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SELECT COMMITTEE ON IMPLEMENTATION

TABLED BY: *Chairperson - select committee on implementation Hon. O. Kendo*
CLERK AT THE TABLE: *Nfw*

REPORT ON

IMPLEMENTATION STATUS OF THE REPORT OF THE DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE ON THE PETITION ON DEPLORABLE WORKING CONDITIONS OF WORKERS AT KWALE INTERNATIONAL SUGAR COMPANY LIMITED

Directorate of Audit, Appropriations & Other Select Committees
Clerk's Chambers
National Assembly
Parliament Buildings
NAIROBI

November, 2020

Table of Contents

ABBREVIATIONS AND ACRONYMS	4
CHAIRPERSON'S FOREWORD	5
EXECUTIVE SUMMARY	6
1.0 PREFACE	8
1.1 Establishment and Mandate of the Committee.....	8
1.2 Committee Membership	9
1.3 Committee Secretariat	11
2.0 BACKGROUND	12
2.1 Introduction.....	12
2.2 Recommendations of the Departmental Committee on Labour and Social Welfare	12
2.3 Additional Complaints by the Petitioner, Hon. Zuleikha Juma Hassan, MP	13
2.4 Response by KISCOL on additional complaints	13
3.0 EVIDENCE.....	15
3.1 Meeting with the Management of Kwale International Sugar Company Limited	15
3.2 Meeting with the Workers of Kwale International Sugar Company Limited	21
3.3 Submissions from the Ministry of Labour and Social Protection	23
3.4 Meeting with Hon. Suleiman Dori, MP	25
4.0 IMPLEMENTATION STATUS OF THE RECOMMENDATIONS OF THE REPORT	26
5.0 COMMITTEE OBSERVATIONS	29
6.0 COMMITTEE RECOMMENDATIONS.....	30

APPENDICES

Appendix I Adoption List

Appendix II Minutes of the Committee

Appendix III Report of the Departmental Committee on Labour & Social Welfare on deplorable working conditions of workers

Appendix IV Submissions from Kwale International Sugar Company Limited

Appendix V Submissions from the Ministry of Labour and Social Protection

Appendix VI Letter on additional complaints by Hon. Zuleikha Hassan Juma, M.P

ABBREVIATIONS AND ACRONYMS

GoK	Government of Kenya
Hon.	Honourable
KISCOL	Kwale International Sugar Company Limited
Kshs.	Kenya Shillings
MOU	Memorandum of Understanding
MP	Member of Parliament
NHIF	National Hospital Insurance Fund
NSSF	National Social Security Fund
DOSH	Directorate of Occupational Safety & Health
PPE	Personal Protective Equipment

CHAIRPERSON'S FOREWORD

The Select Committee on Implementation is mandated to scrutinize the resolutions of the House (including adopted Committee reports), petitions and the undertakings given by the National Executive and examine whether or not such decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within the minimum time necessary.

The Committee pursuant to its mandate resolved to be apprised on the implementation status of the recommendations contained in the Departmental Committee on Labour and Social Welfare's Report on the petition by Hon. Zuleikha Juma Hassan, MP, on deplorable working conditions of workers at Kwale International Sugar Company Limited (KISCOL).

The Committee conducted a site visit to the Company in Kwale County from 28th to 31st March, 2019, where it held meetings with various stakeholders including the management and workers of KISCOL and officials from the Ministry of Labour and Social Protection to apprise itself on status of implementation.

The Committee further invited the management of KISCOL to present their submission on the matter and received written submission from the Ministry of Labour and Social Protection before making its observations and recommendations.

The Committee presents its findings on the implementation status of the recommendations by the Committee on Labour and Social Welfare's as contained in its Report on the deplorable working conditions of workers at Kwale International Sugar Company Limited.

The Committee registers its appreciation to the Office of the Speaker and the Clerk of the National Assembly for facilitation and support in the production of this report.

Pursuant to Standing Order 199(6), it is, therefore, my pleasant duty and privilege, on behalf of the Committee on Implementation, to lay this report on the Table of the House.



Hon. Moitalel Ole Kenta, MP

EXECUTIVE SUMMARY

The Committee on Implementation is a select Committee of the House established pursuant to Standing Order 209 of the National Assembly Standing Orders. It is mandated to scrutinize resolutions of the House (including adopted committee reports), petitions, legislation and the undertakings given by the National Executive and examine whether such decisions and undertakings have been implemented within the sixty (60) days provided for in the Standing Orders and whether such implementation has taken place within the minimum time necessary and satisfactory explanation for the delay in full implementation.

The Petition was presented before the House pursuant to Standing Order 225 (2)(a) by Hon. Zuleikha Juma Hassan, MP, on behalf of both the current and former employees of Kwale International Sugar Company on 26th August, 2015. The petitioner requested that the National Assembly through the Departmental Committee on Labour and Social Welfare investigates the circumstances behind the poor working conditions of the workers at the Company and intervenes to have the terms of the workers reviewed favourably.

The Petition was committed to the Departmental Committee on Labour and Social Welfare for consideration pursuant to Standing Order 227 (1) of the National Assembly Standing Orders, who prepared a report and made recommendations to improve the working conditions of the workers, which was subsequently tabled before the House on 30th June, 2016 (**Appendix III**). In its report, the Committee on Labour recommended six key areas that should be looked into with respect to improving the working conditions of employees at KISCOL.

The Select Committee on Implementation pursuant to its mandate resolved to be apprised on the implementation status of the recommendations contained in the report. The Committee met with the management of KISCOL on 15th November, 2018 and subsequently carried out an inspection visit from 28th to 31st March, 2019 where it held a meeting with the management & the workers of KISCOL as well as officials from the Ministry of Labour & Social Protection and received oral and written submissions. Hon. Zuleikha Juma Hassan, M.P, was also in attendance during the inspection visit.

The factory was not operational at the time of the visit, however, the Committee inspected the modified trucks for transporting workers. The Committee observed that the company had established a *clinic* with a pharmacy and a laboratory, within the compound of the factory to treat its workers. It is worth noting that KISCOL's operations had been stopped for eighteen (18) months; from June, 2018 to November, 2019.

The Committee notes that KISCOL has implemented most of the recommendations of the report of the Departmental Committee on Labour and Social Welfare except for wage arrears arising from non-compliance with Legal Notice No. 91 of 2015 which had been determined to be Kshs.3.69 million. The Committee also notes that there is a pending claim for compensation of work related injuries totalling to Kshs. 5,493,709.

The Committee recommends that KISCOL expedite the payment of wage arrears of Kshs. 3.69 million, arising from non-compliance with Legal Notice No. 91 of 2015. The company should ensure total compliance to all the laws/regulations pertaining to employment. Further, the Directorate of Occupational Safety and Health under the Ministry of Labour and Social Protection should expedite processing of the pending compensation claims to work related injuries totaling to Kshs. 5,493,709.

The Committee will follow up with the management of Kwale International Sugar Company Limited and the Ministry of Labour & Social Protection, ninety days after tabling of this report, in order to ensure payment of pending wage arrears and compensation claims to work related injuries.

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

1. The Committee on Implementation is a Select Committee of the House established pursuant to the provisions of Standing Order 209 of the National Assembly Standing Orders.
2. The Committee is charged with scrutinizing the resolutions of the House (including adopted Committee reports), petitions and the undertakings given by the National Executive and examine whether or not such decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within the minimum time necessary; and whether or not legislation passed by the House has been operationalized and where operationalized, the extent to which such operationalization has taken place within the minimum time necessary. The Committee may also propose to the House, sanctions against any Cabinet Secretary who fails to report to the relevant select Committee on implementation status without justifiable reasons.
3. Standing Order 201 further provides that within sixty days of a resolution of the House or adoption of a report of a select committee, the relevant Cabinet Secretary under whose portfolio the implementation of the resolution falls shall provide a report to the relevant committee of the House. The mandate of the Committee is further enhanced by the provisions of Article 153(4) (b) of the Constitution which requires Cabinet Secretaries to provide Parliament with full and regular reports concerning matters under their control.

1.2 Committee Membership

4. The Committee is comprised of the following members -

Chairperson

Hon. Moitalel Ole Kenta, MP
Narok North Constituency

Orange Democratic Movement

Vice Chairperson

Hon. Godfrey Osotsi, MP
Nominated

Amani National Congress

Members

Hon. Moses Kuria, MP
Gatundu South Constituency
Jubilee Party

Hon. Alois Lentoimaga, MP
Samburu North Constituency
Jubilee Party

Hon. (Dr.) James Murgor, MP
Keiyo North Constituency
Jubilee Party

Hon. Joash Nyamache Nyamoko MP
North Mugirang'o Constituency
Jubilee Party

Hon. Francis Munyua Waititu, MP
Juja Constituency
Jubilee Party

Hon. Paul Odalo Abuor, MP
Rongo Constituency
Orange Democratic Movement

Hon. Hassan Oda Hulufu, MP
Isiolo North Constituency
Kenya Patriots Party

Hon. Paul Simba Arati, MP
Dagoretti North Constituency
Orange Democratic Movement

Hon. Joseph Wathigo Manje, MP
Kajiado North Constituency
Jubilee Party

Hon. Johnson Many Naicca, MP
Mumias West Constituency
Orange Democratic Movement

Hon. John Muchiri Nyaga, MP
Manyatta Constituency
Jubilee Party

Hon. Richard Onyonka, MP
Kitutu Chache South Constituency
Ford Kenya

Hon. Owen Yaa Baya, MP
Kilifi North Constituency
Orange Democratic Movement

Hon. Michael Thoya Kingi, MP
Magarini Constituency
Orange Democratic Movement

Hon. Nelson Koech, MP
Belgut Constituency
Jubilee Party

Hon. Joshua Mbithi Mwalyo, MP
Masinga Constituency
Wiper Democratic Movement-Kenya

Hon. Peter Kimari, MP
Mathioya Constituency
Jubilee Party

Hon. Silvanus Osoro, MP
South Mugirang'o Constituency
Kenya National Congress

Hon. Gabriel Kago Mukuha, MP
Githunguri Constituency
Jubilee Party

Hon. Charles Ngusya Nguna, MP
Mwingi West Constituency
Wiper Democratic Movement-Kenya

Hon. Jared Okello, MP
Nyando Constituency
Orange Democratic Movement

1.3 Committee Secretariat

5. The following secretariat supports the Committee in executing its mandate -

Ms. Tracy Chebet Koskei
Clerk Assistant I / Lead Clerk

Mr. Peter Mwaura
Senior Legal Counsel

Mr. Joseph Okong'o
Senior Media Relations Officer

Mr. Abdirahman Hassan
Clerk Assistant II

Mr. Donald Manyala
Research Officer II

Ms. Jane Serem
Audio Officer

Mr. Moses Kariuki
Sergeant-at-Arms

2.0 BACKGROUND

2.1 Introduction

6. The Petition on deplorable working conditions of employees at KISCOL was presented before the House pursuant to Standing Order 225 (2)(a) by Hon. Zuleikha Juma Hassan, MP, on behalf of both the current and former employees of Kwale International Sugar Company on 26th August, 2015. The Petitioner requested that the National Assembly through the Departmental Committee on Labour and Social Welfare investigates the circumstances behind the poor working conditions of the workers at the Company and intervenes to have the terms of the workers reviewed favourably.
7. The Petition was committed to the Departmental Committee on Labour and Social Welfare for consideration pursuant to Standing Order 227 (1) of the National Assembly Standing Orders, who prepared a report and made recommendations to improve the working conditions of the workers, which was subsequently tabled before the House on 30th June, 2016.

2.2 Recommendations of the Departmental Committee on Labour and Social Welfare

8. In its report, the Departmental Committee on Labour and Social Welfare made the following recommendations
 - (1) The Management of KISCOL should within ninety days of tabling the Report issue letters of contracts letters of appointment to all employees.
 - (2) The Management of KISCOL should adhere to the wage guidelines as per the Kenya Gazette Notice No. 91 of June 2015 and also pay arrears for salaries paid below the legal threshold effective June 2015.
 - (3) The Management of KISCOL should provide protective gears and enforce the safety measures, regulations and use of protective gears in the company as required by law.
 - (4) The Management of KISCOL should provide proper sanitation, food and water to its employees.
 - (5) The Management of KISCOL should provide better alternative modes of transportation for their employees and further provide a separate compartment for tools and its workers in the mode of transport.
 - (6) The Management of KISCOL should provide a medical scheme for its workers and ensure compensation for those who have been disabled or injured while at work.
9. The Select Committee on Implementation pursuant to its mandate resolved to be apprised on the implementation status of the recommendations contained in the report. The Committee met with the management of KISCOL on 15th November, 2018 and subsequently carried out an inspection visit from 28th to 31st March, 2019 where it held a meeting with the management & the workers of KISCOL as well as officials from

the Ministry of Labour & Social Protection and received oral and written submissions. Hon. Zuleikha Juma Hassan, M.P, was also in attendance during the inspection visit.

10. The Committee further, received written submissions from the Ministry of Labour and Social Protection vide letter Ref. ML&SP/37/5 on 30th October, 2019 and from KISCOL on 1st August, 2020.

11. Having considered all the submissions, the Committee observed that KISCOL has implemented most of the recommendations of the report of the Departmental Committee on Labour and Social welfare except for wage arrears arising from non-compliance with Legal Notice No. 91 of 2015 which have been determined to be Kshs.3.69 million.

2.3 Additional Complaints by the Petitioner, Hon. Zuleikha Juma Hassan, MP

12. The Committee shared the submissions received from KISCOL with the Petitioner, the Hon. Zuleikha Juma Hassan, MP upon which she disputed the implementation status as submitted.

13. The Member, vide a letter dated 17th September, 2020 raised the following issues:

- (i) Many workers were yet to get contracts and are still treated as casuals many years later;
- (ii) No worker has been paid arrears of the years that they were paid below minimum wage;
- (iii) The Member also attached documents of a staff who had been injured at work and was yet to be compensated; and
- (iv) Further, an attached photograph of crowded staff being ferried to work and raised concern on KISCOL's adherence to the Ministry of Health guidelines on COVID-19 mitigation.

2.4 Response by KISCOL on additional complaints

14. In response to the above letter, the Committee wrote to KISCOL to provide a submission on the issues raised. KISCOL vide a letter dated 30th October, 2020 responded as follows:

The company had issued contracts of employment to all employees on permanent terms of employment and trainees. Contracts for casual employees have been developed and approved, however, the process of issuing them have stalled as older employees have raised various issues regarding what happens to their previous contracts. In that regard, the matter was raised with the Kwale County Labour Office, where various awareness sessions had been

arranged involving management representatives, Labour Office and employees. The exercise was however hampered by the COVID-19 pandemic.

15. The company has so far modified five trucks to provide comfortable, spaced seating for employees to comply the traffic requirements and the existing Ministries of Health and Transport protocols. The company provided registration numbers of the vehicles; *KAC 604B, KBY 037M, KBS 382K, KBX 285C and KBV 763M*. The company further submitted that it had made available two vans, being *KCC 274G and KBC 502R* for ferrying supervisory staff. The photographic evidence submitted is attached.
16. Regarding the progress of payment of wage arrears arising from non-compliance to Legal Notice No. 91 of 2015, the company reported that it had liaised with the County Labour Office for the case of employees who had left employment. The County Labour Office had advised the company effects for employees still with the company and was in the process of doing so. The County Labour Office stated that he has had challenges in tracing the employees who have since left employment and sought the assistance to do so.
17. Regarding the employee who was injured at work, a Mr. Bakari Juma Mahondo, the company reported that the matter was reported to the company's safety office and facilitated the treatment of the injured staff at Kwale Eye Hospital and Msambweni Teaching and County Referral Hospital, where the doctors assessed his percentage incapacity, DOSH Part 1 and 2 were submitted to the County DOSH office-Mombasa. WIBA 4 compensation certification was acquired and all documents submitted to the insurance to enable for compensation.

3.0 EVIDENCE

3.1 Meeting with the Management of Kwale International Sugar Company Limited

The Director, Kwale International Sugar Company Limited, Mr. Kaushik Pabari, accompanied by Mr. Gerond Chasteau De Balyon, the Chief Executive Officer, Ms. Pamela Ogada, the General Manager; Mr. Harshil Kotech, Director, Projects; Mr. Musih Benson, Company Secretary, Mr. Michael Mechumo, Human Resource & Administration Manager among others appeared before the Committee on 15th November, 2018 and during an inspection visit that was conducted from 28th to 31st March, 2019 and submitted THAT:-

18. Kwale International Sugar Company Limited (KISCOL) is located in the South Coast, Msambweni Constituency, Kwale County. The project cost 300,000,000 USD and is owned by Pabari Group (80%) and Omnicane Limited (20%). Pabari Group is an amalgamation of several companies having well established and profitable ventures in transport, oil & gas, agricultural produce, medical products and extending to several continents (Europe, Africa and Asia). Its core clients are the World Food Program, Government and Non-Governmental organizations. Omnicane Limited is the biggest sugar factory in Mauritius and listed on Mauritius Stock Exchange with interests in sugar production, ethanol, electricity production and food crops.
19. KISCOL started operations in 2015 and its markets are mainly Mombasa and Nairobi Counties but it doesn't export sugar.
20. The Company occupies 10,000 acres of land of which 5,000 acres is leased from the Government and 5,000 acres from out-growers. Half of the leased land from the government is under irrigation. The Company lamented that squatters have occupied the other half of the land leased from the Government. The matter has been before the courts for the last eight (8) years, awaiting final judgment in February, 2019.
21. KISCOL's acreage under nucleus is 70 % while 30% of their cane supply comes from out-growers. The Company also harvest cane five times for a period of 5 years because of favourable climatic conditions.
22. KISCOL uses irrigation, technical production method and mechanization in their agricultural production system, which reduces the cost of production by fifty per cent while their cane maturity cycle takes twelve months. On average, the sugar yield for Kwale International Sugar Company Limited is 1 hectare per month and yields 12 tonnes per hectare in terms of sugar production.
23. Kwale International Sugar Company Limited uses cane/weed management, fertigation and irrigation hence faster maturity time, which has an overall effect on cane production cost. The cost of production of sugar is cheaper in Coastal region due to

favourable climatic conditions compared to other parts of the Country adding that the location of other factories in Kenya is in regions not suitable for sugar cane growing.

24. KISCOL pays out growers/farmers on a monthly basis; thirty (30) days after delivery as per the contractual agreement. The Company pays weekly wages of around Kshs 4 to 5 million and farmers are paid based on formulas provided by the Sugar Directorate and determined by the market price of sugar. The Company has invested Kshs. 650 million in farmers, which includes preparing the land, providing seed cane/farm machinery and fertilizers. KISCOL pays farmers Kshs. 4,000 per tonne of sugar.
25. During their submission, the management of KISCOL briefed the Committee on the implementation status of the recommendations contained in the report by the Departmental Committee on Labour and Social Welfare as follows –

I. On the recommendation on the issuance of contract letters and/or letters of appointment to all company employees, KISCOL management submitted that:-

26. The Company is aware that terms of employment may be negotiated as part of a collective bargaining agreement if an employee joins a union. Currently, the Company is in negotiation for recognition with the Kenya Union of Sugar Plantation and Allied Workers.
27. The Management insisted that it couldn't impose terms of employment on employees that are less than the minimum terms required adding that every employee hired for a term of three or more months is issued with a written contract of employment.
28. The company has engaged various categories of employees classified in accordance with work assignment they undertake, which determines the categories of employees and the nature of contractual agreements with the company. The terms of employees in the company's engagement are:
 - i. **Permanent Employees** – These are employees who have signed contracts identifying them as permanent employees. The employees work for a probationary period of six months before being confirmed and therefore able to claim benefits. Most of the employees at the plant, corporate offices and management cadre fall in this category. The company has a total of one hundred and ninety (190) employees under this category.
 - ii. **Fixed Term Contract Employees** – These employees are engaged for a determined fixed period of time. Entitlements are determined by the terms of the contract entered into with the company. Most employees engaged in project work, expatriates or consultancy are employed under this category and issued with fixed-term contracts. The company has a total of twenty-nine (29) employees under fixed-term contracts.
 - iii. **Casual Employees** – These are employees who work for a short period of time, generally not more than twenty-four (24) hours at a time and are paid at

the end of each day or as agreed between the company and the employee(s). The company normally employs casual employees to fill positions that do not require full-time employment and for seasonal field operations such as cane weeding, harvesting or chemical spraying. Where a casual employee has worked for the company on a continuous basis of three months or the aggregate equivalent of three months, the terms are reviewed in writing as per Section 9(1) of the Employment Act. These categories of employees are not issued with written contracts since the company engages them on a need basis. The company has a total of one thousand three hundred and seventy (1370) casual labourers.

- iv. **Outsourced Labour** – The Company negotiated with registered labour supply agencies with a view to outsourcing labour engaged in various non-core company operations, including provision of staff transport services, field operations such as weeding and spraying, office and grounds maintenance and security in order to more effectively manage the workforce engaged in core operations of the company. The company has also engaged one hundred and thirteen (113) Trainees.
29. The company has issued letters of appointment to all existing employees on permanent terms, fixed-term contracts and to all new employees upon being engaged. Evaluation of the suitability of trainees for permanent employment has been done and is awaiting the commencement of milling to be effected.
 30. KISCOL informed the Committee that casual workers were not issued with contract letters in 2018 because the factory was not in operation. KISCOL is in discussion with the Ministry of Labour and Social Protection in order to commence issuance of contract letters for casual workers with effect from July, 2019. Evaluation of casual employees for eventual consideration for permanent employment is ongoing, awaiting the commencement of milling. Casual employees benefit from terms applicable to other categories of staff including overtime, Personal Protective Equipment, NHIF, NSSF and off days.
 31. The Company has developed a Human Resource Policies and Procedures Manual which will be implemented after relevant approvals to improve compliance.

II. On the recommendation that the Company adheres to the wage guidelines as per Kenya Gazette Notice No. 91 of June 2015 and to pay arrears for salaries paid below the legal threshold effective from June 2015, KISCOL management reported that:-

32. It is obligated to provide payment for work done before or on the agreed payday. Payments made are calculated hourly, daily, weekly and monthly depending on the type of employment contract. The Company pays salaries/wages to employees on permanent and pensionable terms and those on fixed terms by the 5th of every month.

Different categories of employees are paid differently as each category has specified guidelines. The Company pays unskilled workers Kshs. 277 per day which is above the amount provided for in the Employment Act.

33. Any changes in salaries that are already negotiated and are above the minimum wages guidelines are done through periodic salary reviews undertaken by the company after every two years or as the need arises. Currently, there are no employees earning wages that are below those stipulated in the wage guidelines for their positions.
34. The company has complied with the minimum wage guidelines up to December, 2018. It is in the process of adjusting wages and arrears for employees on casual terms to be effected from April 2019, in compliance to wage increment awarded on May 1, 2018. The arrears of wages arising from non-compliance from 2015 have been calculated and the company is in consultation with the Ministry of Labour on the way forward.

III. On the recommendation that KISCOL provides protective gear and equipment (PPE) and enforce safety measures and regulations as required by the law, the management reported that:-

35. It undertook the following measures to ensure safety and health rules, regulations and procedures as well as compliance by everyone at the workplace:
 - (i) Constituted an Occupational Safety and Health Committee chaired by the General Manager with the mandate of ensuring that safety and health rules, regulations and procedures are enforced throughout the Company;
 - (ii) Created an Occupational Safety and Health Department, headed by a professional, competent safety and health manager and supported by three occupational safety and health officers to address issues in a timely manner;
 - (iii) Developed and implemented an Environment Safety and Health Policy; Procedures manual and a Risk Management Policy, which has helped employees understand the potential hazards in the work environment. The Company has also developed and implemented administrative controls that rely on human behaviour and supervision to minimize the risk of injury to employees;
 - (iv) Issuance of Personal Protective Equipment (PPEs) annually to the operative cadre of staff in order to limit exposure to harmful effects of hazards and training employees on the correct use of PPEs. The PPEs issued included breathing protection, gloves, aprons, protective eyewear, overalls, dust coats and footwear. The Company provides protective equipment to all its employees and ensures that any employee taking on an assignment wears the requisite protective gears;
 - (v) The Company further carried out a risk-assessment in company operations in conjunction with the Directorate of Occupational, Safety and Health (DoSH) and put in measures to eliminate risks. The company has implemented the

recommendations of the DoSH audit and further carried out training and awareness to workers to reduce risks;

- (vi) The Company has also implemented a structured occupational accident review and investigation program; complied with the statutory examination of plant and lifting equipment; developed and implemented an emergency response plan and conducts annual OSH medical examination in accordance with the law.

36. The aforementioned actions have not only ensured compliance with the law but also promoted the wellness of both employees and the company and prevented illness and injury and reduced safety and health hazards.

IV. On the recommendation that KISCOL provides water, sanitation facilities and food, the management submitted that:-

- 37. It has provided adequate toilets and washing facilities for employees. Enough toilets and washing basins for employees ensuring that employees do not queue for long periods to go to the toilet or a hand washing facility. The sanitary facilities for male employees are twenty-seven (27) toilets, twenty-two (22) hand washes, eleven (11) urinals and five (5) bathrooms and for the female employees fifteen (15) toilets, eleven (11) hand wash and three (3) bathrooms. The facilities provided for men and women have lockable doors. There is supply of toilet paper and for female employees, a means of disposing of sanitary dressings.
- 38. The company has provided facilities that are well lit and ventilated and enough soap and other washing agents.
- 39. There are currently thirteen (13) water points at the factory and drinking water is available in all offices and at water pumping stations in various locations in the field. The company has provided portable drinking water both at the factory and the field. The company provided boreholes with drinking points supplemented with water bowsers in some specific areas within the factory.
- 40. The Company has provided canteen and suitable seating areas for all employees to use during meal breaks. Good hygiene standards are maintained and food handlers undergo medical examinations as required by law and issued with health certificates. Employees can buy their food at the canteen at subsidized rates or they may bring their own food and eat from the canteen. The company has arranged for employees buying food at the canteen to have the cost deducted from their wages at the end of the month.

V. On the recommendation that KISCOL provides adequate transportation facilities and a storage facility in the trucks for tools, the management submitted the following:-

41. The company has fitted benches in designated trucks that ferry workers to various locations of the company's cane farming and harvesting activities. The company has already fitted three trucks with seats, staircases and canopies in order to ferry workers to their places of work safely. The company has procured a minibus and a van assigned to ferry staff to and from Ukunda. A 58 seater bus has been identified for purchase and a budget set aside for that purpose. The company is exploring the possibility of making a provision for a commuter allowance or outsourcing of the transport.
42. Tool boxes have been provided on all trucks used to ferry field staff. The process of modifying three other trucks was on-going and would contain separate compartments for ferrying of hand tools. The procedure requires that all tools be put in the toolboxes at the completion of work assignments and re-issued at the commencement of work the following day. Hand tools boxes have been fabricated for use on trucks with separate hand tools compartments.
43. Drivers operating vehicles ferrying/transporting workers have undergone additional training by attending defensive driving and first aid courses paid for by the company.

VI. On the recommendation that KISCOL provides a medical scheme, wellness programme and processes workman compensation for those that qualify, the management submitted that:-

44. Every employee is required to present an NHIF card, NSSF card, KRA pin and mobile number before he/she can take up employment with the company. This enables the company to confirm the status of their NHIF account, guide accordingly and comply with regulatory and legal requirements of employment.
45. The company has established a medical clinic named *Get Well Soon* to provide first aid services, medical treatment, treatment for injury and management of referrals to other hospitals as required. The clinic is registered by the Government, manned by professional, competent staff and has a laboratory and pharmacy.
46. The company has entered a Memorandum of Understanding (MoU) with Msambweni Referral Hospital to enable its employees to receive healthcare services when required or in emergency cases that the clinic may not be able to handle. Under this arrangement, the hospital bills the company directly for any services provided to employees.
47. The company takes out insurance policy every year for its employees and pays all the medical bills for employees injured at work, allows injury leave as well as compensation as determined by the attending doctor, insurance doctors and the Director of Occupational, Safety and Health. The Company has commenced evaluation

quotations from the service provider for the establishment of a medical insurance scheme. The company has established a medical advance scheme to support employees seeking medical services for dependents not provided for under the general medical.

48. The company has employed an experienced insurance officer to handle all matters related to work injury benefits and other insurance issues. The mandate of the insurance officer is to ensure that the compensation claim process is complied with and that there is no delay in compensating employees who are injured at work.
49. The Company has carried out employee education on compensation procedures to its employees and the law gives each party an opportunity to appeal and seek intervention from the courts if one is not satisfied with the amount compensated. Four (4) employees have received compensation in March, 2019 and a certificate of payment issued by the Directorate of Occupational Safety and Health.
50. The company is in compliance with the WIBA Act 2007 on workman compensation. It makes annual purchases of GPA insurance policy that covers all employees in case of accidents or injury at work. The company pays all medical bills for employees injured at work, grants injury leave as well as compensation under the Directorate of Occupational Safety and Health as provided for in law.
51. The high turn over of a management team at KISCOL has been blamed for the lapse in the implementation of the recommendations of the Departmental Committee on Labour and Social Welfare's Report but the current CEO assured the Committee that the company would meet the requirements of the law and implement the recommendations of the National Assembly.
52. KISCOL informed the Committee that majority of the out-growers are from Nyanza and Western region and that locals don't have the will to cut canes. However, employing workers from distant areas brings about additional expenses for transport. Some of the people transported from far flung areas do not turn up for work despite the company spending money on their transportation from their home areas to Kwale County.

3.2 Meeting with the Workers of Kwale International Sugar Company Limited

During an inspection visit held on Friday 29th March, 2019, Mr. Douglas Danda Karunza, a Cane Cutter; Mr. Hassan Seif, a Zone Officer; Mr. Ngala Mbui, a Labourer and other workers of Kwale International Sugar Company Limited appeared before the Committee and submitted the following:-

53. The workers claimed that they were not issued with contract letters/letters of appointment hence no proof of them being employees of Kwale International Sugar Company, despite having worked for the company for years. Some workers have been

working for long periods of time without salary review. A case in point is a worker who stated that he had been working for nine years without any salary review.

54. The casual workers are supposed to be paid weekly but the company has not been paying them on time. The workers are paid one-week wages in a span of five weeks, such that the company owes them four weeks wages. They also informed the Committee that they are paid late in the evening, long after their working hours ended. Some have been casual workers for longer periods, as long as 5 years, with no salary increment since employment and work continuously, on a daily basis from 6 am to 2 pm.
55. Statutory deductions:- The workers are deducted a total of Kshs. 500 monthly; Kshs. 300 for NHIF and Kshs. 200 for NSSF and issued with cards but the company doesn't remit the deductions as required by law.
56. Disparities in payments of workers:- The employees alleged that workers from other regions were treated more favourably than those from the neighbouring community. Some workers claimed that the locals are paid less than their counterparts from other regions of the Country including being provided with accommodation, a claim that was disputed by employees from other regions of the Country.
57. On provision of Personal Protective Equipment (PPEs), the employees reported that workers had not been provided with adequate personal protective equipment. They claimed that overalls had been provided on that day in anticipation of the Committee's inspection visit. Workers in the spray section are not provided with suitable and adequate personal protective equipment including spray suits, respirator masks, hand gloves and eye protection but are merely provided with disposable gloves of poor qualities, thus endangering their lives.
58. On the issue of workmen compensation, some employees informed the Committee that some of the workers of the company were injured in the line of duty e.g. falling from a moving lorry or involved in an accident and paralyzed but weren't compensated.
59. On the provision of a medical facility, the workers claimed that they were advised by the company to choose their preferred hospital facility but their dependents were not treated when they visit such facilities. The workers also pay for services provided at the Company's clinic. Sick workers are asked to pay at the staff clinic before being attended to.
60. Some workers were not given tools for work (jembes and pangas) and have to carry their personal tools from home hence the need for tools storage compartment in the transportation trucks. The workers further alleged that they were forced to return home if they did not come with their working tools.

61. The employees of KISCOL further informed the Committee that: -

- (i) Workers in the field have not been provided with sanitary facilities;
- (ii) Workers are usually picked from their homes as early as 2 am to start work at 6 am;
- (iii) The workers are not supplied with wholesome drinking water;
- (iv) The workers are transported in open lorries and tractors;
- (v) Farm supervisors cover a large area to supervise yet they are not provided with modes of transport hence they have to supervise work in their areas on foot. A case in point is a supervisor with a coverage of 360 hectares which he covers on foot;
- (vi) Cane cutters are not provided with hand gloves; and
- (vii) Workers do not have a union to represent their interests.

3.3 Submissions from the Ministry of Labour and Social Protection

The Committee during an inspection visit held on Friday 29th March, 2019 met with Kwale County Occupational Safety and Health Officer, Mr. Bernard Simiyu and Mr. Elly Jometho, County Labour Officer and further recieved submissions from the Ministry of Labour and Social Protection on 31st October, 2019. They submitted that: -

62. The Directorate of Occupational Safety and Health carried out a workplace inspection at Kwale International Sugar Company Ltd on 3rd November 2017, and issued an Improvement Notice to the company.

63. The company then started complying with the Improvement Notice and so far, there is a health and safety department in the company headed by a safety manager, Mr. Alfred Yamo and a safety officer, Mr. Harriet Olonde. The health and safety department carried out occupational health & safety risk assessments, formulated and publicized the health & safety policy. A fire safety team has been formed and the same was trained in January, 2018 by Safety and Environment Focus, an approved training institution. A health and safety committee team has since been formed and the same was trained in August, 2018 by the aforementioned Safety and Environment Focus.

64. KISCOL facilitated occupational medical examinations which were carried out on 2nd August 2018 by Dr. G. A. Kamau, a Designated Health Practitioner. Plant and lifting equipment had been examined on 25th March 2018 by Mr. Peter Mwai Muigai, an Authorised Plant Examiner. An abstract of the Occupational Safety and Health Act had been posted in prominent positions at the workplace.

65. On contract/appointment letters, all the permanent and term contract employees have been issued with contract/appointment letters and new employees are issued with the same on recruitment. However, the long serving casual employees have not had their terms converted to regular terms as provided by the Employment Act, 2007 and they

have not been issued with contracts/appointment letters. The employer has formulated the contracts/appointment letters for the long serving casuals but has not issued them. The management maintains that the issuance of the contracts and conversion of the long serving casuals to regular terms is largely dependent on the commencement of milling operations which are yet to start.

66. On adherence to Kenya Gazette Notice No. 91 of 2015, the management of KISCOL acknowledged that the Legal notice was not applied and therefore owe the employees the resultant difference in the wages paid with the arrears amounting to approximately Kshs. 3 million and that the employer is in compliance with the current stipulated minimum wage. The management cited commencement of milling operations to facilitate the payment of the applicable wage arrears and proposed a grace period of three months to start paying the same in phases.
67. On the issue of transport, three trucks have been modified and fitted with benches for workers to sit on, while being transported.
68. The Ministry processed workmen compensation for seven employees of KISCOL in 2016 and confirmed that KISCOL had been reporting occupational accidents and submitting DOSH 1 forms which have been filled by the doctor for the office of the DOSH to assess the compensation due to the workers.
69. A total of 21 work related injuries had been reported by KISCOL to the County Occupational Safety and Health Officer, Kwale County as at 1st April 2019 out of which only one injury was fatal involving one employee who was compensated at Kshs. 820,224 to the dependants of the deceased employee.
70. The total amount of compensation demanded from the Company as at 1st April 2019 amounted to Kshs. 11,122,914. Out of the total amount claimed of Ksh. 11,122,914, the workplace has paid Ksh. 5,493,709, translating to about 49% paid claims.
71. A summary of WIBA cases reported to the occupational safety & health office which have been assessed for compensation and their status, whether paid or still pending, is attached as part of the submission from the Ministry of Labour and Social Protection, for ease of reference.

3.4 Meeting with Hon. Suleiman Dori, MP

The Hon. Suleiman Dori, MP, the then Member for Msambweni Constituency, appeared before the Committee on Tuesday 30th April, 2019 to consider implementation status of the report on the petition of deplorable working conditions of workers at Kwale International Sugar Company. He submitted that:-

72. Kwale International Sugar Company was allocated the area they currently occupy in 2007 by the Government of Kenya (GoK) and become operational in 2015. The factory premises and nucleus farm which is approximately 58,000 acres were initially allocated to Ramisi Sugar Company by the GOK. When Ramisi Sugar collapsed, part of the land was invaded by squatters and KISCOL was then allocated 15,000 acres but currently occupies 7,000 acres of land. He confirmed to the Committee that no person has presented to him that their land had been taken away from them.
73. He supports the improvement of working conditions for the employers and has been liaising with the management of the Company on the same. The benefits of the company to his constituency has been immense and therefore any recommendation to close the factory would adversely affect the economic situation of Msambweni Constituency.
74. He further clarified that the allegations that workers from other regions were better paid than those from the locality or were issued with houses were untrue. The locals were given priority when the factory started operations but most of those who were employed in cane harvesting declined the opportunity which left the Company with no choice but to source for workers from Western region of the Country. Further, when the public mills began declining, their workers sought employment in KISCOL.
75. During the site visit conducted by the Committee from 28th to 31st March 2019, it had emerged that sector managers do not have transportation to enable them properly supervise the large sections of land assigned to them. Cane workers do not have transportation to their homes after working hours which sometimes can be late. Adequate ablutions blocks are also lacking.
76. The Hon. Member of Msambweni reported that the Company transports the cane workers in trucks which is considered inhumane. The MP stated that there is need for the management of the company to provide better transport services for the workers.
77. The Member assured the Committee that he would regularly follow up with the management of the Company on the undertakings they committed to the Committee during the various meetings.
78. He also submitted that the company's cash flow has been affected by the seizure of sugar and the closure of its warehouses by the inter-agency task force thus hindering

its ability to continue undertaking the CSR projects it had earlier committed to. He pointed out that the company had ceded land for Duncan Ndegwa primary School and Fingirika Primary School, for the schools to move from the centre of the farm to the edge of the farm.

79. He presented that the company faced the following challenges:-

- (i) The 4,200 acres issued to the company by the National Government was occupied by squatters. The Member informed the Committee that the management of KISCOL had assured him that they would engage with the squatters including conceding part of the land for resettlement, approximately 100 acres; a matter he also engaged with the Kwale County Land Administration office.
- (ii) The high management turnover has impeded the implementation of the undertakings by the Company as each new management came in with new ideas or new ways to implement the recommendations of the Departmental Committee on Labour and Social Welfare.

4.0 IMPLEMENTATION STATUS OF THE RECOMMENDATIONS OF THE REPORT

80. Below are the recommendations of the report of the Departmental Committee on Labour and Social Welfare and the implementation status of each:

Recommendation 1: The Management of KISCOL should within ninety days of tabling the report issue letters of contracts/letters of appointment to all employees

Implementation status

- (1) The KISCOL has continued to issue letters of appointment to all new employees before they join its employment.
- (2) The company has formulated contracts for long serving casuals but has not issued them. The process of issuing contracts was to commence in March, 2020 but was suspended due to the COVID-19 pandemic.

Recommendation 2: The Management of KISCOL should adhere to the wage guidelines as per the Kenya Gazette Notice No. 91 of June 2015 and also pay arrears for salaries paid below the legal threshold effective June, 2015

Implementation status

- (1) The company is now compliant with the minimum wage requirement as per the Regulations of Wages (General) (Amendment) Order 2018 – Legal Notice No. 2 of 2019 and the Regulation of Wages (Agricultural Industry) (Amendment) Order 2018 – Legal Notice No. 3 of 2019.

- (2) The total wage arrears arising from non-compliance with Legal Notice No. 91 of 2015 had been determined to be Kshs.3.69 million. The company liaised with the County Labour Officer for cases of employees who have since left employment and cannot be traced and is awaiting feedback from the County Labour Office on the matter.

Recommendation 3: The Management of KISCOL should provide protective gears and enforce the safety measures, regulations and use of protective gears in the company as required by law

Implementation status

The company has issued requisite PPEs to all employees as per the requirements of Work Injury Benefits Act (WIBA) No. 13 of 2007. They include gumboots, reflectors, dust mask, security boots, ear muffs, helmets, security line yards, whistle, security belts, chef caps, aprons, chef coats, rubber shoes, t-shirts, clear goggles, leather gloves, rubber gloves, respirators, ear plugs, overalls (brown), dark grey overalls, yellow split overalls, orange split overalls, navy blue split overalls, green split overalls, sky blue split overalls, welding shield, leather aprons, raincoats, lab coats and head net.

Recommendation 4: The Management of KISCOL should provide proper sanitation, food and water to its employees

Implementation Status

- (1) KISCOL has constructed enough toilets and washing basins for its workers ensuring that employees do not queue for long periods to go to the toilet or a hand washing facility. The sanitary facilities for male employees are twenty-seven (27) toilets, twenty-two (22) hand washes, eleven (11) urinals and five (5) bathrooms) and for the female employees are fifteen (15) toilets, eleven (11) hand wash and three (3) bathrooms.
- (2) Water bowsers continue to fetch clean drinking water for employees working in the field on a daily basis.
- (3) The staff canteen is in place and offers meals to employees at subsidized rates payable through check-off system.
- (4) Since the global/country/counties spread of Covid-19 pandemic, the company continues to implement/adhere to measures and guidelines put in place by the Ministry of Health and World Health Organization. In the foregoing, the company increased water points and hand washing facilities in strategic areas of the company premises as well as continuously availing hand washing soaps, toiletries and alcohol based sanitizers to employees for use.

Recommendation 5: The Management of KISCOL should provide better alternative modes of transportation for their employees and further provide a separate compartment for tools and its workers in the mode of transport

Implementation status

Four trucks, four vans and four minibuses had been modified to provide comfortable, spaced seating for employees to comply with traffic requirements and the Ministries of Health and Transport's existing protocols for public and private transport.

Recommendation 6: The Management of KISCOL should provide a medical scheme for its workers and ensure compensation for those who have been disabled or injured while at work

Implementation Status

- (1) Employees access medical services at the company's clinic and under an MoU arrangement with Msambweni County Referral Hospital.
- (2) KISCOL continues to sensitise employees on requirements, rules and regulations governing the work injury compensation scheme and process – This is done through internal awareness, DOSH trainings and paid seminars.
- (3) The company had fully complied with Work Injury Benefits Act (WIBA) 2007 requirements in terms of compensation of employees injured at the work premises.

5.0 COMMITTEE OBSERVATIONS


81. The Committee observed that: -

- (1) KISCOL has implemented most of the recommendations of the report of the Departmental Committee on Labour and Social welfare except for wage arrears arising from non-compliance with Legal Notice No. 91 of 2015 which have been determined to be Kshs.3.69 million.
- (2) There is a pending claim of work related injuries totaling to Kshs. 5,493,709.
- (3) The Company needed time to implement what they had undertaken to do especially on improving employers' welfare. The Committee notes that KISCOL's operations had been stopped for eighteen (18) months, from June, 2018 to November, 2019.
- (4) An approximately 4,200 acres of land that was issued to KISCOL by the National Government was occupied by squatters.

6.0 COMMITTEE RECOMMENDATIONS

82. The Committee recommends THAT:-

- (1) Kwale International Sugar Company Limited expedites the payment of wage arrears of Kshs. 3. 69 million arising from non-compliance with Legal Notice No. 91 of 2015 and further ensures that employees are paid all their dues as per the agreed terms of employment. The Company should report to the Committee within ninety days of tabling this report;
- (2) Kwale International Sugar Company Limited ensures total compliance to all the laws/ regulations pertaining to employment;
- (3) The Directorate of Occupational Safety and Health under the Ministry of Labour and Social Protection should ensure the payment of pending compensation claims to work related injuries totaling to Kshs. 5,493,709 and reports back to the Committee within ninety days of tabling this report; and
- (4) On squatters living on Kwale International Sugar Company Limited land, the Committee proposes that KISCOL and the local leadership hold a dialogue in order to find an amicable solution as the company had expressed willingness to allocate some parcels of land to the squatters.

Signed  Date 25/11/2020.
Hon. Moitalel Ole Kenta, MP
Chairperson, Select Committee on Implementation

The National Assembly



12th Parliament-4th Session-2020

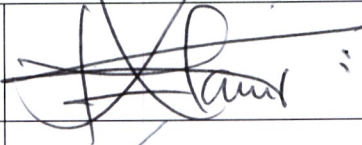

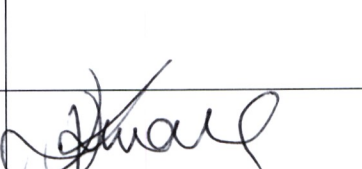

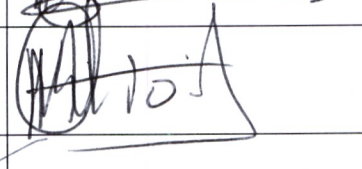

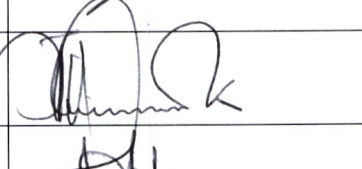
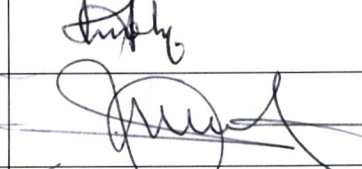

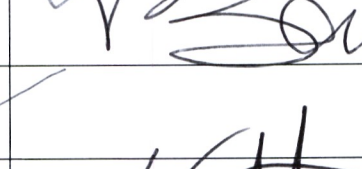
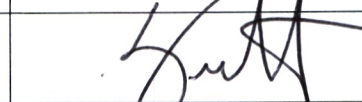
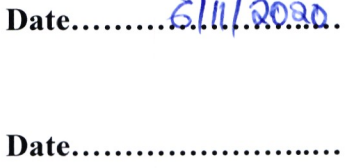


Committee on Implementation


We, the Members of the Committee on Implementation, have pursuant to Standing Order 199 adopted the Report on Implementation status of the Report of the Departmental Committee on Labour & Social Welfare on the Petition on Deplorable Working Conditions of workers at Kwale International Sugar Company Limited. We affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity.

Venue: *Bavaza / Conference Hall, White Sands Hotel*

Date: *6/11/2020*

S/NO.	NAME	SIGNATURE
1.	The Hon. Moitalel Ole Kenta, MP – Chairperson	
2.	The Hon. Godfrey Osotsi, MP - Vice Chairperson	
3.	The Hon. Richard Onyonka, MP	
4.	The Hon. Alois Musa Lentoimaga, MP	
5.	The Hon. Francis Munyua Waititu, MP	
6.	The Hon. (Dr.) James Kipkosgei Murgor, MP	
7.	The Hon. John Muchiri Nyaga, MP	
8.	The Hon. Johnson Many Naicca, MP	

9.	The Hon. Joseph Wathigo Manje, MP	
10.	The Hon. Moses Kiarie Kuria, MP	
11.	The Hon. Paul Simba Arati, MP	
12.	The Hon. Peter Kimani Kihara, MP	
13.	The Hon. Charles Ngusya Nguna, MP	
14.	The Hon. Gabriel Kago Mukuha, MP	
15.	The Hon. Hassan Oda Hulufu, MP	
16.	The Hon. Jared Okello, MP	
17.	The Hon. Joash Nyamache Nyamoko, MP	
18.	The Hon. Joshua Mwalyo Mbithi, MP	
19.	The Hon. Michael Thoya Kingi, MP	
20.	The Hon. Nelson Koech, MP	
21.	The Hon. Owen Yaa Baya, MP	
22.	The Hon. Paul Abuor, MP	
23.	The Hon. Silvanus Osoro, MP	

Committee Clerk
 Name..... Abdulkhman Gek Hassan 
 (Signature)

Date..... 6/11/2020

Director, Committee Services
 (Signature)

Date.....

MINUTES OF THE 29TH SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON FRIDAY, 6TH NOVEMBER, 2020, IN BARAZA 1 CONFERENCE ROOM, SAROVA WHITESANDS HOTEL, MOMBASA AT 2.30 PM.

Present

1. The Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. The Hon. Godfrey Osotsi, MP - **Vice Chairperson**
3. The Hon. Alois Musa Lentoimaga, MP
4. The Hon. (Dr.) James Kipkosgei Murgor, MP
5. The Hon. Johnson Many Naicca, MP
6. The Hon. Joseph Wathigo Manje, MP
7. The Hon. Charles Ngusya Nguna, MP
8. The Hon. Jared Okello, MP
9. The Hon. Joash Nyamache Nyamoko, MP
10. The Hon. Joshua Mbithi Mwalyo, MP
11. The Hon. John Muchiri Nyaga, M.P
12. The Hon. Mukuha Gabriel Kago, MP
13. The Hon. Michael Kingi, MP
14. The Hon. Owen Yaa Baya, MP
15. The Hon. Peter Kihara, MP
16. The Hon. Silvanus Osoro, MP

Apologies

1. The Hon. Richard Onyonka, MP
2. The Hon. Francis Munyua Waititu, MP
3. The Hon. Moses Kuria, MP
4. The Hon. Paul Simba Arati, MP
5. The Hon. Paul Odalo Abuor, MP
6. The Hon. Hassan Oda Hulufu, MP
7. The Hon. Nelson Koech, MP

In-Attendance

Committee Secretariat

1. Ms. Florence Abonyo - Director, Audit, Appropriations & Other Select Committees
2. Ms. Tracy Chebet Koskei - First Clerk Assistant
3. Mr. Abdirahman G. Hassan - Second Clerk Assistant
4. Mr. Peter Mwaura - Senior Legal Counsel
5. Mr. Donald Manyala - Research Officer II

6. Ms. Jane Serem

- Audio Officer

MIN. NO.NA/COI/2020/143: Preliminaries

The Chairperson called the meeting to order at thirty minutes past two o'clock and said the Prayer. The Agenda of meeting was adopted after it was proposed and seconded by the Hon. Charles Ngusya Nguna, MP and the Hon. Godfrey Osotsi, MP, respectively.

MIN. NO.NA/COI/2020/144: Consideration of the report on the Implementation Status of the Report of the Departmental Committee on Labour and Social Welfare on the Deplorable working Conditions of Workers at Kwale International Sugar Company limited (KISCOL)

The Committee considered and adopted the Report on Tuesday 1st September, 2020, however, the Committee received submissions from the Petitioner, the Hon. Zuleikha Juma Hassan, MP, which disputed the implementation status as submitted by the management of KISCOL, forcing the Committee to reconsider the Report before Tabling.

The Member, vide a letter dated 17th September, 2020 raised the following issues:

- (i) Many workers were yet to get contract letters and are still treated as casuals;
- (ii) No worker has been paid arrears of the years that they were paid below minimum wage;
- (iii) The Member also attached documents of a Member of staff who had been injured at work and was yet to be compensated;
- (iv) Further, the Member provided a photograph of crowded staff being ferried to work against the Ministry of Health guidelines on COVID-19 mitigation, raising concern on KISCOL's commitment to protect its workers against the pandemic.

In response to the above letter, the Committee wrote to KISCOL to provide a submission on the issues raised. KISCOL vide a letter dated 30th October, 2020 responded as follows, That: -

The company had issued contracts of employment to all employees on permanent terms of employment and trainees. Contracts for casual employees have been developed and approved,

however, the process of issuing them have stalled as older employees have raised various issues regarding what happens to their previous contracts.

In that regard, the matter was raised with the Kwale County Labour Office, where various awareness sessions had been arranged involving management representatives, Labour Office and employees.

The company has so far modified five trucks to provide comfortable, spaced seating for employees to comply the traffic requirements and the existing Ministries of Health and Transport protocols. The company provided registration numbers of the vehicles; *KAC 604B, KBY 037M, KBS 382K, KBX 285C and KBV 763M*. The company further submitted that it had made available two vans, being *KCC 274G and KBC 502R* for ferrying supervisory staff.

Regarding the progress of payment of wage arrears arising from non-compliance to Legal Notice No. 91 of 2015, the company reported that it had liaised with the County Labour Office for the case of employees who had left employment. The County Labour Office had advised the company effects for employees still with the company and was in the process of doing so. The County Labour Office stated that he has had challenges in tracing the employees who have since left employment and sought the assistance to do so.

Regarding the employee who was injured at work, a Mr. Bakari Juma Mahondo, the company reported that the matter was reported to the company's safety office and facilitated the treatment of the injured staff at Kwale Eye Hospital and Msambweni Teaching and County Referral Hospital, where the doctors assessed his percentage incapacity, DOSH Part 1 and 2 were submitted to the County DOSH office-Mombasa. WIBA 4 compensation certification was acquired and all documents submitted to the insurance to enable for compensation.

The Committee having considered the submission, unanimously adopted the report after it was proposed and seconded by the Hon. (Dr.) James Murgor, MP and the Hon. Peter Kihara, MP, with the following observations and recommendations:

Committee Observations

- (1) KISCOL has implemented most of the recommendations of the report of the Departmental Committee on Labour and Social welfare except for wage arrears arising from non-compliance with Legal Notice No. 91 of 2015 which have been determined to be Kshs.3.69 million.
- (2) There is a pending claim of work related injuries totaling to Kshs. 5,493,709.

- (3) The Company needed time to implement what they had undertaken to do especially on improving employers' welfare. The Committee notes that KISCOL's operations had been stopped for eighteen (18) months, from June 2018 to November, 2019.
- (4) Squatters occupied approximately 4,200 acres of land that was issued to the company by the National Government.

Committee Recommendations

- (1) Kwale International Sugar Company Limited expedites the payment of wage arrears of Kshs. 3.69 million arising from non-compliance with Legal Notice No. 91 of 2015 and further ensures that employees are paid all their dues as per the agreed terms of employment. The Company should report to the Committee within ninety days of tabling the report;
- (2) Kwale International Sugar Company Limited ensures total compliance to all the laws/regulations pertaining to employment;
- (3) The Directorate of Occupational Safety and Health under the Ministry of Labour and Social Protection should ensure the payment of pending compensation claims to work related injuries totaling to Kshs. 5,493,709 and reports back to the Committee within ninety days of tabling the report; and
- (4) On squatters living on Kwale International Sugar Company Limited land, the Committee proposes that KISCOL and the local leadership hold a dialogue in order to find an amicable solution as the company had expressed willingness to allocate some parcels of land to the squatters.

MIN. NO.NA/COI/2020/145: Adjournment

There being no other business, the meeting was adjourned at five o'clock (5.00 pm).

Sign.....  Date..... 25/11/2020

(Chairperson)

**MINUTES OF THE 23RD SITTING OF THE COMMITTEE ON IMPLEMENTATION
HELD ON TUESDAY 30TH APRIL, 2019, IN THE COMMITTEE ROOM, 4TH
FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 12:00 PM.**

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. The Hon. Onesmas Kimani Ngunjiri, MP
3. The Hon. Richard Onyonka, MP
4. The Hon. Francis Munyua Waititu, MP
5. The Hon. (Dr.) James Kipkosgei Murgor, MP
6. The Hon. Johnson Many Naicca, MP
7. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
8. The Hon. Paul Odalo Abuor, MP
9. The Hon. Owen Yaa Baya, MP
10. The Hon. Joshua Mbithi Mwalyo, MP
11. The Hon. Jared Okello, MP
12. The Hon. Michael Kingi, MP
13. The Hon. Charles Ngusya Nguna, MP

APOLOGIES

1. The Hon. Godfrey Osotsi, MP - **Vice Chairperson**
2. The Hon. Maj. (Rtd) John Waluke Koyi, MP
3. The Hon. Alois Musa Lentoimaga, MP
4. The Hon. George Theuri, MP
5. The Hon. Joseph Wathigo Manje, MP
6. The Hon. Paul Simba Arati, MP
7. The Hon. Generali Nixon Kiprotich Korir, MP
8. The Hon. Hassan Oda Hulufu, MP
9. The Hon. Nelson Koech, MP
10. The Hon. Silvanus Osoro, MP

IN-ATTENDANCE

Hon. Suleiman Dori, MP - Msambweni Constituency

The National Assembly

1. Ms Rose M. Wanjohi - First Clerk Assistant
2. Mr Abdirahman G. Hassan - Third Clerk Assistant
3. Mr Peter Mwaura - Senior Legal Counsel
4. Mr. Eugene Apaa - Research Officer III
5. Ms. Jane Serem - Audio Officer I
6. Ms. Zainabu Wario - Sergeant-at-arms

MIN. NO.NA/COI/2019/106:

PRELIMINARIES

The Chairperson called the meeting to order at ten minutes past twelve o'clock and said the Prayer. The Agenda of the meeting was adopted as proposed and seconded by the Hon. (Dr.) James Murgor, MP and the Hon. Onesmas Ngunjiri, MP respectively.

MIN. NO. NA/COI/2019/107

CONFIRMATION OF MINUTES

The Agenda item was deferred

MIN. NO. NA/COI/2019/108

**MEETING WITH MEMBER OF
PARLIAMENT, MSAMBWENI ON
KWALE INTERNATIONAL SUGAR
COMPANY**

Hon. Suleiman Dori, MP, Msambweni Constituency, appeared before the Committee on the implementation status of a petition of deplorable working conditions of workers at Kwale International Sugar Company. He submitted that:-

Kwale International Sugar Company was allocated the area they currently occupy in 2007 by the Government of Kenya and become operational in 2015. The factory premises and nucleus farm approximately 58,000 acres were initially allocated to Ramisi Sugar Company by the GOK. When Ramisi Sugar collapsed, part of the land was invaded by squatters and KISCOL was then allocated 15,000 acres but currently occupies 7,000 acres of land. He confirmed to the Committee that no person has presented to him that their land had been taken away from them.

He supports the improvement of working conditions for the employers and he has been liaising with the management of the Company on the same. The benefits of the company to his constituency has been immense and therefore any recommendation to close the factory would adversely affect the economic situation of his Constituency. He further clarify that the allegations that workers from other regions were better paid than those from the locality or that they were issued with houses were untrue. He presented that when the factory started operations he was allocated 300 slots for his Constituents for jobs in the factory. But most of those who were employed in cane harvesting declined the opportunity which left the Company with no choice but to source from the Western region of the Country. Further, when the public mills began declining their workers sought employment in KISCOL.

He alleged that that some persons appeared to have been hired to embarrass the Committee on Labour and Social Welfare as was witnessed during its inquiry into the matter.

During the site visit conducted by the Committee from 28th to 31st March 2019, it had emerged that that sector managers do not have transportation to enable them properly supervise the large sections of land assigned to them. Cane workers do not have transportation to their homes after working hours which sometimes can be late. Adequate ablutions blocks are lacking. The Hon. Member of Msambweni while agreeing with what the

Committee observed, reported that the Company transports the cane workers in trucks which is considered inhumane. He is therefore engaging the Company for provision of better transport services for the workers.

He cautioned that “activists” may have infiltrated the Company and were being used to portray the Company in a negative light. He did assure the Committee that he would regularly follow up with the management of the Company on the undertakings they committed to the Committee during the various meetings. He also presented that the Company’s cash flow has been affected by the seizure of sugar and the closure of its warehouses by the inter-agency taskforce thus hindering its ability to continue undertaking the CSR projects it had earlier committed to. He did provide examples of two schools in the area Duncan Ndegwa primary School and Fingirika Primary School, which the Company had ceded land for the schools to move from the center of the farm to the edge of the farm.

He undertook to follow up with the Company for them to increase the wages of the workers which were deemed low.

Some of the challenges that the Company is facing include:-

1. 4,200 acres issued to the company by the National Government were currently being occupied by squatters. The Company had assured him that they would engage with the squatters including conceding part of the land for resettlement, approximately 100 acres a matter he is also engaging the County land Administration on.
2. The high management turnover has impeded the implementation of the undertakings by the Company as each new management came in with new ideas or new ways to implement the recommendations of the Departmental Committee on Land

Committee Observations

The Committee observed that:-

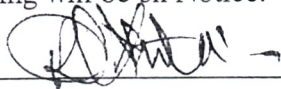
1. The Company needed time to implement what they had undertaken to do especially on improving employers’ welfare;
2. That there should be a balance between ensuring that an organization takes care of its employees’ welfare and losses that would occur if it was to shut down;
3. It was a good sign that the organization did allow for scrutiny of its operations by the Committee; and
4. It would be prudent for local leaders and County Government to work closely especially to attract and maintain investments such as KISCOL.

MIN.NO. NA/COI/2019/109

ADJOURNMENT

There being no other business, the meeting was adjourned at a quarter past one o’clock. The next meeting will be on Notice.

Signed: _____



(Chairperson)

Date: _____

7/5/2019

MINUTES OF THE 19TH SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON FRIDAY 29TH MARCH 2019, IN THE FIELD ON FACTORY PREMISES, KWALE INTERNATIONAL SUGAR COMPANY LIMITED, MSAMBWENI CONSTITUENCY, KWALE COUNTY AT 2:30 PM

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. The Hon. Richard Onyonka, MP
3. The Hon. (Dr.) James Kipkosgei Murgor, MP
4. The Hon. Johnson Many Naicca, MP
5. The Hon. Hassan Oda Hulufu, MP
6. The Hon. Charles Ngusya Nguna, MP

APOLOGIES

1. The Hon. Godfrey Osotsi, MP - **Vice Chairperson**
2. The Hon. Alois Musa Lentoimaga, MP
3. The Hon. Maj. (Rtd) John Waluke Koyi, MP
4. The Hon. Francis Munyua Waititu, MP
5. The Hon. George Theuri, MP
6. The Hon. Joseph Wathigo Manje, MP
7. The Hon. Onesmas Kimani Ngunjiri, MP
8. The Hon. Paul Simba Arati, MP
9. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
10. The Hon. Silvanus Osoro, MP
11. The Hon. Owen Yaa Baya, MP
12. The Hon. Joshua Mbithi Mwalyo, MP
13. The Hon. Michael Kingi, MP
14. The Hon. Paul Odalo Abuor, MP
15. The Hon. Generali Nixon Kiprotich Korir, MP
16. The Hon. Jared Okello, MP
17. The Hon. Nelson Koech, MP

IN-ATTENDANCE

Hon. Zuleikha Juma Hassan, MP

Kwale International Sugar Company Limited Workers

- | | | |
|-----------------------------|---|--------------|
| 1. Mr Douglas Danda Karunza | - | Cane Cutter |
| 2. Ms Fatuma Chigamba | - | Cane Cutter |
| 3. Mr Ngalaa Mbui | - | Labourer |
| 4. Mr Mwanyawa Tsuma | - | Zone Officer |
| 5. Mr. Jackson Nyae Katana | - | Weeding |
| 6. Mr. Andrew Okumu | - | Weeding |

- | | | |
|------------------------------|---|----------------|
| 7. Mr. Hassan Seif | - | Zone Officer |
| 8. Mr Mwaka B. Lubambo | - | Weeding |
| 9. Mr Hamisi Abdallah Mbeto | - | Weeding |
| 10. Mr Daniel Kombe Nzae | - | Weeding |
| 11. Mr Wilson Ongoti Onyango | - | Weeding |
| 12. Mr Alfani Salim Kiwayo | - | Casual Weeding |
| 13. Mr Juma Chombo Bomu | - | Plumber |

Ministry of Labour, Social Security and Services

- | | | |
|----------------------|---|---|
| 1. Mr Bernard Simiyu | - | County Occupational Safety and Health Officer |
| 2. Mr Elly Jometho | - | County Labour Officer |

The National Assembly

- | | | |
|----------------------------|---|-----------------------|
| 1. Mr Abdirahman G. Hassan | - | Third Clerk Assistant |
| 2. Mr James Muguna | - | Research Officer III |
| 3. Ms Jane Serem | - | Audio Officer |
| 4. Mr Moses Kariuki | - | Sergeant-at-arms |

MIN. NO.NA/COI/2019/86:

PRELIMINARIES

The Chairperson called the meeting to order at forty minutes past two o'clock and said the Prayer. The Agenda of the meeting was adopted as proposed and seconded by the Hon. (Dr.) James Murgor, MP and the Hon. Charles Nguna, MP respectively. Introductions were made thereafter.

The witnesses were informed that the mandate of the Committee was to be appraised on the implementation status of resolutions and adopted reports of the National Assembly in order to ensure that the House does not act in vain.

MIN. NO.NA/COI/2019/87:

CONFIRMATION OF MINUTES

The agenda item was deferred.

MIN. NO.NA/COI/2019/88:

**MEETING WITH THE WORKERS
OF KWALE INTERNATIONAL
SUGAR COMPANY LIMITED**

In a meeting with the Committee, Mr. Douglas Danda Karunza, a Cane Cutter; Mr. Hassan Seif, a Zone Officer; Mr. Ngalaa Mbui, a Labourer and other workers of Kwale International Sugar Company Limited submitted the following on the implementation status of the Departmental Committee on Labour and Social Services Report on deplorable working conditions of the workers at Kwale International Sugar Company Limited.

At the time of the visit the workers had not been issued with contract/Appointment letters to prove their employment with Kwale International Sugar Company, despite having worked for the company for years. Some workers have worked for long

periods of time without a salary review for instance one worker stated that he had been working for the last nine years without any salary review.

The casual workers are supposed to be paid weekly but the company has not been paying them on time. The workers are paid one week wages within a span of five weeks, meaning the company owes them four weeks wages within the five weeks period. The wages are paid late in the evening, long after their working hours ended. Some have been casual workers for as long as 5 years, without salary increment since employment and despite working continuously daily from 6 am to 2pm.

The workers are deducted a total of Kshs 500 monthly, Kshs 300 for NHIF and Kshs. 200 for NSSF, and have been issued with NHIF and NSSF cards. However they alleged that KISCOL doesn't remit the deductions as required by law.

Disparities in Payments of workers: There were allegations of discrimination in terms of employment between local workers and those from other regions of the Country. It was alleged that workers from other regions are treated more favourably than the local community. The workers alleged that the locals are paid less than their counterparts from other regions of the country and provided with accommodation, a claim disputed by those from other regions of the country.

Personal Protective Equipment (PPEs): Workers had not been provided with adequate personal protective equipment. Case in point, it was alleged that overalls had been provided the morning the Committee was due to visit KISCOL. Workers in the spray section are not provided with suitable and adequate personal protective equipment including spray suits, respirator masks, hand gloves and eye protection but are merely provided with disposable gloves of poor qualities, thus endangering their lives.

Workmen Compensation: The employees reported that some employees of the company had been injured in the line of duty for instance falling from a moving lorry or involved in an accident and paralyzed but have yet to be compensated.

Medical Facility: The workers claimed that they were directed by the company to choose their preferred hospital facility but informed that their dependents would enjoy the services of the preferred facility. The workers also pay for services provided at the Company's clinic. Sick workers are asked to make payment before being attended to at the staff clinic

Dismissal of workers: In the past, some workers have been dismissed for airing their grievances. The employees were feared reprisals for raising their concerns with the Committee.

Carrying of personal working tools: Some workers have not been issued with Company work tools (jembes and pangas), so they carry their personal tools from home. This what prompted a need for tools storage compartment in the transportation trucks. The workers are forced to return home, if they don't bring the work tools.

The employees of KISCOL further informed the Committee that: -

- i. Workers in the field have not been provided with sanitary facilities;
- ii. Workers picked from their homes as early as 2am to start work at 6am;
- iii. The workers are not supplied with wholesome drinking water;
- iv. The workers are transported in open lorries and tractors;
- v. Farm supervisors cover a large area to supervise yet they are not provided with modes of transport, so they have to supervise work in their areas on foot. A case in point is a supervisor with a coverage of 360 hectares which he covers on foot;
- vi. Cane cutters are not provided with hand gloves; and
- vii. Workers do not have a union to represent their interests.

Committee Recommendation

The Committee recommends that the workers to report any harassment, underpayment, over working with no overtime allowances or victimization to the Labour office in the Ministry of Labour, Social Security and Services and to the Committee for necessary action.

The Committee thereafter made a tour to the company where it visited its *Get Well clinic* and also inspected some lorries fitted with compartments for storing tools and transporting workers. The Committee observed during the visit that the company had indeed established a well-equipped clinic within the vicinity of the company to treat its workers. For creation of separate compartment for tools, the committee saw one lorry that had been modified for that purpose but the Management of KISCOL assured the Committee that three vehicles were ready and three others will be ready in a month's time.

MIN. NO.NA/COI/2019/89:

ADJOURNMENT

There being no other business, the meeting was adjourned at twenty minutes past five o'clock.

Sign.....

(Chairperson)

Date.....

7/5/2019

MINUTES OF THE 18TH SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON FRIDAY 29TH MARCH 2019, IN THE BOARDROOM, KWALE INTERNATIONAL SUGAR COMPANY LIMITED, MSAMBWENI CONSTITUENCY, KWALE COUNTY AT 11:00 AM.

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. The Hon. Richard Onyonka, MP
3. The Hon. (Dr.) James Kipkosgei Murgor, MP
4. The Hon. Johnson Manya Naicca, MP
5. The Hon. Hassan Oda Hulufu, MP
6. The Hon. Charles Ngusya Nguna, MP

APOLOGIES

1. The Hon. Godfrey Osotsi, MP - **Vice Chairperson**
2. The Hon. Alois Musa Lentoimaga, MP
3. The Hon. Maj. (Rtd) John Waluke Koyi, MP
4. The Hon. Francis Munyua Waititu, MP
5. The Hon. George Theuri, MP
6. The Hon. Joseph Wathigo Manje, MP
7. The Hon. Onesmas Kimani Ngunjiri, MP
8. The Hon. Paul Simba Arati, MP
9. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
10. The Hon. Silvanus Osoro, MP
11. The Hon. Owen Yaa Baya, MP
12. The Hon. Joshua Mbithi Mwalyo, MP
13. The Hon. Michael Kingi, MP
14. The Hon. Paul Odalo Abuor, MP
15. The Hon. Generali Nixon Kiprotich Korir, MP
16. The Hon. Jared Okello, MP
17. The Hon. Nelson Koech, MP

IN-ATTENDANCE

Hon. Zuleikha Juma Hassan, MP

Kwale International Sugar Company Limited

1. Mr Gerond Chasteau De Balyon - Chief Executive Officer
2. Ms. Pamela Ogada - General Manager
3. Mr R. Mahabir Singh - Assistant General Manager
4. Mr Mechumo Michael - Human Resource and Administration Manager
5. Mr Yamo Alfred Owuor - HSEM
6. Mr David Kulecho - Legal Officer

Ministry of Labour Social Security and Services

1. Mr Bernard Simiyu - County Occupational Safety and Health Officer
2. Mr Elly Jometho - County Labour Officer

The National Assembly

1. Mr Abdirahman G. Hassan - Third Clerk Assistant
2. Mr James Muguna - Research Officer III
3. Ms Jane Serem - Audio Officer
4. Mr Moses Kariuki - Sergeant-at-arms

MIN. NO.NA/COI/2019/82:

PRELIMINARIES

The Chairperson called the meeting to order at five minutes past eleven o'clock and said the Prayer. The Agenda of the meeting was adopted as proposed and seconded by the Hon. Johnson Naicca, MP and the Hon. Hassan Hulufu, MP respectively. Introductions were made thereafter.

The witnesses were informed that the mandate of the Committee was to be appraised on the implementation status of resolutions and adopted reports of the National Assembly in order to ensure that the House does not act in vain.

MIN. NO.NA/COI/2019/83:

CONFIRMATION OF MINUTES

The agenda item was deferred.

MIN. NO.NA/COI/2019/84:

MEETING WITH THE MANAGEMENT OF KWALE INTERNATIONAL SUGAR COMPANY LIMITED

The Chief Executive Officer; Kwale International Sugar Company Limited (KISCOL), Mr. Gerond Chasteau De Balyon accompanied by Ms. Pamela Ogada, General Manager; Mr. R. Mahabir Singh, Assistant General Manager and other officials of the Kwale International Sugar Company Limited appeared before the Committee to appraise it on implementation status of the Departmental Committee on Labour and Social Services' Report on deplorable working conditions of the workers at Kwale International Sugar Company Limited. They informed the Committee on the progress on implementation of the said report as follows; THAT

The Petition was tabled before the Departmental Committee on Labour and Social Welfare in August 2015 by Hon. Zuleikha Juma Hassan, MP, on behalf of both the current and former employees of Kwale International Sugar Company Limited on alleged deplorable working conditions in the Company.

The Departmental Committee on Labour and Social Services after consideration of submissions received made recommendations to improve working conditions in the Company which were adopted by the House on 30th June 2016 and the same

presented to the company vide the National Assembly letter reference **NA/DLP/PP/2016(015)** dated **June 30, 2016**.

The National Assembly, vide a letter dated **July 13, 2016**, reference **NA/DLP/PP/2016 (015)**], highlighted six key areas that should be looked into with respect to improving the working conditions of employees at Kwale International Sugar Company Limited.

On the six key areas highlighted KISCOL informed the Committee that

- a) **On the issuance of contract letters and/or letters of appointment to all company employees**, the company has engaged employees in four terms/cadres; permanent employees, one hundred and ninety (190); fixed-term twenty- nine (29); Trainee, one hundred and thirteen (113) and Casuals one thousand three hundred and seventy (1370). The company has issued letters of appointment to all existing employees on permanent terms, fixed-term contracts and to all new employees upon being engaged. Evaluation of the suitability of trainees for permanent employment has been done and is awaiting the commencement of milling to be effected.

Evaluation of casual employees for eventual consideration for permanent employment is ongoing and is also awaiting the commencement of milling. Casual employees benefit from terms applicable to other categories of staff including overtime, Personal Protective Equipment, NHIF, NSSF, days off per week e.t.c.

The Company has developed a Human Resource Policies and Procedures Manual which will be implemented after relevant approvals to improve compliance.

- b) **On the adherence to the wage guideline as per Kenya Gazette Notice No. 9 of June 2015 and payment of arrears for salaries paid below the legal threshold effective from June 2015**, the company reported that it has complied with the minimum wage guidelines up to December 2018. It is in the process of adjusting wages and arrears for employees on casual terms to be effected beginning April 2019, in compliance to wage increment awarded on May 1, 2018, which was only gazetted recently. The arrears of wages arising from non-compliance from 2015 have been calculated, and the company is in consultation with the labour office on the way forward.
- c) **On the provision of protective gear and enforcement (PPE) of safety measures and regulations as required by the law**, issuance of PPEs is a continuous activity undertaken as and when required. The company is in compliance with Occupational Safety and Health (OSH) Measures and Regulations including continuous Health and Safety awareness training; annual OSH workplace registration requirements; enforcement of the

company OSH policies and procedures; establishment of OSH Committee as provided for in law; annual OSH audits requirement and annual fire audit requirements. The Company has also implemented a structured occupational accident review and investigation program; complied with the statutory examination of plant and lifting equipment; developed and implemented an emergency response plan and carry out annual OSH medical examination in accordance with the law.

- d) **On the provision of sanitary facilities, water and food, the Company has ensured provision** of adequate, portable drinking water points through its Water Treatment Plant (WTP) as well as use of water bowsers for water supply to staff engaged in operations in the field; maintenance of current catering infrastructure, services and subsidies on food and maintenance of existing sanitary facilities and building of new ones as need arises.

Currently, the company has sanitary facilities for male employees (twenty-seven (27) toilets, twenty-two (22) hand washes, eleven (11) urinals and five (5) bathrooms) and female employees (fifteen (15) toilets, eleven (11) hand wash and three (3) bathrooms

- e) **On the provision of alternative modes of transport and a separate compartment for hand tools storage**, the company has already fitted three trucks with seats, staircases and canopies in order to ferry workers to their places of work safely. The process of modifying three other trucks in on-going and will contain separate compartments for ferrying of hand tools. Hand tools boxes have been fabricated for use on trucks without separate hand tools compartments. The company has procured a minibus and a van assigned to ferry staff to and fro to work from Ukunda. A 58 seater bus has been identified for purchase and a budget set aside for that purpose
- f) **On the Provision of medical scheme and workman compensation for employees.** The company is in compliance with the Employment Act, Cap 226 of the Laws of Kenya, in regard to ensuring that all employees access medical services as and when required. All the employees are registered under the National medical scheme (NHIF) and all NHIF deductions are remitted in compliance to the NHIF Act. Emergency medical services are provided at the company owned medical facility named *Get Well Clinic*. Further, the company has entered into an MoU with Msambweni County Referral Hospital, where ambulance services and advanced medical attention are provided to the employees in case of need or emergency.

The Company has commenced evaluation quotations from the service provider for the establishment of a medical insurance scheme. The company has been established a medical advance scheme to support employees seeking medical services for dependents not provided for under the general medical.

The company is in compliance with the WIBA Act 2007 on workman compensation. It makes annual purchases of GPA insurance policy annually that covers all employees in case of accidents or injury at work. The company pays all medical bills for employees injured at work, grants injury leave as well as compensation under the Directorate of Occupational Safety and Health as provided for in law.

KISCOL informed the Committee that casual workers were not issued with contract letters because, in 2018, the factory was not in operation. KISCOL is in discussion with the Ministry of Labour, Social Security and Services in order to commence issuance of contract letters for casual workers with effect from July 2019. According to the Employment Act of 2007, casual employees work for a day and are paid their wages at the end of each day worked. If an employee works for a period of more than ninety (90) days, then they cease to be termed as casual employees. Company employees are required to be issued with letters of appointment or with binding contract letters regardless of their terms of service.

The Employment Act does not specify the Terms of Reference for contracted employees nor the period one should be on contract. The Act further stipulates that employers can have either oral or written engagements with employees.

The high turn over of a management team at KISCOL has been blamed for the lapse in the implementation of the recommendations of the adopted Departmental Committee on labour and Social Services Report but the current CEO assured the Committee that it would meet the requirements of the law and implement the recommendations of the National Assembly.

The Ministry of Labour, Social Security and Services informed the Committee that they had processed workmen compensation for seven employees of KISCOL in 2016.

On squatters living on KISCOL land, the Committee proposed that KISCOL and the local leadership hold dialogue in order to find an amicable solution. The company expressed willingness to allocate some parcels of land to squatters.

KISCOL informed the Committee that the majority of the out-growers are from Nyanza and Western region and that locals don't have the will to cut canes. However, employing workers from distant areas like Nyanza bring about additional expenses for transport. Some of the people transported from Western and Nyanza region do not turn up for work despite the company spending money on their transportation from their home areas to Kwale County. The Committee observed that locals should be given priority as part of corporate social responsibility.

Although Hon. Zuleikha Juma, MP who initiated the petition on KISCOL presented that the company has been reluctant in implementing the recommendations of the

adopted report of the Departmental Committee on Labour and Social Welfare, this was strenuously rebutted by KISCOL.

In conclusion, KISCOL undertook to provide a progress report on monthly basis and issue contract letters to all its employees. The Management of the Company also undertook to address all the recommendations of the Departmental Committee on Labour and Social Welfare and implement the recommendations fully within six months.

Committee Recommendations
The Committee recommends that

1. The Ministry of Labour, Social Security and Services provides the Occupational Safety and Health audit report, including details on employees who were compensated.
2. KISCOL writes a letter of undertaking to the National Assembly by 5th April 2019 clearly specifying how it will implement the recommendations of the adopted report by the Departmental Committee on labour and Social Welfare and challenges in implementation.

MIN. NO.NA/COI/2019/85:

ADJOURNMENT

There being no other business, the meeting was adjourned at a quarter to one o'clock.

Sign.....



(Chairperson)

Date.....

7/5/2019

MINUTES OF THE 74TH SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON THURSDAY 15TH NOVEMBER, 2018, AT 5TH FLOOR, COMMITTEE ROOM, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.30 AM.

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. The Hon. Godfrey Osotsi, MP - **Vice Chairperson**
3. The Hon. Francis Munyua Waititu, MP
4. The Hon. Johnson Manyua Naicca, MP
5. The Hon. (Dr.) James Kipkosgei Murgor, MP
6. The Hon. Michael Kingi, MP
7. The Hon. Joshua Mbithi Mwalyo, MP
8. The Hon. Charles Ngusya Nguna, MP
9. The Hon. Jared Okelo, MP

APOLOGIES

1. The Hon. Alois Musa Lentoimaga, MP
2. The Hon. Onesmas Kimani Ngunjiri, MP
3. The Hon. Hassan Oda Hulufu, MP
4. The Hon. Paul Odalo Mak'Ojuando Abuor, MP

ABSENT

1. The Hon. Maj. (Rtd) John Waluke Koyi, MP
2. The Hon. Paul Simba Arati, MP
3. The Hon. Richard Onyonka, MP
4. The Hon. Silvanus Osoro, MP
5. The Hon. Nelson Koech, MP
6. The Hon. George Theuri, MP
7. The Hon. Joseph Wathigo Manje, MP
8. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
9. The Hon. Generali Nixon Kiprotich Korir, MP
10. The Hon. Owen Yaa Baya, MP

IN-ATTENDANCE

Hon. Zuleikha Juma Hassan, MP

KWALE INTERNATIONAL SUGAR COMPANY LIMITED

1. Mr. Kaushik Pabari - Director
2. Mr. Harshil Kotech - Director, Projects
3. Mr. Musih Benson - Company Secretary
4. Ms. Pamela Ogada - General Manager
5. Mr. Michael Mechumo - Human Resource Officer

WEST KENYA SUGAR COMPANY

1. Mr. Jaswant S. Rai - Chairman
2. Mr. Kibe Mungai - Lawyer

THE NATIONAL ASSEMBLY

1. Mr. Abdirahman Gele Hassan - Clerk Assistant III
2. Mr. Joseph Okongo - Senior Media Relations Officer
3. Ms. Maureen Kiori - Audio Officer

MIN. NO. COI/370/2018: PRELIMINARIES

The Chairperson called the meeting to order at forty-five minutes past ten o'clock followed by a word of prayer. The agenda of the day was adopted having been proposed and seconded by the Hon. (Dr.) James Kipkosgei Murgor, MP, and the Hon. Charles Ngusya Nguna, MP, respectively.

The Chairperson informed the witnesses the agenda of the meeting and the mandate of the Committee which was to implement resolutions and reports adopted by the House in order to ensure that the House does not act in vain.

MIN. NO. COI/371/2018: CONFIRMATION OF MINUTES

The agenda item was deferred.

MIN. NO. COI/372/2018: MEETING WITH KWALE INTERNATIONAL SUGAR COMPANY LIMITED

Ms. Pamela Ogada, the General Manager, Kwale International Sugar Company Limited, accompanied by Mr. Kaushik Pabari, Director; Mr. Harshil Kotech, Director, Projects; Mr. Musih Benson, Company Secretary and Mr. Michael Mechumo, Human Resource Officer appeared before the Committee to deliberate on implementation status of the following Reports: -

1. The Report by the Departmental Committee on Agriculture, Livestock and Cooperatives on the crisis facing the sugar industry in Kenya; and
2. The Report on the Petition by Hon. Zuleikha Juma Hassan, MP, on the deplorable working conditions of the workers at Kwale International Sugar Company Limited.

Introduction

Kwale International Sugar Company Limited is located in south coast, Msambweni Constituency, Kwale County. The project cost 300,000,000 USD and owned by Pabari Group (80%) and Omnicane Limited (20%).

Pabari Group is an amalgamation of several companies having well established and profitable ventures in transport, oil & gas, agricultural produce, medical products and extending to several continents (Europe, Africa and Asia). Its core clients are the

World Food Program, Government and Non-Governmental organizations. Omnicane Limited is the biggest sugar factory in Mauritius and listed on Mauritius Stock Exchange with interests in sugar production, ethanol, electricity production and food crops.

Pabari Group has invested through Topnotch Investments Holdings Ltd and Omnicane Limited through Omnicane Africa Investment Limited. The Omnicane Limited provides technical support and transfer for best practices to the sector. The Standard Bank of South Africa manages the banking facility for the company.

The Company occupies 10,000 acres of land of which 5,000 is leased from the Government and 5,000 from out growers. They have leased land from government and that half of it was under irrigation. The Company lamented that squatters occupied half of the land leased from the Government. The matter has been before the courts for the last eight (8) years awaiting final judgment in February 2019. The County Government of Kwale has also been putting structures like markets and playing fields on land leased from the government.

KISCOL's areas under nucleus are 70 % while 30% of their cane supply comes from out growers. Other factories in Western Kenya receive 75% of their cane supply through out growers and only 25% come from nucleus. The Company also harvest cane five times for a period of 5 years because of favourable climatic condition while other companies harvest 3 times.

KISCOL uses irrigation, technical production method and mechanization in their agricultural production system, which reduces cost of production by fifty per cent while other millers in western part of the country rely 100 per cent on rain fed. Their cane maturity cycle takes twelve months while other companies take 18 to 24 months.

On average, the sugar yield for Kwale International Sugar Company Limited is 1 hectare per month while that of the factories in western Kenya is quarter hectare per month. In terms of sugar production, KISCOL yield 12 tonnes per hectare while other factories produce about 4 tonnes per hectare.

Kwale International Sugar Company Limited uses cane/weed management, fertigation and irrigation hence faster maturity time which has an overall effect on cane production cost. They further informed the committee that the cost of production of sugar is cheaper in Coastal region due to favourable climatic conditions compared to other parts of the country adding that the location of other factories in Kenya is not suitable for sugar growing. Kenyans pay highest in terms of price of sugar in the world because most of the factories are in the wrong area.

They alleged that other factories are not functioning well due to cane poaching and mismanagement. They indicated that public mills have invested in farmers' nucleus but other companies that have ready capital poach their cane.

KISCOL informed the Committee that they pay taxes for farm machineries although tractors are zero-rated. The company develops roads within their sugar factory.

The Management of KISCOL informed the Committee that the Sugar Development Levy need to be reintroduced but noted that it should be managed well.

MSC functioned well initially because sugar was then protected. It takes two years for farmers in Western Kenya to grow cane while it only takes 1 year in coast region.

KISCOL pays out growers/farmers on monthly basis; thirty (30) days after delivery as per contractual agreement. The Company pays weekly wages of around 4 to 5 million and farmers are paid based on formulas given by the Sugar Directorate and determined by price of sugar. They indicated that they invested 650 million in farmers, through preparing land, providing seed cane/farm machinery and fertilizers. KISCOL pays farmers Kshs. 4,000 per tonne of sugar.

Kwale International Sugar Company Limited started operations three (3) years ago and its markets are mainly Mombasa and Nairobi counties and the Company doesn't export sugar.

1) IMPLEMENTATION STATUS OF THE REPORT BY THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES ON THE CRISIS FACING THE SUGAR INDUSTRY IN KENYA

Chronology of Kwale Sugar Factory Closure

On 25th June, 2018, officials drawn from the Kenya Revenue Authority (KRA), Kenya Bureau of Standards (KEBS), the Directorate of Criminal Investigations (DCI) and the National Police Service, without notice, raided the factory premises of Kwale Sugar in Ramisi and proceeded to seal off the factory warehouse and stores and also impounded and sealed off lorries that had been loaded with sugar. On 26th June, 2018, they proceeded to take samples of sugar and informed the staff of Kwale Sugar Factory who were on site that the same were being taken to the Government Chemist for testing and verification.

Following the above events, the company sought to find out the grounds informing the raid through communication to different government agencies and Ministries on July, 2018 but has not received any response from them. Following pressure from stakeholders to clarify on the position, the company gave a press statement in all the dailies on 18th July, 2018.

On 30th July, 2018, the Company again wrote to various government agencies/ministries indicating that if no response is offered, the company would suspend operations. Following the letter of 30th July, 2018, the Multi Agency team headed by Mr. Wanyama Musiambo, Deputy Head of Public Service requested for a meeting on 1st August, 2018 with the Company.

KISCOL indicated that they had informed the members of the multi-agency team that the action taken by the team to seal off the factory warehouse and stores had the consequential effect of halting and disrupting the operations of the business due to the set-up of the factory.

KISCOL informed the Committee that the Multi Agency team indicated that in a week from 1st August, 2018, the company would receive the KEBS results on the sugar sampled since the results were not ready by then.

On 2nd August, 2018, KEBS issued results despite indicating that they were not ready the previous day in the meeting with Mr. Wanyama Musiambo. The results indicated that the sugar had failed in one of the parameters.

On 6th August, 2018, Kwale Sugar Factory wrote to KEBS contesting the results and requested for a re-sampling of the sugar. They indicated that they had reservation on the manner in which the sugar was sampled as they were drawn by hand instead of the guideline under the EAS standard.

On 7th September, 2018, the management of KISCOL wrote a further reminder to KEBS and DCI to re-sample the sugar as the continued closure was severely affecting the company. On 11th September, 2018, KEBS proceeded to allow the re-sampling exercise which was done with SGS and Intertek to safeguard integrity of the process.

On 20th September, 2018, SGS and Intertek issued their results and indicated that the sugar was compliant with all the Kenyan standards. This supported the company's position that its sugar was compliant following tests by KEBS in November, 2017 and March, 2018.

On 5th October, 2018, despite several follow ups with KEBS, they failed to communicate the results forcing the company to move to court as the company operations were at a near stand-still. On 25th October, 2018, the court ruled that the compliant sugar as indicated by KEBS be released to the market.

The Management of Kwale International Sugar Company Limited provided the following: -

- I. A duly filled sample collection form.
- II. Letter to the Sugar Directorate regarding the raid and decision to seal off the company's warehouse and stores at the factory site, Kwale.

- III. The press release on clarifications of the Kwale Sugar Company factory closure.
- IV. Letter to the Deputy Head of Public Service on closure of operations.
- V. Letter to DCI Coast region on test results for sugar samples from Kwale International Sugar Company Limited.
- VI. Letter to the Managing Director, KEBS on sugar re-sampling.
- VII. A certificate of urgency filed at the High Court of Kenya at Mombasa regarding the raid and decision to seal off the company's warehouse and stores.
- VIII. A Court order which indicated that the impounded sugar which has complied with the standards be released and that the final judgment would be delivered on 17th January, 2019.

2) PROGRESS ON IMPLEMENTATION OF THE REPORT ON DEPLORABLE WORKING CONDITIONS

The Company updated the Committee on implementation status of the recommendations of the Report by Hon. Zuleikha Juma Hassan, MP, on deplorable working conditions of workers at Kwale International Sugar Company Limited as follows: -

Issuance of contracts of employment to employees

The relationship between an employee and the company is governed under a contract of service as provided for in the Employment Act. Both the employee and the company agree upon the terms of employment before the employee begins his/her terms of service.

The company is aware that terms of employment may be negotiated as part of a collective bargaining agreement if an employee joins a union. Currently, the company is in negotiation for recognition with the Kenya Union of Sugar Plantation and Allied Workers.

The management noted that it couldn't impose terms of employment on employees that are less than the minimum terms required adding that every employee hired for a term of three or more months is issued with a written contract of employment.

Currently, the company engages various categories of employees classified in accordance with work assignment they undertake, which determines the categories of employees and nature of contractual agreements with the company.

The terms of employees in the company's engagement are:

Permanent Employees – These are employees who sign contracts that identify them as permanent employees. The employees work for a probation period of one to six months before they are confirmed and can claim benefits. In the event of resignation, the employee gives at least a one month's notice or pays one month salary in lieu of notice. And in the event of termination, is entitled to one month's notice or one

month's salary in lieu of notice, unless the employee is dismissed summarily in accordance with the provisions of the Employment Act, 2007. Most of the employees at the plant, corporate offices and management cadre fall in this category.

Fixed Term Contract Employees – These employees are engaged for determined fixed period of time. Entitlements are determined by the terms of the contract entered into with the company. Most employees engaged in project work, expatriates or consultancy are employed under this category and issued with fixed term contracts.

Casual Employees – These are employees who work for a short period of time, generally not more than twenty four (24) hours at a time and are paid at the end of each day or as agreed between the company and the employee(s). The company normally employs casual employees to fill positions that do not require full time employment and for seasonal field operations such as cane weeding, harvesting or chemical spraying. Where a casual employee works for the company on continuous basis of three months or aggregate equivalent of three months, the terms would be reduced in writing as per Section 9(1) of the Employment Act. These categories of employees are not issued with written contracts since the company engages them on need basis.

Outsourced Labour – Currently, the company is in negotiation with registered labour supply agencies with a view to outsourcing labour engaged in various non-core company operations, including provision of staff transport services, field operations such as weeding and spraying, office and grounds maintenance and security in order to more effectively manage the workforce engaged in core operations of the company.

Payment of salaries and wages

The company is under legal obligation to provide payment for work done before or on agreed pay day. The payment made is usually calculated hourly, daily, weekly and monthly depending on the type of contract the company has with the employee. The Company pays salaries to employees who are on permanent and pensionable and those on fixed term contract by 5th of every month. Different categories of employees are paid differently as each category has specified guidelines. The Company pays unskilled workers Kshs. 277 per day.

Any changes in salaries that are already negotiated and are above the minimum wages guidelines are done through periodic salary reviews undertaken by the company after every two years or as need arises.

Currently, there are no employees earning wages that are below those stipulated in the wage guidelines for their positions.

Enforcement of safety and health rules and regulations

The company has taken the following actions to ensure safety and health rules, regulations and procedures are followed and complied with by everyone at the workplace:

- I. Constituted an Occupational Safety and Health Committee chaired by the General Manager with the mandate of ensuring that safety and health rules, regulations and procedures are enforced throughout the company.
- II. Created an Occupational Safety and Health Department, headed by a professional, competent safety and health manager and supported by three occupational safety and health officers to address issues in timely manner.
- III. Developed and implemented an Environment Safety and Health Policy and procedures manual and a Risk Management Policy, which have helped employees understand the potential hazard in the work environment. The Company also developed and implemented administrative controls that rely on human behavior and supervision to minimize risk of injury to employees.
- IV. Issuance of Personal Protective Equipment (PPEs) annually to operative cadre of staff in order to limit exposure to harmful effects of hazards and training employees on correct use of PPEs. The PPEs issued included breathing protection, gloves, aprons, protective eyewear, overalls, dust coats and footwear.

The Company informed the Committee that they have provided protective equipment to all its employees and ensures that any employee taking assignment must wear the requisite protective gears.

The Company further carried out risk-assessment in company operations in conjunction with the Directorate of Occupational, Safety and Health (DoSH) and put in measures to eliminate risk. The company has implemented the recommendations of the DoSH audit and further carried out trainings and awareness to workers to reduce risks.

The management confirmed that the aforementioned actions have not only ensured compliance with the law but also promoted the wellness of both employees and the company and prevented illness and injury and reduced safety and health hazards.

Provision of water, sanitation facilities and food

The company has provided adequate toilets and washing facilities for employees as follows:

- I. Enough toilets and washing basins for employees ensuring that employees do not queue for long periods to go to the toilet or a hand washing facility. Separate facilities have been provided for men and women, with lockable doors. Supply of toilet paper and for female employees, a means of disposing of sanitary dressings.

- II. Facilities that are well lit and ventilated and enough soap and other washing agents.
- III. Basins large enough to wash hands and forearms if necessary and paper towels for drying hands.
- IV. Flushing toilets and running drinking water have been provided as field locations for agriculture field staff.
- V. They have constructed toilets both at the factory and the field for staffs and increases toilets based on the number of workers.

Drinking water- There are currently 13 water points at the factory and drinking water is available in all offices and at water pumping stations in various locations in the field. The company has provided portable drinking water both at the factory and the field. They have provided boreholes with water drinking points supplemented with water bowsers in some specific areas within the factory.

Meal breaks – The Company has provided canteen and suitable seating areas for all employees to use during meal breaks. Good hygiene standards are maintained and food handlers are examined and certificates issued. Employees can buy their food from the canteen at subsidized rates or they may bring their own food and eat from the canteen. The company has put in arrangements that enable employees to take food at the canteen and the cost recovered at the end of the month from their wages or salaries.

Provision of Transport and Tools storage

The company has taken the following measures to implement the recommendation: Fitted benches in trucks that ferry workers to various locations of the company's cane farming and harvesting activities.

Designed trucks are used to ferry employees at the offices and at the plant from home to work. The company is exploring the possibility of making a provision for a commuter allowance or outsourcing of the transport.

Drivers operating vehicles ferrying/transporting workers have undergone additional training by attending defensive driving and first aid courses paid for by the company. Tool boxes have been provided on all trucks used to ferry field staff. The procedure requires that all tools are put in the tool boxes at completion of work assignments and re-issued at commencement of work the following day.

Medical Scheme and Workman Compensation

The following actions have been taken to address the recommendation:

Every employee is required to present an NHIF card, NSSF card, KRA pin and mobile number before he/she can take up employment with the company. This enables the company to confirm the status of their NHIF account, guide accordingly and comply with regulatory and legal requirements of employment.

The company has established a medical clinic (Get Well Soon) to provide first aid services, medical treatment, treatment for injury and management of referrals to other hospital as required. The clinic is registered by the Government, manned by professional, competent staff and has a laboratory and pharmacy.

The company has entered a Memorandum of Understanding (MoU) with Msambweni County Referral Hospital to enable its employees receive healthcare services when required or in emergency cases that the clinic may not be able to handle. Under this arrangement, the hospital bills the company directly for any services provided to employees.

The company takes out insurance policy every year for its employees and pays all the medical bills for employees injured at work, allows their injury leave as well as compensation as determined by the attending doctor, insurance doctors and the Director of Occupational, Safety and Health.

The company has employed an experienced insurance officer to handle all matters related to work injury benefits and other insurance issues. The mandate of the insurance officer is to ensure that compensation claim process is complied with and that there is no delay in compensating employees who are injured at work.

The Company has explained compensation procedures to its employees and the law gives each party an opportunity to appeal and seek intervention from the courts if one is not satisfied with the amount compensated. Four (4) employees have received compensation last week and a certificate of payment issued by the Directorate of Occupational Safety and Health.

In its submission, the company provided the following: -

- I. Copy of Aon Report on job evaluation;
- II. Sample copy of contract of service;
- III. Summary sheet detailing payment of wages for semi skilled workers on casual basis;
- IV. Copy of *Get Well Soon* clinic registration certificate to operate as a private medical institution; and
- V. A copy of paid workmen compensation claim.

The Management of KISCOL was directed to provide detailed copies of contract of employees and evidence of supply of personal protective equipment to workers on or before 29th November, 2018.

The Committee noted the need to make a tour of the factory in due course to assess the actual situation of workers at the factory.

MIN. NO.COI/373/2018:

**MEETING WITH WEST KENYA SUGAR
COMPANY**

Mr. Jaswant Singh Rai, the Director of West Kenya Sugar Company/Sukari Industries Limited, accompanied by Mr. Kibe Mungai, a Lawyer, appeared before the Committee to appraise it on implementation status of the Report by the Departmental Committee on Agriculture, Livestock and Cooperatives on the crisis facing the sugar industry in Kenya and submitted as follows: -

Introduction

West Kenya Sugar Company Limited (WKSCL) was incorporated about 1979 and it established a sugar factory on Plot No. 548 Busha Sub-location, South Kabras in Kakamega County. The factory was established upon successfully applying for a sugar factory licence pursuant to the Sugar Factory Rules made under the Crop Production and Livestock Act, Cap 321 Laws of Kenya. Under the said Rules, an applicant for a sugar factory licence was required to build it beyond 25 Kilometers of the radius of an existing white sugar factory. Consequently, WKSCL built its sugar factory at a location that is 28 kilometers from existing Mumias sugar factory.

The rationale for the said distance between sugar factories was to ensure that each factory would have an exclusive area to source sugar cane and invest in development of the same.

The company provided a response to the following issues: -

- i. The legal framework governing the sugar industry in Kenya.
- ii. The regulatory regime and policy framework governing the sugar sector in Kenya.
- iii. The challenge of implementing the Report of the Departmental Committee on Agriculture on the crisis facing the sugar industry in Kenya.
- iv. Fundamental problems facing the sugar industry in Kenya
- v. The problem of cane poaching
- vi. The challenge of zoning sugar cane growing areas
- vii. The plight of WKSCL
- viii. How to revive the sugar industry in Kenya
- ix. The future of the sugar industry in Kenya
- x. The proper role of Government in the sugar industry.

1) The Legal Framework Governing the Sugar Industry in Kenya

In reference to the sugar industry, the basic meaning of property is three-fold. First the sugar cane which is owned by the cane farmer or the sugar miller with a nucleus estate. Secondly, the sugar mills and jaggeries own the sugar mills and other plants for processing sugar cane. Thirdly, the Kenyan people through their National Government own shares in publicly owned sugar mills.

Under the fourth schedule of the Constitution, Agriculture, which includes crop and animal husbandry, is a function of County Governments whilst Agricultural Policy is a function of the National Government.

Parliament enacted the Crops Act, 2013 whose objective is to accelerate the growth and development of agriculture in general, enhance productivity and incomes of farmers and the rural population, improve investment climate and efficiency of agribusiness and develop agricultural crops as export crops that will argument the foreign exchange earnings in the country, through promotion of the production, processing, and distribution of crops in suitable areas of the country.

Parliament also enacted the Agriculture and Food Authority Act, 2013 whose objectives include the consolidation of the laws on the regulation and promotion of agriculture generally.

2) The regulatory regime and policy framework governing the sugar sector in Kenya

Section 3 of the Agriculture and Food Authority Act, 2013 establishes the Agriculture and Food Authority (AFA) which administers the Crops Act, promotes best practices monitors agriculture through registration of players, determines the research priorities in agriculture and advise the national and county government on agricultural levies for purpose of planning, enhancing harmony and equity in the sector.

Section 40 of the AFA Act underscores the need to ensure effective participation and involvement of farmers in governance of the agriculture sector in Kenya by ensuring their involvement in the development of policies and regulations.

Section 40 of the Crops Act empowers the Cabinet Secretary to make regulations necessary to enforce or implement various provisions of the Act including declaration and regulation of a scheduled crop including production, distribution and marketing and the formula for the pricing of the scheduled crops.

3) The Challenge of Implementing the Report of the Departmental Committee on Agriculture, Livestock and Cooperatives on the crisis facing the sugar industry in Kenya

The Cabinet Secretary, Ministry of Agriculture, Livestock, Fisheries and Irrigation published the Crops (Sugar) (General) Regulations, 2018. The said Regulations contained provisions on introduction of sugar zones, licensing of millers and pricing of sugar cane among others. On 7th August, 2018, the CS invited the public and stakeholders to provide their submission on the said Regulations. West Kenya Sugar Company and its sister company Sukari Industries Limited and other stakeholders including county governments, sugar millers and farmers submitted their comments on the draft Sugar Regulations.

On 7th November, 2018, the Agriculture CS launched the Sugar Industry Taskforce whose terms of reference was to review the policy, legal, regulatory and institutional framework of the sugar industry; review past, present and emerging challenges facing the sugar industry; review the sugar industry value chain including research and review importation and taxation structures in the sugar sector among others and make appropriate recommendations.

4) Fundamental Problems/Challenges facing the sugar industry in Kenya

The Chairperson of West Kenya Sugar Company informed the Committee that in a press release during the official launch of the Sugar Industry Task Force, the CS for Agriculture Hon. Mwangi Kiunjuri, listed low cane supply, cane poaching, aging equipment and/or obsolete technology, high debt portfolio particularly in public owned sugar factories, farmers and staff salary arrears and lack of regulations as some of the challenges.

He indicated that in the public owned sugar factories, farmers rank the lowest in the least of creditors so that although they deliver cane which is milled and sold, they are not a priority when it comes to paying creditors. He added that farmers are the cornerstone of agriculture but their interests are not taken into consideration during formulation of policies and legislations.

5) The Problem of Cane Poaching

Cane poaching is a manifestation of the profound reality of cane shortage in that at any time, there is less cane than the installed milling capacity of sugar factories. Both the millers and the farmers attribute the genesis of cane poaching to weak regulations regarding licensing of new factories and failure to honour contractual agreements.

6) The Challenge of Zoning Sugar Cane Growing Areas

Initially, millers have developed zones which were demarcated by the Kenya Sugar Board. The zones back then provided comfort to both the miller and the farmer. The millers would invest in farmers field and were assured that at maturity they would harvest the sugar cane and transport it to their factory. The miller would recover the cost of investment whereas the farmer would remain with the difference which was a substantial percentage as the yield were good due to proper cultivation of the crop.

The problem started when Kibos Sugar and Butali Sugar were set up and licensed at Miwani Sugar Zone and West Kenya Sugar zone. Due to insufficiency sugar cane to sustain the old and the newly established mills, millers were forced to look for sugar cane to keep their factories afloat. With increased competition for sugar cane that was not commensurate to the cane development coupled with high poverty levels, farmers started selling their cane even before maturing which in turn affected harvesting programs of nearly all mills.

Millers shied away and or stopped investing in cane development, as they were not certain if they would harvest a farmer's cane after giving their investment. This in turn affected their area under cane and the yield that dropped more than half due to inability to properly care for the crop, as farmers are unable to buy fertilizers, herbicides and even raise money for weeding.

The state owned millers were inefficient and never produced or adhered to any harvesting plan leaving farmers to exploitation by unscrupulous miller's employees and middlemen. Farmers whose cane matured would be denied harvesting permits forcing them to either buy harvesting permits from the Miller's Field Supervisor or to sell their cane to middlemen at low price which subjected farmers to losses.

The obsolete and inefficient machineries of the state owned millers also affected harvesting programs by causing delay in harvesting. This made sugar cane to over mature in the fields where they deteriorate resulting to losses to the farmer, as he is not allowed to sell his cane to another miller.

7) The Plight of West Kenya Sugar Company Ltd

Up and until 2010, the sugar growing areas in Western and Nyanza provinces were demarcated into well defined zones which specified sugar factories could source cane and were expected to help farmers to grow the crop. Licensing of Butali Sugar Mills Limited by the then Kenya Sugar Board reduced the area under cane in West Kenya Sugar Company.

West Kenya Sugar Company had opposed the licensing of Butali Sugar Mills Limited in Nairobi High Court Civil Case No. 206 of 2016 on the grounds that granting a licence to Butali would deprive West Kenya of raw materials and therefore jeopardize its investment. However, the High Court through Hon. Lady Justice Martha Koome ruled that since Kenya is a free capitalist state in which citizens enjoy freedom to contract, sugar cane farmers had the prerogative to sell their produce to whichever miller offered the best price.

A subsequent attempt by Butali Sugar Mills Limited to obtain renewal of a sugar milling licence was declared unlawful because it had no original licence on the basis of which such renewal could be granted. To date, Butali is yet to be issued with a sugar milling licence in accordance with Section 20 of the Crops Act, 2013 yet it continues to operate.

In reaction to the Court decisions on sugar zones, West Kenya Sugar Company adopted a business strategy to purchase cane in nearby sugar growing areas. The Company set up cane buying centres and weighbridges to serve farmers by saving them from high transport costs from their farms to West Kenya Sugar factory. He alleged that the farmers in West Kenya region were also opposed to re-introduction of sugar growing zones.

8). How to revive the Sugar Industry in Kenya

The best way to revive the sugar industry is to adopt and enact such measures, policies and laws that secure justice, fair income, low prices and prudent use of public resources for the farmers, the sugar consumers and the tax payers. Investors should be able to thrive in an economic and regulatory ecosystem that protects the best interests of the farmers. The farmers and their best interests are the cornerstones around which the revival of the sugar industry should be founded adding that the previous and current efforts to revive the sugar industry have not taken the farmer into consideration.

The retail prices of sugar in Kenya are too high and therefore a major contributor to the high cost of living in Kenya. Factoring the interest of sugar consumers should justify immediate and permanent freeze of licensing of other miller in western Kenya to allow existing factories to grow their capacity and reduce their operating costs.

The Chairperson of West Kenya Sugar Company recommended that an independent audit should be conducted to determine whether it makes economic sense for tax payers money to be used to try and salvage sugar factories that may never survive in the fullness of time.

The Chairperson of West Kenya Sugar Company/Suakri Industries Limited further submitted that: -

On infrastructure, millers initially used to get grants from EU for development of roads hence providing reasonable transport to farmers. The grants are no longer available, the roads deteriorated leading to high cost of transport. Sugar farmers are not getting fertilizers as well leading to lower yields.

The Sugar Development Levy helped in infrastructure, cane development to farmers, management of the Sugar Directorate and assisted millers with maintenance of factories. Mr. Jaswant Rai alleged that the Levy has been abused to fund some mills and that it should be a revolving fund managed like the National Social Security Fund.

On importation, the Company noted the disparity in cost of production in Kenya. Countries that export sugar are large-scale producers and use irrigation method hence doubling yields in terms of output.

He also alleged that Egypt and Madagascar are sugar deficit countries and net importers from Brazil and other countries yet they import sugar to Kenya. Adding that the two countries should not be allowed to import in the country.

On zoning, West Kenya Sugar Company noted that there was no mill that had enough cane of its own hence the need to give enough area to each mill. Government should

also consider the available cane area before licensing any new mill, as this would put pressure on land making it difficult for existing mills to operate optimally.

It's not a requirement for mills to have nucleus before licensing but they should have enough cane to satisfy their requirement. West Kenya has developed cane and empowered farmers in western region. Some of the public mills have nucleus but their nucleus are in poor state.

West Kenya has invested in farmers by providing seed cane, fertilizers and entered into contracts with farmers. Farmers should have a choice of selling their cane to any company but the millers should pay farmers on time.

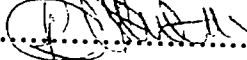
Mr. Jaswant Rai also noted the need to provide land title deeds to farmers for them to register contracts with title to reduce poaching and to facilitate loans from banks/government.

Cane availability in 2017 was below 50% because of severe drought in the country. West Kenya Sugar Company imported sugar during the 2017 duty free importation window just like other mills to supplement shortage in the country. The Gazette notice should have limited quantity to be imported into the country based on the shortfall. He urged the committee to ensure that in future, 50 % of the sugar shortage be imported by the Kenya National Trading Corporation and the other 50% imported by millers based on their capacity of production. He also informed the Committee that Millers in the country have no capacity to reprocess raw sugar.

MIN. NO.COI/374/2018:

ADJOURNMENT

There being no other business, the meeting was adjourned at 1.05 p.m.

Signature.......... Date.....4/12/2018.....

Chairperson

MINUTES OF THE 70TH SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON THURSDAY 25TH OCTOBER, 2018, IN THE SMALL BOARDROOM ON 9TH FLOOR, HARAMBEE SACCO PLAZA, PARLIAMENT BUILDINGS AT 10.00 AM

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - Chairperson
2. The Hon. Godfrey Osotsi, MP - Vice Chairperson
3. The Hon. Joseph Wathigo Manje, MP
4. The Hon. (Dr.) James Kipkosgei Murgor, MP
5. The Hon. Alois Musa Lentoimaga, MP
6. The Hon. Johnson Many Naicca, MP
7. The Hon. Francis Munyua Waititu, MP
8. The Hon. Michael Kingi, MP
9. The Hon. Charles Ngusya Nguna, MP
10. The Hon. Paul Odalo Mak'Ojuando Abuor, MP
11. The Hon. Joshua Mbithi Mwalyo, MP

APOLOGIES

1. The Hon. George Theuri, MP
2. The Hon. Hassan Oda Hulufu, MP

ABSENT

1. The Hon. Richard Onyonka, MP
2. The Hon. Maj. (Rtd) John Waluke Koyi, MP
3. The Hon. Onesmas Kimani Ngunjiri, MP
4. The Hon. Paul Simba Arati, MP
5. The Hon. Generali Nixon Kiprotich Korir, MP
6. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
7. The Hon. Jared Okelo, MP
8. The Hon. Owen Yaa Baya, MP
9. The Hon. Nelson Koech, MP
10. The Hon. Silvanus Osoro, MP

IN-ATTENDANCE

KWALE INTERNATIONAL SUGAR COMPANY LIMITED

1. Ms. Pamela Ogada - General Manager
2. Mr. Anil R. Mahabirsingh - Assistant General Manager

THE NATIONAL ASSEMBLY

1. Ms Rose M. Wanjohi - First Clerk Assistant

2. Mr. Abdirahman Gele Hassan - Third Clerk Assistant
3. Mr. Eugene Apaa - Research Officer III
4. Mr. Moses Kariuki - Serjeant at Arms
5. Ms. Jane Serem - Audio Officer

MIN. NO. COI/361/2018:

PRELIMINARIES

The Chairperson called the meeting to order at twenty eight minutes past ten o'clock and said the Prayer. The Agenda of the meeting was adopted as proposed and seconded by Hon. Johnston N̄aicca, MP and Hon. Joshua Mbithi Mwalyo, MP, respectively. Thereafter self-introductions were made. The Chairperson outlined the mandate of the Committee and the purpose of the meeting, which was on the implementation status of the Report on the crisis facing the sugar industry in Kenya. The areas under consideration included cane poaching and zoning.

MIN. NO. COI/362/2018:

CONFIRMATION OF MINUTES

The agenda of the meeting was deferred.

MIN. NO. COI/363/2018:

**SUBMISSIONS FROM KWALE
INTERNATIONAL SUGAR COMPANY
LIMITED**

The General Manager, Kwale International Sugar Company Limited, Ms. Pamela Ogado accompanied by Mr. Anil R. Mahabirsingh, Assistant General Manager submitted the following to the Committee.

She conveyed apologies from the Managing Director, Mr. Harlphil Kotecha for not attending the meeting as he was attending a court case in Mombasa.

Kwale International Sugar Company Limited (KISCOL) is in Kwale County in the area where Ramisi Sugar Company used to stand. The Company was commissioned in 2007 but began production in 2015. It has a capacity of crushing 3,000 tonnes of cane per day to produce 300 tonnes of sugar per day. It has a power generation plant from which the Company hopes to provide 9KW to the National Power Grid by end of year.

The shareholding is comprised of 80 % Pabari Investments and 20% shareholding by Omnicane Limited a sugar miller company listed in the Mauritius Stock Exchange.

KISCOL enjoys a monopoly of sorts at the coast region because they are currently the only sugar miller in the area, therefore they are yet to grapple with cane poaching. They have a nucleus farm of 4,700 ha on land leased from the Government of Kenya. They further have out-growers who in total have 4,600 ha. However cane production from the two is still not enough to allow for the running of the Company for 10 months,

currently they are running 4-6 months. The Company has leased land which has been invaded by squatters, a matter which the Company is trying to sort.

The out-growers are on contract and are paid every month except when the Company is experiencing cash flow issues, then the payment period can extend to two months. The Company currently supplies bulk sugar (in 50 kgs) to Kwale County and they are still not able to meet demand. However, the Company recently purchased packaging machinery which they will use to repackage with their label, retail size sugar packages perhaps by December, 2018.

During the most recent sugar crisis occasioned by over importation of the commodity, the prices of sugar dropped to such low prices for the Company to sell sugar competitively and this situation had persisted until June of 2018. The company did not import any sugar during the sugar crisis period of 2017 to 2018. On 26th June 2018, during the crackdown on contraband sugar carried out by the multi-agency, KISCOL's warehouse was sealed with 5,000 tonnes in the warehouse. The content of the warehouse are yet to be released and this has stopped production as it has nowhere to store sugar produced. The Company is still in talks with the multi-agency to have the 5,000 tonnes in their warehouse released. Further the Company has taken the multi-agency to Court to have the warehouse unsealed. The Company employees about 2,000 workers whose wages are becoming increasingly difficult to meet due to the non-production.

The cane grown in the coast region has a maturity cycle of 12-14 months and it will be soon ready for harvest, which is why they are pushing the multi-agency to unseal their warehouse so that they can be ready for harvest.

Before the closure of their warehouse by the multi-agency who suspected that KISCOL was holding contraband sugar, the Company had submitted all required records, had received the standardization mark from KEBS and had even complied with all KEBS tests.

The Company had not received money from the sugar development levy but from the Commodities Fund a successor of the Sugar Development levy managed by AFA which supports seed cane and facilitates the company to develop out-growers. The Company has undertaken several Corporate Social Responsibility (CSR) activities in the area including construction of schools, Chief's office, water supply during drought periods, medical camps, road maintenance and issuance of gifts during cultural festivals.

The Company has several challenges

1. A sealed warehouse which has forced production to stopped for lack of a storage facility.
2. Poor infrastructure especially roads and bridges to facilitate transportation of cane from out-growers especially those with mix use farms.

3. Costly inputs. For instance importation of fertilizers which are then released to out-growers at a cost and it's still not enough to meet demand. Further, clearance of imported fertilizer is delayed at the port which in turn delays planting of cane which delays cane growing and production.
4. Procuring optimum machinery for farmers, whose cost the Company recovers from the farmer in instalments. Although the machinery is zero rated, they are very expensive, spare parts are expensive and are not zero rated and maintenance costs of the machinery is also quite high.
5. Kwale being a flat area, requires a good drainage network which is costly to initialize and maintain with costly imported machinery.
6. There is unavailability of cane seed variety appropriate to the coastal region. The cane seed variety being grown in the area is 70 years old (CO241) and is prone to smut. The varieties available also do not have optimum sugar levels. The law does not allow for sugar millers to import cane seeds. The Company is however working with Kenya Sugar Research Foundation (KESREF) to develop appropriate cane seed varieties. KESREF however has been struggling financially since the scrapping of the sugar development levy.
7. The workers in the area not able to produce the required quota to maintain scales of production which has forced the Company to importation of labour from western region of Kenya, as well as invest in harvesters. This has brought resistance from the local area residents. They have however introduced an incentive scheme which has led to an increase in production to between 1.2 to 1.3 tonnes of cane.
8. Land which does not have title documents making it difficult to enter into contract with land owners as out-growers.
9. Squatters have invaded part of the land KISCOL has leased from the government, which has reduced their nucleus farm land, as well as court cases to resolve the issue.

Committee observations

The Committee observed that

1. The Managing Director was not able to attend the meeting because he had to attend a court case in Mombasa.
2. The General Manager did not provide written submissions, but made oral submissions which were not adequate.

Committee recommendation

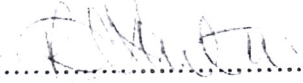
The Committee recommends that KISCOL avails itself for a meeting scheduled for 15th November, 2018 at 9:00am. In the meeting the company is required to provide written submissions on the implementation status of the Report on the Petition by Hon. Zuleikha Juma Hassan, MP, on deplorable working conditions of the workers at Kwale International Sugar Company Limited and the Report by the Departmental Committee on Agriculture, Livestock and Cooperatives on the crisis facing the sugar industry in Kenya as adopted by the National Assembly on 24th February, 2016. The submissions should include among other things:-

1. the issue of cane poaching and
2. Implementation of the zoning in sugar production.
3. Challenges facing the company
4. Benefits of the sugar development levy
5. Infrastructure improvements that can be made
6. The company relationship with the local area residents.

MIN. NO.COI/364/2018:

ADJOURNMENT

There being no other business, the meeting was adjourned at twenty minutes past eleven o'clock.

Sign.......... Date..... 4/12/2018.....
(Chairperson)

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT- FOURTH SESSION-2016

THE DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE

REPORT ON

THE PETITION BY HON. ZULEIKHA JUMA HASSAN, MP ON DEPLORABLE
WORKING CONDITIONS OF THE WORKERS AT KWALE INTERNATIONAL
SUGAR COMPANY LIMITED

SECRETORATE OF COMMITTEE SERVICES

MEMBERS' CHAMBERS

LEGISLATIVE BUILDINGS

PO BOX 100

JUNE, 2016

ANNEXES

- A. Committee Minutes
- B. Adoption List

Table of Contents

1. Chair's Foreword.....	3
2. Executive Summary.....	4
3. Mandate of the Committee.....	5
4. Members of the Committee	7
5. Introduction.....	9
5.1 Evidence.....	10
5.2 Presentation by the Petitioner, Hon. Hassan Zuleikha Juma, MP.....	10
5.3 Presentation by the Employees of Kwale International Sugar Company.....	11
5.4 Presentation by the Chief Executive Officer, Mr. Mekasha Ketyibelu.....	12
6. Findings.....	14
7. Recommendations.....	15

CHAIR'S FOREWORD

The petition was tabled before the House pursuant to Standing Order No. 225 (2) (a) by Hon. Zuleikha Juma Hassan, MP. on behalf of employees and former employees of Kwale International Sugar Company Limited on 26th August, 2015. The petitioner requests the National Assembly through the Committee investigates the circumstances behind the poor working conditions of the workers at the Company and intervenes to have the terms of workers reviewed favorably.

The petition was referred to the Departmental Committee on Labour and Social Welfare for consideration and preparation of a report within sixty days pursuant to the provisions of Standing Order 227.

In considering the petition, the Committee invited and held meetings with the petitioner, Hon. Zuleikha Juma Hassan, MP. In addition, the Committee undertook a fact finding visit at Kwale International Sugar Company Limited (KISCOL) where they held meetings with the Workers and the Management of the Company. The meetings were aimed at inquiring into the issues raised in the petition.

The Committee appreciates the assistance provided by the Office of the Speaker and the Clerk of the National Assembly that enabled it to discharge its functions in considering the petition.

On behalf of the Departmental Committee on Labour and Social Welfare and pursuant to provisions of Standing Order 227, it is my pleasant privilege and honour to present to this House the Report of the Committee on the petition by Hon. Zuleikha Juma Hassan, MP on deplorable working conditions of the workers at Kwale International Sugar Company Limited.

Hon. David A. Were, MP

EXECUTIVE SUMMARY

This report has considered and responded to the prayers sought by Hon. Zuleikha Juma Hassan, MP on behalf of workers of Kwale International Sugar Company Limited in a petition on deplorable working conditions of the workers at Kwale International Sugar Company Limited. The Committee found out that the prayers pursued by the petitioner are reasonable given that there is a Kenya Gazette Notice No.91 of June, 2015 that clearly sets the minimum wage for employees:

The report entails presentations by the petitioner, Hon. Zuleikha Juma Hassan, M.P, the employees and the management of Kwale International Sugar Company Limited. After presentations and deliberations, the report recommends that Kwale International Sugar Company Limited should issue documentations such as contract letters and letters of appointment to all its employees so that it can be the term of reference for job description. The Company should also adhere to the wage guidelines as per the Kenya Gazette Notice No.91 of June, 2015 and also pay arrears for salaries paid below the legal threshold effective June, 2015.

The Kwale International Sugar Company Limited should further provide protective gears and enforce the safety measures, regulations and use of protective gears in the company as required by the law. It should also provide better alternative modes of transportation for their employees and further provide separate compartment for tools and its workers in the mode of transport. In addition, the Company should provide a medical scheme for its workers and ensure compensation for those who have been disabled or injured while at work.

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.

The Committee is mandated to consider the following subjects:-

- (i) Labour
- (ii) Trade union relations
- (iii) Manpower or human resource planning
- (iv) Gender
- (v) Culture and social welfare
- (vi) Youth
- (vii) National youth service

- (viii) Children's welfare
- (ix) National heritage
- (x) Betting and Lotteries
- (xi) Sports

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

- i) The State Department of Labour
- ii) The State Department of Social Security Services
- iii) The State Department of Sports
- iv) The State Department of Culture and the Arts
- v) The State Department of Gender
- vi) The Department of Youth
- vii) The National Gender and Equality Commission

MEMBERS OF THE COMMITTEE

Chairperson	The Hon. David Were, MP
Vice Chairperson	The Hon. Tiyah Galgalo, MP
Members	The Hon. John Serut, MP
	The Hon. Peris Tobiko, MP
	The Hon. John Ndirangu Kariuki, MP
	The Hon. Winnie Karimi Njuguna, MP
	The Hon. Janet Nangabo, MP
	The Hon. Janet Teyiaa, MP
	The Hon. Samuel Gichigi, MP
	The Hon. Elijah Lagat, MP
	The Hon. Cornelly Serem, MP
	The Hon. Abdi Noor Ali, MP
	The Hon. Daniel Wanyama, MP
	The Hon Regina Nyeris, MP
	The Hon. Wesley Korir, MP
	The Hon. Kinoti Gatobu, MP
	The Hon. Elijah Mosomi Moindi, MP
	The Hon. James Onyango K'Oyoo, MP
	The Hon. Omondi John Ogutu, MP
	The Hon. Aisha JumwaKarisa, MP
	The Hon. Patrick Wangamati, MP
	The Hon. Rose Museo Mumo, MP
	The Hon. Silvance Onyango Osele, MP
	The Hon. Nyasuna Gladys Wanga, MP
	The Hon. John Owuor Onyango Kobado, MP
	The Hon. Mwanyoha Hassan Mohammed, MP
	The Hon. Mlolwa Jones Mwangogo, MP
	The Hon. Ferdinand Waititu, MP

COMMITTEE SECRETARIAT

Third Clerk Assistant	Mr. Erick Nyambati
Clerk Assistant	Mr. Abdirahman Gele Hassan
Clerk Assistant	Ms. Nuri Kitel Nataan
Legal Counsel	Mr. Sydney Okumu
Research & Policy Analyst	Ms. Lorna Okatch
Fiscal Analyst	Mr. Joseph Ndirangu

1.0 LIST OF RECOMMENDATIONS

The Management of Kwale International Sugar Company Limited (KISCOL) should within ninety days of this Report:-

1. Issue documentations such as contract letters and letters of appointment to all its employees so that it can be the term of reference for job description.
2. Adhere to the wage guidelines as per the Kenya Gazette Notice No.91 of June, 2015 and also pay arrears for salaries paid below the legal threshold effective June, 2015.
3. Provide protective gears and enforce the safety measures, regulations and use of protective gears in the company as required by the law.
4. Provide proper sanitation, food and water to its employees.
5. Provide better alternative modes of transportation for their employees and further provide separate compartment for tools and its workers in the mode of transport.
6. Provide a medical scheme for its workers and ensure compensation for those who have been disabled or injured while at work.

2.0 INTRODUCTION

The Petition regarding deplorable working conditions of the workers at Kwale International Sugar Company Limited was presented to the House pursuant to Standing Order 225 (2)(a) by Hon. Hassan Zuleikha Juma, MP on 26th August, 2015.

Pursuant to House rules, the petition was referred to the Committee on Labour and Social Welfare for consideration and preparation of a report within 60 days. The Committee considered the petition pursuant to the provisions of Standing Order 227.

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

- I. Kwale International Sugar Company Limited was established in 2006.
- II. The Government of Kenya and Kwale Sugar Company Limited had indicated that employment opportunities would be availed to the local community in Msambweni Constituency, Kwale County.
- III. The Company's direct hiring strategy for its employees led to the expectation that locals would be considered first with a focus on gender equality.
- IV. Employment opportunities were to be given to the members of the local community especially to individuals personally and directly affected by land evictions, but on the contrary, the workers have not obtained fair opportunities given that some are subjected to casual and contractual terms for long periods.
- V. Employment in the company is undesirable since it exposes the employees to long hours of hard labour with meagre pay of as little as Kshs. 170 per day, which offers evicted farmers no hope of overcoming the financial and social burdens they face despite the fact that the company came to Msambweni Constituency to use the land for sugar production.
- VI. The issues in respect of which this petition is made are not pending before any court of law, constitutional and legal body.

3.0 EVIDENCE

Having been seized of the Petition, the Committee commenced its consideration by meeting with the petitioner and undertaking a fact finding visit at Kwale International Sugar Company Limited to meet with the workers and the management of the Company.

3.1 Presentation by the Petitioner, Hon. Hassan Zuleikha Juma, MP

Hon. Hassan Zuleikha Juma, MP appeared before the Committee on 13th October, 2015 and informed them as follows, that:-

1. Kwale International Sugar Company Limited had at inception indicated that employment opportunities would be availed to the local community in Msambweni Constituency, Kwale County.
2. Employment opportunities were to be given to the local community members, especially to individuals personally and directly affected by land evictions, but on the contrary, the workers had not obtained fair opportunities given that some were subjected to casual and contractual terms for long periods while others were employed on permanent basis.
3. The employees were subjected to long hours of hard labour with meagre pay of as little as Kshs. 170 per day, which offers evicted farmers no hope of overcoming the financial and social burdens they face despite the fact that the company came to Msambweni Constituency to use the land for sugar production.
4. The work environment was not conducive for the workers as there were no proper shades, drinking water and sanitation.
5. Workers do not have protective gears while working and this exposed them to work related injuries.
6. The Company does not compensate those involved in accidents while working.
7. Some workers go unpaid for several weeks, and if they hold demonstrations due to lack of payment, they are severely beaten up by officers from General Service Unit.
8. Kenya National Commission on Human Rights visited Kwale International Sugar Company and engaged the employees over the same issue of deplorable working conditions.

3.2 Presentation by the Employees of Kwale International Sugar Company

The Committee visited Kwale Sugar Company premises where they met with the employees on 30th October, 2015. They were informed as follows, that:-

1. They were denied the basic needs like food and drinking water despite the harsh climatic conditions in the county and there is no sanitation.
2. They were subjected to long working hours from Six O'clock in the morning to Six O'clock in the evening without rest.
3. They were paid Kshs. 210 per day upon completion of their work which was too little. In addition, one was required to finish weeding eight rows of about 300 meters each day failure to which they would be paid half of the amount payable that was Kshs.105.
4. Farm workers were not allowed to leave the farm upon completion of the task assigned to them but more work was assigned to them.
5. Casual labourers had no contracts despite some of them having worked for the company for over ten years.
6. They have no union that can fight for the rights and air their grievances.
7. They were not provided with protective gear like helmets and reflectors and uniforms.
8. They were deducted money for National Social Security Fund and National Health Insurance Fund but the funds were never remitted.
9. They were transported to and from work using tractors and trailers, irrespective of gender.

3.3 Presentation by the Chief Executive Officer, Mr. Mekasha Ketyibelu

The Committee held a meeting with the Chief Executive Officer and senior officers of Kwale International Sugar Company Limited on 30th October, 2015 and were informed as follows, that:-

1. Kwale Sugar Company Limited had indicated that employment opportunities would be availed to the local community in Msambweni Constituency. Despite advertising and sourcing for labour door to door with the help of local chiefs, the turnout was very low.
2. Initially the qualification for the factory workers had been set at the grade of C plain at O-Level but since most of the applicants did not meet the threshold, the qualification was lowered to D+. However, KISCOL did not meet the staffing capacity from Msambweni even after lowering the qualifications and this forced them to search for laborers in the neighboring regions like Kinango, Likoni, Lunga Lunga. This resulted in extra transport costs for ferrying employees to and from their residence hence incurring huge transportation costs.
3. Land for the KISCOL project was allocated by the National Government; however most of it had been occupied by squatters who have filed cases in court against them. This had delayed the installation of the irrigation system and construction of the power line and as a result, KISCOL was not yet fully operational and the contractors were yet to hand over full command of the operation.
4. There were thirty expatriates working under Heavy Engineering Limited and one hundred and forty one trainees of which ninety per cent are locals. The trainees work under the foreign contractors and expatriates and upon acquisition of the skills, they will be shifted to permanent positions and assume the roles being carried out by the expatriates and foreign contractors.
5. That the Company runs for twenty four hours and the official working hours were eight hours. Any employee who worked any extra time was paid overtime.
6. The casual labourers were paid weekly while the permanent workers were paid on monthly basis.
7. The Company remits funds to National Social Security Fund and National Health Insurance Fund but the employee had to follow up with Human Resource office to make sure that their contributions reflect in the records.

8. The Factory had two major operation areas; Agriculture and Factory. In Agriculture, there were 500 workers for farm activities like weeding, 790 working on the cane supply management like cutting, collecting and transporting, and 794 on the cane supply side. On the factory side, there are 133 permanent workers out of which twenty two (22) are expatriates.
9. All the workers were covered under Work Injury Benefits Act (WIBA) and the Company has taken out an insurance policy for its employees and has been paying for all the bills for employees who sustain any injuries at the work place.
10. KISCOL has maintained favourable working conditions to its employees as listed below;
 - I. Providing meals at subsidized price and provision of clean water for all employees.
 - II. Providing transport to its employees to and from the work stations.
 - III. Availing safety gear to the factory workers both in agriculture and factory sector.

4.0 FINDINGS

The Committee made the following observations from evidence adduced in meetings and the field visit, that:-

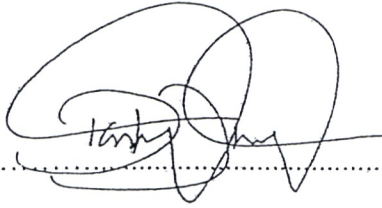
1. In Agriculture operation sector, the farm workers were paid Kshs.210 per day while the cane cutters were paid Kshs.230 for every tone of sugarcane harvested which is contrary to the Kenya Gazette Notice No.91 of 26th June, 2015 that states that the minimum wage for unskilled employee is Kshs.265.90 which translates to Kshs.6, 278.80 per month.
2. Despite the assertion by management that protective gear was provided to workers, most of the workers in the farm did not have protective gears like gumboots, reflectors, helmets and overalls.
3. The employees especially those in the farms were not provided with basic needs like food, drinking water and proper sanitation.
4. The Committee noted that despite provision of subsidized meals and water, the basic remuneration was too little for the labourers to afford to pay for food.
5. Permanent workers were provided with employment contracts clearly stipulating the terms of employment whereas the casual workers in the farm had no contract or agreement.
6. Due to large number of employees, most of them including pregnant mothers were transported to and from their homes using Lorries and tractors which was not a conducive mode of transport. Further, they were lumped together with working tools thereby endangering their lives.
7. The Committee established that KISCOL did not meet its staffing requirement from the local community in Msambweni Constituency even after lowering the qualifications for factory workers. This had forced KISCOL to search for labourers in the neighboring regions like Kinango, Likoni, Lunga Lunga among others.
8. Consequently, the Company transports workers from the furthest point of Matuga which is over 100km from the location of the factory. This poses logistical challenge of transporting each worker after completing his/her allocated task of the day.
9. Some workers had suffered industrial injuries which had caused them to be maimed while others were disabled.

5.0 RECOMMENDATIONS

In response to the prayers by the petitioners, the Committee recommends that the Management of Kwale International Sugar Company Limited (KISCOL) should within ninety days of this Report:-

1. Issue documentations such as contract letters and letters of appointment to all its employees so that it can be the term of reference for job description.
2. Adhere to the wage guidelines as per the Kenya Gazette Notice No.91 of June, 2015 and also pay arrears for salaries paid below the legal threshold effective June, 2015.
3. Provide protective gears and enforce the safety measures, regulations and use of protective gears in the company as required by the law.
4. Provide proper sanitation, food and water to its employees.
5. Provide better alternative modes of transportation for their employees and further provide separate compartment for tools and its workers in the mode of transport.
6. Provide a medical scheme for its workers and ensure compensation for those who have been disabled or injured while at work.

Signed.....



Date.....

06-09-2016

Hon. David Were, MP

Chairperson, Departmental Committee on Labour and Social Welfare

ANNEX I

MINUTES

MINUTES OF THE 6TH SITTING OF THE LABOUR AND SOCIAL WELFARE COMMITTEE
HELD ON THURSDAY 18TH FEBRUARY, 2016 IN THE BOARDROOM ON 5TH FLOOR
CONTINENTAL HOUSE, AT 10:30 AM.

Present

1. Hon. David Were, MP - Chairperson
2. Hon. Tiyah Galgalo, MP - Vice Chairperson
3. Hon. Peris Tobiko, MP
4. Hon. Nyasuna Gladys Wanga, MP
5. Hon. Winnie Karimi Njuguna, MP
6. Hon. John Serut, MP
7. Hon. Elijah Moşomi Moindi, MP
8. Hon. Samuel Gichigi, MP
9. Hon. Janet Teyiaa, MP
10. Hon. Abdinoor Mohamed Ali, MP
11. Hon. Mwanyoha Mohammed, MP
12. Hon. Cornelly Serem, MP
13. Hon. Wesley Korir, MP
14. Hon. John Ndirangu Kariuki, MP
15. Hon. Dan Wanyama, MP
16. Hon. Janet Nangabo, MP
17. Hon. Patrick Wangamati, MP
18. Hon. Kinoti Gatobu, MP
19. Hon. Elijah Lagat, MP

Apologies

1. Hon. Mlolwa Jones Mwagogo, MP
2. Hon. Omondi John Ogutu, MP
3. Hon. Regina Nyeris Changorok, MP
4. Hon. Silvanice Onyango Osele, MP
5. Hon. Aisha Jumwa Karisa, MP
6. Hon. James Onyango K'Oyoo, MP
7. Hon. Rose Museo Mumo, MP
8. Hon. Mustafa Idd, MP
9. Hon. Ferdinand Waititu, MP
10. Hon. John Owuor O. Kobado, MP

In Attendance

National Assembly

1. Mr. Erick Nyambati Third Clerk Assistant
2. Mr. Abdirahman G. Hassan Third Clerk Assistant
3. Ms. Nuri K. Nataan Third Clerk Assistant

Min/DC-LSW/2016/029

Preliminaries

The Chairman called the meeting to order at 10:45 am and said the opening prayers.

Min/DC-LSW/2016/030

Confirmation of Minutes

The minutes of the 5th Sitting were confirmed as true records of the proceedings having been proposed by Hon. Samuel Gichigi, M.P. and seconded by the Hon. Nyasuna Gladys Wanga, M.P.

Min/DC-LSW/2016/031

Meeting with the Cabinet Secretary for the Ministry of Youth, Public Service and Gender Affairs on implementation of programmes for the Financial Year 2014/2015, 2015/2016 1st and 2nd Quarter Budget

The agenda was deferred since the Cabinet Secretary could not attend the meeting as she was attending a Cabinet Meeting.

Min/DC-LSW/2016/032

Adoption of the report on Memorandum by the President on the National Employment Authority Act, 2015

The Committee considered the report and adopted it with the following observations:-

Committee Observations

1. There was no oversight by Parliament in the National Employment Authority Bill, 2015 as passed by the National Assembly since the Bill envisaged the establishment of a new Authority.
2. The Committee concurred with H.E. the President's memorandum to provide for transitional provisions to facilitate the transformation of the Bureau into the Authority and cater for the legal consequences of such transformation.

Min/DC-LSW/2016/033

Adoption of the report on Petition by Hon. Zuleikha Juma Hassan, MP on the deplorable working conditions of workers at Kwale International Sugar Company Ltd

The Committee considered and adopted the report with the following observations and recommendations:-

Committee Observations

1. In the agricultural operation sector, the farm workers were paid Kshs.210 per day while the cane cutters were paid Kshs.230 for every tone of sugarcane harvested which is contrary to the Kenya Gazette Notice No.91 of 26th June, 2015 that states that the minimum wage for unskilled employee was Kshs.265.90 which translates to Kshs.6, 278.80 per month.
2. Most of the workers in the farm did not have protective gears like gumboots, reflectors, helmets and overalls. However, the Management provided documents showing that the Company had bought and issued the same.
3. The employees especially those in the farms were not provided with basic needs like food, drinking water and proper sanitation.
4. Permanent workers were provided with employment contracts clearly stipulating the terms of employment whereas the casual workers in the farm had no contract or agreement.
5. Due to large number of employees, most of them including pregnant mothers were transported to and from their homes using Lorries and tractors which was not a conducive mode of transport.
6. The Committee established that KISCOL did not meet its staffing requirement from the local community in Msambweni Constituency even after lowering the qualifications for factory workers. This had forced KISCOL to search for laborers in the neighboring regions like Kinangop, Likoni, Lungalunga among others.
7. Consequently, the Company transports workers from the furthest point of Matuga which is over 100km from the location of the factory. This poses logistical challenge of transporting each worker after completing his/her allocated task of the day.
8. Some workers had suffered industrial injuries which had caused them to be maimed while others were disabled.

Committee Recommendations

In response to the prayers by the petitioners, the Committee recommends that the Management of Kwale International Sugar Company Limited (KISCOL) should:-

1. Review the wage rate of its employees as per the Kenya Gazette Notice No.91 of June, 2015.
2. Enforce the safety measures, regulations and use of protective gears in the company as required by the law.
3. Provide proper sanitation, food and water to its employees.
4. Issue documentations such as contract letters and letters of agreements to all its employees so that it can be the term of reference for job description.
5. Provide better alternative modes of transportation for their employees and further provide separate compartment for tools and its workers in the mode of transport.
6. Have a structured capacity building plan for the local community.
7. Provide for medical scheme for its workers and compensation for those who have been disabled.
8. Implement the Committee's recommendations within ninety days from the day that the report is adopted by the whole House.

Min/DC-LSW/2016/034

Any Other Business

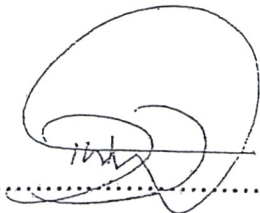
The Chairman brought to the attention of the Committee that he had received a letter from the Ministry of Youth, Public Service and Gender Affairs requesting the Committee to nominate four Members of the Committee to attend the 60th Commission on the Status of Women (CSW) to be held in New York from 14th to 24th March, 2016. They resolved that priority be given to Members who had not previously travelled to the USA while nominating the participants for the CSW.

Min/DC-LSW/2016/035

Adjournment

There being no other business, the meeting was adjourned at 12.00 pm to be reconvened on Tuesday, 23rd February, 2016 at 10.30 am.

SIGNED.....



DATE.....

15-03-2016

HON. DAVID WERE, M.P

(Chairperson)

ANNEX II

ADOPTION LIST

The National Assembly



Eleventh Parliament—4th Session
Departmental Committee—J: Labour and Social Welfare

AGENDA


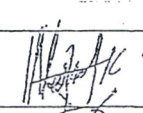
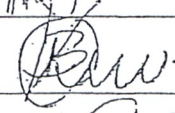

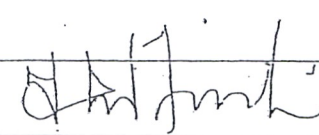
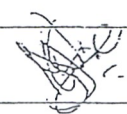

1. Consideration and adoption of the Report on the National Employment Authority Bill, 2015.
2. Consideration and adoption of the Report on the Petition by Hon. Zuleikha Juma Hassan, MP on the deplorable working conditions of workers at Kwale International Sugar cane Company Limited.

VENUE : Boardroom on 5th Floor, Continental House

DATE : Thursday 18th February, 2016

Time: 10:30 a.m.

NO.	NAME	SIGNATURE
1.	Hon. David Were (Chairperson), MP	
2.	Hon. Tiyah Galgalo (Vice Chairperson), MP	
3.	Hon. Janet Teyiaa, MP	
4.	Hon. Peris Tobiko, MP	
5.	Hon. John Ndirangu Kariuki, MP	
6.	Hon. Winnie Karimi Njuguna, MP	
7.	Hon. Janet Nangabo, MP	
8.	Hon. John Serut, MP	
9.	Hon. Samuel Gichigi, MP	
10.	Hon. Elijah Lagat, MP	
11.	Hon. Cornelly Serem, MP	
12.	Hon. Abdinoor Mohamed Ali, MP	

13.	Hon. Dan Wanyama, MP	
14.	Hon. Regina Nyeris Changorok, MP	
15.	Hon. Wesley Korir, MP	
16.	Hon. Kinoti Gatobu, MP	
17.	Hon. Elijah Mosomi Moindi, MP	
18.	Hon. James Onyango K'Oyoo, MP	
19.	Hon. Omondi John Ogutu, MP	
20.	Hon. Aisha Jumwa Karisa, MP	
21.	Hon. Patrick Wangamati, MP	
22.	Hon. Rose Museo Mumo, MP	
23.	Hon. Silvance Onyango Osele, MP	
24.	Hon. Mustafa Idd, MP	
25.	Hon. Nyasuna Gladys Wanga, MP	
26.	Hon. John Owuor O. Kobado, MP	
27.	Hon. Mwanyoha Mohammed, MP	
28.	Hon. Mlolwa Jones Mwangogo, MP	
29.	Hon. Ferdinand Waititu, MP	

Erick Nyambati-Committee Clerk

For: CLERK OF THE NATIONAL ASSEMBLY

DLPS

(2) (14755)

Please deal
31/10/19

Please deal
FA
31/10/19



**MINISTRY OF LABOUR AND SOCIAL PROTECTION
OFFICE OF THE CABINET SECRETARY**

Tel: +254 (0) 2729800
Website: www.labour.go.ke
Email: cs@labour.go.ke

SOCIAL SECURITY HOUSE
BISHOPS ROAD
P.O. BOX 40326-00100
NAIROBI
KENYA

When replying, please quote

Ref: ML&SP/37/5

30th October, 2019

(3) HNB
EMENEN

Michael R. Sialai, EBS
Clerk to the National Assembly
NAIROBI

Please note
FA
31/10/19

Dear, Michael,

**RESPONSE TO REQUEST FOR SUBMISSION BY THE SELECT
COMMITTEE ON IMPLEMENTATION STATUS OF THE
REPORT ON DEPLORABLE WORKING CONDITIONS OF
WORKERS KWALE INTERNATIONAL SUGAR COMPANY
LIMITED**

Please refer to your letter Ref: NA/DCS/COI/2019/ (115) dated 11th October, 2019 on the above subject matter.

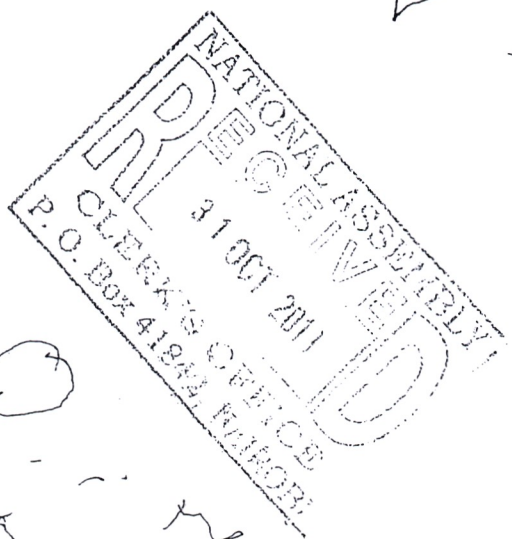
Enclosed find the response to the above for your further action.

Yours, Sincerely

Hon. (Amb.) Ukur Yatani
CABINET SECRETARY

Encl.

for



Question: The Implementation Status of the Report on Deplorable Working Conditions of Workers at Kwale International Sugar Company Limited (KISCOL)

Preamble

The Departmental Committee on Labour and Social Welfare visited the above stated organization following complaints related to the terms and conditions of employment applied by the organization and filed a report that outlined six recommendations that the management of the above organization was to address.

(1) Response:

Status of Compensation to the Employees of KISCOL as per the Work Injury Benefit Act (WIBA);

A total of 21 work related injuries had been reported by KISCOL to the County Occupational Safety and Health Officer, Kwale County as at 1st April 2019. It was noted that only one injury was fatal involving one employee namely Said Mwaramwendo Mwatsanzi, who was compensated at Ksh.820,224.00 to the dependants of the deceased employee.

The total amount of compensation demanded from the Company as at 1st April 2019 amounted to Kshs.11,122,914.00. The distribution is as shown below.

Description	Amount (Kshs)
1. Total amount of Compensation claimed	11,122,914.00
2. Total Amount of Compensation Settled	5,493,709.00
3. Total Amount of Pending Claims	5,629,205.00

(2) A comprehensive Work Place Inspection Audit Report Relating to Employees of Kwale International Company Limited as per The Occupational Safety and Healthy Act the Work Injury Benefits Act

Following a petition to the National Assembly by Hon. Zuleikha Juma, MP, Member for Kwale County on 26th August 2015 on behalf of employees and former employees of Kwale International Sugar Company Ltd concerning deplorable working conditions in the said workplace, the Departmental Committee on Labour and Social Welfare, after visiting the workplace, presented a report to the National Assembly in June 2016.

The report highlighted six recommendations which were supposed to be addressed by the management of Kwale International Sugar Company Ltd within ninety days. The recommendations were as follows:

- i. Provide protective gears and enforce the safety measures and regulations as required by law;
- ii. Provide proper sanitation, food and water to its employees;
- iii. Provide better alternative modes of transport for employees and provide a separate compartment for tools, and
- iv. Provide medical scheme for the employees and workman compensation benefit to all employees.
- v. Issue contract letters and /or letters of appointment to all its employees;
- vi. Adhere to the wage guidelines as per Kenya Gazette Notice No. 9 of June 2015 and also pay arrears for salaries paid below the legal threshold effective June 2015;

Pursuant to this, the Committee on Implementation visited the workplace on 29th March 2019 to establish if the above mentioned matters had been implemented by the workplace.

The Committee on Implementation carried out the following:

- a) Held a meeting with the management of Kwale International Sugar Company Ltd
- b) Held a meeting with the employees of Kwale International Sugar Company Ltd in absence of the company management
- c) Carried out an inspection of the workplace

Management Meeting:

During this meeting, the management of Kwale International Sugar Company Ltd presented a progress report on the implementation of the recommendations stated above. The following was the company's response:

1. Provision of protective gears and enforcing the safety measures and regulations as required by law

The company reported as follows:

- i. Issuance of PPE is a continuous activity undertaken as and when required
 - i. Compliance with safety measures and regulations:
- ii. Company is registered as a workplace under the Occupational Safety and Health Act, 2007 vide certificate of registration No. KWL9194/08/18/02
- iii. Formulation and enforcement of compliance with the company Occupational Safety and Health Policy
- iv. The workplace has been carrying out the annual safety and health audit
- v. The workplace has formed and trained the health and safety committee
- vi. The workplace has been carrying out the annual fire safety audits
- vii. Implementation of a structured occupational accidents review and investigation program
- viii. Compliance with statutory examination of plant and lifting equipment

- ix. Developed and implemented an emergency response plan and;
- x. Carrying out the annual Occupational Medical Examinations in accordance with the law

2. Provision of sanitary facilities, Water and Food

The company responded as follows:

- i. Provision of adequate, portable drinking water points through its water treatment plant and by use of water bowsers for water supply to staff engaged in operations in the field
- ii. Maintaining current catering infrastructure, services and subsidies on food and;
- iii. Maintaining existing sanitary facilities and building new ones as need arises. Currently the company has the following sanitary facilities-

Facilities for male employees

- i. 27 toilets
- ii. 22 hand wash basins
- iii. 11 urinals
- iv. 5 bathrooms

Facilities for female employees

- 15 toilets
- 11 hand wash basins
- 3 bathrooms

3. Provision of alternative modes of transport and separate compartment for hand tools (Pangas, Jembes and other sharp farm working tools) storage

The company responded as follows:

- i. The company has already fitted three trucks with seats, staircases and canopies in order to ferry workers to and from their places of work safely
- ii. The process of modifying three other trucks is on-going.
- iii. One mini bus and a van assigned to ferry staff from Ukunda to work and back
- iv. A 58 seater bus has been identified for purchase and a budget set aside for the purpose (the company to provide evidence of the same to the committee)
- v. The trucks being modified have provision for separate compartments for storing hand tools during transportation of the workers
- vi. Hand tools boxes have been fabricated for use on trucks without separate hand tools compartments

4. Provision of medical scheme and workman compensation for employees

Workman compensation as per The Work Injury Benefits Act

The company responded as follows:

- i. The company is in compliance with the Work Injury Benefits Act
- ii. The company purchases GPA insurance policy annually that covers all employees in case of accidents or injury at work
- iii. The company pays all medical bills for employees injured at work, grants injury leave as well as compensation under the Work Injury Benefits Act.

Workers' Meeting:

The committee then met with the workers in the field and the following are the concerns raised by the workers:

- i. The workers have not been issued with contract letters/letters of appointment despite having worked for long periods of time, some as long as 9 years.
- ii. The casual workers are supposed to be paid weekly but the company has not been paying them on time. The workers are paid one week wages in a span of five weeks, such that the company owes them four weeks wages.
- iii. Workers in the field have not been provided with sanitary facilities
- iv. NHIF dues are deducted yet they are not remitted
- v. NSSF dues are deducted yet they are not remitted
- vi. Some workers are not given tools for work (jembes and pangas), so they have to carry theirs from home. That is why the need for tools storage compartment in the transportation trucks arose.
- vii. Workers picked from their homes as early as 2am to start work at 6am
- viii. The workers are not supplied with wholesome drinking water
- ix. Discrimination in terms of employment between local workers and those from other regions of the country, workers were of the opinion that workers from other regions are treated favourably unlike those from the neighbouring community
- x. The workers are transported in open lorries and tractors
- xi. Workers had not been provided with adequate personal protective equipment. Infact, overalls had been provided that morning that the committee visited the workplace
- xii. Sick workers are asked to pay at the staff clinic before being attended to
- xiii. Some workers have been working for long periods of time without salary review. A case in point is a worker who stated that he had been working for nine years without any salary review.
- xiv. Farm supervisors cover a large area to supervise yet they are not provided with modes of transport, so they have to supervise work in their areas on foot. A case in point is a supervisor with a coverage of 360 hectares which he covers on foot.
- xv. Workers in the spray section are not provided with suitable and adequate personal protective equipment including spray suits, respirator masks, hand gloves and eye protection

- xvi. Cane cutters are not provided with hand gloves
- xvii. Workers are sacked for airing their complaints

Workplace Inspection:

Since the factory was not operational at the time of the visit, the committee inspected the transport area where they were shown the modified trucks for transporting the workers.

a) Compliance with the Occupational Safety and Health Act, 2007

The following findings have been carried out:

- i. There is a health and safety department in the company headed by a safety manager, Mr. Alfred Yamo and a safety officer, Harriet Olonde.
- ii. The company has carried out occupational health and safety risk assessments
- iii. The company has formulated and publicized the health and safety policy
- iv. A fire safety team has been formed and the same was trained in January 2018 by Safety and Environment Focus, an approved training institution
- v. A health and safety committee team has since been formed and the same was trained in August 2018 by Safety and Environment Focus, an approved training institution
- vi. Occupational medical examinations were carried out on 2nd August 2018 by Dr. G.A. Kamau, a Designated Health Practitioner
- vii. Plant and lifting equipment had been examined on 25th March 2018 by Peter Mwai Muigai, an Authorised Plant Examiner
- viii. The Abstract of the Occupational Safety and Health Act had been posted in prominent positions at the workplace
- ix. Transport: It has been noted that three trucks have been modified to transport workers. The trucks are fitted with benches for workers to sit while being transported

b) Occupational accidents and payment of compensation:

The workplace has been reporting Occupational accidents and submitting DOSH 1 forms which have been filled by the doctor for this office to assess the compensation due to the workers. So far these are the completed DOSH 1 forms which have been assessed for compensation and the status whether paid or still pending:

5. Contracts/Appointment Letters

All the permanent and term contract employees have been issued with contract/appointment letters and new employees are issued with the same on recruitment, however the long serving casual employees have not had their terms converted to regular

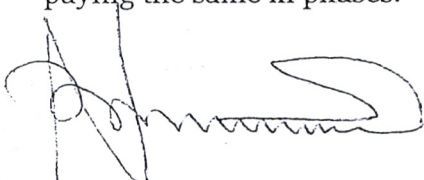
terms as provided by the Employment Act 2007 and they have not been issued contracts/appointment letters.

The employer has formulated the contracts/appointment letters for the long serving casuals but has not issued them. The management maintains that the issuance of the contracts and conversion of the long serving casuals to regular terms is largely dependent on the commencement of milling operations which are yet to start.

6. Adherence to Kenya Gazette Notice No.9 of June 2015

The management of the organization acknowledged that the above Legal notice was not applied and therefore owe the employees the resultant difference in the wages paid with the arrears amounting to approximately Kshs. 3 million and that the employer is in compliance with the current stipulated minimum wage.

Similarly, the management cited commencement of milling operations to facilitate the payment of the applicable wage arrears and proposed a grace period of three months to start paying the same in phases.


P
fer)
Hon. (Amb.) Ukur Yatani
CABINET SECRETARY

Supplementary Notes

Table 1: Summary of WIBA cases (Compensations)

No	WIBA No.	Name of injured	M/F	Fatal/Non fatal	Date Processing completed	Amount calculated	Date paid	Amount paid	Comment
1	WIBA/KWL/025/2013	Saidi Mwaramwendu Mwatsanzi	M	Fatal	18/08/14	820,224.00	19/03/18	820,224.00	Claim settled
2	WIBA/KWL/004/2016	Nancy Anyango Oyamo	F	N/F	27/11/17	1,569,351.00	19/02/18	1,569,351.00	Claim settled
3	WIBA/KWL/007/2017	Geoffrey Chioma Wasshali	M	N/F	7/12/18	162,432.00	Not yet paid	-	Claim pending
4	WIBA/KWL/027/2017	Afiya Juma Boi	M	N/F	1/10/18	530,828.00	4/01/19	530,828.00	Claim settled
5	WIBA/KWL/037/2017	George Okoth Ojwang	M	N/F	8/06/18	498,556.00	3/09/18	498,556.00	Claim settled
6	WIBA/KWL/003/2018	Athuman Omari Ramoyo	M	N/F	19/2/18	16,620.00	Not yet paid	-	Claim pending
7	WIBA/KWL/010/2018	Josephine Kerubo	F	N/F	28/2/18	371,249.00	Not yet paid	-	Claim pending
8	WIBA/KWL/011/2018	Shadrack Ndeda	M	N/F	8/06/18	1,894,734.00	Not yet paid	-	Claim pending
9	WIBA/KWL/012/2018	Mshee Mohamed Mnyamiri	M	N/F	8/06/18	357,600.00	Not yet paid	-	Claim pending

10	WIBA/ KWL/ 013/2 018	Harriet Olonde	F	N/F	3/7/1 8	1,021,171.00	26/10/1 8	1,021,1 71.00	Claim settled
11	WIBA/ KWL/ 014/2 018	Bakari Haji	M	N/F	19/3/ 18	7,434.00	Not yet paid	-	Claim pending
12	WIBA/ KWL/ 015/20 18	Sharon Ayoo Otieno	F	N/F	19/3/ 18	424,802.00	11/01/19	424,80 2.00	Claim settled
13	WIBA/ KWL/ 033/2 018	Hamisi Abdalla Ngoni	M	N/F	3/7/1 8	198,760.00	Not yet paid	-	Claim pending
14	WIBA/ KWL/ 034/2 018	Nassir Ali Dete	M	N/F	3/7/1 8	257,278.00	Not yet paid	-	Claim pending
15	WIBA/ KWL/ 035/2 018	Kigoto Kassim Mshamanga	M	N/F	3/7/1 8	36,254.00	Not yet paid	-	Claim pending
16	WIBA/ KWL/ 043/2 018	David Obura	M	N/F	26/10 /18	628,777.00	11/01/19	628,77 7.00	Claim settled
17	WIBA/ KWL/ 044/2 018	Thomas Ooko Okoth	M	N/F	1/10/1 8	249,102.00	Not yet paid	-	Claim pending
18	WIBA/ KWL/ 045/2 018	Mwangangi Nzioka Kathumo	M	N/F	1/10/1 8	66,480.00	Not yet paid	-	Claim pending
19	WIBA/ KWL/ 046/2 018	Patrick Makondo	M	N/F	1/10/1 8	18,570.00	Not yet paid	-	Claim pending
20	WIBA/ KWL/ 059/2 019	Esther Mueni Mwangangi	F	N/F	4/01/ 19	1,301,300.0 0	Not yet paid	-	Claim pending
21	WIBA/ KWL/ 060/2 019	Francis Wamai Masinga	M	N/F	7/01/ 19	691,392.00	Not yet paid	-	Claim pending

- i) It was observed that lorries transporting workers from the workplace were overloaded with workers. It has also been observed that there are many reported road traffic accidents to your workers being transported to and from the workplace, therefore put in place a clear transport safety policy to avoid these accidents.
 - j) It was also noted that occupational accidents are reported to this office, however, this office does not receive completed DOSH 1 forms filled by the doctor for assessment in order to complete the payment process. The few that have been brought and DOSH/WIBA 4 form issued have never been paid. As a result, avail to this office a list of all accidents since the year 2013 up to date and the action taken by the company in each case in regards to submitting the form to the doctor for assessment, submitting the same form to this office for issuance with DOSH/WIBA 4 and payment made, if any, within the next 7 days.
3. Which in my opinion contravened the following sections of the Act/Rules made under the said Act, 6(3), 7, 11, 81(1),72 and 121.
 4. And as such do hereby serve this **IMPROVEMENT NOTICE** requiring you to rectify the above contravention(s) within a period of **21** days from the date of service of this notice.
 5. Reasons for serving this notice:
 - I am of the opinion that the above-mentioned contraventions are most likely to be continued.
 - The contraventions pose risk of imminent danger to persons employed.
 6. Please be warned that unless the said contraventions are rectified within the period given and the improvement notice lifted, further legal action will be considered.
 7. Name of officer serving the NOTICE: Bernard W. Simiyu, Gazette No. G.N. No. **5** of **2012**

DESIGNATION: County Occupational Safety and Health Officer

SIGNATURE: _____

8. This NOTICE is served in accordance to section 118 of the Occupational Safety and Health Act, 2007.

(a) **Received by:**

Designation _____

Signature _____ **Date** _____

Official Stamp _____

Total	11,122,914.00		5,493,709.00	5,629,205.00 amount which is pending
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The above is the number of accidents reported for which assessment compensation has been done. Out of the total amount claimed of Ksh. 11,122,914.00, the workplace has paid Ksh. 5,493,709.00 translating to about 49% paid claims.

OCCUPATIONAL SAFETY AND HEALTH ACT, 2007
IMPROVEMENT NOTICE UNDER SECTION 36
IMPROVEMENT NOTICE No. 043 OF 2017

To: KWALE INTERNATIONAL SUGAR CO. LTD,
P.O.BOX 46279-00100,
NAIROBI
(RAMISI FACTORY)

1. Take note that I, Bernard W. Simiyu being an officer duly appointed under section 26 of the Occupational Safety and Health Act, 2007 and as such officer, by powers duly conferred upon me under section 36 hereby notify you that on the 2nd November 2017, I entered/examined your work place situated off Ukunda-Lunga Lunga Road on LR. No. 27742 within Kwale County.
2. And as a result of my entry and examination of the said premises; found that:-
 - a) You had not conducted an appropriate health and safety risk assessment and adopt preventive and protective measures to ensure that workers are safe at all times contrary to section 6(3) of the Act
 - b) You had not publicized the company health and safety policy to all your employees contrary to section 7 of the Act.
 - c) There was no properly constituted firefighting team neither had you carried out a Fire safety training of your workers contrary to section 81 (1),b of the Act and section 20(1) and (4) of the Factories (Fire Risk Reduction Rules) of 2007
 - d) There was no properly constituted health and safety committee, neither had the committee undergone the prescribed training as per the Health and Safety Committee Rules.
 - e) You had not carried out noise survey measurements for the noisy operations at the workplace
 - f) You had not carried out Occupational medical examinations of your employees as per Medical Examination Rules.
 - g) You had not caused the plant equipment in use to be examined by an Authorized Plant Examiner contrary to section 72 of the Act.
 - h) You had not posted the Occupational Safety and Health Abstract in a prominent position at the workplace contrary to section 121 of the Act.

(b) Since the person to whom this **IMPROVEMENT NOTICE** was addressed refused to receive it, this Notice was pinned at the door of the office /was left at the office by _____ Sign
_____ on _____

(c) c.c. Director of Occupational Safety and Health Services
P.O Box 34120 - 00100, Nairobi.

Additional areas of concern

The officer further noted that the employer had overdue wages owed to the employees with the long serving casuals who are paid on weekly basis being owed up to two weeks wages. This was a perennial problem that the employees have been facing.

Observation

It is becoming evidently clear that the employer is facing challenges in meeting his obligations and commitments to the employees, as the wage underpayments have been due since 2015, conversion of long serving casuals has been a provision of the Employment Act since 2007, it is further noted that the organization's commitment to brief the committee regularly on the implementation of their recommendations has not been honored.

The management continues to site commencement of milling operations as the solution to the areas enumerated above and maintains that the company is being financed from outside sources as it is not generating the necessary income.

The enumerated areas above constitute contraventions of the Labour Statutes which attracts punitive measures to procure remedy. The statutes further provide an employer who is unable to sustain employment the option to declare redundancies.

Way Forward

Efforts are being directed towards the following:-

- Determine the actual employees without contracts/appointment letters.
- Establish the actual number of employees and amount owed in wage arrears that were effective as from June 2015.
- The total amount owed to each individual as outstanding wages.

The above will equip the office with the necessary details should punitive measures be the solution.

A follow up visit within the next 21 days and carry out a comprehensive workplace inspection from which the office will compel the occupier to comply with all outstanding issues relating to the Occupational Safety and Health Act, 2007 and the Work Injury Benefits Act. This inspection will also address the concerns of the workers raised during the workers' meeting and we will report on the progress within 21 days from the date of inspection.



Our Ref: KISCOL/PC/2/10/2019/COI
Your Ref: NA/DCS/COI/2019(114)

Date: 4th August, 2020

The Clerk of the National Assembly,
National Assembly,
Parliament Buildings,
P.O Box 41842-00100,
Nairobi.

Dear Sir/Madam,

RE: IMPLEMENTATION STATUS ON DEPLORABLE WORKING CONDITIONS OF WORKERS
KWALE INTERNATIONAL SUGAR COMPANY LIMITED

Reference is made to the above subject matter.

We hereby write to advise on the progress report regarding implementation of recommendations of the parliamentary select committee and the status of the working conditions of workers at Kwale International Sugar Company Limited. This progress report is made in reference to;

- a) The Petition tabled before the Departmental Committee on Labour and Social Welfare in August 2015 by Hon. Zulekha Juma Hassan, MP, on behalf of both the current and former employees of Kwale International Sugar Company on alleged deplorable working conditions.
- b) The recommendations to improve working conditions by the Departmental Committee on Labour and Social Welfare presented to the company vide the National Assembly letter reference NA/DLP/PP/2016(015) dated June 30, 2016.
- c) The six key areas highlighted by the National Assembly vide a letter dated July 13, 2016, reference NA/DLP/2016 (015) that should be looked into with respect to improving the working conditions of employees at Kwale International Sugar Company Limited (herein the company).
- d) Further, in reference to recommendations and timelines by the Parliamentary Select Committee during the visit and fact finding mission on the 29th March 2019.

KWALE INTERNATIONAL SUGAR CO. LTD

The company wishes to update the National Assembly as follows:

NR	Issue	Status / Actions taken
	Issue letters of contracts / letters of appointment to all employees	<ol style="list-style-type: none"> 1) The company has continued to issue letters of appointment to all new employees before they join its employment. 2) Letters of contract for employees on casual terms developed and approved by the Management. <i>(sample copies attached)</i>
	Adherence to the wage guidelines, Gazette notice no. 97 of June, 2015 and payment of arrears for salaries paid below the legal threshold effective June, 2015	<ol style="list-style-type: none"> 1) The company is compliant with minimum wage requirement as per the Regulations of Wages (General) (Amendment) Order 2018 – Legal Notice No. 2 of 2019 and the Regulation of Wages (Agricultural Industry) (Amendment) Order 2018 – Legal Notice No. 3 of 2019. 2) Calculations for total wage arrears arising from non-compliance with Legal Notice No. 97 of 2015 have been determined. <i>(summary of calculations attached)</i> 3) The company liaised with the County Labour Officer for the case of employees who have since left employment and cannot be traced. We await feedback from County Labour Office on this.
	Provision of protective gear and enforcement of safety measures and regulations as required by law.	The company has issued requisite PPEs to all employees as per the requirements of Work Injury Benefits Act (WIBA) 2007 (the include gumboots, reflectors, dust mask, security boots, ear muffs, helmets, security line yards, whistle, security belts, chef caps, aprons, chef coats, rubber shoes, t-shirts, clear goggles, leather gloves, rubber gloves, respirators, ear plugs, overalls(brown), dark grey overalls, yellow split overalls, orange split overalls, navy blue split overalls, green split overalls, sky blue split overalls, welding shield, leather aprons, raincoats, lab coats and head net <i>(schedule of issuance attached for reference)</i>
	Provision of sanitary facilities, water and food	<ol style="list-style-type: none"> 1) Construction of urinal blocks and toilets at the various Pump Stations is on-going.

- 2) Renovations and rehabilitation of urinal blocks that were not functioning has been completed and the facilities have put back to use.
- 3) Water bowsers continue to fetch clean drinking water to employees working in the field on a daily basis.
- 4) The staff canteen is in place and offers meals to employees at subsidized rates payable through check off system.
- 5) Since the global/ country/ counties spread of Covid-19 pandemic, the company continue to implement/ adhere to measures and guidelines put in place by the Ministry of Health and WHO. In the foregoing, we have increased water points and hand washing facilities in strategic areas of the company premises as well as continuously availing hand washing soaps, toiletries, and alcohol based sanitizers to employees for use. We have also issued face masks to all employees and availed thermo guns for taking temperatures. We continue to create awareness in line with Standard Operating Procedures and Protocols obtaining from the referenced authorities guidelines.
- 6) To date and despite not stopping operations, the company has not reported any Covid-19 case within her work force courtesy of strict adherence and enforcement of the above measures and protocols.

Provision of better alternative modes of transport for employees

Four trucks / van/ minibus have been repaired/ modified to provide comfortable, spaced seating for employees to comply with Traffic requirements and the Ministries of Health and Transport existing Protocols for Public and Private Transport.

Provision of medical scheme and workman compensation for

- 1) Employees access medical services at the company's Get Well Hospital Limited and under the MoU arrangement with

employees	<p>Msambweni County Referral Hospital.</p> <p>2) We continue to sensitise employees on requirements, rules and regulations governing the work injury compensation scheme and process -this is done through internal awareness, the DOSH trainings and paid seminars.</p> <p>3) The company has fully complied with Work Injury Benefits Act (WIBA) 2007 requirements in terms of compensation of employees injured at the work premises.</p>
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Positive Socio-economic impacts of the project, as well as challenges facing the company

1. Notwithstanding the issues raised by the Petitioner, Hon. Zulekha Hassan, it is worth to note that the Company is a key contributor to the Country's economic agenda and a transformative undertaking in the ailing sugar industry. Her 3,300TCD Sugar Complex expandable to 5000 TCD is unique in its set up compared to the other sugar factories in Kenya and this has enabled it to significantly lower the cost of production thus giving it a competitive edge both locally, regionally and internationally.
2. Since its inception, there are various positive economic and social impacts on the people of Kwale and the Country as a whole including creation of job opportunities, payment of taxes and other levies, upgrading of roads and enrolment of farmers in her out growers program.
3. However, it has faced various challenges that adversely affect her operations since its inception, which essentially impacted on her ability to fully implement the recommendations of the National Assembly. These include seizure of the company sugar and closure of the warehouse by a multi-agency team, fire breakout at the factory, the squatter issues which have prevented the company from developing/ accessing its land, besides hindering laying of pipes for the bulk water supply project.
4. Below is a detailed insight;

No.	Social and economic impacts of the project	Challenges facing the Company
	<ol style="list-style-type: none"> 1) The company produces over 70,000 T of sugar per annum. 2) The company employs over three thousand (3,000) workers both on permanent and fixed term contracts. 3) The company has engaged over 1000 farmers into its out growers scheme, where it provide facilities in developing their respective parcels of land. Further, there is in place bursary schemes for needy and deserving out grower's children. 4) Construction of dams and boreholes has improved access to fresh water to the host community. 5) Construction and support for schools has enabled access to education for children of the host community. 6) The company has a Medical Facility (Get Well Clinic) where all its employees access free medical services. The clinic also occasionally arrange for free medical camps for farmers and members of the surrounding community who receive free medical services, medicines and awareness on various medical related issues. 7) The Company pays various taxes and 	<p><u>Squatter issues</u></p> <ol style="list-style-type: none"> 1. Considering that the factory is expected to crush 3000 TCD, access to land is paramount for the realization of the objective. The company has, however, not been able to fully exploit the parcels of land allocated by the government by way of Lease / Sublease (LR. No. 27742 leased on 20th August 2007 for 99 years – measuring 6082.6 Ha and LR No. 5056 leased for 99 years on 1.6.2017 measuring 1917.06 Ha). 2. Full access is hindered by acts of infraction, invasion, trespass and illegal occupation of certain areas comprising the referenced parcel by squatters and the County Government of Kwale leading to boundary disputes that has escalated to law suits being filed at the High Court at Mombasa. Further, their presence and activities have made it impossible for the company to undertake key project installations as per the approved project plans including the bulk water supply system meant for irrigation, as well as the 132 kV Power line meant to supply power to the national grid. 3. Despite a court order prohibiting the County Government of Kwale as well as squatters from erecting any permanent structures on the property, they continue to construct permanent structures every day.

levies to both the National and the County Government. For instance, Cess paid to the County Government is used to improve various road networks within Kwale County, enhancing access and mobility.

In addition to the above, the company grade various access roads to the out growers farms to enable access for sugar production. This further improves mobility and accessibility to various villages within Lunga Lunga and Msambweni Sub-Counties.

- 8) The company's project environmentally friendly in line with the Equator Principles and has also been certified by ERM UK. In 2013, we received an award from World Finance for being the best green field project in Africa and Nominated for African Climate Good Practice Award 2013.

4. Following various meetings with stakeholders including the Coast Regional Coordinator, County Land Management Coordinator, Kwale County Surveyors and the community /squatters currently inhabiting various sections of the land, it was agreed & directed that the company moves into the land where 340.7 ha was to be excised out for community use in addition to other government parcels which were identified for resettling the squatters.

5. However, the squatters were incited by politicians, including the Petitioner, Hon Zulekha Hassan until they resisted. To date, the company has not advanced any further operations at the said land. We have since filed a case against her for slandering the company.

6. On 25th June 2018 a multiagency team comprising of DCI, KEBS and KRA raided the factory and seized 102,377 bags of fifty (50) kilogram of company milled/ processed brown sugar and sealed off the warehouse. This essentially led to the closure of the factory, which had been in maintenance since March 2018.

7. The Team failed to communicate results from samples taken despite various follow up ups with relevant government agencies, forcing us to move to court on 5th October

	<p>2018 in <i>Mombasa Constitutional Petition No. 226 of 2018, Kwale International Sugar Company Limited vs Kenya Bureau of Standards and 5 others.</i></p> <ol style="list-style-type: none"> 8. Despite the judgement being held in our favour, with an order that the 8995 bags still seized by the team be released to the company, they are yet to comply to date, occasioning untold suffering, losses and damages. 9. On 18th November 2018, a fire accident occurred at the factory where the conveyor belt was burnt. 10. The above exacerbated the company problems, as it was forced to close completely. 11. During that period, the company had to meet its financial obligations, including payment of salaries and wages for its work force as well as taxes and levies owing to the government.
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Issues with Hon. Zulekha Hassan, MP

1. The company appreciates the concerns raised by the Petitioner in regard to a section of its employees whom she presented to be working "under deplorable" conditions. Various steps have been taken to address the recommendations by the National Assembly and the Parliamentary Select Committee on Implementation as aforestated herein.

2. However, the Petitioner has engaged in various acts aimed at disparaging the otherwise good name and standing of the company. She;
 - a) maliciously incites company employees and has teamed up with a law firm at Ukunda disguised as offering legal aid services to company employees on Saturdays, where she sponsors certain employees to swear fake affidavits, advance false and fake claims, as well as imaginary/ unsubstantiated acts violations from the company. These actions destabilize the harmonious work ethic of the company's workforce.
 - b) defames / slanders the company's name on her social media page, as well inciting the squatters to invade the company land. On various occasions, she declined to apologize in regard to disparaging remarks leveled against the company, forcing the company to file a suit for defamation at *Nairobi High Court, being HCC No. 173 of 2019 (Kwale International Sugar Company Limited vs Hon. Zulekha Hassan, MP)*
 - c) spitefully and malevolently fights the company to advance her political mileage
3. We urge the Committee to take note of the above facts and relevant annexures herein.

Yours Faithfully,

For: Kwale International Sugar Company Limited


H. Kofecha,
Director, Projects



Contract Serial Number: - Kisco/000722

1st March, 2020

Kakai Wekesa Meshack
ID No :-24557335
P.O Box 46279-00100
NAIROBI
Tel No. +254725711539

Dear Kakai,

FIXED TERM CONTRACT OF EMPLOYMENT

This contract stipulates your terms and conditions of employment for a period of six (6) months. You will be employed as **Zonal Foreman in Outgrowers Operations** section of the **Agriculture Outgrowers** department and your period of employment will begin on **01/03/2020** and end on **31/08/2020**. The employment contract may be renewed with the mutual consent of the two parties. The specific terms and conditions of this contract are provided herein below:

1. **Reporting**
You will report to **Cane Development Officer**.
2. **Company Policy, rules and procedures**
You will be required to adhere to, and comply with the provisions of the company policy, rules and procedures.
3. **Place of Work**
Your duty station will be at **Kwale International Sugar Co. Ltd, Kenya**. You may, however, be called upon by the management of the company to undertake work/assignments out of your duty station.
4. **Remuneration**
Your rate of pay will be **Kshs. 514.00** per day for which you will be expected to complete all the tasks assigned to you. The pay will be processed and paid to you on weekly basis.
5. **Duties and Responsibilities**
Your duties and responsibilities will be as assigned by your immediate supervisor(s) and the Head of Department.
6. **Hours of Work**
The working week will consist of fifty-two hours arranged in shift/general schedule.
7. **Annual Leave**
You will be entitled to 11 working days' leave during your contract, on pro rata basis on the commencement date and duration of your contract, plus gazetted Public holidays in compliance with the

KWALE INTERNATIONAL SUGAR CO. LTD

Liaison Office • P. O. Box 46279 - 00100 Nairobi, Kenya. • Telephone: +254-20-2106000/02; 0729-234567 Fax: +254-20-8560979 • Email: info@kwalegroup.com

Kenyan Labour Laws. Please note that such leave can be taken in piece meal, subject to exigencies of duty and at the discretion of the Company.

8. **Sick Leave**

If you are unable to carry out your duties due to sickness, you will be entitled to a maximum of 7 seven (7) days sick leave on full pay and thereafter a maximum of seven (7) days sick leave on half pay during your contract period, subject to the production of a certificate of incapacity covering the period of sickness signed by a duly qualified medical practitioner.

9. **Confidential Matters**

You will be required to treat all matters that you are privy to in the course of your duties as **STRICTLY CONFIDENTIAL** both during and after your period of employment. You shall not under any circumstances, without the proper consent of the company, in writing, divulge or disclose to third parties whatsoever any of the secrets, concerns, affairs, figures or accounts of the company during your employment or at any time, on exit from the company's employment. Furthermore, you will not communicate with any newspaper or other forms of news media with regard to the affairs of the company except with the prior express approval in writing of the Chief Executive Officer.

11. **Termination**

At any given time before the expiry of this contract, termination for any reason contemplated under the Kenyan Labour Laws will be in accordance with the Employment Act, No. 11 of 2007

13. **Conflict of Interest & Non Solicitation**

You will not engage in activities for personal gain that compromise your ability to represent the company's best interests. These will include but not limited to: having financial interests with customers, suppliers, or competitors; working for any other organization; self-employment in competition with the organization; using the company's equipment and supplies for personal gain; and using inside information about the company for personal benefit. You will not receive any presents, commission, loans, advances or any gratification or benefit in cash or kind from any person, party, firm or company having dealings with/or vested interest in the company and if you are offered the same, the same must immediately be reported to and handed over to the company.

14. **Amendments and Additions to this Contract of Employment**

Amendments and addendum in respect to this contract of employment will be in writing and will take effect as mutually agreed between the parties.


15. This contract of employment supersedes any previous terms and conditions offered to you by the company.

Yours faithfully,

FOR: KWALE INTERNATIONAL SUGAR COMPANY LIMITED


HEAD-HR & ADMIN

GENERAL MANAGER


CHIEF EXECUTIVE OFFICER

DECLARATION AND ACCEPTANCE

I declare that I have read and understood the terms and conditions of this letter and I agree to accept and be bound by the same.

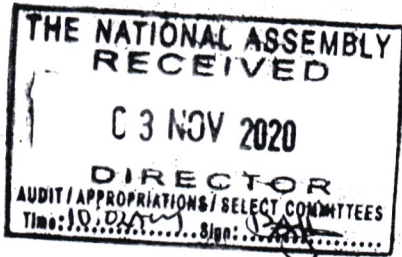
Signature of Employee: ID No:

TOTAL ARREARS

Values

Row Labels	Sum of Company Rate (CO)	Average of 2015 Gov't Rate	Average of rate diff per Day	Sum of Days worked wage diff
Adminstrion	137115	228	15	57,177.00
Adminstrion-Transport	83640	228	18	41,253.00
Agricultural Research Center	135450	228	18	59,148.00
BERLIN R and B	120330	228	18	54,360.00
External Affairs	2520	228	18	1,332.00
Factory Administration	851340	228	18	396,297.00
HR	8400	228	18	4,230.00
ICED-Civil Engeenering	94500	228	18	43,218.00
ICED-Irrigation	483840	228	18	223,002.00
Jagary	31710	228	18	20,845.98
Mechanization	6300	228	18	3,141.00
Out-Growers	1146810	228	18	592,916.77
Plantation Area-1	1419810	228	18	654,488.28
Plantation Area-2	2954910	228	18	1,184,770.87
Security	551460	228	18	290,394.00
Site Finance	2940	228	18	1,476.00
Store Administration	111510	228	18	47,340.00
Workshop-Agri	35280	228	18	16,974.00
Grand Total	8177865	228	18	3,692,363.90

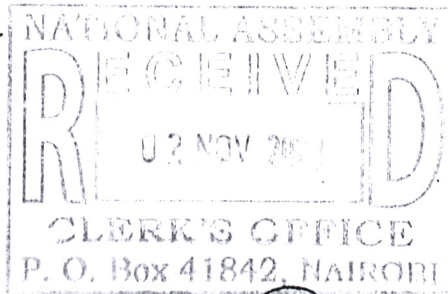
PPE DELIVERED	QUANTITY ISSUED TO STAFF
SAFETY SHOES	645
GUMBOOTS	1474
REFLECTORS	76
DUST MASK	147
SECURITY BOOTS	228
EAR MUFFS	30
HELMETS	100
SECURITY LINE YARDS	239
WHISTLE	34
SECURITY BELTS	7
CHEF CAPS	15
APRONS	20
CHEFF COARTS	20
RUBBER SHOES	20
T-SHIRTS	22
CLEAR GOGGLES	1420
LEATHER GLOVES	910
RUBBER GLOVES	110
RESPIRATORS	20
EAR PLUGS	212
OVERALLS(BROWN)	1528
DARK GREY OVERRALS	65
YELLOW SPLIT OVERRALS	18
ORANGE SPLIT OVERRALS	56
NAVY BLUE SPLIT OVERRALS	64
GREEN SPLIT OVERRRRALS	93
SKY BLUE SPLIT OVERRALS	12
WELDING SHIELD	13
LEATHER APRONS	25
RAINCOATS	1219
LAB COATS	10
HEAD NET	50



② CHEIBET
Please deaf
FAA
03/11/20



③ G.M. JEN
please note
FAA
03/11/20



Date: 30th October 2020

National Assembly,
Clerk's Chambers
Parliament Buildings
P.O Box 41842 -00100
NAIROBI
Email: clerk@parliament.go.ke
ckoskei20@gmail.com

①
D/Cmt's @ ASOS
p. se deaf

Dear Sirs,

STATUS UPDATE ON IMPLEMENTATION OF THE REPORT ON DEPLORABLE WORKING CONDITIONS OF EMPLOYEES OF KWALE INTERNATIONAL SUGAR COMPANY LIMITED (KISCOL)

We refer to your letter of 12th October, 2020 – Ref: NA/DCS/COI/2020 (77) and the complaint by Hon. Zuleikha Hassan, MP, vide her letter addressed to the Chairman of the Parliamentary Select Committee on Implementation dated 17th September, 2020.

The company has noted the contents therein, precisely, the request for KISCOL to provide a comprehensive report on;

- a) List of contracts issued to KISCOL employees
- b) Proof of modified mode of transportation for company employees and;
- c) Progress on payment of wage arrears arising from non-compliance to Legal Notice No. 91 of 2015

The company wishes to reiterate the contents of her submissions dated 4th August, 2020 in addition to the comprehensive report requested as below;

KWALE INTERNATIONAL SUGAR CO. LTD



Date: 30th October 2020

National Assembly,
Clerk's Chambers
Parliament Buildings
P.O Box 41842 -00100

NAIROBI

Email: clerk@parliament.go.ke
ckoskei20@gmail.com

Dear Sirs,

**STATUS UPDATE ON IMPLEMENTATION OF THE REPORT ON DEPLORABLE WORKING
CONDITIONS OF EMPLOYEES OF KWALE INTERNATIONAL SUGAR COMPANY LIMITED
(KISCOL)**

We refer to your letter of **12th October, 2020**– Ref: NA/DCS/COI/2020 (77) and the complaint by Hon. Zuleikha Hassan, MP, vide her letter addressed to the Chairman of the Parliamentary Select Committee on Implementation dated **17th September, 2020**.

The company has noted the contents therein, precisely, the request for KISCOL to provide a comprehensive report on;

- a) List of contracts issued to KISCOL employees
- b) Proof of modified mode of transportation for company employees and;
- c) Progress on payment of wage arrears arising from non-compliance to Legal Notice No. 91 of 2015

The company wishes to reiterate the contents of her submissions dated **4th August, 2020** in addition to the comprehensive report requested as below;

KWALE INTERNATIONAL SUGAR CO. LTD

No	Issue	Comprehensive Update
1	List of contracts issued to KISCOL employees	<p>a) We reiterate and further report that the company issued contracts of employment to all employees on permanent terms of employment and trainees. The new practice now is to issue new employees with contracts of employment that provides for a probationary period of service, before they join the company's employment. <i>(we have attached a list of employees and a sample contract issued for each category).</i></p> <p>b) We reiterate and further report that when causal employees were issued with contracts approved by the management, majority raised issues of existing oral contracts, and whether the company intends to discharge them from employment upon expiry of the contract period <i>(sample contracts attached).</i></p> <p>c) This issue was raised with Kwale County Labour Officer, where various awareness sessions had been arranged involving management representatives, Labour Office and employees <i>(a letter dated 2nd March 2020 addressed to the County Labour Office is attached for ease of reference)</i></p> <p>d) The above sessions were hampered by the Covid-19 pandemic as the company sought to implement the ministry of health guidelines in regard to gatherings and social distancing.</p>

		<p>e) We have since reached up to the County Labour Office to advise on when to start the awareness and issuance sessions.</p>
2	<p>Proof of modified mode of transportation for company employees</p>	<ol style="list-style-type: none"> 1. The company is aware that the Employment Act No. 11 of 2007 and Article 41 of the Constitution of Kenya, 2010 guarantees every worker across all sectors of the economy reasonable working conditions, while Article 43 confers to workers social and economic security. 2. The company is conscious that one of her key assets in advancing and achieving her strategic business goals is its employees (the human resource). 3. The nature of KISCOL operations is that a majority of its employees are drawn from different regions within Kwale County as well as Mombasa County. These employees are expected to report to work in different departments, including field operations and at different work/reporting and leaving hours. 4. The company is fully aware that there are gaps in the public transport sector in the country, thus thought it fit to avail transport facility to its employees to ensure that they enjoy the benefit of reasonable working conditions as envisaged by the above legal provisions. In this regard, employees are facilitated by the company to ensure that they report to work at the required reporting times, work within the stipulated working hours and arrive home safely to be with their families at appropriate times.

		<p>Further, this guarantees their social and economic security.</p> <p>5. Further to our update dated 4th August 2020, we wish to state that the company has so far modified five trucks to provide comfortable, spaced seating for employees to comply with the traffic requirements and the existing Ministries of Health and Transport protocols. <i>We have attached photographs of company trucks registration numbers KAC 604 B, KBY 037 M, KBS 382 K, KBX 285 C and KBV 763 M</i></p> <p>6. The trucks are assigned to transport employees from various picking points to the company premises and cane plantations.</p> <p>7. The company has also made available two vans, being KCC 274 G and KBC 502R for ferrying supervisory staff from their residential areas to the company. <i>(photographs of the said vans are attached for reference).</i></p> <p>8. Further, the company has various pick-ups meant for advancing her field operations. However, due to the government protocols in ensuring social and physical distances, the company has at times deployed the said pick-ups to ferry employees in the evening and morning to work and back to their residential areas.</p>
3	<p>Progress on payment of wage arrears arising from non-compliance to Legal Notice No. 91 of 2015</p>	<p>1. We reported that calculations for total wage arrears arising from non-compliance with Legal Notice No. 97 of 2015 have been determined at Kshs. 3.6 M. We also reported that the company liaised with the County</p>

	<p>Labour Officer for the case of employees who have since left employment and cannot be traced where we were waiting for feedback.</p> <p>2. The County Labour Officer has since advised the company to effect payment for employees who are still in the company's employment. He has also advised that he has found challenges in tracing employees who have since left the company's employment, and stated that even as he continues with his efforts, any person, including the petitioner can assist in supplying him with relevant particulars that can help hasten the process. <i>(the letter dated 19th October 2020 from the County Labour Officer has since been attached)</i></p>
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The issue of Bakari Juma Mahondo

We note from the complaint raised by Hon Zuleikha Hassan, MP, that she attached a photo of a note from Kwale Eye, addressed to “whom it may concern” where she avers that Mr. Bakari Juma Mahondo, a company staff, was injured at the workplace in February 2019 and has not been compensated. We submit that it is inappropriate, erroneous and ill-advised for the Honourable Member to maliciously obtain information from a reputable hospital use the information to incite company employees, mislead the Parliamentary Committee on Implementation and advance her activism and political agenda.

As per our submissions of 4th August 2020, we reported that the company has taken insurance cover as per the Work Injury Benefits Act. The company has at all times complied with Occupational Safety and Health Act (OSHA), 2007 and the WIBA Act when handling cases of employees injured at the work place.

As required by the law, the case of the above employee was reported to the company's Safety Office, the company facilitated his treatment at Kwale Eye Hospital and Msambweni Teaching and County Referral Hospital, where the doctors assessed his percentage incapacity, DOSH Part 1 and 2 were submitted to the County DOSH Office - Mombasa. WIBA 4 compensation certification was acquired and all these documents have been submitted to the insurance to enable for compensation.

The company has complied with all the relevant legal requirements in the above case and it can be noted that the process of compensation involves several players. It is our considered view that the Hon MP be advised to verify integrity and validity of any concern(s) with the company's management based at Ramisi office before vilifying the company with unfounded, malevolent and unsubstantiated allegations.

We have attached the relevant documentation for information.

Yours faithfully;

Kwale International Sugar Company Limited

KWALE INTERNATIONAL

SUGAR CO. LTD.

for: H. Kotecha
HEAD OFFICE

P.O. Box 46279 - 00100, NAIROBI

H. Kotecha

info@kwale-group.com

Director-Projects

Encl

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Ogada	Pamela	AGM-Factory
			Total

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Mechumo	Michael Misiko	Human Resources Manager
2	Thuo	Rhodah Wambui	Human Resource Officer-Generalist
3	Wamaya	Kevin Mapesa	Senior - HRIS Officer
			Total

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Cheruiyot	Vincent Kipruto	Account Assistant
2	Muholo	Alex Okwele	Financial Controller
			Total

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Otieno	Maurice Oganga	GIS/Survey Specialist
2	Tum	Christopher Kiptono	GIS/Survey Specialist
			Total

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Swaleh	Mwinyihija	IT Officer
2	Ajugu	Amos Onyango	ICT Hardware & Infrastructure Support Officer
			Total

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title

1	Kulecho	Joseph David	Legar Officer
			Total

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Okumu	Nancy Akinyi	Health & Safety Officer
2	Yamo	Alfred Owuor	Health & Safety Manager
			Total

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Nunda	Benton Onyango	Control Room Operations Officer
2	Chacha	Alfric Mwita	Security Officer
3	Kipkorir	Mark Kebenei	Security Supervisor
			Total

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Ayub	Emtiaz	
2	Mwamburi	Paul Cholo	Driver
3	Naibei	Milcah Chepyosi	Site Office Administrator
4	Magga	Jeremiah Wasonga	Office Administrator
5	Bendera	Fatuma Hamadi	Cook-Kitchen Assistant
6	Nasoro	Mwanahamisi	Cook-Kitchen Assistant
7	Mukenya	Martin	Chef
8	Muli	Peter	Chief Chef
			Total

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Rimo	Salim	Stores Attendant
2	Mwachuma	Juma Musa	Stock Clerk
3	Okumu	Mercel Omondi	Stock Controller
Total			

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Okano	Andrew Owili	Mechanic
2	Obunga	Kevin Odhiambo	Panel Beater
3	Ndwale	Benard Omollo	Spray Painter
4	Sero	Peter Odhiambo	Autoelectrician
5	Muthoni	Maurice Muiruri	Mechanic
6	Omollo	Vinct Onyango	Senior mechanic
7	Sagoo	Sukhdev Singh	Heavy Machines Incharge
8	Singh	Davinder	Trailers Repairing
9	Haji	Hassan	Machine Operator
10	Nyabende	Benedicto Mata	Autoelectrician
11	Osoro	Herman Kombo	Mechanic
12	Mwavitu	Nyamawi Kea Mwavitu	Mechanic
13	Kilonzi	Augustus	Mechanic
14	Salim	Andrew Barasa	Mechanic
15	Onyango	Charles Ouma	Mechanic
16	Mohammed	Ismael Nyabera Mohammed	Mechanic
17	Mwamburi	Selina Zighe Mwamburi	Light Vehicle - Mechanic
18	Mbwaya	Gideon Ouyag Mbwaya	Garage Manager
19	Opiyo	Samson Omollo Opiyo	Tractor Mechanic
20	Ndiso	Jackson V. Ndiso	Plant Mechanic
21	Maina	Darius Biticha Maina	Mechanic
22	Ogunde	Michael Fredrick Ogunde	Mechanic - Plant

23	Owino	Sammy Carrey Owino	Mechanic - Trucks
24	Wakukha	Kevin Andabwa Wakukha	Mechanic
			Total

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Matanda	David Namisi	Cane Field Supervisor
2	Onyango	Hussein Mwanza Onyango	Cane Field Supervisor
3	Thyaka	David Kitheka Thyaka	Plant Technician
4	Masese	Andrew Nyambane Masese	Plant Technician
5	Abdalla	Mwanakombo Gwadziko Abdalla	Outgrowers Liason Clerk
6	Mukanzi	Godfrey Matekwa Mukanzi	Cane Development Officer
7	Imbenzi	John Mark Imbenzi	Cane Development Officer
8	Wanyonyi	Amos Nyongesa Wachala Wanyonyi	Cane Development Officer
9	Koech	Edwin Kipchumba Koech	Cane Development Officer
10	Omala	Victor Otieno Omala	Cane Development Supervisor
11	Okoth	Brenda Atieno Okoth	Extension Officer
			Total

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Nyagasi	Fadhili Mohamed	Dam Technician
2	Khan	Rasul Akbar	Irrigation Maintenance Technician
3	Mutinda	Rose Mwikali	Fitter Helper
4	Abdallah	Bakari Abdallah	Irrigation Technician
5	Alloys	Mswahili Alloys	Irrigation Technician
			Total

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Wambani	Walter Muswi Wambani	Assistant Manager - Mechanization & Harvesting

2	Muthama	Thomas Mutua Muthama	
3	Orata	Godfrey Orata	
4	Muyonga	Geoffrey Amwoka Muyonga	Mechanization Supervisor
5	Komba	Wycliffe Isaiah Komba	Agriculture Area Manager
6	Tsuma	Mwanyawa Tsuma	Zone Manager
7	Andati	George Andati	Field Assistant
8	Machafu	Ali Bakari Machafu	Zone Manager
9	Mwazito	Yasin Athuman Mwazito	Zone Manager
10	Katiku	Paul Mulinge Katiku	Zone Manager
11	Mwakaya	Juma Mohamed Mwakaya	Agriculture Administration Officer
			Total

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Ochieng	Nathan Pesa	Technical Assistant
2	Nyagami Omboto	Davis Anunda Nyagami	Technical Assistant
			Total

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Otieno	Sharon Ayoo	Electrician
2	Wasike	Anthony Kanyanya	Electrician
3	Wangwe	Boaz Andrew	Shift Engineer - Electrical
4	Ndago	Solomon Muye	Electrician
			Total

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Lusalenye	Francis Adeli	Fuel Officer
2	Aboo	Mojid Murad	Shift Fuel Supervisor
			Total

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Mosoti	Daniel Onyancha	Instrumentation Engineer
2	Onyango	Isaac Okoth	Instrumentation Technician
3	Amolo	Erick Onyango	Instrumentation Engineer
4	Toili	Josephat	Instrumentation Technician
5	Otieno	Fredrick Ochieng	Instrumentation Technician
6	Kengere	Gast Ongwae	Instrumentation Engineer
7	Kipkoech	Alfred Kibet	Instrument Shift Engineer
Total			

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Olweny	Syvance Odhiambo	Turner
2	Ndegwa	Hamisi Mwanhanje	Carpenter
3	Chuma	Kutunda Saidi	Welder
4	Ndaro	Suleiman Juma	Carpenter
5	Werunga	Silas Wanyama	Turner
Total			

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Mtile	Ali Munga	Turner
2	Okonji	Bernard Ismail	Welder
3	Bwire	Hassan Masamba	Welder
4	Ogolla	Patrick Oriwo	Mill House Fitter
5	Agumba	George Otieno	Mill House Fitter
6	Oningo	Julius Edmond	Hilo Operator
7	Stephen Barasa	Stephen	Caneyard Supervisor
8	Ndegwa	Abubakar Rocha	Machine Operator

9	Awuor	David Obura	Pump Fitter
10	Matunga	Thomas	Fitter
11	Nyakundi	Evans Nyakundi	Intercarrier Operator
12	Ming'era	Denis Mirewa	Intercarrier Operator
13	Gichana	Ronald Omwanza	Fitter
14	Jadavera	Collins Mudembei	Baggase Yard Pusher Operator
15	Chikavu	Gommezy Dickens	Fitter
16	Odhiambo	Kennedy Otieno	Intercarrier Operator
17	Ogola	Maurice Otieno	Welder
18	Eshuchi	Rodgers E.M.	Boiling House Welder
19	Luvaha	Mark Mwombe	Boiling House Fitter
20	Luvai	Edwin Endegwa	Boiling House Fitter
21	Onyango	Wycliffe Otieno Onyango	Mill House Fitter
22	Barisa	William Kazungu Barisa	Boiling House Fitter
23	Kipruto	Nathan Kipruto	Shift Engineer
24	Juma	Fidel Castro Juma	Mill Fitter
25	Okeyo	Samuel Okeyo	Chief Engineer
			Total

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Mwashuma	Tony Eliab	Civil Engineer
2	Kisila	Samuel Mwanziaala	DY-Head-Civil Engineering
3	Mukunza	Alfayo Shisambula	Shift Electrical Engineer
4	Ndeda	Shadrack Azimarley	Electrical Engineer
5	Bakillah	Robert Kazungu Runya	Electrical Technician
6	Onyango	Francis Odhiambo	Electrical Technician
7	Shee	Shaban Abdalla	Electrician
8	Makalaya	Nixon Namaswa	Electrical Technician
9	Nassir	Kassim Mkulu	Wireman
10	Alai	George Onyango	Electrical Technician

Total

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Okoth	Fredrick Osongo	Boiler Attendant
2	Mwakulo	Leonard Mwavasi	Boiler Engineer
3	Chitala	Peter Yavunge	Boiler Fireman
4	Rop	Joseph Kiptoo	Boiler Attendant
5	Ojack	Lucas Oduor	Boiling House Fitter
6	Nyangoya	Walter Ongaga	Boiling House Fitter
7	Tora	Paul Makori	Ash Operator Attendant
8	Lichuma	Daniel Amboka	Turbine Attendant
9	Mbonde	Hassan Madundo	Boiler Attendant
10	Nyagaka	Job Peter	Cogen Fitter
11	Owuor	Hezekiah Obila	Boiler Fireman
12	Gavana	Mark Liyala	Dcs Boiler Operator
13	Masinde	Paul Wabomba	Fitter
14	Chimau	Felix Wesonga	Fitter
15	Owino	Vitalis Opuch	Cogen Welder
16	Sigei	Julius Kipngeno	Baggase Carrier Operator
17	MASAI	BILALY ABUBAKAR	BOILER DCS OPERATOR
18	Ajwang	Frank Omondi	RO Operator
19	Ogutu	Austine Omondi	Plant Operator
20	Odhiambo	Abel Juma	RO Operator
21	Wanyama	Godfrey Eddi	Turbine DCS Operator
22	Nyiro	Moses Abedi	Fitter
23	Ochieng	Alando Fredrick	Boiler Attendant
24	Otiak	Nicholas Ouma	RO Operator
25	Mwaringa	Kadhuwa	Fitter Helper
			Total

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Onditi	Sylvan Omondi	Laboratory Attendant
2	Mijangwa	Peter Onyango	Laboratory Attendant
3	Omori	Felix Odhiambo	Lab Chemist
4	Obare	Wilfred Misati	Lab Analyst Terminal
5	Moogi	Shem Nyakundi	Lab Chemist
Total			

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Mulongo	John Wangila	ETP Attendant
Total			

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Kimori	Victor Kidaha	Wtp Plant Operator And Analyst
2	Ngeru	Hemphstone Njenga	Wtp Plant Operator And Analyst
3	Mateso	Daniel Ngao	Water Treatment Plant Analyst
4	Lumasia	Richard Aino	Wtp Incharge
5	Karani	Sebastian Otieng'	Wtp Lab Analyst
Total			

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Chelimo	Edith	Weighbridge Clerk
Total			

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Kang'ethe	Peter Ngugi Kang'ethe	Warehouse Clerk

2	Mulwa	James Mutinda Mulwa	Warehouse Clerk
3	Kingade	Twaha Mwanjenje Kingade	Warehouse Clerk
4	Kahaso	Amani Prince Kahaso	Warehouse Clerk
			Total

Dec-19

S/NO.	LAST NAME	OTHER NAMES	Job Title
1	Kamandi	Collince Lumire	Continuous Machine Operator
2	Alenga	James Olindo	Magma Operator
3	Owour	Peter Otiang'a	Juice Clarifier Operator
4	Sigei	Willy Sigei	Continuous Machine Operator
5	Temba	Justus Kiprono	Batch Centrifugal Machine Operator
6	Kipgosgei	Jonathan Lagat	Assistant Machine Operator
7	Chebore	Dickson Kiplimo	Evaporator Operator
8	Mukonesi	Peter Mwombe	Crystallizer Operator
9	Owiti	Samson Onyango	Pan Man
10	Odero	George Owino	Pan Man
11	Waiti	Rueben Kadamu W	Pan In Charge
12	Mutai	Gilbert Kipserem	Vacuum Fitter Operator
13	Nyatigi	Godfrey Juma	Shift Chemist
14	Amimo	Angela Simiyu	Sugar House Clerk
15	Mukhwana	Martin Sifuna	Sulphur Burner Operator
16	Otama	Linda Atieno	Sugar House Clerk
17	Otieno	Calvince Omondi A	Pan Boiler
18	Wambua	Salome Mueni	Sugar House Clerk
19	Khamusia	Jacob Kulecho K	Pan Boiler
20	Makale	Nathan Barasa	Pan Man
21	Mukonyole	William	Evaporator Operator
22	Ojwang	Bonface Ouma	Shift Chemist
23	Saina	Peter Kipkoech	Shift Chemist
24	Andanje	Bernard Ingutia	Pan In Charge

25	Mango	Anthony	Lab Analyst
26	Olwande	Akoth Milcah	Lab Analyst
27	Busaka	Caroline Kagai	Lab Analyst
28	Ougo	Kennedy Ochieng'	Lab Analyst
29	Ndede	Gordon Otieno	Juice Supervisor
30	Juma	Francis Omondi	Juice Supervisor
31	Indiazi	Charles Ayondo	Juice Supervisor
			Total

203 Total Employees

Date : 29th July 2015

Mr. XXXXXX
P.O. XXXXX
KWALE

ID No.: XXXXX

Dear Mr. XXXXX,

EMPLOYMENT CONTRACT

Following your successful interview for the position of **Pan Boiler**, the management of **Kwale International Sugar Company Limited** is pleased to offer you employment as the **Pan Boiler**. The terms and conditions of service are specified herein.

1. COMMENCEMENT DATE

You will be required to commence employment with effect from **17th August 2015**. You will be under probation for a period of Six (6) Months, and upon satisfactory performance, you will be confirmed to the position.

2. REPORTING

You will report to Factory Head. During your employment with the company, you shall adhere to and comply with the provisions, rules and regulations of the company.

3. PLACE OF WORK

Your duty station will be at Kwale, Kenya. You may, however, be called upon by the management of the company to undertake work/assignments out of your duty station.

4. DUTIES AND REPSONSIBILITIES

Your duties and responsibilities are elaborated in the job description (JD) which will form part of this contract. By signing this contract, you confirm that you have read and understood the duties and responsibilities entrusted upon you as **Pan Boiler**.

5. REMUNERATION

You will be paid a consolidated gross salary **Kshs 30,930/- (Thirty Thousand Nine Hundred Thirty Kenyan Shillings Only)** per month, payable in arrears at the end of each month, of which all statutory deductions shall be deducted and the net amount paid to you.

5.2 Other Benefits: Besides statutory benefits, any other benefits will be governed by the company policies

6. 0 LEAVE

6.1 Annual Leave: You will be entitled to twenty one (21) working days of leave upon completion of twelve (12) months continuous service and pro-rata prior to this should you join mid-way through the year, plus any gazetted public holidays in compliance with the Kenyan Labour Laws. Please note that such leave can be taken in piecemeal, the subject to exigencies of duty and at the discretion of the company.

6.2 **Sick Leave:** If you are unable to carry out your duties due to sickness you shall be entitled to a maximum of **Seven (7)** working days of sick leave at full pay and thereafter a maximum of **Seven (7)** working days at half pay in a year.

6.3 All leave shall be taken in accordance to the leave rules and procedures of the company.

7. HOURS OF WORK

Your normal hours of work will not be more than Fifty Two (**52**) hours per week, which will be spread over six days starting from 07.30 am each day.

8. CONFIDENTIALITY

During and even after leaving the employment of the company, you will be required to observe confidentiality. You will not, without express written consent of the management of the Company, disclose or divulge to third parties company secrets, concerns, accounts or any other confidential information that you are privy to in the course of your employment

9. TERMINATION OF EMPLOYMENT

9.1 Voluntary Resignation - during probation, this contract can be terminated, by either party, by giving seven (7) working days' notice or paying an equivalent of seven working day's salary.

At any time after confirmation of your employment, either party may terminate this contract this contract by giving a Thirty days (30) notice or paying the of Thirty (30) days salary in lieu of such notice.

9.2 Termination due to misconduct: Termination due to misconduct of any nature will be in accordance to the Employment Act, 2007.

9.3 Termination due to redundancy/retrenchment: Redundancy/retrenchment will be carried out in accordance to the Employment Act, 2007.

10. COPYRIGHTS AND OWNERSHIP

All intellectual property rights including copyright in the work produced or contributed by you in terms of this agreement shall vest with the company and shall be handed over or retained by the company on exit from the company's employment, as applicable, without any further payment of any consideration. You will also not retain or remove from the company's premises any copy or record of such work, including technical documentation in whatsoever form.

11. AMENDMENTS AND ADDENDUM TO THIS CONTRACT/ LETTER OF EMPLOYMENT

Amendments and addendum in respect to this letter of employment/contract shall be in writing and shall take effect as mutually agreed between yourself and the Company.

12. STANDING ORDERS

You are required to make yourself familiar with, and abide by such standing orders and policies as shall from time to time be issued by the Company.

13. CONFLICT OF INTEREST

You will not, without the consent of the Company engage in any other business or occupation, which would be in conflict with your duties as a full time employee of the Company.

You shall not receive any presents, commission, loans, advances or any gratification or benefit in cash or kind from any person, party, firm or company having dealings with/or vested interest in the Company and if you are offered the same, the same must immediately be reported to and handed over to the Company.

Yours faithfully,

For: Kwale International Sugar Company Limited

H. Kotecha
Director – Projects

I hereby accept the contract of service and terms and conditions of employment specified herein and will take up the offer with effect from: _____

Employees Name: _____ P/Port/ID No: _____

Employees Signature: _____ Date: _____



Contract Serial Number: - **Kiscol/000297**

1st March, 2020

Nassir Suleiman
ID No :-4633872
P.O Box 46279-00100
NAIROBI
Tel No. +254708118906

Dear Nassir,

FIXED TERM CONTRACT OF EMPLOYMENT

This contract stipulates your terms and conditions of employment for a period of six (6) months. You will be employed as **General Worker** in **Plantation Area-2** section of the **Agriculture Operations** department and your period of employment will begin on **01/03/2020** and end on **31/08/2020**. The employment contract may be renewed with the mutual consent of the two parties. The specific terms and conditions of this contract are provided herein below:

1. **Reporting**
You will report to **Area Manager**.
2. **Company Policy, rules and procedures**
You will be required to adhere to, and comply with the provisions of the company policy, rules and procedures.
3. **Place of Work**
Your duty station will be at **Kwale International Sugar Co. Ltd**, Kenya. You may, however, be called upon by the management of the company to undertake work/assignments out of your duty station.
4. **Remuneration**
Your rate of pay will be Kshs. **282.90** per day for which you will be expected to complete all the tasks assigned to you. The pay will be processed and paid to you on weekly basis.
5. **Duties and Responsibilities**
Your duties and responsibilities will be as assigned by your immediate supervisor(s) and the Head of Department.
6. **Hours of Work**
The working week will consist of fifty-two hours arranged in shift/general schedule.
7. **Annual Leave**
You will be entitled to 11 working days' leave during your contract, on pro rata basis on the commencement date and duration of your contract, plus gazetted Public holidays in compliance with the

KWALE INTERNATIONAL SUGAR CO. LTD

Liaison Office • P. O. Box 46279 - 00100 Nairobi, Kenya. • Telephone: +254-20-2106000/02; 0729-234567 Fax: +254-20-8560979 • Email: info@kwalegroup.com

Kenyan Labour Laws. Please note that such leave can be taken in piece meal, subject to exigencies of duty and at the discretion of the Company.

8. **Sick Leave**

If you are unable to carry out your duties due to sickness, you will be entitled to a maximum of 7 seven (7) days sick leave on full pay and thereafter a maximum of seven (7) days sick leave on half pay during your contract period, subject to the production of a certificate of incapacity covering the period of sickness signed by a duly qualified medical practitioner.

9. **Confidential Matters**

You will be required to treat all matters that you are privy to in the course of your duties as **STRICTLY CONFIDENTIAL** both during and after your period of employment. You shall not under any circumstances, without the proper consent of the company, in writing, divulge or disclose to third parties whatsoever any of the secrets, concerns, affairs, figures or accounts of the company during your employment or at any time, on exit from the company's employment. Furthermore, you will not communicate with any newspaper or other forms of news media with regard to the affairs of the company except with the prior express approval in writing of the Chief Executive Officer.

11. **Termination**

At any given time before the expiry of this contract, termination for any reason contemplated under the Kenyan Labour Laws will be in accordance with the Employment Act, No. 11 of 2007

13. **Conflict of Interest & Non Solicitation**

You will not engage in activities for personal gain that compromise your ability to represent the company's best interests. These will include but not limited to: having financial interests with customers, suppliers, or competitors; working for any other organization; self-employment in competition with the organization; using the company's equipment and supplies for personal gain; and using inside information about the company for personal benefit. You will not receive any presents, commission, loans, advances or any gratification or benefit in cash or kind from any person, party, firm or company having dealings with/or vested interest in the company and if you are offered the same, the same must immediately be reported to and handed over to the company.

14. **Amendments and Additions to this Contract of Employment**

Amendments and addendum in respect to this contract of employment will be in writing and will take effect as mutually agreed between the parties.

15. This contract of employment supersedes any previous terms and conditions offered to you by the company.

Yours faithfully,

FOR: KWALE INTERNATIONAL SUGAR COMPANY LIMITED

HEAD-HR & ADMIN

GENERAL MANAGER

CHIEF EXECUTIVE OFFICER

DECLARATION AND ACCEPTANCE

I declare that I have read and understood the terms and conditions of this letter and I agree to accept and be bound by the same.

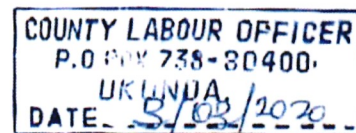
Signature of Employee: ID No:



KISCOL/CLO/2/02/03/2020

Date: 2nd March 2020

Elly Jometho,
The County Labour Officer -Kwale,
P.O Box
UKUNDA



Dear Sir,

PROGRESS AND REQUEST FOR ASSISTANCE IN ISSUANCE OF CONTRACTS AND PAYMENT OF WAGE ARREARS

Reference is made to the visit by the Parliamentary Committee on Implementation on a fact-finding mission on the 29th March 2019 occasioned by the Petition by Hon. Zuleikha Hassan, MP on alleged deplorable working conditions of KISCOL employees.

You were in attendance of the said meeting where various recommendations were made by the Committee. Being the Government official in charge of Labour and Welfare of all workers within Kwale County, we were obliged to notify and involve you on the progress and status of implementation of the above recommendations and work together with your office in implementing the same.

The management of KISCOL wish to notify you that;

- a) contracts for all employees on permanent terms, trainees and those on fixed terms have been developed, approved and issued.
- b) Any new employee joining the company is to be issued with their respective contracts before joining.
- c) Contracts for casual employees have been developed and approved. However, the process of issuing has stalled as older employees have raised various issues regarding what happens on their previous oral contracts and whether the company intends to terminate the contracts planned for issuance upon expiry of the term.

The said employees have stated that they are not willing to sign the contracts at this point until they "consult and come back". The Human Resource Office has followed up with the employees over time, but they continue to insist that they are still consulting and are unwilling to sign the contracts until the issues they raised are addressed to their satisfaction.

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The management has considered these concerns in line with recommendations of the Parliamentary Select Committee on Implementation. It is our considered view that your office liaises with the company's HR Office to arrange for various discussions and awareness to the respective employees to make them appreciate this process. We have advised the HR office to arrange for various sessions spread across different departments to ensure that there are no disruptions of operations taking into account the huge number of employees in that cadre in our workforce. Further, the same be in line with your available dates and times.

Further to the above, we also notify you that wage arrears for employees on casual terms arising from non-compliance to Legal Notice No. 91 of 2015 have been determined. However, the company is unable to reach out to over 700 employees who have since left its work force. In the foregoing, we request your office to assist us in tracing the said employees for the purpose of effecting the above payments in compliance with the recommendations.

We have attached a separate list of the said employees together with their National Identification Numbers for your records and further action.

Kindly keep us updated.

Yours faithfully,

For; Kwale International Sugar Company Limited



H. Kotecha,
Director- Projects

Encl



alleyway

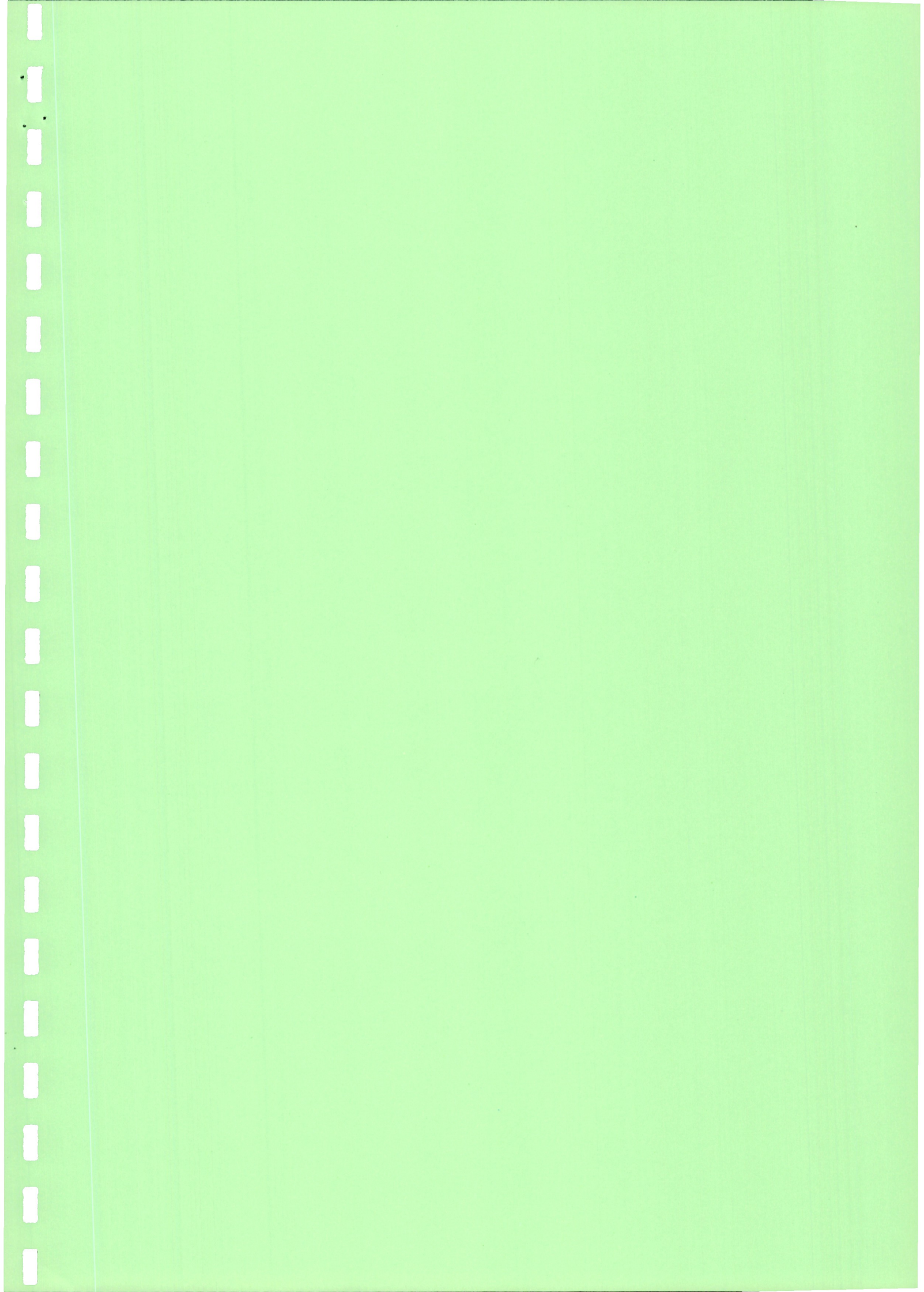






01/02/2023





MINISTRY OF LABOUR AND SOCIAL PROTECTION

STATE DEPARTMENT FOR LABOUR

Telegrams: 'LABCOM' KWALE

Telephone (040) 3201104/0202058994

Telefax (040)3201104



KWALE COUNTY LABOUR OFFICE

P.O BOX 738-80400

UKUNDA

REPUBLIC OF KENYA

Ref: ML/LD/PCI/JEO/2020

19th October 2020

Your Ref: **KISCOL/CLO/2/02/03/2020**

The Managing Director,
Kwale International Sugar Company Limited,
P.O Box 46279-00100,

NAIROBI

Dear Madam,

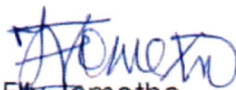
REQUEST FOR ASSISTANCE IN ISSUANCE OF CONTRACTS AND PAYMENT OF WAGE ARREARS

1. I refer to your letter of **2nd March 2020** Ref – **KISCOL/CLO/2/02/03/2020** and the various discussions with your Human Resources and Legal representatives on or about the first week of March 2020.
2. In discharge of our mandate, my office continues to monitor the steps being undertaken by the company towards implementing the recommendations by the Parliamentary Select Committee on Implementation. I appreciate the goodwill and efforts from the management this far, evident by the current status as per your above letter.
3. On the issue of contracts for casual employees, the sample contract shared with my office is in full compliance with the relevant provisions of the Employment Act, 2007. For the interest of the welfare of workers, concerns raised by your casual employees and in compliance with the law and recommendations of the Parliamentary Select Committee on Implementation, we had agreed with your HR representatives to have

various sessions with heads of sections and casual employees in groups starting the second week of March 2020.

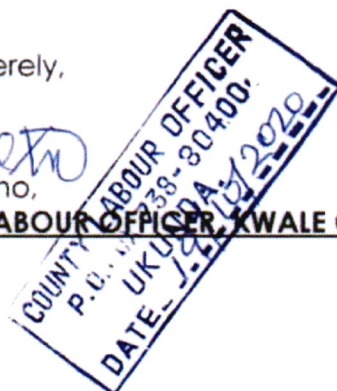
4. Unfortunately, when the first case of **Covid-19** in Kenya was confirmed on the **12th March 2020**, various containment measures were put in place by the Ministry of Health and other Government Authorities including ban on social gatherings, advisories on social and physical distancing as well as employees working from home. Further, the pandemic brought about uncertainty and disruptions to businesses and people's ways of life. Nobody, including KISCOL and her employees and even our office or myself was sure of the next moment.
5. Several sectors like tourism and the hotel industry within Kwale County were adversely affected, where various workers within these sectors lost jobs and livelihoods and where my office was called upon to work with other government agencies and the county government of Kwale in implementing emergency programs to address these unfolding events.
6. This unprecedented state of events affected the above scheduled sessions, essentially slowing down the issuance of contracts.
7. Further, my office has been making efforts to trace your former employees whom you had shared their particulars with us. However, this process has not been successful and is painstakingly slow. We advise your company to proceed and effect payments to those employees who are still in the company's employment, as we continue with our tracing.
8. We also urge any person who is well furnished with contacts of the former KISCOL employees, including Hon. Zuleikha Hassan, MP, to contact my office where further update and advice shall be given to yourselves.
9. We look forward to our continuous cooperation.

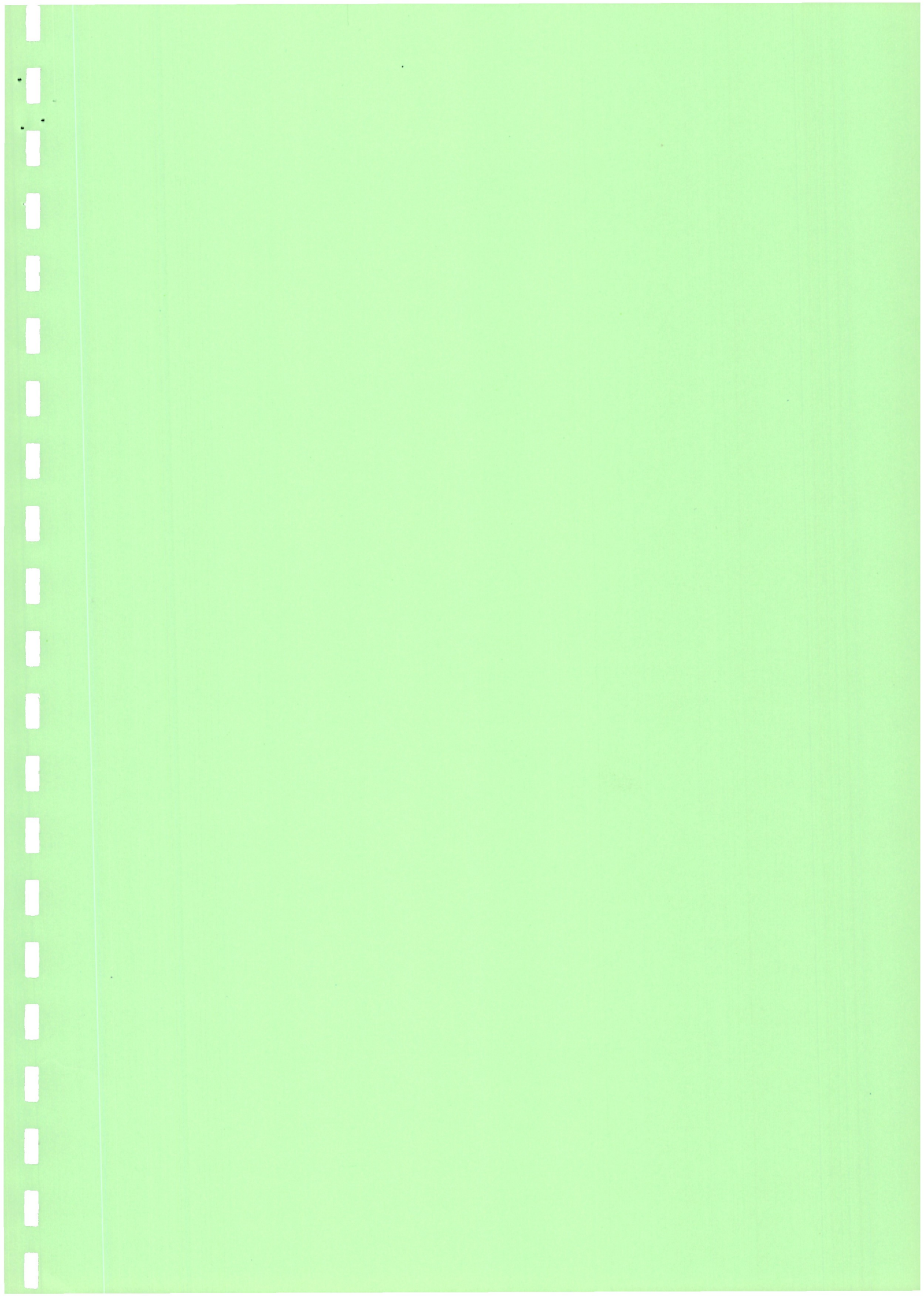
Yours sincerely,



Ely Jometho,

COUNTY LABOUR OFFICER, KWALE COUNTY







Date: 21st May 2019

To,
Dr. Edith Mwasi,
Hospital Director (Ag),
Msambweni County Referral Hospital,
Msambweni.

Dear Sir,

Re: Mr. Bakari Juma Mahondo – ID Number 31441031

The above subject matter refers,

Mr. Mahondo is employed with us in Agriculture Department. A foreign body entered his eyes on the 27th March 2019 resulting in continuous complain of pain in the eye. He has been seen at your facility on various dates as indicated in his treatment note book.

We wish to seek your assistance for him to be treated under the Memorandum Of Understanding (M.O.U) to a logical conclusion.

We look forward to your continuous cooperation.

Yours faithfully,

Pamela Ogada

General Manager

KWALE INTERNATIONAL SUGAR CO
LIMITED
P.O. Box 46279
Nairobi
LIAISON OFFICE

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Get Well

HOSPITAL LTD

27.3.19

Rx RE: BAKARI J. MADRHO A/F ID: 31441031

TO ~~THE~~ IT MAT CONCERN

D. sir

This note is notifying you that the bearer of the above name has been seen today in our facility (GHL) with history of trauma on the left eye while on duty about 3 days ago. kindly allow him 3 days sick leave his medical situation doesn't allow him to continue working date: 28.3.19

- 30.3.19)

GET WELL HOSPITAL LTD.
Regards
Rachael GHL
Rico ~~PHD~~

GET WELL HOSPITAL LTD

Baba Dogo Road, Ruaraka, Unifresh Building, P.O. Box 46279 - 00100
Nairobi Kenya, Tel: 020-2638895, Email: getwell-hospital@pabarigroup.com



**Kwale
Eye Centre**

The Eye Centre with a Difference

0722 or 0733 785996

Mpesa pay bill 882500

eyeskwale@africaonline.co.ke

8/4/2019

Please return **BEFORE** you finish your eye drops
bring your eye drops with you

100711

NAME B. Kari Juliana
(Jina) Ms. Londo

ADDRESS Msemburi / Goye
(Anwani)

DATE OF BIRTH 38/1/1971

BKARI Juma MATHONDO - ID No 31441031

Assist this patient to be treated under
the M.O.U. between KIPCOZ and
MCRH.

Charges to be included in his invoice at the
Billing Department.



Adam Chigamba
Public Relations Officer.

DIRECTOR
MSAMBWENI COUNTY REFERRAL HOSPITAL
P.O. Box 8-80404
MSAMBWENI

OP no: 4068/19.

14/05/19

Bp $\frac{157}{86}$

pulse 167



Op. 18399/19

Juma.

IP: 225980

Age: 30m.

Gongora

q

Pain
cong - discharge | L₂ x $\frac{3}{12}$
cloudy vision

by injury in $\frac{3}{12}$ L₂

with Sugar cane splint
Dried while working in
Sugar factory in $\frac{3}{12}$

Attended to in the
factory clinic with no
improvements.

$\frac{6}{12}$ func stable Pto

BARADI JUMA

✓

P2

Comm
2/2

BE

(1)

lets

(2)

long -

myocardial
angioplasty
stent

clean

Comm (melting away)
clotting

deep
clean

Az

details not
visible

Don

pyrils

clean

lens

DA -

corneal ulcers

(melting away)

pro

Plus lens Spectacle 0.3 D
L2 Shomy

occ sparse rx web

Do Fluorescein / S

ca

Eye clinic

3/2

folly drive

Khuban S

TCA: 17/5/2019

6:30 am

17/5/19

Dr. Corneel when he

✓ PR
6/6 - Nasir
Nasir

PLS CT, GUN CIPROX
4/4/19

Occ. ciprox mast

Tea x 5

Wish you



27/05/2019

BP - 130/80
Pulse - 141



COA: 7/6/2019 @ 6:30am

Traffic cone when ②

Dev ✓ PR
Som

Contra
Ald
Group E
Nasir

AS



17/7/2019

BP 167/89 mmHg
pulse - 146 110

MH#

MATHOND0

Decompressed Cornea (G)

Recurse

Left Aphakic lens

(G) 1/12

7CA 1/2. Munday



! Pt reports to have undergone "1 year" to the eye that caused ~~hemorrhage~~ amaurotic to shift on the Lt eye.
Rt eye normal.

Eye - Elic, P.O.C = DetH₂O.
stable pt.

Eye - white sclera cornea clear on the Lt eye

- No tearing
- Eye cannot see upon closure of the Rt eye.

17/7/2019

BP $\frac{167}{99}$ mmHg
pulse - 146 bpm



o Corneal ulcer 2° to Trauma,
(Lt eye)

HPI:

• Pt reports to have undergone Trauma,
to the eye that caused ~~trauma~~ ^{corneal}
deterioration to ulcer on the

Lt eye.
• Rt eye normal.

Exs - Full P_{ig} C₂ DeH₂O.
Stable pt.

6/5 - Ishihara Corneal ulcer on the Lt
eye

- No tearing
- Eye cannot see upon closure
of the Lt eye.

lypi Corneal ulcer. 2^o to trauma

Plan

• CF Rx

• Ophthalmologist review

Multuse
601

BT 7/16

St Corneal Scar 2^o

trauma

decompensated Cornea (B)

Cornea

7/16

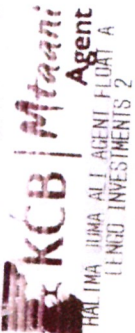
✓ PC

Plu

Mom off Eye line

7/16 for pri

multuse



CASH DEPOSIT

Agent ID: 34973
 Location: NGERENYA
 TID: BKNS1140600150 v1.0.10
 Date: 2019-09-20 09:43:41
 Operator: HALIMA JUMA ALI

Transaction Code: SZ366XZMY020

Deposited by (Name/ID): BAKARE JUMA MALINDO

Account Number: 1211969460

Narration: MEDICAL FORM

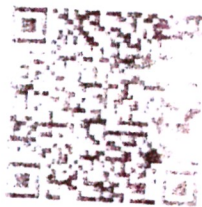
Account Name: MSAMBWENI HOSPITAL REFERRAL

Amount (KES): 1000.00

**** THANK YOU ****
 KCB Making the Difference
 <CUSTOMER COPY>

Bank Name: KCB
 Paid by: BAKARE JUMA MALINDO
 Social: 0909090909

Postname: MSAMBWENI HOSPITAL REFERRAL
 KES: 1000.00
 Rate per unit: @2000.00
 @2000.00



CASH DEPOSIT

Agent ID: 34973
 Location: NGERENYA
 TID: BKNS1140600150 v1.0.10
 Date: 2019-10-11 14:30:05
 Operator: HALIMA JUMA ALI

Transaction Code: SZ366XZMY015

Deposited by (Name/ID): CHONGWA MWERO

Account Number: 1211969460

Narration: P3

Account Name: MSAMBWENI HOSPITAL REFERRAL

Amount (KES): 1000.00

**** THANK YOU ****
 KCB Making the Difference
 <CUSTOMER COPY>

RECEIPT

Bank Name: KCB
 Paid by: CHONGWA MWERO
 Social: 0909090909

Postname: MSAMBWENI HOSPITAL REFERRAL
 KES: 1000.00
 Rate per unit: @2000.00
 @2000.00



MSAMBWENI COUNTY REFERRAL HOSPITAL
 P.O BOX 8 - 80401
 Tel No: +254 722462628 78 635 97

Receipt No: KFM010000795
 Date: 11-Oct-2019
 Patient No: 0022218-19
 Patients Name: CHONGWA MWERO, CHONGWA

Particulars	Amount
Medical Exam	1,000
Total Amount	000.00
Payable Bill Amount	0.00
Paid Amount (KES)	000.00
Change (KES)	0.00
Bill Balance (KES)	0.00

Served By: WAKA BOI KHALIFAN
 Date: 11-Oct-2019 Time: 14:35

Reference No. **WIBA/KWL/99/19**

County Occupational Safety and Health Office
P.O. Box 85989-80100
MOMBASA
October 18, 2019

M/s Kenya International Sugar Co. Ltd
P.O. Box 46279-80100
NAIROBI

Dear Sir,

WORK INJURY BENEFIT ACT, 2007
(Section(s)..... 28 & 30))

With reference to the accident on **March 25, 2018** to **Bakari Juma Mahondo** employed by you as **General Labourer** compensation payable to the employee is assessed at Ksh. **208,249**, calculated as follows:-

(a) In respect of **30** per cent permanent incapacity (from details given on Form DOSH 1, Parts 1 and 11): - **30 (Thirty)** per cent of 96 months' total earnings:

Ksh. **7,202** (Monthly earning) x 96 x **30 %** Incapacity
----- = Ksh. **207,418**
100

(b) In respect of temporary incapacity (from details given on Form DOSH 1, Parts 1 and 11), and your letter giving details of any payment made during period of incapacity (Ref.-.....Dated -):-

Difference between monthly earnings at time of accident and earnings subsequent to accident:
For period: - **March 25, 2018**to: - **March 27, 2018**at Ksh... **277/day** ...per month=Ksh..... **831**
For periodtoat Ksh.....per month=Ksh.....
For periodtoat Ksh.....per month=Ksh.....

If you are in agreement with the above assessment done in accordance with sections **28 and 30** of the Act, will you please sign the attached three copies of Form DOSH/WIBA 5A/B (Agreement as to work injury benefit to be paid by the employer to the injured employee/~~deceased employee's dependants~~) and send them to this office together with the EMPLOYEE/DEPENDANTS concerned and your remittance of KSh. **208,249** in bankers cheque made payable to **Bakari Juma Mahondo**.

Yours faithfully,



Name..... **S. M. Kimani** Signature Date **October 18, 2019**
Designation: County Occupational Safety and Health Officer

**COUNTY OCCUPATIONAL
SAFETY & HEALTH OFFICER
KWALE**

Vision: A Healthy Worker in a Safe Work Environment

REPUBLIC OF KENYA
DIRECTORATE OF OCCUPATIONAL SAFETY AND HEALTH SERVICES
NOTICE BY EMPLOYER OF AN OCCUPATIONAL ACCIDENT/DISEASE OF AN EMPLOYEE
PART I

I. Employer/Occupier Particulars:-

- ii. Name of Employer/Occupier.....
- iii. WIBA registration No..... OSHA Registration No.....
- iv. Full Address P. O. Box..... Physical Location.....
- v. E- Mail address..... Tel.....
- vi. Nature of Work
- vii. Name and address of Insurance Company which has insured employee against accident

2. The Injured/sick employee's particulars :-

- i. Name Bakeri Juma Mahoro.
- ii. Sex Male
- iii. Age 39 years
- iv. Occupation labourer.
- v. Full Address.....
- vi. E- Mail address..... Tel:.....
- vii. Identity Card No. *(Incase of fatal injury, Death Certificate No.).....
- viii. Home County:..... District:..... Division:.....
Location:..... Sub-location

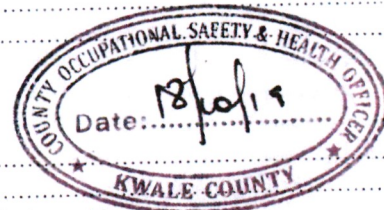
3. Occupational Accident

- i. Date of Accident 25/03/2019. Time: 01:20pm Fatal/Non fatal Non-fatal.
- ii. Has the worker resumed working Yes/No Date of resumption
- iii. Place where accident took place Jaggery.
- iv. What is the injured worker's Occupation
- v. What duties was the employee undertaking at the time of the accident? Shuffling of baggage for aeration purpose
- vi. Length of service with the present employer.....
- vii. What work is the worker employed to undertake General works.
- viii. Cause of Injury Baggage particles got into the eye.
- ix. Type of Injury Infection and pain.
- x. Part of Body Injured left eye.

4. Occupational Disease

Detail about the Occupational disease affecting the employee.

- i. Date of diagnosis of the occupational disease
- ii. Name of medical practitioner who made the diagnosis
- iii. Date the employer was notified of the disease by the employee or medical practitioners.....
- iv. Describe the Cause of the occupational disease



5. Total Monthly earning at the date of the Accident/disease:-

Salary/wage Sh. 7,202/=

Allowances paid regularly (including house, medical etc) Sh.....

Overtime payment or/and other special remuneration for work done whether by way of bonus otherwise if of constant character and for work habitually performed.. .. Sh.

Total earning per month Sh. 7,202/=

Total earnings paid to the employee during the period of incapacity Sh.....

Name of Employer or person notifying on behalf of Employer RAMS INTERNATIONAL TRADING CO. LTD A. Yam Signature [Signature]

Designation ESM P O. BOX 46279 Date 24/4/19

NAIROBI

Note:-

1. In the case of injury to an employee involving incapacity for work for three or more consecutive days, it is requested that the employer complete Part I in triplicate and then dispatch the forms immediately as hereunder:
One copy: - To the Occupational Health and Safety Officer in charge of the District in which the accident occurred.
2 copies: - To the medical practitioner attending or examining the injured/sick employee. The forms to be forwarded to the Occupational Health and Safety Officer immediately the doctor completes part II
2. Please attach any evidence detailing any payment forming part of the employee's total earning that the employee has been paid during the period of temporary disablement when he/she was out of work as a result of the injury.
3. Indicate who has paid for the medical bills
4. In the case of an occupational accident/disease causing the death of an employee, Part I should be completed in duplicate and then dispatched as hereunder:
One copy: - Immediately to the Occupational Health and Safety Officer in charge of the District in which the death occurred.
The other copy together with a copy of the death certificate:- to the Occupational Health and Safety Officer in charge of the District in which the death occurred.
5. The original form should be filled as original on both pages (not carbon copied).

PART II (for use by the Medical Practitioner)

MEDICAL REPORT

Name of employee..... BAKARI JUNNA MATHEW

Date admitted to hospital..... Discharged.....

In-patient No.

Attendance as out-patient from 14/5/17 to.....

Out-patient No. 18355/15

Type of injury..... CORNEAL ULCER (L2)or

Occupational disease CORNEAL ULCER (L2) MELTING CORNEA. TRAUMATIC

Is there permanent incapacity? YES *Yes/No

If yes please give:

a) Details and nature of permanent incapacity..... patient has completely lost vision on his left eye following injury while at work.

b) Percentage of permanent incapacity to be indicated in both words and figures (reference must be made to the first and second schedule of the Work Injury Benefit Act No. 13 of 2007). Loss of an eye, other being normal. thirty percent (30%)

30 per cent.

Temporary incapacity :- (Duration of absence from work in days, from the date of injury or acquiring occupational disease/or diagnosis of occupational disease to the time of resumption of duty or death.)..... 3 (employee's working days)

Is a further examination required before final assessment of permanent incapacity can be given? NO If yes ;

a) which ones

b) when?.....

c) Who paid the medical bills paid (Employee or Employer). EMPLOYER

Name of Medical Practitioner..... RATHNA JAGU KMP&DB No. A10141

Signature..... RK Date 20/5/17

Name of Hospital/Clinic/Private Practice..... NICANIBWELI COUNTY REFERRAL HOSPITAL

PART III

(For use by Occupational Health and Safety Officer)

Compensation *is / is not being claimed on behalf of the employee/dependants of the deceased employee.

District and Accident Register No.....

Station..... Date.....

Occupational Health and Safety Officer

*Delete whichever is inapplicable

NATIONAL
SITE OFFICE



REPUBLIC OF KENYA
PARLIAMENT

Hon. Zuleikha Juma Hassan, MP.

Kwale County

Parliament Buildings
Tel: +254 20 222 1291
P. O. Box 41842 - 00100
Nairobi, Kenya

K.I.C.C. 2010
P. O. Box 750 - 80400 Ukunda
Mobile: +254 721 400 882
E-mail: mpkwalecounty@gmail.com

**Hon Richard Ole Kenta,
Chairman,
Implementation Committee
Kenya National Assembly,
Nairobi, Kenya.**

17th September, 2020.

Dear

RE: KWALE INTERNATIONAL SUGAR COMPANY LIMITED (KISCOL) – PROGRESS REPORT

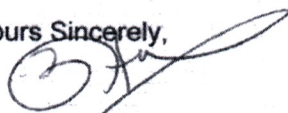
Please find herein my response to the report sent to your committee by KISCOL and dated 1st August 2020. This report was made in response to the recommendations by the Departmental committee on Labor and Social Welfare signed 6th June 2016.

The committee had recommended that KISCOL do the following:

1. Issue documentation such as contract letters and letters of appointment to all its employees so that it can be the term of reference for job description.
2. Adhere to the wage guidelines as per the Kenya Gazette Notice No. 91 of June 2015.
3. Provide protective gears and enforce the safety measures, regulations and use of protective gears in the company as required by the law
4. Provide proper sanitation, food and water to its employees
5. Provide better alternative modes of transportation for their employees and further provide separate compartment for tools and its workers in the mode of transport
6. Provide a medical scheme for its workers and ensure compensation for those who have been disabled or injured while at work

After assessing the report, it is my considered opinion that KISCOL have not provided any evidence that they have implemented the said recommendations and have not shown any willingness to do so. I know for a fact that many workers are yet to get contracts and are still treated as casual workers many years later. Also, no worker has been paid arrears of the years that they were paid below minimum wage. Please also find attached herewith: a picture posted on social media of how staff travel up to this day; an member of staff who was injured February 2019 and has not been compensated since and some copies of non-remittance of NSSF for staff.

Yours Sincerely,


Hon. Zuleikha Juma Hassan
Kwale County MP

22 Mar · 🗺️

Is KISCOL ready to fight covid-19 with this crowding in their lorries?





KWALE EYE CENTRE

27th. 12.2020

TO WHOM IT MAY CONCERN

RE BAKARI JUMA MATHONDO

This is to confirm that the above named completely lost vision on the left eye following injury while at work kindly accord him the necessary support

Thank you in advance

ROCD

for



Dr Helen Roberts MBE, MBChB, FRCOphth, FCOECSA
MEDICAL DIRECTOR
P.O. BOX 901-80100 MOMBASA-KENYA
Mobile: 0722/0733 785996
eyeskwale@africaonline.co.ke
www.eyesforeastafrica.org

JAMHURIYA KENYA REPUBLIC OF KENYA
ID Number: 232211858 ID Number: 31441031

BAKARI JUMAA HAROHDO

DATE OF BIRTH: 1980
SEX: MALE
EDUCATION: KWALE
NAME OF VILLAGE: MSAPINDI
DATE OF ISSUE: 23.06.2013



