - Chairman
2. Hon. Kareke Mbiuki, M.P - Vice Chairman
3. Hon. Mary Wambui, M.P
4. Hon. Phillip Rotino, M.P.
5. Hon. Daniel Maanzo, M.P
6. Hon. Alfred K. Keter, M.P
7. Hon. Maison Leshoomo, M.P
8. Hon. Paul Simba Arati, M.P
9. Hon. James Opiyo Wandayi, M.P
10. Hon. Patrick Wangamati, M.P
11. Hon. Raphael Letimalo, M.P
12. Hon. Silas Tiren, M.P
13. Hon. Justice Kemei, M.P
14. Hon. Korei Ole Lemein, M.P
15. Hon. (Dr.) Victor Munyaka, M.P
16. Hon. John B. Serut, M.P
17. Hon. Kabando Wa Kabando, M.P.
18. Hon. Waititu Munyua, M.P
19. Hon. Kimani Ichung'wah, M.P
20. Hon. Florence Mutua, M.P
21. Hon. Zuleikha Hassan Juma, M.P
22. Hon. Millie Odhiambo - Mabona, M.P
23. Hon. Benjamin Washiali, M.P
24. Hon. Ayub Savula Angatia, M.P.

Apologies

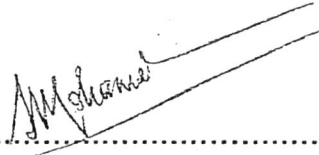
1. Hon. Fredrick Outa, M.P
2. Hon. Ferdinand Wanyonyi, M.P
3. Hon. Hezron Awiti Bollo, M.P
4. Hon. Peter N. Gitau, M.P
5. Hon. John Kobado, M.P

- I. **THAT**, the government establishes a permanent inter-agency enforcement unit on sugar trade which should enhance capacity to verify, scrutinise and monitor cross-border trade and step up border patrols to eradicate sugar smuggling. The unit should draw membership from KPA, Public Health, AFFA, KEBS, the Kenya Police, KRA and any other relevant government agencies.
- II. **THAT**, KRA officer(s) should be investigated and appropriate action taken for clearing sugar without permit from the sugar regulator. Equally any company that imported sugar without a permit from the regulator should be banned from import and export business.
- III. **THAT**, the reinforcement of re-packaging regulations to ensure consumer safety and that KEBS be held responsible for failure to prevent abuse of its seal which is supposed to be a standard measure for safety of goods in the country but has consistently been abused.
- IV. **THAT**, relevant laws and regulations governing sugar imports and exports should be amended to provide for higher accountability and public health standards for re-packaged sugar and for stiffer penalties for offenders. The Government should cancel import licences for the following companies: Kenafric Industries, Czarnikow E. A. Ltd, Stuntwave Ltd, Mshale Commodities and Rising Star Commodities Ltd.
- V. **THAT**, the Government implements the sugar industry strategic agenda for increased competitiveness and reduction in consumer prices. There is need to lower production cost, improve extension services among others to reduce and eventually eliminate the incentive to smuggle sugar into the country
- VI. **THAT**, the National Government in collaboration with county government should provide mechanism for coordinated infrastructure development to avoid duplication of responsibilities by different bodies mandated to maintain roads.
- VII. **THAT**, the National Government should implement the National Land Policy to mitigate further land sub-division for improved productivity.

MIN. 50/2015: ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at 1.45 P.M.

Signature



HON ADAN MOHAMEDNOORU, MBS, M.P.

(Chairman)

Date.....

10th March 2015.

MINUTES OF THE 14th SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD ON TUESDAY 10th MARCH, 2015 AT CONTINENTAL HOUSE 2ND FLOOR, PARLIAMENT BUILDINGS AT 10.30 A.M.

Present

1. Hon. Adan M. Nooru, MBS, M.P - Chairman
2. Hon. Kareke Mbiuki, M.P
3. Hon. Mary Wambui, M.P
4. Hon. Phillip Rotino, M.P.
5. Hon. Daniel Maanzo, M.P
6. Hon. Kimani Ichung'wah, M.P
7. Hon. James Opiyo Wandayi, M.P
8. Hon. Raphael Letimalo, M.P
9. Hon. Korei Ole Lemein, M.P
10. Hon. Patrick Wangamati, M.P
11. Hon. Zuleikha Hassan Juma, M.P
12. Hon. Kabando Wa Kabando, M.P.
13. Hon. Benjamin Washiali, M.P
14. Hon. (Dr.) Victor Munyaka, M.P
15. Hon. John Kobado, M.P
16. Hon. John B. Serut, M.P
17. Hon. Waititu Munyua, M.P
18. Hon. Fredrick Outa, M.P

Apologies

1. Hon. Millie Odhiambo - Mabona, M.P
2. Hon. Alfred K. Keter, M.P
3. Hon. Justice Kemei, M.P
4. Hon. Silas Tiren, M.P
5. Hon. Maison Leshoomo, M.P
6. Hon. Florence Mutua, M.P
7. Hon. Paul Simba Arati, M.P
8. Hon. Ayub Savula Angatia, M.P.
9. Hon. Hezron Awiti Bollo, M.P
10. Hon. Peter N. Gitau, M.P
11. Hon. Ferdinand Wanyonyi, M.P

In Attendance:

Kenya National Assembly Secretariat

1. Mr. Benjamin Magut - First Clerk Assistant

(iii) Hon. Mary Wambui, M.P

(iv) Hon. Korei Lemein, M.P

(v) Hon. Millie Odhiambo, M.P

3. National retreat for the National Trade Negotiating Committee from 16th- 18th March, 2015.

(i) Hon. Kabando Wa Kabando, M.P

MIN.065/2015: CONFIRMATION OF MINUTES

- I. The minutes of the adoption of the report of the petition on the imminent collapse of the sugar industry in Western Kenya was confirmed as true record of the Committee's deliberation after it was proposed and seconded by Hon. John Serut, M.P and Hon. Kareke Mbiuki, M.P respectively.
- II. The minutes of the adoption of the report on the crisis facing the Sugar industry was confirmed as true record of the Committee's deliberations after it was proposed and seconded by Hon. Kareke Mbiuki, M.P and Hon. Francis Waititu, M.P respectively.

MIN. 066/2015: MATTERS ARISING

- I. The Committee noted that the aspect of disregarding "Draft Factual Findings Report of KPMG" in the essence that it was a draft report was not captured in the minutes of that day's proceedings.
- II. Hon. Opiyo Wandayi, M.P noted that he did not support Committee's resolution to disregard the use of the "Draft Factual Findings Report of KPMG" while deliberating and making its recommendations. Further, he restated that the Committee should have adopted the "Draft Factual Findings Report of KPMG"

MIN. 067/2015: ADOPTION OF COMMITTEE WORK PLAN FOR MARCH 2015

- I. The Committee adopted work plan for March, 2015 as follows.

NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE AGRICULTURE, LIVESTOCK AND CO-OPERATIVES & (DC-B-ALC) – PROGRAMME OF BUSINESS FOR THE MONTH MARCH 1, 2015

10TH TUESDAY, MARCH, 2015

10:00AM

(Adoption of the programme, planning of Committee Business)
(Meeting with the Cabinet Secretary on matters related to Livestock Matters)

Venue: Media Centre , Parliament Buildings

III. The Chairman implored on the members that it is exceptional cases when members are requested to sit on such days due to backlog of work.

MIN. 068/2015: ANY OTHER BUSINESS

- I. The Committee raised their concerns with the utterances made by the Cabinet Secretary, Ministry of Agriculture, Livestock & Fisheries during a function in at Chemilil Sugar in which he castigated the Committee on sitting on the sugar report for personal interests.
- II. The Committee resolved to summon the Cabinet Secretary on Tuesday 17th March 2015 to substantiate his allegations.

MIN. 069/2015: ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at 12.35 hours.

Signature


HON ADAN MOHAMEDNOORU, MBS, M.P.

(Chairman)

Date.....

11th March 2015

MINUTES OF THE OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE,
LIVESTOCK AND COOPERATIVES (FOR THE ADOPTION OF THE REPORT ON THE
CRISIS FACING THE SUGAR INDUSTRY IN KENYA) HELD ON SATURDAY 7TH
MARCH, 2015 AT WINDSOR GOLF HOTEL & COUNTRY CLUB, NAIROBI AT 9.30
A.M.

Present

1. Hon. Adan M. Nooru, MBS, M.P - Chairman
2. Hon. Kareke Mbiuki, M.P - Vice Chairman
3. Hon. Mary Wambui, M.P
4. Hon. Phillip Rotino, M.P.
5. Hon. Daniel Maanzo, M.P
6. Hon. Alfred K. Keter, M.P
7. Hon. Maison Leshoomo, M.P
8. Hon. Paul Simba Arati, M.P
9. Hon. James Opiyo Wandayi, M.P
10. Hon. Patrick Wangamati, M.P.
11. Hon. Raphael Letimalo, M.P
12. Hon. Silas Tiren, M.P
13. Hon. Justice Kemei, M.P
14. Hon. Korei Ole Lemein, M.P
15. Hon. (Dr.) Victor Munyaka, M.P
16. Hon. John B. Serut, M.P
17. Hon. Kabando Wa Kabando, M.P.
18. Hon. Waititu Munyua, M.P
19. Hon. Kimani Ichung'wah, M.P
20. Hon. Florence Mutua, M.P
21. Hon. Zuleikha Hassan Juma, M.P
22. Hon. Millie Odhiambo - Mabona, M.P
23. Hon. Benjamin Washiali, M.P
24. Hon. Ayub Savula Angatia, M.P.

Apologies

1. Hon. Fredrick Outa, M.P
2. Hon. Ferdinand Wanyonyi, M.P
3. Hon. Hezron Awiti Bollo, M.P
4. Hon. Peter N. Gitau, M.P
5. Hon. John Kobado, M.P

- III. **THAT**, the reinforcement of re-packaging regulations to ensure consumer safety and that KEBS be held responsible for failure to prevent abuse of its seal which is supposed to be a standard measure for safety of goods in the country but has consistently been abused.
- IV. **THAT**, relevant laws and regulations governing sugar imports and exports should be amended to provide for higher accountability and public health standards for re-packaged sugar and for stiffer penalties for offenders. The Government should cancel import licences for the following companies: - Kenafric Industries, Czarnikow E. A. Ltd, Stuntwave Ltd, Mshale Commodities and Rising Star Commodities Ltd.
- V. **THAT**, the government implements the sugar industry strategic agenda for increased competitiveness and reduction in consumer prices. There is need to lower production cost, improve extension services among others to reduce and eventually eliminate the incentive to smuggle sugar into the country
- VI. **THAT**, the National Government in collaboration with County Government should provide mechanisms for coordinated infrastructure development to avoid duplication of responsibilities by different bodies mandated to maintain roads.
- VII. **THAT**, the National Government should implement the National Land Policy to mitigate further land sub-division for improved productivity.
- VIII. **THAT**, the fertilizer subsidy should be complemented by bulk procurement of other farm inputs and capacity utilization which should be done by the Sugar Directorate.
- IX. **THAT**, Investigations should be carried out on MSC and/or its agents, KRA and all importers and/or their agents who imported sugar from MSC in the period between 2006 - 2012 and appropriate action taken.
- X. **THAT**, the KRA should be held responsible for the loss of VAT taxes amounting to Kshs 577 million for fictitious exports of sugar by MSC.

pse process

Annex II

Jobar

Western Development Initiative Association

P.O. Box 238-50409 Nambale (Busia County), Kenya. Tel/cell: 0722126860, 0715671103, Email: wediasociety@yahoo.com

28/8/2013

23rd AUG 2013

PETITION

28 AUG 2013

ON

IMMINENT COLLAPSE OF THE SUGAR INDUSTRY IN WESTERN KENYA DUE TO RAMPANT SUGARCANE POACHING CRISIS AND SMUGGLING OF CHEAP SUGAR IMPORTS.

FROM

THE WESTERN DEVELOPMENT INITIATIVE ASSOCIATION (WEDIA)

TO

1. PRESIDENT, THE REPUBLIC OF KENYA
2. CABINET SECRETARY, MINISTRY OF AGRICULTURE
- ~~3. THE PARLIAMENTARY COMMITTEE FOR AGRICULTURE~~
4. THE DIRECTOR, ETHICS & ANTI-CORRUPTION COMMISSION
5. THE DIRECTOR, NEMA
6. THE CHIEF EXECUTIVE, KSB

*Message PDLBP
please process CS
does not involve
removal from off.*

All correspondence to be addressed to jobarasa@gmail.com/wediasociety@yahoo.com/0722126860

triggered and remains at the centre of the whole mess has no single contracted farmer to its name especially in Busia County where cane poaching is rife.

INVESTAGATIONS DEMANDED

That is despite the fact that apart from Nzoia and Mumias, West Kenya is the third oldest sugar company in the region with more than three decades since it was established, yet Butali sugar company which is the youngest established slightly more than ten years ago has contracted farmers within its region of operation – why not West Kenya?

That the role of the Kenya Sugar Board (KSB), the National Environmental Management Authority (NEMA) and West Kenya Sugar Company in triggering and sustaining this crisis should be investigated and remedial action taken immediately.

That NEMA's advertisement in the Daily Nation of August 16, 2013 on page 56 on (*see advert attached*) West Kenya and Olepitoo proposed 1250 TCD Sugar Plant in an area where West Kenya has no contracted farmers and invested nothing in sugarcane development demands interrogation of West Kenya, KSB and NEMA intentions.

That collusion and complicity of these organizations in the crisis facing the sugar industry in this region demands for immediate government action and NOT hiding behind the legal instruments that they are abusing as per the above mentioned advert.

That how can a license issued for construction of a sugar factory by KSB in a different location and environment - Matayos on Busia - Kisumu highway give NEMA authority as per the above advert state for a totally different location and environment at Olepito on the Busia - Mumias/Kakamega highway on a wetland where construction of a weighbridge authorized by KSB and NEMA is still contested?

That why has NEMA, KSB and the ministry of agriculture failed to interrogate and analyse the history of West Kenya's activities in the sub-sector before giving it credibility where it is NOT deserved as the Companies which deserve that are consigned to doom by their erroneous decisions and actions? (See below for more details on the same)

CRITICAL

That indeed contracted sugarcane farmers are squarely at the centre of the cane poaching and industry performance crisis since they are the ones who are been duped to sell their crop to buyers with whom they do not have any contractual commitments because of their raw materials' critical role and in the process break their contractual obligations to the sugar companies they signed contracts with to supply sugarcane – in the process risk losing their lands and other properties.

That the end result has been that well established sugar companies in the region led by Mumias Sugar Company, Nzoia and Butali Sugar Companies have been consistently performing poorly because of rampant poaching of sugarcane from their contracted farmers.

That since poaching touches on the backbone of the sugar industry be it in white and brown sugar production, ethanol, molasses, spirits, electricity and other by production that is sugarcane – a permanent solution that would see the performance of the companies return to their original status and even better is total eradication of the cane poaching problem.

The land was purchased by the government in the 1990s at Nasewa area of Nambale district with the express intention of constructing a sugar factory which so the creation of Busia Sugar Company that was supposed to implement the construction plans but collapsed ten years later, before anything was done.

It emerged that Mumias Sugar Company which took over receiver management of the collapsed Busia Sugar Company wanted to sell the more than 800 acres meant for the Busia Sugar Factory in a bid to recover more than Kshs. 100 million it had loaned to the defunct Busia Sugar Company.

Busia Sugar Company which had spearheaded sugarcane development and production in Busia County but failed to spearhead the construction of a sugar factory and had no option but enter a deal with Mumias Sugar Company to purchase and process sugarcane produced by farmers in Busia County.

That after the collapse of Busia Sugar Company, Mumias took over the contracts of the farmers from Busia and neighbouring Siaya Counties that had been expected to supply their cane to a factory in Busia County had it been constructed.

KSB COMPLICITY AND DUPLICITY

When attempts to sell the land meant for this factory in Busia was exposed, little was it known that the stage was being set that would trigger the ongoing sugarcane poaching crisis. The worst aspect of the whole business is the fact that KSB approved West Kenya to build a sugar factory and sugarcane buying weighbridge in Busia County when it did not qualify out of the five companies that had applied nor did it have any contracted farmers in the county.

Though before this, the poaching had been going on targeting farmers contracted to Butali and Nzoia Sugar Companies, this was the opening for West Kenya to target Busia Sugar belt farmers who were contracted to supply their crop to Mumias Sugar to poach their sugarcane because the company has no contracted farmers and there was no way it can survive without sugarcane.

Other companies which had applied to construct a sugar factory in Busia County included, Africa Polysac Limited, Cherry Sugar Investments Limited/Mundika Sugar Company, Kaplony Limited and Pan African Millers.

According to a KSB letter dated January 5th, 2012 (*see letter attached*) Africa Polysac Ltd which was the first applicant on May 27th, 2011 had qualified but was instead muscled to construct a sugar factory in Siaya County by powerful politicians with political and business interests, though it had never applied to construct a factory in that county – it meant the company starting all over from square one.

It states that the applications were made in this order: -

1. African Polysac Limited – May 27th, 2011
2. Cherry Investments Limited – August 18th, 2011
3. West Kenya Sugar Company – August 29th, 2011
4. Kaplony Limited – September 2nd, 2011
5. Pan African Millers October 3rd, 2011

questionable means and one for weighbridge construction to purchase sugarcane in Busia County from sugarcane farmers contracted to Mumias Sugar.

It is also paramount that stakeholders on the ground must be involved in these processes to ensure transparency, accountability and ownership since without their commitment to supply the required raw material – there is not factory that will survive.

WHY LICENSES MUST BE CANCELLED

That apart from the licensed West Kenya Sugar factory at Kabras in Kakamega County, the license to construct a factory at Kiminini in Bungoma County has not been honoured more than five years after it was issued – therefore it becomes null and void

That the third license issued for construction of a sugar factory at Matayos area and NOW Olepito area in Busia County the company completely failed the minimum standard requirements including those of the National Environmental Management Authority (NEMA) on environmental impact assessment and resettlement programmes

That the license for weighbridge construction must also be cancelled for it is constructed on an important natural wetland in a County where Mumias Sugar has had contracted farmers for more than 20 years whereas West Kenya has none to date even in Kabras area of Kakamega County where its parent plant is located.

That any sugar company without contracted farmers to supply it with raw materials for processing and production including investment commitments in sugarcane development of/for its envisaged sugar plant(s) must have its licenses revoked for lack of commitment to do business in the sub-sector

That any company that has completely failed to invest in sugarcane development programmes in the country does NOT qualify to operate in the sub-sector, therefore its licenses must be immediately revoked

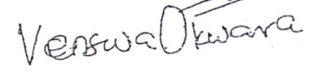
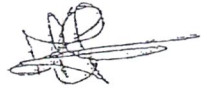
That what business does any company have to be involved in the sugar industry if it does not have any contracted farmers to supply it with the pre-requisite raw material to survive or commit any investments in the development and production of the said raw material?

That what business does any company have to hoard operating licenses which are Not being put to productive use, when deserving companies are denied the same?

That despite a standing High Court Orders issued to some of the companies to immediately stop poaching sugarcane from farmers contracted to competitors, the problem continues to spiral with underage sugarcane of less than 7 months being targeted – hence destruction of the core backbone of the sub-sector.

Hereby officially signed by,

1. MR. JOSEPH BARASA-VICE CHAIRMAN (WEDIA) 0722126860
2. MR. LAMBART OGOCHI-BUSIA OUTGROWERS DIRECTOR 0721892472
3. MR. VENSWA OKWARA- BUSIA FARMERS REP 0723088215



CC:

1. DEPUTY PRESIDENT
2. THE CLERK, THE SENATE
3. ~~THE CLERK, THE NATIONAL ASSEMBLY~~
4. THE INSPECTOR GENERAL, KENYA POLICE
5. THE GOVERNORS, BUSIA, BUNGOMA, KAKAMEGA & VIHIGA COUNTIES
6. THE DIRECTOR GENERAL, KRA
7. ALL MEDIA HOUSES
8. TO ALL MEMBERS OF PARLIAMENTARY COMMITTEE FOR AGRICULTURE

APPLICATION FOR REGISTRATION OF ADDITIONAL WHITE SUGAR MILLS IN WESTERN PROVINCE

1.0 BACKGROUND

The Kenya Sugar Board has received an unprecedented five (5) new applications for registration of white sugar mills in Western, Nyanza and Central Provinces since our last registration in 2010. If approved this would bring the total number of registered white sugar mills in the country to sixteen (16) in addition to many existing jaggeries.

Directors will also recall that there is an ongoing court case between Butali Sugar Mills and West Kenya Sugar Company on the capacity for the area to support the two milling operations. Registration of additional mills must therefore be carefully considered in the widest context to ensure sustainability in the long term period and to avoid unhealthy competition for cane in the short term period.

2.0 NATURE OF APPLICATIONS

Applications for registration as white sugar miller have been received as follows:

NO.	APPLICANT	INTENDED MILL CAPACITY	LOCATION & CATCHMENT	REMARKS
1.	Pall Mall Holdings Ltd	1250 TCD	Yala; to serve Siaya & Butere Districts.	Part of catchment serving Mumias Sugar Co.
2.	Africa Polysack Ltd	3000 TCD	Busia; to serve Busia District & environs.	Catchment services Mumias Sugar Co. which derives 40% of its cane from Busia
3.	West Kenya Sugar Co. (2 nd factory)	2500 TCD	Billpili to serve Bungoma North District.	Area partly serves Nzoia & Butali Sugar Cos.
4.	Kitabu Industries Ltd. (Rafambapu Group of Industries)	Not confirmed	Not confirmed	Investor undertaking scoping studies.
	Capacity of Mumias, Nzoia, W. Kenya and Butali already operational in these zones.	17,150 TCD		There is intense competition for cane between existing mills including jaggery mills
	Total demand if new applications are approved	**23,900 TCD	Mainly Western Province but also parts of Nyanza and Nandi	Need to establish cane production potential for whole zone.

BUSIA SUGAR ZONE MILLER REGISTRATION APPLICATIONS

APPRAISAL REPORT

1.0 PREAMBLE

The Busia sugarcane zone covers the entire Busia district, parts of Siaya, Teso and lower Bungoma districts. The zone can provide for 25,000ha of cane out of which the area developed under the original Busia Sugar Company and now annexed to Mumias Sugar Company zone is estimated at 9,946 Ha, and is only 40% of the potential area for sugarcane production. Approximately 14,851 Ha is still available for immediate exploitation. This cane zone is about 40 km away from Mumias Sugar Factory.

An evaluation team composed of officers from the Ministry of Agriculture and the Kenya Sugar Board revisited the proposed project area in May, 2011. Meetings to confirm the current status of this cane zone were held with representatives of the Provincial Director of Agriculture in Western Province and Agricultural Officers from Busia, Butula, Bunyala, Teso North, Teso South & Nambale. It was confirmed that the estimated available cane potential on the balance of land in this zone is only 2,750 TCD out of the initial potential of 4,600 TCD. The status of arable land was established as shown below:

Table 1: Status of arable land in the area.

ITEM / DISTRICT	TOTAL AREA(HA)	ARABLE LAND(HA)	AGRIC LAND(HA)	MAX ACHIEVABLE AREA FOR CANE(1/3 RULE) (HA)	CURRENT AREA UNDER CANE(HA)	POTENTIAL FOR EXPANSION TO MEET 1/3 RULE(HA)
				X	Y	X - Y
Busia	19,600	16,400	14,100	4,700	2,000	2,700
Butula	24,000	23,600	17,350	5,750	3,500	2,250
Nambale	23,780	21,200	14,100	4,700	3,788	912
Teso south	15,990	11,857	8,851	2,947	1,171	1,776
Teso north	26,300	21,563	20,600	6,700	10	6,690
TOTAL	109,670	94,620	75,001	24,797	10,469	14,328

The failure of Busia Sugar Company limited (1990) to take off led to other failed initiatives that have resulted into a debt of over ksh.500 million.

purchasing from MSC the land LP No. Bukhayo/Nasewa/1500, belonging to Busia Sugar Company Limited.

5.0 SUGAR BUSINESS OPPORTUNITY RATIONALE

The applicants have seen an opportunity for a new sugar mill in the target area based on its favourable weather and available land for cane growing, farmers willingness to support their own cane growing, current long haulage distances to existing mills and the future positive prospects for the Sugar Industry.

The promoters of the first 2 applicant entities believe that the new sugar mill if approved will provide better and more cost-effective services to the farmers and manufacture sugar competitively to sustain the new business resulting in the overall improvement of the local economy.

6.0 EVALUATION OF APPLICATIONS

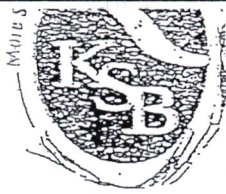
This is the first of a series of evaluations to ensure that the approved applicant entities are legally entitled to carry out business in Kenya and that they have access to resources and sufficient capacity to implement the Busia Sugar Project as demonstrated in their respective feasibility studies.

6.1 APL's Busia Project Feasibility

It was confirmed that the applicant entity is a Company incorporated in Kenya with local share holding and whose feasibility study report projects the following tentative outcomes for the project:

- Conversion of cane to sugar at a ratio of 10% over 300 days in a year.
- The Company has a positive Internal Rate of Return (IRR) of 15% under the worst-case scenario. This IRR is acceptable to the investors because their average cost of funds is 11%.
- Pay-back period is 5 years.

These results shall be expected after investing ksh. 5,761,407,842 over a 2 year period. The investment is broken down as shown below.



KSB/ST/CPPS/Vol.1/23

5th January 2012

Romano Kiome, PhD, CBS
Permanent Secretary
Ministry of Agriculture
Kilimo House
NAIROBI

Dear *Sir,*

RE: APPLICATIONS FOR SETTING UP A SUGAR MILL AT BUSIA

The Board is in possession of five current applications to set up a sugar mill at Busia near Nambale. Four applications are by local investors while the fifth is by a Mauritian Company, Cherry Sugar Investment Ltd. The local investors are African Polysack Ltd (APL), Kaplony Ltd, Pan African Millers and West Kenya Sugar Company Ltd.

The applications were received in the following order: -

- 1. African Polysack Limited - 27th May 2011
- 2. Cherry Sugar Investments Limited - 18th August 2011
- 3. West Kenya Sugar Company - 29th August 2011
- 4. Kaplony Limited - 2nd September 2011
- 5. Pan African Millers - 3rd October 2011

A technical team comprising officers from the Board and the Ministry of Agriculture reviewed the potential for Busia zone to support a sugar milling operation and established that a 2500-3000 TCD factory is viable.

All inferences at this stage are based on a desk top review of the documents presented. Given the number of applicants, it is advisable that detailed review including independent verification of information be conducted on each party to ensure the greatest good for the industry.

The tables overleaf summarize the key highlights of each application.

*3 miles
for Busia
County*

APPLICATION BY	DATE APPLICATION RECEIVED	DOCUMENTS SURPPORTING APPLICATION	BRIEF DESCRIPTION OF PROJECT	ADDITIONAL REMARKS
Africa Polysack Limited. Local company involved in the making of polypropylene bags wishing to diversify into the sugar business. Owners: Ali Ahmed Taid & Abu-Baker-Salim	27/05/2011	KSB application form supported with Feasibility Report, Certificate of Incorporation, periodic company returns, and details of Directors:	3000 TCD sugar mill using conventional milling technology and vacuum pan system. Products to include sugar ethanol and cogeneration on full expansion. Land identified as LR Bukhayo/Nasewa/714 <i>Emmanuel 927</i>	Although the applicant to KSB their application has been followed by a flurry of others which is unusual and unprecedented.
Cherry Sugar Investment Ltd. Maurilian Company with an address cyber city Ebene Maurilius. Working with PKF consulling Ltd. Of Kenya. Intends to set up a fully owned local subsidiary "Mundika Sugar Company Ltd" as the investment vehicle.	18/08/2011	Application letter and draft Feasibility report by PKF Consulting. Formal application forms not included initially. Additional documentation submitted on 21 st November 2011. Including: • Sale agreement of 12 Ha land LR. Bhukayo/Matayos/262. • Tentative cane development plan for 10,000 Ha	1250 TCD expandable to 2500 TCD sugar mill using conventional milling and vacuum pan technology.	Company has also written to MoA and the PM's office about their intentions vide their letters dated 30/06/2011, 20 th , 27 th and 31 st May 2011. As at 16 th December 2011 no formal application forms had been submitted to reveal actual directors of Cherry Sugar Investment or its subsidiary Mundika Sugar Company Ltd. Documentation is b PKK



WEST KENYA SUGAR COMPANY LTD.

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E-mail: info@wksugar.com

Factory:- South Kabras, Kakamega North District

KENYA'S SWEETEST

Ref: WKS/MD/KSB/08/ 299.

25th August 2011.

The Ag. Chief Executive Officer
Kenya Sugar Board
Sukari Plaza, Waiyaki Way
P.O. Box 51500
NAIROBI

Dear Sir

RE: APPLICATION FOR A SITE FOR A NEW SUGAR MILL & AN OPERATING MILLER LICENCE

We are interested in investing in a Sugar Mill in Busia County.

We are aware of the potential in the Busia County and its environs and the plight of the people who have been yearning for a Sugar Factory for a very long time.

We are also aware that there is public land which was earmarked for a Sugar Mill around Nasewa Area. We are willing to abide by the Legislations and Policies that are in place regarding acquisition of such land for private investment purposes.

Initially we would start with a capacity of 1500 TCD which would start operation within one year of approval. Essentially we require an area that could support a 5000 TCD factory and above.

If approved, we are ready to commence the necessary formalities.

We look forward to receiving your positive response.

Yours faithfully

For: WEST KENYA SUGAR COMPANY LTD

Tejveer S. Rai

MANAGING DIRECTOR

Copies to: ✓ Busia County Community
BUSIA

Busia County Council
BUSIA