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REPUBLIC OF KENYA



PARLIAMENT OF KENYA  
NATIONAL ASSEMBLY

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By the Vice  
Chamberlain  
Hon. Karuki  
Mburu  
on Wednesday  
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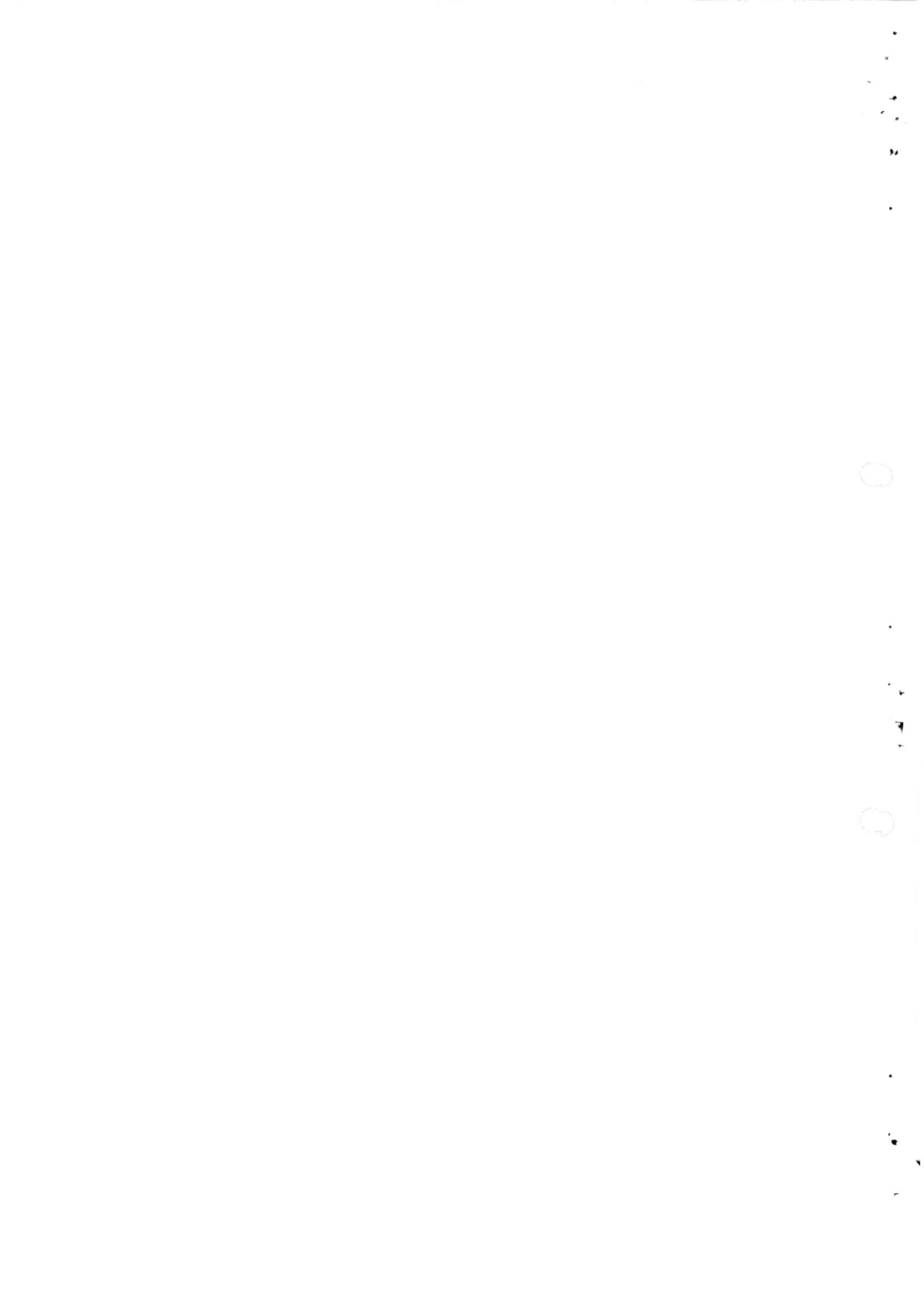
ELEVENTH PARLIAMENT – FOURTH SESSION – 2016

DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES

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

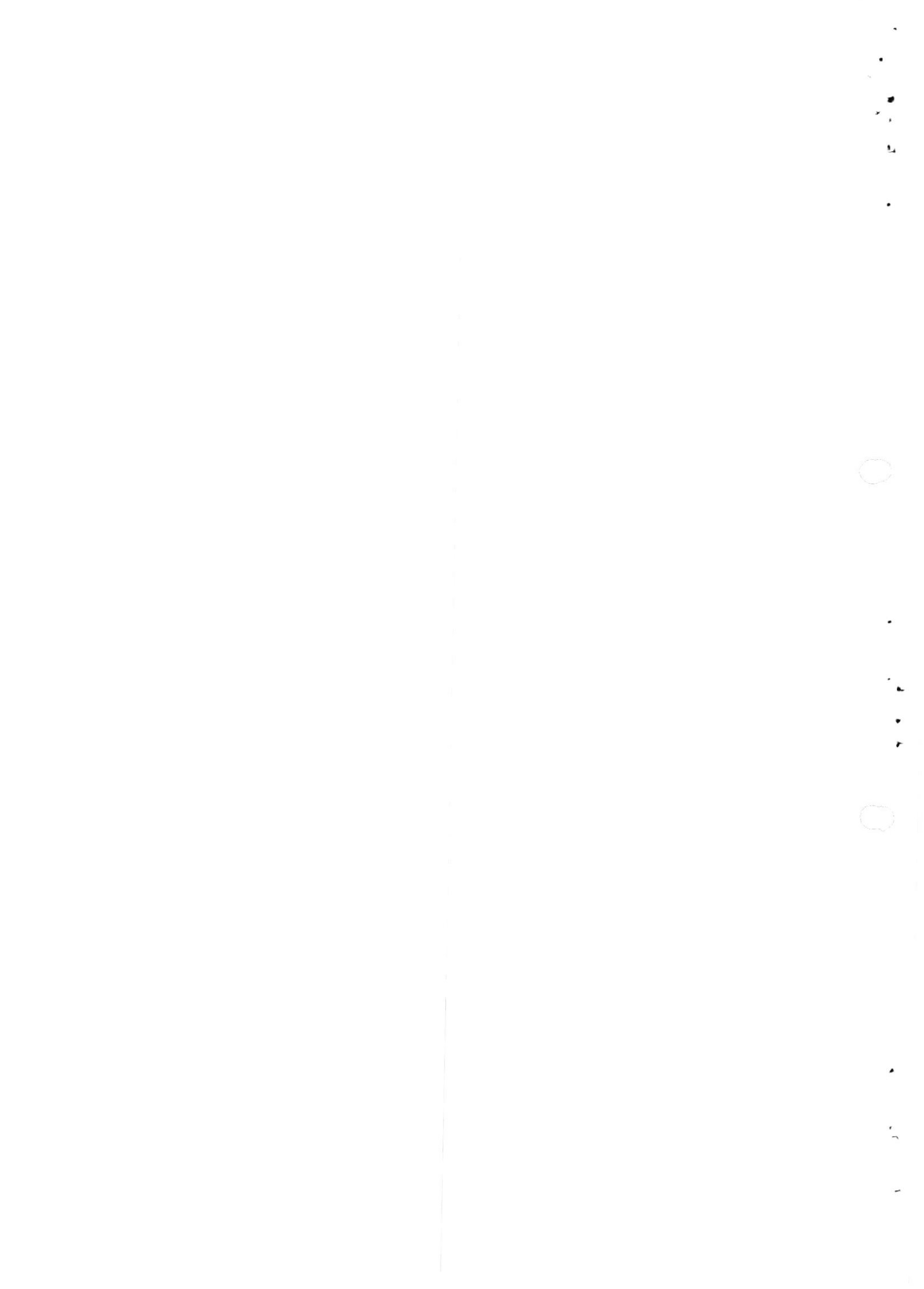
DIRECTORATE OF COMMITTEE SERVICES,  
CLERK'S CHAMBERS  
PARLIAMENT BUILDINGS  
NAIROBI

AUGUST, 2016



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## **1.0 CHAIR'S FOREWORD**

The Petition by residents of Maragwa Constituency, on the ban of sale and export of Macadamia Nuts. The report was tabled before the House pursuant to Standing Order No. 225 (2) (a) by Hon. Peter Kamande , MP on behalf of the petitioners.

The Committee held meetings with the Hon. Peter Kamande , MP on behalf of the petitioners , the Management of Nut Processors Association of Kenya and the Cabinet Secretary, Ministry of Agriculture, Livestock and Fisheries. The meetings were aimed at responding to the issues raised in the petition.

The Committee wishes to thank the Speaker and the Clerk of the National Assembly for the logistical and technical support they accorded the committee during the inquiry.

On behalf of the Committee, and pursuant to Standing Order, 227 it is my pleasant duty to table in the House the Report of the Departmental Committee on Agriculture, Livestock and Fisheries on its consideration of a petition by Macadamia farmers of Maragwa Constituency, on the ban of sale and export of Macadamia Nuts.

On Wednesday 4<sup>th</sup> May , 2016, a Petition was tabled before the House pursuant to Article 119 (1) of the Constitution of Kenya 2010 and Standing Order No. 225 (2) (a) by the Hon. Peter Kamande on behalf of residents of Maragwa Constituency, on the ban of sale and export of Macadamia Nuts.

The House pursuant to Standing Order 227 referred the Petition to the Departmental Committee on Agriculture Livestock and Fisheries for preparation of the Report;

The Committee received the Petition on Wednesday 4<sup>th</sup> May , 2016 and set out a procedure for consideration of the petition and to report to the House within 60 days as set out in Standing order no 227(2);

**HON. ADAN MOHAMED NOOR, MBS, CBS, MP**





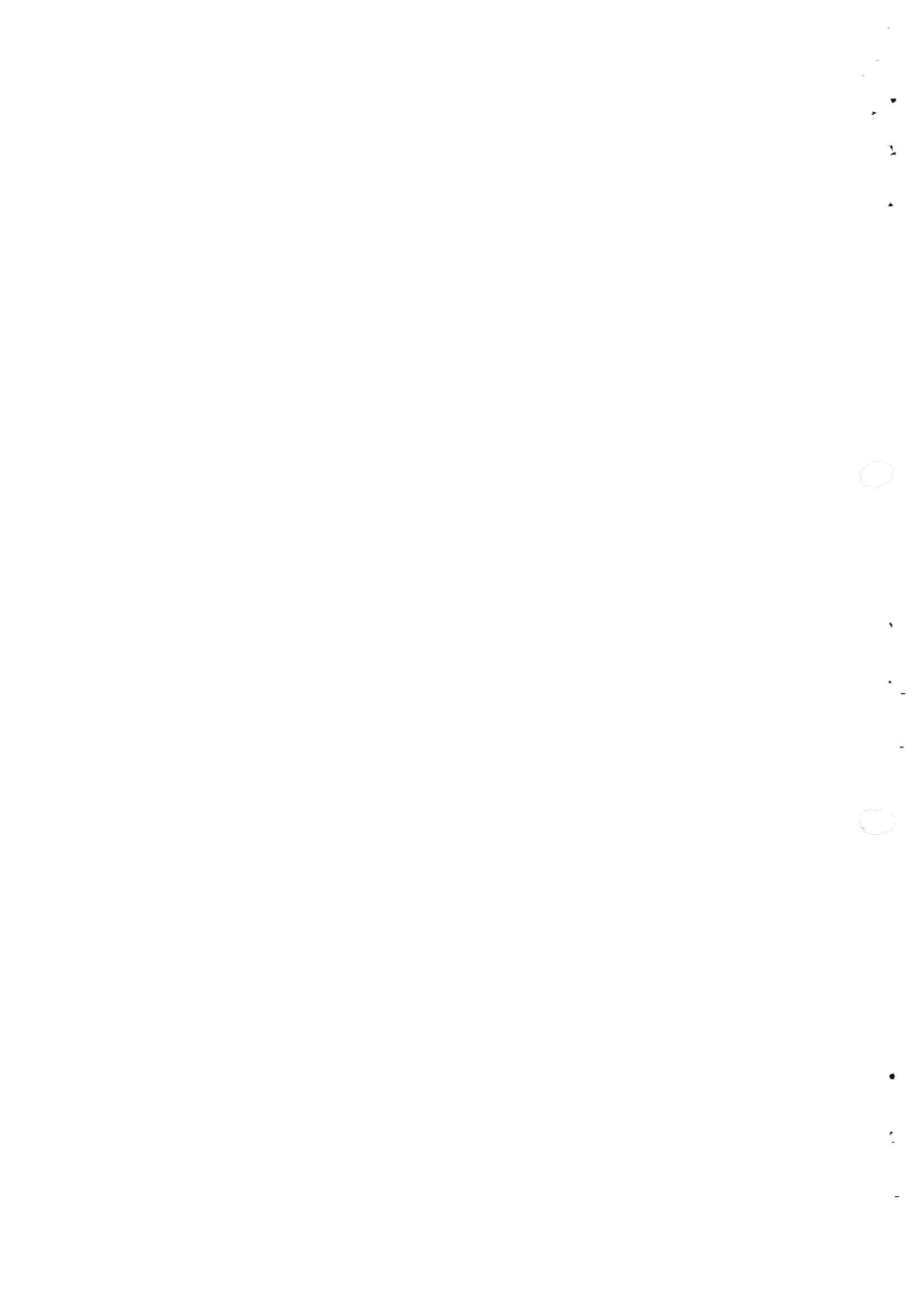
## 2.0 EXECUTIVE SUMMARY

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

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

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

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



g) Co-ordinate matters of international protocols and conventions

The main objective of the ban of sale and export of raw nuts was to ensure that the country nut industry undertake value addition hence achieve more value for farmers investments. Secondly the ban is protect the infant industry from stiff competition from the more establish nut processing countries like Australia. Finally the ban was aimed at encouraging foreign firms interested in processing Kenya nuts to setup processing plants locally therefore provide much needed employment opportunities to Kenya's citizens.

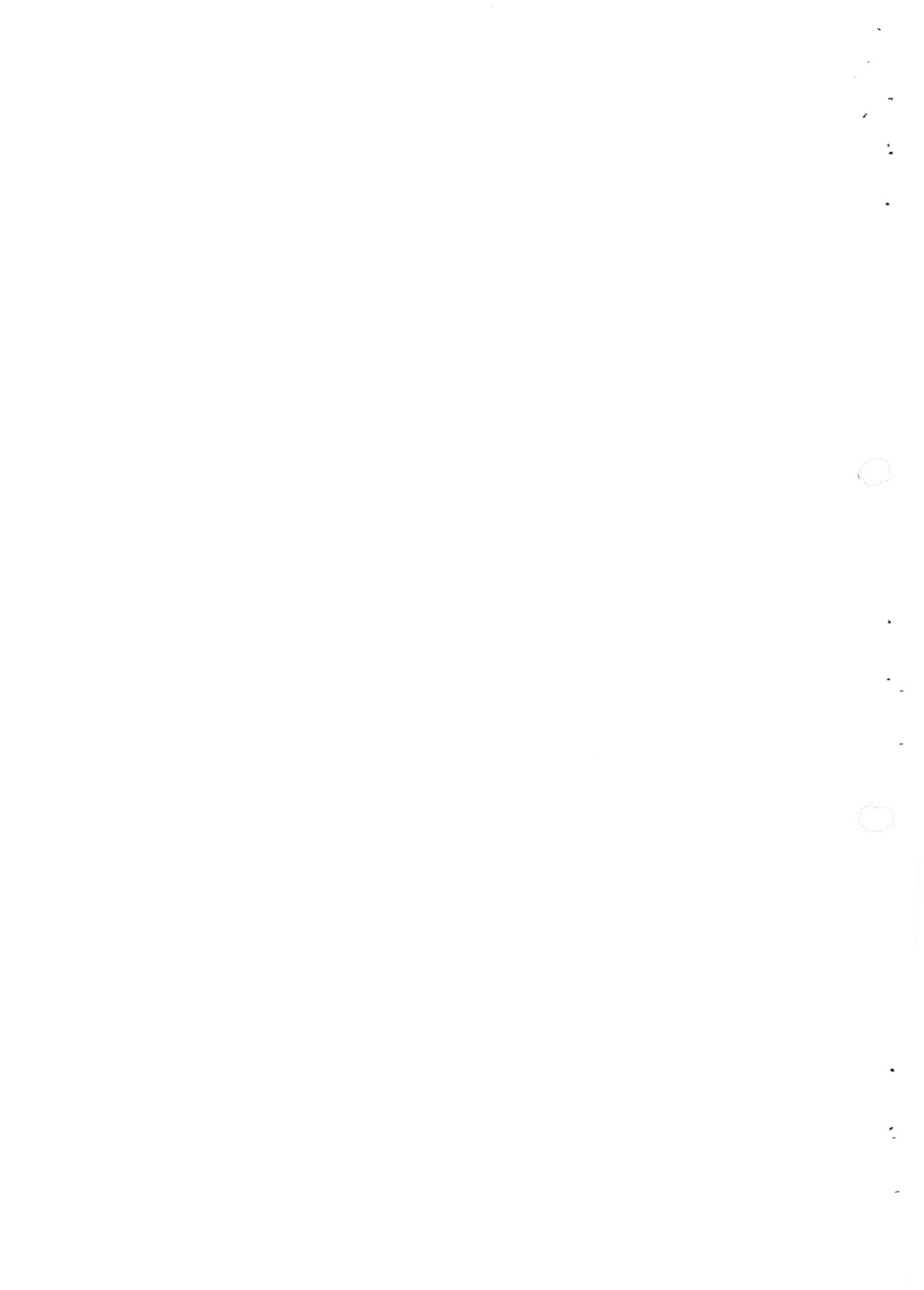
The report entails presentations by the Petitioners, Hon. Peter Kamande, M.P , Nut Processors Association of Kenya and Cabinet Secretary from the Ministry of Agriculture, Livestock and Fisheries. After presentations and deliberations the Committee recommends that, the Ministry of Agriculture, Livestock and Fisheries through the Agriculture Food and Fisheries Authority (AFFA) should not lift the ban on the sale and export of raw nuts. Secondly, the Ministry of Agriculture Livestock and Fisheries through Agriculture Food and Fisheries Authority should encourage licensing of more processors in the market to promote competition. Thirdly , the Ministry of Agriculture Livestock and Fisheries through Agriculture Food and Fisheries Authority in conjunction with various Nut Processors associations to intensify sensitization of farmers through training of various technologies and skills of Macadamia nuts production and assist farmers to form groups and launch Macadamia Growers Association of Kenya. Fourthly , the Ministry of Agriculture Livestock and Fisheries through Agriculture Food and Fisheries Authority to spearhead introduction macadamia farming in new areas that have shown some potential for growing the crop and finally the Ministry of Agriculture Livestock and Fisheries through Agriculture Food and Fisheries Authority should consider establishing a cushioning fund for Nut farmers in the country including macadamia farmers.

### 3.0 MANDATE OF THE COMMITTEE

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

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

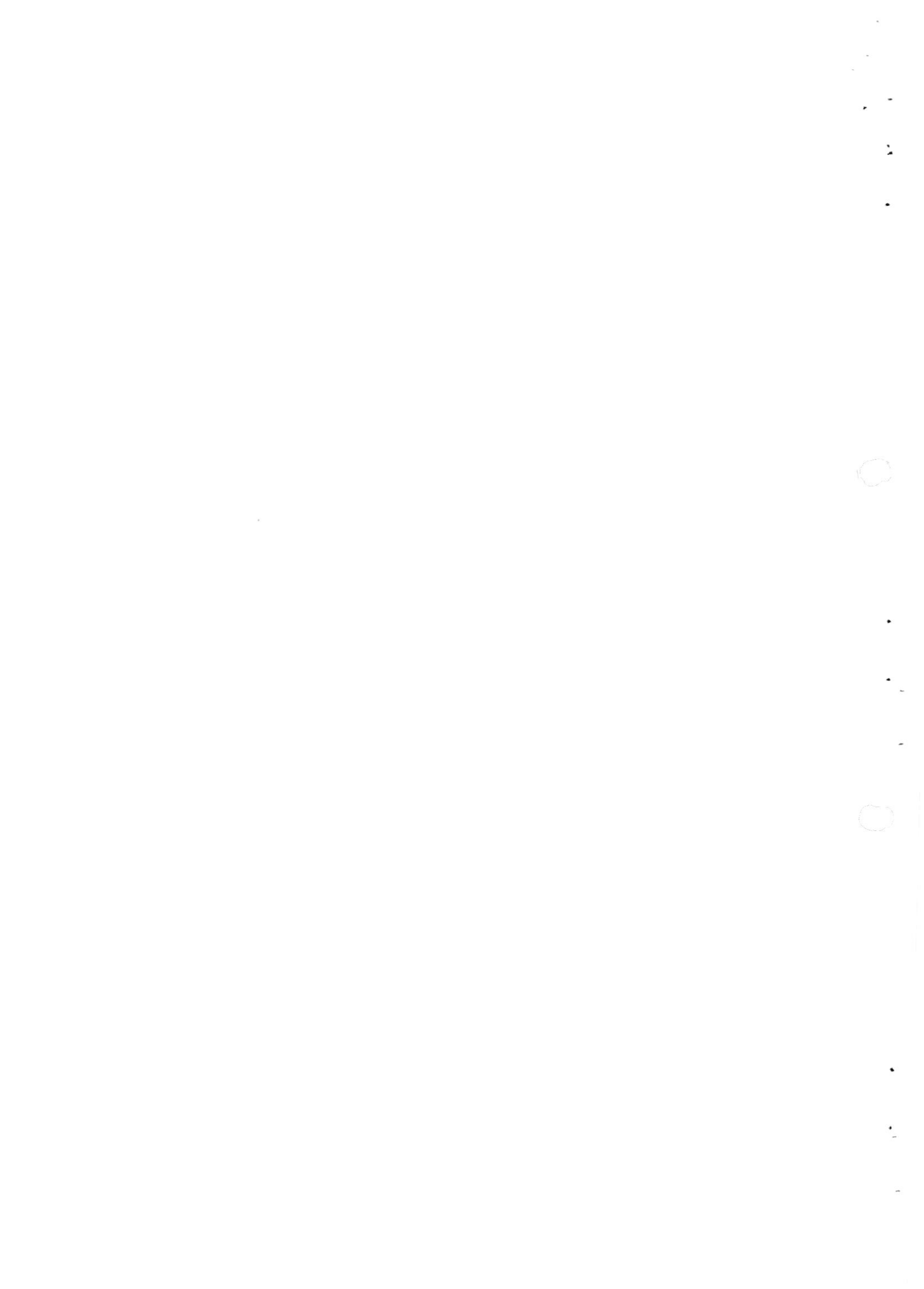
- i. To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- ii. To study the programme and policy objectives of Ministries and departments and the effectiveness of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



### 3.1 Committee Subjects

The Committee is mandated to consider the following subjects:-

- i. Agricultural services
- ii. Livestock services
- iii. Fisheries
- iv. Cooperatives

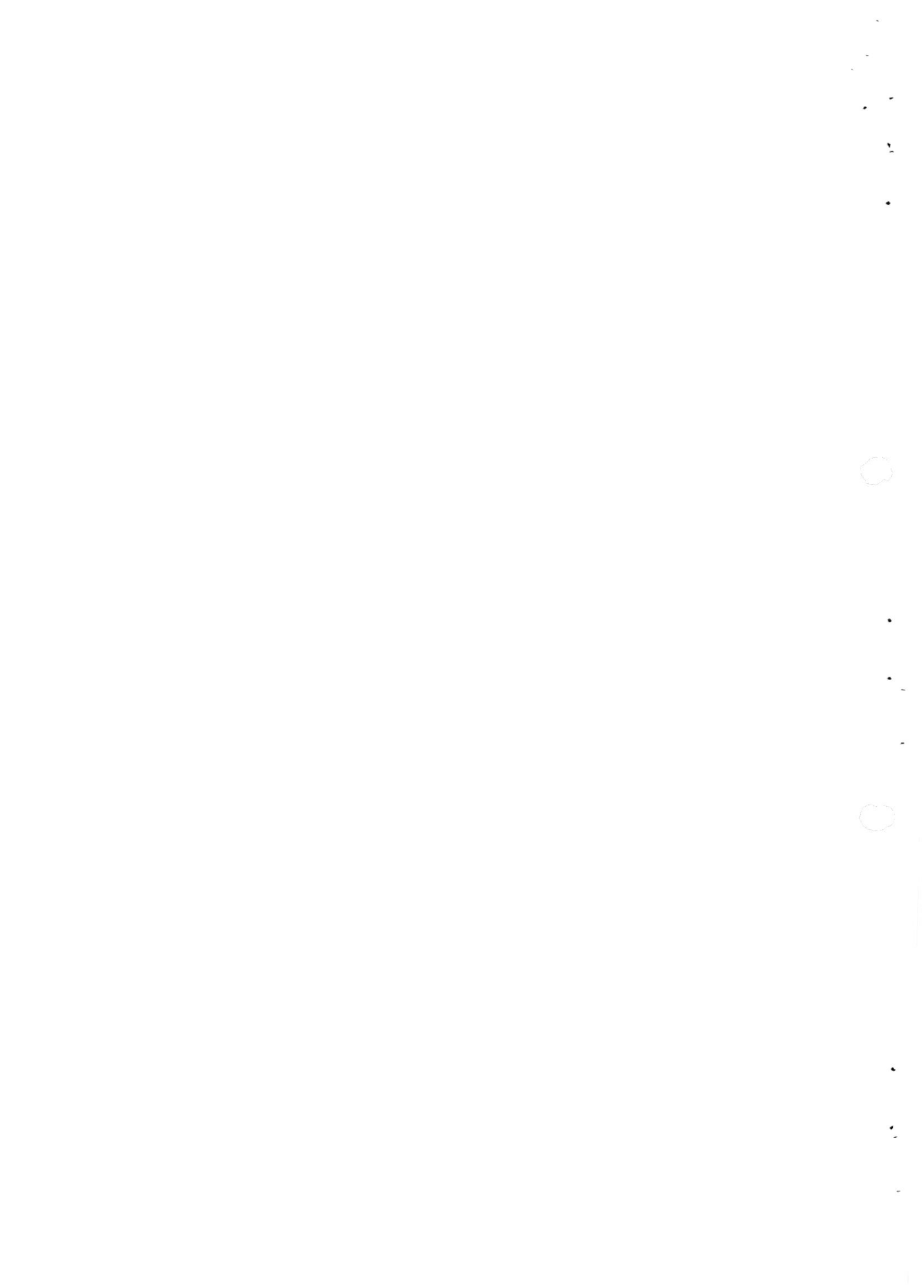


#### **4.0 OVERSIGHT**

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

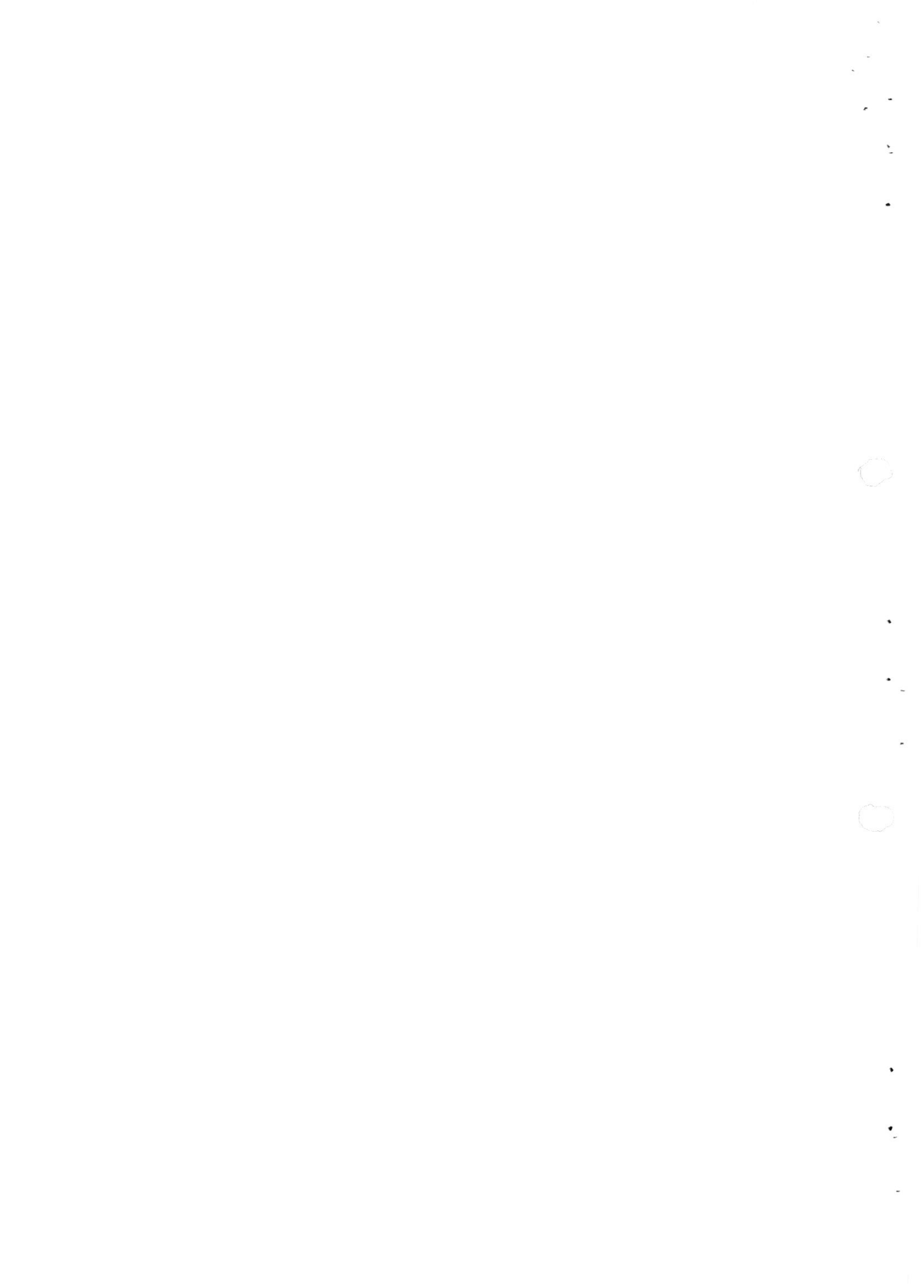
- i. The State department of Agriculture
- ii. The State Department of livestock
- iii. The State Department for fisheries
- iv. The State Department of Cooperatives
- v. The State Department of Irrigation





## 5.0 MEMBERS OF THE COMMITTEE

<b>Chairperson</b>	The Hon. Adan M. Nooru, MBS, CBS, MP
<b>Vice Chairperson</b>	The Hon. Kareke Mbiuki, M.P
<b>Members</b>	The Hon. Daniel Maanzo, MBS, The Hon. Silas Tiren, M.P The Hon. Maison Leshoomo, M.P The Hon. Mary Wambui, M.P The Hon. (Dr.) Victor Munyaka, M.P The Hon. Korei Ole Lemein, M.P The Hon. John B. Serut, M.P The Hon. Peter N. Gitau, M.P The Hon. Florence Mutua, M.P The Hon. John Kobado, M.P The Hon. Benjamin Washiali, M.P The Hon. Patrick Wangamati, M.P The Hon. Andrew AnyangaToboso, M.P The Hon. Raphael Letimalo, M.P The Hon. Ayub Savula Angatia, M.P. The Hon. Waititu Munyua, M.P The Hon. Kimani Ichung'wah, M.P The Hon. Ferdinand Wanyonyi, M.P The Hon. Kabando Wa Kabando, M.P The Hon. Justice Kemei, M.P The Hon. Benjamin Andayi, M.P The Hon. Millie Odhiambo - Mabona, M.P The Hon. Jude Njomo, M.P The Hon. Fredrick Outa, M.P The Hon. Aisha Jumwa, M.P The Hon. Alfred Kiptoo Keter, M.P The Hon. Paul Simba Arati, M.



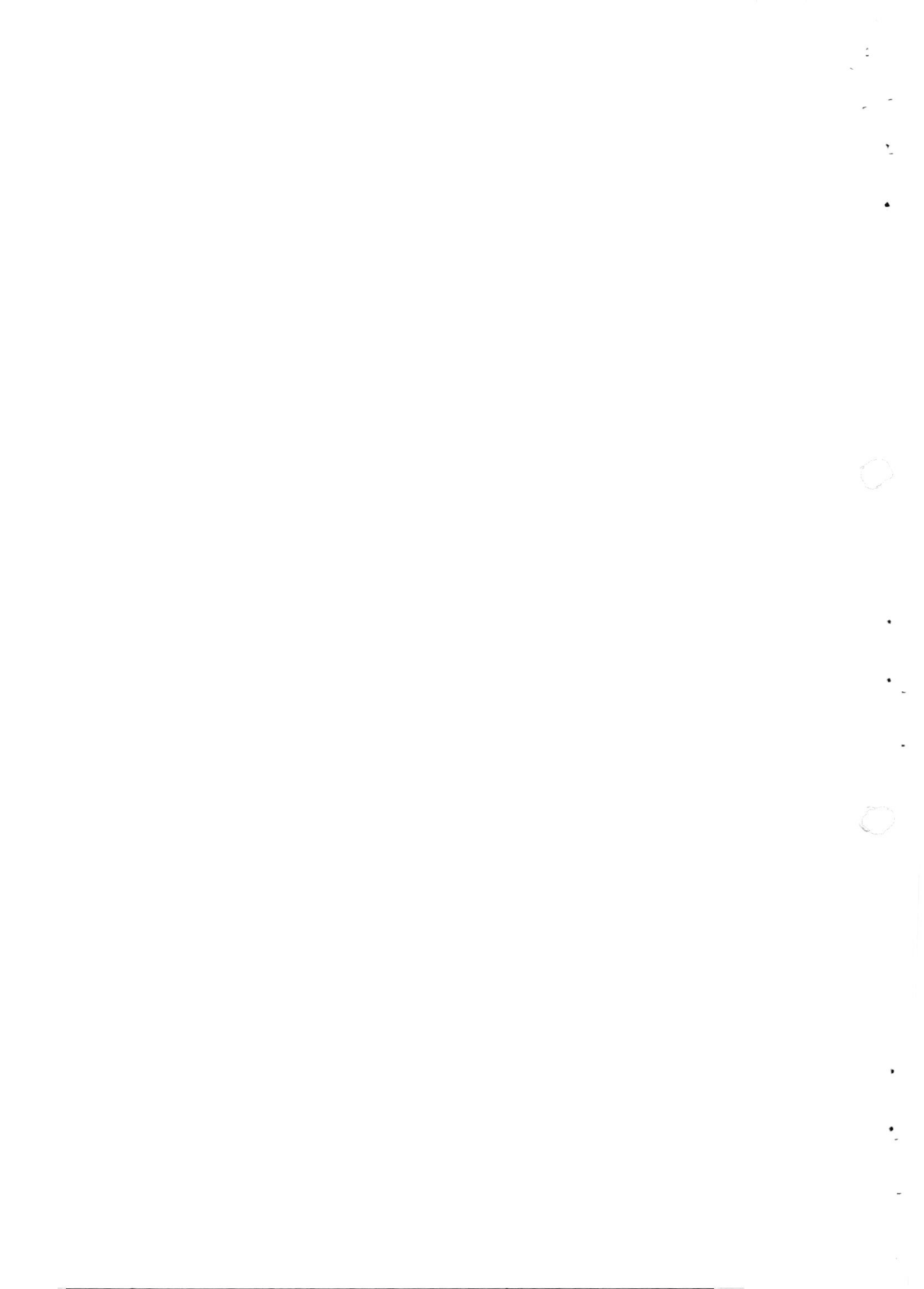
## **6.0 COMMITTEE SECRETARIAT**

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



## 7.0 LIST OF RECOMMENDATIONS

1. The ban on the sale and export of raw macadamia nuts be maintained as provided in Section 43 of the AFFA Act, 2013 as it is in the best interest of the nut industry in the country as result of value addition.
2. The Ministry of Agriculture, Livestock and Fisheries through Agriculture Fisheries and Food Authority should encourage licensing of more processors in the market to promote competition.
3. The Ministry of Agriculture, Livestock and Fisheries through Agriculture, Fisheries and Food Authority in conjunction with Nut Processors Associations to intensify sensitization of nut farmers through training on the various technologies and skills in Macadamia nuts production and assist farmers to form groups to better their bargaining power.
4. The Ministry of Agriculture, Livestock and Fisheries through Agriculture, Fisheries and Food Authority to spearhead the introduction of macadamia farming in new areas that have shown some potential in growing the crop.
5. The Ministry of Agriculture, Livestock and Fisheries through Agriculture, Fisheries and Food Authority to support the Macadamia Nut farmers through the existing Commodities Fund as provided for in the Crops Act, 2013.
6. The Ministry of Agriculture, Livestock and Fisheries should intensify research activities in the various nut growing areas in the country in order to improve the crop and ensure it meets international standards.



## 8.0 INTRODUCTION

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

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

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

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





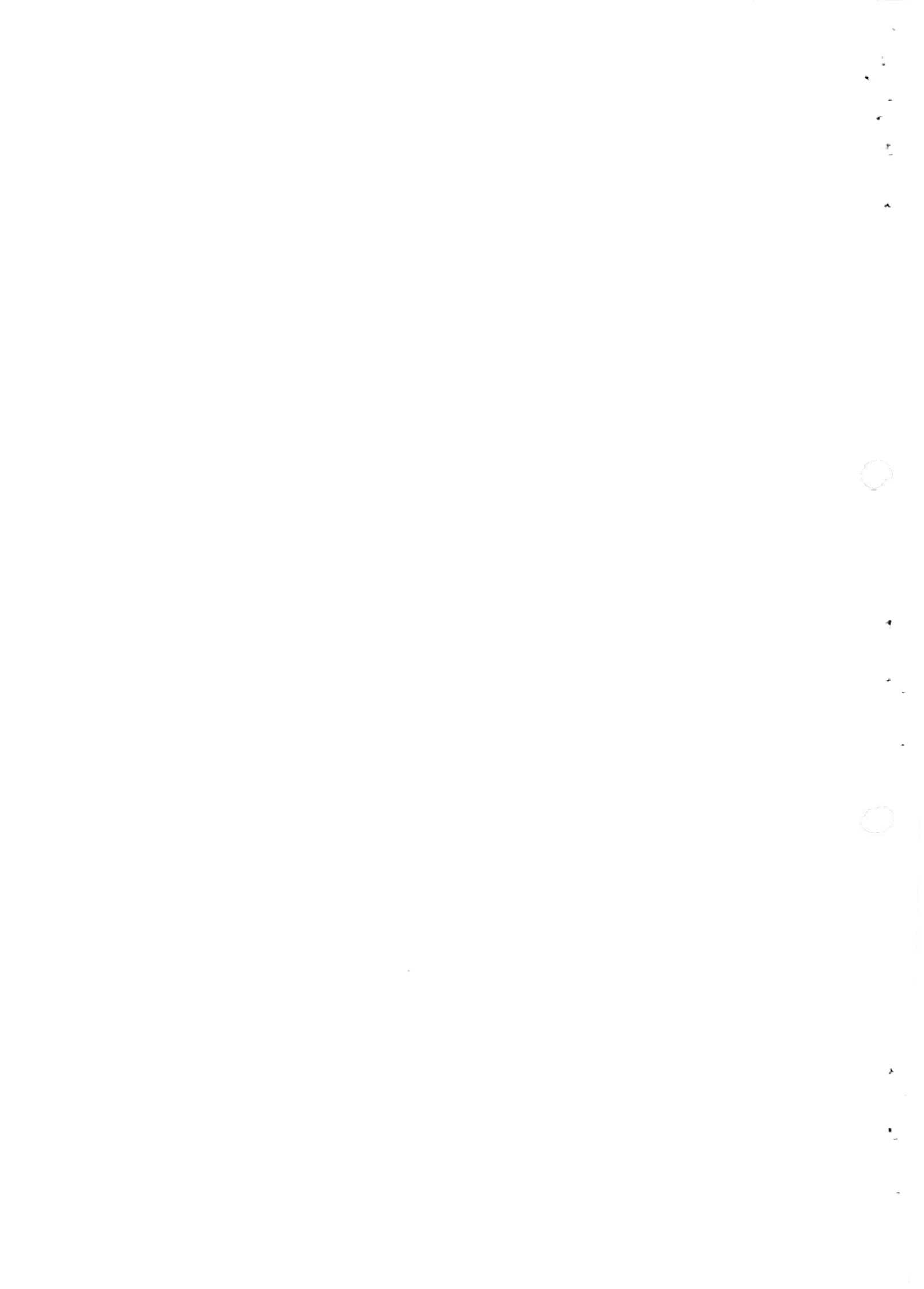
7. Efforts to resolve the matter with relevant authorities has been fruitless, and
8. The issues in respect of which this petition is made are not pending before any Court of Law ,Constitutional or statutory body.

## **9.0 SUBMITTED EVIDENCE**

### **9.1 Presentation by the Hon. Peter Kamande , M.P and Representatives of Macadamia Farmers from Maragwa Constituency.**

The representatives of Macadamia farmers and Hon. Peter Kamande , M.P appeared before the Committee on Tuesday 31<sup>st</sup> May, 2016 made the following presentation. that:-

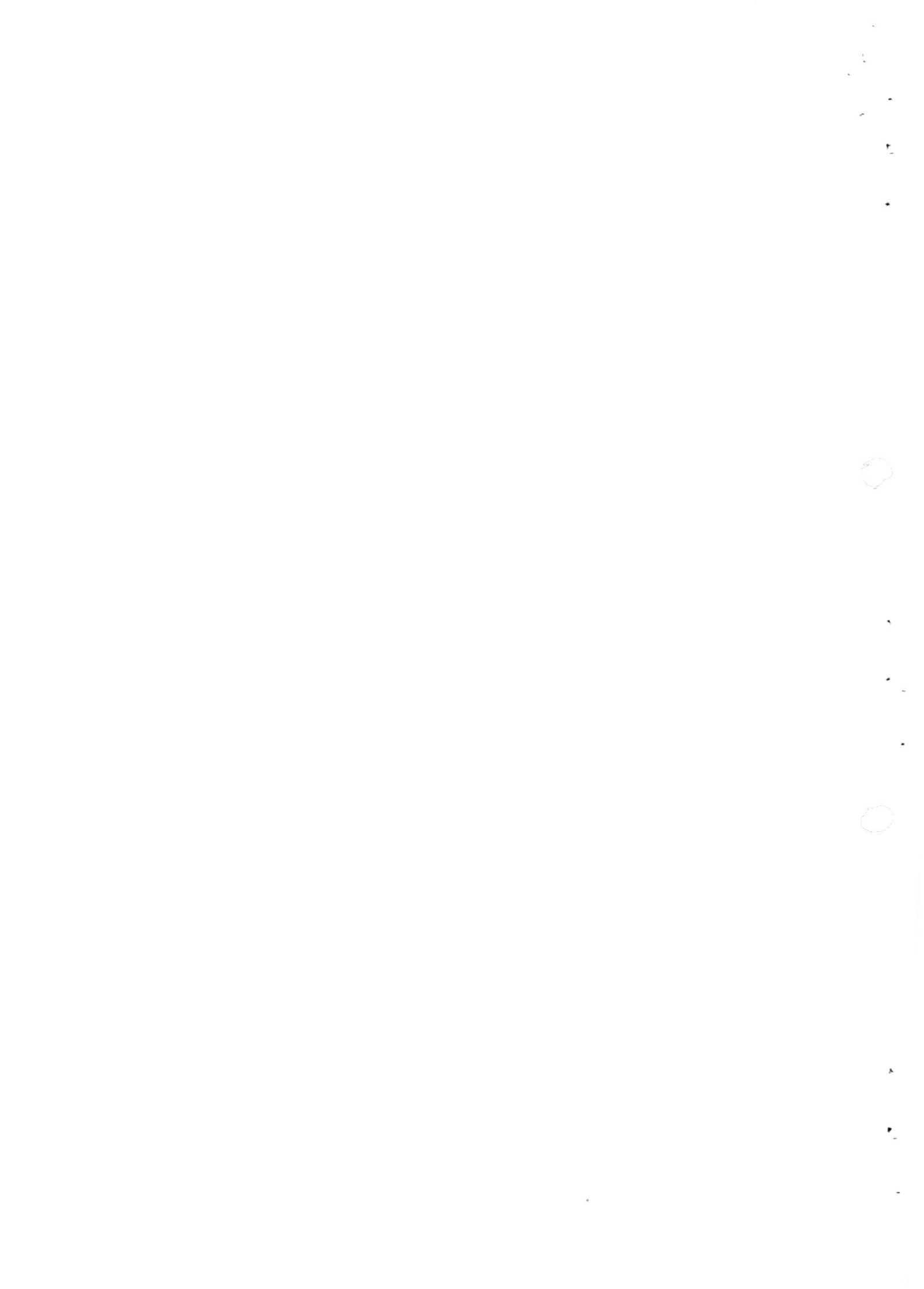
- i. Macadamia has been an alternative cash crop after the collapse of Coffee industry in Central Kenya.
- ii. At present moment it is estimated that 30% of Macadamia nuts has found their way to the market while close to 70% of this year produce is either in stored by farmers or un-harvested. The volumes of the nuts in the stores and un-harvested is worth approximately over KES 2 billion and due to its perishable nature it risk going to waste if the millers do not increase its uptake.
- iii. The surplus is as a result of the latest improvement in organic macadamia husbandry, increase in acreage under macadamia nuts and better prices.
- iv. The exclusion of macadamia nuts from other fruit trees which falls under horticultural crops directorate has created loopholes for cartels to manipulate the Nuts and Oil Crops directorate.
- v. Some willing processors have been denied licenses through the influence of group processors, this resulted to blocking of any potential foreign processors from setting base in Kenya.



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

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

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



## 9.2 Presentation by the Nut Processors Association of Kenya

Mr. Charles Muigai on behalf of the Nut Processors of Kenya appeared before the Committee on Tuesday 31<sup>st</sup> May, 2016 made the following presentation that:-

- i. NutPacK Association is an association of Nut processors in Kenya who has a membership of eight (8) companies. The association mission is to create a platform and mouthpiece for nut processors especially Macadamia, Cashew and Groundnuts. It provides forum and platform to the processors and manufacturers of tree and ground nuts related products, in order to further the sustainability of the nuts industry in Kenya.
- ii. The Association provides an essential link for co-operation, dialogue and understanding between the Government and nut processors by promoting trade and investment, upholding standards and representing members' views and concerns to the relevant authorities. It also seeks to provides for an increased and improved smallholder productivity, lobby for enabling legal and regulatory frameworks conducive to growth and infuse best practices across the value chain.
- iii. Kenya is the 3<sup>rd</sup> largest producer of Macadamia nuts in the world after Australia and Hawaii. In Kenya the traditional macadamia farming areas include Central Kenya, Bungoma and Taita.
- iv. Similar to coffee, macadamia it grows in similar ecological zones but pays better and requires less inputs than coffee. However the harvesting season for macadamia nuts commences in February every year and continues through to November, every year.
- v. Adherence to season dates and crop maturity will slow the pace of farm gate buying to spread over 6 months as opposed to hitherto 2 months.



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





- xiii. The prices of the macadamia nuts is depended on the prevailing international prices and therefore price fluctuation in the international market is common. The Government should consider streamlining the sector as it will allow for more farming of macadamia and participations of farmer in processing of macadamia.
- xiii. Some of the fundamental challenges faced by Macadamia farmer include:
- a) Undue influence from the Chinese counterpart who perpetuate premature harvesting and stripping nuts from the trees, it is therefore important to protect this industry.
  - b) Smallholder production system that is fragmentation undermines competitiveness and quality standards there are very few plantations.
  - c) Kenyan Macadamia is not planted professionally thus leading to poor quality productivity. Poor crop husbandry therefore there is need for proper farming practices.
  - d) It is important to license all players to stop smuggling of raw macadamia at the port.
  - e) Prices are set by external markets and trading partners.
- xiv. The Association is proactive and is currently undertaking the following activities in order to further the farmers and hence ensure good crop.
- a) Educate farmers through training of various technologies and skills of Macadamia nuts production and assist farmers to form groups and launch Macadamia Growers Association of Kenya.
  - b) Introduce the crop in new areas that have shown some potential for growing the crop.



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

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

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

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



- f) Separation of functions of the National and County Governments in crop regulation, development and promotion, in order to attract private sector investment in crops subsector;
  - g) Creation of the Commodities Fund to provide sustainable and affordable credit and advances to farmers for farm improvement, farm inputs and price stabilization;
  - h) Regulation of all food crops which were hitherto, unregulated;
  - i) Increased food security in the country as a result of centralized planning, and;
  - j) Creating an enabling environment for private sector to invest in crop development, processing and marketing
- ii. Section 43 of the AFFA Act ,2013 prohibits the sale and export of Raw nuts and therefore encourages value addition to the nuts locally
  - iii. Nuts and Oil Crops Directorate is an arm of Agriculture, Fisheries and Food Authority (AFFA) mandated to develop, promote and regulate the nuts and oil crops industry in Kenya.
  - iv. The Nuts and Oil Crops Directorate deals with following scheduled nuts and oil crops: macadamia, cashew nuts, oil palm; ground nuts; sesame; sunflower; safflower; castor bean; jojoba; linseed, and oil seed rape.
  - v. Before the enactment of AFFA Act 2013 and Crops Act 2013, the role of developing, promoting and regulating the nuts and oil crops subsector was largely amorphous. The Kenya Coconut Development Authority was handling the Macadamia nuts while the Ministry of Agriculture, Livestock and Fisheries handled the rest of the nuts and oil crops.
  - vi. The AFFA has licensed twenty nut processing companies in the country and is in the process of licensing additional four firms. The processing capacity of active processing firms is 86,000 metric tonnes per annum.
  - vii. The local demand for nuts is less than 5,000 metric tonnes of nuts in a year, therefore what is available for export is over 80,000 metric tonnes.
  - viii. The prices for macadamia nuts is set at the international market and majorly dictated by the biggest producers in the world namely Hawaii and Australia.



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

## **10.0 FINDINGS AND OBSERVATIONS**

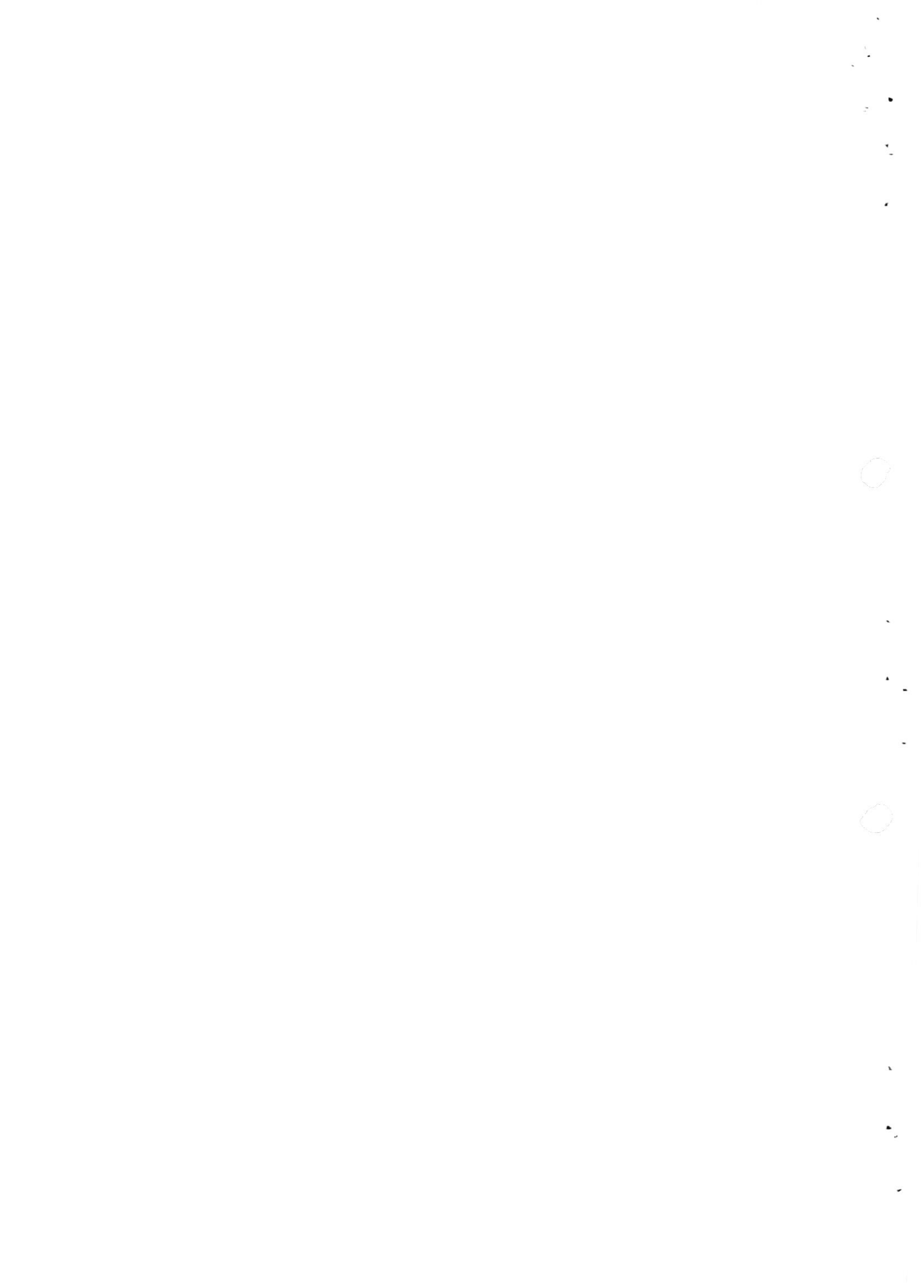
The Committee made the following observations from evidence adduced in the meetings that:-

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

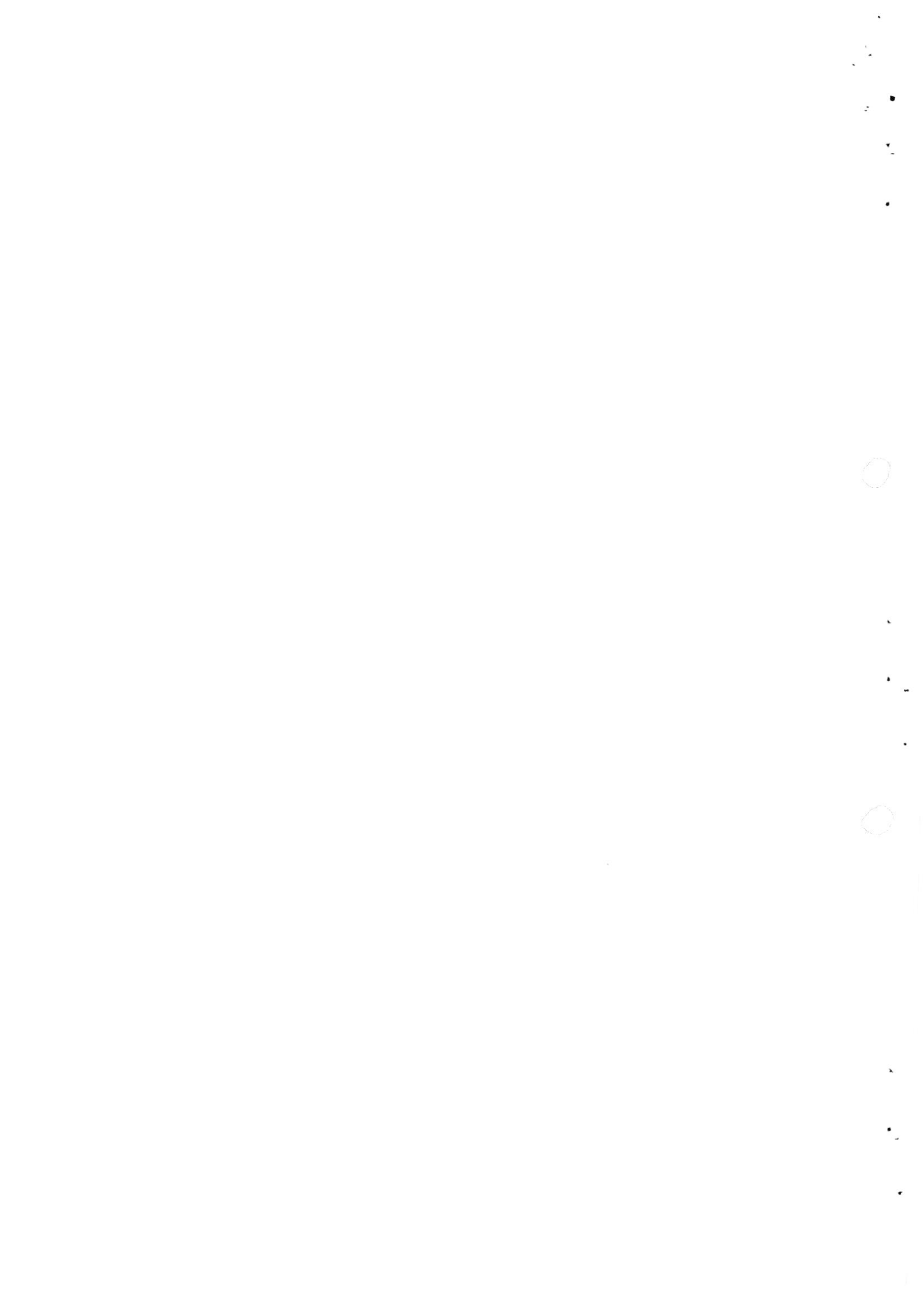




- VI. The Kenya processed export value is estimated at KES 6B while Farm-gate value annually is estimated at KES 2.5B. Additionally this industry employs an estimated 1,500 youths and traders and provide direct employment to 13,850 Kenyans spread in the industrial drying, cracking and value addition.
- VII. The industry is labor intensive and average wages and salaries paid to production and related workers ranges from KES 240m- KES 310m annually.
- VIII. The prices of the macadamia nuts is depended on the prevailing international prices and therefore price fluctuation in the international market is common.
- IX. The highest price ever recorded in Kenya per kilogram of macadamia nuts was KES. 150 in 2015 and currently the processors are offering KES. 80 per kilogram to the farmers.
- X. The AFFA & KRA have put in place strong anti-smuggling efforts that have made the quality of the crop improve and has remove the bullish buying behavior that had prevailed for a long time.
- XI. Some of the fundamental challenges faced by Macadamia farmer include:
- a) Undue influence from the Chinese counterpart who perpetuate premature harvesting and stripping nuts from the trees, it is therefore important to protect this industry.
  - b) Smallholder production system that is fragmentation undermines competitiveness and quality standards there are very few plantations.
  - c) Kenyan Macadamia is not planted professionally thus leading to poor quality productivity. Poor crop husbandry therefore there is need for proper farming practices.



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



## 11.0 RECOMMENDATIONS

In response to the prayers by the petitioners, the Committee recommends that:-

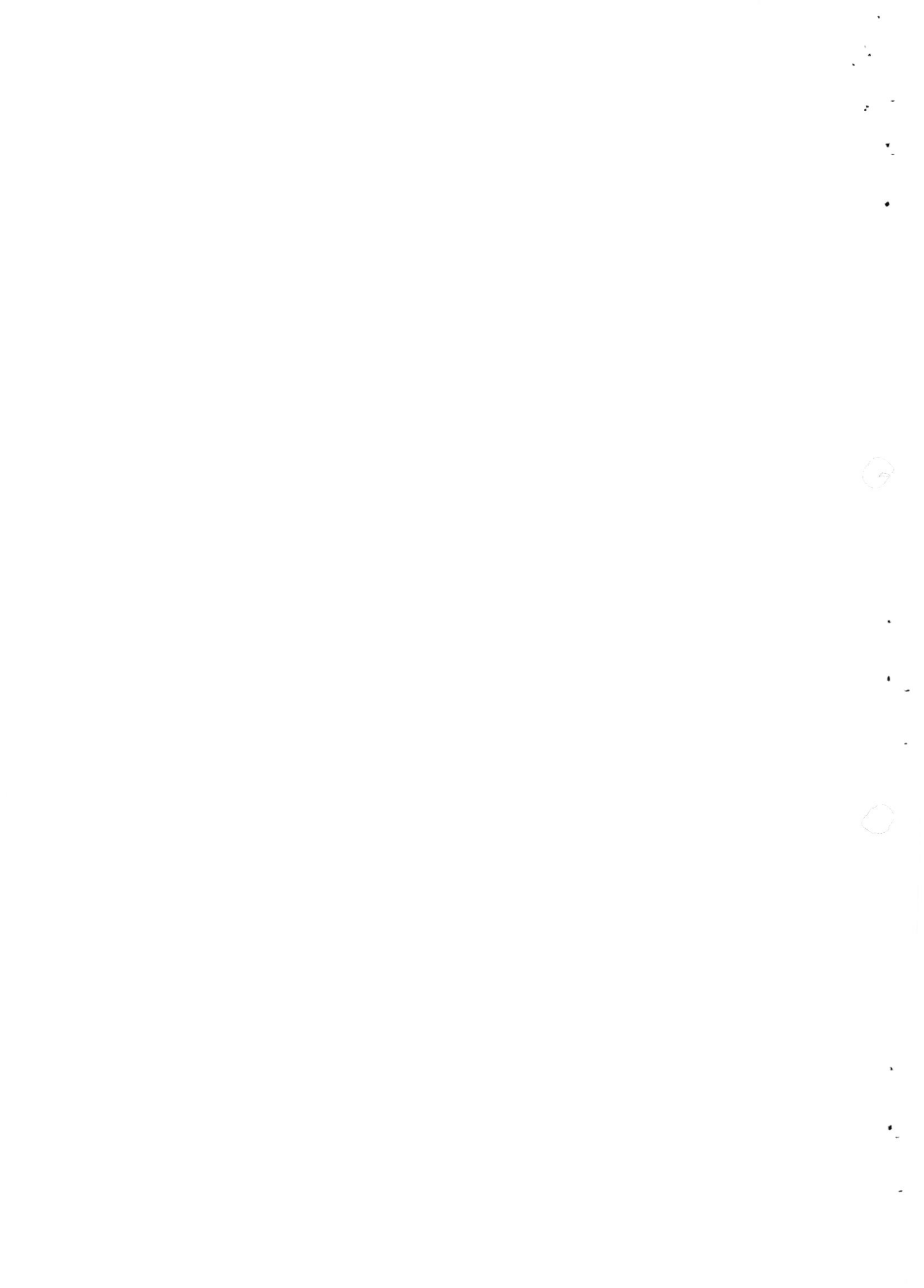
1. The ban on the sale and export of raw macadamia nuts be maintained as provided in Section 43 of the AFFA Act, 2013 as it is in the best interest of the nut industry in the country as result of value addition.
2. The Ministry of Agriculture, Livestock and Fisheries through Agriculture Food and Fisheries Authority should encourage licensing of more processors in the market to promote competition.
3. The Ministry of Agriculture, Livestock and Fisheries through Agriculture, Fisheries and Food Authority in conjunction with Nut Processors Associations to intensify sensitization of nut farmers through training on the various technologies and skills in Macadamia nuts production and assist farmers to form groups to better their bargaining power.
4. The Ministry of Agriculture, Livestock and Fisheries through Agriculture, Fisheries and Food Authority to spearhead the introduction of macadamia farming in new areas that have shown some potential in growing the crop.
5. The Ministry of Agriculture, Livestock and Fisheries through Agriculture, Fisheries and Food Authority to support the Macadamia Nut farmers through the existing Commodities Fund as provided in Crops Act, 2013.
6. The Ministry of Agriculture, Livestock and Fisheries should intensify research activities in the various nut growing areas in the country in order to improve the crop and ensure it meets international standards.

Signed.......... Date..... 2/8/2016 .....

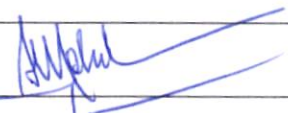
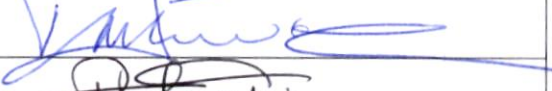
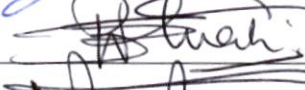


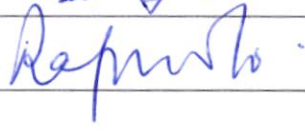



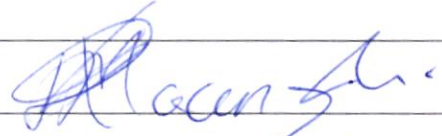

**Hon. Adan .Mohamed Nooru, CBS, MBS, MP**

**CHAIRMAN**

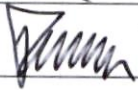



**DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND  
COOPERATIVES.**



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

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



20	<b>The Hon. Korei Ole Lemein, M.P.</b>	
21	<b>The Hon. Ferdinand K. Wanyonyi, M.P.</b>	
22	<b>The Hon. Alfred Kiptoo Keter, M.P.</b>	
23	<b>The Hon. Ayub Savula Angatia, M.P.</b>	
24	<b>The Hon. Silas Tiren, M.P.</b>	
25	<b>The Hon. Florence Mwikali Mutua, M.P.</b>	
26	<b>The Hon. Jude Njomo, M.P.</b>	
27	<b>The Hon. John Kobado, MP</b>	
28	<b>The Hon. Paul Simba Arati, MP</b>	
29	<b>The Hon. Hezron Awiti Bollo, M.P.</b>	

Approved  
SNA  
4/5/16

REPUBLIC OF KENYA



37

THE NATIONAL ASSEMBLY  
ELEVENTH PARLIAMENT  
(FOURTH SESSION)

PUBLIC PETITION

ON THE BAN OF SALE OR EXPORT OF RAW MACADAMIA BY THE  
MACADAMIA FARMERS.

I, the undersigned, on behalf of concerned macadamia farmers,

DRAW the attention of the House to the following:-

- i. **THAT**, Section 43 of Agriculture, Fisheries and Food Authority Act 2013 prohibits export of raw produce such as raw macadamia, raw cashew nuts, raw pyrethrum among other products except with written authority from the Cabinet Secretary and with the approval of the National Assembly;
- ii. **THAT**, due to the said prohibition, the macadamia farmers in the country are suffering and the macadamia industry is on the verge of collapsing;
- iii. **THAT**, with the collapse of coffee farming, macadamia has been the main source of income. thereby ensuring financial stability to those farmers;
- iv. **THAT**, since 2004 macadamia farmers experienced a steady rise in macadamia price from Ksh.10 to Ksh.50 per Kilogram, and further that, the emergence of foreign investors in the year 2014 and 2015 led to rapid increase in prices to Ksh.130 per Kilogram;
- v. **THAT**, the implementation of the Agriculture, Fisheries and Food Authority Act 2013, led to decrease in macadamia prices and deregistration of firms dealing with raw makadamia;
- vi. **THAT**, the implementation of the Act has led to loss of employment and closure of business;
- vii. **THAT**, efforts to resolve the matter with relevant authorities have been fruitless;
- viii. **THAT**, the issues in respect of which this Petition is made are not pending before any Court of Law, Constitutional or statutory body.



**PUBLIC PETITION**

**ON THE BAN OF SALE OR EXPORT OF RAW MACADAMIA BY THE  
MACADAMIA FARMERS.**

---

**THEREFORE** your humble petitioners pray that the National Assembly, through the Departmental Committee on Agriculture, Livestock and Cooperatives: -

- ~~(i) intervenes and recommends lifting of the ban for the sale or export of the raw macadamia;~~
- (i) ~~(ii)~~ proposes amendments to the Agriculture, Fisheries and Food Authority Act 2013, to provide for sale of raw produce in particular raw macadamias; and
- (ii) ~~(iii)~~ Makes any other order or direction that it deems fit in the circumstances of the case.

And your **PETITIONERS** will ever pray.

**PRESENTED BY,**

**HON. PETER KAMANDE MWANGI, M.P.**  
**MEMBER FOR MARAGUA CONSTITUENCY**

**DATE: .....**



THE REPUBLIC OF KENYA

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

NO	NAME	PHONE NUMBER	ID NUMBER	SIGNATURE
1.	Samuel Kimani Njoroge	0725345179	0439578	
2.	Michael Kahuki Mungu'	0722428456	13260094	
3.	Scott Mwangi, MURUKI	0720543423	22927565	
4.	STEPHEN MBULUA GITHI	0724746399	12992944	
5.	Jackson Njaramba NDIRU	0721518065	9075919	
6.	Christopher thago Kiani	0729534980	1219386	
7.	Edwin Murangari	0716367009	24570637	



**MINUTES OF THE 32<sup>ND</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVE (Meeting with Hon. Peter Kamande , Petitioners and Nut Processors Association on a Petition regarding the ban of sale or export of raw Macadamia by the Macadamia Farmers) HELD ON MONDAY 31<sup>ST</sup> MAY 2016, AT 2<sup>ND</sup> FLOOR CONTINENTAL HOUSE 10:30 A.M.**

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**Present**

- |  |                         |
|--|-------------------------|
| 1. Hon. Adan M. Nooru, MBS, M.P        | <b>Chairperson</b>      |
| 2. Hon. Kareke Mbiuki, M.P             | <b>Vice Chairperson</b> |
| 3. Hon. Benjamin Washiali, M.P         |                         |
| 4. Hon. Silas Tiren, M.P               |                         |
| 5. Hon. Justice Kemei, M.P             |                         |
| 6. Hon. John Kobado, M.P               |                         |
| 7. Hon. Kabando Wa Kabando, M.P        |                         |
| 8. Hon. Daniel Maanzo, MBS, M.P        |                         |
| 9. Hon. Mary Wambui, M.P               |                         |
| 10. Hon. (Dr.) Victor Munyaka, M.P     |                         |
| 11. Hon. Fredrick Outa, M.P            |                         |
| 12. Hon. Millie Odhiambo - Mabona, M.P |                         |

**Apologies**

1. Hon. Alfred K. Keter, M.P
2. Hon. Kimani Ichung'wah, M.P
3. Hon. Francis Waititu Munyua, M.P
4. Hon. Paul Simba Arati, M.P
5. Hon. Raphael Letimalo, M.P
6. Hon. Benjamin Andayi, M.P
7. Hon. Andrew Anyanga Toboso, M.P
8. Hon. Ayub Savula Angatia, M.P
9. Hon. Patrick Wangamati, M.P
10. Hon. Aisha Jumwa, M.P
11. Hon. Jude Njomo, M.P
12. Hon. Peter N. Gitau, M.P
13. Hon. Korei Ole Lemein, M.P
14. Hon. Florence Mutua, M.P
15. Hon. Ferdinand Wanyonyi, M.P
16. Hon. John B. Serut, M.P
17. Hon. Maison Leshoomo, M.P

**In Attendance:**

**Kenya National Assembly Secretariat**

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

**Petitioners**

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

**Nut Processors Association**

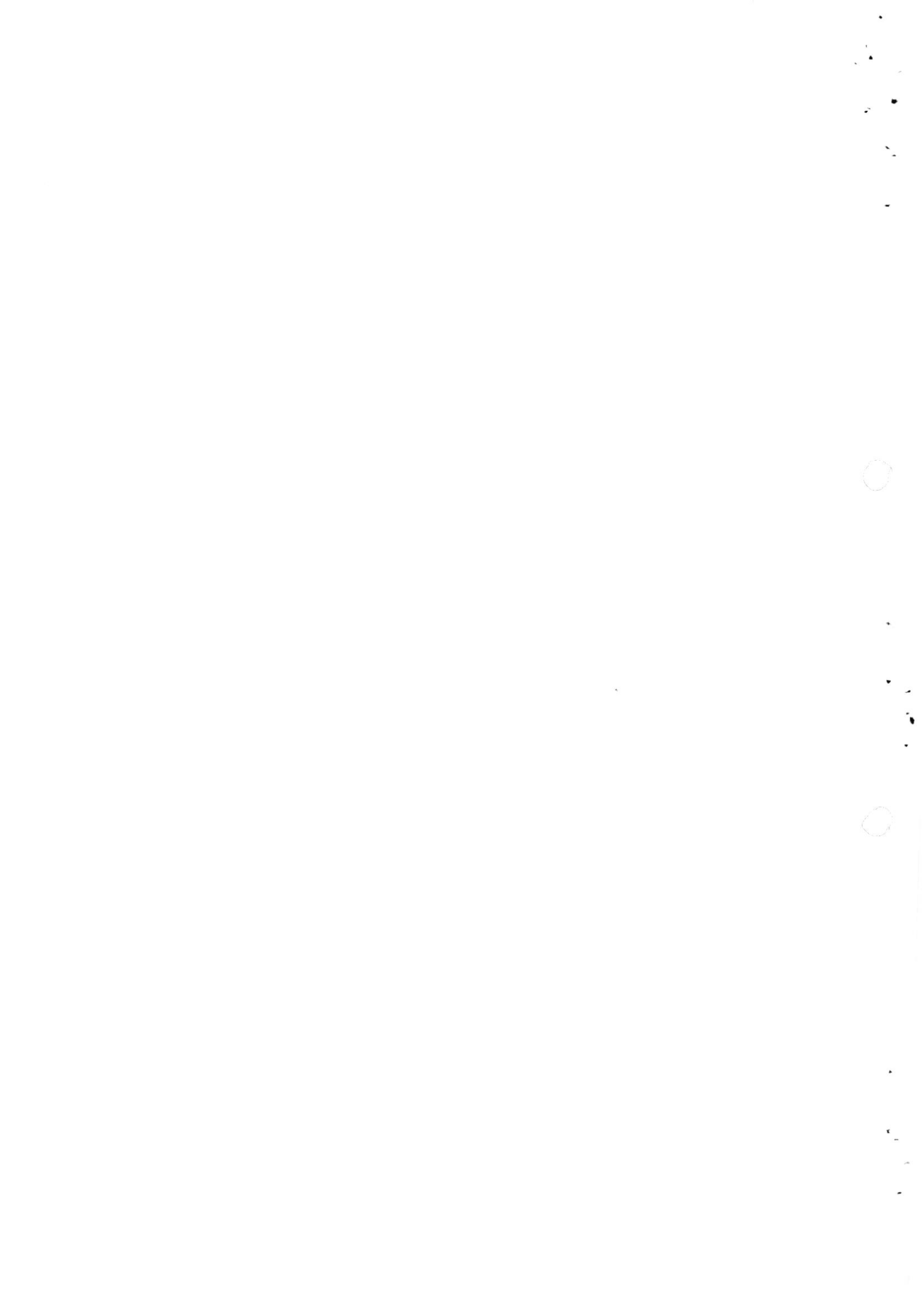
- |                         |                                       |
|-------------------------|---------------------------------------|
| 1. Mr. Michael N. Gatua | - Operations Director Sagana Nuts Ltd |
| 2. Mr. Charles R Muigai | - Managing Partner Nut Processors     |
| 3. Mr. Frank Omondi     |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

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

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

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

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





- IV. Hon Peter requested amendment of the AFFA Act to suit macadamia farmers so as to increase the production of Macadamia nuts.

#### **Min 136/2016 Presentation by Macadamia Farmers**

Mr. Mugi Nahashon presented on behalf of farmers from Maragua Constituency he stated that:

- The Group of farmers that attended the meeting is representing the majority of macadamia farmers in Central Kenya.
- Macadamia has been an alternative cash crop after the collapse of Coffee industry.
- As now 30% of Macadamia nuts have found their way to the market, 70% of this year produce is either in stores or unharvest. The surplus is worth over Kshs.2 billion and due to its perishable nature it will go into waste.
- The surplus is as a result of the latest improvement in organic macadamia husbandry, increased acreage and better prices.
- The disintegration of macadamia nuts from other fruit trees under horticultural crops directorate creating loopholes for cartels to manipulate the nuts and oil crops directorate.
- He stated that willing processors have been denied licenses through the influence of group processors, this resulted to keeping off all aspirant foreign processors.
- He said that example of companies that have been denied licenses is Quwei and Asia star who shifted to Zimbabwe last year. The highest price the two companies purchased macadamia is at Ksh. 170 per kilo which stands at Ksh. 40 per kg at the moment.
- Mr. Mugi alluded that Nutpack companies is owned by same directors the only difference is company names

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

- Suspend all macadamia licenses to create room for foreign and local investments
- Scrap off the macadamia nuts from the prohibitory Act no.13 of section 43 to encourage a competitive trade among the farmers, marketers and processors.
- Thorough investigation between NOCD and Nutpack association should be conducted to investigate the exploitation of the farmers.
- To ensure that farmers have received their unsettled dues immediately.

#### **Min 137/2016 Presentation by Nutpack Association**

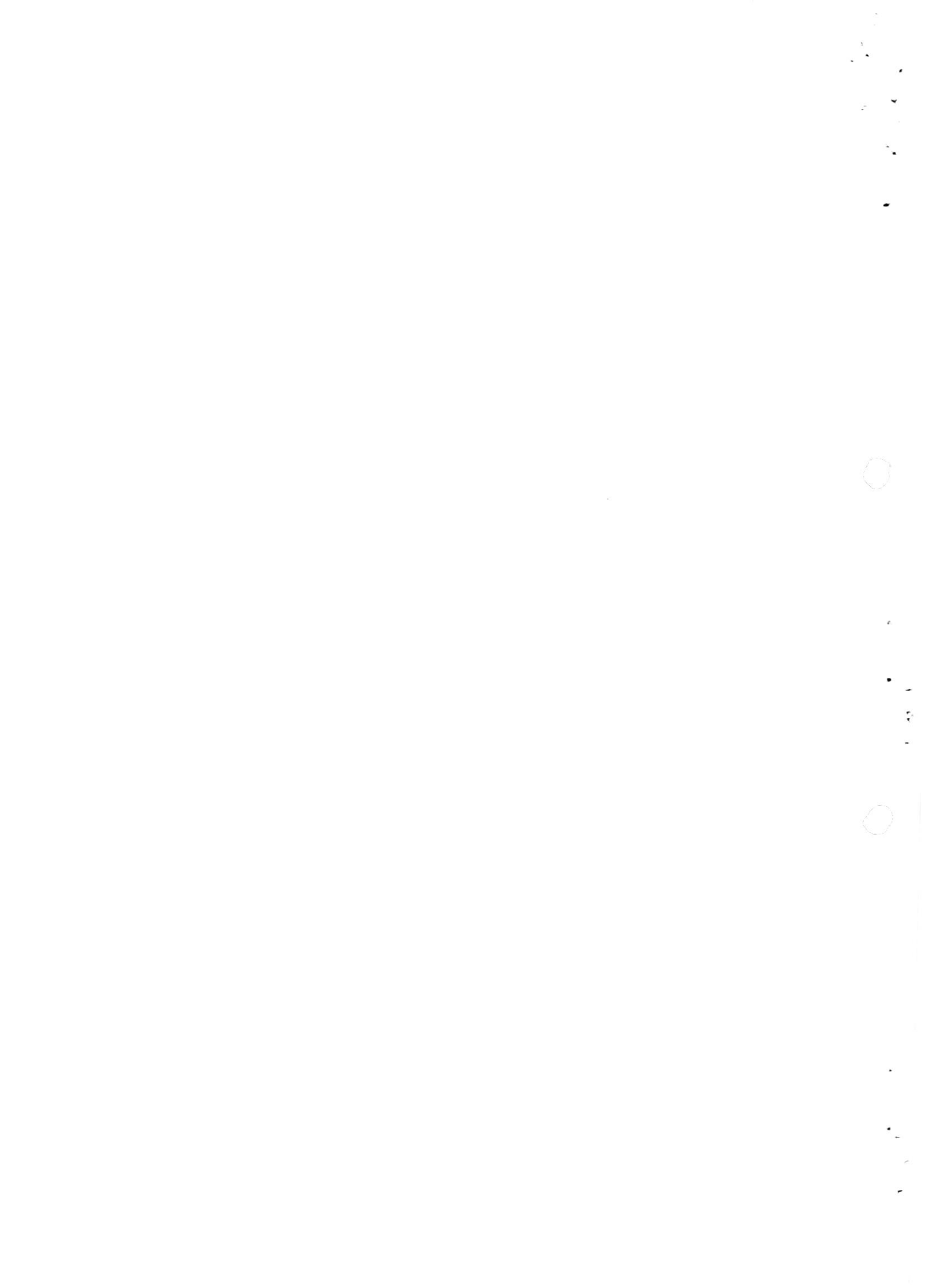
- Mr. Charles Muigai stated that the total number of companies registered as players' stands at 23.
- He said that the ban on export of raw macadamia has empowered farmers because the value of selling the product is high.
- Kenya stands as 3<sup>rd</sup> highest producer of Macadamia in Africa.



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

**Min.132/2016: AOB**

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



c) Hon. Maanzo Daniel, MBS, M.P

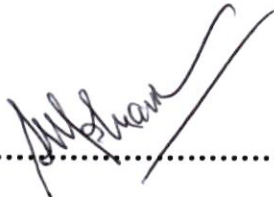
- III. A petition that was presented by Member for Loima Constituency on behalf of residents of Turkana County regarding alleged financial impropriety by the General Manager for National Irrigation Board, Eng. Daniel Barasa ,HSC. was committed to PIC Committee.

Members were concern that petition should have been presented to Agriculture Committee because it is the relevant Committee to deal with above issue.

**Min. 133/2016: Adjournment**

There being no other business the meeting was adjourned at 3:15pm

Signature .....

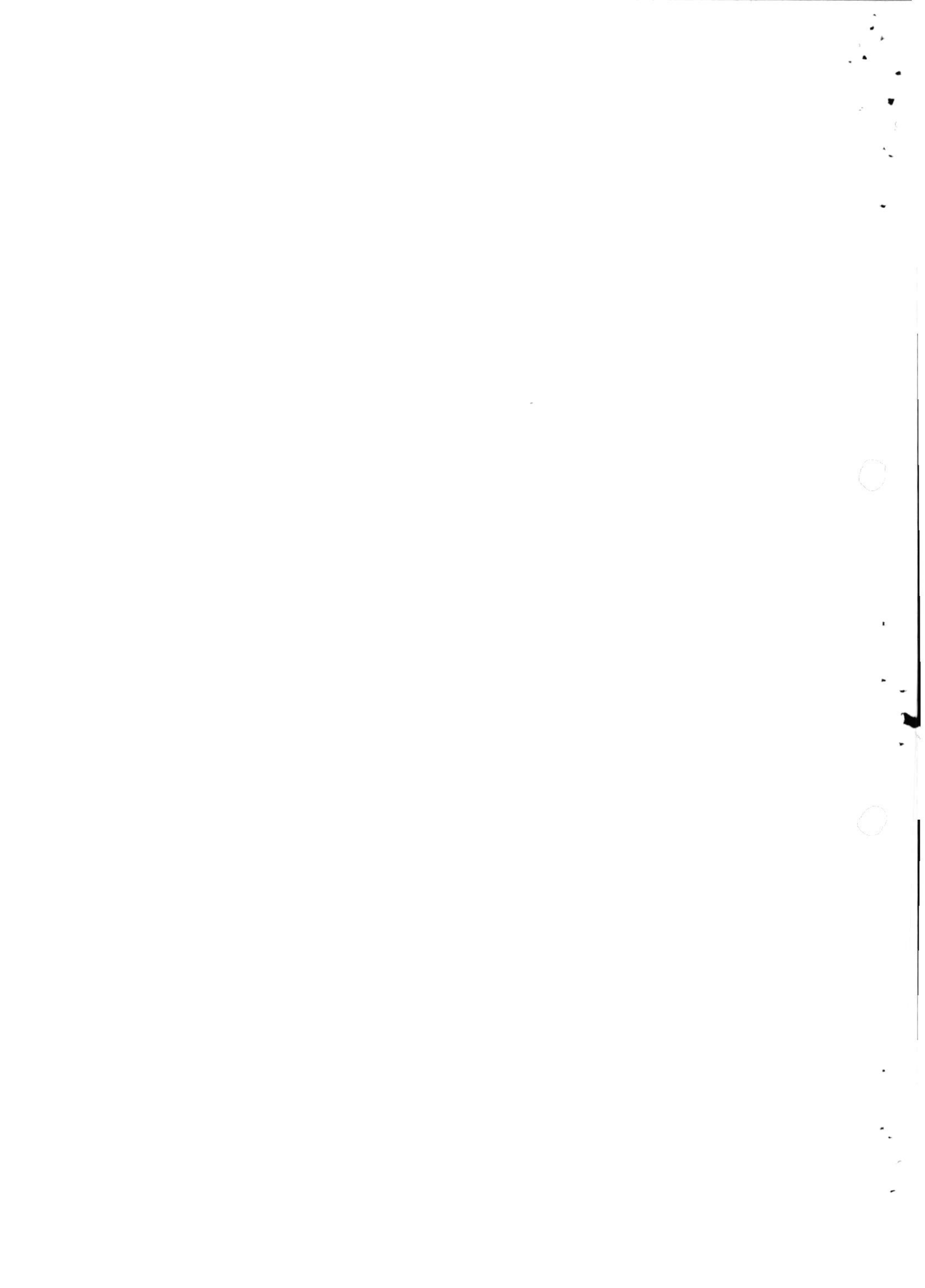


HON. ADAN MOHAMED NOORU, MBS, M.P.

(Chairperson)

Date.....

28/07/2016



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

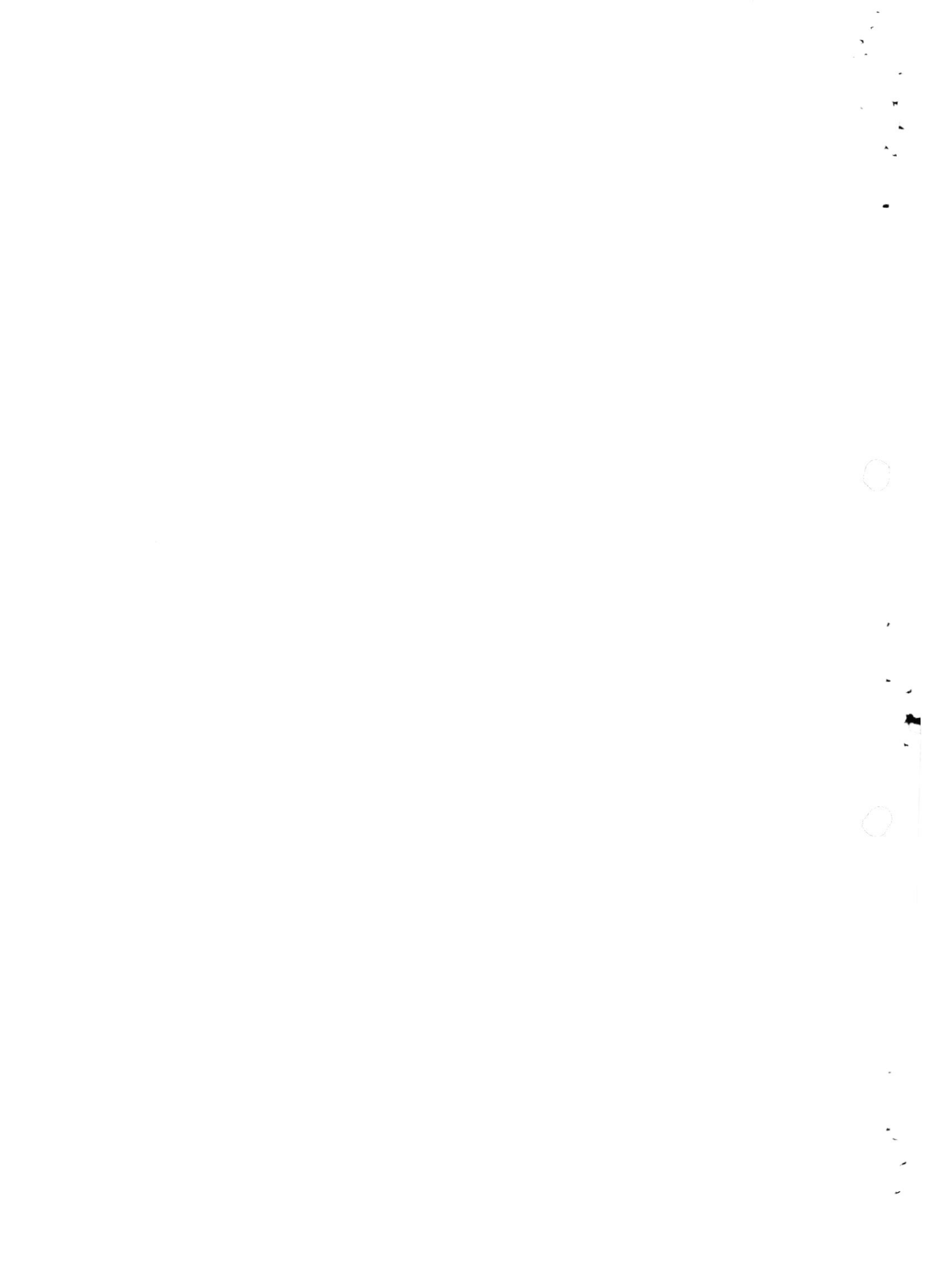
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**Present**

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

**Apologies**

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





## Kenya National Assembly Secretariat

- |                          |                         |
|--------------------------|-------------------------|
| 1. Mr. Benjamin Magut    | - First Clerk Assistant |
| 2. Mr. Ahmad Adan Guliye | - Third Clerk Assistant |
| 3. Ms. Angeline Naserian | - Third Clerk Assistant |
| 4. Mr. David Ngeno       | - Research Officer      |
| 5. Mr. Stephen Nyakuti   | - Audio Officer         |
| 6. Ms. Zainabu Wario     | - Serjeant Officer      |

### Min. 171/2016: Preliminaries

- I. The meeting was called to order at 10.46 a.m. and prayers were said by Hon. Ferdinand Wanyonyi, M.P
- II. Due to late arrival of the Chairperson and the Vice Chairperson due unavoidable circumstances, Members nominated Hon. Ferdinand Wanyonyi, M.P to chair the Sitting having being proposed and seconded by Hon. Florence Mutua, M.P and Hon. John Bommet Serut, M.P respectively.

### Min. 172/2016: Adoption of the Agenda

The day's agenda was adopted as stipulated in the notice of meeting after it was proposed and seconded by Hon. Patrick Wangamati, M.P and Hon. John Serut, M.P respectively.

### Min. 173/2016: Confirmation of Minutes

- I. The minutes of 26<sup>th</sup> sitting were confirmed as true record of the Committee's deliberation after they were proposed and seconded by Hon. Raphael Letimalo, M.P and Hon. John Serut, M.P respectively.
- II. The minutes of the 27<sup>th</sup> sitting were confirmed as true record of the committee's deliberations after they were proposed and seconded by Hon. John Serut, M.P and Hon. Victor Munyaka, M.P respectively.
- III. The minutes of the 28<sup>th</sup> sitting were confirmed as true record of the Committee's deliberations after they were proposed and seconded by Hon. John Serut, M.P and Hon. Victor Munyaka, M.P respectively.
- IV. The minutes of the 29<sup>th</sup> sitting were confirmed as true record of the Committee's deliberations after they were proposed and seconded by Hon. Korei Lemein, M.P and Hon. Justice Kemei, M.P respectively.
- V. The minutes of the 30<sup>th</sup> sitting were confirmed as true record of the Committee's deliberations after they were proposed and seconded by Hon. Justice Kemei, M.P and Hon. Kore iLemein, M.P respectively.



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

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

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

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

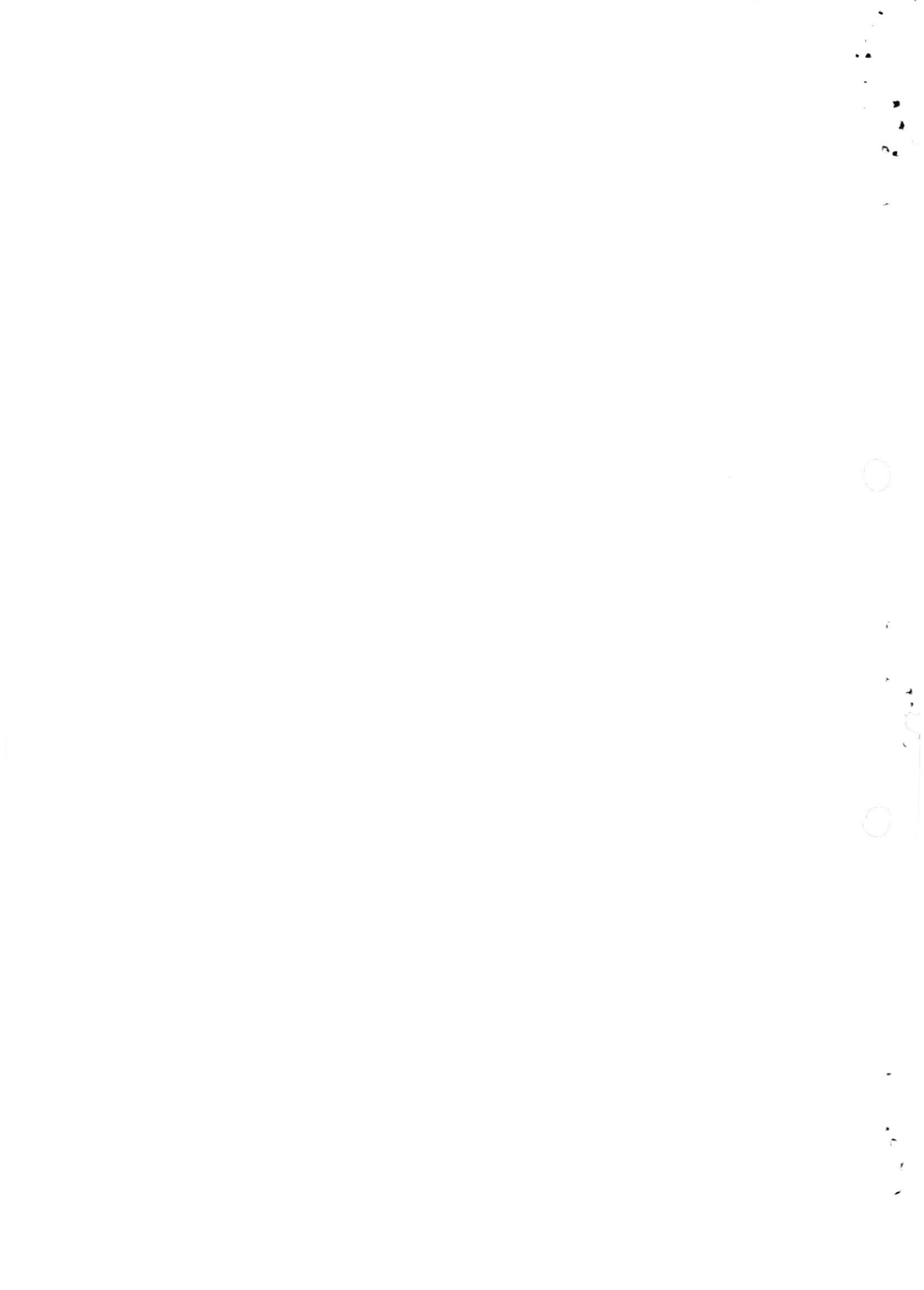
- I. Various clauses of the Potato Produce and Marketing Bill, 2014 are inconsistent with the current legislation that governs the agricultural industry and therefore should be reconsidered by the mover of the Bill.
- II. The Bill creates duplicity of roles as it attempts to re-create the functions of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



**Min. 176/2016: Adoption of the Report on the Petition by the Macadamia Farmers from Maragwa on lifting the Ban on Sale and Export of Raw Macadamia**

The Committee adopted the report on the Petition by the Macadamia Farmers from Maragwa on lifting the Ban on Sale and Export of Raw Macadamia with the following recommendations;

- I. The ban on the sale and export of raw macadamia nuts be maintained as provided in Section 43 of the AFFA Act,2013 as it is in the best interest of the nut industry in the country as result of value addition.
- II. The Ministry of Agriculture, Livestock and Fisheries through Agriculture Food and Fisheries Authority should encourage licensing of more processors in the market to promote competition.
- III. The Ministry of Agriculture, Livestock and Fisheries through Agriculture, Fisheries and Food Authority in conjunction with Nut Processors Associations to intensify sensitization of nut farmers through training about the various technologies and skills in Macadamia nuts production and assist farmers to form groups to better their bargaining power.
- IV. The Ministry of Agriculture, Livestock and Fisheries through Agriculture, Fisheries and Food Authority to spearhead the introduction macadamia farming in new areas that have shown some potential for growing the crop.
- V. The Ministry of Agriculture, Livestock and Fisheries through Agriculture, Fisheries and Food Authority to support the Macadamia Nut farmers through the existing Commodities Fund as provided in Crops Act ,2013.
- VI. The Ministry of Agriculture, Livestock and Fisheries should intensify research activities in the macadamia nuts among other nuts in the country in order to improve the crop and ensure it meets the international standards.




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

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

**Min. 178/2016: Adjournment**

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

Signature .....



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

(Chairperson)

Date..... 2-8-2016 .....

