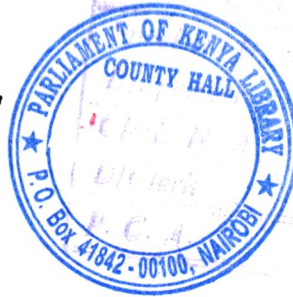


REPUBLIC OF KENYA



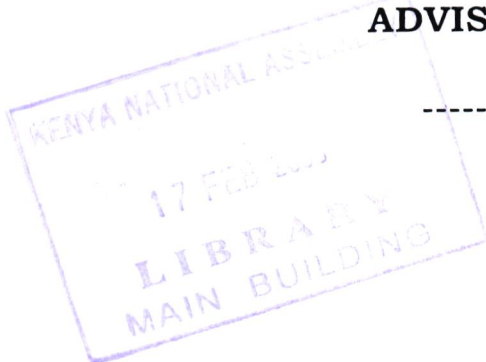
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KENYA NATIONAL ASSEMBLY

TENTH PARLIAMENT-SECOND SESSION

**DEPARTMENTAL COMMITTEE ON ADMINISTRATION OF
JUSTICE AND LEGAL AFFAIRS**

**REPORT ON THE NOMINATION OF NAMES FOR
APPOINTMENT TO THE KENYA ANTI CORRUPTION
ADVISORY BOARD**



Clerk's chambers,
National Assembly,
NAIROBI

December, 2008

PREFACE

Mr. Speaker, Sir,

The Departmental Committee on Administration of Justice and Legal Affairs is established under Standing Order No. 151; its mandate pursuant to Standing Order 151(4) is:-

- a) 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;*
- b) to study the programme and policy objectives of the Ministries and departments and the effectiveness for implementation;*
- c) to study and review all legislation after First Reading, subject to the exceptions under Standing Order 101A (4);*
- d) to study, assess and analyze the relative success of Ministries and departments as measured by the results obtained as compared with its stated objectives;*
- e) to investigate and inquire into all matters relating to all assigned Ministries and Departments as they may deem necessary, and as may be referred to them by the House or a Minister and;*
- f) to make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.*

The Committee comprises:

- (i) The Hon. Abdikardir Mohammed, MP – Chairman
- (ii) The Hon. Millie Odhiambo, MP
- (iii) The Hon. Olago Aluoch, MP
- (iv) The Hon. Amina Abdalla, MP
- (v) The Hon. Njoroge Baiya, MP
- (vi) The Hon. Alfred Sambu, MP
- (vii) The Hon. George Nyamweya, MP
- (viii) The Hon. Ababu Namwamba, MP
- (ix) The Hon. Isaac Ruto Kiprono, MP
- (x) The Hon. Mutava Musyimi, MP
- (xi) The Hon. Wamalwa Eugene, MP

MANDATE OF THE COMMITTEE

Mr. Speaker, Sir, the Committee was mandated to consider and recommend the names of persons for appointment to the Advisory Board of the Kenya Anti Corruption Commission. Eighteen names had been forwarded by the Minister for Justice, National Cohesion and Constitutional affairs.

The Main Committee constituted a subcommittee at a meeting held on 1st December 2008 to help it fast track the nominations.

The Sub Committee comprised the following Members:-

- i. The Hon. Amina Abdalla M.P.
- ii. The Hon. Millie Odhiambo, M.P.
- iii. The Hon. Njoroge Baiya, M.P.
- iv. The Hon. Alfred Wekesa Sambu, M.P.

The Sub Committee met on Wednesday 3rd December 2008 and considered the eighteen names that had been forwarded by the Minister for Justice and Constitutional Affairs. The nominees consisted of the following-

SUMMARY LIST OF NOMINEES	
Organization	Name of Person
Institute of Certified Public Accountants	Hon Billow Adan Kerrow
	Dr William Otiende Ogara
Kenya Bankers Association	Mr John Khameme Wanyela
	Mr Samuel Mutungi
Federation of Kenya Employers	Mrs Jacqueline Mugo
	Mr Mugo Kibati
Institute of Engineers of Kenya	Eng Francis W Ngokonyo
	Eng Reuben K Kosgei
Kenya Medical Association	Dr Stephen Ochiel
	Dr Abdallah Athman Kibwana
Kenya Association of Manufacturers	Mr Allan N Ngugi
	Mr Suru Tana
Architectural Association of Kenya	Architect Evan Juma
	Planner Irene Keino
Association of Professional Societies of East Africa	Mrs Anna Muchungu
	Mrs Grace Kaome Injene
COTU	Mr Francis Atwoli
	Mr Francis Wangara

4. The Sub Committee considered the names with regard to the requirements of paragraph 7 of the First Schedule to the Anti Corruption and Economic Crimes Act which states as follows-

(7) In nominating and approving persons to be members of the Advisory Board, the nominating body and the National Assembly shall have regard to —

(a)the honesty and integrity of the person and the person's knowledge and experience; and

(b)the importance of representing Kenya's diversity on the Advisory Board

With regard to the requirement of diversity, the Subcommittee categorized it to consist of regional balance and gender

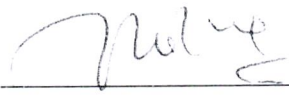
5. After intense consideration and consultations, the subcommittee unanimously agreed to recommend the following names -

Organization	Name of Person	Criteria Used
Institute of Certified Public Accountants	Hon Billow Adan Kerrow	Regional Balance (North Eastern Province)
Kenya Bankers Association	Mr John Khameme Wanyela	Regional Balance (Western Province)
Federation of Kenya Employers	Mrs Jacqueline Mugo	Gender
Institute of Engineers of Kenya	Eng Reuben K Kosgei	Regional Balance (Rift Valley Province)
Kenya Medical Association	Dr Abdallah Athman Kibwana	Regional Balance (North Eastern Province)
Kenya Association of Manufacturers	Mr Suru Tana	Experience & Regional Balance (Nairobi Province)
Architectural Association of Kenya	Planner Irene Keino	Gender & Regional Balance (North Eastern Province)
Association of Professional Societies of East Africa	Mrs Grace Kaome Injene	Gender & Regional Balance ((Eastern Province)
COTU	Mr Francis Wangara	Regional Balance (Western Province)

The subcommittee tabled its report in a full Committee meeting held on 10th December 2008 and its report was adopted by the main Committee without any changes.

Mr. Speaker, Sir, on behalf of the Members of the Departmental Committee on Administration of Justice and Legal Affairs, I wish to present to the House the Report of the Committee and the above names of the qualified candidates for further consideration and subsequent adoption by the House.

Hon Millie Odhiambo, MP

Sign  _____

Date ^{the} 11 December 2008

**MINUTES OF THE TWENTY EIGHT SITTING OF THE DEPARTMENTAL
COMMITTEE ON ADMINISTRATION OF JUSTICE AND LEGAL AFFAIRS
HELD ON TUESDAY 10TH DECEMBER 2008 IN COMMITTEE ROOM NO 7,
MAIN PARLIAMENT BUILDING AT 11.00AM.**

PRESENT

Hon. Abdikadir Mohamed, M.P. - **Chairman**
Hon. Ababu Namwamba, M.P.
Hon. Mutava Musyimi, M.P.
Hon. Baiya Peter, M.P.
Hon. Millie Odhiambo, M.P.
Hon. Amina Abdalla, M.P

ABSENT WITH APOLOGY

Hon. Wamalwa Eugene, M.P.
Hon. Isaac Ruto, M.P.
Hon. Olago Aluoch, M.P.
Hon. Alfred Sambu, M.P.
Hon. Nyamweya George, M.P.

IN ATTENDANCE

KENYA NATIONAL ASSEMBLY

Mrs Lucy Wanjohi
MrMr.Joash Atandi

Clerk Assistant
Parliamentary Intern

LAW SOCIETY OF KENYA

Mr.Apollo Mboya

**MIN. NO. 122/2008 - REPORT ON THE INTERNATIONAL CRIMES
BILL,2008**

The Committee adopted the Report by the Sub-Committee and approved it for tabling on Wednesday December 11, 2008.

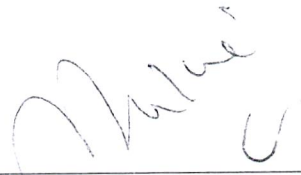
MIN. NO.123/2008 REPORT ON THE CONSIDERATION OF NAMES
FOR APPOINTMENT TO THE KENYA ANTI CORRUPTION ADVISORY
BOARD

The Committee considered and adopted the Report by the Sub-Committee and approved it for tabling in the House.

MIN. NO. 124/ 2008 ADJOURNMENT

And there being no other business, the Chairman adjourned the sitting at twelve O'clock.

Signed



Hon. Millie Odhiambo

Date

11th December 2008

1 cm 30 minutes
15:00

REPUBLIC OF KENYA



KENYA NATIONAL ASSEMBLY

11TH PARLIAMENT – FIRST SESSION - 2013

REPORT OF THE
DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND
NATIONAL SECURITY ON THE VETTING OF MR. FRANCIS
THUITA KIMEMIA, NOMINEE FOR APPOINTMENT TO THE
POSITION OF SECRETARY TO THE CABINET

CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI

MAY, 2013

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PREFACE

Mr. Speaker, Sir,

The Parliamentary Departmental Committee on Administration and National Security was constituted pursuant to the provisions of Standing Order No. 216 and has executed its mandate in accordance with the provisions of the said Standing Order 216(5), which mandates the Committee to, inter alia:

- a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments; and,*
- b) 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...*

Mr. Speaker,

According to Schedule II of the Standing Orders, the Committee examines the following subjects:

- i) National security
- ii) Police Services
- iii) Home Affairs
- iv) Public Administration
- v) Public Service
- vi) Prisons
- vii) Immigration and the Management of natural disasters
- viii) Community service orders

The Committee oversees the following Ministries and Departments:

- i) The Presidency (Cabinet Services & State Affairs)
- ii) Ministry of Interior and Coordination of National Government
- iii) Public Service Commission
- iv) National Police Service Commission
- v) Independent Policing Oversight Authority

Mr. Speaker, Sir,

The following are the Members of the Committee: -

The Hon. Asman Kamama, MP	-	Chairperson
The Hon. Alois M. Lentoimaga,	-	Vice Chairperson
The Hon. Ababu Namwamba, MP		
The Hon. Joseph Lekuton, MP		
The Hon. Alice Wahome, MP		
The Hon. Dalmas Otieno, MP		
The Hon. Zakayo K. Cheruiyot, MP		
The Hon. Timothy W. Wetangula, MP		
The Hon. Patrick Ole Ntutu, MP		
The Hon. Ali Isaack Shaaban, MP		
The Hon. Samuel Moroto, MP		
The Hon. Humphrey Njuguna, MP		
The Hon. Francis K. Mwangangi, MP		
The Hon. Rashid J. Bedzimba, MP		
The Hon. David Gikaria, MP		
The Hon. Mohamed Shidiye, MP		
The Hon. Jane Machira, MP		
The Hon. Ibrahim Abdi Saney, MP		
The Hon. Joseph O. Ndiege, MP		
The Hon. (Maj. Rtd.) John K. Waluke, MP		
The Hon. Wanjiku Muhia, MP		
The Hon. Akuja Protus Ewesit, MP		
The Hon. Joseph M. Kahangara, MP		
The Hon. Ahmed Abdikadir Ore, MP		
The Hon. Regina Nthambi Muia, MP		
The Hon. Grace Kiptui, MP		
The Hon. George Theuri, MP		
The Hon. James Bett, MP		
The Hon. Benard Shinali, MP		

Mr. Speaker,

Article 154 (2)(1) of the Constitution provides that there is established the Office of the Secretary to the Cabinet, which is an office in the public service. The Secretary to the Cabinet shall be nominated and, with the approval of the National Assembly, appointed by the President. The duties of the Secretary to the Cabinet shall be to take charge of the Cabinet office,

be responsible, subject to the directions of the Cabinet, for arranging the business, and keeping the minutes of the Cabinet, convey the decisions of the Cabinet to the appropriate persons or authorities, and have other functions as directed by the Cabinet.

Mr. Speaker, Sir,

After receiving the name of the nominee to the position of Secretary to the Cabinet on May 15, 2013, the Committee commenced its sittings on Wednesday May 22nd, 2013. In conducting the vetting exercise, the Committee made reference to the Constitution, the Public Appointments (Parliamentary Approval) Act No. 33 of 2011), and the Standing Orders.

The Committee complied with the Constitutional and legal requirements and established procedures for vetting. It ensured public participation and openness in carrying out the proceedings was adhered to. Notifications inviting the public to submit memoranda were placed in the mainstream print media, in tandem with the law.

The Committee held a meeting with the Ethics and Anti-Corruption Commission (EACC) Chief Executive Officer, Mr. Halakhe D. Waqo, on Monday 27th May 2013, at 7am. The meeting was convened after the Committee resolved to invite the CEO to clarify claims against Mr. Francis Kimemia, contained in a letter sent to the Committee.

Further, the Committee again invited Mr. Francis Kimemia to another meeting so as to accord him right of reply to the issues raised in the EACC'S letter. This meeting was held on Monday, 27th May 2013.

The two meetings were held in camera because the EACC had requested in their letter that the information contained therein be treated in strict confidence as the matter concerned was still under investigation, and that, opening up the proceedings could jeopardize the investigations.

Mr. Speaker,

The Committee wishes to thank the Offices of the Speaker and the Clerk of the National Assembly for the logistical support accorded to it during the vetting exercise. The Committee is also thankful to the media for their coverage of the proceedings of the Committee, thus enhancing accountability and transparency of the vetting exercise.

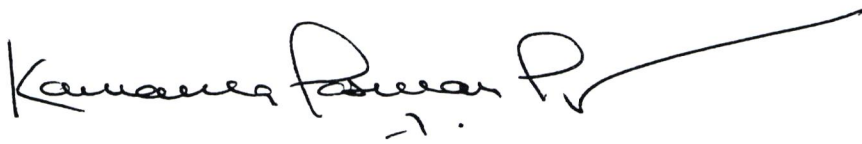


Mr. Speaker, Sir,

The Committee made several findings during the vetting exercise. These findings guided the Committee in making its final recommendation. The Committee's also recommendation was solely based on the evidence and information from the proceedings of the Committee during the vetting exercise. This recommendation was unanimously agreed upon by the Committee Members during the adoption of the Report on Tuesday 28th May, 2013.

Mr. Speaker,

On behalf of the Committee, and pursuant to Article 154(2)(a) of the Constitution, Section 8(1) of the Schedule to the Public Appointments (Parliamentary Approval) Act No. 33 of 2011, and Standing Order no. 199(6), it is my pleasant duty to table the Report of the Departmental Committee on Administration and National Security, on the nomination of Mr. Francis Thuita Kimemia to the post of Secretary to the Cabinet, for debate and adoption by the House.

Signed: 

Hon. Asman Kamama, MP
Chairman, Departmental Committee on Administration and National Security

Date: ...28th May 2013.....



1.0 BACKGROUND

1.2 Establishment of the Office of Secretary to the Cabinet and nomination

Article 154 of the Constitution provides that;

(1) There is established the office of Secretary to the Cabinet, which is an office in the public service.

(2) The Secretary to the Cabinet shall:-

(a) be nominated and, with the approval of the National Assembly, appointed by the President; and

(b) may be dismissed by the President.

1.3 Functions of the Secretary to the Cabinet

(3) The Secretary to the Cabinet shall—

(a) have charge of the Cabinet office;

(b) be responsible, subject to the directions of the Cabinet, for arranging the business, and keeping the minutes, of the Cabinet;

(c) convey the decisions of the Cabinet to the appropriate persons or authorities; and;

(d) have other functions as directed by the Cabinet.

(4) The Secretary to the Cabinet may resign from office by giving notice, in writing, to the President.

1.4 Issues for consideration in conducting the Approval hearing

In conducting the Approval hearing, the Committee was guided by Article 73 (2)(a) (b)(c) and (e) of the Constitution, and the provisions of Section 7 of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011.

1.5 Message from H.E. the President

On 15th May, 2013, pursuant to Standing Order 42 (1) the Speaker of the National Assembly conveyed a message to the House from H.E. the President that Mr. Francis Thuita Kimemia had been nominated to serve in the position of Secretary to the Cabinet. Article 154 (2)(a) confers upon the President the power to nominate, and subject to approval by the National Assembly, appoint the Secretary to the Cabinet.



The name of the nominee and his curriculum vitae was thereafter forwarded to the Committee on Administration and National Security to conduct approval hearings.

1.6 Clearance requirements

On 16th May, 2013, the Clerk of the National Assembly wrote to Kenya Revenue Authority (KRA), and the Higher Education Loans Board [HELB] requesting information on whether the nominee was tax compliant and whether he owed any loans to the Board, respectively. The Clerk also wrote to Ethics and Anti-Corruption Commission seeking information on the integrity of the nominee. The nominee was also required to present his Certificate of Good Conduct.

1.7 Notification to the nominee

On 17th May, 2013, the Clerk of the National Assembly, pursuant to Section 6(3) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), notified the nominee of the time and place for holding the approval hearing.

1.8 Notification to the public

Section 6(9) of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011, provides that *“any person may, prior to the approval hearing, and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated”*.

On 17th May, 2013, the Committee, through the Clerk, placed notifications in the print media informing the general public of the intention of the National Assembly to conduct an approval hearing, as provided for by Article 118 (1)(a)(b) and (2) of the Constitution, Standing Order 198 (1) and Section 6(4) of the Public Appointments (Parliamentary Approval) Act, 2011, which allow public participation in Committee proceedings. The Clerk of the National Assembly gave provision for the submission of memoranda to his office, on the suitability or otherwise of the nominee, by Thursday, 23rd May, 2013, at 5.30pm.

1.9 Committee meetings

The Committee commenced the vetting process on Wednesday, 22nd May 2013. A total of nine sittings were held. The Committee’s first business was to formulate



questions on the vetting in line with the Public Appointments (Parliamentary Approval) Act, 2011, and examine Memoranda so far received.

1.10 Submission of memoranda

By close of business on Thursday 23rd May 2013 the Committee had only received two memoranda from the public. However, a petition from Mr. James Ng'etich of Nairobi, was not admissible before the Committee because it was not a written statement on oath (affidavit) as provided for in the Public Appointments (Parliamentary Approval No. 33 of 2011) Act.

The second memorandum from Mr. John Mbugua also from Nairobi, was based on issues surrounding injustices meted out against displaced Kenyans in 1982-1986, 1990-1992, 1997, 2002, and also after the 2007-2008 post election violence in which many Kenyans lost their lives while others were displaced. The memorandum further stated that monies meant for the IDPs have been misappropriated. IDPs still continue to languish in problems under successive Governments. Mr. Francis Kimemia, as Head of Public Service, allegedly did not address the resettlement and compensation issues properly, thus the IDPs continue to suffer. The statement had been sworn before a Commissioner for oaths and was therefore properly before the Committee.

The Committee further received three memoranda from the public on Friday 24th 2013 about three o'clock. The three representations were by Mr. George O. Malowa of P O Box 221-00516 [no physical address shown], Mr. Joseph Kinyanjui Mwai of P O Box 875-00217, Limuru and Mr. Charles Akinyi Omanga of P O Box 14117, Nairobi. The three memoranda did not meet the requirements of the published notification which had stated that representations be received on or before Thursday 23rd May 2013, by 5.30pm.

1.11 Clearance letters

Further, the Committee received letters from the Kenya Revenue Authority, indicating that the nominee was tax compliant, and the Higher Education Loans Board, stating that the nominee had repaid all the Board's loans. The nominee also presented before the Committee his Certificate of Good Conduct.

The Ethics and Anti-Corruption Commission, in response to the Clerk of the National Assembly's letter, wrote to the Committee, raising concerns that touched on the integrity of the nominee. The Committee deliberated on the contents of the letter and resolved that, since the allegations raised were quite weighty, there



was need to invite the Chief Executive Officer of EACC to a meeting in order for him to clarify some of the issues alluded to in the letter. The Committee also resolved to invite the nominee to accord him right of reply to the issues under reference.

1.12 The Vetting Process

On Friday 24th May 2013, the Committee held a session with the nominee to the post of Secretary to the Cabinet. In conducting the vetting exercise, the Committee was guided by, among other documents, the Constitution, the Public Appointments (Parliamentary Approval) Act No. 33 of 2011 and the National Assembly Standing Orders.

2.0 VETTING OF MR. FRANCIS THUITA KIMEMIA FOR THE POSITION OF SECRETARY TO THE CABINET

1. The Committee on Administration and National Security examined the nominee using the guidelines provided for in the Public Appointments (Parliamentary Approval) Act No. 33 of 2011. The Committee also followed the following criteria in vetting the nominee: -

- (i) Academic qualifications
- (ii) Employment record and work experience
- (iii) Professional association
- (iv) Public office, political activities and affiliations
- (v) Potential conflict of interest
- (vi) Suitability to the position
- (vii) Tax compliance
- (viii) Integrity

Personal Background

2. Mr. Kimemia appeared before the Committee on Friday 24th May 2013 and informed the Members that he was born in Ol Kalou, in the then Nyandarua District, on 27th October 1957. He is married with seven children.

Educational Background

3. He is currently undertaking a Masters degree in Business Administration from Maastrich University/ESAMI. He holds a Bachelor of Arts degree from the University of Nairobi.



Working Experience

4. He is currently the Permanent Secretary, Secretary to the Cabinet and Head of Public Service.
5. He served as a District Officer in various districts in the country between 1980 and 1986.
6. He also served as Assistant Secretary, Under Secretary, and Deputy Secretary in various Ministries, rising to the position of Permanent Secretary in the Ministry of Provincial Administration and Internal Security in 2008, and later becoming Secretary to the Cabinet and Head of Public Service in 2012.

Special Training Programmes acquired

7. He has attended several courses within the country and abroad on Public Administration, Security and in Leadership skills, for example: Managing Performance course in Oriented Public Service in Malaysia, International Course on Privatization, Regulatory Reform and Corporate Governance in Japan, amongst others.

Achievements

8. He has helped to initiate several educational, water, security related projects and other development projects in his home area and in other parts of the country especially in the Arid and Semi Arid Areas [ASAL].
9. He has been involved in the publication of several Government manuals and has been Chair of numerous National Committees. He has also received Presidential Commendations including the Elder of the Golden Heart [EGH].

In response to issues raised by the Committee Members, Mr. Francis Kimemia stated that: -

- (i) The ability to create synergies, encourage team work has been the biggest asset during his career in public service, qualities that he believed were necessary for the position he was being vetted for. Coupled with this was the extensive training undertaken in various Government institutions, working with experienced supervisors, managing Cabinet affairs and coordinating various Ministries and Departments has prepared him for the position that he had been nominated for.
- (ii) He would ensure that Bills from Parliament are processed promptly and professionally in order to enhance service delivery to the electorate and create that critical link between the Executive and the Legislature.

- (iii) A good Secretary to the Cabinet would ensure that issues discussed in the public fora are used to formulate sound policies.
- (iv) The Head of Public Service position will be determined by the President since the Office has been detached by creating a singular Office of the Secretary to the Cabinet, which is a constitutional Office.
- (v) The fact that the County Governor is directly elected by the people, has more functions bestowed upon him by Schedule 4 of the Constitution while the County Commissioner is an appointee of the President, makes the Governor more senior in the pecking order in the County.
- (vi) On devolution, the Secretary to the Cabinet is bound by law to ensure there would be equity among all Kenyans, reduce marginalization and discrimination in accordance with Article 10 of the Constitution.
- (vii) There is need to reduce insecurity by enhancing the morale of the police which will lead to accelerated development. The police need to be equipped and therefore there is need for the Government to allocate more resources to the security sector.
- (viii) If appointed to the position of Secretary to the Cabinet, he shall ensure dignity of Parliament is upheld because the Constitution recognizes the supremacy of Parliament.
- (ix) The posting of civil servants in the country was a decision of the Grand Coalition Government which required implementation.
- (x) He has neither been dismissed from office for contravention of Article 75 of the Constitution, for any conflict between potential interest and public or official duties, nor has he been adversely associated with practices that depict bias, favoritism or nepotism in the discharge of public duties.
- (xi) He has no family member or other persons, parties, categories of litigation or financial arrangements that are likely to present potential conflicts of interest if appointed to the Office of the Secretary to the Cabinet.
- (xii) He confirmed that he has no other plans, commitments or agreement to pursue outside employment.



- (xiii) Standard operating procedures are being developed so that the duties of the National Police Service Commission and the Office of the Inspector General are clearly spelt out in order to remove the controversies that have surrounded these two institutions.
- (xiv) On apathy by Kenyans over the inability by the public service to deliver, there was need for a paradigm shift on how public business should be handled in the future, and the new Cabinet secretaries are expected to bring real change into the system in order to restore public confidence.
- (xv) The principle of performance contracting added a lot of value to the public service in terms of service delivery as more targets have been achieved. The Government should even introduce a score card in order to scale up performance in the public service.
- (xvi) On memoranda by Mr. John Mbugua, some of the alleged atrocities perpetrated by the Provincial Administration happened while he was still a District Officer in Mandera between 1980 and 1982. However, the Provincial Administration cannot wholly be exonerated from ills meted out against Internally Displaced Persons (IDPs), over the years. There has been misappropriation of funds meant for resettlement of IDPs. Disciplinary action has been taken against officers found culpable of these crimes.

3.0 MEETING WITH THE CHIEF EXECUTIVE OFFICER, ETHICS AND ANTI-CORRUPTION COMMISSION (EACC)

The Committee held a meeting with the Chief Executive Officer, Ethics and Anti-Corruption Commission, Mr. Halakhe D. Waqo, on Monday 27th May 2013.

The Committee Members sought to know from the CEO: -

- i) What exactly Mr. Kimemia was under investigation for;
- ii) If The Commission had communicated to Mr. Francis Kimemia that he was under investigation;
- iii) If Mr. Francis Kimemia has been summoned by EACC or recorded a statement;
- iv) If the CEO could distinguish whether Mr. Kimemia's actions were abuse of office or corruption cases;
- v) How far the investigations had gone;
- vi) What would be the Commission's advice on the nominee being vetted;

- vii) Whether the Commission's allegations were based on material facts;
- viii) If the head of Public Service had powers to suspend Presidential appointees;
- ix) Whether he was aware that Mr. Thuita Mwangi had moved to court to challenge his suspension;
- x) Whether the request for suspension of the Kenya Airports Authority (KAA) Managing Director was in writing as was the case for the Tokyo project, and why suspension was being preferred before a charge could be entered for prosecution;

In response to issues raised by the Committee Members, Mr. Halakhe D. Waqo stated that: -

1. The response given by the Commission to the Committee was advisory and cautionary because the subject matters were still under investigations (See annex of EACC letter).
2. The Commission had a responsibility to give the necessary advice and enforce the law where necessary.
3. The advisory was being provided in utmost good faith.
4. The EACC investigation was on the allegations of blocking the suspension of the two officers. The first project was the Jomo Kenyatta International Airport Greenfield Terminal Project which was to cost Kshs. 56 billion;
5. The JKIA Greenfield Terminal Project was a problematic project, which points to mega corruption cases. The project had a budget of Kshs. 56 billion. The project was under focus by the Commission and this has gone on for a few years. The contract to start the project was signed in October, 2012. EACC moved in to stop the project when it was clearly identified that the KAA Managing Director was culpable in the manner in which he had executed the procurement process. The Commission recommended the suspension of the KAA MD. Up to the point where the MD was recommended for suspension, the Commission did not have Mr. Kimemia under focus since the matter was in the Ministry where the Minister, the Permanent Secretary and the MD were actively engaged. However, Mr. Francis Kimemia's office came in and blocked the suspension. This brought the office of Mr. Kimemia under focus by the Commission. EACC wondered why he would block the suspension of the MD. EACC'S intelligence reports pointed out that there was need to investigate the



Head of Public Service in this instance. That is why they had Mr. Kimemia in record on that particular project.

6. The Commission recommended to the Director of Public Prosecutions (DPP) that the officers be suspended pending prosecution. Mr. Kimemia blocked the suspension of the PS. The Commission wondered why he would block the suspension if his office did not have dealings in the project. The second project was on the purchase by the Ministry of Foreign Affairs of a property in Tokyo, Japan in order to put a Kenyan Embassy. The Project was to cost Kshs. 1.5 billion. The matter was before the court. The Ministry of Foreign Affairs was suspected to be handling the purchase in a corrupt way. The Permanent Secretary, Mr. Thuita Mwangi and two other officers in the Ministry were identified as the culprits in mishandling of the purchasing process.
7. The Commission was however still gathering information and had not informed Mr. Kimemia of the investigations. No statement had been recorded from Mr. Kimemia over the Airport Greenfield Terminal Project.
8. The Commission had not notified Mr. Kimemia that he was being investigated because the investigations were yet to be concluded. However, the Commission's interpretation of the conduct of Mr. Francis Kimemia in blocking the suspension of the officers involved in the two projects was summed up as mega corruption.
9. The EACC was at the point cautioning the Committee that the Commission had become suspicious of Mr. Kimemia's actions in as far as the suspension of the two officers was concerned.
10. The Committee should analyze the issues raised by the EACC and come up with an objective position regarding the involvement of Mr. Francis Kimemia in blocking the suspension of the two officers.

4.0 MEETING WITH MR. FRANCIS KIMEMIA, SECRETARY TO THE CABINET NOMINEE

Mr. Francis Kimemia appeared before the Committee again on Monday, 27th May, 2013, at 9 am. The meeting arose out of issues raised in a letter written to the Committee by EACC over Mr. Kimemia's conduct in blocking the suspension of the KAA MD who had been involved in mishandling the JKIA Greenfield Terminal Project; and the PS, Ministry of Foreign Affairs who was accused of underhand dealings in the purchase of a Tokyo property.

During the meeting with Mr. Kimemia, the Committee sought to know from him;

- i) Whether he had blocked the suspension of the KAA Managing Director, Eng. Stephen Gichuki and the Ministry of Foreign Affairs PS as alleged by EACC;
- ii) If he had ever recorded any statement with EACC over his actions;
- iii) Whether he has powers to suspend public service Presidential appointees;
- iv) Whether he had written a letter to EACC in response to issues specifically addressed to Mr. Njiru by EACC;
- v) If he had received recommendation from EACC advising him to suspend Mr. Thuita Mwangi and if he declined those recommendation, and what could have been his motivation for these actions;
- vi) If indeed it was the intervention of EACC that led to the suspension of the two projects, and what role his office played in this cancellation;
- vii) Why he thought EACC had generated the letter accusing him of corruption and abuse of office.

In responding to the issues raised by the Committee Members, Mr. Francis Kimemia informed the Committee that: -

1. He had never been informed of any allegations before receiving the EACC letter from the Clerk of the National Assembly.
2. He had never been informed on any concerns by EACC over corruption matters;
3. He had never been asked to record any statement with EACC over claims of abuse of office or corruption;

4. The allegations were not in good faith, especially coming at the time of the nomination;
5. Mr. Thuita Mwangi had been charged but had not taken a plea before the court over the Tokyo matter. The case was still before the court pending determination;
6. The powers to hire and remove presidential appointees were vested on the President himself and he could act only on those directives;
7. The JKIA Greenfield Terminal Project was initially okayed by EACC as a viable Project meant to expand the existing facilities by constructing a third Airport Terminal (See annexed Kimemia letter on clearance of project by EACC);
8. Parliament also recommended for the fast tracking of the project, and this information is contained in the Parliamentary Hansard proceedings;
9. A Cabinet Sub Committee had recommended that the project goes on as planned, since EACC had cleared the procurement process was above board, and that all stakeholders be involved in ensuring the project took off as planned (See annexed Kimemia letter on Cabinet decision).
10. There was bad blood between the Ps, Ministry of Transport and the KAA Managing Director which boiled down to slowing down the project;
11. Mr. Cyrus Njiru, the Transport PS, had written to Mr. Kimemia requesting that he, Mr. Kimemia, upholds the suspension of the KAA MD.
12. He did not know why the EACC took the position of accusing him OF corruption and abuse of office. He has indeed been very supportive of EACC activities.
13. His office did not block the suspension of the two officers, as he was not the appointing authority and also as a result of the Court order. His actions were guided by the need to safeguard the public rather than personal interests.
14. The major projects, including the JKIA Greenfield Terminal Project, were to be suspended towards the 2013 General Election due to the uncertainty of

the forthcoming polls, and also to enable the incoming Government to take up the projects.

5.0 COMMITTEE FINDINGS

After conducting the vetting exercise, the Committee made the following observations and findings: -

1. Mr, Francis Kimemia has the requisite qualifications and vast experience in the public service which qualifies him for position of Secretary to the Cabinet.
2. The nominee has risen through the ranks progressively, having started as a District Officer, rising to his current position as Secretary to the Cabinet and Head of Public Service.
3. Mr. Kimemia has never been implicated in any known scandal during his official capacity.
4. The candidate exhibited impressive knowledge of topical issues especially those touching on public service. He was keen in making positive proposals on how to move the country forward.
5. The nominee has been involved in major reforms in the civil service that have been initiated in the country, such as the police reforms and performance contracting in the public service.
6. The sentiments expressed in the Mbugua petition were not particularly directed at Mr. Kimemia, but revolved around the atrocities allegedly meted out against IDPs by the Provincial Administration over the years.
7. The EACC letter was based on initial suspicion of Mr. Kimemia having been involved in the blocking of the suspension of the KAA MD, and the PS, Ministry of Foreign Affairs, for their mishandling of the JKIA Greenfield Terminal Project, and in the purchase of the Tokyo property, respectively.
8. The investigations were at a preliminary stage and it was therefore difficult to draw conclusions by EACC on the person of Mr. Francis Kimemia. Mr. Mbugua's concerns were out of the frustration by the Government to address IDP issues. The Committee found that some action had been taken and some officers had been charged while others were disciplined.

9. The EACC had no objection to Mr, Kimemia being appointed as the Secretary to the Cabinet.
10. During the presentation by the EACC CEO, he stated clearly that the Commission's letter earlier sent to the Committee was for cautionary and advisory purposes, but not to depict Mr. Kimemia as guilty or culpable.
11. Decisions made by the Cabinet on the manner in which the JKIA Greenfield Terminal Project and the Tokyo property purchase were to be handled were beyond Mr. Kimemia's control.

6.0 RECOMMENDATION OF THE COMMITTEE

At the end of the vetting process, the Committee made the following recommendation:-

That; having considered the suitability, capacity and integrity of the nominee, and pursuant to Article 154(2)(a) of the Constitution and Section 8 (2) of the Schedule to the Public Appointments (Parliamentary Approval) Act No. 33 of 2011 , the Committee recommends that the National Assembly approves the nomination and subsequent appointment of Mr. Francis Thuita Kimemia to the post of Secretary to the Cabinet.

ANNEXTURES



OFFICE OF THE PRESIDENT
PERMANENT SECRETARY, SECRETARY TO THE CABINET
AND HEAD OF THE PUBLIC SERVICE

Telegraphic Address: "RAIS"
Telephone: Nairobi 227411
When replying please quote

OP/CAB.58/4A

Ref. No.
and date



P.O. Box 62345-00
NAIROBI

24th October, 2012
....., 20.....

Dr. Mohamed Isahakia, CBS
Permanent Secretary
Office of the Prime Minister
NAIROBI.

Mr. Joseph K. Kinyua, CBS
Permanent Secretary
Ministry of Finance / Treasury
NAIROBI.

Dr. (Eng.) Cyrus Njiru, CBS
Permanent Secretary
Ministry of Transport
NAIROBI.

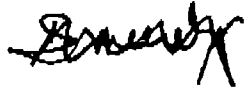
Dear *Dr. Isahakia*

RE: CABINET DIRECTIVE ON GREENFIELD TERMINAL PROJECT AT JOMO KENYATTA INTERNATIONAL AIRPORT

I refer to the **Thirtieth Cabinet Meeting 2012**, held on **13th September, 2012** during which Cabinet Brief on the Report of Infrastructure Cabinet Committee on Tender for the Development of Greenfield Terminal at Jomo Kenyatta International Airport presented and discussed.

The purpose of this communication is to direct you to take necessary action to facilitate urgent implementation of the Project.

Yours



FRANCIS KIMEMIA, CBS
AG. PERMANENT SECRETARY/SECRETARY TO
THE CABINET AND HEAD OF PUBLIC SERVICE

Copy to: Rt. Hon. Raila Amolo Odinga, EGH, MP

Prime Minister

NAIROBI

Hon. Robison Njeru Githae, EGH, MP

Minister for Finance

NAIROBI

Hon. Amos K. Kimunya, EGH, MP

Minister for Transport

NAIROBI

Prof. Githu Muigai, FCI Arb. MP

Attorney General

State Law Office

NAIROBI

I wish to inform you that the Cabinet **considered** the contents of the Brief and:

Approved that the implementation of Jomo Kenyatta International Airport Greenfield Terminal Project proceeds with all stakeholders involved.

Directed the Minister for Transport, the Minister for Finance and the Attorney General take necessary action to fastrack the implementation of the project.

Directed that the following mechanisms be put in place to strengthen the process of implementing the project under the current contract:

- i. In order to fast track the implementation of the project, the Cabinet directed that a special purpose project committee be created with representation from Office of the Prime Minister, Ministry of Finance, Ministry of Transport, Attorney General's Office, Kenya Airports Authority, Kenya Civil Aviation Authority, Vision 2030 Secretariat and Kenya Airways among other relevant institutions. The Committee is vested with the responsibility to facilitate an inclusive stakeholder participation in the decisions relating to the project implementation and report regularly to Cabinet Committee on Infrastructure.

Please take note that the Committee shall be chaired by the Office of the Prime Minister, while the Permanent Secretary Office of the President/Secretary to the Cabinet and Head of Public Service shall oversee the process. This Committee supersedes any other committee that existed prior to its formation.

- ii. The Cabinet directed that Kenya Airports Authority appoint a Technical Advisory firm to assist in shaping the finalisation of the design of the airport to ensure that the final design fulfils the government's and key stakeholder requirements in the project.
- iii. The Cabinet directed that Kenya Airports Authority appoints a Financial Advisory Team to assist the Authority in structuring and negotiating the loan to ensure that the loan facility meets the demands of the government. The new airport charges approved by the Minister for Finance has allowed KAA to use charges as a basis for funding the project. KAA will lock revenue streams to provide security for the project.



OFFICE OF THE PRESIDENT
PERMANENT SECRETARY, SECRETARY TO THE CABINET
AND HEAD OF THE PUBLIC SERVICE

Telegraphic Address: "RAIS"
Telephone: Nairobi 227411
When replying please quote

P.O. Box 62345-00200
NAIROBI

OP/CAB.9/178A

6th November, 2012

Ref. No
and date

..... 20.....

Dr. Cyrus Njiru, PhD, CBS
Permanent Secretary
Ministry of Transport
NAIROBI

Dear

Dr. Njiru

RE: RECOMMENDATION FOR SUSPENSION OF THE CHIEF EXECUTIVE OFFICER KENYA AIRPORTS AUTHORITY (KAA)

This office has been notified a letter Ref. No. EACC.6/11/3 (23) addressed to you by the Ethics and Anti Corruption Commission (EACC) recommending the suspension of the Managing Director Kenya Airports Authority in connection with the handling of the Greenfield Terminal Project Tender No. KAA/ES/JKIA/658/DB for design and consultancy.

It has been noted that the areas that inform the recommendation for suspension have been handled through the budget cycle, tendering, and oversight as follows:

i. Budget and financing

The observation that the tender for the project was floated without adequate budgetary provision has not considered the nature of the project and its implementation. The project is multi-year and funds should be allocated on annual basis. As a result the Authority allocated KES 1.2 billion to the project in 2011-2012 financial year and KES 8 billion in 2012-2013 financial year. In addition the Minister of Finance has approved increase of Air Passenger Service Charge of USD 20 per passenger and the proceeds will go to finance the project. At the same time the financiers have made offers and what is remaining is negotiations for the best option.

ii. Availability of funds before tender award

This issue is related to the first. The Corporation allocated funds to the project and awarded tender to a bidder with proof of financing as the bidder had proof that China Development Corporation and China Exim Bank are willing to finance the project.

iii. Approvals for borrowing


This issue is adequately dealt with in the project and budget cycle. The KAA Board of Directors approved the project on the understanding that it would be financed through borrowing. Both the Ministry of Transport and the Ministry of Finance attended the Board meeting that approved the project and financing. In addition, the budget of the Authority is approved by the Ministry of Transport and the Ministry of Finance. The budget shows that the project will be financed through borrowing. In this regard, the two ministries approved the borrowing in principle and what remains are specific approvals after completion of negotiations and determination of the actual costs of the project.

iv. Clearance of the tender

As you are already aware, the Cabinet, Parliament, the Attorney General and the Public Procurement Review Board and earlier investigation by EACC have cleared the tender. On the basis of the clearance a contract for project implementation was effected by the Authority following a directive by the Public Procurement Oversight Board on 29th August 2012. The Cabinet has also directed the Authority to proceed with implementation of the project as it is critical to realization of Vision 2030. The Cabinet decision was communicated by your Ministry letter Ref. No. MOT/S/ADM/86/VOL. XIV/ (120) dated 12th October, 2012.

In view of the foregoing there is no compelling reason for the suspension of the CEO as the issues cited by the Commission have been dealt with one way or the other and suspension of the CEO would only cause further instability in the Corporation and cause further delay to the project.

Yours



FRANCIS T. KIMEMIA, CBS
PERMANENT SECRETARY, SECRETARY TO THE
CABINET AND AG. HEAD OF THE PUBLIC SERVICE

10. Dr. Mohamed Ishakia, CBS
Permanent Secretary
Office of the Prime Minister
NAIROBI.

Mr. Joseph K. Kinyua, CBS
Permanent Secretary
Ministry of Finance
NAIROBI

Mrs. Jane W. Muthaura
Ag. Secretary/Chief Executive Officer
Ethics and Anti Corruption Commission
Integrity Centre
NAIROBI

THE NATIONAL ASSEMBLY
 RECEIVED
 21 MAY 2013
 DIRECTOR COMMITTEE OFFICE



HIGHER EDUCATION LOANS BOARD

Tel: 0711052000, 2278000, 0722205292, 0733205292,
 0704333035, 0704333036, 0737205292, 0754556899
 Fax: 2252330
 E-mail: ceo@helb.co.ke
 Website: www.helb.co.ke

Anniversary Towers
 18th Floor, University Way
 P.O. Box 69489-00400
 Nairobi, Kenya

HELB/D/56593/POV/114

20th May, 2013

Mr. Justin N. Bundi
 Clerk
 National Assembly
 P.O Box 41842 00100
NAIROBI

Dear *Justin*

UNIVERSITY STUDENTS' LOAN RECOVERY
MR. FRANCIS THUITA KIMEMIA ID. NO. 4828987

We acknowledge receipt of your letter dated May, 16, 2013.

Please note that the above named person was a beneficiary of Higher Education Loans Board Scheme. He was issued with clearance certificate no. **48721**

In the event of any further queries, please do not hesitate to contact the undersigned.

Yours *Sincerely*

CHARLES M. RINGERA
CHIEF EXECUTIVE OFFICER & BOARD SECRETARY



REPUBLIC OF KENYA



NATIONAL ASSEMBLY

Telegraphic Address
'Bunge', Nairobi
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Fax: +254 20 2243694
E-mail: clerk@parliament.go.ke

CLERK'S CHAMBERS
National Assembly
Parliament Buildings
PO Box 41842-00100
NAIROBI, Kenya

NA/DC.A/ANS/2013/02

May 16, 2013

Mr. John Njiraini, MBS
Commissioner General
Kenya Revenue Authority
P.O. Box 62345 - 00200
NAIROBI

Dear *Mr. Njiraini*

RE: VETTING OF NOMINEE TO THE POSITION OF SECRETARY TO THE CABINET BY THE
DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY

The Departmental Committee on Administration and National Security is established under Standing Order 216 and is mandated, among others, to consider, for approval by the House, appointments to the public service. Under Article 154 (2)(a) of the Constitution, the Secretary to the Cabinet shall be nominated, and with the approval of the National Assembly, appointed by the President.

The Committee will be conducting the vetting of the Secretary to the Cabinet nominee, Mr. Francis Thuita Kimemia, on **Friday, 24th May, 2013**.

This is to request you to provide a report on tax compliance by the nominee. Such information will assist the Committee undertake its mandate more effectively. Kindly forward the information to the undersigned by **Thursday, 23rd May, 2013**.

Yours *Sincerely*

A handwritten signature in black ink, appearing to read 'Justin N. Bundi'.

JUSTIN N. BUNDI
CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA



NATIONAL ASSEMBLY

Telegraphic Address
'Bunge', Nairobi
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Fax: +254 20 2243694
E-mail: clerk@parliament.go.ke

CLERK'S CHAMBERS
National Assembly
Parliament Buildings
PO Box 41842-00100
NAIROBI, Kenya

May 16, 2013

NA/DC.A/ANS/2013/04

Mr. Charles M. Ringera
Chief Executive Officer/Board Secretary
Higher Education Loans Board
Anniversary Towers, 18th floor
University Way
P O Box 69489 – 00400
NAIROBI

Dear *Mr. Ringera*

RE: VETTING OF NOMINEE TO THE POSITION OF SECRETARY TO THE CABINET BY THE
DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY

The Departmental Committee on Administration and National Security is established under Standing Order 216 and is mandated, among others, to consider, for approval by the House, appointments to the public service. Under Article 154 (2)(a) of the Constitution, the Secretary to the Cabinet shall be nominated, and with the approval of the National Assembly, appointed by the President.

The Committee will be conducting the vetting of the Secretary to the Cabinet nominee, Mr. Francis Thuita Kimemia, on **Friday, 24th May, 2013**.

This is to request you to provide a report on repayments of any loans that may have been advanced by the Board to the nominee. Such information will assist the Committee undertake its mandate more effectively. Kindly forward the information to the undersigned by **Thursday, 23rd May, 2013**.

Yours *Sincerely,*

A handwritten signature in black ink, appearing to read 'Justin N. Bundi'.

JUSTIN N. BUNDI
CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA



NATIONAL ASSEMBLY

Telegraphic Address
'Bunge', Nairobi
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Fax: +254 20 2243694
E-mail: clerk@parliament.go.ke

CLERK'S CHAMBERS
National Assembly
Parliament Buildings
PO Box 41842-00100
NAIROBI, Kenya

NA/DC.A/ANS/2013/03

May 16, 2013

Mr. Halakhe D. Waqo, ACI Arb
Secretary/Chief Executive Officer
Ethics and Anti-Corruption Commission
Valley Rd./Milimani Rd.
PO Box 61130 – 00200
NAIROBI

Dear *Mr. Halakhe,*

RE: VETTING OF NOMINEE TO THE POSITION OF SECRETARY TO THE CABINET BY THE
DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY

The Departmental Committee on Administration and National Security is established under Standing Order 216 and is mandated, among others, to consider, for approval by the House, appointments to the public service. Under Article 154 (2)(a) of the Constitution, the Secretary to the Cabinet shall be nominated, and with the approval of the National Assembly, appointed by the President.

The Committee will be conducting the vetting of the Secretary to the Cabinet nominee, Mr. Francis Thuita Kimemia, on **Friday, 24th May, 2013**.

This is to request you to provide any information touching on the integrity of the nominee that the Commission may be in possession of. Such information will assist the Committee undertake its mandate more effectively. Kindly forward the information to the undersigned by **Thursday, 23rd May, 2013**.

Yours *Sincerely,*

A handwritten signature in cursive script, appearing to read 'Justin N. Bundi'.

JUSTIN N. BUNDI
CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA



NATIONAL ASSEMBLY

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PO Box 41842-00100
NAIROBI, Kenya

NA/DC.A/ANS/2013/01

May 16, 2013

Mr. Francis Thuita Kimemia, EGH
P O Box 62345 – 00200
NAIROBI

Dear *Francis*

RE: INVITATION FOR VETTING BY THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION
AND NATIONAL SECURITY

Having been nominated by H.E. the President for the position of Secretary to the Cabinet, the Departmental Committee on Administration and National Security, pursuant to Article 154 (2)(a) of the Constitution and Section 6 (9) of the Public Appointments (Parliamentary Approval) Act 2011, invites you for vetting on **Friday, 24th May, 2013**, in the **Committee Room, 4th floor, Continental House, Parliament Buildings**, at **2.30 pm**.

Kindly fill the attached Questionnaire as required by the Public Appointments (Parliamentary Approval) Act 2011 and return it to the undersigned on or before **Thursday, 23rd May, 2013**, together:-

1. Certificate of Good Conduct;
2. Kenya Revenue tax Compliance Certificate;
3. Certificate from the Higher Education Loans Board.

You are also required to bring with you original national identity card, academic and professional certificates and any other supporting documents and testimonials.

Yours *Sincerely*

Justin N. Bundi

JUSTIN N. BUNDI
CLERK OF THE NATIONAL ASSEMBLY



ETHICS AND ANTI-CORRUPTION COMMISSION

INTEGRITY CENTRE (Valley Rd. /Milimani Rd. Junction) P.O. Box 61130 -00200, NAIROBI, Kenya
TEL.: 254 (020) 2717318/ 310722, MOBILE.: 0729 888881/2/3
Fax: 254 (020) 2719757 Email: eacc@integrity.go.ke Website: www.eacc.go.ke

When replying please quote:
EACC.6/42 Vol XIV/69 b)

23rd May 2013

Mr. Justin N. Bundi
The Clerk of The National Assembly
Parliament Buildings
P.O Box 41842-00100
NAIROBI, Kenya

CONFIDENTIAL

Dear Mr. Bundi,

RE: VETTING OF NOMINEE TO THE POSITION OF SECRETARY TO THE CABINET BY THE DEPARTMENT COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY

We write to acknowledge receipt of your letter dated 16th May 2013 on the above subject.

We hereby confirm that Mr. Francis Thuita Kimemia is subject of investigations in relation to mega corruption and abuse of office allegations. Upon conclusion, the candidate may be arraigned in court.

As the investigations are ongoing, we are unable to divulge further information as this may prejudice the investigations.

This communication is given to you in strict confidence.

Yours *Sincerely*

Mr. Halanke D. Waqo, ACI/Arb

Secretary/Chief Executive Officer

Ethics and Anti Corruption Commission

CONFIDENTIAL

RECEIVED
23 MAY 2013
CLERK'S OFFICE



ETHICS AND ANTI-CORRUPTION COMMISSION

INTEGRITY CENTRE (Valley Rd./Milimani Rd. Junction) P.O. Box 61130-00200, NAIROBI, Kenya
Tel.: +254-20-2717318/310722, Cellphone: +254-729-888881/2/3
Fax: +254-20-2719757, Email: eacc@integrity.go.ke, Website: www.eacc.go.ke

When replying please quote:

EACC.6/42 Vol. V/(8)

CONFIDENTIAL

27th May, 2013

The Chairman
Parliamentary Committee on Administration and
National Security
Parliament Buildings
P.O. Box 41842-00100
NAIROBI

Dear *Hon Chairman,*

**RE: MEETING WITH THE DEPARTMENT COMMITTEE ON ADMINISTRATION AND
NATIONAL SECURITY**

The above and your letter dated May 24, 2013 refers.

During our appearance before the Committee on 27th May, 2013 EACC was requested to avail specified letters touching on the issues being looked into by EACC in relation to the nominee to the position of Secretary to the Cabinet.

Forwarded herewith are copies of the following documents.

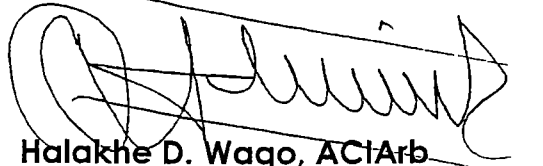
- i. Letter by EACC under reference EACC.6/4/3(23) dated 5/10/2012 to Dr. Cyrus Njiru, PhD, CBS, Permanent Secretary, Ministry of Transport.
- ii. Letter by office of the President under reference OP/CAB.9/178A dated 6th November, 2012 to Dr. Cyrus Njiru, Phd, CBS, Permanent Secretary, Ministry of Transport.
- iii. Letter by EACC under reference EACC 6/5(42) dated 28.2.2013 to Mr. Francis Kimemia, CBS, Permanent Secretary, Secretary to the Cabinet and Head of Public Service.

CONFIDENTIAL

iv. Court Order in respect of Nairobi Petition No.153 of 2013, Thuita Mwangi – Vs- EACC & 3 others.

We hope the documents will assist the Committee in determining the matter.

Yours

Sincerely,


Halakhe D. Waqo, ACI Arb
Secretary/Chief Executive Officer



23
1
31

ETHICS AND ANTI-CORRUPTION COMMISSION

INTEGRITY CENTRE (Valley Rd./Millimani Rd. Junction) P.O. Box 61130-00200, NAIROBI, Kenya
Tel.: +254-20-2717318/310722, Cellphone: +254-729-88881/2/3
Fax: +254-20-2719757, Email: eacc@integrity.go.ke, Website: www.eacc.go.ke

When replying please quote:

EACC.6/11/3(23)

5th October, 2012

Dr. Cyrus Njiru, PhD, CBS
Permanent Secretary,
Ministry of Transport,
Transcom House,
Ngong Road,
P.O. Box 52692 – 00200,
NAIROBI.

Dear Sir,

**RE: TENDER NO KAA – ES/JKIA/658 DB: DESIGN AND CONSTRUCTION OF
GREENFILED TERMINAL PROJECT BY KENYA AIRPORTS AUTHORITY**

Ethics and Anti-Corruption Commission is currently investigating allegations of abuse of office and failure to comply with the provisions of Public Procurement and Disposal Act, 2005 and Regulations together with other statutory legal provisions by the Management of Kenya Airports Authority (KAA) in the procurement of the above cited project.

Our preliminary investigation has established that the Cabinet approved the implementation of the project during its sitting of 13th September, 2012. However, the management of KAA failed to adhere to various legal and statutory requirements during the procurement process leading to the following flaws in the procurement of the said project:

- 1) The Authority invited bids for Tender No. KAA – ES/JKIA/658 – DB without adequate budgetary provisions
- 2) The Tender Committee awarded Tender No. KAA – ES/JKIA/658 – DB without confirming availability of funds before award as required by Regulation 10 (2) (d) of the Public Procurement Regulations 2006.
- 3) The Authority had not sought and obtained the necessary approvals from the Minister and Treasury for accessing loans by State Corporations as provided under Section 5(2) of the State Corporations Act which states *inter alia* "After the commencement of this Act and notwithstanding subsection (1), the power of a state corporation to borrow money in Kenya or elsewhere shall be exercised only with the consent of the Minister and subject to such limitations and conditions as may be imposed by the Treasury with respect to state corporations generally or specifically with respect to a particular state corporation.

The non-adherence to the above cited legal provisions compromised the procurement process leading to a decision by the Tender Committee to terminate the tendering process during its special meeting held on 27th July, 2012.

Taking into account of the Cabinet approval and the strategic nature of this project, and in order to protect the public interest, you are requested to proceed expeditiously in the exercise of your oversight function as the parent Ministry of KAA to coordinate the other stakeholders namely; the Ministry of Finance, Ministry of Public Works together with KAA to ensure that the procurement of this project is commenced and conducted with integrity as the current procurement process stand terminated vide the Tender Committee's decision of 27th July, 2012.

In the meantime, we have established that the Managing Director, Eng. Stephen Gichuki who is a key suspect in the case proceeded to irregularly append his signature on a contract document dated 14th September, 2012 with intent to commit the Government of Kenya to a public debt to the tune of USD 653,782,814.57 while totally ignoring the recommendation by the Special Tender Committee meeting held on 27th July, 2012 that Tender No. KAA – ES/JKIA/658 – DB be terminated. As such, his continued stay in office is likely to compromise the on-going investigations.

In order to ensure non-interference with the on-going investigations, the Commission hereby recommend that Eng. Stephen Gichuki be suspended in conformity with the

contents of Circular letter ref. OP.CAB.3/77A dated 24th May, 2010 by the Permanent Secretary, Secretary to the Cabinet and Head of Public Service on the subject of guidelines on handling of cases of public officers who are suspected of involvement in corrupt practice. This will pave way for a thorough and speedy investigation of the subject matter.

The Commission on its part commits to expeditiously conduct and conclude these investigations and once completed, the findings will be placed before the Director of Public Prosecutions for further necessary action and advise.

We appreciate your continued support in the fight against corruption.

Yours faithfully,



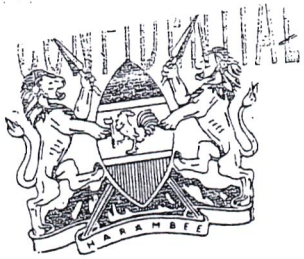
Jane W. Muthaura (Mrs.)

AG. SECRETARY/CHIEF EXECUTIVE OFFICER

Copy to: Mr. Francis T. Kimemia, CBS,
Permanent Secretary/Acting Secretary to the Cabinet and Head of Public
Service,
Office of the President,
Harambee House – Harambee Avenue,
Nairobi

Mr. Joseph Kinyua, CBS
Permanent Secretary/Treasury,
Ministry of Finance,
Treasury Building,
Nairobi

Dr. Mohamed Isahakia, CBS
Permanent Secretary,
Office of the Prime Minister,
Prime Minister's Building,
Nairobi



OFFICE OF THE PRESIDENT
PERMANENT SECRETARY, SECRETARY TO THE CABINET
AND HEAD OF THE PUBLIC SERVICE

P.O. Box 62345-00200
NAIROBI

6th November, 2012



Ref: 227411
quote
AB.9/178A
date

Cyrus Njiru, PhD, CBS
Permanent Secretary
Ministry of Transport
NAIROBI

cc: *Jane*

**RECOMMENDATION FOR SUSPENSION OF THE CHIEF EXECUTIVE
OFFICER KENYA AIRPORTS AUTHORITY (KAA)**

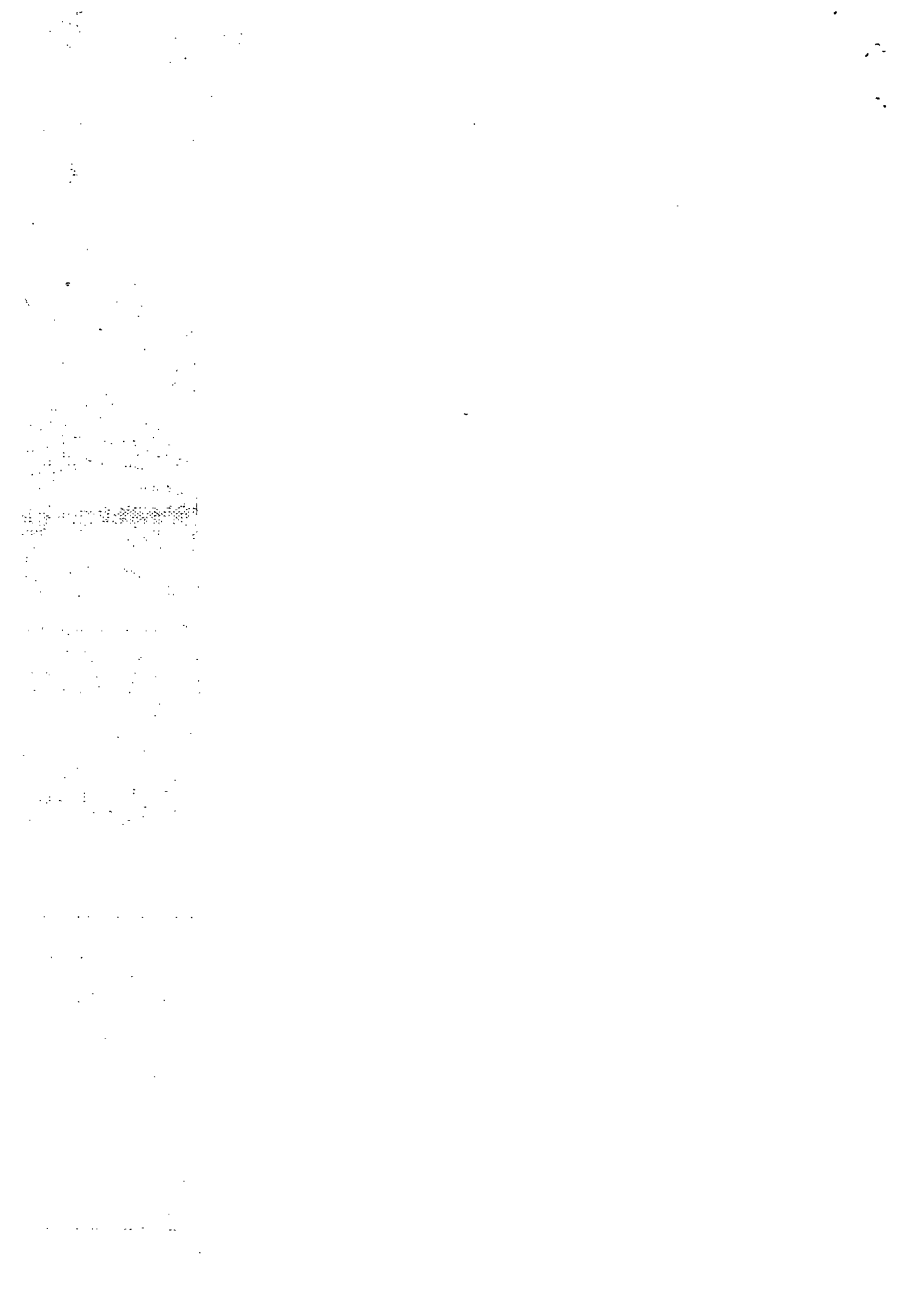
This office has been notified a letter Ref. No. EACC.6/11/3 (23) addressed to you by the Ethics and Anti Corruption Commission (EACC) recommending the suspension of the Managing Director Kenya Airports Authority in connection with the handling of the Greenfield Terminal Project Tender No. KAA/ES/JKIA/658/DB for design and consultancy.

It has been noted that the areas that inform the recommendation for suspension have been handled through the budget cycle, tendering, and oversight as follows:

i. Budget and financing

The observation that the tender for the project was floated without adequate budgetary provision has not considered the nature of the project and its implementation. The project is multi-year and funds should be allocated on annual basis. As a result the Authority allocated KES 1.2 billion to the project in 2011-2012 financial year and KES 8 billion in 2012-2013 financial year. In addition the Minister of Finance has approved increase of Air Passenger Service Charge of USD 20 per passenger and the proceeds will go to finance the project. At the same time the financiers have made offers and what is remaining is negotiations for the best option.

CONFIDENTIAL



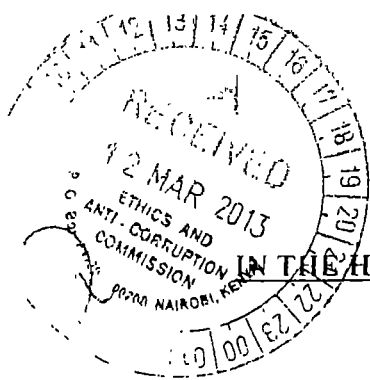
CONFIDENTIAL

Copy: **Dr. Mohamed Isahakia, CBS**
Permanent Secretary
Office of the Prime Minister
NAIROBI.

Mr. Joseph K. Kinyua, CBS
Permanent Secretary
Ministry of Finance
NAIROBI

Mrs. Jane W. Muthaura
Ag. Secretary/Chief Executive Officer
Ethics and Anti Corruption Commission
Integrity Centre
NAIROBI

CONFIDENTIAL



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
PETITION NO. 153 OF 2013

IN THE MATTER OF: ARTICLE 25, 28, 29, 31, 35, 36, 47, 49 (1) (c), 50(2) (a) (b) (c) (e) (j) and (n) 51 and 236 OF THE CONSTITUTION OF KENYA

AND

IN THE MATTER OF: CONTRAVENTION OF FUNDAMENTAL RIGHTS AND FREEDOMS AND FOR INTERPRETATION OF THE CONSTITUTION OF KENYA;

AND

IN THE MATTER OF: THE ANTI-CORRUPTION AND ECONOMIC CRIMES ACT (ACECA) NO. 3 OF 2003 SECTIONS 4, 31, 34, 39 AND 62

AND

IN THE MATTER OF: THE PUBLIC PROCUREMENT AND DISPOSAL ACT, 2005; AND THE PROCUREMENT AND DISPOSAL REGULATIONS 2006.

AND

IN THE MATTER OF: THE CRIMINAL AND PROCEDURE CODE CAP 75 AND THE PUBLIC FINANCE MANAGEMENT ACT, 2012.

AND

IN THE MATTER OF: THE CHIEF MAGISTRATES COURT, NAIROBI, ANTI-CORRUPTION CRIMINAL CASE NO. 2 OF 2013

BETWEEN

THUITA MWANGI.....PETITIONER/APPLICANT

AND

THE ETHICS AND ANTI-CORRUPTION COMMISSION.....1ST RESPONDENT
DIRECTOR OF PUBLIC PROSECUTION.....2ND RESPONDENT
THE ATTORNEY GENERAL.....3RD RESPONDENT
THE CHIEF MAGISTRATE'S COURT - NAIROBI.....4TH RESPONDENT

AND

AMBASSADOR ANTHONY MWANIKI MUCHIRI.....1ST INTERESTED PARTY
ALLAN MBURU.....2ND INTERESTED PARTY

IN COURT ON 12TH MARCH, 2013
BEFORE THE HON. MR. JUSTICE LENAOLA

ORDER

UPON READING the application presented to this Court on 8th March, 2013 by Counsel for the Petitioner under Articles 25, 28, 29, 31, 36, 47, 49(1) (C), 50, (2) (A) (B) (C) (E) (J) and (N) and 236 of the Constitution, Sections 4, 31, 34, 39 (3) (A), 39 (3) (B) and 62 of the Anti Corruption and Economic Crimes Act 2003; Sections 5, 10, 11, 12, 26, 29, 50, 66 (4), 72 to 85 of the Public Procurement and Disposal Act, 2005, Regulation 35, Public Procurement and Disposal Regulation, 2006, Sections 134 and 137 of the Criminal Procedure Act Cap 75 and all other enabling provisions

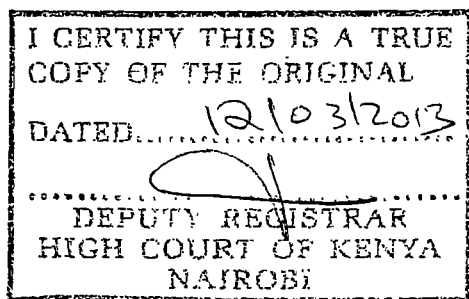
of Law, AND UPON READING the Supporting Affidavit of THUITA MWANGI sworn on 8th March, 2013 together with the annexures thereto, AND UPON HEARING Counsel for the Petitioner and Counsel for the 1st Respondent, Counsel for the 2nd and 4th Respondents in absence of Counsel for the 3rd Respondent and Counsel for the Interested Parties;

IT IS HEREBY ORDERED: -

1. **THAT** an order be and is hereby granted restraining jointly and severally the Ethics and Anti-Corruption Commission (EACC) 1st Respondent the Director of Prosecution (D.P.P) 2nd Respondent, and the Attorney General (A.G), 3rd Respondent or any other person whatsoever whatsoever from suspending the Petitioner from his duties and functions as the Permanent Secretary, Ministry of Foreign Affairs, pending inter-parties hearing. The order shall also apply to the interested party.
2. **THAT** an order be and is hereby granted restraining jointly and severally the 1st Respondent, EACC, and the 2nd Respondent, DPP, the 3rd Respondent, A.G and the Chief Magistrate, Nairobi, Chef Magistrate and Anti-corruption Case No. 2 of 2013, from presenting to Court and or accepting into Court, any counts and or charges relating to the purchase of Embassy premises for Kenya Government in Japan, as against the Petitioner, and or requiring the Petitioner to take plea and or stand trial on any counts and or charges relating to the afore-stated purchase of Embassy premises for Kenya Government in Japan, pending inter-parties hearing.
3. **THAT** leave be and is hereby granted to the Petitioner to file a supplementary Affidavit within 14 days.
4. **THAT** leave be and is hereby granted to the Respondents to file any Replying Affidavits within 21 days of service of the Supplementary Affidavit.
5. **THAT** parties to file written submissions for hearing on 13th May, 2013.

GIVEN under my hand and Seal of this Honourable Court this 12th day of March, 2013.

ISSUED at Nairobi this12th.....day ofMARCH.....2013.




DEPUTY REGISTRAR
HIGH COURT OF KENYA, NAIROBI



ETHICS AND ANTI-CORRUPTION COMMISSION

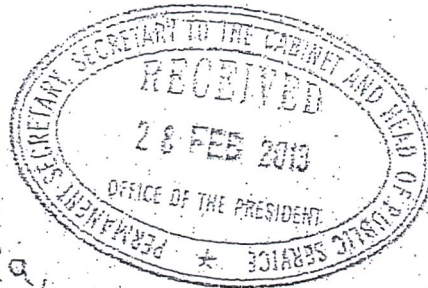
INTEGRITY CENTRE (Valley Rd./Milimani Rd. Junction) P.O. Box 61130-00200, NAIROBI, Kenya
Tel: +254-20-2717318/310722, Cellphone: +254-729-888881/2/3
Fax: +254-20-2719757, Email: eacc@integrity.go.ke, Website: www.eacc.go.ke



When replying please quote:
Our Ref: EACC.6/5 (42)

Date: 28th February 2013

Mr. Francis Kimemia, CBS
Permanent Secretary,
Secretary to the Cabinet
and Head of Public Service
Office of the President,
P.O. Box 62345-00200,
NAIROBI



Dear **Mr. Kimemia,**
RE: ACCUSED: THUITA MWANGI
ALLAN MBURU
ANTHONY M. MUCHIRI

OFFENCE: CORRUPTION CONTRARY TO SECTION 39(3) (a) AS
READ WITH SECTION 48(1) OF THE ANTI-CORRUPTION
AND ECONOMIC CRIMES ACT NO. 3 OF 2003 & THE PENAL
CODE

We refer to the above subject.

This is to inform you that the above named officers were arrested yesterday and this morning were arraigned in court to face various charges under the Penal Code and Procurement Laws. The 3rd suspect Mr. Anthony M. Muchiri is the Ambassador, Kenyan Embassy in Libya and therefore is yet to be arrested.

The purpose of this letter is to ask you to suspend forthwith from employment all the named officers in line with Section 62(1) of the Anti Corruption and Economic Crimes Act.

We also hereby seek your intervention to have Mr. Anthony Muchiri submit himself to the Commission for our necessary action.

Yours **Sincerely**

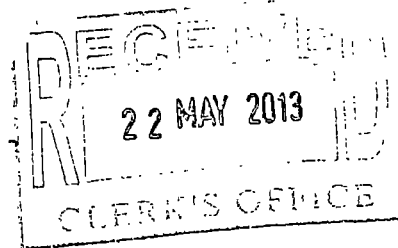
Halakhe D. Wago, ACI Arb
Secretary/Chief Executive Officer

Our ref: CFR Langata CBO/21/5/2013

James Ngetich
P.O. Box 27666-00506
Nairobi, Kenya
Cell: 0727-734919
EMail:ngetichjames84@gmail.com
www.caflora.kbo.co.ke

Date: 21/05/2013

Mr. Justin Bundi
Clerk
Kenya National Assembly
Nairobi, Kenya



Dear Sir,

**RE: VETTING OF MR. FRANCIS THUITA KIMEMIA, E.G.H. SECRETARY TO CABINET
NOMINEE AND HON. JUSTICE RAWAL KALPANA HAMUKHRAY NOMINEE, DEPUTY
CHIEF JUSTICE, REPUBLIC OF KENYA BY COMMITTEE OF APPOINTMENTS:
QUESTIONS BY PRODUCT INNOVATOR**

Much greetings from CFR Langata CBO. Thank you very much of this opportunity to present hardest question pertaining to the future of Kenya, Africa and Global family to these nominees by the Lord's anointed. As for where we have come from, I must congratulate Mr. Kimemia for the positive noble role he has contributed to the entire Kenyan society during the transitional transformation process which started immediately after experiencing the 2007/2008 shock therapy through the March 2013 election. The old formula of Karl Marx (conflict theory) came to a final end with 2013 election which unfortunately due to the residual effects of cold-war saw Mr. Kimemia, Mr Kimaiyo (police) Mr. Karangi, (army) Mr. Gichangi (N.S.I.S) becoming last victims and eventually Mr. Hassan (IEBC) and Dr. Mutunga (Judiciary) their share of the blame game during the challenged presidential election petition in the supreme court of Kenya.

The questions related to the application of scientific formula/ or Newtonian which Almighty God has given Kenyan to use in transforming our planet earth society. Even though the formula

seems new; God is not new, but we need to walk in God's ways.

Enclosed herewith please find previous work done and submitted to the clerk of National Assembly (our ref: CFR Langata CBO/06/03/2013 of 06/05/2013).

Questions to Mr. Kimemia

1. For this country to move forward, we need political goodwill, which you can easily obtain from the Lord's anointed. How can you ensure we succeed in uniting Kenyan people, African people and global family in less than 100 days?

2. ambassador Kamau Macharia of U.N is doing excellent job in regard to this ICC cases but using an old formula of Aristotle and Karl-marx. Given God has blessed Kenya with final liberation programme, and to be driven by the ICC and Hon. Uhuru, Hon Ruto and Mr. Sang through sociological perspective using structural functional theory of Newtonian, C.W. Mills, Emile Durkheim, how can Mr. Macharia be assisted with the right procedures to the U.N security council?

Questions to Hon. Lady Justice Rawal.

There are some pending issues in judiciary; alternative dispute resolution a bottomup (articles 159, 2(c)) and a small window in regard to article 156(6) of 'friend of the court'. How wide will you open the door for any additional input, taking into account this is a newtonian era?

Thanking you in advance.

Wishing you the best of luck.

Yours Faithfully,



James Ng'etich

Product Innovator

CC: Fatou Bensouda, Mr. Kimemia, Hon. Lady Justice Rawal.

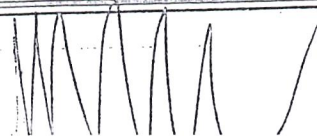
*To Mr Bundi:
The
Clerk of the Natioanl
Assembly;
Vetting of Mr francis
Kimemia,
as
Secretary to the Cabinet*



From John Mbugua & Other Displaced Citizens
Was an Independent Candidate Embakasi West MP 2013
Box 1937700100
Nairobi
Tel 0716929975
Email stjohnsengineers@gmail.com May 2013



*Investing in the people to eradicate poverty
Do business till I come Luke 19:13.*




IN THE REPUBLIC OF KENYA
VETTING OF SECRETARY TO THE CABINET

I JOHN MBUGUA OF BOX 193700 NAIROBI IN THE REPUBLIC OF KENYA
TEL 0716929975

I wish to raise fundamental questions to Mr. Francis Kimemia as the current Secretary to the Cabinet and Candidate for the same as follows:

1. **That** first of all we wish to congratulate him for working under extreme, conditions against his wish and probably unable to deliver the way we expected.
2. **That** he has been in the system since when he as a D.O when the provincial administration committed crimes against humanity, by burning the forest houses for the forest workers in the 1982-86 when the KANU regime of Red Terror was out to terrorize all the Kikuyus and others who were not wanted in rift valley.
3. **That** the P.Cs D.Cs D.Os ,Chiefs and their assistants been involved in this crimes and in 1990-92, 1997,2002, 2007/8 post elections sponsored violence the same administration officers who were overseeing this crimes are still in the service make it completely impossible for the victim to get justice.
4. **That** the P.Cs ,D.Cs, D.Os Chiefs and their assistants were very instrumental when the names of IDPS victims disappeared and the funds meant for the same was looted by the provincial administration under his watch and all our efforts to address this matter goes nowhere five years down the line, since the same officers as still in office giving briefs of how the government is resettling the displaced by buying land that again ends in Masai dispute among others.
5. **That** it's now over five years, the matters of IDPs have not been resolved, and he has been in charge of the provincial administration and the Secretary to the cabinet.
6. **That** we would like to know as to what new strategy he will employ to arrest the situation, the culprits and the victims get their justice.
7. **That** the matter in Hague was meant to give justice to the victims, but now the suspects who we are know was just fabricated have now become the victims of sympathy and all government attention is drawn to them and not the over 1000,000 displaced and over 1500 recorded killed and over 100 billion worth of property lost. What is his solution to this matter?
8. **That** since Mr. Francis Kimemia is the same and the system is the same what is the difference of vetting or no vetting since gross violations of humans rights are still on the rise?
9. **That** we the displaced of this country would like to hear what is the new formula of compensating us in the 100 days of Jubilee administration and give us justice for once.
10. **That** we need to know why PNU candidate Mwai Kibaki, ODM Kenya/WIPER Kalonzo Musyoka and ODM Raila Odinga have never been arrested and charged for crime against humanity since they were the candidates in 2007/8 and shared the government for the last five years while we the victims are still languishing in poverty.



That what I have deponed herewith is true to the best of my knowledge.

SWORN BEFORE ME.

Signed



COMMISSIONER OF OATHS



COMMISSIONER OF OATHS

**PREPARED BY
JOHN MBUGUA (Rev)
BOX 1937700-100
NAIROBI
TEL 0716929975**



Dated 7th MAY 2013

REPUBLIC OF KENYA



NATIONAL ASSEMBLY

In the Matter of the Approval by the National Assembly, of the person nominated to serve as the Deputy Chief Justice

SUBMISSION OF MEMORANDA

Article 166(1)(a) of the Constitution provides that, H.E. the President shall appoint the Chief Justice and the Deputy Chief Justice with the recommendation of the Judicial Service Commission and subject to the approval of the National Assembly. Pursuant to the said Article, Hon. Lady Justice Rawal Kalpana Hasmukhrai has been nominated for the position of Deputy Chief Justice.

Following the receipt of the nomination from H.E the President, the Departmental Committee on Justice and Legal Affairs is mandated to vet, consider her suitability for appointment and submit its report to the House for approval.

Pursuant to Section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011, the Departmental Committee on Justice and Legal Affairs now invites interested members of the public to submit any representations by written statement on oath (affidavit), that they may have on the suitability or otherwise of the nominee for appointment as Deputy Chief Justice. The representations may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi;** hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi;** or emailed to clerk@parliament.go.ke; to be received **on or before Thursday 23rd May, 2013 at 5.00 pm.**

A handwritten signature in black ink, appearing to read 'Justin Bundi', is written above the printed name.

Justin Bundi

Clerk of the National Assembly



KENYA REVENUE AUTHORITY

Ref: CDT/MST/HO/54

23rd May 2013

The Clerk to the National Assembly
Parliament Buildings
P O Box 41842 – 00100
NAIROBI

VETTING BY NOMINEE TO POSITION OF SECRETARY TO THE CABINET BY THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY

Your letter Ref: NA/DC.A./ANS/2013/02 dated 16th May 2013, on the above subject matter refers.

We wish to confirm that Mr. Francis Thuita Kimemia is tax compliant.

ALICE A OWUOR, OGW.
COMMISSIONER OF DOMESTIC TAXES
MEDIUM AND SMALL TAXPAYERS

Tulipe Usturu Tujitegemee!

Times Tower Building
Haile Selassie Avenue, P.O. Box 48240-00100 Tel: 310900 Fax: 316872



REPUBLIC OF KENYA



KENYA NATIONAL ASSEMBLY

NOTIFICATION ON VETTING OF THE PERSON NOMINATED FOR
APPOINTMENT AS SECRETARY TO THE CABINET

Article 154(2)(a) of the Constitution provides that *"The Secretary to the Cabinet shall be nominated and, with the approval of the National Assembly, appointed by the President"*.

Pursuant to provisions of Article 118 (1)(a)(b) and (2) of the Constitution; and Standing order 198 which allow the public access to Committee sittings; and in line with Section 6(4) of the Public Appointments (Parliamentary Approval) Act (No.33 Of 2011); which provides for the Committee to notify the public of the time and place for holding an approval hearing at least seven days prior to the hearing:

The general public is hereby notified that the Departmental Committee on Administration and National Security shall conduct the vetting of Mr. Francis Thuita Kimemia, who has been nominated to serve in the position of Secretary to the Cabinet, on Friday, 24th May, 2013, in the Committee Room, 4th floor, Continental House, Parliament Buildings, at 2.30 pm.

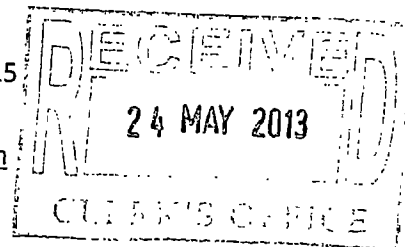
A handwritten signature in black ink, appearing to read 'Justin N. Bundi'.

JUSTIN N. BUNDI
CLERK OF THE NATIONAL ASSEMBLY

**CRITERIA FOR VETTING/APPROVAL OF NOMINEES FOR APPOINTMENT TO PUBLIC OFFICE
BY PARLIAMENT**

Questionnaire

-
1. **Name** : Francis Thuita Kimemia
2. **Position** : Secretary to the Cabinet
3. **Sex** : Male
4. **Date of Birth** : 27th October, 1957
5. **Marital Status** : Married
6. **Daytime Phone Number** : 020-2250272 or 020-341515
7. **Mobile Phone Number** : 0733367333
8. **Email Address** : - franciskimemia@gmail.com
9. **ID Number** : 4828987
10. **Pin Number** : A002352007Z
11. **Nationality** : Kenyan
12. **Postal Address** : 79429-00200
13. **Town/City** : Nairobi
14. **Knowledge of Languages** : Fluent in English, Kiswahili and Kikuyu



15. Education

- MBA : Maarstrich University/ESAMI
(Finalized Thesis) – 2004- (Awaiting Grading & Graduation)
- B.A. Hons : University of Nairobi – 1980
(Government, Literature 2nd Class Honours)

Other Courses

- Administration Officers Induction Course - KIA, 1981
- Paramilitary Course - APTC, 1981
- Advanced Public Administration - KIA, 1985
- Management Information Systems Seminar - KIA, 1993
- Managing Performance-Oriented Public Service - Malaysia, 1997
- National Security Seminar - Israel, 2007
- Government and Civil Service Systems - Intan - Japan, 1999
- Havard Business School – International course on Privatization, Regulatory Reform and Corporate Governance - USA, 1999
- Counter Terrorism Security Course - U.K, 2006
- Havard Business School: Performance Contracting and Performance Management - USA, 2007
- Leadership skills for successful management - Kenya, 2007
- Leadership Development Program Course - KIA, 2007

- Performance Management Workshop

- Kenya, 2007

15(b) Employment Record

- 1980 - 1982 District Officer (DO) III Mandera, North Eastern Province
- 1983 - 1986 District Officer (DO) II /Western Province
- 1986 - 1990 Personal Assistant to Provincial Commissioner (PA/PC) Nairobi Area
- 1991 - 1995 Senior Assistant Secretary (SAS) Ministry of Water
- 1995 - 1998 Under-Secretary, Department of Personnel Management, DPM, OP
- 1999 - 2003 Deputy Secretary, Administration, Ministry of Education, Science & Technology
- 2004 -2007 Deputy Secretary, Provincial Administration & Internal Security – Reforms and Capacity Building.
- 2008 – 2012 Permanent Secretary, Provincial Administration & Internal Security.
- 2010-2012 Permanent Secretary, Secretary to the Cabinet and Ag. Head of Public Service (*Managing two offices*)
- 2012-2013 Permanent Secretary, Secretary to the Cabinet and Head of Public Service

16. Honours and Awards

Presidential Honours and Awards

- **Elder of the Golden Heart** - **2012**
(For spearheading Public Sector Reforms in Public Service and championing realization of the 2nd Constitution).
- **Chief of the Order of the Burning Spear** - **2008**
(For notable Reform outcomes, improved security and ongoing national healing process)
- **Head of State Commendation** - **1992**
(Distinguished exemplary service in the Public Service and Nation and fasttracking reforms)

(See attached Appendix I Key Reform Strategies and Achievements)

17. Professional Associations

- African Association for Public Administration and Management (AAPAM); Kenya Institute of Management

18. Membership

- Kenya Institute of Management - Member
- Waste Clean-Up Kenya Programme - Team Leader
- Rift Valley Sports Club - Member
- Nairobi Hospital (Kenya Hospital Association) - Member
- Nyakiambi Girls High School - Chairman, Board of Governors/Patron
- St. Paul University Chapel -Men's Fellowship (Charity)
- Patron to Several Catholic Churches and Development Programmes

19. Published Writings

Led Teams (Government and Private Sector) in developing the following:

- i. Civil Service Reform Program I and II - 1995
- ii. Rationalization Documents for Ministry of Roads and Public Works; Ministry of Lands and Ministry of Environment and Mineral Resources and Department of Personnel Management. - 1996
- iii. Initial Performance Contracting Concept in Government. - 2003
- iv. Arid and Semi-Arid Land (ASAL) Development/Policy Framework. - 2002
- v. Training Manual for Chiefs and Assistant Chiefs. - 2003
- vi. Para-Legal Manual for Chiefs. - 2006
- vii. Administrative Officers (AOs) Operational Manual - 2004
- viii. Induction Manual for Public Service - 2006
- ix. New Training Curriculum for Police and Administrative Officers – 2010/11
- x. 1st Strategic Plan for Provincial Administration and Internal Security - 2004
- xi. Policy Note: Advance Public Administration Course: Conversion into Post-Graduate status in liaison with Kenya School of Government and University of Nairobi- 2009/2010
- xii. Architect of Service Delivery Charters for Provincial Administration and Internal Security – Later customized for Government Departments - 2003
- xiii. Protocol Guidelines for Government of Kenya – 2004/5
- xiv. Guidelines for Small Arms and Light Weapons - 2005
- xv. Restructuring of the Government Press –Policy Note 2005/6
- xvi. Policy Note: Restructuring of Provincial Administration leading to enactment of the National Government Coordination Act. 2011/12

20. Public Office, Political Activities and Affiliations

(a) Public Offices Held and Terms of Service

Appointed to the following ranks in Civil Service on Permanent and Pensionable Terms of Service

- 1980 - 1982 District Officer (DO) III

- 1983 - 1986 District Officer (DO) II
- 1986 - 1990 Personal Assistant to Provincial Commissioner
- 1991 - 1995 Senior Assistant Secretary
- 1995 - 1998 Under-Secretary
- 1999 - 2007 Deputy Secretary
- 2008 – 2012 Permanent Secretary
- 2010-2012 Permanent Secretary, Secretary to the Cabinet and Ag. Head of Public Service
- 2012-To-date Permanent Secretary, Secretary to the Cabinet and Head of Public Service

(b) Not Applicable

(C) No

(d) No

21. Deferred Income/Future Benefits

None

22. Outside Commitment during Service in Office

I do not intend to pursue other employment outside Public Service

23. Sources of Income

Rental Income: 50,000x12x2	= 1,200,000
Gross Salary: 1,189,580x12x2	= 14,274,960
Total	=<u>28,549,920</u>

24. Tax Status

Yes : Tax compliant

25. Statement of Net Worth

Approximately Kshs.120 million

26. Potential Conflicts of Interest

27. None

(b) Not Applicable

28. Pro-Bono/Charity Work/Donations

- Advisory services to development communities/projects at 10 hours per weekend viz;
- Construction and pastored development of Dundori Catholic Church as Patron
- Construction and development of Nyakiambi Girls Secondary School as Patron
- Advisory services to Elders/Youth and Women groups/Associations.

29. I have never been charged in Court of Law.

30. I have never been a subject investigation by Parliament or Commission of Inquiry in last 3 years.

31. No objection to any enquiries with my employer/referees

32. Referees

His Excellency Mwai Kibaki, CGH
Former President of the Republic of Kenya
NAIROBI

Ambassador Francis K. Muthaura, EGH
Rtd Former Head of Public Service
NAIROBI

Bishop Alfred Rotich
Chaplain
Department of Defence
NAIROBI

KEY REFORM STRATEGIES IN PROVINCIAL ADMINISTRATION

Major Results & Achievements

(i) Field Stations

- a) Initiated a Primary School, Dams and Afforestation Programmes and other projects for Takaba Division, Mandera 1981 - functional to date.
- b) Drastically reduced insecurity in Takaba-Mandera through community involvement in security.
- c) Facilitated voluntary surrender of the highest number of firearms in North Eastern Province over 512 between 1980 -1982 despite ongoing Shifita menace.
- d) Recorded development Achievements in all Field Stations served e.g. schools, hospitals, Agricultural extension development, all inclusive, gender development, infrastructure and security improvements. This can be attested in Administrative Units of Kabras Division, Teso; Kakamega, Busia, and Nairobi Area. Education and Socio-Dimension Programmes took first priority.

Central Government

(ii) Ministry Of Education, Science And Technology

- (a) Part of Team that development of the 1st Education Master Plan.
- (b) Chair of the Team that developed the Draft Education Sector Reforms and the Rationalization Report for the Ministry of Education, Science & Technology.

(iii) Directorate Of Personnel Management

- a) Led Team that developed the Civil Service Reform Programme
- b) Initial development of the 10 core Functions of Government (later amplified and approved)
- c) Led Ministerial Rationalization Program for Ministry of Roads and Public Works; Ministry of Lands and Ministry of Environment and Mineral Resources.

d) Part of the Team that redefined the ASAL policy framework

(iv) Office Of The President – Provincial Administration & Internal Security

As Head of the Ministerial Reform Management Unit the following has been achieved:

- a) Developed the Initial Concept, TOR and Position papers culminating into:-
- b) Police Reform Task Force Report
- c) Provincial Administration Reform Framework

1.0 Achievements in Provincial Administration Reforms include:-

- 1.1 Developed **Reform Manuals** for the retraining and re-orientating all the 8,000 eligible Chiefs and Assistant Chiefs.
- 1.2 Finalized **Reform Manuals** for retraining of all the over 800 **District Officers, District Commissioners and Provincial Commissioners.**

Training programs were focused on good governance, effective leadership, Human Rights, integrity, Best practice and Results Based Management.

- 1.3 Removal of over 1500 non-performing indisciplined and unethical Chiefs/Assistant Chiefs and Administrative Officers.
- 1.4 Trained 4000 Chiefs and Assistant Chiefs on Para-Legal and Para-Military training programs to improve their resilience, alertness and disaster preparedness to security issues and Rule of Law.

2.0 Developed the following operating Instruments:-

- 2.1 **Service Charters** – this has been done to ensured effective and predictable service delivery.
- 2.2 **Service Registers** for District Officers and Chiefs – to ensure service mapping and that officers' document time and quality of services rendered.
- 2.3 **Corruption Prevention Plans** – to support Zero Tolerance policy down to the grassroots level.

- 2.4 **Administrative Officers Operational Manual** – to standardize and professionalize work culture and predictable conduct of operations.
- 2.5 **Performance Contracting and Workplanning** culture down to the sub-locational level - to focus all officers to Accountability for Results to our people especially the vulnerable poor, youth, women and physically challenged persons.
- 2.6 Developed **Shared Core Values** – to support the new work environment and management culture.
- 2.7 Commenced **Motorcycle Programme for Chiefs** for enhanced access to service delivery.
- 2.8 Operationalized **Customer Care Desks and Complaint Boxes** and attendant Operational Manuals down to grassroots.
- 2.9 Developed **Protocol Manual** to streamline State functions and diplomatic management.
- 2.10 **Re-invented and Introduced new Uniforms** for Administrative Officers and Chiefs in tandem with reformed work ethics and culture.
- 2.11 Adopted **Rapid Results Initiative** as a way of doing public business.
- 2.12 Private Sector engagement in development process including **Community Policing** as a Key strategy for security.
- 2.13 Gave **computers** and ICT training to all Provincial Commissioners, District Commissioners and several District Officers.
- 2.14 Enhanced **Tooling and Budgetary Resources** for Provincial Administration – Chiefs have headed papers and basic stationery.
- 2.15 Streamlining two **(2) mandatory interactive monthly Barazas** for all the over 10,000 Administrators @ 200 people targeting over 45 million people annually. These Barazas explain Government achievements. Wananchi are trained and sensitized on issues of disaster/emergency management and rapid response.
- 2.16 **Capacity of Government Printer** increased by over 50% following activation of New Security Press. Printing of school exercise Books has marked down market prices for books to school children and reduced burden to parents.

- 2.17 **War against illicit drugs and Substances** has seen NACADA reach out to all Head Teachers and over 40% of Schools. In a bid to sensitize them on the evils of drug abuse and HIV/AIDS.
- 2.18 Developed New Schemes of Service for Chiefs/Assistant Chiefs.
- 2.19 Double recruitment in AP Force.
- 2.20 Introduction of Ministry's Website.

3.0 POLICE REFORMS

The Police Reforms have recorded the following historic achievements:-

- 3.1 Established **Customer Care Desks; Gender Desks and Children Desks** in Police Stations. The Kenya and Administration Police changed names to Police Services from Police Forces.
- 3.2 Introduced **Community Policing** in nearly all Police Stations.
- 3.3 Developed **Community Policing Policy** and **Citizens Handbook** to enhance people's engagement in security and the Rule of Law.
- 3.4 Adopted RRI strategy which focused among others, **Corruption Prevention** strategy and Traffic Management. Over 50 Police Officers have been dismissed for involvement in corruption. Register for dismissed officers are being introduced.
- 3.5 Implemented a new **Police Pay** - increasing salaries by almost 100%. New competitive Allowances were implemented w.e.f 2006.
- 3.6 Introduced Performance Contracts for the **Commissioner of Police** and Provincial Police Officers.
- 3.7 Police **Service Charter** were introduced to enhance rapid security services and results.
- 3.8 **Crime Prevention Strategy** was developed taking cognizance of rising complex security challenges in organized crime and white collar crime (corruption, fraud, cyber crime and money laundering).
- 3.9 Developed strategies for improved Police Image; Accountability and Human Resource.
- 3.10 Development is ongoing for the establishment of an **Internal Police Complaints Handling Committee; and an External Oversight Body** - (Police Ombudsman).

- 3.11 Introduced general hygiene in cells including separate women/children police cells and those for mentally and other challenged persons.
- 3.12 Procured the following to date to improve police visibility and morale:-
 - **781 Vehicles.**
 - **1230 Houses.**
- 3.13 Police **training curriculum** was revised to include issues of gender, human rights, counter-terrorism, ICT/forensic-science in crime, cyber-crime and organized crime, good governance, democratic policing, respect for civilians within the Rule of Law, disaster management and community policing..
- 3.14 **National Crime Prevention Centre** (1997 Act of Parliament) under the A.G has been reactivated to enhance research and informed prevention of crime and social disorders and greater integration of intelligence-led policing and security management.
- 3.15 Police capacity for **disaster and conflict management** has been enhanced.
- 3.16 Police interactive **Website** is on line and the culture of openness evidenced by more crime reporting since 2003 unlike before when crime victims chose to suffer quietly due to police indifference OR complicity in crime.

4.0 REFORM IMPACT AND OUTCOMES

4.1 SURVEY REPORT 2007 BY INDEPENDENT TEAM OF E.U; USAID; UNP; AND DEVELOPMENT PARTNERS FOLLOWING RAPID RESULTS INITIATIVE (RRI) PHASE 1

	Office Cleanliness %	Service Satisfaction %	Service Delivery improvement %
Chief/Assistant Chief	76	80	66
DO	88	83	52
DC	95	87	46
PC	81	83	39
Police	67	65	54
National Registration Bureau	76	61	43

Immigration	88	75	31
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- 4.2 It is notable that the Chief and Police are the most improved Institutions. The Chiefs' Office is also the most important first contact point and interface between government and the people. Indeed, perception and image of the people on their Government is conversely correlated to the efficiency, effectiveness and integrity of these frontline cadre of officers.
- 4.3 Phase 2 of RRI is yet to commence on 17th February, 2009.
- 4.4 In 2008, crime reduced by 13%.
- 4.5 Citizens Handbook on Community Policing developed.
- 4.6 Ministry is developing a Safety Manual for wananchi to include Swahili and vernacular versions to deepen their sensitization on safety issues, civic virtues and conduct during emergencies/disasters.



KENYA REVENUE AUTHORITY

TAX COMPLIANCE CERTIFICATE

Certificate Serial No:

KRA 16/020890/2013

THIS CERTIFICATE CONFIRMS THAT

KIMEMIA FRANCIS THUITA

Holder of Tax Registration Personal Identification Number **A002352007Z**

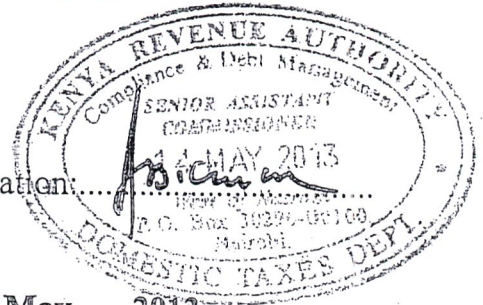
has fulfilled the obligation to file relevant tax returns and to pay taxes due as provided by law

This certificate will be valid for *12 months* up to **14TH May 2014**

Issued by:

Name: **D.O.OBURE**

Designation:



Signature:.....*D.O. Obure*.....

Date of Issue: **14TH May 2013**

Caveat

- a) *This certificate is issued on the basis of information available to the Authority as at the date shown above. The Authority reserves the right to withdraw the certificate if new evidence materially alters the tax compliance status of the recipient.*
- b) *Confirm genuineness and validity of the certificate using the TCC checker available at: <http://www.kra.go.ke/notices/tcc-checker.html> or contact the nearest DTD office.*

TCC3

Times Tower Building



HIGHER EDUCATION LOANS BOARD



University of Nairobi
UNIVERSITY STUDENT LOAN

This Certificate is awarded to

THUITA KIMEMIA

ID No.

4828987

University Registration No.

C01/425/77

University attended

UNIVERSITY OF NAIROBI

For having repaid in full the Principal Loan and interest thereon.

Signature [Signature]
CEO/BOARD SECRETARY

Date

20 May 2013

Signature [Signature]
HEAD OF OPERATIONS

Date

20 May 2013

This certificate is issued without erasures, alterations or cancellation.

C.24A



KENYA POLICE

A N° 069888

CRIMINAL INVESTIGATION DEPARTMENT
P. O. Box 30036-00100 GPO
NAIROBI, KENYA

Ref. No. **125810 /2013** Date **20/05/2013**

POLICE CLEARANCE CERTIFICATE

I hereby certify that the fingerprints recorded from

FRANCIS THUITA KIMEMIA

*holder of ID/Passport No. **4828987** have been searched in Criminal Records Office's database with/without previous record. The validity of the information on this Certificate is as of the date of issue.*

REMARKS IN CASE OF PREVIOUS RECORD

OFFENCE(S)

RESULTS OF TRIAL

DATE

NIL

This Certificate has been issued without any alteration or erasure.

(P.M.Ndunda)

For: Director of Criminal Investigation