Approved for tabling Bad
SNA
9/3/2021

REPUBLIC OF KENYA

PARLIAMENT OF KENYA LIBRARY

THE NATIONAL ASSEMBLY
PAPERS LAID
THE NATIONAL ASSEMBLY
DATE: 09 MAR 2021
DAY: Tuesday
TABLED BY: Chairperson, Trade Committee Hon. Adan Ali Haji MP
CLERK-AT THE-TABLE: Moses Lemuna

TWELFTH PARLIAMENT- FIFTH SESSION

DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

ADDENDUM

TO THE REPORT

ON THE CONSIDERATION FOR APPROVAL OF THE RATIFICATION OF THE ECONOMIC PARTNERSHIP AGREEMENT (EPA) BETWEEN KENYA, A MEMBER OF THE EAST AFRICAN COMMUNITY, OF THE ONE PART, AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, OF THE OTHER PART; TABLED ON 25TH FEBRUARY, 2021

VOLUME I

DIRECTORATE OF DEPARTMENTAL COMMITTEES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

MARCH 2021

Table of Contents

CHAIRPERSON'S FOREWORD 1

EXECUTIVE SUMMARY 3

1.0 PREFACE 7

1.1 Mandate of the Committee 7

1.2 Committee Subject 7

1.3 Committee Membership 8

1.4 Committee Secretariat 6

1.5 Compliance with the procedure for approval of a treaty under the Treaty Making and Ratification Act, 2012 7

2.0 CONSIDERATION OF THE ECONOMIC PARTNERSHIP AGREEMENT (EPA) BETWEEN KENYA A MEMBER OF THE EAST AFRICAN COMMUNITY OF THE ONE PART AND UNITED KINGDOM OF GREAT BRITAIN AND NOTHERN IRELAND ON THE OTHER PART- 8

2.1 Background 8

2.2 Analysis of the Kenya-UK Economic Partnership Agreement on the Annexes 9

2.2.1 Annex I: Customs duties on products originating in the EAC partner state(S) 9

2.2.2 Annex II: Customs duties on products originating in the UK 9

2.2.3 Annex III: Joint statement of the parties on the objectives and essential and fundamental elements of this agreement 13

2.2.4 Protocol 1: Concerning the definition of the concept of "originating products" and methods of administrative cooperation 13

2.2.5 Protocol 2: On mutual administrative assistance in customs matters 15

2.2.6 Conformation to the East Africa Community Customs Union Protocol 15

3.0 PUBLIC PARTICIPATION AND STAKEHOLDERS ENGAGEMENT 16

3.1 Parliamentary Caucus Committee on Economy and Business 16

3.2 Econews Africa 17

3.3 Kenya National Chamber of Commerce and Industry 18

3.4 Kenya Flower Council 20

3.5 Kenya Association of Manufacturers 21

3.6 Fresh Produce Exporters Association of Kenya, Kenya fresh Produce Consortium and Kenya-UK EPA Private Sector Consortium 22

age |

3.7 Kenya Association of Waste Recyclers 22
3.8 State Department of Fisheries, Aquaculture and the Blue Economy..... 23
3.9 Dr. Francis Muraya – Economic Advisor, Executive Office of the President..... 24
5.0 COMMITTEE OBSERVATIONS 25
6.0 COMMITTEE RECOMMENDATIONS 29
7.0 ANNEXTURES
Annex I ..... Adoption List
Annex II ..... Minutes
Annex III ..... Advert
Annex IV .....Submissions from Stakeholders
Annex V.....Statistical Data on Exports and Imports
Annex VI .....Attendance List and Program for Stakeholders Engagement

Volume II .....CS Memo, Treaty, Annexes and Protocols

LIST OF ABBREVIATIONS

1.	ACP	-	African Caribbean and Pacific Countries
2.	CET	-	Common External Tariff
3.	EBA	-	Everything But Arms
4.	EEZ	-	Exclusive Economic Zones
5.	EPA	-	Economic Partnership Agreement
6.	EU	-	European Union
7.	DFQF	-	Duty Free Quota Free
8.	FDI	-	Foreign Direct Investment
9.	GATT	-	General Agreement on Tariffs and Trade
10.	GSP	-	Generalized System of Preferences
11.	HS code	-	Harmonized Commodity Description and Coding System
12.	ICT	-	Information and Communication Technology
13.	ILO	-	International Labour Organization
14.	IOTC	-	Indian Ocean Tuna Commission
15.	IUU	-	Illegal, Unreported and Unregulated
16.	MCS	-	Monitoring Control and Surveillance
17.	MFN	-	Most Favoured Nation
18.	MSMEs	-	Micro Small and Medium Enterprises
19.	ODA	-	Official Development Assistance
20.	OIE	-	World Organization for Animal Health
21.	PSDS	-	Private Sector Development Strategy
22.	R&D	-	Research and Development
23.	RFMO	-	Regional Fisheries Management Organization
24.	SPS	-	Sanitary and Phytosanitary Standards
25.	TBT	-	Technical Barriers to Trade
26.	UK	-	United Kingdom of Great Britain and Northern Ireland
27.	UN	-	United Nations
28.	UNCLOS	-	United Nations Convention on the Law of the Sea
29.	UNCTAD	-	United Nations Conference on Trade and Development
30.	VMS	-	Vessel Management System
31.	WCO	-	World Customs Union
32.	WTO	-	World Trade Organization

CHAIRPERSON'S FOREWORD

The Cabinet Secretary, Ministry of Industrialization, Trade and Enterprise Development submitted a memorandum on the Economic Partnership Agreement (EPA) between the Republic of Kenya, a member of the East African Community of the one part and the United Kingdom of Great Britain and Northern Ireland of the other part. This was done on 22nd December, 2020 when the EPA together with accompanying memorandum was tabled in the House, and its annexures of the Protocols were tabled on 25th February, 2021.

Subsequently, pursuant to Standing Order 216 of the National Assembly, the Memoranda and text of the Agreement were committed to the Departmental Committee on Trade Industry and Cooperatives (hereinafter referred to as "the Committee" by the honorable Speaker of the National Assembly for consideration. The Cabinet Secretary tabled the Kenya-UK EPA in accordance with the provisions of Article 2 (6) of the Constitution and Section 4 (1) (2) of the Treaty Making and Ratification Act 2012.

Kenya-UK Agreement is aimed at facilitating trade in goods, providing Kenya Duty Free Quota Free (DFQF) access to the UK market. Kenya on the other hand committed to a phased liberalisation of goods but continues to apply tariffs on key domestically produced goods deemed strategically sensitive (Annex II (d) of the EPA). The designated sensitive list of goods was arrived at through wider consultation with the private sector and other stakeholders, taking into account Industrial and development aspirations of the wider EAC member states as guided by various policy documents. The Agreement covers trade in goods and related provisions, fisheries, and development cooperation, with trade in services and other areas left to be negotiated under a *rendez-vous* clause.

Pursuant to Article 118 (1) (b) of the Constitution, and in compliance with, and appreciative of, requirement under the law to carry out successful and effective consultations, the committee through the office of the Clerk of the National Assembly, invited stakeholders vide newspaper advertisement ran on the 27th February 2021 in two widely circulated daily newspapers (Daily Nation and People's Daily). The aim of stakeholder engagement is to capture citizens' voices and interest with respect to Kenya-UK-EPA under consideration by the committee. The stakeholders were categorized into groups as follows:

A. Those affected directly by the Kenya-UK-EPA:

i. Kenya National Chamber of Commerce and Industry;
ii. Kenya Flower Council;
iii. Kenya Association of Manufacturers;
iv. Kenya Fresh Produce Exporters Association of Kenya;
v. Kenya Association of Waste Recyclers

B. The Executive Arm of Government involved in the Initiation, Negotiation and Implementation of Kenya- UK- EPA:

i. Ministry of Trade Industry and Enterprise Development
ii. State Department for Fisheries Aquaculture and Blue economy
iii. The Presidency - Economic Advisor

C. **The National Assembly**

i. Parliamentary Caucus on Economy and Business.

ii. Friends of the committee:

   a. Representatives from the Departmental Committee on Finance and National Planning

   b. Representatives from the Departmental Committee on Agriculture and Livestock

We are grateful to all stakeholders who found time to engage with the committee. Rest assured all views, comments, and interests canvased were accorded the weight and the attention they deserved in this report.

In considering the Kenya-UK EPA, the Committee held a total of eleven (11) sittings including a comprehensive briefing session that was undertaken by the Ministry of Industrialization, Trade and Enterprise Development.

We appreciate the lead that Cabinet Secretary for Trade Industry and enterprise Development Ms. Betty Maina EBS, together with Hon. Lawrence Karanja and Mr. David Osiany Chief Administrative Secretaries and the Lead Negotiator and Principal Secretary for State Department for Trade Amb. Johnson Weru and all the technical staff from the Ministry, who at one stage or another were involved in this process that culminated into the signing of the Kenya-UK- EPA.

I am indebted to members of my committee who with zeal and zest of a missionary put in long hours to ensure that the voices and views of all participants were heard, their submission received and acted upon. Well done! Equally, I wish to salute friends of the Committee Hon. Jude Njomo, MP, Hon. John Kiarie, MP, Hon. Dr. John Kanyuithia Mutunga, MP Hon. Shabeel Shakiir, MP, CBS, Hon. Adan Yussuf, MP Hon Mboni David, MP, Hon. Kuria Kimani, MP and Hon. Cate Waruguru, MP, we don't take your support for granted.

Finally, the Committee is thankful to the Office of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its Sittings.

On behalf of the Committee, it is therefore my pleasant duty and privilege to present this report on the consideration for approval of the Ratification of the Economic Partnership Agreement (EPA) between Kenya, a member of the East African Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part pursuant to Section 8(4) of the Treaty Making and Ratification Act, 2012 and Standing Order 199 of the National Assembly

Hon. Adan Haji Ali, Member of Parliament

CHAIRPERSON, DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

EXECUTIVE SUMMARY

This report is an Addendum to the report of the Departmental Committee on Trade, Industry and Cooperatives tabled on 25th February, 2021 on the consideration for approval of the ratification on Economic Partnership Agreement between the Kenya and UK (the 'Kenya -UK Economic Partnership Agreement') but was not debated on grounds that the Agreement that was tabled in the House and subsequently referred to the Committee for consideration did not contain annexures and protocols that forms an integral part of the Agreement as raised by Hon John Kiarie, MP Dagoretti South.

The speaker being in concurrence with the Honorable Member, directed that the annexures and protocols be tabled for consideration by the Committee before the House would debate on the report.

The annexures were tabled on 25th February, 2021 and subsequently referred to the Departmental committee on Trade, Industry and Cooperatives for consideration.

Pursuant to Article 118(Ib) and section 8(3) of the Treaty Making and Ratification Act, the Committee engaged stakeholders and carried out public participation on the Kenya- UK Economic Partnership Agreement.

The Kenya-UK Agreement is development-focused and therefore skewed in Kenya's favour; it opens the market of the UK more than the Kenyan market. Its focus is on facilitating trade in goods, providing Kenya with Duty-Free and Quota-Free access to the UK market. Kenya, in turn, commits to a phased liberalisation of goods, but retains tariffs for some goods deemed sensitive domestically. The Agreement covers trade in goods and related provisions, fisheries, and development cooperation, with trade in services and other areas left to be negotiated under a *rendez-vous* clause.

The previous agreement to the Kenya-UK Partnership Agreement is the Economic Partnership Agreement between the East African Community Partner States and the EU and its member states (the 'EU-EAC EPA'), negotiated and initialled by all the EAC Partner States in 2014.

The Members of the EAC are Burundi, Kenya, Rwanda, Tanzania, Uganda, and South Sudan. So far, among the EAC Partner States, only Kenya has signed and ratified the EAC-EU -EPA. The Republic of Rwanda has signed but has not ratified the EAC-EU-EPA. The others are yet to sign and raftify. The effect of this is that EAC-EU-EPA cannot become effective unless an administrative arrangement known as Variable Geometry is approved by the highest Administrative Organ in this case the EAC Summit of Heads of State.

Until the end of the Brexit transition period, Kenya enjoyed Duty Free and Quarter Free (DFQF) access to the UK's markets through the EU's Market Access Regulation (MAR). As the UK did not replicate the MAR at the end of the transition period, Kenya would have faced an increase in tariffs without a trade agreement or other measures in place.

One of the reasons why the other EAC members have either not ratified or not signed the EAC-EU- EPA is that they are categorised as 'Least Developed Countries' (LDCs). Under international trade law countries classified as LDCs have automatic access (with exemption to

Page | 3

arms) to markets in developed countries. Exports from countries in the non-LDC category and who have not executed a WTO compliant trade agreement do not enjoy DFQF market access and instead have their exports subjected to tariffs as provided for the Generalised System of Preferences (GSP)

By contrast, Kenya is the only country in the EAC which is classified as a non-LDC and so does not benefit from the LDC –EBA market access Framework. Instead, Kenya is classified as a 'Lower-Middle Income country', qualifying for the GSP General Framework. The current trading regime for Kenya has therefore been premised on its membership of the WTO and Regional integration body – EAC. In the absence of membership to these two bodies, Kenya's exports to EU would be subjected to import duties under the Most Favoured Nation (MFN) and GSP rates. Cognizance of this situation, both Kenya and UK Government decided to roll over the EU-EAC EPA on a bilateral basis, firstly to forestall trade disruption and secondly to secure the long term DFQF market access of Kenya's exports to the UK.

The Kenya-UK Agreement has been provisionally applied since 1st January, 2021, pending the completion of full ratification procedures by the Parties. On 8th December, 2020, the Parties agreed to a Memorandum of Understanding (MoU) which recognised that the necessary domestic procedures required to give effect to the Kenya-UK Agreement would not have been completed by 31st December 2020. The MoU allows the Parties to treat the provisions of the signed Agreement as having effect between them until its formal entry into force. It states that the Parties will use their best endeavours to bring the Agreement into effect within three months of the MoU coming into effect.

The Kenya-UK Partnership Agreement is open to other EAC member States to join at any time. Article 143 enables them to make an accession provision to the Kenya-UK EPA Council, which would review the impacts of accession and may decide on amending measures that may be required.

Concerns have been raised on the rules of origin: whether Kenya produce transiting via the EU with no or limited value addition would enter duty-free in the UK market, and which procedures and documentations will be required. Kenyan products transiting via the EU will have duty free access in the UK under the African Caribbean and Pacific countries (ACP) arrangement. As provided under protocol number I of the Kenya-UK EPA Article 4 and Article 6 the procedure and documentation needed are the same as what was used under the EU trade regime.

On the question of UK-Kenya equivalency and divergence with EU sanitary and Phytosanitary standards regulations, the Committee scrutinised the Kenya-UK EPA further to bring to bear the facts as follows: The Kenya-UK EPA has sustained the WTO principle of equivalence as is the case with EAC- EU-EPA. So, there is no divergence, also important to note SPS measures, even as applied under the EU are usually premised on the above referred principles and a country is free to deviate based on the specific scientifically based basis. This reality is articulated in title IV (Articles 30-40) of the Kenya-UK-EPA and ensures that the same SPS regime that Kenya used to access the UK before Brexit is sustained.

Some civil society groups have also argued that the Kenya-UK Agreement could disrupt regional trade within the EAC and undermine regional integration. The UK-Kenya EPA is open to other EAC states to join at any time. Article 143 enables them to make an accession request to the

Kenya -UK EPA council which would review the impact of accession and may decide on amending measures. Article 37 of EAC/EU-EPA of the custom union protocol also allows member states desirous of separately negotiating or amending EPA can do so provided it is consistent with EAC custom union protocol. The Committee acknowledges that rolling over EU EAC EPA is indeed the most feasible option for maintaining Kenya's preferential access to the UK market.

The scope of the Kenya-UK EPA is the same as the EAC-EU-EPA which Kenya Parliament already ratified in 2016. The Agricultural and industrial products that exposed to negative impact of the Kenya-UK EPA as was the case with the EAC-EU EPA are, those that are now excluded from liberalization. They account for 17.4% of the trade that was due for liberalization when the EAC-EU-EPA was negotiated and are available under annex II (d). Other products that could be exposed to negative impact from EU imports are inter-mediate products (annex II B of the Kenya -UK EPA) and finished products annex II C of the Kenya -UK EPA) that Kenya has committed to Liberalize over a period 8 years and 13 years after a 7 year and 12 year moratorium period before respective progressive liberalization commences. In the event that UK will be exporting any of the products under this annexes, Kenya-UK EPA has inbuilt mechanism to shield Kenya's industries that may risk facing competition.

Trade cooperation and new partnership agreements around the world are paramount, now more than ever. Kenya, like most other countries will need to curve a path out of the Covid-19 pandemic and kick-start its ailing economy. International Agreements affect us all, future trade deals with major economies such as UK could have major implication on local economy: jobs, volatility on Kenyan currency, and disruption in the global supply chains among others.

Kenya Marine and inland fish make up a significant portion of export to the UK. Article 87-89 of the–UK EPA focuses on fisheries and aquaculture, endeavour to promote effective exploitation, conservation and management of fish sources-inland and within the Exclusive Economic Zones (EEZ) of EAC and to Ensure that the region derives equitable benefits from the fish harvested in their territories. The parties agree in the EPA to establish a Vessel Management System (VMS) and a monitoring control and surveillance (MCS) to develop and modernize transhipment infrastructure in Kenya coastal ports. Further UK commits to support capacity building and training programmes to improve the competitiveness of the inland fisheries, management of export market chains. Other UK commitment include development and improvement of infrastructure.

All this reflects a growing recognition of the importance of parliamentary scrutiny. Parliaments role in scrutinizing international agreements and treaties has been very limited.....Even with the changes brought about by the constitution of Kenya 2010, it remains sub optimal. An additional challenge is that parliament has no formal role in the early objective -setting process, which is when the parameters for the negotiations are set and the broad outlines of a deal are determined. In other jurisdictions such as US and EU, parliament would have a role in endorsing or at the very least debating the negotiating mandate for future agreements particularly trade agreements that have the potential to affect people's daily lives. Therefore going forward and within a reasonable time frame, the Committee will endeavour to further scrutinize the Treaty making and Ratification Act, 2012 and submit proposals of amending the Act with a view to strengthening the role of parliament in future trade initiation and negotiation process.

AWARE that United Kingdom exited the European Union on 31st January, 2020 according to the terms of withdrawal agreement, the UK remained part of the EU customs Union and EU single customs territory until 31st December, 2020 and that EU post Brexit arrangement was bound to disrupt trade, the transition window provided Kenya an opportunity to negotiate an agreement that ensured continuity and secured long term **Duty Free-Quota-Free** access to the UK market

THAT, Kenya is not the only country in Africa that has signed trade agreements with UK. As from 1st January, 2021 **Botswana, Cameroon, Cote D'Ivoire, Egypt, Eswatini, Mauritius, Morocco, Mozambique, Namibia, Seychelles, South Africa, Tunisia** and **Zimbabwe** have all signed trade agreements.

COGNIZANT of the fact that the UK has also consistently ranked among the top 5 destination for Kenyan export products, thus making the UK market a key stimulant to Kenya's economic development,

INFORMED by article 118(1)(b) of the constitution for the need for public participation and section 8(3) of the treaty making and ratification act of 2012.

The Committee do hereby recommend;

THAT, Pursuant to Section 8 of the Treaty Making and Ratification Act of 2012, **the House APPROVES the ratification of the Economic Partnership Agreement (EPA) between the Republic of Kenya, a member of the East African community on the one part and the United Kingdom of Great Britain and Northern Ireland of the other part.**

Page | 6

1.0 PREFACE

1.1 Mandate of the Committee

The Departmental Committee on Trade, Industry and Cooperatives is one of the Departmental Committees of the National Assembly established under Standing Order 216 whose mandate pursuant to the Standing Order 216 (5) is as follows:

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 Ministries and departments and the effectiveness of their implementation;*

c. *To study and review all the legislation referred to it;*

d. *To study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*

e. *To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*

f. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments);*

g. *To examine treaties, agreements and conventions;*

h. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*

i. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*

j. *To examine any questions raised by Members on a matter within its mandate.* ,

1.2 Committee Subject

a. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to oversee: Trade, securities exchange, consumer protection, pricing policies, commerce, and industrialization including special economic zones, enterprise promotion and development including small and medium-size enterprises, intellectual property, industrial standards, anti-counterfeit policies and co-operatives development.

b. In executing its mandate, the Committee oversees the Ministry of Industrialization, Trade and Enterprise Development and the State Department for Cooperatives.

1.3 Committee Membership

Chairperson
Hon. Adan Hajj Ali, MP
MP for Mandera South Constituency
Jubilee Party

Vice Chairperson
Hon. Wangari Mwaniki, MP
MP for Kigumo Constituency
Jubilee Party

Hon. William Cheptumo, MP
MP for Baringo North Constituency
Jubilee Party

Hon. Alois Musa Lentoimanga, MP
MP for Samburu North Constituency
Jubilee Party

Hon. Anab Mohamed Gure, MP
MP for Garissa County
Jubilee Party

Hon. Andrew Mwadime, MP
MP for Mwatate Constituency
ODM Party

Hon. Shariff Athman Ali, MP
MP for Lamu East Constituency
Jubilee Party

Hon. Daniel Maanzo, MP
MP for Makueni Constituency
Wiper Party

Hon. Fred Odhiambo Ouda, MP
MP for Kisumu Central Constituency
ODM Party

Hon. Christopher Nakuleu, MP
MP for Turkana North Constituency
Jubilee Party

Hon. Jones Mlolwa, MP
MP for Voi Constituency
ODM Party

Hon. Raymond Kipruto Moi, MP
MP for Rongai Constituency
KANU

Hon. Jared Okelo, MP
MP for Nyando Constituency
ODM Party

Hon. Gichimu Robert, MP
MP for Gichugu Constituency
Jubilee Party

Hon. Patrick Wainaina Jungle, MP
MP for Thika Town Constituency
Independent Member

Hon. Ayub Savula Angatia, MP
MP for Lugari Constituency
ANC Party

Nduati Joseph Ngugi, MP
MP for Gatanga Constituency
Jubilee Party

Hon. Wachira Rahab Mukami, MP
MP for Nyeri County
Jubilee Party

Hon. (Dr.) Wilberforce Oundo, Phd, MP
MP for Funyula Constituency
ODM Party

1.4 Committee Secretariat

Mr. Erick Nyambati
Clerk Assistant II
Lead Clerk

Ms. Nuri Kitel Nataan
Clerk Assistant II

Ms. Marlene Ayiro
Senior Legal Counsel

Mr. Chelang'a Maiyo
Research Officer II

Mr. Joseph Ndirangu
Fiscal Analyst II

Mr. Richard Sang
Sergeants At Arms

Ms. Winifred Kiziah
Media Relations Officer III

1.5 Compliance with the procedure for approval of a treaty under the Treaty Making and Ratification Act, 2012

1) The procedure for ratification of treaties is provided for under section 8 of the Treaty Making and Ratification Act, 2012 (herein after referred to as "The Act").

2) Section 8 of the Act provides that *where the Cabinet approves the ratification of a treaty, the Cabinet Secretary shall submit the treaty and a memorandum on the treaty to the Speaker of the National Assembly.*

3) Subsection (3) provides that *the relevant parliamentary committee shall during its consideration of the treaty ensure public participation in the ratification process in accordance with laid down parliamentary procedure.*

4) Section 7 of the Act provides as follows-

7. Where the Government intends to ratify a treaty, the Cabinet Secretary of the relevant State department shall, in consultation with the Attorney General submit to the Cabinet the treaty, together with a memorandum outlining-

a. the objects and subject matter of the treaty;
b. any constitutional implications including-
c. any proposed amendment to the Constitution; and
d. that the treaty is consistent with the Constitution and promoted constitutional values and objectives;
e. the national interests which may be affected by the ratification of the treaty;
f. obligations imposed on Kenya by the treaty;
g. requirements for implementation of the treaty;
h. policy and legislative considerations;
i. financial implications;
j. implications on matters relating to counties;
k. the summary of the process leading to the adoption of the treaty;
l. the date of the signature
m. the number of states that are party to the treaty;
n. the views of the public on the ratification of the treaty;
o. whether the treaty sought to be ratified permits reservations and any recommendations on reservations and declarations;
p. the proposed text of any reservations that should be entered when ratifying the treaty in order to protect or advance the national interests or ensure conformity with the Constitution; and
q. whether expenditure of funds will be incurred in implementing the treaty and an estimate, where the possible of the expenditure

2.0 CONSIDERATION OF THE ECONOMIC PARTNERSHIP AGREEMENT (EPA) BETWEEN KENYA A MEMBER OF THE EAST AFRICAN COMMUNITY OF THE ONE PART AND UNITED KINGDOM OF GREAT BRITAIN AND NOTHERN IRELAND ON THE OTHER PART-

2.1 Background

5) The Departmental Committee on Trade Industry and Cooperatives tabled a report on the consideration for approval of the Ratification of the Economic Partnership Agreement (EPA) between The Republic of Kenya, a member of the East African Community of the one part and The United Kingdom of Great Britain and Northern Ireland of the other Part on 25th February, 2021.

6) Hon John Kiarie, Member of Parliament for Dagoreti South informed the House that the Economic Partnership Agreement that the Committee considered and relied on in writing the report was incomplete since it missed the following annexures that were supposed to have been tabled with it;-

   a. Annex I Customs duties on products originating in the East Africa Partner States

   b. Annex II Custom duties on products originating in the UK

   c. Annex III Joint Statement of the Parties on the objectives and essential and fundamental elements of this agreement

   d. Protocol 1 Concerning definition of the concept of "Originating products" and administrative cooperation

   e. Protocol 2 On Mutual administrative assistance in customs matters

7) He further argued that the missing documents denied the public an opportunity of scrutinizing the EPA effectively tantamount to ineffective public participation.

8) The speaker directed that the annexures be tabled for consideration by the Committee before the House would debate on the report. The annexures were tabled on 25th February, 2021 and subsequently referred to the committee for consideration.

9) Pursuant to Article 118 (1)(b) of the Constitution and Section 8 of the Treaty Making and Ratification Act, 2012, the Committee invited for submission of memoranda on the earlier advertised Economic Partnership Agreement and additional information that the Committee had received as contained in the annexes.

10) In considering the annexures, the Committee held five meetings with some stakeholders and considered written memoranda.

11) Further, to ensure clarity on every submission before doing this addendum, the Ministry for industrialization, Trade and Enterprise Development was consulted for further clarification on any matter that could arise during the Committees interaction with stakeholders. The State Department for Fisheries, aquaculture and blue economy was also invited to clarify on

matters related to management and utilization of marine resources falling under the Kenyan Exclusive Economic Zone.

2.2 Analysis of the Kenya-UK Economic Partnership Agreement on the Annexes

The Committee was briefed on the Kenya-UK EPA particularly the annexes and protocol by Cabinet Secretary, Hon. Betty Maina and Amb. Johnson Weru, Principal Secretary for Trade and Enterprise Development. Together with other Ministry officials, they informed the Committee as follows regarding to annexures:-THAT

12) Article 146 of the Kenya-UK EPA lists the following Annexes that form an integral part of this Agreement.
   a. Annex I: Customs duties on products originating in the EAC Partner State(s)
   b. Annex II: Customs duties on products originating in the UK
   c. Annex III: Joint Statement of the Parties on the objectives and essential and fundamental elements of this agreement
   d. Protocol 1: Concerning the definition of the concept of "originating products" and methods of administrative cooperation
   e. Protocol 2: On mutual administrative assistance in customs matters

2.2.1 Annex I: Customs duties on products originating in the EAC partner state(S)

13) This annex is provided pursuant to Article 7(2) of the Agreement. It relates to customs duties that will be applied on goods that Kenya will export to the UK. It provides that the UK will entirely eliminate customs duties for all products, as classified under Harmonized Commodity Description and Coding System (HS) chapters 1 to 97, with exception of products of chapter 93 (arms and ammunition). The effect of this provision is to guarantee duty free and quota free market access into the UK immediately the Kenya -UK EPA comes into effect.

2.2.2 Annex II: Customs duties on products originating in the UK

14) This annex is provided pursuant to Article 7(2) of the Agreement. It relates to customs duties that will be applied on goods that UK will export to the Kenya. It provides for progressive liberalization of customs duties applicable on goods imported from the UK.

15) Customs duties applicable to products originating in the UK imported into the territory of the EAC Partner State(s) for goods listed in Annex II(a), shall be eliminated upon the entry into force of this Agreement.

16) Customs duties applicable to products originating in the UK imported into the territory of the EAC Partner State(s) for goods listed in Annex II(b) shall be progressively abolished in accordance with the following schedule:
   a. seven years after the entry into force of this Agreement each duty shall be reduced to 80 per cent of the basic duty;

b. eight years after the entry into force of this Agreement each duty shall be reduced to 70 per cent of the basic duty;

c. nine years after the entry into force of this Agreement each duty shall be reduced to 60 per cent of the basic duty;

d. ten years after the entry into force of this Agreement each duty shall be reduced to 50 per cent of the basic duty;

e. eleven years after the entry into force of this Agreement each duty shall be reduced to 40 per cent of the basic duty;

f. twelve years after the entry into force of this Agreement each duty shall be reduced to 30 per cent of the basic duty;

g. thirteen years after the entry into force of this Agreement each duty shall be reduced to 20 per cent of the basic duty;

h. fourteen years after the entry into force of this Agreement each duty shall be reduced to 10 per cent of the basic duty;

i. fifteen years after the entry into force of this Agreement the remaining duties shall be abolished.

17) Customs duties applicable to products originating in the UK imported into the territory of the EAC Partner State(s) for goods listed in Annex II(c) shall be progressively abolished in accordance with the following schedule:

a. twelve years after the entry into force of this Agreement each duty shall be reduced to 95 percent of the basic duty;

b. thirteen years after the entry into force of this Agreement each duty shall be reduced to 90 percent of the basic duty;

c. fourteen years after the entry into force of this Agreement each duty shall be reduced to 85 percent of the basic duty;

d. fifteen years after the entry into force of this Agreement each duty shall be reduced to 80 percent of the basic duty;

e. sixteen years after the entry into force of this Agreement each duty shall be reduced to 70 percent of the basic duty;

f. seventeen years after the entry into force of this Agreement each duty shall be reduced to 65 percent of the basic duty;

g. eighteen years after the entry into force of this Agreement each duty shall be reduced to 60 percent of the basic duty;

h. nineteen years after the entry into force of this Agreement each duty shall be reduced to 55 percent of the basic duty;

i. twenty years after the entry into force of this Agreement each duty shall be reduced to 50 percent of the basic duty;

j. twenty-one years after the entry into force of this Agreement each duty shall be reduced to 40 percent of the basic duty;

k. twenty-two years after the entry into force of this Agreement each duty shall be reduced to 30 percent of the basic duty;

l. twenty-three years after the entry into force of this Agreement each duty shall be reduced to 20 percent of the basic duty;

m. twenty-four years after the entry into force of this Agreement each duty shall be reduced to 10 percent of the basic duty;

n. twenty-five years after the entry into force of this Agreement the remaining duties shall be abolished.

18) Customs duties applicable to products originating in the UK imported into the territory of the EAC Partner State(s) for goods listed in Annex II(d) shall be excluded from any of the regimes of tariff phase-down contained in this Annex

19) Goods that are excluded as provided in Annex 11(d); List of Sensitive Products (Excluded from Liberalization) under the Kenya-UK Economic Partnership Agreement. The exclusion list contains products designated by Kenya as sensitive and will therefore not be subject to liberalization. The sensitive list was arrived at through wider consultation with the private sector and other stakeholders in the wider economic, and also took into consideration the industrial and development aspirations of the EAC region as guided by various policy documents. Consideration was also taken on the products designated as sensitive under the EAC CET.

20) This sensitive/exclusion list contains, in broad terms, the following items:-

a. Animal Products, both fresh or processed (meat, hams, sheep and goat products, horses, swine/pork,);

b. Fisheries products of all kinds- such as tuna,

c. Dairy products- such Milk and milk products,

d. Poultry and poultry products- such as birds, eggs,

e. Agriculture product - both raw and processed such as fresh and chilled potatoes, tomatoes, onions, garlic, vegetables of all kinds, such as cabbage, sprouts, lettuce, cucumbers, mushrooms peas, beans etc; fresh and chilled fruits, eg cashew nuts, bananas, pineapples avocados, mangoes, pawpaw, watermelons, apples, etc; coffee and coffee products- roasted and decaffeinated; tea products; spices; wheat and wheat products; maize seeds and maize flour; palm oil products palm olein and palm sterarin fraction; rice;

f. Sugar and sugar products;

g. Cocoa products such as chocolates etc;

h. Food preparation e.g infant food, pasta sweet biscuits, cereals etc;

i. Mineral water; drinks and beers, wines, tobacco products,

j. salts, cement and related products,

k. Chemical products e.g paints, acids, oxygen, petroleum jelly, soaps, fittings, Iron and steel products e.g bars, iron sheets, boxes, cases,

l. paper products,

m. leather products,

n. textiles and apparels products,

o. wood products,

p. glassware;

q. primary cells,

r. Motor vehicle parts e.g engines, chassis

21) The sensitive list therefore includes;-

a. Broken rice, Buckwheat ,Wheat or meslin flour, Maize (corn) Flour , Apple, Pears, Quinces ,Peaches, including nectarines, Plums and sloes, Strawberries ,Peel of citrus fruit or melons (including watermelons), fresh, frozen, dried or provisionally preserved in brine, in sulphur water or in other preservative solutions, Green tea (not fermented) in immediate packings of a content not exceeding 3 kg ,Black tea (fermented) and partly fermented tea, in immediate packings of a content not exceeding 3 kg.

b. Sesame oil and its fractions, Vegetable fats and oils and their fraction, Margarine, excluding liquid margarine, Animal or vegetable fats and oils and their fractions, boiled, oxidised, dehydrated, sulphured, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516; inedible mixtures or preparations of animal or vegetable fats ,Sausages and similar products, of meat, meat offal or blood; food preparations based on these products, Homogenised preparations of liver of any animal Of turkeys, Of fowls of the species Gallus domesticus, Hams and cuts thereof, Shoulders and cuts thereof, Of bovine animals, Salmon.

c. Vegetables, fruit, nuts, fruit-peel and other parts of plants, preserved by sugar (drained, glacé or crystallized),Homogenized preparations, Citrus fruit, Groundnuts, Pineapples, Citrus fruit, Pears, Apricots, Cherries, Peaches, including nectarines, Strawberries, Palm hearts, Cranberries.

2.2.3 Annex III: Joint statement of the parties on the objectives and essential and fundamental elements of this agreement

22) This annex is provided pursuant to Article 75(5) of the Agreement. It relates to UK financing pertaining of development cooperation between the EAC Partner State(s) and the UK, towards the support for implementation of this Agreement. It sets out the framework within which the UK will provide financing for development cooperation, pursuant to the provisions of Part V (Economic and Development Cooperation).

2.2.4 Protocol 1: Concerning the definition of the concept of "originating products" and methods of administrative cooperation

23) This protocol is provided pursuant to Article 9 of the agreement. It sets out the rules of origin that Kenyan products should meet in order to access the UK market on duty free basis. It is an enabler to the duty free and quota free provision of Annex I.
Further to the provisions of this protocol, products originating from Kenya are allowed to access the UK market under any one of the following criterion:

24) Wholly Obtain: This applies to products which are not manufactured/processed for example animals born and raised in Kenya, plants, vegetables, fruits, minerals among others.

25) For Manufactured/processed products, the qualification criteria is either one of the following:

26) Change in Tariff Heading/Classification- Where you are allowed to source raw materials from any part of the world so long as the raw material and the final product are classified under a different Harmonised Classification (HS) Code heading. For example for plastic chairs, the raw material (plastic) granules falls under different HS code and the Plastic chair is classified under a different one. Most of the manufactured products falls under this criteria;

27) Or Value of Non-Originating Materials: Where manufacturers are allowed to source raw materials from any part of the world up to 70% of the ex-factory price/Value of the final products. This means the manufacturers must use not less than 30% of the local raw materials from either Kenya or the EU and get the rest from outside the two countries. This is to facilitate manufacturers where raw materials are not available in sufficient quantities;

28) Or Specific Process Rule: This is where the manufacturers use a specific process to produce the final product. This applies to mainly manufacture of textiles products (chapters 50-63), precious stones (chapters 76,77), motor vehicles (chapters 87) among others. In this case the source of the raw materials used is not restricted-they can be sourced from anywhere in the world. Its a flexibility rule for the manufactures where the local raw materials are not sufficient;

29) In order to widen the catchment area for the raw materials to facilitate the manufactures, the agreement allows sourcing of the materials from the following and consider them as though they are local materials: -

a. EAC Partner States,

b. Countries where Kenya has signed an FTA,

c. Countries benefiting from Duty-Free Quota-Free Access to the UK Market

d. EU (Articles 4 and 6) of the Protocol 1 on rules of origin;

e. Materials which enter the UK duty free on MFN basis.

30) This means manufacturers can get raw materials from all these countries unlimited and be able access the UK market without paying any duty.

31) For fisheries, the rules of origin guarantee duty free market access under the following terms:

32) In order for fisheries products to be exported to UK on duty free and quota free basis, pursuant to the provision of Article 7 and Annex I, they must be originating from Kenya. Determination of origin is in accordance to the specification in provisions of Protocol No.1 on Rules of Origin, Articles 7 (1) (g, f & h); 7(2), 7(3) and Article 40(7)).

33) Therefore, all fisheries products that meeting the rules below qualify for duty free and quota free market access in the UK: -

a) Fisheries products caught in Kenyan waters (rivers, lakes and EEZ) (Protocol I: Article 7(1)(f)(i);

b) Fisheries products from Kenya's aquaculture and mariculture farms, cages or ponds (Protocol I: Article 7(1)(f)(ii);

c) Fisheries products of sea fishing and other products taken from the sea outside any territorial sea of the Kenya by Kenyan vessels (Protocol I: Article 7(1)(g)

d) Fisheries products made aboard Kenya's factory ships (Protocol I: Article 7(1)(h) exclusively from products referred to in (c);

e) Note: The terms "their vessels" and "their factory ships" (Protocol I: Article 7(2)(a) to (c)) in paragraph (b) and (c) shall apply only to vessels and factory ships:

f) which are registered in Kenya;

g) which sail under the flag of the Kenya;

h) which meet one of the following conditions:

i) they are at least 50 percent owned by nationals of the UK, of an EU Member State, of an EAC Partner State or of an OCT; or

j) they are owned by companies

k) which have their office and their main place of business Kenya; and

l) which are at least 50 percent owned by the Kenyans, Kenyan public entities or Kenyan nationals.

m) Upon Kenya's request, the vessels chartered or leased by Kenyans, to undertake fisheries activities (Protocol I: Article 7(3) (a) to (f)), fisheries products from such vessels would be granted duty free quota free market access in the UK, provided these vessels operate under the following conditions:

n) they operate under the flag of the Kenya; and

o) Kenya offered the UK the opportunity to negotiate a fishery agreement and the UK did not accept this offer; and

p) at least 50% of crew, master and officers included are nationals of Kenya, UK or of the EU, or of an OCT; and

q) the fish is landed and processed in Kenya; and

r) the activities undertaken under this paragraph target a surplus identified by means of scientific advice made available in the context of the IOTC by relevant international, regional or national authorities; and

s) the charter or lease contract has been accepted by the Committee as providing adequate opportunities for developing the capacity of Kenya to fish in its own account and in particular as conferring on Kenya the responsibility for the nautical and commercial management of the vessel placed at its disposal for a significant period of time.

34) In Protocol 1: Article 40(7)), Kenya is allowed to use non-originating tuna of headings 0302 or 0303 up to 681 tonnes for use in processing tuna for export to the UK on duty free quota free basis. What this means is that if Kenya has a tuna factory and tuna fish migrates from Kenyan waters, the country is allowed to obtain tuna from foreign vessels, up to the tune of 681tonnes, for purposes of processing and selling the finished products to the UK. This addresses period raw material shortage that tuna factory could be facing as a result of migration of the tuna or lack of capacity for local or UK vessels to supply the factory with the tuna.

2.2.5 Protocol 2: On mutual administrative assistance in customs matters

35) This protocol is provided pursuant to Article 23(2) of the agreement. It relates to cooperation on matters to do with customs administration during the implementation of the agreement, including mutual assistance to enhance efficiency in facilitation of trade under the EPA.

2.2.6 Conformation to the East Africa Community Customs Union Protocol

36) During the EAC 40th Ordinary Meeting of the council of Ministers held on 25th February, 2021, Kenya informed the council meeting that a copy of the Kenya-UK Economic Partnership Agreement will be availed to the Secretariat once internal processes are finalized. (Page 34 – 40 of the Council Report)

3.0 PUBLIC PARTICIPATION AND STAKEHOLDERS ENGAGEMENT

37) Article 118 (1)(b) of the Constitution on provides that "*Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its committees* and Section 8(3) of the Treaty Making and Ratification Act of 2012, *provides that the relevant parliamentary Committee shall, during its consideration of the Treaty, ensure public participation in the ratification process in accordance with laid down parliamentary procedures.*

38) Consequently, the Committee through the Clerk of the National Assembly placed advertisements in two local dailies; Nation and People Daily, on 27th February 2020, calling for submissions of memoranda on the subject matter.

39) The Committee further identified and invited ten key stakeholders and received one written submissions from the Kenya Cereals Growers Association.

3.1 Parliamentary Caucus Committee on Economy and Business

The Parliamentary Caucus on Economy and Business, through it Chairperson, Hon. Jude Njomo, MP submitted as follows, that:-

40) **On Trade Liberalization:-** the agreement is far-reaching as it proposes to open up 82.6% of trade. Since the agreement is based on the EU-EAC EPA, there are some tariff lines that will be opened from the start of the agreement. This is a far-reaching commitment as it means that the local industries will be open to competition from more efficient British producers. Furthermore, Article 37.3 of the UK EPA on Sanitary and Phytosanitary Standards does not contain any specific measures to facilitate exports to the UK. This basically means that Kenya-UK EPA is opening up the Kenyan market without an assurance that our local producers will be able to access the UK market.

41) **Export Duties and Taxes:-**The agreement does not permit new export duties or taxes. In the event that Kenya wants to introduce new export duties and taxes, the conditions require that it notifies the UK and the measures are only temporary and need to be reviewed by the EPA council after 48 months. They felt that this constrains local industries particularly given that Kenya levies an export tax on raw hides and skins to promote the domestic leather processing industries. An export tax is also levied on raw macadamia nuts. If this is allowed to stand, it means that Kenya cannot protect its infant industries that may have potential of creating significant employment.

42) **More Negotiations:-**The UK-Kenya EPA contains a commitment to conclude negotiations by of before 2026 with the UK on trade in services, trade related issues including competition, investment, sustainable development (labor/environment), intellectual property rights and transparency in public procurement. They felt that this goes beyond the scope of what should be committed as these are issues that the UK, EU and other developed countries have failed to push for at the multilateral level. They are now being introduced through the backdoor and will have significant implications on Kenya's ability to negotiate a favorable agreement at the multilateral level.

43) **Ratification Process:** - Parliament is being rushed to ratify the agreement without a full appreciation of its implications. First, the reduction or elimination of duties on products imported from the UK will have a negative impact on local industries who may not be able to compete with more efficient producers in the UK who have access to cheaper power and other factors of production. Furthermore, Section 5 (2) (i) of the Treaty Making and Ratification Act requires that when deciding whether to initiate the treaty-making process, the national executive should consider whether extensive scientific studies or research have been carried out to determine the parameters of the problems and the lines of potential solutions. The Cabinet Secretary is further required by Section 7 (c) to outline any national interests that may be affected by the ratification of the treaty, the policy and legal considerations, the financial implications, implications on matters relating to counties and the views of the public on the ratification of the treaty. The negotiations were hurriedly done from August to December and did not entail extensive public participation. Clarification was provided in this matter that the Kenya-UK EPA was a roll-over of the existing EAC-EU EPA . adequate public participation was carried out and stakeholders had appeared before the state Department and the National Assembly.

44) In the memorandum submitted by the Cabinet Secretary, none of these issues have been highlighted. We have not seen an extensive study on the UK-Kenya FTA. No information has been provided on which national interest may be affected by the ratification of the treaty, the financial implications and implications on matters relating to counties. In response to this concern the State Department informed the stakeholders that in 2019 the balance of trade between Kenya and UK was fifteen (15) Billion shillings in favor of Kenya as the imports from the Uk to Kenya were less than was exported.

3.2 Econews Africa

45) There is need to ascertain the aspect of the Rules of Origin whether Kenyan produce transiting via the EU with no or limited value addition would be allowed to enter duty free into the UK, and which procedures and documentation would be required for the goods in transit. In response to this concern the Committee was informed that there was no restriction in the agreement that was going to limit Kenya from sourcing for goods from other EAC countries to export to the UK, further the products could transit via the EU with no value addition.

46) Its important to know whether Kenyan products meeting EU standards would be admitted into the UK as well as the Scope of the trade agreement, what would the scope of this agreement be and the implications that the EPA would have on key sectors such as agriculture and manufacturing in Kenya. The stakeholder sought to establish any implications for regional integration and whether UK products would come into the country via Mombasa and find their way into other EAC Member States.

47) On the ratification process; the process was flawed as the Government had already signed the agreement with the UK and the same was brought to parliament for 'ratification' as a rubberstamping process. They were of the view that Parliament ought to have been involved in the approval process from the onset of the negotiations to the culmination of the process. Clarification was provided to the effect that pursuant to section 7 and 8 of the Treaty Making

and Ratification Act, 2012 the National Assembly is not prohibited from making any reservation on the EPA.

48) Econews Africa challenged the process of ratification of agreements carried out in Kenya and contrasted the same with what was the practice in the United Kingdom, where the negotiations were said to be transparent and there was involvement of Parliament, the devolved administrations and legislatures, local government, business, trade unions, civil society, and the public from every part of the United Kingdom must be accorded an opportunity to engage with and contribute to the trade policy and sought to have Kenya to involve the stakeholders including Parliament in the processes culminating in the formulation of the agreement. It was confirmed that the Treaty Making and Ratification Act should be amended to allow for the involvement of parliament and all stakeholders in the negotiations of agreements and allow for elaborate public participation.

3.3 Kenya National Chamber of Commerce and Industry

49) From the private sector, the Chamber had an opportunity to participate in the government led negotiations as business management organization and a joint private sectors consortium under the leadership of the Principal Secretary of trade and his team.

50) Kenya has been working to improve on her trade and investments through forging partnerships and agreements with Countries and regions with a view to enhance economic growth and development. Kenya has had a myriad of trade and investment agreements including being part of the East Africa Community (EAC), the Common Market for Eastern and Southern Africa (COMESA) and the Tripartite Free Trade Agreement (TFTA).

51) This implies that with the existence of such trade agreements, Kenya has the obligation to factor regional trade agreements such as EAC where there exists a common external tariff (CET). Kenya seeks to increase her exports while ensuring a free flow and access of new technologies among other products from across the world. Kenya trade deficit remains at Kshs.1.3 trillion due exports valued at Kshs.597 billion and imports valued at Kshs.1,806 billion.

52) Kenya imports continue to surge more than exports causing escalation of trade deficit. It is against this background that Kenya has signed an agreement with the United Kingdom. It is a statutory requirement that before such laws are ratified, they are subjected to public participation as well as their regulatory and economic impact assessment according to statutory instruments Act and the Treaty Making and Ratification Act.

53) The Kenya and United Kingdom parliaments have both not ratified seeking for more views from stakeholders. The United Kingdom Parliament sited challenges that can the agreement pose to the EAC regional trading bloc that has a common external tariff with Kenya, that it can bring challenges. Kenya parliament has sought views from the public on the agreement while a group called Kenya Small Scale Farmers Forum and Econews Africa have moved to court calling for more transparency and public participation before the agreement is implemented. The paper gives perspectives on the agreement and possible way forward towards implementation of the trade agreement for the mutual benefits to all Kenyans.

Kenya United Kingdom Trade and Opportunities

54) United Kingdom is a high-income economy, a member of the Great 7 nations while Kenya is a lower middle-income economy. United Kingdom is among leading markets for Kenya exports. Even though Kenyan exports have declined from Kshs.40.7 billion in 2015, and Kshs.40.2 billion in 2018 to Kshs.40 billion in 2019. The United Kingdom constitutes the bulk of imports from Europe. UK imports to Kenya declined from Kshs.43 billion in 2015 to Kshs.35 billion in 2019. It is also a leading origin of tourism earnings with visitors increasing from 225,000 of bed occupancy in 2015 to 315,000.

55) Due to this, Kenya has been enjoying trade surplus reaching Kshs.5 billion in 2019. Some of the products for export include new entrants leather shoes and t-shirts and common products such as tea, coffee, cut flowers, fresh fruits, spices, and vegetables. Imports include electronics, machinery, and technical equipment. Clearly, the United Kingdom is a leading market for Kenya exports of goods and services. Kenya has a small share in the stock of UK foreign direct investment (FDI) to Africa, 2% of UK total stock in 2015. Conversely, when looking at Kenya trade inflows, the UK is a major source, contributing 40% of Kenya total FDI inward flows in 2012.

The Kenya UK Economic Partnership Agreement

56) The Kenya UK EPA has come into force at a time when the later has exited from the European Union. To ensure free flow of goods and services between the two Countries without disruptions, the agreement was signed and currently going through public participation.

57) A key highlight of the agreement is that it covers trade between Kenya and UK but open to the rest of EAC member states.

58) The agreement is poised to go through public participation and thus the need to share with stakeholders for their detailed analysis and review to enable them make informed contributions to it.

59) If implemented, the trade agreement provides the following.

a. Continued trade between Kenya and the United Kingdom, which is in favour of Kenya.
b. Continued access to imports such as technology, machinery, electronics, cars, and ICT.
c. Guaranteed FDI inflows and thus foreign exchange to Kenya.
d. Kenya companies to continue enjoying unlimited duty free market access and networks established during the EAC-EU EPA.

60) If not implemented, the following consequences are likely to face Kenyan exporters.

a. Businesses will immediately lose preferences negotiated in the Kenya -UK EPA.

b. Kenya exports will immediately be subjected to GSP tariffs and duties thus reducing on our foreign exchange earnings and our competitiveness.

c. Kenya will be denied DFQF market access beyond the zero tariffs already under MFN. The aim of such an agreement is to ensure that maximum benefits are derived from trade.

d. Our exports to UK or import of technology and machinery from UK will become expensive hurting consumers and affecting economic activities.

e. There is a possibility of having to contend with quota-bases market access to the UK.

61) Kenya should sign the economic partnership agreement with the UK for the following reasons, that

a) This is because of the minimal risk to our agricultural sector. On average Kenyan exports to the UK enjoy zero tariffs while UK imports attract duty of average 16% for their products.
b) The goods imported from UK Do not compete with Kenya's products as we enjoy different comparative advantages. We risk losing the duty-free access should we not sign the partnership agreement
c) Kenya is likely to suffer by loss of foreign exchange due to higher duties. Business and consumers to be affected and the overall, Kenya economy if the Kenya-UK EPA is not implanted. Thus, the need to expedite ratification of the agreement.

62) EAC Countries will continue accessing the UK market since there are LDC's under the WTO'S EBA provisions which disadvantages Kenya as a country within the same arrangement of the EAC customs union.

3.4 Kenya Flower Council

63) Kenya Flower Council (KFC) is the county's leading representative body for growers, exporters of cut-flowers and ornamentals value chains whose members account for approximately75 percent of Kenya's floricultural exports worldwide.

64) The Kenya flower industry is a highly competitive international industry. Kenya's main competitors are Ethiopia, which is an LDC and trades duty and quota free under EBA, and Colombia, who already have a bilateral free trade agreement with the UK.

65) If the Kenya UK EPA is not concluded, and duties at a level of 8 percent are applied, then Kenya's prices will be uncompetitive and will lose market share. Coupled with increased freight rates because of the worldwide COVID pandemic, Kenya's floriculture industry will find it hard to survive.

66) Under the EPA, Kenya's fresh produce exports will remain competitive and certainty in terms of trade will encourage investment leading to more production and more jobs.

67) The Kenya –UK EPA ensures that all cut-flower and ornamentals companies in Kenya, can continue to benefit from quota and duty-free access to the UK market.

68) Cut flowers are now Kenya's second largest export after tea, contributing around 1.7 percent of the country's GDP.

Page | 20

69) The industry is also one of the country's leading employers with over 200,000 people working directly in the flower industry and an estimated two million indirectly.

70) The agreement therefore supports jobs and economic development in Kenya, as well as avoid

71) Possible disruption to UK businesses such as florists and retailers who will not be able to maintain tariff-free supply routes for Kenya's high-quality flowers.

72) Kenya flowers will benefit from enhanced privileges for agricultural goods that confer originating status to EAC exports, even if they transit through EU's 27 countries.

3.5 Kenya Association of Manufacturers

73) The Association was involved in the process of negotiating for the Kenya UK EPA

74) Under Annex II (a) it lists the custom duties applications of products originating in the UK imported into the territory of the EAC Partner States(s). These are the products for immediate liberalization upon the entry into force of the Agreement which mainly attract MFN duty of zero per cent.

75) Customs duties applicable to products originating in the UK imported into the EAC that shall be liberalized after 7 years upon entry of the Agreement as shown in Annex II(b) and those finished products to be liberalized by 25th year are shown in Annex III(c) while the Exclusion list(Sensitive Products is shown in Annex II(d).

76) The Exclusion list contains products designated by Kenya as sensitive and will therefore not be subject to liberalization. The sensitive list was arrived at through wider consultation with the private sector and other stakeholders in the wider economic, and also took in consideration the industrial and development aspirations of the EAC region as guided by various policy documents. Consideration was also taken on the products designated as sensitive under EAC CET. The sensitive list was arrived at through wider consultation with the private sector and other stake holders in the wider economic spheres. The choice of products to be in the exclusion list was informed by the industrial and development aspirations of the EAC region as guided by various policy documents. The consideration was also taken on products designated as sensitive under the EAC CET

77) The manufacturing sector in Kenya has demonstrated its resilience to withstand economic shocks while many sectors succumb to internal and external shocks such as drought for agriculture and tourism because of COVID 19, terrorism and negative media reporting.

78) It is therefore critical that local manufacturers are provided with a competitive manufacturing environment for Kenya to achieve economic prosperity through creation of wealth, employment and poverty reduction.

79) The local manufacturers are operating in a globalized world and have to contend with increased competition in the domestic, regional and global markets. This therefore calls for our National Government and Parliamentary Committee on Trade, Industry and Investment

Page | 21

to continue looking at the legislations that will facilitate investments and attention to the competitiveness of local industries and manufacturing.

80) The policy space provided by the Kenya –UK FTA on 7 years moratorium before the commencement of some tariff phased down to zero by 15th and 25th year for full liberalization will provide the National Government. The challenge to embrace an opportunity to revitalize the industries in order to make them become competitive before tariff liberalization for UK industries commerce.

81) The EPA provides Kenyans an opportunity to utilize tax free and quota free market in the UK.

3.6 Fresh Produce Exporters Association of Kenya, Kenya fresh Produce Consortium and Kenya-UK EPA Private Sector Consortium

82) That the bulk of trade between the UK and Kenya is horticulture/agriculture based, and further that the agriculture sector is the mainstay of Kenya's economy, contributing 29.3% to the Gross Domestic Product (GDP) and accounting for 80% of national employment.

83) Kenya has a competitive advantage on Agricultural sector due to our climatic condition which favours year round yields as opposed to the UK. As a KFPEAK, Kenya-UK EPA will provide the farmers to export their agricultural products to the UK.

84) The EPA provides an opportunity to expand and invest more in the agricultural sector to sell in the UK.

85) There is no need to fear about UK raising SPS standards since each country has an obligation to protect its people from diseases. The government needs to sensitive farmers on Sanitary and Phytosanitary Measures (SPS) in order to improve on standards for our agricultural products for them to be competitive in the international market in particular the UK.

86) The ratification is crucial to avoid losses such like those experienced in the 90 days in 2016 when there was no economic arrangement between the two countries.

3.7 Kenya Association of Waste Recyclers

Through the Chairman, the Kenya Association of Recyclers submitted as follows;

87) That the National Assembly needed to interrogate and confirm that the economic interest of the Kenyan people and industries are adequately safeguarded and protected in the EPA.

88) To ensure due process is followed in the making and ratification of the EPA and alleged that the relevant Ministry did not carry out public participation

89) Zero rating pulps of fibers derived from recovered (waste and scrap)paper or paperboard or other paper or paper board made from bleached chemical pulp and others including unsorted waste and scrap will affect waste collection and recycling industry negatively.

Page | 22

3.8 State Department of Fisheries, Aquaculture and the Blue Economy

Ms. Lucy Obungu, Deputy Director Fisheries submitted as follows, that:-

90) The State Department exists through the Fisheries Management and Development Act (2016). The Department ensures sustainable utilization of fisheries resources as well as development for the benefit of Kenyans. They use the Port State Measures Agreement as a tool to cover ratified agreement.

91) The signed port state agreement which provides for the following control measure-

a. All fishing vessels must report to the fishing port of the country to provide their specific data to the country authorities;

b. As a tradable commodity, fish resources must be declared to the country and possibly sold to the country of origin, where sale of the same is to be sold outside the county, then 30% of the total catch must be surrendered to the country of origin as payment;

c. All vessels accessing a foreign Exclusive Economic Zone must be licensed to do fishing in the given exclusive Economic Zone.

92) The Department was involved in the negotiation of the Kenya-UK EPA and ensured that the fisheries and blue economy is protected under Articles 53, 54 and 55.

93) They are Members of the Indian Ocean Tuna Commission (IOTC) and as such, they come up with resolutions for adoption. They further gazette the same into Kenyan law for purposes of implementation and sustainable management of Indian Ocean resources.

94) The State Department is a member of The Southwest Indian Ocean Fisheries Commission through which they have isolated issues of foreign fishing vessels. This has led them to come up with minimum conditions for licensing the vessels.

95) The Department carries out pre-licensing inspection of the foreign vessels to ascertain that the vessels have not been involved in Illegal, Unreported and Unregistered (IUU) fishing and that they further have authorization to fish in any other Exclusive Economic Zones (EEZ) other than from their flagged countries.

96) They have a Vessel Monitoring System which monitors licensed foreign vessels within the Kenyan EEZ. In addition, they have an Automatic Information System (AIS) within the Monitoring, Control and Surveillance Centre in Mombasa.

97) There exists an Observer Program within the Department that allows them to board vessels and go with them so as to monitor how fishing is done as well as the kind of fish that is caught. The vessel captain is required to report what has been caught in the waters every 6-24 hours. Before entering Kenya's EEZ, every vessel declares the species and amount of fish they have on board. They declare the same during their exit.

98) The Kenyan waters are not open to the UK to bring in as many vessels as they want. The Department is controlling the licensing of the vessels. Precautionary and restrictive measures are provided for under the EPA.

99) Since 2020, the Department has not licensed any foreign vessels so that they can build capacity to utilize the EEZ. Currently, there are 10 foreign vessels within the EEZ.

100) When one wants to export fish, they have to sign a Catch Certificate which traces where the fish was caught.

3.9 Dr. Francis Muraya – Economic Advisor, Executive Office of the President

101) Dr. Muraya assured the Committee of HE the President's commitment to the Kenya-UK EPA. He opined that many countries are looking at getting into partnership agreements with Kenya because of its strategic location, infrastructure and human resource.

102) He stated that the EPA is an opportunity for Kenya to enhance its economic growth. There is however need to protect and develop the resources. Dr. Muraya said that the agreement is rule-based and as such Kenya is able to predict what is happening within the set parameters.

103) He stated that enforcement of the EPA would enhance efficiency, build capacity and create jobs. He urged the Committee to support the EPA and provide resources in terms of budgetary allocation and human resource capacity building for its realization. He advised that it is trade that builds economies.

Page | 24

5.0 COMMITTEE OBSERVATIONS

The Committee having considered the Agreement observed as follows,

104) The UK is the 5th largest export market for Kenya. Among the top exports includes edible vegetables, tea, cut flowers, edible fruit and nuts. Kenya has a potential to increase exports products like textiles and apparels, processed tea and coffee, leather products, fish and livestock products and edible vegetable oils.

105) In the Economic survey of 2020, the balance of trade between Kenya and the UK was fifteen (15) Billion shillings in favour of Kenya, as the imports from the UK to Kenya were less than what was exported. If this EPA was to be utilised by Kenya, there would be more exports to the UK.

106) The EPA is a roll-over of the EAC-EU EPA, it provides immediate access of all Kenya's goods except arms and ammunitions to UK-Northern Ireland on duty free and quota free basis as contained in Annex I and II of the Agreement upon ratification.

107) The memorandum forwarding the Kenya-UK EPA to the National Assembly on 22nd December 2020 by the Cabinet Secretary indicated that the Agreement as negotiated did not contain any reservations. Pursuant to section 8 of the Treaty Making and Ratification Act, 2012 the National Assembly is not prohibited from making any reservation to the Kenya-UK EPA.

108) Article 3 of the Kenya-UK EPA contains the *rendez-vous* clause that provides for the parties to conclude the negotiations on trade in services, Trade related issues (competition policy, investment and private sector development, trade, environment and sustainable development, intellectual property rights and transparency in public procurement), and any other areas that the parties may agree upon, within five years upon entry into force of the Kenya-UK EPA. These negotiations will be done in a consultative framework and in accordance with the provisions of the Treaty Making and Ratification Act, 2012.

109) There is an exemption clause under Article 14(2) of the Kenya-UK EPA that provides that the EAC Partner State (s) can impose temporary duty or tax a temporary duty or tax after notifying the UK in connection with exportation of goods to protect nascent, vulnerable and under developed infant industries under the following circumstance to: -

a. Foster the development of domestic industry,

b. Maintain currency stability; and

c. Protect revenue, food security and environment.

110) Articles 48, 49 and 50 of the Kenya-UK EPA provides for the trade defence measures that includes; anti-dumping and countervailing measures, multilateral safeguards and bilateral safeguards respectively, and which are in accordance with relevant WTO Agreements.

111) Article 141 provides for review in that the Kenya-UK EPA shall be reviewed after every five years from the date of its entry into force and that during the implementation stages, any party may make suggestions towards adjusting trade related cooperation which is further strengthened by Article 142 of Kenya-UK EPA which provides for the amendment process of the Kenya-UK EPA.

112) Concerns were raised on the products inundation of sensitive products in the Kenyan market. The Kenya-UK EPA provides a list of agricultural products that are excluded from liberalization as contained in Annex II (d) these include, dairy and dairy products, cane and beet sugar, Meat (beef, goat and sheep and pork) poultry and poultry products, tea, maize , cereals, fish and fish products among others.

113) Member States of the East African Community were aware of the negotiations for this Agreement and were formally informed when Kenya commenced negotiation with the UK. Kenya engaged with EAC countries throughout the year 2020 on joint negotiations but other partner States were not in a position to join in. This position was minuted and confirmed in the EAC Sectoral Council on investment trade and Investment (SCITIFI) meeting of September 2020.

114) The spirit of implementing agreements with European countries was affirmed by the 21st Summit of EAC Head of States through which they provided authority to partner States that had signed and ratified to implement the Agreements. In this case Kenya being the only EAC country that had satisfied the two Conditions (signing and ratifying) becomes the first country to proceed to implement the agreements.

115) The Kenyan Parliament in 2016 ratified the EAC-EU EPA. The tax regime , as contained in the Agreement, of items that are zero rated remain the same as those provided in the EAC-EU EPA and as provided in the Annexures as follows-

a. Annexe II (a) for products that do not attract any duty;

b. Annexe II(b) where there is a moratorium of seven (7) years and an eight (8) year progressive liberalization of duties to Zero percent by the (fifteenth) 15th year;

c. Annexe II(c) where there is a moratorium of twelve (12) years and a thirteen (13) year progressive liberalization of duties to Zero percent by the twenty-fifth (25th) year and thus the moratorium offers an opportunity to protect, promote rapid revitalization and improving the competitiveness of our local industries.

116) Public participation and stakeholder engagement with the committee was done during the negotiations by the State Department of Trade and Enterprise development. Pursuant to Section 118 of the Constitution, Parliament also carried out Public participation. Most of the stakeholder that appeared before the Committee support the Kenya-UK EPA. The Committee engaged the following stakeholders-

a. Parliamentary Caucus on Economy and Business;

b. Departmental Committee on Agriculture and Fisheries

c. Departmental Committee on Finance and National Planning

d. The Ministry for Industrialization, Trade and Enterprise Development

e. Econews Africa;

f. Kenya National Chamber of Commerce and Industry (KNCCI);

g. Kenya Flower Council (KFC);

h. Kenya Association of manufacturers; (KAM)

i. Fresh Produce Exporters Association of Kenya (FPEAK);

j. Kenya fresh produce Consortium; and

k. Kenya-UK-EPA Private Sector Consortium

l. State Department for Fisheries Aquaculture and Blue Economy

m. Kenya Revenue Authority

117) In reference to Article 55 of the Kenya-UK EPA, it was noted that the country did not have full scale technology as far as a marine and aquatic life was concerned, and it was felt that the sector should be funded fully to avert unequal advantage to the UK that has advanced technological prowess.

118) Concerns that Agricultural products from the UK would inundate the Kenyan market which was debunked on account of competitive advantage of Kenya's products and the safety measures under the exclusion list (annex II(d). Thus Kenya ought to take advantage of the availability of favourable terms of trade as contained in the Kenya-UK EPA.

119) Kenya Marine and inland fish make up a significant portion of export to the UK. Article 87-89 of the–UK EPA focuses on fisheries and aquaculture, endeavour to promote effective exploitation, conservation and management of fish sources-inland and within the Exclusive Economic Zones (EEZ) of EAC and to Ensure that the region derives equitable benefits from the fish harvested in their territories. The parties agree in the EPA to establish a Vessel Management System (VMS) and a monitoring control and surveillance (MCS) to develop and modernize transhipment infrastructure in Kenya coastal ports. Further UK commits to support capacity building and training programmes to improve the competitiveness of the inland fisheries, management of export market chains

120) The National Assembly and the relevant government department's needs to fasten the process of reviewing and developing relevant pieces of legislation and policies that will provide a conducive and enabling environment for investment opportunities for local investors before the lapse of the 7-year moratorium as provided in the Kenya-UK EPA.

121) There are concerns on the Sanitary and Phytosanitary Measures (SPS) provided for in Title IV of the Agreement on standards for our agricultural products. There is a need to strengthen and improve the regulation and safety standards of our agricultural produce for our domestic consumption and exports and this can only be done by Kenya investing in regulatory agencies that would improve sustainable food safety, quality, certification as well enhance traceability in the entire value chain.

122) There is need to ensure that the Kenya- UK EPA is ratified by National Assembly so as to avert any potential losses to Kenyan exporters as was the case in 2014 when the EAC-EU Agreement which was not ratified on time and Kenyan exporters had to pay duty for a period of three months to the tune of Kshs. ten (10) Billion

6.0 COMMITTEE RECOMMENDATIONS

Having considered the Kenya-UK EPA between the Republic of Kenya, a member of the East African Community of the one part and the United Kingdom of Great Britain and Northern Ireland of the other part; the Committee recommends that: -

123) **Pursuant to Section 8 of the Treaty Making and Ratification Act of 2012, the House APPROVES the Economic Partnership Agreement (EPA) between the Republic of Kenya, a member of the East African Community of the one part and the United Kingdom of Great Britain and Northern Ireland of the other part.**

124) **The Ministry of Industrialization, State Department for Trade and Enterprise Development or any other State Department to which it may be domiciled to submit to the National Assembly;**

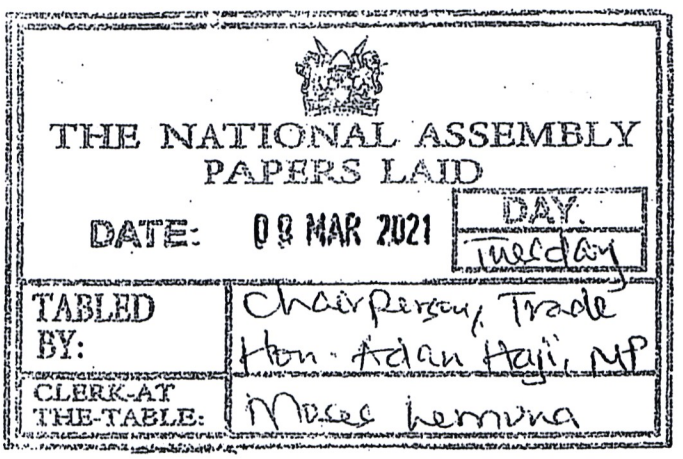
a. **Annual progress reports on the implementation of the Kenya-UK EPA.**

b. **An annual economic impact assessment report outlining the gains, losses and developments arising from the implementation of the Kenya-UK EPA.**

Signed.....**Date**.....8th March 2021

HON. ALI ADAN HAJI ALI, MP

CHAIRPERSON, DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES



ANNEX I

ADOPTION LIST

Page | 24

DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY & COOPERATIVES

ADOPTION LIST

Clerk's Chambers
National Assembly
NAIROBI

Agenda: Adoption of addendum report to the report tabled on 25th February, 2021 on the consideration for approval of the ratification of the Economic Partnership Agreement (EPA) between Kenya, a member of the East African Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part

Date: 8th March, 2021 **Venue:** Loita Conference, Emara Ole Sereni Hotel

NO.	NAME	SIGNATURE
1.	Hon. Adan Haji Ali, MP - **Chairperson**	
2.	Hon. Wangari Mwaniki, MP – **Vice Chairperson**	
3.	Hon. William Cheptumo, MP	
4.	Hon. Alois Musa Lentoimaga, MP	
5.	Hon. Anab Mohamed Gure, MP	
6.	Hon. Andrew Mwadime, MP	
7.	Hon. Christopher Doye Nakuleu, MP	
8.	Hon. Daniel Maanzo, EBS, MP	
9.	Hon. Jared Okelo, MP	
10.	Hon. Sharif Athman Ali, MP	
11.	Hon. Jones Mlolwa, MP	
12.	Hon. Kipruto Moi, MP	
13.	Hon. Ayub Savula, MP	
14.	Hon. Gichimu Robert, MP	
15.	Hon. Kimani Patrick Wainaina Jungle, MP	
16.	Hon. Fred Ouda, MP	
17.	Hon. Ngugi Joseph Nduati, MP	
18.	Hon. Wachira Rahab Mukami, MP	
19.	Hon. Dr. Wilberforce Oundo, Phd, MP	

FOR: CLERK OF THE NATIONAL ASSEMBLY

ANNEX II

MINUTES

MINUTES OF THE 8TH SITTING (5TH SESSION) OF THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES HELD ON FRIDAY 5TH MARCH, 2021 IN SIANA CONFERENCE ROOM, OLE SERENI HOTEL AT 2.30 PM

PRESENT

1. Hon. Adan Hajj Ali, MP – **Chairperson**
2. Hon. Wagari Mwaniki, MP –**Vice Chairperson**
3. Hon. Daniel Maanzo, MP
4. Hon. Andrew Mwadime, MP
5. Hon. Jared Okelo, MP
6. Hon. Alois Musa Lentoimaga, MP
7. Hon. Jones Mlolwa, MP
8. Hon. Sharif Athman, MP
9. Hon. Dr. Wilberforce Oundo, Phd, MP
10. Hon. Anab Mohamed Gure, MP
11. Hon. Wachira Rahab Mukami, MP
12. Hon. Gichimu Robert, MP
13. Hon. Nduati Joseph Ngugi, MP
14. Hon. Fred Ounda, MP

APOLOGY

1. Hon. William Cheptumo, MP
2. Hon. Christopher Nakuleu, MP
3. Hon. Kipruto Moi, MP
4. Hon. Ayub Savula, MP
5. Hon. Kimani Patrick Wainaina Jungle, MP

IN ATTENDANCE

SECRETARIAT

1.	Mr. Erick Nyambati	-	Clerk Assistant II
2.	Ms. Nuri Kitel Nataan	-	Clerk Assistant II
3.	Ms. Marlene Ayiro	-	Senior Legal Counsel
4.	Mr. Joseph Ndirangu	-	Fiscal Analyst
5.	Mr. Richard Sang	-	Sergeants At Arms
6.	Mr. Nimrod Ochieng	-	Audio Officer
7.	Ms. Bishara Jimale	-	Secretary

1 | Page

MIN.NO.NA/TRADE/2021/022: **PRELIMINARIES/COMMUNICATION FROM THE CHAIRPERSON**

The Chairperson called the meeting to order at 3.30 pm and said the prayer. He welcomed the meeting to deliberate on the day's agenda having been adopted by the Committee.

MIN.NO.NA/TRADE/2021/023: **CONSIDERATION AND ADOPTION OF ADDENDUM REPORT TO REPORT TABLED ON 25TH FEBRUARY 2021 ON THE CONSIDERATION FOR APPROVAL OF THE RATIFICATION OF THE ECONOMIC PARTNERSHIP AGREEMENT (EPA) BETWEEN KENYA, A MEMBER OF THE EAST AFRICAN COMMUNITY, OF THE ONE PART, AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, OF THE OTHER PART**

Having considered the Kenya-UK EPA between the Republic of Kenya, a member of the East African Community of the one part and The United Kingdom of Great Britain And Northern Ireland of the other Parts and listened to submissions by key stakeholders the Committee adopts the report with the following observations and recommends that-

Committee Observations

1) The UK is the 5th largest export market for Kenya. Among the top exports includes edible vegetables, tea, cut flowers, edible fruit and nuts. Kenya has a potential to increase exports products like textiles and apparels, processed tea and coffee, leather products, fish and livestock products and edible vegetable oils.

2) In the Economic survey of 2020, the balance of trade between Kenya and the UK was fifteen (15) Billion shillings in favour of Kenya, as the imports from the UK to Kenya were less than what was exported. If this EPA was to be utilised by Kenya, there would be more exports to the UK.

3) The EPA is a roll-over of the EAC-EU EPA, it provides immediate access of all Kenya's goods except arms and ammunitions to UK-Northern Ireland on duty free and quota free basis as contained in Annex I and II of the Agreement upon ratification.

4) The memorandum forwarding the Kenya-UK EPA to the National Assembly on 22nd December 2020 by the Cabinet Secretary indicated that the Agreement as negotiated did not contain any reservations. Pursuant to section 8 of the Treaty Making and Ratification Act, 2012 the National Assembly is not prohibited from making any reservation to the Kenya-UK EPA.

5) Article 3 of the Kenya-UK EPA contains the rendez-vous clause that provides for the parties to conclude the negotiations on trade in services, Trade related issues (competition policy, investment and private sector development, trade, environment and sustainable development, intellectual property rights and transparency in public procurement), and any other areas that the parties may agree upon, within five years upon entry into force of the Kenya-UK EPA. These negotiations will be done in accordance with the provisions of the Treaty Making and Ratification Act, 2012.

6) There is an exemption clause under Article 14(2) of the Kenya-UK EPA that provides that the EAC Partner State (s) can impose temporary duty or tax a temporary duty or tax after notifying the UK in connection with exportation of goods to protect nascent, vulnerable and under developed infant industries under the following circumstance to: -

   a. Foster the development of domestic industry,

   b. Maintain currency stability; and

   c. Protect revenue, food security and environment.

7) Articles 48, 49 and 50 of the Kenya-UK EPA provides for the trade defence measures that includes; anti-dumping and countervailing measures, multilateral safeguards and bilateral safeguards respectively, and which are in accordance with relevant WTO Agreements.

8) Article 141 provides for review in that the Kenya-UK EPA shall be reviewed after every five years from the date of its entry into force and that during the implementation stages, any party may make suggestions towards adjusting trade related cooperation which is further strengthened by Article 142 of Kenya-UK EPA which provides for the amendment process of the Kenya-UK EPA.

9) Concerns were raised on the products inundation of sensitive products in the Kenyan market. The Kenya-UK EPA provides a list of agricultural products that are excluded from liberalization as contained in Annex II (d) these include, dairy and dairy products, cane and beet sugar, Meat (beef, goat and sheep and pork) poultry and poultry products, tea, maize , cereals, fish and fish products among others.

10) Members States of the East African Community were aware of the negotiations for this Agreement and were formally informed when Kenya commenced negotiation with the UK. Kenya engaged with EAC countries throughout the year 2020 on joint negotiations but other partner states were not in a position to join in. This position was minuted and confirmed in the EAC Sectoral Council on investment trade and Investment (SCITIFI) meeting of September 2020.

11) The spirit of implementing agreements with European countries was affirmed by the 21st Summit of EAC Head of States through which they provided authority to partner states that had signed and ratified to implement the Agreements. In this case Kenya being the only EAC country that had satisfied the two Conditions (signing and ratifying) becomes the first country to proceed to implement the agreements.

12) There is need to ensure that the Kenya- UK EPA is ratified by parliament so as to avert any potential losses to Kenyan exporters as was the case in 2014 when the EAC-EU Agreement which was not ratified on time and Kenyan exporters had to pay duty for a period of three months to the tune of Kshs. Tten (10) Billion.

13) The Kenyan Parliament in 2016 ratified the EAC-EU EPA. The tax regime , as contained in the Agreement, of items that are zero rated remain the same as those provided in the EAC-EU EPA and as provided in the Annexures as follows-

a. Annexe II (a) for products that do not attract any duty;

b. Annexe II(b) where there is a moratorium of seven (7) years and an eight (8) year progressive liberalization of duties to Zero percent by the (fifteenth) 15th year;

c. Annexe II(c) where there is a moratorium of twelve (12) years and a thirteen (13) year progressive liberalization of duties to Zero percent by the twenty-fifth (25th) year and thus the moratorium offers an opportunity to protect, promote rapid revitalization and improving the competitiveness of our local industries.

14) Public participation and stakeholder engagement with the committee was done during the negotiations by the State Department of Trade and Enterprise development. Pursuant to Section 118 of the Constitution, Parliament also carried out Public participation. Most of the stakeholder that appeared before the Committee support the Kenya-UK EPA. The Committee engaged the following stakeholders-

a. Parliamentary Caucus on Economy and Business;

b. Departmental Committee on Agriculture and Fisheries

c. Departmental Committee on Finance and National Planning

d. The Ministry for Industrialization, Trade and Enterprise Development

e. Econews Africa;

f. Kenya National Chamber of Commerce and Industry (KNCCI);

g. Kenya Flower Council (KFC);

h. Kenya Association of manufacturers; (KAM)

i. Fresh Produce Exporters Association of Kenya (FPEAK);

j. Kenya fresh produce Consortium; and

k. Kenya-UK-EPA Private Sector Consortium

l. State Department for Fisheries Aquaculture and Blue Economy

4 | Page

m. Kenya Revenue Authority

15) In reference to Article 55 of the Kenya-UK EPA, it was noted that the country did not have full scale technology as far as a marine and aquatic life was concerned, and it was felt that the sector should be funded fully to avert unequal advantage to the UK that has advanced technological prowess.

16) Concerns that Agricultural products from the UK would inundate the Kenyan market which was debunked on account of competitive advantage of kenya's products and the safety messures under the exclusion list (annex II(d). Thus Kenya ought to take advantage of the availability of favourable terms of trade as contained in the Kenya-UK EPA.

17) The National Assembly and the relevant government department's needs to fasten the process of reviewing and developing relevant pieces of legislation and policies that will provide a conducive and enabling environment for investment opportunities for local investors before the lapse of the 7-year moratorium as provided in the Kenya-UK EPA.

18) There are concerns on the Sanitary and Phytosanitary Measures (SPS) provided for in Title IV of the Agreement on standards for our agricultural products. There is a need to strengthen and improve the regulation and safety standards of our agricultural produce for our domestic consumption and exports and this can only be done by Kenya investing in regulatory agencies that would improve sustainable food safety, quality, certification as well enhance traceability in the entire value chain.

19) The Committee noted there are apparent overlaps in form of structure and functions between the State Department of Agriculture and the state department of trade which might affect the smooth implementation of the Kenya-UK EPA.

Committee Recommendation

20) Pursuant to Section 8 of the Treaty Making and Ratification Act of 2012, the House approves the Economic Partnership Agreement (EPA) between the Republic of Kenya, a member of the East African Community of the one part and The United Kingdom of Great Britain And Northern Ireland of the other Part.

21) The Ministry of Industrialization, State Department for Trade and Enterprise Development to:
    a. File annual progress reports on the implementation of the Kenya-UK EPA to the National Assembly.
    b. Provide an annual economic impact analysis report outlining the status and developments arising from the implementation the Kenya-UK EPA to the National Assembly.

MIN.NO.NA/TRADE/2021/024: **ADJOURNMENT**

The Chairperson adjourned the meeting at 4.30 pm. The next meeting will be on notice.

SIGNED.....

(Chairperson)

DATE.....8th March 2021.....

MINUTES OF THE 7TH SITTING (5TH SESSION) OF THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES HELD ON SUNDAY 7TH MARCH, 2021 IN SIANA CONFERENCE ROOM, OLE SERENI HOTEL AT 9.30 AM

PRESENT

1. Hon. Adan Hajj Ali, MP – **Chairperson**
2. Hon. Wagari Mwaniki, MP –**Vice Chairperson**
3. Hon. Daniel Maanzo, MP
4. Hon. Andrew Mwadime, MP
5. Hon. Jared Okelo, MP
6. Hon. Alois Musa Lentoimaga, MP
7. Hon. Jones Mlolwa, MP
8. Hon. Sharif Athman, MP
9. Hon. Dr. Wilberforce Oundo, Phd, MP
10. Hon. Anab Mohamed Gure, MP
11. Hon. Wachira Rahab Mukami, MP
12. Hon. Gichimu Robert, MP
13. Hon. Nduati Joseph Ngugi, MP
14. Hon. Fred Ounda, MP

APOLOGY

1. Hon. William Cheptumo, MP
2. Hon. Christopher Nakuleu, MP
3. Hon. Kipruto Moi, MP
4. Hon. Ayub Savula, MP
5. Hon. Kimani Patrick Wainaina Jungle, MP

IN ATTENDANCE

FRIENDS OF THE COMMITTEE

1. Hon. John K. Mutunga, MP - Tigania West

SECRETARIAT

1. Mr. Erick Nyambati - Clerk Assistant II
2. Ms. Nuri Kitel Nataan - Clerk Assistant II
3. Ms. Marlene Ayiro - Senior Legal Counsel
4. Mr. Joseph Ndirangu - Fiscal Analyst
5. Mr. Richard Sang - Sergeants At Arms
6. Mr. Nimrod Ochieng - Audio Officer
7. Ms. Bishara Jimale - Secretary

MIN.NO.NA/TRADE/2021/019: PRELIMINARIES/COMMUNICATION FROM THE CHAIRPERSON

The Chairperson called the meeting to order at 2.30 pm and said the prayer. He welcomed the meeting to deliberate on the day's agenda having been adopted by the Committee.

MIN.NO.NA/TRADE/2021/020: DRAFTING OF COMMITTEE RECOMENDATIONS

Having considered the Kenya-UK EPA between the Republic of Kenya, a member of the East African Community of the one part and The United Kingdom of Great Britain And Northern Ireland of the other Parts the Committee recommends that-

1) Pursuant to Section 8 of the Treaty Making and Ratification Act of 2012, the House approves the Economic Partnership Agreement (EPA) between the Republic of Kenya, a member of the East African Community of the one part and The United Kingdom of Great Britain And Northern Ireland of the other Part.

2) The Ministry of Industrialization, State Department for Trade and Enterprise Development to:
   a. File annual progress reports on the implementation of the Kenya-UK EPA to the National Assembly.
   b. Provide an annual economic impact analysis report outlining the status and developments arising from the implementation the Kenya-UK EPA to the National Assembly.

MIN.NO.NA/TRADE/2021/021: ADJOURNMENT

The Chairperson adjourned the meeting at 5.30 pm. The next meeting will be held on Monday 8th March, 2021 at 10.00 am.

SIGNED.....

(Chairperson)

DATE.....8th March 2021.....

MINUTES OF THE 6TH SITTING (5TH SESSION) OF THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES HELD ON SATURDAY 6TH MARCH, 2021 IN SIANA CONFERENCE ROOM, OLE SERENI HOTEL AT 3.30 PM

PRESENT

1. Hon. Adan Hajj Ali, MP – **Chairperson**
2. Hon. Wagari Mwaniki, MP –**Vice Chairperson**
3. Hon. Daniel Maanzo, MP
4. Hon. Andrew Mwadime, MP
5. Hon. Jared Okelo, MP
6. Hon. Alois Musa Lentoimaga, MP
7. Hon. Jones Mlolwa, MP
8. Hon. Sharif Athman, MP
9. Hon. Dr. Wilberforce Oundo, Phd, MP
10. Hon. Anab Mohamed Gure, MP
11. Hon. Wachira Rahab Mukami, MP
12. Hon. Gichimu Robert, MP
13. Hon. Nduati Joseph Ngugi, MP
14. Hon. Fred Ounda, MP

APOLOGY

1. Hon. William Cheptumo, MP
2. Hon. Christopher Nakuleu, MP
3. Hon. Kipruto Moi, MP
4. Hon. Ayub Savula, MP
5. Hon. Kimani Patrick Wainaina Jungle, MP

IN ATTENDANCE

FRIENDS OF THE COMMITTEE

Hon. John K. Mutunga, MP - Tigania West

MINISTRY OF INDUSTRIALIZATION, TRADE AND ENTERPRISE DEVELOPMENT

1. Ms. Betty Maina, EBS - CS
2. Amb. Johnson Weru - PS

SECRETARIAT

1. Mr. Erick Nyambati - Clerk Assistant II
2. Ms. Nuri Kitel Nataan - Clerk Assistant II
3. Ms. Marlene Ayiro - Senior Legal Counsel
4. Mr. Joseph Ndirangu - Fiscal Analyst

5. Mr. Richard Sang - Sergeants At Arms
6. Mr. Nimrod Ochieng - Audio Officer
7. Ms. Bishara Jimale - Secretary

MIN.NO.NA/TRADE/2021/016: PRELIMINARIES/COMMUNICATION FROM THE CHAIRPERSON

The Chairperson called the meeting to order at 3.30 pm and said the prayer. He welcomed the meeting to deliberate on the day's agenda having been adopted by the Committee.

MIN.NO.NA/TRADE/2021/017: DRAFTING OF COMMITTEE OBSERVATIONS

The Committee having considered the Agreement observed as follows, **THAT:-**

1) The UK is the 5th largest export market for Kenya. Among the top exports includes edible vegetables, tea, cut flowers, edible fruit and nuts. Kenya has a potential to increase exports products like textiles and apparels, processed tea and coffee, leather products, fish and livestock products and edible vegetable oils.

2) In the Economic survey of 2020, the balance of trade between Kenya and the UK was fifteen (15) Billion shillings in favour of Kenya, as the imports from the UK to Kenya were less than what was exported. If this EPA was to be utilised by Kenya, there would be more exports to the UK.

3) The EPA is a roll-over of the EAC-EU EPA, it provides immediate access of all Kenya's goods except arms and ammunitions to UK-Northern Ireland on duty free and quota free basis as contained in Annex I and II of the Agreement upon ratification.

4) The memorandum forwarding the Kenya-UK EPA to the National Assembly on 22nd December 2020 by the Cabinet Secretary indicated that the Agreement as negotiated did not contain any reservations. Pursuant to section 8 of the Treaty Making and Ratification Act, 2012 the National Assembly is not prohibited from making any reservation to the Kenya-UK EPA.

5) Article 3 of the Kenya-UK EPA contains the rendez-vous clause that provides for the parties to conclude the negotiations on trade in services, Trade related issues (competition policy, investment and private sector development, trade, environment and sustainable development, intellectual property rights and transparency in public procurement), and any other areas that the parties may agree upon, within five years upon entry into force of the Kenya-UK EPA. These negotiations will be done in accordance with the provisions of the Treaty Making and Ratification Act, 2012.

6) There is an exemption clause under Article 14(2) of the Kenya-UK EPA that provides that the EAC Partner State (s) can impose temporary duty or tax a temporary duty or tax after

notifying the UK in connection with exportation of goods to protect nascent, vulnerable and under developed infant industries under the following circumstance to: -

a. Foster the development of domestic industry,

b. Maintain currency stability; and

c. Protect revenue, food security and environment.

7) Articles 48, 49 and 50 of the Kenya-UK EPA provides for the trade defence measures that includes; anti-dumping and countervailing measures, multilateral safeguards and bilateral safeguards respectively, and which are in accordance with relevant WTO Agreements.

8) Article 141 provides for review in that the Kenya-UK EPA shall be reviewed after every five years from the date of its entry into force and that during the implementation stages, any party may make suggestions towards adjusting trade related cooperation which is further strengthened by Article 142 of Kenya-UK EPA which provides for the amendment process of the Kenya-UK EPA.

9) Concerns were raised on the products inundation of sensitive products in the Kenyan market. The Kenya-UK EPA provides a list of agricultural products that are excluded from liberalization as contained in Annex II (d) these include, dairy and dairy products, cane and beet sugar, Meat (beef, goat and sheep and pork) poultry and poultry products, tea, maize , cereals, fish and fish products among others.

10) Members States of the East African Community were aware of the negotiations for this Agreement and were formally informed when Kenya commenced negotiation with the UK. Kenya engaged with EAC countries throughout the year 2020 on joint negotiations but other partner states were not in a position to join in. This position was minuted and confirmed in the EAC Sectoral Council on investment trade and Investment (SCITIFI) meeting of September 2020.

11) The spirit of implementing agreements with European countries was affirmed by the 21st Summit of EAC Head of States through which they provided authority to partner states that had signed and ratified to implement the Agreements. In this case Kenya being the only EAC country that had satisfied the two Conditions (signing and ratifying) becomes the first country to proceed to implement the agreements.

12) There is need to ensure that the Kenya- UK EPA is ratified by parliament so as to avert any potential losses to Kenyan exporters as was the case in 2014 when the EAC-EU Agreement which was not ratified on time and Kenyan exporters had to pay duty for a period of three months to the tune of Kshs. Tten (10) Billion.

13) The Kenyan Parliament in 2016 ratified the EAC-EU EPA. The tax regime , as contained in the Agreement, of items that are zero rated remain the same as those provided in the EAC-EU EPA and as provided in the Annexures as follows-

a. Annexe II (a) for products that do not attract any duty;

b. Annexe II(b) where there is a moratorium of seven (7) years and an eight (8) year progressive liberalization of duties to Zero percent by the (fifteenth) 15th year;

c. Annexe II(c) where there is a moratorium of twelve (12) years and a thirteen (13) year progressive liberalization of duties to Zero percent by the twenty-fifth (25th) year and thus the moratorium offers an opportunity to protect, promote rapid revitalization and improving the competitiveness of our local industries.

14) Public participation and stakeholder engagement with the committee was done during the negotiations by the State Department of Trade and Enterprise development. Pursuant to Section 118 of the Constitution, Parliament also carried out Public participation. Most of the stakeholder that appeared before the Committee support the Kenya-UK EPA. The Committee engaged the following stakeholders-

a. Parliamentary Caucus on Economy and Business;

b. Departmental Committee on Agriculture and Fisheries

c. Departmental Committee on Finance and National Planning

d. The Ministry for Industrialization, Trade and Enterprise Development

e. Econews Africa;

f. Kenya National Chamber of Commerce and Industry (KNCCI);

g. Kenya Flower Council (KFC);

h. Kenya Association of manufacturers; (KAM)

i. Fresh Produce Exporters Association of Kenya (FPEAK);

j. Kenya fresh produce Consortium; and

k. Kenya-UK-EPA Private Sector Consortium

l. State Department for Fisheries Aquaculture and Blue Economy

m. Kenya Revenue Authority

15) In reference to Article 55 of the Kenya-UK EPA, it was noted that the country did not have full scale technology as far as a marine and aquatic life was concerned, and it was felt that the sector should be funded fully to avert unequal advantage to the UK that has advanced technological prowess.

16) Concerns that Agricultural products from the UK would inundate the Kenyan market which was debunked on account of competitive advantage of kenya's products and the safety messures under the exclusion list (annex II(d). Thus Kenya ought to take advantage of the availability of favourable terms of trade as contained in the Kenya-UK EPA.

4 | Page

17) The National Assembly and the relevant government department's needs to fasten the process of reviewing and developing relevant pieces of legislation and policies that will provide a conducive and enabling environment for investment opportunities for local investors before the lapse of the 7-year moratorium as provided in the Kenya-UK EPA.

18) There are concerns on the Sanitary and Phytosanitary Measures (SPS) provided for in Title IV of the Agreement on standards for our agricultural products. There is a need to strengthen and improve the regulation and safety standards of our agricultural produce for our domestic consumption and exports and this can only be done by Kenya investing in regulatory agencies that would improve sustainable food safety, quality, certification as well enhance traceability in the entire value chain.

19) The Committee noted there are apparent overlaps in form of structure and functions between the State Department of Agriculture and the state department of trade which might affect the smooth implementation of the Kenya-UK EPA.

MIN.NO.NA/TRADE/2021/018: ADJOURNMENT

The Chairperson adjourned the meeting at 7.00 pm. The next meeting will be held on Sunday 7th March at 10.30 am.

SIGNED.....

(Chairperson)

DATE.....8th March 2021.....

MINUTES OF THE 5TH SITTING (5TH SESSION) OF THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES HELD ON FRIDAY 5TH MARCH, 2021 IN SIANA CONFERENCE ROOM, OLE SERENI HOTEL AT 2.30 PM

PRESENT

1. Hon. Adan Hajj Ali, MP – **Chairperson**
2. Hon. Wagari Mwaniki, MP –**Vice Chairperson**
3. Hon. Daniel Maanzo, MP
4. Hon. Andrew Mwadime, MP
5. Hon. Jared Okelo, MP
6. Hon. Alois Musa Lentoimaga, MP
7. Hon. Jones Mlolwa, MP
8. Hon. Sharif Athman, MP
9. Hon. Dr. Wilberforce Oundo, Phd, MP
10. Hon. Anab Mohamed Gure, MP
11. Hon. Wachira Rahab Mukami, MP
12. Hon. Gichimu Robert, MP
13. Hon. Nduati Joseph Ngugi, MP
14. Hon. Fred Ounda, MP

APOLOGY

1. Hon. William Cheptumo, MP
2. Hon. Christopher Nakuleu, MP
3. Hon. Kipruto Moi, MP
4. Hon. Ayub Savula, MP
5. Hon. Kimani Patrick Wainaina Jungle, MP

IN ATTENDANCE

FRIENDS OF THE COMMITTEE

1. Hon. Adan Haji Yussuf, MP - Mandera West
2. Hon. David Mboni, MP - Kitui Rural
3. Hon. Jude Njomo, MP - Kiambu
4. Hon. John Kiarie Waweru, MP - Dagoretti South
5. Hon. Shakeel Shabbir, MP - Kisumu East
6. Hon. John K. Mutunga, MP - Tangania West
7. Hon. Waruguru Gatherine, MP - Laikipia County
8. Hon. Kuria Kimani, MP - Molo

MINISTRY OF INDUSTRIALIZATION, TRADE AND ENTERPRISE DEVELOPMENT

1. Lawrence Karanja	-	CAS
2. Amb. Johnson Weru	-	PS
3. Amb. Nelson Ndirangu	-	Advisor SDT
4. Bernard Kagira	-	Consultant SDT
5. Pauline Mcharu	-	MOITED
6. Maryanne Macheru	-	SDT & ED
7. Allan Githaka	-	AOG
8. Geofrrey N. Kuria	-	KAWR
9. Roselyn Amadi	-	State Dept for Trade
10. Leah Aywah Baraza	-	AG office
11. Lydiah Kingori	-	SDT
12. Michael Mandu	-	SDT
13. Stanley Mwangi	-	SDT
14. Boniface Njuma	-	SDT

STAKEHOLDERS

1. Tejneer Rai	-	West Kenya Sugar
2. Geoffrey Rimbere	-	Chairman, FPEAK
3. Edgar Odari	-	Econews Africa
4. Davies Nyachieng'a	-	Econews Africa
5. Neil Hellings	-	Econews Africa
6. Reaky Seda	-	Marketing Officer
7. Patrice Ngenga	-	Tech Officer
8. Nicholas Imbugwa	-	Chairman FPC – Kenya
9. Mary Githingi	-	Member, FPC – Kenya
10. Solomon Kogiko	-	Parliament Media
11. Samuel Tobiko	-	Metropol TV
12. Samuel Owino	-	Reporter – Nation
13. Rosemary K	-	Reporter Metrol TV
14. Samuel Mbugua	-	Camera –CTV
15. Emmaculate Njoki	-	Kenya News Agency
16. Susan Paul	-	KNA Reporter
17. Denis Otieno	-	Citizen TV

SECRETARIAT

1. Mr. Erick Nyambati	-	Clerk Assistant II
2. Ms. Nuri Kitel Nataan	-	Clerk Assistant II
3. Ms. Marlene Ayiro	-	Senior Legal Counsel
4. Mr. Joseph Ndirangu	-	Fiscal Analyst
5. Mr. Richard Sang	-	Sergeants At Arms
6. Mr. Nimrod Ochieng	-	Audio Officer
7. Ms. Bishara Jimale	-	Secretary

2 | Page

MIN.NO.NA/TRADE/2021/013: PRELIMINARIES/COMMUNICATION FROM THE CHAIRPERSON

The Chairperson called the meeting to order at 3.30 pm and said the prayer. He welcomed those present to make introductions and thereafter invited the meeting to deliberate on the day's agenda having been adopted by the Committee.

MIN.NO.NA/TRADE/2021/014: STAKEHOLDERS ENGAGEMENT ON THE KENYA-UK ECONOMIC PARTNERSHIP AGREEMENT

A. State Department of Fisheries, Aquaculture and the Blue Economy

Ms. Lucy Obungu, Deputy Director Fisheries submitted as follows, that:-

1) The State Department exists through the Fisheries Management and Development Act (2016). The Department ensures sustainable utilization of fisheries resources as well as development for the benefit of Kenyans. They use the Port State Measures Agreement as a tool to cover ratified agreement.

2) The signed port state agreement which provides for the following control measure-

   a. All fishing vessels must report to the fishing port of the country to provide their specific data to the country authorities;

   b. As a tradable commodity, fish resources must be declared to the country and possibly sold to the country of origin, where sale of the same is to be sold outside the county, then 30% of the total catch must be surrendered to the country of origin as payment;

   c. All vesses accessing a foreign Exclusive Economic Zone must be licensed to do fishing in the given exclusive Economic Zone.

3) The Department was involved in the negotiation of the Kenya-UK EPA and ensured that the fisheries and blue economy is protected under Articles 53, 54 and 55.

4) They are Members of the Indian Ocean Tuna Commission (IOTC) and as such, they come up with resolutions for adoption. They further gazette the same into Kenyan law for purposes of implementation and sustainable management of Indian Ocean resources.

5) The State Department is a member of The Southwest Indian Ocean Fisheries Commission through which they have isolated issues of foreign fishing vessels. This has led them to come up with minimum conditions for licensing the vessels.

6) The Department carries out pre-licensing inspection of the foreign vessels to ascertain that the vessels have not been involved in Illegal, Unreported and Unregistered (IUU) fishing and

that they further have authorization to fish in any other Exclusive Economic Zones (EEZ) other than from their flagged countries.

7) They have a Vessel Monitoring System which monitors licensed foreign vessels within the Kenyan EEZ. In addition, they have an Automatic Information System (AIS) within the Monitoring, Control and Surveillance Centre in Mombasa.

8) There exists an Observer Program within the Department that allows them to board vessels and go with them so as to monitor how fishing is done as well as the kind of fish that is caught. The vessel captain is required to report what has been caught in the waters every 6-24 hours. Before entering Kenya's EEZ, every vessel declares the species and amount of fish they have on board. They declare the same during their exit.

9) The Kenyan waters are not open to the UK to bring in as many vessels as they want. The Department is controlling the licensing of the vessels. Precautionary and restrictive measures are provided for under the EPA.

10) Since 2020, the Department has not licensed any foreign vessels so that they can build capacity to utilize the EEZ. Currently, there are 10 foreign vessels within the EEZ.

11) When one wants to export fish, they have to sign a Catch Certificate which traces where the fish was caught.

B. Dr. Francis Muraya – Economic Advisor, Executive Office of the President

12) Dr. Muraya assured the Committee of HE the President's commitment to the Kenya-UK EPA. He opined that many countries are looking at getting into partnership agreements with Kenya because of its strategic location, infrastructure and human resource.

13) He stated that the EPA is an opportunity for Kenya to enhance its economic growth. There is however need to protect and develop the resources. Dr. Muraya said that the agreement is rule-based and as such Kenya is able to predict what is happening within the set parameters.

14) He stated that enforcement of the EPA would enhance efficiency, build capacity and create jobs. He urged the Committee to support the EPA and provide resources in terms of budgetary allocation and human resource capacity building for its realization. He advised that it is trade that builds economies

MIN.NO.NA/TRADE/2021/015: ADJOURNMENT

The Chairperson adjourned the meeting at 7.30 pm. The next meeting will be held on Saturday 6th March, 2021 at 10.00 pm.

SIGNED.....

(Chairperson)

DATE.....8th March 2021.....

MINUTES OF THE 4TH SITTING (5TH SESSION) OF THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES HELD ON THURSDAY 4TH MARCH, 2021 IN SIANA CONFERENCE ROOM, OLE SERENI HOTEL AT 3.00 PM

PRESENT

1. Hon. Adan Hajj Ali, MP – **Chairperson**
2. Hon. Wagari Mwaniki, MP –**Vice Chairperson**
3. Hon. Daniel Maanzo, MP
4. Hon. Andrew Mwadime, MP
5. Hon. Jared Okelo, MP
6. Hon. Alois Musa Lentoimaga, MP
7. Hon. Jones Mlolwa, MP
8. Hon. Sharif Athman, MP
9. Hon. Dr. Wilberforce Oundo, Phd, MP
10. Hon. Anab Mohamed Gure, MP
11. Hon. Wachira Rahab Mukami, MP
12. Hon. Gichimu Robert, MP
13. Hon. Nduati Joseph Ngugi, MP
14. Hon. Fred Ounda, MP

APOLOGY

1. Hon. William Cheptumo, MP
2. Hon. Christopher Nakuleu, MP
3. Hon. Kipruto Moi, MP
4. Hon. Ayub Savula, MP
5. Hon. Kimani Patrick Wainaina Jungle, MP

IN ATTENDANCE

FRIENDS OF THE COMMITTEE

1.	Hon. Adan Haji Yussuf, MP	-	Mandera West
2.	Hon. David Mboni, MP	-	Kitui Rural
3.	Hon. Jude Njomo, MP	-	Kiambu
4.	Hon. John Kiarie Waweru, MP	-	Dagoretti South
5.	Hon. Shakeel Shabbir, MP	-	Kisumu East
6.	Hon. John K. Mutunga, MP	-	Tangania West
7.	Hon. Waruguru Gatherine, MP	-	Laikipia County
8.	Hon. Kuria Kimani, MP	-	Molo

MINISTRY OF INDUSTRIALIZATION, TRADE AND ENTERPRISE DEVELOPMENT

1. Lawrence Karanja	-	CAS
2. Amb. Johnson Weru	-	PS
3. Amb. Nelson Ndirangu	-	Advisor SDT
4. Bernard Kagira	-	Consultant SDT
5. Pauline Mcharu	-	MOITED
6. Maryanne Macheru	-	SDT & ED
7. Allan Githaka	-	AOG
8. Geofrrey N. Kuria	-	KAWR
9. Roselyn Amadi	-	State Dept for Trade
10. Leah Aywah Baraza	-	AG office
11. Lydiah Kingori	-	SDT
12. Michael Mandu	-	SDT
13. Stanley Mwangi	-	SDT
14. Boniface Njuma	-	SDT

STAKEHOLDERS

1. Tejneer Rai	-	West Kenya Sugar
2. Geoffrey Rimbere	-	Chairman, FPEAK
3. Edgar Odari	-	Econews Africa
4. Davies Nyachieng'a	-	Econews Africa
5. Neil Hellings	-	Econews Africa
6. Reaky Seda	-	Marketing Officer
7. Patrice Ngenga	-	Tech Officer
8. Nicholas Imbugwa	-	Chairman FPC – Kenya
9. Mary Githingi	-	Member, FPC – Kenya
10. Solomon Kogiko	-	Parliament Media
11. Samuel Tobiko	-	Metropol TV
12. Samuel Owino	-	Reporter – Nation
13. Rosemary K	-	Reporter Metrol TV
14. Samuel Mbugua	-	Camera –CTV
15. Emmaculate Njoki	-	Kenya News Agency
16. Susan Paul	-	KNA Reporter
17. Denis Otieno	-	Citizen TV

SECRETARIAT

1. Mr. Erick Nyambati	-	Clerk Assistant II
2. Ms. Nuri Kitel Nataan	-	Clerk Assistant II
3. Ms. Marlene Ayiro	-	Senior Legal Counsel
4. Mr. Joseph Ndirangu	-	Fiscal Analyst
5. Mr. Richard Sang	-	Sergeants At Arms
6. Mr. Nimrod Ochieng	-	Audio Officer
7. Ms. Bishara Jimale	-	Secretary

MIN.NO.NA/TRADE/2021/010: **PRELIMINARIES/COMMUNICATION FROM THE CHAIRPERSON**

The Chairperson called the meeting to order at 3.30 pm and said the prayer. He welcomed the meeting to deliberate on the day's agenda having been adopted by the Committee.

MIN.NO.NA/TRADE/2021/011: **STAKEHOLDERS ENGAGEMENT ON THE KENYA-UK ECONOMIC PARTNERSHIP AGREEMENT**

A. Fresh Produce Exporters Association of Kenya, Kenya fresh Produce Consortium and Kenya-UK EPA Private Sector Consortium

1) That the bulk of trade between the UK and Kenya is horticulture/agriculture based, and further that the agriculture sector is the mainstay of Kenya's economy, contributing 29.3% to the Gross Domestic Product (GDP) and accounting for 80% of national employment.

2) Kenya has a competitive advantage on Agricultural sector due to our climatic condition which favours year round yields as opposed to the UK. As a KFPEAK, Kenya-UK EPA will provide the farmers to export their agricultural products to the UK.

3) The EPA provides an opportunity to expand and invest more in the agricultural sector to sell in the UK.

4) There is no need to fear about UK raising SPS standards since each country has an obligation to protect its people from diseases. The government needs to sensitive farmers on Sanitary and Phytosanitary Measures (SPS) in order to improve on standards for our agricultural products for them to be competitive in the international market in particular the UK.

5) The ratification is crucial to avoid losses such like those experienced in the 90 days in 2016 when there was no economic arrangement between the two countries.

B. Kenya Flower Council

6) Kenya Flower Council (KFC) is the county's leading representative body for growers, exporters of cut-flowers and ornamentals value chains whose members account for approximately75 percent of Kenya's floricultural exports worldwide.

7) The Kenya flower industry is a highly competitive international industry. Kenya's main competitors are Ethiopia, which is an LDC and trades duty and quota free under EBA, and Colombia, who already have a bilateral free trade agreement with the UK.

8) If the Kenya UK EPA is not concluded, and duties at a level of 8 percent are applied, then Kenya's prices will be uncompetitive and will lose market share. Coupled with increased freight rates because of the worldwide COVID pandemic, Kenya's floriculture industry will find it hard to survive.

9) Under the EPA, Kenya's fresh produce exports will remain competitive and certainty in terms of trade will encourage investment leading to more production and more jobs.

10) The Kenya –UK EPA ensures that all cut-flower and ornamentals companies in Kenya, can continue to benefit from quota and duty-free access to the UK market.

11) Cut flowers are now Kenya's second largest export after tea, contributing around 1.7 percent of the country's GDP.

12) The industry is also one of the country's leading employers with over 200,000 people working directly in the flower industry and an estimated two million indirectly.

13) The agreement therefore supports jobs and economic development in Kenya, as well as avoid

14) Possible disruption to UK businesses such as florists and retailers who will not be able to maintain tariff-free supply routes for Kenya's high-quality flowers.

15) Kenya flowers will benefit from enhanced privileges for agricultural goods that confer originating status to EAC exports, even if they transit through EU's 27 countries.

C. Kenya Association of Manufacturers

The CEO for Kenya Association of Manufacturers (KAM) submitted as follows, that:-

16) The Association was involved in the process of negotiating for the Kenya UK EPA

17) Under Annex II (a) it lists the custom duties applications of products originating in the UK imported into the territory of the EAC Partner States(s). These are the products for immediate liberalization upon the entry into force of the Agreement which mainly attract MFN duty of zero per cent.

18) Customs duties applicable to products originating in the UK imported into the EAC that shall be liberalized after 7 years upon entry of the Agreement as shown in Annex II(b) and those finished products to be liberalized by 25th year are shown in Annex III(c) while the Exclusion list(Sensitive Products is shown in Annex II(d).

19) The Exclusion list contains products designated by Kenya as sensitive and will therefore not be subject to liberalization. The sensitive list was arrived at through wider consultation with the private sector and other stakeholders in the wider economic, and also took in consideration the industrial and development aspirations of the EAC region as guided by various policy documents. Consideration was also taken on the products designated as sensitive under EAC CET. The sensitive list was arrived at through wider consultation with the private sector and other stake holders in the wider economic spheres. The choice of products to be in the exclusion list was informed by the industrial and development aspirations of the EAC region as guided by various policy documents. The consideration was also taken on products designated as sensitive under the EAC CET

4 | Page

20) The manufacturing sector in Kenya has demonstrated its resilience to withstand economic shocks while many sectors succumb to internal and external shocks such as drought for agriculture and tourism because of COVID 19, terrorism and negative media reporting.

21) It is therefore critical that local manufacturers are provided with a competitive manufacturing environment for Kenya to achieve economic prosperity through creation of wealth, employment and poverty reduction.

22) The local manufacturers are operating in a globalized world and have to contend with increased competition in the domestic, regional and global markets. This therefore calls for our National Government and Parliamentary Committee on Trade, Industry and Investment to continue looking at the legislations that will facilitate investments and attention to the competitiveness of local industries and manufacturing.

23) The policy space provided by the Kenya –UK FTA on 7 years moratorium before the commencement of some tariff phased down to zero by 15th and 25th year for full liberalization will provide the National Government. The challenge to embrace an opportunity to revitalize the industries in order to make them become competitive before tariff liberalization for UK industries commerce.

24) The EPA provides Kenyans an opportunity to utilize tax free and quota free market in the UK.

D. Kenya National Chamber of Commerce and Industry

25) As the private sector, the Chamber had an opportunity to participate in the government led negotiations as business management organization and a joint private sectors consortium under the leadership of the Principal Secretary of trade and his team.

26) Kenya has been working to improve on her trade and investments through forging partnerships and agreements with Countries and regions with a view to enhance economic growth and development. Kenya has had a myriad of trade and investment agreements including being part of the East Africa Community (EAC), the Common Market for Eastern and Southern Africa (COMESA) and the Tripartite Free Trade Agreement (TFTA).

27) This implies that with the existence of such trade agreements, Kenya has the obligation to factor regional trade agreements such as EAC where there exists a common external tariff (CET). Kenya seeks to increase her exports while ensuring a free flow and access of new technologies among other products from across the world. Kenya trade deficit remains at Kshs.1.3 trillion due exports valued at Kshs.597 billion and imports valued at Kshs.1,806 billion.

28) Kenya imports continue to surge more than exports causing escalation of trade deficit. It is against this background that Kenya has signed an agreement with the United Kingdom. It is a statutory requirement that before such laws are ratified, they are subjected to public participation as well as their regulatory and economic impact assessment according to statutory instruments act and the Treaty Making and Ratification Act.

29) The Kenya and United Kingdom parliaments have both not ratified seeking for more views from stakeholders. The United Kingdom Parliament sited challenges that can the agreement pose to the EAC regional trading bloc that has a common external tariff with Kenya, that it can bring challenges. Kenya parliament has sort views from the public on the agreement while a group called Kenya Small Scale Farmers Forum and Econews Africa have moved to court calling for more transparency and public participation before the agreement is implemented. The paper gives perspectives on the agreement and possible way forward towards implementation of the trade agreement for the mutual benefits to all Kenyans.

Kenya United Kingdom Trade and Opportunities

30) United Kingdom is a high-income economy, a member of the Great 7 nations while Kenya is a lower middle-income economy. United Kingdom is among leading markets for Kenya exports. Even though Kenyan exports have declined from Kshs.40.7 billion in 2015, and Kshs.40.2 billion in 2018 to Kshs.40 billion in 2019. The United Kingdom constitutes the bulk of imports from Europe. UK imports to Kenya declined from Kshs.43 billion in 2015 to Kshs.35 billion in 2019. It is also a leading origin of tourism earnings with visitors increasing from 225,000 of bed occupancy in 2015 to 315,000.

31) Due to this, Kenya has been enjoying trade surplus reaching Kshs.5 billion in 2019. Some of the products for export include new entrants leather shoes and t-shirts and common products such as tea, coffee, cut flowers, fresh fruits, spices, and vegetables. Imports include electronics, machinery, and technical equipment. Clearly, the United Kingdom is a leading market for Kenya exports of goods and services. Kenya has a small share in the stock of UK foreign direct investment (FDI) to Africa, 2% of UK total stock in 2015. Conversely, when looking at Kenya trade inflows, the UK is a major source, contributing 40% of Kenya total FDI inward flows in 2012.

The Kenya UK Economic Partnership Agreement

32) The Kenya UK EPA has come into force at a time when the later has exited from the European Union . To ensure free flow of goods and services between the two Countries without disruptions, the agreement was signed and currently going through public participation.

33) A key highlight of the agreement is that it covers trade between Kenya and UK but open to the rest of EAC member states.

34) The agreement is poised to go through public participation and thus the need to share with stakeholders for their detailed analysis and review to enable them make informed contributions to it.

35) If implemented, the trade agreement provides the following.
   a. Continued trade between Kenya and the United Kingdom, which is in favour of Kenya.
   b. Continued access to imports such as technology, machinery, electronics, cars, and ICT.
   c. Guaranteed FDI inflows and thus foreign exchange to Kenya.
   d. Kenya companies to continue enjoying unlimited duty free market access and networks established during the EAC-EU EPA.

6 | Page

36) If not implemented, the following consequences are likely to face Kenyan exporters.
   a. Businesses will immediately lose preferences negotiated in the Kenya -UK EPA.
   b. Kenya exports will immediately be subjected to GSP tariffs and duties thus reducing on our foreign exchange earnings and our competitiveness.
   c. Kenya will be denied DFQF market access beyond the zero tariffs already under MFN. The aim of such an agreement is to ensure that maximum benefits are derived from trade.
   d. Our exports to UK or import of technology and machinery from UK will become expensive hurting consumers and affecting economic activities.
   e. There is a possibility of having to contend with quota-bases market access to the UK.

37) Kenya should sign the economic partnership agreement with the UK for the following reasons, that
   a) This is because of the minimal risk to our agricultural sector. On average Kenyan exports to the UK enjoy zero tariffs while UK imports attract duty of average 16% for their products.
   b) The goods imported from UK Do not compete with Kenya's products as we enjoy different comparative advantages. We risk losing the duty-free access should we not sign the partnership agreement
   c) Kenya is likely to suffer by loss of foreign exchange due to higher duties. Business and consumers to be affected and the overall, Kenya economy if the Kenya-UK EPA is not implanted. Thus, the need to expedite ratification of the agreement

38) EAC Countries will continue accessing the UK market since there are LDC's under the WTO'S EBA provisions which disadvantages Kenya as a country within the same arrangement of the EAC customs union.

E. Kenya Association of Waste Recyclers

Through the Chairman, the Kenya Association of Recyclers submitted as follows;

39) That the National Assembly needed to interrogate and confirm that the economic interest of the Kenyan people and industries are adequately safeguarded and protected in the EPA.

40) To ensure due process is followed in the making and ratification of the EPA and alleged that the relevant Ministry did not carry out public participation

41) Zero rating pulps of fibers derived from recovered (waste and scrap)paper or paperboard or other paper or paper board made from bleached chemical pulp and others including unsorted waste and scrap will affect waste collection and recycling industry negatively.

42) In response, the State Department for Trade and Enterprise Development submitted that the schedule of tariff offers was adopted from the EAC CET, which zero-rated as codes 470710-4701730 as well as 470697 that concern waste recycling, prior to the initialling of the EAC-EU EPA which Kenya ratified.

43) However the KENYA-UK EPA in article 12(2) provides to review and consider the plea by some sectors as highlighter below;

44) *"In order to preserve the prospect for the wider African regional integration processes, the Parties may decide, in the EPA Council, to modify the level of customs duties stipulated in Annexes II(a), II(b) and II(c), which may be applied to a product originating in the UK upon its importation into the EAC Partner State(s). The Parties shall ensure that any such modification does not result in an incompatibility of this Agreement with the requirements of Article XXIV of GATT 1994."*

MIN.NO.NA/TRADE/2021/012: ADJOURNMENT

The Chairperson adjourned the meeting at 8.30 pm. The next meeting will be held on Friday 5th March, 2021 at 11.30 am.

SIGNED.....

(Chairperson)

DATE.....8th March 2021.....

8 | Page

MINUTES OF THE 3RD SITTING (5TH SESSION) OF THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES HELD ON THURSDAY 4TH MARCH, 2021 IN SIANA CONFERENCE ROOM, OLE SERENI HOTEL AT 9.30 AM

PRESENT

1. Hon. Adan Hajj Ali, MP – **Chairperson**
2. Hon. Wagari Mwaniki, MP –**Vice Chairperson**
3. Hon. Daniel Maanzo, MP
4. Hon. Andrew Mwadime, MP
5. Hon. Jared Okelo, MP
6. Hon. Alois Musa Lentoimaga, MP
7. Hon. Jones Mlolwa, MP
8. Hon. Sharif Athman, MP
9. Hon. Dr. Wilberforce Oundo, Phd, MP
10. Hon. Anab Mohamed Gure, MP
11. Hon. Wachira Rahab Mukami, MP
12. Hon. Gichimu Robert, MP
13. Hon. Nduati Joseph Ngugi, MP
14. Hon. Fred Ounda, MP

APOLOGY

1. Hon. William Cheptumo, MP
2. Hon. Christopher Nakuleu, MP
3. Hon. Kipruto Moi, MP
4. Hon. Ayub Savula, MP
5. Hon. Kimani Patrick Wainaina Jungle, MP

IN ATTENDANCE

FRIENDS OF THE COMMITTEE

1.	Hon. Adan Haji Yussuf, MP	-	Mandera West
2.	Hon. David Mboni, MP	-	Kitui Rural
3.	Hon. Jude Njomo, MP	-	Kiambu
4.	Hon. John Kiarie Waweru, MP	-	Dagoretti South
5.	Hon. Shakeel Shabbir, MP	-	Kisumu East
6.	Hon. John K. Mutunga, MP	-	Tangania West
7.	Hon. Waruguru Gatherine, MP	-	Laikipia County
8.	Hon. Kuria Kimani, MP	-	Molo

MINISTRY OF INDUSTRIALIZATION, TRADE AND ENTERPRISE DEVELOPMENT

1. Lawrence Karanja	-	CAS
2. Amb. Johnson Weru	-	PS
3. Amb. Nelson Ndirangu	-	Advisor SDT
4. Bernard Kagira	-	Consultant SDT
5. Pauline Mcharu	-	MOITED
6. Maryanne Macheru	-	SDT & ED
7. Allan Githaka	-	AOG
8. Geofrrey N. Kuria	-	KAWR
9. Roselyn Amadi	-	State Dept for Trade
10. Leah Aywah Baraza	-	AG office
11. Lydiah Kingori	-	SDT
12. Michael Mandu	-	SDT
13. Stanley Mwangi	-	SDT
14. Boniface Njuma	-	SDT

STAKEHOLDERS

1. Tejneer Rai	-	West Kenya Sugar
2. Geoffrey Rimbere	-	Chairman, FPEAK
3. Edgar Odari	-	Econews Africa
4. Davies Nyachieng'a	-	Econews Africa
5. Neil Hellings	-	Econews Africa
6. Reaky Seda	-	Marketing Officer
7. Patrice Ngenga	-	Tech Officer
8. Nicholas Imbugwa	-	Chairman FPC – Kenya
9. Mary Githingi	-	Member, FPC – Kenya
10. Solomon Kogiko	-	Parliament Media
11. Samuel Tobiko	-	Metropol TV
12. Samuel Owino	-	Reporter – Nation
13. Rosemary K	-	Reporter Metrol TV
14. Samuel Mbugua	-	Camera –CTV
15. Emmaculate Njoki	-	Kenya News Agency
16. Susan Paul	-	KNA Reporter
17. Denis Otieno	-	Citizen TV

SECRETARIAT

1. Mr. Erick Nyambati	-	Clerk Assistant II
2. Ms. Nuri Kitel Nataan	-	Clerk Assistant II
3. Ms. Marlene Ayiro	-	Senior Legal Counsel
4. Mr. Joseph Ndirangu	-	Fiscal Analyst
5. Mr. Richard Sang	-	Sergeants At Arms
6. Mr. Nimrod Ochieng	-	Audio Officer
7. Ms. Bishara Jimale	-	Secretary

2 | Page

MIN.NO.NA/TRADE/2021/007: PRELIMINARIES/COMMUNICATION FROM THE CHAIRPERSON

The Chairperson called the meeting to order at 10.00 am and said the prayer. He welcomed those present to make introductions and thereafter invited the meeting to deliberate on the day's agenda having been adopted by the Committee.

MIN.NO.NA/TRADE/2021/008: STAKEHOLDERS ENGAGEMENT ON THE KENYA-UK ECONOMIC PARTNERSHIP AGREEMENT

Econews Africa

The CEO, Econews Africa Mr. Edgar Odari submitted as follows, that:-

1) There is need to ascertain the aspect of the Rules of Origin whether Kenyan produce transiting via the EU with no or limited value addition would be allowed to enter duty free into the UK, and which procedures and documentation would be required for the goods in transit. In response to this concern the Committee was informed that there was no restriction in the agreement that was going to limit Kenya from sourcing for goods from other EAC countries to export to the UK, further the products could transit via the EU with no value addition.

2) It was important to know whether Kenyan products meeting EU standards would be admitted into the UK as well as the Scope of the trade agreement, what would the scope of this agreement be and the implications that the EPA would have on key sectors such as agriculture and manufacturing in Kenya. The stakeholder sought to establish any implications for regional integration and whether UK products would come into the country via Mombasa and find their way into other EAC Member States.

3) On the ratification process, the ratification process was flawed as the Government had already signed the agreement with the UK and the same was brought to parliament for 'ratification' as a rubberstamping process. They were of the view that Parliament ought to have been involved in the approval process from the onset of the negotiations to the culmination of the process. Clarification was provided to the effect that pursuant to section 7 and 8 of the Treaty Making and Ratification Act, 2012 the National Assembly is not prohibited from making any reservation on the EPA.

4) Econews Africa challenged the process of ratification of agreements carried out in Kenya and contrasted the same with what was the practice in the United Kingdom, where the negotiations were said to be transparent and there was involvement of Parliament, the devolved administrations and legislatures, local government, business, trade unions, civil society, and the public from every part of the United Kingdom must be accorded an opportunity to engage with and contribute to the trade policy and sought to have Kenya to involve the stakeholders including Parliament in the processes culminating in the formulation of the agreement. It was confirmed that the Treaty Making and Ratification Act should be amended to allow for the involvement of parliament and all stakeholders in the negotiations of agreements and allow for elaborate public participation.

A. Questions concerning a new trade arrangement between the UK and Kenya

5) **Reservations as referred to in the Cabinet Secretary's Memo to the Speaker of The National Assembly.**

"Reservation" *means a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State;*

The Kenya -UK EPA is a bilateral agreement. It is expected that during the negotiations, all matters contained in the bilateral agreement are negotiated and agreed upon and thus neither party can enter a reservation after conclusion of the same. It is therefore not anticipated that either party would enter a reservation on matters that had been agreed upon by consensus. Any such reservation would be construed as negating consensus that had been reached between the two Parties. In multilateral agreements it is possible to enter reservations as there are more than two parties, noting that the specific provision for which a reservation is entered is still applicable to all the other parties to the multilateral agreement.

6) **Rendezvous Clause- Article 3**

This clause is found under Article 3 of the EPA. The Article provides for other sectors of trade that will be open for negotiations after entry into force of this EPA. When this time comes the same process outlined in the Treaty Making and Ratification Act will have to be followed.

7) **Question on Tea exports to the UK being by multinational companies and therefore not being beneficial to the small-scale farmers.**

Over 60% of the tea exported to the UK is from small-scale tea growers under the Kenya Tea Development Agency

8) **The Kenya-UK FTA is the first FTA by an African Country**

This was not factual. The UK signed an EPA with the members of the Southern African Customs Union (SACU) and Mozambique in October 2019. In the recent past, Namibia has also signed an EPA with the UK.

9) **Export Duties and Taxes**

Article 14(2)

Notwithstanding paragraph 1, the EAC Partner State(s) can impose, after notifying the UK a temporary duty or tax in connection with exportation of goods under the following circumstances:

a. to foster the development of domestic industry
b. to maintain currency stability
c. to protect revenue, food security and environment

10) **Subsidies**

Articles 48, 49 and 50 detail the Trade Defence Measures at Kenya's disposal do deal with Subsidized goods from the UK.

With regards to a new trade arrangement, the following questions should be explored.

11) Rules of origin- will Kenyan produce transiting via the EU with no or limited value addition enter duty free into the UK, and which procedures and documentation would be required?

Response

Yes, Kenya products transiting via the EU will have duty free access in the UK. Refer Protocol No.1 of the Kenya-UK EPA Article 4 and Article 6. The procedures and documentation needed is same as what used under the EU trade regime – EUR 1 (Movement certificate)

12) Development cooperation-will this be part of the Trade agreement, if yes what kind of institutional arrangements and budget

Response

Yes, Economic Development Cooperation is part of the Kenya-UK EPA, Part V. Institutional arrangement is as provided in the Kenya-UK EPA, Part VI, Institutional Provisions. There is no accompany budget for Economic Development Cooperation. Instead, this Part V identifies areas where activities leading to economic development will be drawn (Articles 75 to 100). In Title X Resource Mobilization arrangement is provided. This will be driven by specific budget to be drawn periodically during implementation of Part V.

13) UK/Kenya equivalency and divergence with EU sanitary and Phytosanitary Standards (SPS) regulations. Will products be meeting EU standards admitted into the UK as well?

Response

The Kenya-UK EPA has sustained the WTO principle of equivalence as is the case with EAC- EU - EPA. So there is no divergence. Also important to note SPS measures, even as applied under the EU are usually premised on the above referred principles and a country is free to deviate based on the specific scientifically based basis. This reality is articulated in Title IV (Articles 30 – 40) of the Kenya-UK EPA and ensures that the same SPS regime that Kenya used to access the UK market before Brexit is sustained.

14) Scope of the trade agreement: What would the scope of this agreement be and what implication will I have on key sectors such as agriculture and manufacturing?

Response

*The Scope of the Kenya-UK EPA is the same as the EAC-EU EPA, which Kenya has already ratified. The agricultural and industrial products that are exposed to negative impact of the Kenya-UK EPA, as was the case with the EAC-EU EPA, **are those that are now excluded** from liberalization. They account for 17.4% of the trade that was due for liberalization when*

the EPA was negotiated (Refer Annex II (d). Other products that could be exposes to negative impact from EU imports are intermediate products (Annex IIB of the Kenya-UK EPA) and finished products (Annex IIC of the Kenya-UK EPA) that Kenya has committed to liberalize over a period of 8years and 13 years after a seven year and 12 year moratorium period before respective progressive liberalization commences. In event that UK will be exporting any of the products under these annexes, the Kenya-UK EPA has in built mechanism to shield Kenya's industries that may risk facing competition. This includes: -

- *The 7years and 12 years moratorium for intermediate and finished goods subject to liberalization, respectively. During this period, tracing of the industries likely to be adversely affected will be undertake and appropriate support to ensure competitiveness against UK products provided, in the context of the Economic Development chapter of the Kenya-UK EPA.*
- *The Infant Industry clause in Title VI (Article 50) Bilateral Safeguards, paragraph 4(b).*

15) Implications for regional integration-would UK products enter via Mombasa and find their way into other EAC member states?

Response

No. EAC Customs Union does not allow free circulation of goods imported into the EAC Customs Territory. Goods imported from the UK into Kenya on duty free basis will have to be subjected to MFN duty when entering the EAC countries because according to EAC Rules of Origin they cannot be termed as originating in Kenya. However, as soon as other EAC Partner States accede to the Kenya-UK EPA, then UK goods imported through Kenya can enter the EAC country that has acceded to the Kenya-UK EPA on duty free basis.

16) Implications for tariff negotiations under the African Continental Free Trade Area (AfCFTA) - should Kenya extend tariff preferences provides to Uk to other African Countries?

Response

No. ACFTA is a Free Trade Area and does not oblige Kenya to pass on duty preferences it agrees under another FTA to CFTA members.

17) The UK – Kenya agreement is NOT a rollover of a trade regime Kenya had with the EU

Response

Kenya trade with the EU under the EAC- EU – EPA, which though all EAC Partner States initialed; only Kenya ratified. The said EPA could not be rolled-over given that it has not yet come into effect due to non-ratification by all EAC Partner States, except Kenya. But the Kenya–UK–EPA replicates the effects/extends the terms of trade accorded to Kenya by the EU under the EAC- EU – EPA. The original intention of the UK when approaching the EAC Secretariat was to get all Partner States to sign and ratify the EAC-EU-EPA in readiness for rolling over to EAC-UK-EPA but this was not possible.

Market Access Rogation 1528/2007 is temporary administrative arrangement granted by the EU Parliament to Kenya to continue accessing the EU market pending all EAC Partner States ratifying the EPA and therefore this could not part of an agreement with another party.

MIN.NO.NA/TRADE/2021/009: ADJOURNMENT

The Chairperson adjourned the meeting at 1.30 pm. The next meeting will be held at 2.30 pm the same day.

SIGNED.....

(Chairperson)

DATE.....8th March 2021.....

MINUTES OF THE 2ND SITTING (5TH SESSION) OF THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES HELD ON WEDNESDAY 3RD MARCH 2021 IN SIANA CONFERENCE ROOM, OLE SERENI HOTEL AT 3.30 PM

PRESENT

1. Hon. Adan Hajj Ali, MP – **Chairperson**
2. Hon. Wagari Mwaniki, MP –**Vice Chairperson**
3. Hon. Daniel Maanzo, MP
4. Hon. Andrew Mwadime, MP
5. Hon. Jared Okelo, MP
6. Hon. Alois Musa Lentoimaga, MP
7. Hon. Jones Mlolwa, MP
8. Hon. Sharif Athman, MP
9. Hon. Dr. Wilberforce Oundo, Phd, MP
10. Hon. Anab Mohamed Gure, MP
11. Hon. Wachira Rahab Mukami, MP
12. Hon. Gichimu Robert, MP
13. Hon. Nduati Joseph Ngugi, MP
14. Hon. Fred Ounda, MP

APOLOGY

1. Hon. William Cheptumo, MP
2. Hon. Christopher Nakuleu, MP
3. Hon. Kipruto Moi, MP
4. Hon. Ayub Savula, MP
5. Hon. Kimani Patrick Wainaina Jungle, MP

IN ATTENDANCE

FRIENDS OF THE COMMITTEE

1.	Hon. Adan Haji Yussuf, MP	-	Mandera West
2.	Hon. David Mboni, MP	-	Kitui Rural
3.	Hon. Jude Njomo, MP	-	Kiambu
4.	Hon. John Kiarie Waweru, MP	-	Dagoretti South
5.	Hon. Shakeel Shabbir, MP	-	Kisumu East
6.	Hon. John K. Mutunga, MP	-	Tangania West
7.	Hon. Waruguru Gatherine, MP	-	Laikipia County
8.	Hon. Kuria Kimani, MP	-	Molo

MINISTRY OF INDUSTRIALIZATION, TRADE AND ENTERPRISE DEVELOPMENT

1. Lawrence Karanja	-	CAS
2. Amb. Johnson Weru	-	PS
3. Amb. Nelson Ndirangu	-	Advisor SDT
4. Bernard Kagira	-	Consultant SDT
5. Pauline Mcharu	-	MOITED
6. Maryanne Macheru	-	SDT & ED
7. Allan Githaka	-	AOG
8. Geofrrey N. Kuria	-	KAWR
9. Roselyn Amadi	-	State Dept for Trade
10. Leah Aywah Baraza	-	AG office
11. Lydiah Kingori	-	SDT
12. Michael Mandu	-	SDT
13. Stanley Mwangi	-	SDT
14. Boniface Njuma	-	SDT

STAKEHOLDERS

1. Tejneer Rai	-	West Kenya Sugar
2. Geoffrey Rimbere	-	Chairman, FPEAK
3. Edgar Odari	-	Econews Africa
4. Davies Nyachieng'a	-	Econews Africa
5. Neil Hellings	-	Econews Africa
6. Reaky Seda	-	Marketing Officer
7. Patrice Ngenga	-	Tech Officer
8. Nicholas Imbugwa	-	Chairman FPC – Kenya
9. Mary Githingi	-	Member, FPC – Kenya
10. Solomon Kogiko	-	Parliament Media
11. Samuel Tobiko	-	Metropol TV
12. Samuel Owino	-	Reporter – Nation
13. Rosemary K	-	Reporter Metrol TV
14. Samuel Mbugua	-	Camera –CTV
15. Emmaculate Njoki	-	Kenya News Agency
16. Susan Paul	-	KNA Reporter
17. Denis Otieno	-	Citizen TV

SECRETARIAT

1. Mr. Erick Nyambati	-	Clerk Assistant II
2. Ms. Nuri Kitel Nataan	-	Clerk Assistant II
3. Ms. Marlene Ayiro	-	Senior Legal Counsel
4. Mr. Joseph Ndirangu	-	Fiscal Analyst
5. Mr. Richard Sang	-	Sergeants At Arms
6. Mr. Nimrod Ochieng	-	Audio Officer
7. Ms. Bishara Jimale	-	Secretary

2 | Page

MIN.NO.NA/TRADE/2021/004: **PRELIMINARIES/COMMUNICATION FROM THE CHAIRPERSON**

The Chairperson called the meeting to order at 3.30 pm and said the prayer. He welcomed the meeting to deliberate on the day's agenda having been adopted by the Committee.

MIN.NO.NA/TRADE/2021/005: **STAKEHOLDERS ENGAGEMENT ON THE KENYA-UK ECONOMIC PARTNERSHIP AGREEMENT**

The Parliamentary Caucus on Economy and Business, through it Chairperson, Hon. Jude Njomo, MP submitted as follows, that:-

1) **On Trade Liberalization:** - the agreement is far-reaching as it proposes to open up 82.6% of trade. Since the agreement is based on the EU-EAC EPA, there are some tariff lines that will be opened from the start of the agreement. This is a far-reaching commitment as it means that the local industries will be open to competition from more efficient British producers. Furthermore, Article 37.3 of the UK EPA on Sanitary and Phytosanitary Standards does not contain any specific measures to facilitate exports to the UK. This means that we are opening up the Kenyan market without an assurance that our producers will be able to access the UK market.

2) **Export Duties and Taxes:**-The agreement does not permit new export duties or taxes. In the event that Kenya wants to introduce new export duties and taxes, the conditions require that it notifies the UK and the measures are only temporary and need to be reviewed by the EPA council after 48 months. We feel that this constrains local industries especially given that Kenya levies an export tax on raw hides and skins to promote the domestic leather processing industries. An export tax is also levied on raw macadamia nuts. If this is allowed to stand, it means that Kenya cannot protect its infant industries that may have potential of creating significant employment.

3) **More Negotiations:**-The UK-Kenya EPA contains a commitment to conclude negotiations by of before 2026 with the UK on trade in services, trade related issues including competition, investment, sustainable development (labor/environment), intellectual property rights and transparency in public procurement. We feel that this goes beyond the scope of what should be committed as these are issues that the UK, EU and other developed countries have failed to push for at the multilateral level. They are now being introduced through the backdoor and will have significant implications on Kenya's ability to negotiate a favorable agreement at the multilateral level.

4) **Ratification Process**: - Parliament is being rushed to ratify the agreement without a full appreciation of its implications. First, the reduction or elimination of duties on products imported from the UK will have a negative impact on local industries who may not be able to compete with more efficient producers in the UK who have access to cheaper power and other factors of production. Furthermore, Section 5 (2) (i) of the Treaty Making and Ratification Act requires that when deciding whether to initiate the treaty-making process, the national executive should consider whether extensive scientific studies or research have been carried

out to determine the parameters of the problems and the lines of potential solutions. Section 7 (c) to outline any national interests that may be affected by the ratification of the treaty, the policy and legal considerations, the financial implications, implications on matters relating to counties and the views of the public on the ratification of the treaty, further require the Cabinet Secretary. The negotiations were hurriedly done from August to December and did not entail extensive public participation. Clarification was provided in this matter that the Kenya-UK EPA was a rollover of the existing EAC-EU EPA. Adequate public participation was carried out and stakeholders had appeared before the state Department and the National Assembly.

5) In the memorandum submitted by the Cabinet Secretary, none of these issues have been highlighted. We have not seen an extensive study on the UK-Kenya FTA. We have not seen a listing of which national interest may be affected by the ratification of the treaty, the financial implications and implications on matters relating to counties. In response to this concern, the State Department informed the stakeholders that in 2019 the balance of trade between Kenya and UK was fifteen (15) Billion shillings in favor of Kenya as the imports from the UK to Kenya were less than was exported.

MIN.NO.NA/TRADE/2021/006: ADJOURNMENT

After deliberations on this matter by all stakeholders, the Chairperson adjourned the meeting at 8.00 pm. The next meeting will be held on Thursday 4th March, 2021 at 9.30 am.

SIGNED.....

(Chairperson)

DATE.....8th March 2021.....

4 | Page

MINUTES OF THE 1ST SITTING (5TH SESSION) OF THE DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES HELD ON WENESDAY 3RD MARCH, 2021 IN SIANA CONFERENCE ROOM, OLE SERENI HOTEL AT 9.30 AM

PRESENT

1. Hon. Adan Hajj Ali, MP – **Chairperson**
2. Hon. Wagari Mwaniki, MP –**Vice Chairperson**
3. Hon. Daniel Maanzo, MP
4. Hon. Andrew Mwadime, MP
5. Hon. Jared Okelo, MP
6. Hon. Alois Musa Lentoimaga, MP
7. Hon. Jones Mlolwa, MP
8. Hon. Sharif Athman, MP
9. Hon. Dr. Wilberforce Oundo, Phd, MP
10. Hon. Anab Mohamed Gure, MP
11. Hon. Wachira Rahab Mukami, MP
12. Hon. Gichimu Robert, MP
13. Hon. Nduati Joseph Ngugi, MP
14. Hon. Fred Ounda, MP

APOLOGY

1. Hon. William Cheptumo, MP
2. Hon. Christopher Nakuleu, MP
3. Hon. Kipruto Moi, MP
4. Hon. Ayub Savula, MP
5. Hon. Kimani Patrick Wainaina Jungle, MP

IN ATTENDANCE

FRIENDS OF THE COMMITTEE

1.	Hon. Adan Haji Yussuf, MP	-	Mandera West
2.	Hon. David Mboni, MP	-	Kitui Rural
3.	Hon. Jude Njomo, MP	-	Kiambu
4.	Hon. John Kiarie Waweru, MP	-	Dagoretti South
5.	Hon. Shakeel Shabbir, MP	-	Kisumu East
6.	Hon. John K. Mutunga, MP	-	Tangania West
7.	Hon. Waruguru Gatherine, MP	-	Laikipia County
8.	Hon. Kuria Kimani, MP	-	Molo

MINISTRY OF INDUSTRIALIZATION, TRADE AND ENTERPRISE DEVELOPMENT

1. Lawrence Karanja	-	CAS
2. Amb. Johnson Weru	-	PS
3. Amb. Nelson Ndirangu	-	Advisor SDT
4. Bernard Kagira	-	Consultant SDT
5. Pauline Mcharu	-	MOITED
6. Maryanne Macheru	-	SDT & ED
7. Allan Githaka	-	AOG
8. Geofrrey N. Kuria	-	KAWR
9. Roselyn Amadi	-	State Dept for Trade
10. Leah Aywah Baraza	-	AG office
11. Lydiah Kingori	-	SDT
12. Michael Mandu	-	SDT
13. Stanley Mwangi	-	SDT
14. Boniface Njuma	-	SDT

STAKEHOLDERS

1. Tejneer Rai	-	West Kenya Sugar
2. Geoffrey Rimbere	-	Chairman, FPEAK
3. Edgar Odari	-	Econews Africa
4. Davies Nyachieng'a	-	Econews Africa
5. Neil Hellings	-	Econews Africa
6. Reaky Seda	-	Marketing Officer
7. Patrice Ngenga	-	Tech Officer
8. Nicholas Imbugwa	-	Chairman FPC – Kenya
9. Mary Githingi	-	Member, FPC – Kenya
10. Solomon Kogiko	-	Parliament Media
11. Samuel Tobiko	-	Metropol TV
12. Samuel Owino	-	Reporter – Nation
13. Rosemary K	-	Reporter Metrol TV
14. Samuel Mbugua	-	Camera –CTV
15. Emmaculate Njoki	-	Kenya News Agency
16. Susan Paul	-	KNA Reporter
17. Denis Otieno	-	Citizen TV

SECRETARIAT

1. Mr. Erick Nyambati	-	Clerk Assistant II
2. Ms. Nuri Kitel Nataan	-	Clerk Assistant II
3. Ms. Marlene Ayiro	-	Senior Legal Counsel
4. Mr. Joseph Ndirangu	-	Fiscal Analyst
5. Mr. Richard Sang	-	Sergeants At Arms
6. Mr. Nimrod Ochieng	-	Audio Officer
7. Ms. Bishara Jimale	-	Secretary

2 | Page

17) This means manufacturers can get raw materials from all these countries unlimited and be able access the UK market without paying any duty.

18) For fisheries, the rules of origin guarantee duty free market access under the following terms:

19) In order for fisheries products to be exported to UK on duty free and quota free basis, pursuant to the provision of Article 7 and Annex I, they must be originating from Kenya. Determination of origin is in accordance to the specification in provisions of Protocol No.1 on Rules of Origin, Articles 7 (1) (g, f & h); 7(2), 7(3) and Article 40(7)).

20) Therefore, all fisheries products that meeting the rules below qualify for duty free and quota free market access in the UK: -

a) Fisheries products caught in Kenyan waters (rivers, lakes and EEZ) (Protocol I: Article 7(1)(f)(i);
b) Fisheries products from Kenya's aquaculture and mariculture farms, cages or ponds (Protocol I: Article 7(1)(f)(ii);
c) Fisheries products of sea fishing and other products taken from the sea outside any territorial sea of the Kenya by Kenyan vessels (Protocol I: Article 7(1)(g)
d) Fisheries products made aboard Kenya's factory ships (Protocol I: Article 7(1)(h) exclusively from products referred to in (c);
e) Note: The terms "their vessels" and "their factory ships" (Protocol I: Article 7(2)(a) to (c)) in paragraph (b) and (c) shall apply only to vessels and factory ships:
f) which are registered in Kenya;
g) which sail under the flag of the Kenya;
h) which meet one of the following conditions:
i) they are at least 50 percent owned by nationals of the UK, of an EU Member State, of an EAC Partner State or of an OCT; or
j) they are owned by companies
k) which have their office and their main place of business Kenya; and
l) which are at least 50 percent owned by the Kenyans, Kenyan public entities or Kenyan nationals.
m) Upon Kenya's request, the vessels chartered or leased by Kenyans, to undertake fisheries activities (Protocol I: Article 7(3) (a) to (f)), fisheries products from such vessels would be granted duty free quota free market access in the UK, provided these vessels operate under the following conditions:
n) they operate under the flag of the Kenya; and
o) Kenya offered the UK the opportunity to negotiate a fishery agreement and the UK did not accept this offer; and
p) at least 50% of crew, master and officers included are nationals of Kenya, UK or of the EU, or of an OCT; and
q) the fish is landed and processed in Kenya; and
r) the activities undertaken under this paragraph target a surplus identified by means of scientific advice made available in the context of the IOTC by relevant international, regional or national authorities; and
s) the charter or lease contract has been accepted by the Committee as providing adequate opportunities for developing the capacity of Kenya to fish in its own account and in

particular as conferring on Kenya the responsibility for the nautical and commercial management of the vessel placed at its disposal for a significant period of time.

21) In Protocol 1: Article 40(7)), Kenya is allowed to use non-originating tuna of headings 0302 or 0303 up to 681 tonnes for use in processing tuna for export to the UK on duty free quota free basis. What this means is that if Kenya has a tuna factory and tuna fish migrates from Kenyan waters, the country is allowed to obtain tuna from foreign vessels, upto the tune of 681tonnes, for purposes of processing and selling the finished products to the UK. This addresses period raw material shortage that tuna factory could be facing as a result of migration of the tuna or lack of capacity for local or UK vessels to supply the factory with the tuna.

Protocol 2: On mutual administrative assistance in customs matters

22) This protocol is provided pursuant to Article 23(2) of the agreement. It relates to cooperation on matters to do with customs administration during the implementation of the agreement, including mutual assistance to enhance efficiency in facilitation of trade under the EPA.

Conformation to the East Africa Community Customs Union Protocol

23) During the EAC 40th Ordinary Meeting of the council of Ministers held on 25th February, 2021, Kenya informed the council meeting that a copy of the Kenya-UK Economic Partnership Agreement will be availed to the Secretariat once internal processes are finalized. (Page 34 – 40 of the Council Report)

MIN.NO.NA/TRADE/2021/003: ADJOURNMENT

The Chairperson adjourned the meeting at 2.30 pm. The next meeting will be held at 3.30 pm the same day.

SIGNED.....

(Chairperson)

DATE.....

f. seventeen years after the entry into force of this Agreement each duty shall be reduced to 65 percent of the basic duty;
g. eighteen years after the entry into force of this Agreement each duty shall be reduced to 60 percent of the basic duty;
h. nineteen years after the entry into force of this Agreement each duty shall be reduced to 55 percent of the basic duty;
i. twenty years after the entry into force of this Agreement each duty shall be reduced to 50 percent of the basic duty;
j. twenty-one years after the entry into force of this Agreement each duty shall be reduced to 40 percent of the basic duty;
k. twenty-two years after the entry into force of this Agreement each duty shall be reduced to 30 percent of the basic duty;
l. twenty-three years after the entry into force of this Agreement each duty shall be reduced to 20 percent of the basic duty;
m. twenty-four years after the entry into force of this Agreement each duty shall be reduced to 10 percent of the basic duty;
n. twenty-five years after the entry into force of this Agreement the remaining duties shall be abolished.

7) Customs duties applicable to products originating in the UK imported into the territory of the EAC Partner State(s) for goods listed in Annex II(d) shall be excluded from any of the regimes of tariff phase-down contained in this Annex

8) **Examples of goods that are excluded include:**
a. Broken rice, Buckwheat , Wheat or meslin flour, Maize (corn) Flour , Apple, Pears, Quinces ,Peaches, including nectarines, Plums and sloes, Strawberries ,Peel of citrus fruit or melons (including watermelons), fresh, frozen, dried or provisionally preserved in brine, in sulphur water or in other preservative solutions, Green tea (not fermented) in immediate packings of a content not exceeding 3 kg ,Black tea (fermented) and partly fermented tea, in immediate packings of a content not exceeding 3 kg.

b. Sesame oil and its fractions, Vegetable fats and oils and their fraction, Margarine, excluding liquid margarine, Animal or vegetable fats and oils and their fractions, boiled, oxidised, dehydrated, sulphured, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516; inedible mixtures or preparations of animal or vegetable fats ,Sausages and similar products, of meat, meat offal or blood; food preparations based on these products, Homogenised preparations of liver of any animal Of turkeys, Of fowls of the species Gallus domesticus, Hams and cuts thereof, Shoulders and cuts thereof, Of bovine animals, Salmon.

c. Vegetables, fruit, nuts, fruit-peel and other parts of plants, preserved by sugar (drained, glacé or crystallized),Homogenized preparations, Citrus fruit, Groundnuts, Pineapples, Citrus fruit, Pears, Apricots, Cherries, Peaches, including nectarines, Strawberries, Palm hearts, Cranberries.

Annex III: Joint statement of the parties on the objectives and essential and fundamental elements of this agreement

9) This annex is provided pursuant to Article 75(5) of the Agreement. It relates to UK financing pertaining of development cooperation between the EAC Partner State(s) and the UK, towards the support for implementation of this Agreement. It sets out the framework within which the UK will provide financing for development cooperation, pursuant to the provisions of Part V (Economic and Development Cooperation).

Protocol 1: Concerning the definition of the concept of "originating products" and methods of administrative cooperation

10) This protocol is provided pursuant to Article 9 of the agreement. It sets out the rules of origin that Kenyan products should meet in order to access the UK market on duty free basis. It is an enabler to the duty free and quota free provision of Annex I.
Further to the provisions of this protocol, products originating from Kenya are allowed to access the UK market under any one of the following criterion:

11) Wholly Obtain: This applies to products which are not manufactured/processed for example animals born and raised in Kenya, plants, vegetables, fruits, minerals among others.

12) For Manufactured/processed products, the qualification criteria is either one of the following:

13) Change in Tariff Heading/Classification- Where you are allowed to source raw materials from any part of the world so long as the raw material and the final product are classified under a different Harmonised Classification (HS) Code heading. For example for plastic chairs, the raw material (plastic) granules falls under different HS code and the Plastic chair is classified under a different one. Most of the manufactured products falls under this criteria;

14) Or Value of Non-Originating Materials: Where manufacturers are allowed to source raw materials from any part of the world up to 70% of the ex-factory price/Value of the final products. This means the manufacturers must use not less than 30% of the local raw materials from either Kenya or the EU and get the rest from outside the two countries. This is to facilitate manufacturers where raw materials are not available in sufficient quantities;

15) Or Specific Process Rule: This is where the manufacturers use a specific process to produce the final product. This applies to mainly manufacture of textiles products (chapters 50-63), precious stones (chapters 76,77), motor vehicles (chapters 87) among others. In this case the source of the raw materials used is not restricted-they can be sourced from anywhere in the world. Its a flexibility rule for the manufactures where the local raw materials are not sufficient;

16) In order to widen the catchment area for the raw materials to facilitate the manufactures, the agreement allows sourcing of the materials from the following and consider them as though they are local materials: -
    a. EAC Partner States,
    b. Countries where Kenya has signed an FTA,
    c. Countries benefiting from Duty-Free Quota-Free Access to the UK Market
    d. EU (Articles 4 and 6) of the Protocol 1 on rules of origin;
    e. Materials which enter the UK duty free on MFN basis.

6 | Page

MIN.NO.NA/TRADE/2021/001: PRELIMINARIES/COMMUNICATION FROM THE CHAIRPERSON

The Chairperson called the meeting to order at 9.30 am and said the prayer. He welcomed those present to make introductions and thereafter invited the meeting to deliberate on the day's agenda having been adopted by the Committee.

The Chairperson informed the Committee that:- Article 118 (1)(b) of the Constitution on provides that "*Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its committees* and Section 8(3) of the Treaty Making and Ratification Act of 2012, *provides that the relevant parliamentary Committee shall, during its consideration of the Treaty, ensure public participation in the ratification process in accordance with laid down parliamentary procedures.*

Consequently, the Committee through the Clerk of the National Assembly placed advertisements in two local dailies; Nation and People Daily, on 27th February 2020, calling for submissions of memoranda on the subject matter.

The Committee further identified and invited ten key stakeholders.

MIN.NO.NA/TRADE/2021/002: STAKEHOLDERS ENGAGEMENT ON THE KENYA-UK ECONOMIC PARTNERSHIP AGREEMENT

The Committee was briefed on the Kenya-UK EPA particularly the annexes and protocol by Cabinet Secretary, Hon. Betty Maina and Amb. Johnson Weru, Principal Secretary for Trade and Enterprise Development. Together with other Ministry officials, they informed the Committee as follows in regards to the annexure:-THAT

1) Article 146 of the Kenya-UK EPA lists the following Annexes that form an integral part of this Agreement.
   a. Annex I: Customs duties on products originating in the EAC Partner State(s)
   b. Annex II: Customs duties on products originating in the UK
   c. Annex III: Joint Statement of the Parties on the objectives and essential and fundamental elements of this agreement
   d. Protocol 1: Concerning the definition of the concept of "originating products" and methods of administrative cooperation
   e. Protocol 2: On mutual administrative assistance in customs matters

Annex I: Customs duties on products originating in the EAC partner state(S)

2) This annex is provided pursuant to Article 7(2) of the Agreement. It relates to customs duties that will be applied on goods that Kenya will export to the UK. It provides that the UK will entirely eliminate customs duties for all products, as classified under Harmonised Commodity Description and Coding System (HS) chapters 1 to 97, with exception of products of chapter

93 (arms and ammunition). The effect of this provision is to guarantee duty free and quota free market access into the UK immediately the Kenya -UK EPA comes into effect.

Annex II: Customs duties on products originating in the UK

3) This annex is provided pursuant to Article 7(2) of the Agreement. It relates to customs duties that will be applied on goods that UK will export to the Kenya. It provides for progressive liberalization of customs duties applicable on goods imported from the UK.

4) Customs duties applicable to products originating in the UK imported into the territory of the EAC Partner State(s) for goods listed in Annex II(a), shall be eliminated upon the entry into force of this Agreement.

5) Customs duties applicable to products originating in the UK imported into the territory of the EAC Partner State(s) for goods listed in Annex II(b) shall be progressively abolished in accordance with the following schedule:
   a. seven years after the entry into force of this Agreement each duty shall be reduced to 80 per cent of the basic duty;
   b. eight years after the entry into force of this Agreement each duty shall be reduced to 70 per cent of the basic duty;
   c. nine years after the entry into force of this Agreement each duty shall be reduced to 60 per cent of the basic duty;
   d. ten years after the entry into force of this Agreement each duty shall be reduced to 50 per cent of the basic duty;
   e. eleven years after the entry into force of this Agreement each duty shall be reduced to 40 per cent of the basic duty;
   f. twelve years after the entry into force of this Agreement each duty shall be reduced to 30 per cent of the basic duty;
   g. thirteen years after the entry into force of this Agreement each duty shall be reduced to 20 per cent of the basic duty;
   h. fourteen years after the entry into force of this Agreement each duty shall be reduced to 10 per cent of the basic duty;
   i. fifteen years after the entry into force of this Agreement the remaining duties shall be abolished.

6) Customs duties applicable to products originating in the UK imported into the territory of the EAC Partner State(s) for goods listed in Annex II(c) shall be progressively abolished in accordance with the following schedule:
   a. twelve years after the entry into force of this Agreement each duty shall be reduced to 95 percent of the basic duty;
   b. thirteen years after the entry into force of this Agreement each duty shall be reduced to 90 percent of the basic duty;
   c. fourteen years after the entry into force of this Agreement each duty shall be reduced to 85 percent of the basic duty;
   d. fifteen years after the entry into force of this Agreement each duty shall be reduced to 80 percent of the basic duty;
   e. sixteen years after the entry into force of this Agreement each duty shall be reduced to 70 percent of the basic duty;

f. seventeen years after the entry into force of this Agreement each duty shall be reduced to 65 percent of the basic duty;
g. eighteen years after the entry into force of this Agreement each duty shall be reduced to 60 percent of the basic duty;
h. nineteen years after the entry into force of this Agreement each duty shall be reduced to 55 percent of the basic duty;
i. twenty years after the entry into force of this Agreement each duty shall be reduced to 50 percent of the basic duty;
j. twenty-one years after the entry into force of this Agreement each duty shall be reduced to 40 percent of the basic duty;
k. twenty-two years after the entry into force of this Agreement each duty shall be reduced to 30 percent of the basic duty;
l. twenty-three years after the entry into force of this Agreement each duty shall be reduced to 20 percent of the basic duty;
m. twenty-four years after the entry into force of this Agreement each duty shall be reduced to 10 percent of the basic duty;
n. twenty-five years after the entry into force of this Agreement the remaining duties shall be abolished.

7) Customs duties applicable to products originating in the UK imported into the territory of the EAC Partner State(s) for goods listed in Annex II(d) shall be excluded from any of the regimes of tariff phase-down contained in this Annex

8) **Examples of goods that are excluded include:**
   a. Broken rice, Buckwheat ,Wheat or meslin flour, Maize (corn) Flour , Apple, Pears, Quinces ,Peaches, including nectarines, Plums and sloes, Strawberries ,Peel of citrus fruit or melons (including watermelons), fresh, frozen, dried or provisionally preserved in brine, in sulphur water or in other preservative solutions, Green tea (not fermented) in immediate packings of a content not exceeding 3 kg ,Black tea (fermented) and partly fermented tea, in immediate packings of a content not exceeding 3 kg.

   b. Sesame oil and its fractions, Vegetable fats and oils and their fraction, Margarine, excluding liquid margarine, Animal or vegetable fats and oils and their fractions, boiled, oxidised, dehydrated, sulphured, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516; inedible mixtures or preparations of animal or vegetable fats ,Sausages and similar products, of meat, meat offal or blood; food preparations based on these products, Homogenised preparations of liver of any animal Of turkeys, Of fowls of the species Gallus domesticus, Hams and cuts thereof, Shoulders and cuts thereof, Of bovine animals, Salmon.

   c. Vegetables, fruit, nuts, fruit-peel and other parts of plants, preserved by sugar (drained, glacé or crystallized),Homogenized preparations, Citrus fruit, Groundnuts, Pineapples, Citrus fruit, Pears, Apricots, Cherries, Peaches, including nectarines, Strawberries, Palm hearts, Cranberries.

Annex III: Joint statement of the parties on the objectives and essential and fundamental elements of this agreement

9) This annex is provided pursuant to Article 75(5) of the Agreement. It relates to UK financing pertaining of development cooperation between the EAC Partner State(s) and the UK, towards the support for implementation of this Agreement. It sets out the framework within which the UK will provide financing for development cooperation, pursuant to the provisions of Part V (Economic and Development Cooperation).

Protocol 1: Concerning the definition of the concept of "originating products" and methods of administrative cooperation

10) This protocol is provided pursuant to Article 9 of the agreement. It sets out the rules of origin that Kenyan products should meet in order to access the UK market on duty free basis. It is an enabler to the duty free and quota free provision of Annex I.
Further to the provisions of this protocol, products originating from Kenya are allowed to access the UK market under any one of the following criterion:

11) Wholly Obtain: This applies to products which are not manufactured/processed for example animals born and raised in Kenya, plants, vegetables, fruits, minerals among others.

12) For Manufactured/processed products, the qualification criteria is either one of the following:

13) Change in Tariff Heading/Classification- Where you are allowed to source raw materials from any part of the world so long as the raw material and the final product are classified under a different Harmonised Classification (HS) Code heading. For example for plastic chairs, the raw material (plastic) granules falls under different HS code and the Plastic chair is classified under a different one. Most of the manufactured products falls under this criteria;

14) Or Value of Non-Originating Materials: Where manufacturers are allowed to source raw materials from any part of the world up to 70% of the ex-factory price/Value of the final products. This means the manufacturers must use not less than 30% of the local raw materials from either Kenya or the EU and get the rest from outside the two countries. This is to facilitate manufacturers where raw materials are not available in sufficient quantities;

15) Or Specific Process Rule: This is where the manufacturers use a specific process to produce the final product. This applies to mainly manufacture of textiles products (chapters 50-63), precious stones (chapters 76,77), motor vehicles (chapters 87) among others. In this case the source of the raw materials used is not restricted-they can be sourced from anywhere in the world. Its a flexibility rule for the manufactures where the local raw materials are not sufficient;

16) In order to widen the catchment area for the raw materials to facilitate the manufactures, the agreement allows sourcing of the materials from the following and consider them as though they are local materials: -
    a. EAC Partner States,
    b. Countries where Kenya has signed an FTA,
    c. Countries benefiting from Duty-Free Quota-Free Access to the UK Market
    d. EU (Articles 4 and 6) of the Protocol 1 on rules of origin;
    e. Materials which enter the UK duty free on MFN basis.

17) This means manufacturers can get raw materials from all these countries unlimited and be able access the UK market without paying any duty.

18) For fisheries, the rules of origin guarantee duty free market access under the following terms:

19) In order for fisheries products to be exported to UK on duty free and quota free basis, pursuant to the provision of Article 7 and Annex I, they must be originating from Kenya. Determination of origin is in accordance to the specification in provisions of Protocol No.1 on Rules of Origin, Articles 7 (1) (g, f & h); 7(2), 7(3) and Article 40(7)).

20) Therefore, all fisheries products that meeting the rules below qualify for duty free and quota free market access in the UK: -

a) Fisheries products caught in Kenyan waters (rivers, lakes and EEZ) (Protocol I: Article 7(1)(f)(i);
b) Fisheries products from Kenya's aquaculture and mariculture farms, cages or ponds (Protocol I: Article 7(1)(f)(ii);
c) Fisheries products of sea fishing and other products taken from the sea outside any territorial sea of the Kenya by Kenyan vessels (Protocol I: Article 7(1)(g)
d) Fisheries products made aboard Kenya's factory ships (Protocol I: Article 7(1)(h) exclusively from products referred to in (c);
e) Note: The terms "their vessels" and "their factory ships" (Protocol I: Article 7(2)(a) to (c)) in paragraph (b) and (c) shall apply only to vessels and factory ships:
f) which are registered in Kenya;
g) which sail under the flag of the Kenya;
h) which meet one of the following conditions:
i) they are at least 50 percent owned by nationals of the UK, of an EU Member State, of an EAC Partner State or of an OCT; or
j) they are owned by companies
k) which have their office and their main place of business Kenya; and
l) which are at least 50 percent owned by the Kenyans, Kenyan public entities or Kenyan nationals.
m) Upon Kenya's request, the vessels chartered or leased by Kenyans, to undertake fisheries activities (Protocol I: Article 7(3) (a) to (f)), fisheries products from such vessels would be granted duty free quota free market access in the UK, provided these vessels operate under the following conditions:
n) they operate under the flag of the Kenya; and
o) Kenya offered the UK the opportunity to negotiate a fishery agreement and the UK did not accept this offer; and
p) at least 50% of crew, master and officers included are nationals of Kenya, UK or of the EU, or of an OCT; and
q) the fish is landed and processed in Kenya; and
r) the activities undertaken under this paragraph target a surplus identified by means of scientific advice made available in the context of the IOTC by relevant international, regional or national authorities; and
s) the charter or lease contract has been accepted by the Committee as providing adequate opportunities for developing the capacity of Kenya to fish in its own account and in

particular as conferring on Kenya the responsibility for the nautical and commercial management of the vessel placed at its disposal for a significant period of time.

21) In Protocol 1: Article 40(7)), Kenya is allowed to use non-originating tuna of headings 0302 or 0303 up to 681 tonnes for use in processing tuna for export to the UK on duty free quota free basis. What this means is that if Kenya has a tuna factory and tuna fish migrates from Kenyan waters, the country is allowed to obtain tuna from foreign vessels, upto the tune of 681tonnes, for purposes of processing and selling the finished products to the UK. This addresses period raw material shortage that tuna factory could be facing as a result of migration of the tuna or lack of capacity for local or UK vessels to supply the factory with the tuna.

Protocol 2: On mutual administrative assistance in customs matters

22) This protocol is provided pursuant to Article 23(2) of the agreement. It relates to cooperation on matters to do with customs administration during the implementation of the agreement, including mutual assistance to enhance efficiency in facilitation of trade under the EPA.

Conformation to the East Africa Community Customs Union Protocol

23) During the EAC 40th Ordinary Meeting of the council of Ministers held on 25th February, 2021, Kenya informed the council meeting that a copy of the Kenya-UK Economic Partnership Agreement will be availed to the Secretariat once internal processes are finalized. (Page 34 – 40 of the Council Report)

MIN.NO.NA/TRADE/2021/003: ADJOURNMENT

The Chairperson adjourned the meeting at 2.30 pm. The next meeting will be held at 3.30 pm the same day.

SIGNED.....

(Chairperson)

DATE.....8th March 2021.....

ANNEX III

ADVERT

3

Queries Teachers, learners, parents, education officials, the civil society, and religious leaders made phone calls to

Here's all you need to know about new school curriculum

BY DAVID MUCHUNGUH

A day after President Uhuru Kenyatta unveiled the Competency-Based Curriculum (CBC), education stakeholders spent a better part of yesterday trying to understand how it will change school.

Teachers, learners, parents, education officials, the civil society, and religious leaders made phone calls to the *Nation* newsroom, seeking information.

Here is a sample of the most frequently asked questions and answers, as adopted from the report by the taskforce on implementation of CBC.

How many years will learners spend at each level, and school in total?

Children will spend two years in pre-primary, six years in primary and six years in secondary school.

Those who proceed to university will study for three years while those who join certificate, diploma and technical courses will study for varied periods, depending on the programme.

The cumulative years spent in school will also be reduced by one, from 18 under 8-4-4, to 17 in the new 2-6-3-3-3 structure.

What will happen at the end of every level?

At the end of pre-primary 2, the learners will be assessed internally, but will all transition to Grade 1 in primary school.

Primary school has been divided into lower (Grades 1,2,3) and upper (Grades 4,5,6).

At Grade 3, they will undertake a school-based national assessment to monitor their learning, but this will not be used for ranking or placement as they all proceed to Grade 4,5 and 6.

At each of these grades, learners will be assessed in tests weighted at 20 per cent each year.

At Grade 6, learners will undertake a national assessment that will be weighted at 40 per cent to add on to the 60 per cent scored in the previous years.

The performance of the learners at this level and their interests will be used to place them in junior secondary school (JSS), which will constitute Grades 7,8 and 9. All the current secondary schools in the country will have a JSS section.

Learners will again be formatively assessed with a summative assessment at the end of JSS (Grade 9). The scores and learners' preferences will be used for placement in senior secondary school (SSS) where they will follow one of their preferred pathways.

Will KCPE and KCSE exams be retained?

No. The exams will cease to exist as we know them. KCPE will be replaced by the assessment described above which is a combination of formative and summative tests.

Teachers will play a crucial role in the administration and scoring of the formative assessments.

It is only the summative assessment, that may resemble KCPE.

It is still not yet decided what the examination and certificate awarded at the end of primary school will be named.

Will learners transition to secondary school younger than under 8-4-4?

Yes. It is expected that the entry age for secondary school will be lowered from the current average of 14 years to 12 years.

However, they will spend six years in secondary school rather than the current four.

What will be learnt in the three pathways in senior secondary, and which schools will offer them?

The pathways are: Arts and Sports Science, Social Sciences and Science Technical Engineering and Mathematics (STEM).

Each of the pathways will have various individual subjects attached to it.

The following tracks are under the Arts and Sports Science Pathway: Sports Science, Performing Arts, and Visual Arts.

Under the Social Sciences Pathway, learners will choose between two tracks: Languages and Literature and Humanities and Business Studies.

Under STEM, learners will choose from the following tracks: Pure Sciences, Applied Sciences, Technical and Engineering and Careers and Technology Studies.

Secondary schools that can host all three pathways will be identified and their infrastructural capacity enhanced.

What is different in how learners are taught in 8-4-4 and in CBC?

The main difference is that 8-4-4 focuses more on mastery of content, which encourages rote learning, while CBC focuses on learners' performance of skills and competencies that are observable.

What competencies will be taught/learnt?

There are seven core competencies in CBC — communication and collaboration, critical thinking and problem solving, imagination and creativity, citizenship, learning to learn, self-efficacy and digital literacy.

Which countries were used to benchmark the CBC?

Canada and Israel are Kenya's model countries. Comparative studies were done against Singapore, select states in the US and the UK, Japan, Germany, Netherlands, Indonesia, South Korea, Rwanda, South Sudan.



What learning areas will be under CBC?

There will be the following learning areas in pre-primary: Language Activities, Mathematical Activities, Environmental Activities, Psychomotor and Creative Activities, Religious Education Activities and Pre-Braille Activities.

Digital literacy and pertinent and contemporary issues are integrated across all learning areas.

The learning areas in lower primary are: Literacy Activities, Braille Literacy Activities, Kiswahili Language Activities/Kenya Sign Language for learners who are deaf, English Language Activities, Mathematical Activities, Environmental Activities, Hygiene and Nutrition Activities, Religious Education Activities, Movement and Cre-

REPUBLIC OF KENYA

TWELFTH PARLIAMENT (FIFTH SESSION)
THE NATIONAL ASSEMBLY

INVITATION FOR PUBLIC PARTICIPATION & SUBMISSION OF MEMORANDA

(Article 118 (1) (b) of the Constitution and Standing Order 127(3) of the National Assembly Standing Orders

In the matters of consideration by the National Assembly:-

1. The Public Procurement and Asset Disposal (Amendment) (No. 2) Bill (National Assembly Bill No. 34 of 2020)
2. The Public Debt Management Authority Bill (National Assembly Bill No. 36 of 2020)

SUBMISSION OF MEMORANDA

Article 118(1) (b) of the Constitution provides that, *"Parliament shall facilitate public participation and involvement in the legislative and other businesses of Parliament and its Committees"*. Standing Order (S.O.) 127(3) provides that *"the Departmental Committee to which a Bill is committed to facilitate public participation and take into account the views and recommendations of the public when the Committee makes its report to the House"*.

The Public Procurement and Asset Disposal (Amendment) (No. 2) Bill (National Assembly Bill No. 34 of 2020) introduced by Hon. Richard Tongi, MP, seeks to amend the Public Procurement and Asset Disposal Act (No. 33 of 2015) to provide that all foreign tenderers participating in international tenders shall source all their locally available supplies from citizen contractors. The purpose of the amendment is to promote the growth of local industries and contractors.

The Public Debt Management Authority Bill (National Assembly Bill No. 36 of 2020) introduced by Hon. Sakwa Bunyasi, MP, seeks to establish the Public Debt Management Authority as an independent body to manage the public debt in the country at both levels of government. The country's debt is rising at an alarming level and there is need to manage the same to protect the current and future generations. The Office shall succeed the Public Debt Management Office.

The Bills have undergone First Reading pursuant to Standing Order 127(3) and stand committed to the Departmental Committee on Finance and National Planning for consideration and thereafter report to the House.

Pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3), the Committee invites interested members of the public to submit any representations that they may have on the said Bills. The Bills can be accessed from the parliamentary website at www.parliament.go.ke/the-national-assembly/house-business/bills.

The representations or written submissions 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 Wednesday, 17th February, 2021 at 5:00 pm.

MICHAEL R. SIALAI, CBS
CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA

THE PARLIAMENTARY SERVICE COMMISSION

VACANCY NO. PPP/PSC/

POSITION ADVERTISED: PARLIAMENTARY PUPILLAGE PROGRAMME, 2021

The Parliament of Kenya is one of the institutions set out in the Council of Legal Education (Admission) Regulations, 2007 as an institution in which students of the Kenya School of Law may undertake their Pupillage Programme. The Parliamentary Service Commission now seeks to engage twelve (12) highly motivated Kenyans to undertake their Pupillage Programme with the Parliament of Kenya for a period of six (6) months commencing May, 2021.

The successful pupils shall be selected from applicants who-

(a) possess at least a Bachelor of Laws (LL.B) degree (Upper Second Class Honors) from a recognized University;
(b) are admitted to the Kenya School of Law and be sitting for the Kenya School of Law exams in April 2021;
(c) demonstrate good verbal and written communication skills in both English and Kiswahili, as evidenced by a score of at least a "B" plain grade in both subjects;
(d) demonstrate a proactive attitude and willingness to learn and to be part of a team handling challenging tasks within specific timelines; and
(e) are computer literate.

Interested and qualified persons are requested to apply ONLINE ONLY through the Parliamentary Service Commission website, www.parliament.go.ke/vacancies so as to reach the undersigned on or before 28th February 2021.

Please note:
Applications are strictly online and applications through the post office, email or hand delivery will not be accepted.

J. M. NYEGENYE, CBS.,
CLERK OF THE SENATE/SECRETARY
PARLIAMENTARY SERVICE COMMISSION

urtners, two of whom have been freed on bond

of woman



number of calls to Mr Okoth, Mr Oduor and Ms Gitiri.

The phones belonging to the suspects were triangulated as having been around Ngara on the day Ms Maina vanished.

Triangulation is a technique used by investigators to track a phone's geographical location by measuring the time delay that a signal takes to return to the nearest transmission tower.

On being arrested Mr Otieno and Mr Okoth took police officers to where the body had been dumped.

According to a postmortem conducted on Wednesday evening, Ms Maina died from head and back injuries.

She also had bruises on her hip and hands.

With police having in their custody two people considered to be the prime suspects in the murder, focus has shifted to establishing why exactly the crime was committed.

People aware of Ms Maina's dealings say she was not good at settling debts and appeared to owe everyone around her some money.

After quitting her job at a bank, Ms Maina briefly operated a salon at China Town in Hurlingham, Nairobi.

"She had issues with paying her staff, suppliers and the landlord. Ms Maina was later kicked out after falling out with everybody," a person who knew her told the *Saturday Nation*.

"Very few people trusted her. Those who did lost their money."

Following the death of the hairdressing business, she ventured into real estate and attempted to get into the lucrative world of government tenders.

With no money, Ms Maina formed a company with the four people believed to have killed her, one of them being her boyfriend.

The company, whose name we cannot publish since its structure and finances are being investigated, received Sh20 million from a county government in the days leading to Ms Maina's disappearance.

The money was payment for construction of sidewalks.

On interrogation the suspects told police that after receiving the money, there was a dispute on how it would be split.

Ms Maina being the bank signatory, refused to part with what the others thought rightfully belonged to them.

Ms Maina is said to have insisted that she deserved more because it was through her efforts that the company won the tender.

On the day she disappeared she had withdrawn Sh350,000 from Co-operative Bank which she intended to give to Mr Otieno.

It turned out to be her last business transaction. The matter will come up for hearing on March 8.

vachuka@ke.nationmedia.com

Postmortem results of three city murder victims raise more questions than answers

BY STEVE OTIENO

Investigations into the killing of a civil servant, her son and her male friend have taken a new twist after postmortem showed that the three did not die on the same day.

The the manner of their deaths also differed, pathologists said.

In what could complicate investigations, Chief Government pathologist Johansen Oduor said Charity Cheboi and her son Allan Kipngetich were suffocated by their killer while Kevin Kipkoech died from carbon monoxide poisoning.

The bodies were found discovered in an apartment at Government Quarters on Jogoo Road, Nairobi, on Tuesday afternoon.

Police have not made any arrests or find the motive for the killings.

A five-hour postmortem at Chiromo mortuary provided some answers yesterday.

"The boy had what we call cyanosis, indicating that he did not have oxygen in the body when he died. So, I concluded that he was smothered," Dr Oduor told reporters.

"A hand or some cloth was placed on his nose and mouth to deny him oxygen. This was the same for the mother."

The pathologist ruled that the two died in the same manner though their injuries were different.

The boy had injuries on the neck and mouth.

"His mother had superficial subcutaneous injuries on her right upper arm, an indication that she was defending herself at the point of death," Dr Oduor added.

The death of Mr Kipkoech was different.

He was to graduate as a priest this year.

"The tissues were cherry-red. This discouloration is usually found in the body of a person who died of carbon-monoxide poisoning," Dr Oduor said.

3

The number of bodies found at a house in Government Quarters, Jogoo Road, on Tuesday afternoon.

Carbon monoxide poisoning is caused by prolonged inhalation of fumes from burning charcoal in a room whose doors and windows are sealed.

Mr Kipkoech's body was in the toilet. The hands and feet were tied up.

Neighbours say they saw Mr Kipkoech a day after Ms Cheboi was last seen entering her house.

While his clothes had some blood, it had no visible injuries, Dr Oduor and his team said.

"They were superficial, incise wounds. They could not cause death. Were they self-inflicted or were inflicted by someone who was trying to get information from him?" he said.

"The boy and his mother died earlier than the man. There was advanced decomposition on the two bodies. However, the man's body was fairly fresh. He might have died a day after the others."

Kipngetich's father, Kenneth Kiptanui told police that he found out about the murders after being informed that his son had failed to attend school on Monday.

soketch@ke.nationmedia.com

Mweiga tycoon linked to son's killing to remain in custody for five more days

75

he age of lweiga businessman tephen /ang'ondu inini who is ccused of hing a group kill his son

BY NICHOLAS KOMU

A Nyeri tycoon accused of orchestrating his son's murder will remain in custody for five more days as police finalise investigations.

Mr Stephen Wang'ondu Kinini, 75, is among six people linked to the killing of Daniel Mwangi.

The others are Mr James Mahinda Mwangi, Mr Geoffrey Waturi, Mr Eddy Kariuki, Mr Raphael Wachira and Ms Charity Muchiri.

The decision by the Nyeri court came as fresh details emerged, suggesting the murder plans were finalised at a popular restaurant in Nyeri town.

Police sources describe a contract killing scheme fuelled by a feud pitting the Mweiga-based businessman against his sons, their spouses and employees.

According to the Directorate of Criminal Investigations (DCI), Mr Kinini instructed his driver – Mr Mahinda – to plan the killing, promising to give him Sh160,000.

A down payment of Sh20,000 was reportedly made Mr Mahinda to facilitate the arrangements, which included finding three killers in Embu county.

"Mr Wang'ondu gave his driver a facilitation fee of Sh20,000 and instructed him to form a team that would execute his plan," the DCI said.

Mr Mahinda is said to have travelled to Matakanf in Embu on December 31 and met Mr Waturi and Mr Kariuki.

Police say he spent the night at one of the suspects' home.

The three then travelled to Nyeri the following day.

According to police, they had lunch at a restaurant in Nyeri town, where the final killing plans were made. They later made their way to Mweiga around 3pm.

In Mweiga, they the three reportedly bought a panga at a hardware and started tracking the businessman's son down.

At the time, Mwangi was celebrating New Year's Day with friends. He would drive back home later that night.

The attackers hid outside his house. Because the gate to his home was locked, Mwangi climbed over the wall and unlocked it from inside.

That is when the gang pounced, slashing him to death, police say.

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT - FIFTH SESSION

INVITATION TO PUBLIC PARTICIPATION & SUBMISSION OF MEMORANDA

In the matter of consideration by the National Assembly
The Economic Partnership Agreement between the Republic of Kenya, a member of the East African Community of the one Part and the United Kingdom of Great Britain and Northern Ireland of the other Part

Article 118 (1)(b) of the Constitution provides that *"Parliament shall facilitate Public Participation and involvement in the legislation and other business of Parliament and its Committees"*. Further, Section 8 of the Treaty Making and Ratification Act, 2012 provides for the consideration and Ratification of Treaties by Parliament. Sub section 3 states that *"the relevant Parliamentary Committee shall, during its consideration of the Treaty, ensure Public Participation in the ratification process in accordance with laid down parliamentary procedures"*.

In line with Section 8 of the Treaty Making and Ratification Act, 2012, the above mentioned Trade Agreement was submitted to the Speaker of the National Assembly and is now committed to the Departmental Committee on Trade, Industry and Cooperatives for consideration and reporting back to the House.

Pursuant to Article 118 (1)(b) of the Constitution and Section 8 of the Treaty Making and Ratification Act, 2012, the Departmental Committee on Trade Industry and Cooperatives invites interested members of the public to submit any representations they may have on the earlier advertised Trade Agreement and the additional information that the Committee has since received as contained in the annexes.

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 Building, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Friday 5th March, 2021 at 5:00 pm.

The full text of the Trade Agreement and its accompanying Memorandum to Parliament may be accessed at www.parliament.go.ke; the National Assembly under Papers Laid.

MICHAEL R. SIALAI, CBS
CLERK OF THE NATIONAL ASSEMBLY

ANNEX IV

SUBMISSIONS BY STAKEHOLDERS

Annex IV (a)

Ministry of Industrialization, Trade and Enterprise Development

Memorandum of Understanding





Signing of the

MEMORANDUM OF UNDERSTANDING

BETWEEN THE

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

AND

THE REPUBLIC OF KENYA

CONCERNING THE ARRANGEMENTS FOR APPLYING THE EFFECTS OF THE ECONOMIC PARTNERSHIP AGREEMENT

BETWEEN

THE REPUBLIC OF KENYA, A MEMBER OF THE EAST AFRICAN COMMUNITY, OF THE ONE PART,
AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, OF THE OTHER PART

8th December 2020. London, United Kingdom.

MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

AND

THE REPUBLIC OF KENYA

CONCERNING THE ARRANGEMENTS FOR APPLYING THE EFFECTS OF THE ECONOMIC PARTNERSHIP AGREEMENT BETWEEN THE REPUBLIC OF KENYA, A MEMBER OF THE EAST AFRICAN COMMUNITY, OF THE ONE PART, AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, OF THE OTHER PART

The United Kingdom of Great Britain and Northern Ireland ("the United Kingdom" or "UK") and the Republic of Kenya ("Kenya") (together, hereinafter referred to as "the Participants"),

- *Recognising* that the Participants signed on 8 December 2020 in London an Economic Partnership Agreement between the Republic of Kenya, a Member of the East African Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part ("the Kenya-UK EPA"),

- *Recognising* that the necessary domestic procedures required for the Kenya-UK EPA to enter into effect will not have been completed by 31 December 2020, 11pm (GMT),

Have reached the following understandings:

Section 1

Treatment of the Kenya-UK EPA

The Participants have decided to treat the provisions of the signed Kenya-UK EPA as having effect as between them for the period between 31 December 2020, 11pm (GMT) and the entry into effect of the Kenya-UK EPA.

Section 2

Entry into effect of the Kenya-UK EPA

The Participants will use their best endeavours to bring the Kenya-UK EPA into effect as between them within 3 months of this Memorandum coming into effect.

The Participants accept that, following the Kenya-UK EPA entering into effect, any action carried out pursuant to this Memorandum will be understood to have been carried out pursuant to the Kenya-UK EPA.

Section 3

Amendment

This Memorandum may be amended at any time by the mutual written consent of the Participants.

Section 4

Termination

This Memorandum may be terminated as between the UK and Kenya by one of them giving one month's written notice to the other, or such shorter period as the Participants may decide. In any event, this Memorandum will terminate without any further notice on the date of the EPA entering into effect or 3 months upon this Memorandum coming into effect, whichever comes earlier.

The Participants will consult to determine how any outstanding matters should be dealt with.

Section 5

Disputes

The Participants will consult at the request of either of the Participants identifying a concern about the interpretation or application of this Memorandum and endeavour to resolve the matter amicably between themselves. The Participants accept that they will not seek recourse to any national or international tribunal or any third party for settlement of such matters.

Section 6

Effective date

This Memorandum will come into effect on 31 December 2020, 11pm (GMT). The foregoing represents the understandings reached between the Participants on the matters referred to in this Memorandum.

Signed in duplicate in London on this 8th December, 2020

For the Government of the Republic of Kenya

Amb. Johnson Weru
Principal Secretary
State Department for Trade and Enterprise Development
Ministry of Industrilization, Trade and Enterprise Development

For the Government of the United Kingdom of Great Britain and Northern Ireland

Mr. Paul Walters
Deputy Director,
Developing Country Trade Arrangements
Continuity Negotiations and Development
Directorate, Trade Policy Group
Department for International Trade

Joint Declaration

In relation to Protocol 1 concerning the definition of the concept of "originating products" and methods of administrative cooperation to the Economic Partnership Agreement Between the Republic of Kenya, a Member of the East African Community, Of the One Part, and the United Kingdom of Great Britain and Northern Ireland, of the Other Part (the "Agreement"), the United Kingdom and Kenya have adopted the following declaration:

1. In advance of the conclusion of trade negotiations between the European Union and the United Kingdom and in anticipation of the implementation of the Economic Partnership Agreement between the East African Community Partner States, of the one part, and the European Union and its Member States of the other part (the "EAC-EU EPA"), the Parties recognise that a trilateral approach to rules of origin, involving the European Union, is the preferred outcome in trading arrangements between the Parties and the European Union. This approach would allow for the recognition of originating content from either of the Parties and from the European Union in exports to each other, as per the intention of the EAC-EU EPA. In this regard, the Governments of the United Kingdom and Kenya understand that any bilateral arrangement between the Parties represents a first step towards seeking this outcome.

2. In the event that the United Kingdom and the European Union reach agreement on rules of origin appropriate for a trilateral approach, the Parties approve taking the necessary steps, as a matter of urgency, to update Protocol 1 of the Agreement to reflect a trilateral approach to rules of origin involving the European Union. The necessary steps will be taken in accordance with the procedures of the EPA Council contained in Protocol 1 of the Agreement. Should the agreement between the United Kingdom and European Union not include rules of origin suitable for a trilateral approach at entry into force, it is the understanding of both Parties that they will endeavour to pursue appropriate discussions with the European Union.

3. This Joint Declaration will come into effect on the entry into force of the Agreement and will continue in operation until terminated in writing by either the United Kingdom or Kenya. Termination will take effect immediately upon the date of such notification.

The foregoing record represents the understandings reached between the Government of the United Kingdom of Great Britain and Northern Ireland and Kenya upon the matters referred to therein.

Signed in duplicate at London this 8th December 2020.

For the United Kingdom of Great Britain and Northern Ireland:

For the Republic of Kenya:

Department for International Trade

3 Whitehall Place
London
SW1A 2AW

4 December 2020

UK note

Dear Principal Secretary Weru,

I have the honour to refer to discussions between the Government of the United Kingdom of Great Britain and Northern Ireland ("the United Kingdom") and the Government of Kenya (together, "the Participants") concerning the limited number of areas in which clarity is required as to the interaction between the Economic Partnership Agreement between the Republic of Kenya, a Member of the East African Community, of the One Part, and the United Kingdom of Great Britain and Northern Ireland, of the Other Part, from its entry into effect ("the EPA") and the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, signed in London and Brussels on 24 January 2020 ("the Withdrawal Agreement"), the latter of which includes the Protocol on Ireland/Northern Ireland ("the Protocol").

As a result of these discussions, it is the understanding of the Government of the United Kingdom that, necessary for the consistent and concurrent application of the EPA (from its entry into effect) and the Protocol, the following arrangements (together, "the Arrangements") will apply:

1. The Participants recognise the paramount importance of protecting the peace process in Northern Ireland and upholding the Belfast ('Good Friday') Agreement 1998, and understand that the United Kingdom will take certain measures further to the provisions of the Protocol.

2. The Participants understand that under the Protocol goods brought into Northern Ireland from outside the European Union that are "at risk" of subsequently being moved into the European Union[1] shall be subject to European Union import duties. For goods that are not "at risk", United Kingdom duties apply when they are imported from outside the United Kingdom or European Union.

   The Participants acknowledge that the circumstances in which goods brought into Northern Ireland from outside the European Union will be considered to be at risk of subsequently entering the European Union will be established in

[1] The provisions on "at risk" goods are set out at Articles 5.1 and 5.2 of the Protocol.

Department for
International Trade

3 Whitehall Place
London
SW1A 2AW

a decision of the Joint Committee established under the Withdrawal Agreement, which will be adopted before the end of the transition period.[2]

The United Kingdom intends to publish an explanation of the effects of the decision online, once agreed with the European Union. The United Kingdom will also provide technical guidance for businesses, outlining the arrangements for bringing goods into Northern Ireland, as soon as practicable.

3. The Participants understand the territorial scope of provisions within the EPA regarding Sanitary and Phytosanitary as not referring to Northern Ireland, where these provisions adversely affect the functioning of the trading arrangements between Northern Ireland and the European Union as specified in particular in Article 5.4 and Annex 2 of the Protocol.

The Arrangements will apply from the entry into effect of the EPA, and for so long as Articles 5 to 10 of the Protocol continue to apply to the United Kingdom in respect of Northern Ireland.

I should be obliged if you would confirm that your Government find that the Arrangements are acceptable and to that effect will place on record the understanding of our Governments on this matter.

I avail myself of this opportunity to renew to the Ministry of Industrialization, Trade and Enterprise Development the assurances of my highest consideration.

Graham Zebedee
Director, Continuity Negotiations and Development
Department for International Trade

MINISTRY OF INDUSTRIALIZATION, TRADE AND ENTERPRISE DEVELOPMENT
STATE DEPARTMENT FOR TRADE & ENTERPRISE DEVELOPMENT
OFFICE OF THE PRINCIPAL SECRETARY

Telephone: +254-(0)20-3315001/2-4
Web: www.trade.go.ke
Email: ps.trade@trade.go.ke/psfortrade@gmail.com
When replying please quote

TELPOSTA TOWERS
KENYATTA AVENUE
P.O. Box 30430 - 00100
GPO NAIROBI - KENYA

Ref. No. MOITED/C.16/5/01 VOL.1A

Date: 7 December 2020

Mr. Graham Zebedee
Director, Continuity Negotiations and Development
Department for International Trade
3 Whitehall Place
London
SW1A 2AW

Kenya Reply

Dear Director Graham Zebedee

I have the honour to acknowledge the receipt of your Note dated 4 December 2020 which reads as follows:

I have the honour to refer to discussions between the Government of the United Kingdom of Great Britain and Northern Ireland ("the United Kingdom") and the Government of Kenya (together, "the Participants") concerning the limited number of areas in which clarity is required as to the interaction between the Economic Partnership Agreement between the Republic of Kenya, a Member of the East African Community, of the One Part, and the United Kingdom of Great Britain and Northern Ireland, of the Other Part, from its entry into effect ("the EPA") and the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, signed in London and Brussels on 24 January 2020 ("the Withdrawal Agreement"), the latter of which includes the Protocol on Ireland/Northern Ireland ("the Protocol").

As a result of these discussions, it is the understanding of the Government of the United Kingdom that, necessary for the consistent and concurrent application of the EPA (from its entry into effect) and the Protocol, the following arrangements (together, "the Arrangements") will apply:

1. *The Participants recognise the paramount importance of protecting the peace process in Northern Ireland and upholding the Belfast ('Good Friday') Agreement 1998, and understand that the United Kingdom will take certain measures further to the provisions of the Protocol.*

2. *The Participants understand that under the Protocol goods brought into Northern Ireland from outside the European Union that are "at risk" of subsequently being moved into the European Union[1] shall be subject to European Union import duties. For goods that are not "at risk", United Kingdom duties apply when they are imported from outside the United Kingdom or European Union.*

   The Participants acknowledge that the circumstances in which goods brought into Northern Ireland from outside the European Union will be considered to be at risk of subsequently entering the European Union will be established in a decision of the Joint Committee established under the Withdrawal Agreement, which will be adopted before the end of the transition period.[2]

   The United Kingdom intends to publish an explanation of the effects of the decision online, once agreed with the European Union. The United Kingdom will also provide technical guidance for businesses, outlining the arrangements for bringing goods into Northern Ireland, as soon as practicable.

3. *The Participants understand the territorial scope of provisions within the EPA regarding Sanitary and Phytosanitary as not referring to Northern Ireland, where these provisions adversely affect the functioning of the trading arrangements between Northern Ireland and the European Union as specified in particular in Article 5.4 and Annex 2 of the Protocol.*

   The Arrangements will apply from the entry into effect of the EPA, and for so long as Articles 5 to 10 of the Protocol continue to apply to the United Kingdom in respect of Northern Ireland.

I have the honour to inform you that my Government find that the Arrangements set out in your Note are acceptable and that your Note and this reply will place on record the understanding of our two Governments on this matter.

I avail myself of this opportunity to renew to the Department for International Trade of Great Britain and Northern Ireland the assurances of my highest consideration.

Yours

Amb. Johnson Weru
PRINCIPAL SECRETARY

Ranil Jayawardena MP, Parliamentary Under Secretary of State (Minister for International Trade), at the Department for International Trade, is hereby granted full powers to sign, on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland, the Economic Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland, of the one part, and, the Republic of Kenya, a member of the East African Community, of the other part.

In witness whereof I, Dominic Raab, Her Majesty's Principal Secretary of State for Foreign, Commonwealth & Development Affairs, have signed these presents.

Signed at the Foreign, Commonwealth & Development Office, London, the 16th day of November, Two thousand and Twenty.

THE RT HON DOMINIC RAAB MP

THE RT HON DOMINIC RAAB MP

REPUBLIC OF KENYA

FULL POWERS

ECONOMIC PARTNERSHIP AGREEMENT BETWEEN THE REPUBLIC OF KENYA, A MEMBER OF THE EAST AFRICAN COMMUNITY, AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

I, AMB. RAYCHELLE OMAMO, SC, EGH, Cabinet Secretary for Foreign Affairs of the Republic of Kenya, HEREBY AUTHORIZE HON. BETTY CHEMUTAI MAINA, CBS, Cabinet Secretary, Ministry of Industrialization, Trade and Enterprise Development of the Republic of Kenya to sign on behalf of the Government of the Republic of Kenya, the Economic Partnership Agreement Between the Republic of Kenya, a Member of the East African Community, and the United Kingdom of Great Britain and Northern Ireland.

Given under my hand and the official seal of the Ministry of Foreign Affairs of the Republic of Kenya in Nairobi, this ...7th... day of December 2020.

.....

AMB. RAYCHELLE OMAMO, SC, EGH
CABINET SECRETARY FOR FOREIGN AFFAIRS
REPUBLIC OF KENYA

EAC/KENYA-UK EPA
BRIEF FOR THE PARLIAMENTARY SESSION 3RD – 4TH MARCH 2020

SCOPE

1. General Provisions;
2. Trade in Goods *(Customs Duty, Rules of Origin, Trade Remedies (Anti-Dumping and Countervailing Measures, Multilateral Safeguards and Bilateral Safeguards, SPS, TBT (Standards), NTBs)* Articles 6 to Article 50).
3. Fisheries (Article 51 – 74);
4. Agriculture (Article 82 – 83);
5. Economic and Development Cooperation (Article 75 – 100);
6. Institutional Provisions (Article 103 – 108);
7. Dispute Avoidance and Settlement (Articles109 – 110);
8. General Exceptions (Articles 112 – 118);
9. General and Final Provisions; and
10. Annexes (I, II & III)
    (a) Annex I – Customs Duties on Products Originating from EAC
    (b) Annex II – Customs Duties on Products Originating from the UK
    Annex III - Joint statement of the parties on the objectives and essential and fundamental elements of this agreement
11. Protocol No.1 (Rules of Origin)

SCOPE OF THE KENYA-UK EPA	WHAT THE ARTICLE MEANS/IMPLIES FOR KENYA
General Provisions (Articles 1 to 5)	Sets out objectives, principles and scope of the agreement. Key among the objectives is strengthening regional integration and economic prosperity of Kenya
Trade in Goods (Articles 6 to Article 50) covering: -	
Customs Duty (Article 6 & 7) Annex I & II	Sets out customs duties to be applied on UK goods being exported to Kenya and Kenya's goods bring exported to the UK. Kenya has secured duty free and quota free for all her products being exported to the UK. • For Kenya the agreement provides immediate access of all Kenya's goods (except arms and ammunition) to UK on duty free and quota free basis • For UK, the agreement provides for moratorium of 7 years and 12 years for intermediate and finished goods that are subject to liberalization before progressive liberalization sets in. For intermediate products, progressive liberalization will take place of 8 years after the 7 years moratorium. For finished products, progressive liberalization will take place over 13 years after the 12 years moratorium.
Rules of Origin (Aricle 9 and Protocol No.1)	Sets out the conditions that products originating from Kenya should meet in order to access the UK. The rules are flexible and easy to be met by small and medium enterprises and they allow all agricultural products from Kenya duty access the UK market on duty free basis For UK products that are allowed to enter Kenya on duty free basis following progressive liberalization, **more stringent rules are provided** than the rules that Kenya goods are subjected to when being exported to UK. This is made possible by the asymmetric rules of origin that the Kenya-UK EPA has embraced.

Trade Defence Measures (Title VI)	These are trade defence measures that Kenya has secured as means of protecting Kenyan industries that may be adversely affected by imports from the UK
Anti-Dumping and Countervailing measures (Article 48)	Allows Kenya to stop UK from dumping goods in Kenyan market through imposition of anti-dumping duties that counter the price effect of dumped goods. It also allows Kenya to discourage UK from exporting goods that benefit from subsidies in the UK by applying countervailing duties that counter the price effect of the subsidised goods
Multilateral Safeguards (Article 49)	Allows Kenya to apply duties on goods that course injury to any of Kenyan industries as a result of UK exporting the goods to Kenya in volume that threaten the survival of the Kenyan industry. The procedure is governed by the WTO Agreement on Safeguards, which binds Kenya and UK. This article addresses risks that the country may face from UK imports and shields the industries/sectors that may risk to be negatively affected by goods imported from the UK
Bilateral Safeguards(Article 49)	Allows Kenya to apply duties on goods that course injury to any of Kenyan industries as a result of UK exporting the goods to Kenya in volume that threaten the survival of the Kenyan industry. It also allows Kenya to protect infant industries that risks competition from the UK (Article 49(4)(b). The procedure is governed bilaterally between Kenya and UK. This article addresses risks that the country may face from UK imports and shields the industries/sectors, including infant industries that may risk to be negatively affected by goods imported from the UK
Sanitary and Phytosanitary (SPS) - Articles 30 - 40	Sets out provisions that ensure that plant and animal diseases related measures do not restrict Kenya's access to the UK market. This is assured by call for transparency and use of scientific justified measures, cooperation and exchange of information, zoning and compartmentalization to avoid wholesale condemnation of a country in event of an animal or plant disease outbreak, harmonization of rules and procedures for formulation of SPS measures and upholding principle of equivalence. This article guarantees access of Kenya's agricultural and animal products into the UK through the joint platform for management and enforcement of SPS measures
Technical Barriers to Trade (TBT – Standards (Articles 41 – 48)	Sets out provisions that ensure standards, conformity assessment and technical regulations do not restrict Kenya's access to the UK market. This is assured by call for transparency and notification, mutual recognition of standards, conformity assessment in accordance to the WTO TBT Agreement, cooperation in implementation of this provision, This article guarantees access of Kenya's products into the UK through the joint platform for management and enforcement of TBT measures
Non-Tariff Measures (NTMs) – Articles 19-21)	This prohibits use of quantitative restrictions of Kenya's exports to the UK and discrimination of Kenya products in the UK through internal taxation measures or taxes. This article ensures that the freedom that Kenya's goods enjoy of accessing the UK market on duty free and quota free basis cannot be

Fisheries (Article 51 – 74);	This provides for development of fisheries resources (marine and inland waters as well as aquaculture) with an aim of enhancing the countries capacity to produce and export fisheries products to the UK It advocates cooperation with the UK to fight theft of Kenya's marine fisheries resources through Illegal, Unreported and Unregulated (IUU) fishing in Kenya's Exclusive Economic Zone (EEZ)
Agriculture (crops and livestock) (Article 82 – 83);	This provides for cooperation towards development of Kenya's agricultural sector targeting rural infrastructure, value chain management, food and nutrition security, early warning system, production and marketing of agricultural products, agricultural finance, technical support, Geographic Indication. Under this article, the agreement seeks to enhance capacity of Kenya to produce and export all agricultural products for exports to the UK either whole or as input to value addition industries in Kenya.
Economic and Development Cooperation (Article 75 – 100);	Economic and Development cooperation chapter seeks to enhance Kenya's capacity to supply in response to duty free and quota free market access opportunities in the UK. The areas that are covered include the following: Infrastructure (Transport, Energy and ICT), Agriculture, Private sector development (investment promotion and enterprise development), fisheries, water and environment, SPS, TBT, Customs and Trade Facilitation, EPA Adjustment Measures and Resource Mobilization towards financing Economic and Development Cooperation.
Institutional Provisions (Article 103 – 108);	Sets out institutional structure for implementation of the EPA. These includes: EPA Council, Committee of Senior Officials, EPA Consultative Committee. This ensures smooth implementation of the EPA through the consultative mechanism set out under the functions of each structures
Dispute Avoidance and Settlement (Articles109 – 110);	Dispute avoidance in the course of implementation of the agreement is catered for through the provision on consultations and mediation. Dispute settlement is provided through provision on arbitration
General Exceptions (Articles 112 – 118);	Embraces general exceptions such as protection of public security and morals, maintaining of public order, protection of human, animal and plant life or health, among others
General and Final Provisions (Articles 138 – 146)	Allows Kenya to institute defence measures in event that the agreement leads to Balance of Payment Difficulties. It embraces other EAC Partner States through the definition of parties Sets out contact points for ease of communication between the parties during the implementation of the agreement Urges transparency and confidentiality during implementation of the agreement Embraces UK commitments towards supporting economic development (further to provisions of Articles 75 – 100), as set out in Annex III. Sets out relationship with the WTO and Notification; Entry into force and the terms for denunciation of the agreement, should a

relationship with the WTO and Notification; Entry into force and the terms for denunciation of the agreement, should a

	party choose to denounce the agreement after entry into force Provides for mandatory Review of the Agreement after 5 years (Article 141) Provides for amendment of the agreement any time in the course of implementation of the agreement upon any party requesting in writing for any preferred amendment. The other party is given up to 90days to comment on the proposal for amendment. Thereafter the EPA Council rules on the proposed amendment.

RENDEZ-VOUZ CLAUSE (ARTICLE 3)

This clause itemises areas that both parties commit to negotiate in future, as listed below. The outcome of the negotiation will be an agreement on these areas, which will be subjected to Parliamentary approval in the same way as the Kenya-UK EPA.

a) **Trade in services;**
b) **Trade related issues namely:**
   i) competition policy;
   ii) investment and private sector development;
   iii) trade, environment and sustainable development;
   iv) intellectual property rights; and
   v) transparency in public procurement;
c) **any other areas that the Parties may agree upon.**

MARKET ACCESS FOR KENYA GOODS TO THE UK AND UK GOODS TO KENYA (ARTICLES 6 AND 7 AND ANNEXES I AND II)

Customs duties applicable to products originating from the EAC imported into UK (Annex I)

The UK has committed under Annex I of the Kenya-UK EPA to eliminate entirely, customs duties on all products of Chapters 1 to 97 of the Harmonized System, except those of Chapter 93, originating from the EAC Partner States. This commitment takes places immediately the EPA enters into force.

Customs duties applicable to products originating in the UK imported into Kenya (Annex II)

What has Kenya liberalized for the UK and when do the UK goods benefiting from liberalization start coming into Kenya. The answer is provided in the table below:

Category of goods being liberalized or not being liberalized	Number of Tariff Lines	% of trade liberalized/excluded
Annex II (A) – Goods attracting zero duty **Liberalization:** commences immediately	1,934	65.4 %
Annex II (B) – Goods attracting 10% duty – Intermediate products **Liberalization:** *(7 years moratorium then progressive liberalization over an 8 years period*	1,082	14.6%
Annex II (C) – Goods attracting 25% and above duty – Intermediate products **Liberalization:** *(12 years moratorium then progressive liberalization over a 15 years period*	990	2.6%
Annex II (B) - Exclusion Goods excluded from liberalization for ever	1,432	17.4

RULES OF ORIGIN (ARTICLE 9 AND PROTOCOL NO.1)

Under this agreement products originating from Kenya are allowed to access the UK market under any one of the following criterion:

1. Wholly Obtain: This applies to products which are not manufactured/processed for example animals born and raised in Kenya, plants, vegetables, fruits, minerals among others.

2. For Manufactured/processed products, the qualification criteria is either one of the following:

a) **Change in Tariff Heading/Classification**- Where you are allowed to source raw materials from any part of the world so long as the raw material and the final product

are classified under a different Harmonised Classification (HS) Code heading. For example for plastic chairs, the raw material (plastic) granules falls under different HS code and the Plastic chair is classified under a different one. Most of the manufactured products falls under this criteria;

Or

b) **Value of Non-Originating Materials**: Where manufacturers are allowed to source raw materials from any part of the world up to 70% of the ex-factory price/Value of the final products. This means the manufacturers must use not less than 30% of the local raw materials from either Kenya or the EU and get the rest from outside the two countries. This is to facilitate manufacturers where raw materials are not available in sufficient quantities;

Or

c) **Specific Process Rule**: This is where the manufacturers uses a specific process to produce the final product. This applies to mainly manufacture of textiles products (chapters 50-63), precious stones(chapters 76,77), motor vehicles (chapters 87) among others. In this case the source of the raw materials used is not restricted-they can be sourced from anywhere in the world. Its a flexibility rule fro the manufactures where the local raw materials are not sufficient;

In order to widen the catchment area for the raw materials to facilitate the manufactures, the agreement allows sourcing of the materials from the following and consider them as though they are local materials: -

- EAC Partner States,
- Countries where Kenya has signed an FTA,
- Countries benefiting from Duty-Free Quota-Free Access to the UK Market
- EU (Articles 4 and 6) of the Protocol 1 on rules of origin;
- Materials which enter the UK duty free on MFN basis.

This means manufacturers can get raw materials from all these countries unlimited and be able access the UK market without paying any duty.

The agreement also provides for a derogation/exemption that allows sourcing of tuna materials for processing from any part of the world up to 670 metric tonnes per year to take care of times when the tuna is not available due to its highly migratory nature.

ECONOMIC JUSTIFICATION OF THE KENYA-UK EPA

NATIONAL EXPORT DEVELOPMENT AGENDA

The Integrated National Export Development and Promotion Strategy (INEDPS) Agenda is to raise Kenya's exports from KES614billion in 2018 to KES2trillion by 2025. This is in pursuit of the National Export Development and Promotion Strategy which aims at transforming Kenya's Trade Balance from a deficit to surplus through exploiting Kenya export market opportunities in various destination markets that Kenya is already exporting and having very low market share. The chart below provides this targeted export growth. The UK market is very significant towards realization of the export growth vision by 2025, given that UK is Kenya's 5th most important destination market. The Kenya-UK EPA, therefore provides opportunity for Kenya to achieve her aspired export market share in the UK.

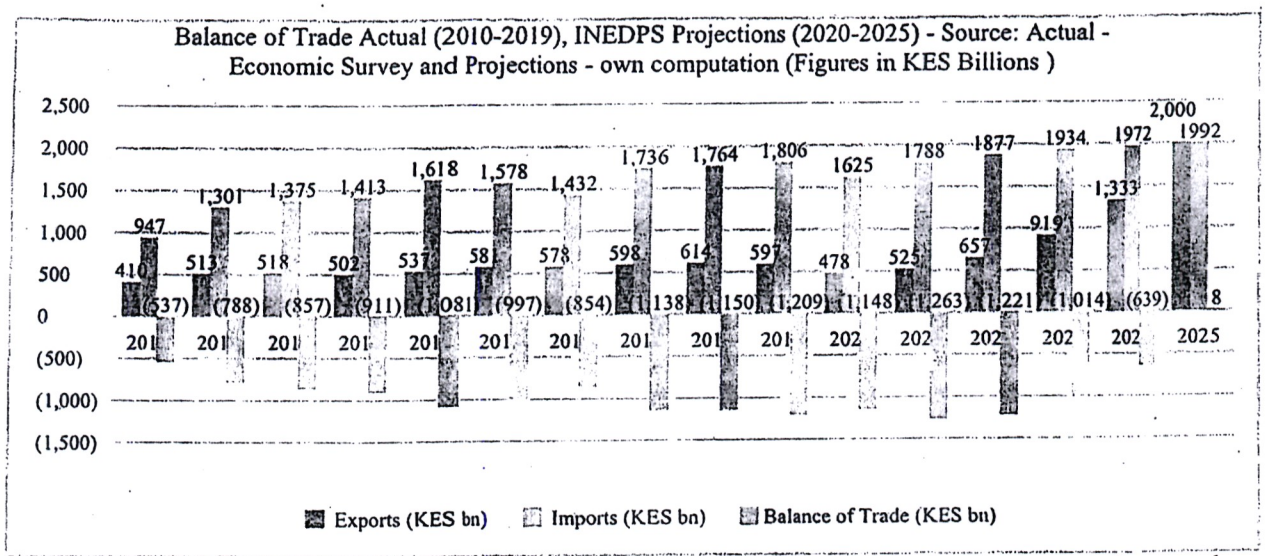


Chart 1: Balance of Trade Actual (2010-2019), INEDPS Projections (2020-2025) - Source: Actual - Economic Survey and Projections - own computation (Figures in KES Billions)

This target is expected to be delivered by priority sectors and value chains that have been identified in INEDPS, where projected sectoral growth has been assigned. The INEDPS focal value chains are as follows:

a) *Agriculture (Coffee, Tea, Horticulture (flowers, vegetables and fruits), Pulses, Pyrethrum, Sisal, Miraa and Gum Arabic)*
b) *Manufacturing Sector- Agro processing, Textile and Apparels, Leather and Footwear, Metal and Allied, Chemical and Allied, Pharmaceutical and Medical Equipment, Plastic and Rubber, Light Engineering, Automotive and parts and Furniture*
c) *Fisheries*
d) *Livestock sector- Live Animals, Meat, Dairy and Honey*
e) *Handicraft*
f) *Mining*
g) *Oil & Gas*

LEAD DESTINATION MARKETS THAT WILL BE EXPECTED TO TAKE UP KENYA EXPORTS

EU, WHERE UK IS KENYA SECOND DESTINATION MARKET TAKING UP 30% OF KENYA'S EXPORTS TO THE EU. HENCE NEED TO SECURE THIS MARKET AFTER UK EXIT FROM THE EU

FIGURES IN KES BILLION (ECONOMIC SURVEY, KNBS)

	2014	2015	2016	2017	2018	2019
EU	120	126	121	126	131	133
EAC	125	127	122	132	129	140
COMESA	87	86	83	63	60	58
Middle East	36	45	51	51	64	66
USA	38	41	43	47	47	52
Far East	64	86	90	111	117	90
Others	67	70	68	64	65	58
Total	537	581	578	594	613	597

TRADE WITH UK VERSUS TRADE WITH THE EU

- *Kenya has sustained a Balance of Trade Surplus with UK since 2016 averaging KES5Billion*
- *This is because of the duty-free quota free market access under the EAC-EU EPA framework (MAR 1076/2016)*
- *This has translated to investment, production, employment, government revenue, and foreign exchange earning*
- *The Kenya-UK EPA will allows Kenya to sustain current export performance in the UK and affords opportunity for further export growth through enhanced market share in the UK*

	2015	**2016**	**2017**	**2018**	**2019**
TRADE WITH EU					
Kenya Exports to EU	126	122	126	131	133
Kenya Imports from EU	233	213	207	219	235
Trade Balance	-107	-91	-81	-88	-102
TRADE WITH UK					
Kenya Exports to UK	41	36	39	40	40
Kenya Imports from UK	43	33	30	32	35
Trade Balance	**-2**	**3**	**9**	**8**	**5**
TRADE WITH EU-27 (AFTER UK EXIT FROM EU					
Kenya Exports to EU-27	85	86	87	91	93
Kenya Imports from EU-27	190	180	177	187	200
Trade Balance	-105	-94	-90	-96	-107

KENYA'S EXPORT POTENTIAL IN THE UK, 2019

- *The Kenya-UK EPA provides opportunity for Kenya to pursue unexploited export potential in the UK, which translates to over USD10 billion (or KES1trillion) if Kenya were to increase her market share in the UK to 5% (or by 5% for products that Kenya is already above 5% like tea)*
- *This is made possible by the Kenya-UK EPA which is contractual, unlike the EU based trade regime under which Kenya has been trading with the UK so far, which has been transitory*
- *The market potential mentioned above is detailed in the table below*
- *Exploitation of this market potential will touch everyone in Kenya through opportunities created by investments and production, including services leading to export of the products to the UK*

Products	UK Market Size (UK Imports from the World) (USD '000')	Kenya's Exports to UK (USD '000')	Kenya's export share in the UK market (%)	Kenya's Export Potential in UK (USD '000')	Kenya's additional exports to the UK if Kenya's share in UK market were to be raised to 5% by 2025 (USD '000')
Manufactured products					
Agro Processed	30,739,327	16,530	0.1%	30,722,797	1,536,140
Textile and Apparels	27,729,740	2,020	0.0%	27,727,720	1,386,386
Leather and Footwear	10,708,217	908	0.0%	10,707,309	535,365
Agriculture					
Coffee	1,057,395	7,987	0.8%	1,049,408	52,470
Tea	356,102	150,898	42.4%	205,204	10,260
Horticulture					
Floriculture	10,624,127	105,292	1.0%	10,518,835	525,942
Fruits	6,303,784	5,801	0.1%	6,297,983	314,899
Vegetables	4,320,342	99,490	2.3%	4,220,852	211,043
Pulses	249,360	32	0.0%	240,328	12,016
Herbs and Spices					
Pepper of the genus Piper; dried or crushed	*105,994*	*1*	*0.0%*	*105,993*	5,300
Ginger, saffron, turmeric "curcuma", thyme, bay leaves, curry and other spices (excluding pepper)	*127,850*	*1,927*	*1.5%*	*125,923*	6,296
Fisheries	3,895,561	269	0.0%	3,895,292	194,765
Livestock					
Meat products	*5,375,833*	*0*	*0.0%*	*5,375,833*	*268,792*
Dairy (milk – liquid, ondensed or dried), eese and butter)	*3,520,040*	*0*	*0.0%*	*3,520,040*	*176,002*
ey	*111,100*	*0*	*0.0%*	*111,100*	*5,555*
al products	78,238,1371	1515	0.0%	78,236,622	3,911,831

Handicrafts	**22,458,437**	**3,190**	**0.0%**	**22,455,247**	**1,122,762**
Grand Total	**205,921,346**	**395,860**	**0.2%**	**204,029,958**	**10,275,824**

THE UK MARKET POTENTIAL THAT KENYA-UK EPA UNLOCKS FOR KENYA VALUE CHAINS

AGRICULTURE SECTOR

Annex 4: Kenya's Coffee market size, current capacity and Export potential in UK

Product code	Product label	UK extra imports from rest of the World in 2019 (USD 000's)	UK imports from Kenya 2019 (USD 000's)	Kenya's Potential in the UK (USD 000's)	Kenya's top extra- UK competitor countries (USD'000s)
'0901	Coffee, whether or not roasted or decaffeinated; coffee husks and skins; coffee substitutes ...	1,057,395	7,987	1,049,408	France - 157,219 ; Germany - 135,059 ; Brazil - 118,315 ; Viet Nam - 115,394 ; Italy - 63,908.
	Total	**1,057,395**	**7,987**	**1,049,408**	

Annex 5: Kenya's Tea market size, current capacity and Export potential in UK

Product code	Product label	UK extra imports from rest of the World in 2019 (USD 000's)	UK imports from Kenya 2019 (USD 000's)	Kenya Potential in the UK 2019 (USD 000's)	Kenya's Top Extra UK competitor Countries (USD 000's)
'0902	Tea, whether or not flavoured	356,102	150,898	205,204	Kenya - 150,898 ; India - 49,712; Malawi - 24,690 ; Poland - 22,912 ; Sri Lanka - 14,616.
	Total	**356,102**	**150,898**	**205,204**	

Annex 6: Kenya's Fruits market size, current capacity and Export potential in UK

Product code	Product label	UK extra Imports from the rest of the world in 2019 (USD 000's)	UK imports from Kenya 2019 (USD 000's)	Kenya Potential in the UK 2019 (USD 000's)	Kenya's top extra- UK competitor countries (USD'000s)
'0801	Coconuts, Brazil nuts and cashew nuts, fresh or dried, whether or not shelled or peeled	256,830	52	256,778	Viet Nam-118,508 ; Germany-35,051 ; Bolivia, Plurinational State of-26,348 ; Netherlands-11,946 ; India-11,801.
'0802	Other nuts, fresh or dried, whether or not shelled or peeled (excluding coconuts, Brazil nuts ...	383,207	287	382,920	United States of America-182,763 ; Germany-50,068 ; Spain-25,924 ; China-18,340 ; Netherlands-18,251.
'0803	Bananas, incl. plantains, fresh or dried	745,311	2	745,309	Colombia-225,202 ; Costa Rica-132,081 ; Dominican Republic-107,212 ; Ecuador-64,526 ; Belize-34,785.
'0804	Dates, figs, pineapples, avocados, guavas, mangoes and mangosteens, fresh or dried	741,293	3,234	738,059	Costa Rica-106,516 ; Peru-94,066 ; Chile-70,877 ; Israel-55,331 ; Netherlands-40,245 .
'0805	Citrus fruit, fresh or dried	788,802	-	788,802	Spain-306,597 ; South Africa-177,116 ; Germany-56,939 ; Peru-44,967 ; Morocco-41,496.
'0806	Grapes, fresh or dried	886,452		886,452	South Africa-169,509 ; Turkey-166,933 ; Spain-107,647 ; Chile-67,274 ; Egypt-52,976.
'0807	Melons, incl. watermelons, and papaws (papayas), fresh	269,188	11	269,177	Brazil-84,907 ; Spain-70,400 ; Germany-23,424 ; Netherlands-19,432 ; Honduras-17,816.
'0808	Apples, pears and quinces, fresh	546,729		546,729	France-113,652 ; South Africa-83,729 ;

					Netherlands-63,363 ; New Zealand-55,253 ; Italy-42,389.
'0809	Apricots, cherries, peaches incl. nectarines, plums and sloes, fresh	268,078		268,078	Spain-139,913 ; South Africa-42,449 ; Chile-23,634 ; Germany-21,542 ; Italy-13,662.
'0810	Fresh strawberries, raspberries, blackberries, back, white or red currants, gooseberries and ...	1,016,428	2,197	1,014,231	Spain-370,421 ; Netherlands-109,920 ; Peru-76,069 ; Chile-74,754 ; South Africa-69,199.
'0811	Fruit and nuts, uncooked or cooked by steaming or boiling in water, frozen, whether or not ...	201,345	16	201,329	Poland-25,711 ; Serbia-25,071 ; Germany-23,579 ; Belgium-15,608 ; Netherlands-13,059 .
'0812	Fruit and nuts, provisionally preserved, e.g. by sulphur dioxide gas, in brine, in sulphur ...	12,374	2	12,372	Spain-7,600 ; Netherlands-1,162 ; Italy-917 ; Brazil-562 ; Israel-366.
'0813	Dried apricots, prunes, apples, peaches, pears, papaws "papayas", tamarinds and other edible ...	182,459	-	182,459	Germany-43,396 ; France-29,206 ; Turkey-24,481 ; Italy-17,350 ; Chile-16,147.
'0814	Peel of citrus fruit or melons, incl. watermelons, fresh, frozen, dried or provisionally preserved ...	5,288	-	5,288	Spain-2,685 ; Germany-898 ; Ireland-483 ; Netherlands-465 ; Italy-318.
	Total	6,303,784	5,801	6,297,983	

Annex 7: Kenya's Vegetable market size, current capacity and Export potential in UK

Kenya's Vegetable market size, current capacity and Export potential in UK					
Product code	**Product label**	**UK extra Imports from the rest of the world in 2019 (USD 000's)**	**UK imports from Kenya 2019 (USD 000's)**	**Kenya Potential in the UK 2019 (USD 000's)**	**Kenya's top extra- UK competitor countries (USD'000s)**
'0701	Potatoes, fresh or chilled	146,574	-	146,574	Belgium-46,641 ; Israel-20,122 ; Netherlands-15,857 ; Romania-14,679 ; Cyprus-14,137.
'0702	Tomatoes, fresh or chilled	648,398	-	648,398	Netherlands-282,737 ; Spain-152,656 ; Morocco-97,549 ; Germany-44,812 ; France-29861.
'0703	Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled	372,903	272	372,631	Spain-113,706 ; Netherlands-93,108 ; Egypt-44,720 ; Poland-26,733 ; China-21,997.
'0704	Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled	277,935	20,505	257,430	Spain-174,524 ; Netherlands-37,701 ; Kenya-20,505 ; Germany-14,161 ; France-12,892.
'0705	Lettuce "Lactuca sativa" and chicory "Cichorium spp." fresh or chilled	218,943	-	218,943	Spain-130,841 ; Italy-[illegible] ; France-18,219 ; Netherlands-17,325 ; Germany-16,440.
'0706	Carrots, turnips,	67,869	39	67,830	Spain-15,630 ;

	radishes and similar edible roots, fresh ...				; Belgium-3,430.
'0707	Cucumbers and gherkins, fresh or chilled	217,286	2	217,284	Netherlands-96,463 ; Spain-89,347 ; Germany-24,502 ; Greece-1,810 ; Jordan-1,576.
'0708	Leguminous vegetables, shelled or unshelled, fresh or chilled	181,804	58,603	123,201	Kenya-58,603 ; Guatemala-27,662 ; Spain-18,243 ; Egypt-14,845 ; Peru-12,471.
'0709	Other vegetables, fresh or chilled (excluding potatoes, tomatoes, alliaceous vegetables, edible ...	1,257,559	18,559	1,239,000	Spain-319,797 ; Netherlands-306,770 ; Ireland-150,374 ; Poland-115,981 ; Peru-55,882.
'0710	Vegetables, uncooked or cooked by steaming or boiling in water, frozen	438,409	878	437,531	Belgium-168,558 ; Spain-57,705 ; China-43,599 ; Netherlands-37,040 ; France-26,280 .
'0711	Vegetables provisionally preserved, e.g. by sulphur dioxide gas, in brine, in sulphur water ...	20,712	-	20,712	Netherlands-8,375 ; Spain-2,849 ; Germany-2,515 ; Italy-1,479 ; Poland-781 .
'0712	Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared	91,506	-	91,506	China-17,583 ; France-15,193 ; Germany-9,752 ; Netherlands-9,565 ; India-9,554.
'0713	Dried leguminous vegetables, shelled, whether or not skinned or split	240,360	32	240,328	Canada-87,350 ; France-28,501 ; United States of America-17,734 ; India-16,142 ; Australia-10,439.
'0714	Roots and tubers of manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar ...	140,084	600	139,484	United States of America-56,941 ; Egypt-21,401 ; China-13,209 ; Ghana-9,899 ; Spain-4,924.
	Total	**4,320,342**	**99,490**	**4,220,852**	

Annex 8:Kenya's Herbs and Spices market size, current capacity and Export potential in UK

Product code	Product label	UK's Extra imports from rest of the World in 2019 (USD 000's)	UK's imports from Kenya in 2019 (USD 000's)	Kenya's potential in UK (USD 000's)	Kenya's top extra-UK competitor countries (USD'000s)
'0904	Pepper of the genus Piper; dried or crushed or ground fruits of the genus Capsicum or of the ...	105,994	1	105,993	Spain - 20,868 ; India - 19,132 ; Viet Nam - 18,233 ; Netherlands - 12,643 ; France - 9,144.
'0910	Ginger, saffron, turmeric "curcuma", thyme, bay leaves, curry and other spices (excluding pepper ...	127,850	1,927	125,923	India - 23,609 ; Netherlands - 12,849 ; Germany - 9,681 ; Spain - 8,803 ; Pakistan - 5,339.
	Total	**233,844**	**1,928**	**231,916**	

Annex 9: Kenya's Pulses market size, current capacity and Export potential in UK

Product code	Product label	UK extra Imports from the rest of the world in 2019 (USD 000's)	UK imports from Kenya 2019 (USD 000's)	Kenya Potential in the UK 2019 (USD 000's)	Kenya's top extra- UK competitor countries (USD'000s)
'0713	Dried leguminous vegetables, shelled, whether or not skinned or split	240,360	32	240,328	Canada-87,350 ; France-28,501 ; United States of America-17,734 ; India-16,142 ; Australia-10,439 .
	Total	**240,360**	**32**	**240,328**	

FISHERIES PRODUCTS MARKET POTENTIAL IN UK

Annex 10: Kenya's Fisheries market size, current capacity and Export potential in UK

Product code	Product label	UK extra Imports from the rest of the world in 2019 (USD 000's)	UK imports from Kenya 2019 (USD 000's)	Kenya Potential in the UK 2019 (USD 000's)	Kenya's top extra- UK competitor countries (USD'000s)
0301	Live fish	21,608	254	21,354	Singapore -5,672; Israel -2,851; Japan -2,605; Indonesia -2,216; Sri Lanka -1,102
'0302	Fish, fresh or chilled (excluding fish fillets and other fish meat of heading 0304)	766,170	0	766,170	Sweden-260,461; Faroe Islands-242,265; Iceland-79,891; Denmark-37,136; Finland-31,983
0303	Frozen fish (excluding fish fillets and other fish meat of heading 0304)	236,927	0	236,927	Norway-90,795; Myanmar-27,905; Netherlands-13,623; France-13,182; Iceland-8,610
'0304	Fish fillets and other fish meat, whether or not minced, fresh, chilled or frozen	1,220,263	0	1,220,263	China-294,970; Iceland-247,908; Russian Federation-92,272; Germany-86,954; Viet Nam-74,038
'0306	Crustaceans, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine, ...	550,180	14	550,166	Viet Nam-118,953; India-112,220; Bangladesh-69,445; Denmark-35,921; Ecuador-31,325
'0307	Molluscs, fit for human consumption, even smoked, whether in shell or not, live, fresh, chilled, ...	97,614	0	97,614	China-29,364; France-13,307, Spain-9,506; United States of America-8,086; New Zealand-5,755
'0308	Aquatic invertebrates other than crustaceans and molluscs, live, fresh, chilled, frozen, dried, ...	3,462	1	3,461	Australia-1,290; Iceland-611; Viet Nam-316; Canada-273; China-190
'1604	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs	999,337	0	999,337	Germany-178,581; Seychelles-75,331; Mauritius-70,576; Spain-67,357; Ghana-56,943
	TOTAL	3,895,561	269	3,895,292	

LIVESTOCK PRODUCTS MARKET POTENTIAL IN UK

Annex 11: Kenya's Meat products market size, current capacity and Export potential in UK

Product code	Product label	UK extra Imports from the rest of the world in 2019 (USD 000's)	UK imports from Kenya 2019 (USD 000's)	Kenya Potential in the UK 2019 (USD 000's)	Kenya's top extra- UK competitor countries (USD'000s)
'0201	Meat of bovine animals, fresh or chilled	983,746	0	983,746	Ireland-739,098 ; Netherlands-75,167 ; Poland-60,240 ; Uruguay-16,727 ; Australia-15,528.
'0202	Meat of bovine animals, frozen	283,230	0	283,230	Ireland-201,434 ; Netherlands-15,732 ; Poland-15,715 ; Germany-10,151 ; Brazil-9,751.
'0203	Meat of swine, fresh, chilled or frozen	1,215,079	0	1,215,079	Denmark-333,275 ; Germany-271,959 ; Ireland-141,135 ; Spain-117,238 ; Netherlands-111,36.
'0204	Meat of sheep or goats, fresh, chilled or frozen	399,912	0	399,912	New Zealand-268,772 ; Ireland-48,283 ; Australia-44,341 ; Netherlands-14,089 ; Spain-9,551.
'0206	Edible offal of bovine animals, swine, sheep, goats, horses, asses, mules or hinnies, fresh, ...	66,612	0	66,612	Ireland-21,912 ; New Zealand-15,469 ; Germany-6,048 ; Netherlands-5,588 ; Poland-4,177.
'0207	Meat and edible offal of fowls of the species Gallus domesticus, ducks, geese, turkeys and ...	1,549,813	0	1,549,813	Netherlands-605,839 ; Poland-394,309 ; Germany-124,048 ; Ireland-123,880 ; Belgium-68,447.
'0208	Meat and edible offal of rabbits, hares, pigeons and other animals, fresh, chilled or frozen ...	15,759	0	15,759	France-6,910 ; New Zealand-3,390 ; Belgium-1,293 ; Ireland-1,285 ; Germany-841.
'0209	Pig fat, free of lean meat, and poultry fat, not rendered or otherwise extracted, fresh, chilled, ...	8,284	0	8,284	Netherlands-2,308 ; Germany-1,845 ; Belgium-1,029 ; Poland-668 ; Denmark-577.
'0210	Meat and edible offal, salted, in brine, dried or smoked; edible flours and meals of meat or ...	853,398	0	853,398	Netherlands-307,843 ; Denmark-159,683 ; Ireland-93,236 ; Italy-88,381 ; Germany-78,985.
	Total	**5,375,833**	**0**	**5,375,833**	

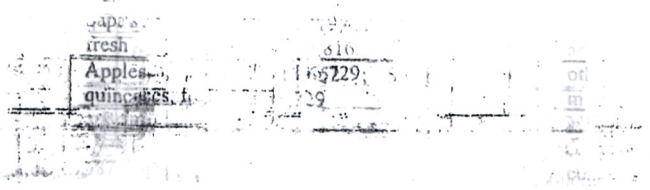
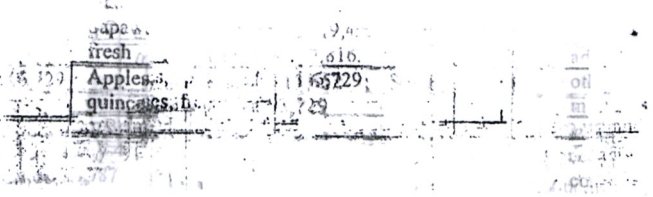
Annex 12: Kenya's Dairy products market size, current capacity and Export potential in UK

Product code	Product label	UK extra Imports from the rest of the world in 2019 (USD 000's)	UK imports from Kenya 2019 (USD 000's)	Kenya Potential in the UK 2019 (USD 000's)	Kenya's top extra- UK competitor countries (USD'000s)
'0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter	178,290	0	178,290	Ireland-123,397 ; France-15,433 ; Poland-6,495 ; Germany-6,375 ; Belgium-5,860.
'0402	Milk and cream, concentrated or containing added	226,275	0	226,275	Ireland-52,864 ; Belgium-47,165 ; Germany-46,991 ; Netherlands-35,787 ;

'0403	Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and ...	540,265	0	540,265	France-187,191 ; Germany-123,621 ; Greece-81,747 ; Belgium-57,461 ; Ireland-40,950.
'0405	Butter, incl. dehydrated butter and ghee, and other fats and oils derived from milk; dairy ...	370,500	0	370,500	Ireland-204,684 ; Netherlands-53,202 ; France-39,265 ; Denmark-34,841 ; Germany-14,869.
'0406	Cheese and curd	2,204,710	0	2,204,710	Ireland-555,802 ; France-339,094 ; Italy-287,213 ; Germany-237,281 ; Netherlands-184,067.
	Total	**3,520,040**	**0**	**3,520,040**	

Annex 13: Kenya's Honey market size, current capacity and Export potential in UK

Product code	Product label	UK extra Imports from the rest of the world in 2019 (USD 000's)	UK imports from Kenya 2019 (USD 000's)	Kenya Potential in the UK 2019 (USD 000's)	Kenya's top extra-UK competitor countries (USD'000s)
'0409	Natural honey	111,100	0	111,100	Ireland-123,397 ; France-15,433 ; Poland-6,495 ; Germany-6,375 ; Belgium-5,860.
	Total	**111,100**	**0**	**111,100**	


Apples, fresh
quinces, fresh
016
65229
29

Apples, fresh
quinces, fresh
016
65229
29

Questions concerning a new trade arrangement between the Uk and Kenya

With regards to a new trade arrangement, the following questions should be explored.

1. Rules of origin- will Kenyan produce transiting via the EU with no or limited value addition enter duty free into the UK, and which procedures and documentation would be required?

   Response
   Yes, Kenya products transiting via the EU will have duty free access in the UK. Refer Protocol No.1 of the Kenya-UK EPA Article 4 and Article 6. The procedures and documentation needed is same as what used under the EU trade regime – EUR 1 (Movement certificate)

2. Development cooperation-will this be part of the Trade agreement, if yes what kind of institutional arrangements and budget

   Response
   Yes, Economic Development Cooperation is part of the Kenya-UK EPA, Part V. Institutional arrangement is as provided in the Kenya-UK EPA, Part VI, Institutional Provisions. There is no accompany budget for Economic Development Cooperation. Instead, this Part V identifies areas where activities leading to economic development will be drawn (Articles 75 to 100). In Title X Resource Mobilization arrangement is provided. This will be driven by specific budget to be drawn periodically during implementation of Part V.

3. UK/Kenya equivalency and divergence with EU sanitary and Phytosanitary Standards (SPS) regulations. will products be meeting EU standards admitted into the UK as well?

   Response
   The Kenya-UK EPA has sustained the WTO principle of equivalence as is the case with EAC-EU EPA. So there is no divergence. Also important to note SPS measures, even as applied under the EU are usually premised on the above referred principles and a country is free to deviate based on the specific scientifically based basis. This reality is articulated in Title IV (Articles 30 – 40) of the Kenya-UK EPA and ensures that the same SPS regime that Kenya used to access the UK market before Brexit is sustained.

4. Scope of the trade agreement: What would the scope of this agreement be and what implication will I have on key sectors such as agriculture and manufacturing?

   Response
   *The Scope of the Kenya-UK EPA is the same as the EAC-EU EPA, which Kenya has already ratified. The agricultural and industrial products that are exposed to negative impact of the Kenya-UK EPA, as was the case with the EAC-EU EPA, **are those that are now excluded** from liberalization. They account for 17.4% of the trade that was due for liberalization when the EPA was negotiated (Refer Annex II (d). Other products that could be exposes to negative impact from EU imports are intermediate products (Annex IIB of the Kenya-UK EPA) and finished products (Annex IIC of the Kenya-UK EPA) that Kenya has committed to liberalize over a period of 8years and 13 years after a seven year and 12 year moratorium period before respective progressive liberalization commences. In event that UK will be exporting any of the products under these annexes, the Kenya-UK EPA has in built mechanism to shield Kenya's industries that may risk facing competition. This includes: -*
   - *The 7years and 12 years moratorium for intermediate and finished goods subject to liberalization, respectively. During this period, tracing of the industries likely to be adversely*

affected will be undertake and appropriate support to ensure competitiveness against UK products provided, in the context of the Economic Development chapter of the Kenya-UK EPA.

- *The Infant Industry clause in Title VI (Article 50) Bilateral Safeguards, paragraph 4(b).*

5. Implications for regional integration-would Uk products enter via Mombasa and find their way into other EAC member states?

Response

No. EAC Customs Union does not allow free circulation of goods imported into the EAC Customs Territory. Goods imported from the UK into Kenya on duty free basis will have to be subjected to mfn duty when entering the EAC countries because according to EAC Rules of Origin they cannot be termed as originating in Kenya. However, as soon as other EAC Partner States accede to the Kenya-UK EPA, then UK goods imported through Kenya can enter the EAC country that has acceded to the Kenya-UK EPA on duty free basis.

6. Implications for tarrif negotiations under the African Continental Free Trade Area (AfCFTA)-should Kenya extend tarrif preferences provides to Uk to other African Countries?

Response

Yes. On terms of reciprocity as articulated in Part V, Article 18 of the African Continental Free Trade Area (AfCFTA) Agreement.

Note: This is the path followed in negotiations and ratification of all previous trade treaties in recent times

RESPONSES BY THE STATE DEPARTMENT FOR TRADE TO ISSUES RAISED BY ECONEWS' AND THE KENYA ASSOCIATION OF WASTE RECYCLERS' SUBMISSION TO THE DEPARTMENTAL COMMITTEE OF INDUSTRY, TRADE AND COOPERATIVES AT THE OLE SERENI HOTEL ON 4TH MARCH 2021

RESPONSES TO ECONEWS

1. **Reservations as referred to in the Cabinet Secretary's Memo to the Speaker of The National Assembly.**

"Reservation" *means a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State;*

The Kenya -UK EPA is a bilateral agreement. It is expected that during the negotiations, all matters contained in the bilateral agreement are negotiated and agreed upon and thus neither party can enter a reservation after conclusion of the same. It is therefore not anticipated that either party would enter a reservation on matters that had been agreed upon by consensus. Any such reservation would be construed as negating consensus that had been reached between the two Parties.In multilateral agreements it is possible to enter reservations as there are more than two parties, noting that the specific provision for which a reservation is entered is still applicable to all the other parties to the multilateral agreement.

2. **Rendezvous Clause- Article 3**

This is provided under Article 3 of the EPA. The Article provides for other sectors of trade that will be open for negotiations after entry into force of this EPA. When this time comes the same process outlined in the Treaty Making and Ratification Act will have to be followed.

3. **Question on Tea exports to the UK being by multinational companies and therefore not being beneficial to the small-scale farmers.**

Over 60% of the tea exported to the UK is from small-scale tea growers under the Kenya Tea Development Agency

4. **The Kenya-UK FTA is the first FTA by an African Country**

This is not factual. The UK signed an EPA with the members of the Southern African Customs Union (SACU) and Mozambique in October 2019. In the recent past, Namibia has also signed an EPA with the UK.

5. **Export Duties and Taxes**

Article 14(2)

Notwithstanding paragraph 1, the EAC Partner State(s) can impose, after notifying the UK a temporary duty or tax in connection with exportation of goods under the following circumstances:

a) to foster the development of domestic industry
b) to maintain currency stability
c) to protect revenue, food security and environment

6. **Subsidies**

Articles 48, 49 and 50 detail the Trade Defence Measures at Kenya's disposal do deal with subsidized goods from the UK.

RESPONSES TO KENYA ASSOCIATION OF WASTE RECYCLERS'

The State Department for Trade and Enterprise Development notes that the presentation from the Kenya association of waste recyclers.

In response, the State Department for Trade and Enterprise Development submitted that the schedule of tariff offers was adopted from the EAC CET, which zero-rated as codes 470710-4701730 as well as 470697 that concern waste recycling, prior to the initialling of the EAC-EU EPA which Kenya ratified.
However the KENYA-UK EPA in article 12(2) provides to review and consider the plea by some sectors as highlighter below;

"In order to preserve the prospect for the wider African regional integration processes, the Parties may decide, in the EPA Council, to modify the level of customs duties stipulated in Annexes II(a), II(b) and II(c), which may be applied to a product originating in the UK upon its importation into the EAC Partner State(s). The Parties shall ensure that any such modification does not result in an incompatibility of this Agreement with the requirements of Article XXIV of GATT 1994."

RESPONSES ON COUNTIRES THAT HAVE SIGNED AGREEMENTS WITH THE UK

UK TRADE AGREEMENTS THAT TOOK EFFECT WITH THE FOLLOWING NON-EU COUNTRIES FROM 1 JANUARY 2021

Kenya is not the only country in Africa that has signed an EPA with the UK as alleged by **Econews** in its memorandum to Parliament. There many African countries as highlighted in the write up below.

Antigua and Barbuda, Bahamas, Barbados, Belize, Botswana, **Cameroon***, Chile, Columbia, Costa Rica, **Côte d'Ivoire**, Dominica, Dominican Republic,

Guatemala, Honduras, Iceland, Israel, Jamaica, Japan, Kosovo, Lebanon, Lesotho, Liechtenstein, **Mauritius**, Moldova, **Morocco, Mozambique, Namibia**, Nicaragua, North Macedonia, Norway, Palestinian Authority, Panama, Papua New Guinea, Peru, Saint Lucia, Samoa*, **Seychelles,** Singapore, Solomon Islands*, **South Africa**, South Korea, St. Kitts and Nevis, St. Vincent and the Grenadines, Switzerland, The Republic of Guyana, Trinidad and Tobago, **Tunisia**, Turkey, Ukraine, Vietnam, **Zimbabwe.**

The **Cameroon-UK*** Economic Partnership Agreement which will be signed in due course is being applied through a Memorandum of Understanding, just like Kenya.

The **UK-SACU+M EPA** has been ratified by all parties to the agreement and it has now entered into force between them.

For ESA, the agreement has been ratified by the **UK, Mauritius, Zimbabwe and Seychelles** and entered into force between them. Madagascar, Comoros and Zambia will also be covered by the EPA if they sign it and bring it into effect.

END

Annex IV (b)
The Parliamentary Caucus on Economy and Business

KEY ISSUES RAISED BY MEMBERS BEFORE DEBATE ON MOTION FOR ADOPTION REGARDING THE UNITED KINGDOM-KENYA FREE TRADE AGREEMENT

ORDER PAPER OF THURSDAY, FEBRUARY 25, 2021 AT 2.30 P.M.

10*. MOTION - **APPROVAL OF THE ECONOMIC PARTNERSHIP AGREEMENT BETWEEN KENYA AND THE UNITED KINGDOM**
(The Chairperson, Departmental Committee on Trade, Industry and Cooperatives)

THAT, this House **adopts** the Report of the Departmental Committee on Trade, Industry and Cooperatives on its consideration of the Economic Partnership Agreement (EPA) between the Republic of Kenya, a member of the East African Community of the one part and the United Kingdom of Great Britain and Northern Ireland of the other part, *laid on the Table of the House on Thursday, February 18, 2021,* and pursuant to the provisions of section 8(4) of the Treaty Making and Ratification Act, 2012, **approves** the Economic Partnership Agreement (EPA) between the Republic of Kenya, a member of the East African Community of the one part and the United Kingdom of Great Britain and Northern Ireland of the other part.

KEY ISSUES RAISED

On 23rd January 2020, the United Kingdom (UK) officially began the process of leaving the European Union (EU) after the Withdrawal Agreement Bill was assented to by the Queen. The official date for leaving the EU was 31st January 2020. In the interim period, it was understood that the UK would continue to apply EU regulations until January 2021. This includes Free Trade Agreements (FTAs) that have been concluded by the EU with other countries and regions. This is the basis upon which an FTA was proposed with Kenya.

The agreement was signed on 8th December 2020 and tabled in Parliament on 22nd December 2020. The committee on trade called for submission of Memoranda from the public and the agreement has been tabled for ratification on 25th of February 2021. We the undersigned members have a number of concerns that have not been addressed. We feel that going into ratification without having addressed them will negatively impact the country. These issues are as follows:

1. Trade Liberalization

We feel that the agreement is far-reaching as it proposes to open up 82.6% of trade. Since the agreement is based on the EU-EAC EPA, there are some tariff lines that will be opened from the start of the agreement. This is a far-reaching commitment as it means that the local industries will be open to competition from more efficient British producers. Furthermore, Article 37.3 of the UK EPA on Sanitary and Phytosanitary Standards does not contain any specific measures to facilitate exports to the UK. This basically means that we are opening up the Kenyan market without an assurance that our producers will be able to access the UK market.

2. Export Duties and Taxes

The agreement does not permit new export duties or taxes. In the event that Kenya wants to introduce new export duties and taxes, the conditions require that it notifies the UK and the measures are only temporary and need to be reviewed by the EPA council after 48 months. We feel that this constrains local industries especially given that Kenya levies an export tax on raw hides and skins to promote the domestic leather processing industries. An export tax is also levied on raw macadamia nuts. If this is allowed to stand, it means that Kenya cannot protect its infant industries that may have potential of creating significant employment.

3. **More Negotiations**

The UK-Kenya EPA contains a commitment to conclude negotiations by of before 2026 with the UK on trade in services, trade related issues including competition, investment, sustainable development (labor/environment), intellectual property rights and transparency in public procurement. We feel that this goes beyond the scope of what should be committed as these are issues that the UK, EU and other developed countries have failed to push for at the multilateral level. They are now being introduced through the backdoor and will have significant implications on Kenya's ability to negotiate a favorable agreement at the multilateral level.

4. **Ratification Process.**

We feel that Parliament is being rushed to ratify the agreement without a full appreciation of its implications. First, the reduction or elimination of duties on products imported from the UK will have a negative impact on local industries who may not be able to compete with more efficient producers in the UK who have access to cheaper power and other factors of production. Furthermore, Section 5 (2) (i) of the Treaty Making and Ratification Act requires that when deciding whether to initiate the treaty-making process, the national executive should consider whether extensive scientific studies or research have been carried out to determine the parameters of the problems and the lines of potential solutions. The Cabinet Secretary is further required by Section 7 (c) to outline any national interests that may be affected by the ratification of the treaty, the policy and legal considerations, the financial implications, implications on matters relating to counties and the views of the public on the ratification of the treaty. The negotiations were hurriedly done from August to December and did not entail extensive public participation.

In the memorandum submitted by the Cabinet Secretary, none of these issues have been highlighted. We have not seen an extensive study on the UK-Kenya FTA. We have not seen a listing of which national interest may be affected by the ratification of the treaty, the financial implications and implications on matters relating to counites.

For the above reasons, we feel that it is premature to table the motion for discussion on the floor of the House. We therefore urge you to put aside the agreement until Parliament is better informed of the issues at play.

ay.

XXXX Duti XXXXXXXXXXXXXXXXXX Duti

REPUBLIC OF KENYA

PARLIAMENT OF KENYA – (FIFTH SESSION)

NATIONAL ASSEMBLY

THE PARLIAMENTARY CAUCUS ON ECONOMY AND BUSINESS

SPURRING KENYA'S ECONOMIC GROWTH IN THE MID-TERM: LEGISLATIVE AWARENESS AND INTERVENTIONS

1.0 Background

The **Parliamentary Caucus on Economy and Business** is envisaged to engaged and deliberated on various issues in regard to economy and ways of doing business in the country. **The Caucus constitutes of over Thirty-Five (35) Members from the National Assembly, Chaired by the Hon. Jude Njomo, MP, Member for Kiambu Constituency.**

The purpose of the caucus is -

a) To come up with solution to the ailing economy and business environment in the wake of challenges faced by the public;
b) To play bipartisan roles and complement the Parliamentary Departmental Committees in regard to matters on Finance, Planning, Budget and Appropriations; and,
c) To engage all relevant stakeholders with the aim of considering propose policies and legislative interventions that enhances growth of the economy and improve ways of doing business in the country.

Other purposes include, but not limited to -

- Interrogation of the Big Four Agenda Plans with view of gauging whether the approach and budgetary support is adequate to boost the economy;
- Conduct post legislation scrutiny of laws (legislations) to gauge their impact in the economy and the business environment;
- Conduct and audit on the Unclaimed Financial Assets Authority and the enabling law with a view of proposing amendments to place it at the centre of economy recovery;
- Fully participate in the Budget making process with a view to promote rationalization of the National budget to ensure a realistic budget (no or less deficits) with realistic expenditures;
- Promote regional and international issues in the country's economy to bring out the best;
- Capacitate the Caucus well enough to make the hard decisions and offer solutions to the economy to complement what is expected of the National Treasury and the Executive; and,
- Develop a Monitoring and Evaluation Framework in Parliament

2.0 SIX SALIENT POINTS ON THE KENYA UK EPA

1. **THE UK KENYA EPA IS A COPY PASTE FROM THE EAC – EU EPA:** The so called UK Kenya Agreement is a copy paste of the agreement between the European Union and the East African Community. Therefore –

   a. The **agreement (EAC EU EPA) is not in force despite Kenya signing onto it** because Uganda, Tanzania, Rwanda and Burundi refused to sign to a negative agreement.

   b. There is a **letter that was written by the EAC Ambassadors to the WTO** that raised a number of key issues about the EAC EU EPA. Those issues are still valid today, ***as indicated by the attached letter.*** On Agriculture, they said:

      i. **The FEPA proposal of bringing to zero some agricultural tariff lines in the context of continued EU subsidies will aggravate the situation further with, with serious consequences to the rural sector**..... THIS IS INTENDED TO PROTECT FOOD SECURITY, RURAL LIVELIHOODS ABD RURAL EMPLOYMENT.

2. **THE FIGURES USED BY GOVERNMENT ARE BASED ON OLD TRADE DATA:**
   The **data that been used by the government as the basis of negotiating the agreement is old data** dating back to 2005.
   a. Further, it was based on the EU as a whole and not now when the UK has left the EU.
   b. For a proper negotiation, the CABINET SECRETARY IS REQUIRED TO CONDUCT AN ECONOMIC IMPACT ASSESSMENT OF A TREATY BEFORE BRINGING IT TO THE CABINET as provided for by the Treaty-Making and Ratification Act.
   c. Key Questions: why are we using old EU data to conclude a far-reaching agreement with the UK when Brexit comes with new issues?

3. **SOME PRODUCTS WOULD HAVE TO HAVE ZERO TARRIFS FROM DAY ONE:**
   While the Cabinet Secretary insists that there would be gradual opening of tariffs on products, some products will actually cut taxes immediately due to the EAC Common External Tariff. While these products enjoy high tariffs under the EAC CET, they would have to lower tariffs (taxes) immediately the agreement starts.

4. **THE UK EPA ALLOWS GOVERNMENT TO CONDUCT FURTHER NEGOTIATIONS WITHOUT PARLIAMENTARY OVERSIGHT:**
   The rendez-vous clause in the UK EPA includes a COMMITMENT TO CONCLUDE NEGOTIATIONS BY OR BEFORE 2026 WITH UK on trade in services, trade-related issues (competition, investment, sustainable development (labour/environment), Intellectual Property Rights, transparency in public procurement.
   a. The UK, US and the EU have been unable to get rules on these issues and are now pushing for them through the backdoor.

b. There can be NO IMPLIED CONSENT BY PARLIAMENT for GOVERNMENT TO NEGOTIATE THE RENDEZ-VOUS CLAUSE ISSUES OR FISHERIES AGREEMENT WITHOUT EXPRESS APPROVAL OF PARLIAMENT

5. **KEY QUESTION FOR PARLIAMENT**: CAN THE KENYAN GOVERNMENT JUST GO AHEAD AND NEGOTIATE TRADE DEALS THAT ARE FAR-REACHING AND GO BEYOND TRADE PROPER AND TOUCH ON MANY OTHER POLICY AREAS and then just bring them to Parliament at the last minute for ratification? (RUBBERSTAMPING????)

6. **HOW TRADE NEGOTIATIONS ARE CARRIED OUT ELSEWHERE:**

a. UNITED STATES - they have a TRADE PROMOTION AUTHORITY that deals with what is negotiated between congress and government.

b. EUROPEAN UNION: The EU Commission has exclusive competence in trade BUT that mandate is limited by parliament and does not include investment and fisheries. Furthermore, the European Parliament has received additional power a few years ago to be able to provide oversight on the actions of the EU Commission.

HON. JUDE NJOMO, MP, - MEMBER FOR KIAMBU CONSTITUENCY
CHAIRPERSON, THE PARLIAMENTARY CAUCUS ON ECONOMY AND BUSINESS

Encls – 1. Letter that was written by the EAC Ambassadors to the WTO.

2. Key issues raised by Members before debate on Motion for adoption regarding the United Kingdom-Kenya Free Trade Agreement.

URGENT

PERMANENT MISSION OF THE
UNITED REPUBLIC OF TANZANIA
GENEVA

Ref. No. NC 663/690/01

02nd June 2010

Ministers in Charge of Trade,
EAC Member States,

Permanent Secretaries in Charge of Trade,
EAC Member States,

Honourable Ministers,

It has informally come to our attention that there will be a Joint EAC-EC-EPA Ministerial meeting, with the possibility that the Framework Economic Partnership Agreement (FEPA) may be signed on 9 June 2010 in Dar es Salaam.

As the Geneva-based Ambassadors, following international trade dynamics under the Multilateral Trading System (the World Trade Organisation), and participating in the Doha Round of negotiations, we strongly feel, it is our duty, responsibility and moral obligation to air our serious reservations about the content and timing of the FEPA, particularly its incompatibility with the flexibilities already being provided to our countries by the WTO.

In the attached document, it can be ascertained that there are a lot of key areas where the FEPA is incompatible with current WTO provisions and flexibilities accorded to the EAC countries. The risks of foregoing these flexibilities in the FEPA are likely to be adverse – including permanent and far-reaching industrial and economic stagnation. Needless to say, an acceptance of the FEPA as it is now would undo many of the rights and principles that EAC delegations and Ministers at the WTO, together with other African and developing countries have managed to obtain.

Since the interim FEPA has already been initialed, in that spirit, we strongly urge that negotiations on the FEPA continue (without exertion of pressure from either party) to bring it in line with our WTO commitments. Given our concerns, we advise against signing the FEPA in its current form. In the meantime, alternative approaches to the FEPA (EBA the LDCs already have, and waiver for the non-LDC) can also be explored.

47, Avenue Blanc
1202 Geneva
Tel.: 731 89 20
Fax: 732 82 55
E-mail: mission.tanzania@ties.itu.int

URGENT

Please accept, Honourable Ministers, the assurances of our highest consideration.

Dr. Matern Y. C. Lumbanga
AMBASSADOR AND PERMANENT REPRESENTATIVE

And COORDINATOR OF THE EAC GROUP AT THE WTO

Copy to: - Ministers in Charge of EAC,
EAC Member States,

Secretary General,
East Africa Community,
ARUSHA

URGENT

1 June 2010
Geneva

Excellencies,

CONCERNS OF EAC GENEVA-BASED AMBASSADORS REGARDING COMPATIBILITY OF EPA WITH WTO

It has informally come to our attention that there will be a Joint EAC-EC-EPA Ministerial meeting, with the possibility that the Framework Economic Partnership Agreement (FEPA) may be signed on 9 June 2010 in Dar es Salaam.

As Ambassadors based in Geneva, following international trade dynamics under the multilateral trading system (the World Trade Organisation), and participating in the Doha Round of trade negotiations, we have serious reservations about the content and timing of the FEPA, particularly its incompatibility with the flexibilities that the multilateral trading system provides to our countries.

The delegations from the EAC Member Countries to the WTO, our Trade Ministers, together with other developing country groupings have worked hard in the WTO to ensure that 'special and differential treatment' (SDT) is accorded to Least Developed Countries (LDCs) and other vulnerable low-income economies. These are the flexibilities which EAC countries enjoy. Our countries have placed great importance in these policy-based flexibilities, so that our industrialisation and development aspirations, as well as the objectives of East African Community regional integration are safeguarded.

There are several key areas in which the FEPA goes far beyond our WTO commitments. This, we fear, could lead to permanent stagnation of our industries and development, as well as put real opportunities for intra-regional EAC and African trade in jeopardy.

Article 11 and Annexes II a, b, c, d:
82.6% Tariff Liberalisation in FEPA; Zero or Minimum Tariff Cuts for EAC in Doha Round

According to the annexes of the 3 April 2009 draft FEPA, EAC countries are to bring to zero, tariffs for 82.6% of the value of EU exports entering the EAC. This is a far-reaching commitment.

At the WTO, the four EAC countries that are LDCs– Burundi, Rwanda, Tanzania and Uganda - need not undertake any tariff liberalization in the Doha Round due to the recognition by all WTO members of their economic vulnerability. Even Kenya, has been given lenient liberalization commitments in non-agriculture market access negotiations (NAMA, treatment for countries with 'low binding coverage') and Small and Vulnerable Economies (SVE) treatment in the agriculture negotiations (Footnote 11 and Annex I of TN/AG/W/4/Rev.4). What EAC countries have been asked to liberalise under the FEPA is much more than what Brazil, China and India are asked to do under the WTO.

URGENT

Although the FEPA allows for a 'sensitive list' representing 17.4% of the value of imports from the EU, this will not provide us with sufficient policy space for our future needs. In order for us to have a dynamic trade policy which supports industrialisation, we must negotiate the necessary flexibility which can enable us to intervene and protect the sectors of our economies which we may engage in production over a long-term period. This entails shifting protection of tariff lines from primary products at the early stages of industrialization, to the protection of intermediate goods in the medium term and finally to capital goods at a more industrialized stage. Binding most of our tariffs at zero will therefore deny us the use of such a dynamic trade policy space, and could mean that we remain largely exporters of primary commodities.

The food and agriculture sector could also be adversely affected. Already EAC markets are experiencing widespread food import surges with displacement effects in sectors such as sugar, dairy, poultry, rice, vegetable oils, etc, mostly due to low tariffs resulting from structural adjustment policies. The result has been a steady loss in our food production capabilities, and it has exacerbated food insecurity. The FEPA proposal of bringing to zero some agricultural tariff lines in the context of continued EU subsidies, will aggravate the situation further, with serious consequences to the rural sectors. At the WTO, we have been extremely cautious with further liberalization. LDCs need not reduce agriculture tariffs at all in the Doha Round. Kenya does so only in a limited way. This is intended to protect food security, rural livelihoods and rural employment.

Furthermore, despite its promises, the EU has not yet undertaken deeper cuts in domestic supports in agriculture in the current Doha negotiations and it has not signaled that it will do so under the EPA negotiations. As a matter of fact, much of their exports remain highly subsidized. There is thus a deeply unfair and imbalanced outcome in the FEPA; where the EU will not have to undertake the commitment which would have been advantageous (i.e. reduction in agriculture subsidies) but EAC countries have to cut their tariffs far beyond what they are obliged to do under the WTO.

In terms of any potential benefits in market access for Kenya (since for the LDCs, FEPA market access is largely the same as under the EU's Everything But Arms (EBA) scheme), additional benefits may be minimal or even theoretical due to the very high technical standards that remain a major entry barrier to the EU market and the many FTAs that the EU has concluded with other countries. This is already the experience of EAC LDCs under the EBA.

In order to ensure that liberalization commitments in the FEPA do not run ahead of our countries' levels of development, FEPA commitments should be in line with our WTO obligations. Alternatively, levels of liberalization beyond our WTO commitments should be pegged to the attainment of pre-determined development benchmarks. Only when we have reached *x* level of development should we liberalise *y%* of tariff lines. (This is a good practice which can be adopted from the WTO's Agreement on Subsidies and Countervailing Measures - countries below *x* level of development are exempted from the disciplines of export subsidies).

URGENT

Article 13 - The Standstill Clause

This Clause prevents us from ever increasing applied tariffs on those products scheduled for liberalization, including during the 25 year implementation period. Such restrictions constrain policy space and are not required for WTO compatibility (i.e. with GATT Article XXIV). Therefore, the Standstill Clause should be dropped from the FEPA text.

Article 15 - Export Taxes

Developing countries in the WTO (including African countries) have steadfastly rejected any suggestion that there be rules for the elimination of export taxes since these are regarded as a useful development tool which the developed world used to industrialise. It has been historically proven that such taxes incentivize local suppliers to move into processing and diversification. Article 15 of the FEPA disallows new export taxes or makes the introduction of any new export taxes difficult and this policy limitation is incompatible with the flexibilities carefully retained at the WTO. Article 15 should be deleted.

Article 16 - MFN Clause

The MFN clause of the FEPA is directly contrary to the spirit of the WTO's Enabling Clause that promotes Special and Differential Treatment for developing countries and South-South trade. Developing countries at the WTO, including China, India and Brazil have expressed concerns that the MFN clauses in the EPAs will discourage or even prevent third countries from negotiating Free Trade Agreements with EPA parties. They have also underscored that this would create major constraints and seriously undermine South-South trade. The MFN Clause should therefore be dropped.

Article 17 – Prohibition of Quantitative Restrictions

The WTO has very carefully allowed quantitative restrictions under certain circumstances (GATT Article XI). The FEPA's Article 17 is more limited in comparison. The WTO's GATT Article XI, 2c does not appear in the FEPA text allowing for quantitative restrictions for agricultural and fish products 'to enforce governmental measures' which could include food security measures. This is important for EAC countries and should also be included in Article 17 of the FEPA.

Articles 20 and 21 – Multilateral and Bilateral Safeguards

In the WTO's Agreement on Agriculture Article 5, the EU regularly uses a special and easy to invoke safeguard, the Special Safeguard Provision (SSG). The SSG has been mentioned in Article 20 of the FEPA. The EU has indicated it would not use the multilateral safeguards including the SSG against EAC imports for five years, but has left open the possibility to use them after this time (FEPA Article 20.3). The SSG instrument is not available to EAC countries at the WTO and hence the FEPA. Thus, developing countries in the WTO are currently negotiating a similar instrument, the Special Safeguard Mechanism (SSM). It should be made explicit in Article 20 of the FEPA that EAC countries will have recourse to this new instrument when it comes into effect. If this is omitted, there would be an imbalance in that Article and the objective of FEPA compatibility with WTO would not be fulfilled.

URGENT

In terms of procedure (such as in Article 21:7c), the experience of most developing countries at the WTO in utilizing its normal Safeguard Agreement has been the difficulty in supplying complete and accurate information as they often do not have comprehensive and timely data. The procedural requirements in the FEPA, committing EAC Parties to supply the EPA Council 'with all relevant information for a thorough examination of the situation, with a view to seeking a solution acceptable to the Parties concerned' is too burdensome and is beyond the ability of the EAC Countries and should therefore be deleted.[1]

In terms of the remedy for the bilateral safeguard, in addition to what is provided in the FEPA on tariff quotas and the suspension of the FEPA liberalization schedule, EAC countries should be able to apply tariff remedies that go above the customs duty applied rate (Article 21.3b), to the level necessary to address the problem at hand. In the SSG, the EU is able to apply safeguard duties on top of their WTO bound tariff levels. This right therefore should apply also to EAC countries. In addition, it needs to be borne in mind that the EU uses 'safeguards' permanently, by way of subsidies, which have the same effect as safeguards.

Article 37 - Rendez-vous Clause: Continuation of Negotiations in Trade in Services, Investment, Competition, Transparency in Government Procurement, Intellectual Property etc.

The so-called trade-related issues of investment, competition and transparency in government procurement, referred to in the WTO as the 'Singapore Issues' were dropped from the Doha agenda in 2004. African ministers played a pivotal role in this decision firstly at the WTO's Ministerial in 2003 in Cancun and later at the General Council decision in August 2004. The African countries and other developing countries in the WTO have opposed these Singapore issues because of the damage they may cause to our economies. These issues, if included in a trade agreement, will prevent regulation of capital flows (thus increasing our exposure to financial instability). They will also make it harder for our governments to favour local companies over foreign ones – an important policy tool even the developed countries are actively using today, to overcome the financial and economic crisis. The rendez-vous clause on these issues should therefore be dropped.

LDCs have also been exempted from the liberalization of Services in the Doha Round.[2] Non-LDCs such as Kenya are free to decide whether and how much it is willing to liberalise trade in Services and have flexibility to attach any conditions deemed necessary for their development. Furthermore, under WTO rules (GATT Article XXIV), inclusion of trade in Services is not required in a free trade agreement. Yet, according to WTO's GATS Article V, if services are to be included in an FTA, then substantially all sectors have to be liberalized. It is therefore best to drop services liberalization from the rendez-vous clause, particularly as re-regulation in such sensitive sectors as financial services is

[1] Article 16 of the Trade, Development and Cooperation Agreement between EU and South Africa (Agricultural Safeguard) has language making the safeguard procedurally much simpler to access.

[2] Para 26 of the Hong Kong Ministerial Declaration WT/MIN(05)/DEC 22 December 2005.

URGENT

being discussed in various fora and could be prevented by liberalisation. Other sensitive services sectors include telecommunications; distribution (eg. supermarkets); utilities; energy; health; education etc. It should be stressed that if Services are included and liberalised under the EPA, it would undo the advantages and gains that LDCs and Africa have managed to obtain in the WTO and undermine the development-friendly principles in Services in the WTO.

On intellectual property, LDCs do not currently have to implement any substantive obligations of the WTO's Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS). This is a right that has been hard won by the LDC Group in the WTO. However, the inclusion of intellectual property issues in the rendez-vous clause opens the door to introducing intellectual property disciplines and obligations on EAC countries that may be even heavier than the TRIPS agreement and the WTO decisions. These TRIPS+ provisions may jeopardise the ability of EAC countries to continue and/or introduce generic medicine manufacturing, an industry which enables medicine security and can be a source of export revenue. Negotiations on intellectual property are therefore incompatible with our countries' WTO obligations and should be dropped from Article 37.

Displacing Regional Trade and Integration

Opening up markets to EU products will also lead to the displacement of regional trade. Trade statistics show that a significant portion of manufactured exports from the EAC are directed intra-regionally, and to other African countries. This will change once the EAC market is liberalized. The opportunities for EAC producers to access a bigger internal market would be lost as they will now have to compete with EU exports in their own regional market.

Possible Alternatives to the FEPA:

LDC's EBA and WTO-Compatible Preferences for Kenya

Four of the five EAC countries, as LDCs already enjoy duty-free, quota-free access to the EU market under the Everything But Arms (EBA) scheme. The FEPA therefore provides no additional benefit, whilst the costs to them are tremendously high.

In order to avoid these costs which our fragile economies are unlikely to be able to withstand, WTO-compatible solutions could therefore be explored for Kenya. We would like to draw your attention to the fact that there are at the WTO, 9 active waivers allowing US, EU and Canada to provide preferential trade schemes to developing countries. These include the African Growth Opportunity Act (AGOA) provided by US to a region, such as sub-Saharan Africa; generous preferences to Moldova and also the Western Balkans provided by the EU. In the EU's application for the waiver for Moldova at the WTO, it had noted that

'Moldova is the poorest country on the European continent... and does not have the competitive strength to take reciprocal obligations of a free-trade agreement with the European Communities' (WTO document G/C/W/592, 29 February 2008).

We note that all the EAC countries have lower levels of development than Moldova.

URGENT

Doha Round and EPA Sequencing and Article XXIV

The Doha Declaration (para 29) provides the mandate for the renegotiations of GATT Article XXIV, taking 'into account the developmental aspects of regional trade agreements'. African trade ministers have noted therefore that the EPAs should be concluded only when Article XXIV negotiations have been completed (Cairo 2005 and Nairobi 2006). In the interest of development, this remains a logical and suitable sequencing.

Conclusion

As can be seen above, there are myriad areas where the FEPA is incompatible with current WTO provisions and flexibilities for EAC countries. We have only highlighted some of these areas. The risks of foregoing these flexibilities in the FEPA are likely to be adverse – including permanent and far-reaching industrial and economic stagnation. Needless to say, an acceptance of the FEPA at this moment would undo many of the rights and principles that EAC delegations and Ministers at the WTO, together with other African and developing countries have managed to obtain.

Since the interim FEPA has already been initialed, in that spirit, we strongly urge that negotiations on the FEPA continue (without exertion of pressure from either party) to bring it in line with our WTO commitments. Given our concerns, we advise against signing the FEPA in its current form. In the meantime, alternative approaches to the FEPA (EBA the LDCs already have and the WTO waiver for the non-LDC) can also be explored.

Pierre Barusasiyeko
Ambassador of the Republic of
Burundi to the UN and WTO

Dr. Matern Y. C. Lumbanga
Ambassador of the United Republic
of Tanzania to the UN and WTO

Philip Richard O. OWADE
Ambassador of the Republic of
Kenya to the UN and WTO

Kagimu Kiwanuka
Ambassador of the Republic of
Uganda to the UN and WTO

Venetia Sebudandi
Ambassador of Republic of Rwanda to the
UN and WTO

Annex IV (c)

Econews Africa

Questions concerning a new trade arrangement between the UK and Kenya

With regards to a new trade arrangement, the following questions should be explored.

1. Rules of origin- will Kenyan produce transiting via the EU with no or limited value addition enter duty free into the UK, and which procedures and documentation would be required?

   Response

   Yes, Kenya products transiting via the EU will have duty free access in the UK. Refer Protocol No.1 of the Kenya-UK EPA Article 4 and Article 6. The procedures and documentation needed is same as what used under the EU trade regime – EUR 1 (Movement certificate)

2. Development cooperation-will this be part of the Trade agreement, if yes what kind of institutional arrangements and budget

   Response

   Yes, Economic Development Cooperation is part of the Kenya-UK EPA, Part V. Institutional arrangement is as provided in the Kenya-UK EPA, Part VI, Institutional Provisions. There is no accompany budget for Economic Development Cooperation. Instead, this Part V identifies areas where activities leading to economic development will be drawn (Articles 75 to 100). In Title X Resource Mobilization arrangement is provided. This will be driven by specific budget to be drawn periodically during implementation of Part V.

3. UK/Kenya equivalency and divergence with EU sanitary and Phytosanitary Standards (SPS) regulations. Will products be meeting EU standards admitted into the UK as well?

   Response

   The Kenya-UK EPA has sustained the WTO principle of equivalence as is the case with EAC- EU - EPA. So there is no divergence. Also important to note SPS measures, even as applied under the EU are usually premised on the above referred principles and a country is free to deviate based on the specific scientifically based basis. This reality is articulated in Title IV (Articles 30 – 40) of the Kenya-UK EPA and

ensures that the same SPS regime that Kenya used to access the UK market before Brexit is sustained.

4. Scope of the trade agreement: What would the scope of this agreement be and what implication will I have on key sectors such as agriculture and manufacturing?

Response

The Scope of the Kenya-UK EPA is the same as the EAC-EU EPA, which Kenya has already ratified. The agricultural and industrial products that are exposed to negative impact of the Kenya-UK EPA, as was the case with the EAC-EU EPA, ***are those that are now excluded*** *from liberalization. They account for 17.4% of the trade that was due for liberalization when the EPA was negotiated (Refer Annex II (d). Other products that could be exposes to negative impact from EU imports are intermediate products (Annex IIB of the Kenya-UK EPA) and finished products (Annex IIC of the Kenya-UK EPA) that Kenya has committed to liberalize over a period of 8years and 13 years after a seven year and 12 year moratorium period before respective progressive liberalization commences. In event that UK will be exporting any of the products under these annexes, the Kenya-UK EPA has in built mechanism to shield Kenya's industries that may risk facing competition. This includes:*

-

- *The 7years and 12 years moratorium for intermediate and finished goods subject to liberalization, respectively. During this period, tracing of the industries likely to be adversely affected will be undertake and appropriate support to ensure competitiveness against UK products provided, in the context of the Economic Development chapter of the Kenya-UK EPA.*
- *The Infant Industry clause in Title VI (Article 50) Bilateral Safeguards, paragraph 4(b).*

5. Implications for regional integration-would UK products enter via Mombasa and find their way into other EAC member states?

Response

No. EAC Customs Union does not allow free circulation of goods imported into the EAC Customs Territory. Goods imported from the UK into Kenya on duty free basis will have to be subjected to mfn duty when entering the EAC countries because according to EAC Rules of Origin they cannot be termed as originating in Kenya. However, as soon as other EAC Partner States accede to the Kenya-UK EPA, then UK goods imported through Kenya can enter the EAC country that has acceded to the Kenya-UK EPA on duty free basis.

6. Implications for tariff negotiations under the African Continental Free Trade Area (AfCFTA)- should Kenya extend tariff preferences provides to Uk to other African Countries?

Response

No. ACFTA is a Free Trade Area and does not oblige Kenya to pass on duty preferences it agrees under another FTA to CFTA members.

7. The UK – Kenya agreement is NOT a rollover of a trade regime Kenya had with the EU

Response

Kenya trade with the EU under the EAC- EU – EPA, which though all EAC Partner States initialed, only Kenya ratified. The said EPA could not be rolled-over given that it has not yet come into effect due to non-ratification by all EAC Partner States, except Kenya. But the Kenya–UK–EPA replicates the effects/extends the terms of trade accorded to Kenya by the EU under the EAC- EU – EPA. The original intention of the UK when approaching the EAC Secretariat was to get all Partner States to sign and ratify the EAC-EU-EPA in readiness for rolling over to EAC-UK-EPA but this was not possible.

Market Access Rogation 1528/2007 is temporary administrative arrangement granted by the EU Parliament to Kenya to continue accessing the EU market pending all EAC Partner States ratifying the EPA and therefore this could not part of an agreement with another party.

Highlight of Key Laws that Govern Negotiations in Kenya: Special Focus on The Constitution 2010 and The Treaty Making and Ratification Act, 2012

Introduction

Article 2(6) of the Constitution of Kenya provides that any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution. The Treaty Making and Ratification Act, 2012 gives effect to this Constitutional principle and provides the procedure for the making authenticating, approvals and ratification of treaties.

This is important as it fulfills the international law rule "pacta sunt servanda as stated in the preamble of the Vienna Convention on the Law of treaties that agreements that are legally binding must be kept. The ratification process that gives effect to the implementation of obligations Kenya has consented to with other nations; is therefore detailed in the Treaty Making and Ratification Act.

The Vienna Convention on the law of Treaties defines ratification as the international act whereby a State establishes on the international plane its consent to be bound by a treaty. This consent is therefore affirmed not only through our legislative process but also in judicial pronouncement as Courts may confidently apply these Conventions and treaties, which have been duly ratified.

THE TREATY MAKING AND RATIFICATION ACT

The Treaty Making and Ratification Act section 3.2 provides that the Act shall apply to Multilateral and Bilateral treaties. The Act defines "bilateral treaty" to mean an agreement concluded between Kenya and any other State or between Kenya and an international organization.

TREATY MAKING INITIATION

The general responsibility for treaty making is the national executive, which can also be referred to as the National Government. The Government at national level is responsible for initiating the treaty making process, negotiating and ratifying treaties.

This responsibility is delegated to the relevant State department or the relevant National Executive.

The relevant national executive or the relevant State department initiates the treaty making process in manner prescribed by the Cabinet Secretary.

The State Department in deciding to initiate a new treaty takes into consideration the following,

(a) the need that the new treaty is to meet;

4

(b) the existing legal regime, including the extent of its applicability to the perceived problem;
(c) the probability of reaching the required measure of agreement on the solution aimed for;
(d) any relevant legislative efforts related to the perceived problem;
(e) the optimal form for the proposed treaty;
(f) the likelihood that the proposed treaty shall be accepted by a sufficient number of states, where the treaty is multilateral;
(g) the anticipated time schedule for completing the treaty-making process;
(h) the expected costs of formulating and adopting the treaty to Kenya;
(i) in formulating treaties relating to technical or scientific problems; whether extensive scientific studies or research have been carried out to determine the parameters of the problem and the lines of potential solutions.

Once these conditions are met the State department presents a proposal to Cabinet for approval that the treat making process may commence.

The Act specifically provides for values and principles in negotiating treaties which are two but very fundamental:

(1) In negotiating treaties, the national executive or the relevant State department shall be bound by the values and principles of the Constitution; and shall take into account the regulatory impact of any proposed treaty.
(2) When appointing persons to negotiate a treaty, the national executive or the relevant State department shall appoint persons who are competent to undertake such negotiations in the interest of the people of Kenya.

RATIFICATION PROCESS

The process for ratification is also well stipulated in that the relevant State department prepares a memorandum, which they submit, to the Attorney General for legal vetting. The memorandum outlines the following:

(a) the objects and subject matter of the treaty;
(b) any constitutional implications including—
    (i) any proposed amendment to the Constitution; and

(ii) that the treaty is consistent with the Constitution and promotes constitutional values and objectives;

(c) the national interests which may be affected by the ratification of the treaty;
(d) obligations imposed on Kenya by the treaty;
(e) requirements for implementation of the treaty;
(f) policy and legislative considerations;
(g) financial implications;
(h) ministerial responsibility;
(i) implications on matters relating to counties;
(j) the summary of the process leading to the adoption of the treaty:
(k) the date of signature;
(l) the number of states that are party to the treaty;
(m) the views of the public on the ratification of the treaty;
(n) whether the treaty sought to be ratified permits reservations and any recommendations on reservations and declarations;
(o) the proposed text of any reservations that should be entered when ratifying the treaty in order to protect or advance national interests or ensure conformity with the Constitution; and
(p) whether expenditure of public funds will be incurred in implementing the treaty and an estimate, where possible, of the expenditure.

The next process is the consideration by the National Assembly once the Cabinet has approved its ratification. The Speaker of the National Assembly delegates this function to the relevant Parliamentary Committee for its consideration of the Treaty ensuring public participation in the ratification process in accordance with laid down parliamentary procedures. The following then takes place:

- The National Assembly may approve the ratification of a treaty with or without reservations to specific provisions of the treaty.
- In case of a reservation; the reservation is introduced as a provision into the treaty in accordance with the procedure set out in the Standing Orders.
- Where the National Assembly refuses to approve the ratification of a treaty, the Clerk of the National Assembly shall submit the resolution of the House to the relevant Cabinet Secretary within fourteen days of the resolution.
- The National Assembly shall not approve the ratification of a treaty or part of it if its provisions are contrary to the Constitution, nor shall the House approve a reservation to a treaty or part of it if that reservation

negates any of the provisions of the Constitution even if the reservation is permitted under the relevant treaty.

Once the National Assembly approves the treaty for ratification without any reservation, the Cabinet Secretary prepares instruments for ratification within 30 days of such approval.

- The instruments of ratification of a treaty are signed, sealed and deposited by the Cabinet Secretary at the requisite international body and a copy thereof is filed with the Registrar of Treaties.
- Any amendment or modification, also follow this same procedure for ratification and this process also applies to protocols.

Where a treaty is approved for ratification with reservations to some provisions of the treaty, the treaty shall be ratified with those reservations to the corresponding article in the treaty.

Where the National Assembly refuses to approve the ratification of the treaty, the Government shall not ratify the treaty.

It is an offence to ratify without approval any treaty without following the due process mentioned herein above. Such an offense incurs a liability of upto 15 years in jail or a fine of 20 million shillings or both.

The registry and depository of Treaties is under the Ministry of foreign affairs. The registry contains the status of all treaties pending ratification or domestication and the timelines for such ratification or domestication.

END

ECONEWS AFRICA

RESPONSE TO THE CABINET SECRETARY'S MEMO ON THE UK-KENYA EPA.

3rd March 2021

- **Para 2.5. The process is not in compliance with Article 37 of the EAC Customs Union Protocol**

A Partner State may separately conclude or amend a trade agreement with a foreign country provided it that the terms of such an agreement or amendments are not in conflict with the provisions of this Protocol (substance / contents of the agreements) and subject to the procedural requirements stipulated in Article 37.4(b)-(e)

Article 37.4(b)-(e) of the EAC Customs Union Protocol lays out the following steps:

1) Partner to send proposed agreement to the EAC Secretary General (SG), who shall communicate it to other Partner States within 30 days, for their consideration
2) Other Partner States to make comments and proposals as they may deem appropriate, within 90 days from the receipt of the SG's notification, before the conclusion or amendment of the agreement. Where the Partner States do not submit comments and proposals within 90 days, the concerned Partner State may conclude or amend the said agreement
3) Following receipt of comments and proposals in the 90-day period, SG to convene Council meeting within 60 days to consider comments and proposals

The agreement was signed on 8 December 2020. Government can argue that there was a lack of time before conclusion of the agreement, but some time has passed now. If the above process would have been followed, it could almost have been completed by now. Furthermore, negotiations began on 25 August 2020.

Action point: government to follow the procedural requirements of Article 37 EAC Customs Union Protocol before Parliament can consider ratification

- **Para 4.3. UK market potential need better justification**

The claim that this agreement will lead to increase of exports from KES 39 billion to KES 1,100 billion (1,1 trillion) in 4 years (by 2025) seems unwarranted. This implies that exports to UK would increase 38 times. The only countries which achieved a similar feat between 2020 and 2016 are Uzbekistan (2,088 times increase in UK exports) and Kyrgyzstan (26.5 times) both on account of sudden imports of gold by UK from these 2 countries.[1]

UK MFN tariffs are a bit lower than those of the EU, so the benefit of tariff preferences in the UK market is less pronounced than for the EU. For instance, the UK tariff for roses is 8% throughout the entire year, compared to 12% for the EU during June to October and 8.5% during November to May. Forty (40) per cent of Kenya's exports to UK is tea. This product is already MFN duty free in the UK market.

[1] A factor 38 is also higher than the increase in exports of Christmas Island to UK from USD 17,000 in 2016 to USD 480,000 in 2020 (28.2 times).



According to an EU's Sustainability Impact Assessment (SIA), the main distortion for the Kenyan horticulture culture which diminishes competitiveness is the overvaluation of the Kenyan shilling, not tariffs.[2] The same study also estimated that absence of the (EU EAC) EPA would lower horticultural export prices and revenue of by an average of 6%. Based on horticultural exports (not including tea) valued at around USD 200 million (average 2017-2019) this would represent a loss of around USD 12 million for horticultural sectors.

Action point: Government to provide better arguments for UK market potential.

Highlights of protection of national interests in the EPA between Kenya and the UK

- **Para 6.2(b) Rules of Origin**

Questions by Parliament to Government:

- Which rules of origin have been improved compared to Kenya's previous trading arrangement with the UK (i.e. the EU Market Access Regulation)
- Cumulation with other developing countries is touted as a major benefit in the area of rules of origin (i.e. sourcing raw material from outside Kenya but still qualifying as Kenyan under the UK-Kenya FTA). Is cumulation of origin with EAC Partner States possible, as the other EAC Partnerstates do not have an FTA relationship with the UK? Are any additional arrangements with the UK and/or EAC Partner States needed to make use of cumulation?

- **Para 6.2(c). Opening up new areas for exports**

This claim appears to be unwarranted (see also above on para 4.3)
Action point: Government to provide better arguments for UK market potential.

- **Para 6.2(d). Negotiated understanding/platform to discuss UK standards and SPS measures**

The SPS Chapter mostly reaffirms what is already in the WTO SPS Agreement. The EPA does not contain specific measures to facilitate Kenyan exports to UK- As per Article 37.3 UK-Kenya EPA, the Parties undertake to establish mechanism for exchange of information on SPS import requirements.

- **Para 6.2(f) Secure investments and jobs**

'An estimated 4 million people will have their jobs and livelihoods protected if EPA is ratified'. This claim would need to be better backed up by evidence.

- **Para 6.2(g). Limited market opening for UK products**

The figures on Kenya's offer to EU are based on the figures calculated under the EU EAC EPA which does not reflect the actual liberalization which Kenya is to undertake vis a vis the UK. The schedule is

[2] Sustainability Impact Assessment (SIA) of the EU-ACP Economic Partnership Agreements, Phase Three,

also expressed in an older version of the Harmonized System (HS), not in HS2017 which is currently in use by Kenya.

Action point: Government should update the market access offer, providing updated figures and in Kenya's current tariff nomenclature. Same should be published in an accessible manner to make traders acquainted with proposed changes.

Customs duties on several products would have to go down at the entry into force of the EPA, as the rate listed in the Annex II at T0 is lower than the current EAC CET. These products include iron and steel products (from 10%/25% to 0%), olive oil (from 25% to 0%), fat of bovine animals, sheep or goats (from 10% to 0%) and plastic packaging material (from 25% to 10%) (see Annex)

Action point: this issue to be fixed before ratification by Parliament.

Question from Parliament to Government:
-The memo highlights the relatively long implementation period but duties for most tariff lines appear to be eliminated by 15 years, not 25 years. Is this correct?

-What are the expected tariff revenue losses over this period and has this been accounted for in the budget?

- **Para 6.2h Fisheries**

In the area of marine fisheries, EPA prescribed which penalties should be applied to fishing vessels involved in Illegal, Unreported and Unregulated (IUU) fishing: confiscation of fishing vessels, prosecution of owners and not be allowed to fish again in Kenyan waters. These rules equally apply to Kenyan small-scale fisheries as well, for instance if they fail to report or misreport catches.

The agreement already provides some rules for UK vessels fishing in Kenyan waters, including establishing the right of UK to have right to place observers on UK vessels and to make discards reporting compulsory, however there is no obligation for UK vessels to bring discards and by-catch ashore. These rules seem to imply that a fisheries agreement to allow fishing by UK vessels in Kenyan waters is a future possibility.

Action Point: There can be no consent implied by Parliament to fisheries access agreement between Kenya and the UK. The EPA is not (necessarily) the basis for a fisheries access agreement

EPA inbuilt measures to mitigate the threat to Kenya's regional and domestic market from UK imports

- **Para 7.1: trade remedies provisions**

Questions by Parliament to Government:

-How many trade remedy actions have been implemented by the Kenyan government, including through the Kenya Trade Remedies Agency (KETRA)?

-Has advice been sought from Kenya Trade Remedies Agency (KETRA) on the trade remedy provisions of the UK-Kenya EPA?[3]

-The bilateral safeguard under Article 50 of the UK-Kenya EPA is in principle available for 2 years. In case of application of the safeguard, Kenya cannot increase its tariff on a particular product vis a vis UK beyond the EAC CET which would apply.

-Who will implement the provisions, in particular the bilateral safeguard? Kenya Trade Remedies Agency (KETRA) established by the Trade Remedies Act of 2017 is mainly implementing the trade remedies available under WTO law. Its mandate with respect to the application of safeguard provisions in trade agreements is less clear.

- **Para 7.3: review clause does not oblige any of the Parties to make changes**

Art 142 on the Review Clause:
"1. This Agreement shall be reviewed after every five (5) years from the date of its entry into force.
2. As regards the implementation of this Agreement, a Party may make suggestions oriented towards adjusting trade related cooperation, taking into account the experience acquired during the implementation of this Agreement"

The Review Clause stipulates that a review every 5 years is mandatory. During this process, a Party may make suggestions, but it does not oblige any of the Parties to agree to any changes.

Reservations

- **Para 16.1. The EPA does not permit reservations or declarations during ratification?** According to Art 8.4 Treaty Making and Ratification Act 2012, "(4) The National Assembly may approve the ratification of a treaty with or without reservations to specific provisions of the treaty." The statement of para 16.1 seems to be inconsistent with the Treaty Making and Ratification Act 2012.

  Furthermore, trade agreements which (have) had UK as a party contain declarations. Examples include. Examples:
  - The EU-Canada Comprehensive Economic and Trade Agreement (CETA) includes a binding joint interpretative instrument[4], which explains what the provisions mean in practice. Wallonia resisted to CETA in part because it was seeking further assurances on agricultural and legal aspects of the trade pact between Brussels and Ottawa.
  - The EU-CARIFORUM EPA includes a Declaration On the Signing of the Economic Partnership Agreement

[3] See e.g. https://www.the-star.co.ke/business/kenya/2020-12-23-state-agency-challenged-to-advice-government-to-save-collapsing-industries/

As such a declaration, either jointly or unilateral, remains a possibility.

Other issues not highlighted in the memo:

- **Infant industry clause**. This is a temporary measure, available for the first 10 years (plus possible extension with another 5 years subject to UK approval). However it will be most useful after 15 years when most of the tariff elimination has taken place

- **Rendez vous clause.** Commitment to conclude negotiations by or before 2026 with UK on trade in services, trade-related issues (competition, investment, sustainable development (labour/environment), IPRs, transparency in public procurement

Action Point: There can be no consent implied by Parliament to the rendez vous clause issues (as well as an eventual fisheries agreement).

- **UK and Kenya agreed on a 3 month period for ratification.** In a separate MOU, which the UK classifies as a treaty, UK and Kenya agreed to ratify the EPA 3 months after entry into force of that MOU (31 December 2020). i.e. by 31 March 2021. This commitment is on best endeavour basis: "The Participants will use their best endeavours .." (Section 2 of the MOU)[5]. In any case, this MOU should have been part of the documentation to be shared with Parliament when considering ratification.

- **Very limited use of export taxes.** The EPA prohibits new export duties or taxes in principle. Any new export duty would need to be notified to UK and would be temporary (maximum 4 years). Furthermore, if Kenya agrees to prohibition of export taxes with any other country it should do the same for UK. Export taxes are currently used among others in the leather & hides industry and for macadamia nuts, with a view to moving up the value chain. Before 2017, an export tax of 20% on ferrous scrap metals applied.

- **MFN Clause**. The effect of MFN Clause is to deter the conclusion of new FTAs with major trading economies, including the US. Coverage includes not only tariffs, but also rules of origin, trade facilitation/customs cooperation, transit, SPS measures, trade defence measures. I.e. any better treatment of other major trading economies in a future FTA in these areas could mean better future treatment of the UK, to which Parliament would implicitly assent to

- **Contemplation of (temporary) alternatives to an FTA.** A 'rollover' of Kenya's existing regime would have been a rollover of the EU Market Access Regulation into the UK GSP. I.e. Kenya like other EAC Member States could have been accommodated in UK GSP as a region. UK and Kenya have not taken this route.

Annex – Examples of products where import tariff vis a vis UK would have to be lowered or eliminated at the entry into force of the UK-Kenya EPA

hs8	Duty rate in EPA (base rate)	EAC CET	Short description
15029000	0%	10%	Fats of bovine animals, sheep or goats
15091000	0%	25%	Virgin olive oil
28170010	0%	10%	Zinc oxide; zinc peroxide
28331900	0%	10%	Sodium sulphates (excl. disodium)
28332200	0%	10%	Sulphate of aluminium
33021000	0%	10%	Mixtures of odoriferous substances and mixtures
39203090	10%	25%	Plates, sheets, foil, film and strip, of non-cellular polymers of styrene
39206390	10%	25%	Plates, sheets, film, foil and strip, of non-cellular unsaturated polyesters
39239020	10%	25%	Articles for the conveyance or packaging of goods, of plastics
70200099	10%	25%	Articles of glass, n.e.s.
72085200	0%	10%	Flat-rolled products of iron or non-alloy steel
72085300	0%	10%	Flat-rolled products of iron or non-alloy steel
72085400	0%	10%	Flat-rolled products of iron or non-alloy steel
72089000	0%	10%	Flat-rolled products of iron or steel
72172000	0%	10%	Wire of iron or non-alloy steel, in coils, plated or coated with zinc
73081000	0%	25%	Bridges and bridge-sections, of iron or steel
73082000	0%	25%	Towers and lattice masts, of iron or steel
73084000	0%	25%	Equipment for scaffolding, shuttering, propping or pit-propping
74130090	10%	25%	Stranded wire, cables, plaited bands and the like, of copper
76071990	10%	25%	Aluminium foil, not backed, rolled and further worked
76072090	10%	25%	Aluminium foil, backed
76129090	10%	25%	Casks, drums, cans, boxes and similar containers
76141000	10%	25%	Stranded wire, cables, plaited bands and the like, of aluminium, with steel core
76149000	10%	25%	Stranded wires, cables, ropes and similar articles, of aluminium
84212300	10%	25%	Oil or petrol-filters for internal combustion engines
84213100	10%	25%	Intake air filters for internal combustion engines
85167100	0%	10%	Electro-thermic coffee or tea makers, for domestic use
85167200	0%	10%	Electric toasters, for domestic use
85235200	10%	25%	"smart cards"
85287290	10%	25%	Reception apparatus for television, colour
85287390	10%	25%	Reception apparatus for television, black and white or other monochrome
85423900	10%	25%	Electronic integrated circuits



THE UK/KENYA FTA: AN OVERVIEW

EDGAR ODARI

Background

EU-EAC EPA negotiations – concluded but not in force

- Not ratified by all EAC Member States

Kenya was trading under EU Market Access Regulation 2016/1067

- Market opening by EU to Kenyan imports
- No market opening by Kenya to EU imports

Brexit and UK called for 'rollover' of existing EU FTAs

- UK-Kenya EPA is largely copy paste of EU-EAC EPA

UK-Kenya EPA has not yet entered into force

- UK provisionally applies the UK-Kenya EPA
- Kenya does not provisionally apply, subject to ratification

ECONEWS AFRICA

EU's Market Access Regulation

- A 'rollover' of the current trade regime for Kenya would be an equivalent to MAR 1528/2007 recasted as MAR 1076/16

REGULATIONS

REGULATION (EU) 2016/1076 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 8 June 2016

applying the arrangements for products originating in certain states which are part of the African, Caribbean and Pacific (ACP) Group of States provided for in agreements establishing, or leading to the establishment of, economic partnership agreements

(recast)

ECONEWS AFRICA

ANNEX I

LIST OF REGIONS OR STATES WHICH HAVE CONCLUDED NEGOTIATIONS WITHIN THE MEANING OF ARTICLE 2(2)

ANTIGUA AND BARBUDA

THE COMMONWEALTH OF THE BAHAMAS

BARBADOS

BELIZE

THE REPUBLIC OF BOTSWANA

THE REPUBLIC OF CAMEROON

THE REPUBLIC OF CÔTE D'IVOIRE

THE COMMONWEALTH OF DOMINICA

THE DOMINICAN REPUBLIC

THE REPUBLIC OF FIJI

THE REPUBLIC OF GHANA

GRENADA

THE COOPERATIVE REPUBLIC OF GUYANA

JAMAICA

THE REPUBLIC OF KENYA

THE REPUBLIC OF MADAGASCAR

ECONEWS AFRICA

Article 2

Scope

1. This Regulation applies to products originating in the regions and states listed in Annex I.

2. The Commission is empowered to adopt delegated acts in accordance with Article 22 to amend Annex I in order to add regions or states from the ACP Group of States which have concluded negotiations on an agreement with the Union which at least meets the requirements of Article XXIV of the General Agreement of Tariffs and Trade 1994 (GATT 1994).

3. A region or state shall remain on the list in Annex I unless the Commission adopts a delegated act in accordance with Article 22 amending Annex I to remove that region or state from that Annex, in particular where:

(a) the region or state indicates that it intends not to ratify an agreement which has permitted it to be included in Annex I;

(b) ratification of an agreement which has permitted a region or state to be included in Annex I has not taken place within a reasonable period of time such that the entry into force of the agreement is unduly delayed; or

(c) the agreement is terminated, or the region or state concerned terminates its rights and obligations under the agreement, but the agreement otherwise remains in force.

Kenya does not meet any of the justifications for removal from Annex I

ECONEWS AFRICA

oncerns regarding EPA between EU and EAC

URGENT

1 June 2010
Geneva

% Tariff Li
Round,

NCERNS OF EAC GENEVA-BASED AMBASSADORS REGARDING MPATIBILITY OF EPA WITH WTO

as informally come to our attention that there will be a Joint EAC-EC-EPA isterial meeting, with the possibility that the Framework Economic Partnership eement (FEPA) may be signed on 9 June 2010 in Dar es Salaam.

Ambassadors based in Geneva, following international trade dynamics under the tilateral trading system (the World Trade Organisation), and participating in the Doha nd of trade negotiations, we have serious reservations about the content and timing of FEPA, particularly its incompatibility with the flexibilities that the multilateral ing system provides to our countries.

delegations from the EAC Member Countries to the WTO, our Trade Ministers, ther with other developing country groupings have worked hard in the WTO to re that 'special and differential treatment' (SDT) is accorded to Least Developed ntries (LDCs) and other vulnerable low-income economies. These are the flexibilities h EAC countries enjoy. Our countries have placed great importance in these policy- d flexibilities, so that our industrialisation and development aspirations, as well as objectives of East African Community regional integration are safeguarded.

re are several key areas in which the FEPA goes far beyond our WTO commitments. , we fear, could lead to permanent stagnation of our industries and development, as as put real opportunities for intra-regional EAC and African trade in jeopardy.

cle 11 and Annexes II a, b, c, d:
% Tariff Liberalisation in FEPA: Zero or Minimum Tariff Cuts for EAC in a Round

Conclusion

As can be seen above, there are myriad areas where the FEPA is incompatible with current WTO provisions and flexibilities for EAC countries. We have only highlighted some of these areas. The risks of foregoing these flexibilities in the FEPA are likely to be adverse – including permanent and far-reaching industrial and economic stagnation. Needless to say, an acceptance of the FEPA at this moment would undo many of the rights and principles that EAC delegations and Ministers at the WTO, together with other African and developing countries have managed to obtain.

Since the interim FEPA has already been initialed, in that spirit, we strongly urge that negotiations on the FEPA continue (without exertion of pressure from either party) to bring it in line with our WTO commitments. Given our concerns, we advise against signing the FEPA in its current form. In the meantime, alternative approaches to the FEPA (EBA the LDCs already have and the WTO waiver for the non-LDC) can also be explored.

Pierre Barusasiyeko
Ambassador of the Republic of
Burundi to the UN and WTO

Dr. Matern Y. C. Lumbanga
Ambassador of the United Republic
of Tanzania to the UN and WTO

Philip Richard O. OWADE
Ambassador of the Republic of
Kenya to the UN and WTO

Kagimu Kiwanuka
Ambassador of the Republic of
Uganda to the UN and WTO

Venetia Sebudandi
Ambassador of Republic of Rwanda to the
UN and WTO

ECONEWS AFRICA

Contents of UK-Kenya EPA

Main contents:

- Market access / trade in goods
  - Import tariffs. For Kenyan exports tariffs in UK market will remain the same
  - Rules of Origin
  - Most Favoured Nation (MFN) clause
  - Prohibition of export taxes
  - Customs cooperation / trade facilitation
  - Sanitary and Phytosanitary (SPS) measures
- Fisheries
- Agriculture (mainly cooperation)
- Economic and development cooperation
- Rendez-vous: more negotiations

ECONEWS AFRICA

enya's exports to UK and UK import riffs on Kenya's exports

Kenya's average annual export to UK– around USD 413 million, accounting for 6 to 7% of Kenya's export (of around USD 6 billion)

UK MFN Tariff on Kenya's main exports from 1 Jan 2021:

- Black tea (40% of Kenya's export to UK) – 0%
- Avocados – 4%
- Fresh cut roses – 8%, dried flowers 10%
- Pineapples – 25% + GBP 2 / kg
- Tobacco – 18 GBP / 100 kg
- Beans and other vegetables – around 10%

ECONEWS AFRICA

	Description	UK import from Kenya (avg 2017-2019) in USD '000	EU tariff	UK tariff
OTAL	All products	413,377		
90240	Black fermented tea and partly fermented tea, whether or not flavoured, in immediate packings ...	167,217	0%	0%
60311	Fresh cut roses and buds, of a kind suitable for bouquets or for ornamental purposes	58,328	12% (jun-oct) or 8.5%	8%
70820	Fresh or chilled beans "Vigna spp., Phaseolus spp.", shelled or unshelled	55,499	13.6% (jul-sep) or 10.4%	10%
70410	Fresh or chilled cauliflowers and headed broccoli	21,554	13.6% (15 apr nov) or 9.6%	8%
70999	Fresh or chilled vegetables n.e.s.	14,112	10%	10%
90111	Coffee (excluding roasted and decaffeinated)	9,262	0%	0%
70810	Fresh or chilled peas "Pisum sativum", shelled or unshelled	7,883	13.6% (jun-aug) or 8%	12% (jun-aug) or 8%
00820	Pineapples, prepared or preserved, whether or not containing added sugar or other sweetening ...	7,764	25.6% + 2.50 EUR / 100 kg	25.00% + 2.00 GBP/100kg
50490	Tables for casino games, automatic bowling alley equipment, and other funfair, table or parlour ...	7,540	0%	0%
60312	Fresh cut carnations and buds, of a kind suitable for bouquets or for ornamental purposes	5,662	12% (jun-oct) or 8.5%	8%
0930	Fresh or chilled aubergines "eggplants"	4,176	13%	12%
60390	Dried, dyed, bleached, impregnated or otherwise prepared cut flowers and buds, of a kind suitable ...	3,799	10%	10%
30440	Fresh or dried avocados	2,796	5.10% (jun-nov) or 4%	4%
70960	sh or chilled fruits of the genus Capsicum or Pimenta	2,736	7%	6%
	co, partly or wholly stemmed or stripped, otherwise ctured	2,394	22 -24 EUR / 100 kg	18.00 GBP/100kg
	vers and buds, of a kind suitable for bouquets or for oses (excluding ...	2,076	12% (jun-oct) or 8.5%	8%
	and oils and their fractions, whether or not ally ...	1,749	0%	0%

total 15 prod
here

...ducts with export value > USD 1mln
...K duty is not zero

	Description	avg 2017-2019	UK tariff
60	All products	413'377	
20	Fresh cut roses and buds, of a kind suitable for bouquets or for ornamental purposes	58'328	8%
10	Fresh or chilled beans "Vigna spp., Phaseolus spp.", shelled or unshelled	55'499	10%
10	Fresh or chilled cauliflowers and headed broccoli	21'554	8%
99	Fresh or chilled vegetables n.e.s.	14'112	10%
20	basis of		
10	Fresh or chilled peas "Pisum sativum", shelled or unshelled	7'883	12.00% (jun-aug), 8.00% (sep-may)
20	Pineapples, prepared or preserved, whether or not containing added sugar or other sweetening ...	7'764	25.00% + 2.00 GBP/100kg
12	Fresh cut carnations and buds, of a kind suitable for bouquets or for ornamental purposes	5'662	8%
30	Fresh or chilled aubergines "eggplants"	4'176	12%
90	Dried, dyed, bleached, impregnated or otherwise prepared cut flowers and buds, of a kind suitable ...	3'799	10%
40	Fresh or dried avocados	2'796	4%
30	Fresh or chilled fruits of the genus Capsicum or Pimenta	2'736	6%
20	Tobacco, partly or wholly stemmed or stripped, otherwise unmanufactured	2'394	18.00 GBP/100kg
19	Fresh cut flowers and buds, of a kind suitable for bouquets or for ornamental purposes (excluding ...	2'076	8%
20	Fresh raspberries, blackberries, mulberries and loganberries	1'136	8%
20	Extracts, essences and concentrates, of tea or mate, and preparations with a basis of these ...	1'017	6%

AFRICA

Kenya market access offer under UK-Kenya FTA – level of liberalisation

Summary Table of the EAC Market Access Offer Under the EPA

Year	Value, USD, liberalized	% of trade liberalized	Value, USD, excluded by EAC	EAC Exclusion	EC Liberalization	Trade Liberalization Coverage	Number of Tariff Lines
2010	1'615'331'216	65.4%	428'818'834	17.4%	100%	82.7%	1950
2015-2023	361'011'102	14.6%				90.0%	1129
2020-2033	64'864'376	2.6%				91.3%	960
Exclusion	428'818'834						1390
Total trade liberalized EAC	2'041'206'694	82.6%				91.3%	
Total EAC Imports from EU	2'470'025'527						
Total Tariff Lines							5429

- The figure of 82.6% is based on the trade between EU and EAC which happened around a decade ago. The actual figure might be higher or lower ? research would be needed
- UK-Kenya is the first FTA with a country outside Africa. 82.6% or the actual % (to be calculated) would be the reference for future FTAs.
- The concluded ECOWAS-EU EPA liberalized 75% of imports (i.e. lower than 82.6%)

EGONEWS AFRICA

Kenya market access offer under UK-Kenya FTA & EAC CET

The maximum tariff to be applied to imports from UK is the EAC CET as incorporated in the UK-Kenya FTA, not the current EAC CET

The EAC CET has changed and rates for some products have increased.

If the UK-Kenya EPA simply copies the EU-EAC EPA market access, it means that Kenya needs to reduce tariffs for these products from day 1

ECONEWS AFRICA

Examples of products for which EAC CET has increased since conclusion of EU EPA

hs8	Duty rate in EU EAC EPA (base rate)	EAC CET	Short description
15029000	0%	10%	Fats of bovine animals, sheep or goats
15091000	0%	25%	Virgin olive oil
28170010	0%	10%	Zinc oxide; zinc peroxide
28331900	0%	10%	Sodium sulphates (excl. disodium)
28332200	0%	10%	Sulphate of aluminium
33021000	0%	10%	Mixtures of odoriferous substances and mixtures
39203090	10%	25%	Plates, sheets, foil, film and strip, of non-cellular polymers of styrene
39206390	10%	25%	Plates, sheets, film, foil and strip, of non-cellular unsaturated polyesters
39239020	10%	25%	Articles for the conveyance or packaging of goods, of plastics
70200099	10%	25%	Articles of glass, n.e.s.
72085200	0%	10%	Flat-rolled products of iron or non-alloy steel
72085300	0%	10%	Flat-rolled products of iron or non-alloy steel
72085400	0%	10%	Flat-rolled products of iron or non-alloy steel
72089000	0%	10%	Flat-rolled products of iron or steel
72172000	0%	10%	Wire of iron or non-alloy steel, in coils, plated or coated with zinc
73081000	0%	25%	Bridges and bridge-sections, of iron or steel
73082000	0%	25%	Towers and lattice masts, of iron or steel
73084000	0%	25%	Equipment for scaffolding, shuttering, propping or pit-propping
74130090	10%	25%	Stranded wire, cables, plaited bands and the like, of copper
76071990	10%	25%	Aluminium foil, not backed, rolled and further worked
76072090	10%	25%	Aluminium foil, backed
76129090	10%	25%	Casks, drums, cans, boxes and similar containers
76141000	10%	25%	Stranded wire, cables, plaited bands and the like, of aluminium, with steel core
76149000	10%	25%	Stranded wires, cables, ropes and similar articles, of aluminium
84212300	10%	25%	Oil or petrol-filters for internal combustion engines

ules of origin

Rules of origin – public availability of the documents?

Cannot evaluate whether and to what extent the rules of origin are better (or worse) than the rules of origin under EU's Market Access Regulation, i.e. whether "agreed rules would achieve what successive Conventions (Lome and Cotonou) failed to achieve" (Memo to Parliament on UK-Kenya EPA)

Re cumulation of origin (sourcing cheaper inputs from other countries and still exporting duty free to UK) –not automatic : usually possible with countries with countries that also have an (UK) FTA + administrative arrangement to implement cumulation

ECONEWS AFRICA

MFN Clause

- In case of a new trade agreement with 'major trading economy', benefits covered by Part II (Trade in Goods) which are better than UK-Kenya FTA, to be extended to UK as well.
  - UK vis a vis Kenya – Automatic implementation
  - Kenya vis a vis UK - To be implemented on a case-by-case basis. Does not apply to trade agreements within Africa, ACP
- Coverage includes not only tariffs, but also rules of origin, trade facilitation/customs cooperation, transit, SPS measures, trade defence measures
- Could work both ways: e.g. if Kenya liberalizes import of whiskies or has more restrictive trade defence measures, it should in principle apply the same vis a vis UK. On the other hand, if UK has better SPS treatment to US goods in future US-UK FTA, it should be extended to Kenya (question is whether Kenya would be in position to enforce it)
- <u>The effect of MFN Clause is to deter the conclusion of new FTAs with major trading economies</u>

ECONEWS AFRICA

xport duties and taxes

No new export duties or taxes

Conditions for new export duties or taxes

- Notification to UK required
- Temporary – to be reviewed by EPA council after 48 months (4 years)

MFN treatment in application of export taxes

- If Kenya does prohibit export taxes to another 'major trading economy' (e.g. US in a future US-Kenya FTA), same treatment to be accorded to UK

ECONEWS AFRICA

Export duties and taxes

- Kenya levies an export tax on raw **hides and skins** to promote the domestic leather processing industry. In 2014, the tax rate was doubled to 80% of the f.o.b. value of exports (or USD 0.52 per kg whichever is higher). Raw hides and skins are also subject to a 2% export levy for the Veterinary Service Development Fund. Export taxes on wet blue and crust are Respectively at the rate of 1% and 0.5% of their f.o.b. value.
- Export taxes are also levied on raw **macadamia nuts.**
- In 2017, the 20% export tax on ferrous scrap metals was replaced by a ban

(WTO Trade Policy Review EAC, Report on Kenya, WT/TPR/S/384)

ECONEWS AFRICA

Trade facilitation

Some overlap with WTO Trade Facilitation Agreement

To be implemented 5 years after entry into force

WTO Trade Facilitation Agreement allows for flexibilities / categorization of commitments into Categories. The consistency of the trade facilitation commitments in the UK-EPA with the WTO TF commitments would need to be assessed

ECONEWS AFRICA

SPS

- Mostly reaffirmation what is already in the SPS Agreement
- No specific measures to facilitate Kenyan exports to UK

- As per Article 37.3 UK-Kenya EPA, the Parties undertake to establish mechanism for exchange of information of SPS import requirements

ECONEWS AFRICA

Fisheries: examples of commitments in marine fisheries

- Kenya/UK to ensure compliance with vessels flying their flag with relevant national, regional and sub-regional fisheries management measures and related national laws and regulations
- Penalties for fishing vessels involved in IUU fishing:
  - Confiscation of fishing vessels
  - Prosecution of owners
  - Not be allowed to fish again in Kenyan waters
- These rules equally apply to small scale fisheries
- Rules for UK vessels fishing in Kenyan waters include
  - UK to have right to place observers on UK vessels
  - Discards reporting compulsory, but no absolute obligation to bring discards and by-catch ashore

ECONEWS AFRICA

Rendez vous: more negotiations

- UK-Kenya EPA enters into force before the EU-EAC EPA enters into force
  - Commitment to conclude negotiations by or before 2026 with UK on trade in services, trade-related issues (competition, investment, sustainable development (labour/environment), IPRs, transparency in public procurement

rade Arrangements with Countries outside the EAC
ustoms Union

Article 37 EAC Customs Union Protocol

A Partner State may separately conclude or amend a trade agreement with a foreign country

- Provided that the terms of such an agreement or amendments are not in conflict with the provisions of this Protocol
- 'Provisions of this Protocol ' include the procedural requirements stipulated in Article 37.4(b)-(e)

ECONEWS AFRICA

Art 37 – procedural requirements

- 1) Partner to send proposed agreement to the Secretary General, who shall communicate it to other Partner States within 30 days, for their consideration
- 2) Other Partner States to make comments and proposals as they may deem appropriate, within 90 days from the receipt of the SG's notification, <u>before the conclusion</u> or amendment of the agreement
  - Where the Partner States do not submit comments and proposals within 90 days, the concerned Partner State may conclude or amend the said agreement
- 3) Following receipt of comments and proposals, SG to convene Council meeting within 60 days to consider comments and proposals

ECONEWS AFRICA

Ratification Process

The Treaty Making and Ratification Act is the applicable Act that provides for gives effect to the provisions of Article 2(6) of the Constitution.

It regulates, among other things:

- The process necessary for initiation and negotiation of treaties
- Values and principles in negotiation of treaties
- The minimum and necessary factors and conditions the Cabinet needs to satisfy itself before an approval of a treaty
- The procedure to be followed and factors to be satisfied by the National Assembly while considering whether to approve a treaty.

ECONEWS AFRICA

Ratification Process

- Section 6 of the Treaty-Making and ratification Act requires the state to take into account the regulatory impact of any proposed treaty.
- **Section 7** requires the Cabinet Secretary to submit to the Cabinet the treaty, and memorandum outlining:
  - (c) the national interests which may be affected by the ratification of the treaty;
  - (f) policy and legislative considerations;
  - (g) financial implications;
  - (i) implications on matters relating to counties;
  - (m) the views of the public on the ratification of the treaty; (this process was largely ignored)
- PARLIAMENT SHOULD HAVE THIS DOCUMENT TO MAKE A DECISION ON RATIFICATION.

ECONEWS AFRICA

The US/Kenya FTA

- The government is also negotiating a separate Treaty with the US. There are a lot of things to consider but of significance is AGRICULTURE with these key questions:
  - Can Kenya afford to open its agricultural sector to U.S. agricultural exports?
  - What are the likely implications of agricultural trade liberalization for farmers in Kenya and in the East African region as a whole?
  - Will a trade deal with the U.S. enhance or undermine food security in Kenya and in the East African region as a whole?
  - What can Kenya learn from countries like Mexico and Morocco regarding the costs and benefits of agricultural trade liberalization?
  - What are the costs, in terms of nutrition security and health, of increased import of U.S. processed food and beverage; In 2017, U.S. processed food and beverage export to the world EXCEEDED $43 BILLION.

ECONEWS AFRICA

Conclusions

- UK-Kenya EPA would be the **first** FTA in force between Kenya and a non-African country
  - UK has not opted to ' roll over' the existing EU regime applicable to Kenya but to morph the EU-EAC EPA text into UK-Kenya EPA
  - Alternatives are available to UK, even without (or minimal) involvement of UK Parliament
- Parliament needs be better informed *inter alia* about
  - Level of liberalization and possible impact on Kenyan producers
  - Tariff commitments for products for which EAC CET has increased since conclusion of EU EAC EPA
  - Rules of origin
  - Possible implications on conclusion of future FTAs, including with the US
  - Limitation in use of policy instruments to foster domestic industries (e.g. export taxes in leather & nuts sectors)
  - Commitments on fisheries
  - Consistency of commitments with the WTO Trade Facilitation Agreement
  - Rendez vous clause - Whether Parliament would be asked for permission to conclude wide ranging deals on services, government procurement, IPR, labour, environment etc. or whether ratification of UK-Kenya FTA implies it could be simply asked to sign off on such deals
- Ramifications of a breach of Article 37 of the EAC Customs Union Protocol and the Treaty Making and Ratification Act (which needs review).

Annex IV (d)

Kenya Flower Council

kenya flower council
QUALITY ASSURED

RETREAT WITH PARLIAMENTARY COMMITTEE ON TRADE TO CONSIDER THE ANNEXES TO THE KE-UK EPA

3RD MARCH 2021

KENYA – UK TRADE RELATIONS

The UK is a critical development partner to Kenya, as well as the largest foreign investor in Kenya. The UK is Kenya's second most important export destination. Trade between the two countries reached KShs44 billion in 2019.

Top goods imports to the UK from Kenya in 2019 were in coffee, tea and spices (KShs13 billion), vegetables (KShs24 billion) and live trees and plants, mostly flowers (KShs11 billion). The UK market accounts for 43 percent of total exports of vegetables from Kenya as well as at least 9 percent of cut flowers. Over 90 percent of exports from Kenya to the UK are agricultural in nature. Kenya mostly imports machinery, electronics and technical equipment from the UK but the balance of trade between the two countries is currently in favour of Kenya.

As a result of Brexit, trade between Kenya and the UK could not be regulated through the EU Market Access Regulation mechanism and a new agreement was necessary to come into effect on 1 January 2021 at the end of the UK-EU transition period. On 8 December 2020, the UK signed an Economic Partnership Agreement with Kenya.

The trade agreement ensures that all cut-flower and ornamentals companies in Kenya, can continue to benefit from quota and duty-free access to the UK market.

Cut flowers are now Kenya's second largest export after tea, contributing around 1.7 percent of the country's GDP. The industry is also one of the country's leading employers with over 200,000 people working directly in the flower industry and an estimated two million indirectly.

This agreement therefore supports jobs and economic development in Kenya, as well as avoid possible disruption to UK businesses such as florists and retailers who will be able to maintain tariff-free supply routes for Kenya's high-quality flowers. Kenya flowers will benefit from enhanced privileges for agricultural goods that confers originating status to EAC exports, even if they transit through EU's 27 countries.

kenya flower council

QUALITY ASSURED

If the EPA is not brought into effect, tariffs on imports from Kenya would revert to MFN rates. This would lead to the imposition of duties on some of our imports from Kenya and more particularly at a rate of 8 percent on cut flowers.

For 2021, the amount of duty that would be on Kenya's agricultural exports to the UK is estimated to be KShs2.6 billion if the EPA is not ratified in time.

The Kenya flower industry is a leading provider of sustainably grown flowers with a reputation for quality. It is a highly competitive international industry. Kenya's main competitors are Ethiopia, which is an LDC and trades duty and quota free under EBA, and Colombia, who already have a bilateral free trade agreement with the UK. If the Kenya UK EPA is not concluded, and duties at a level of 8 percent are applied, then Kenya's prices will be uncompetitive and will lose market share. Coupled with increased freight rates because of the worldwide COVID pandemic, Kenya's floriculture industry will find it hard to survive.

Under this EPA, Kenya's fresh produce exports will remain competitive and certainty in terms of trade will encourage investment leading to more production and more jobs.

Kenya Flower Council has been a key player within the KEPSA private sector team that provided input into the Kenya-UK EPA. KFC's Director Richard Fox chaired the Ken-Brexit Private Sector Team.

Union Fleurs and the Kenya Flower Council's great support to the government contributed to the import duty exemption currently in place for Kenya's fresh produce exported to the European Union since 1 October 2016. This after an uncertain period of 3 months for the industry when duties amounting to KShs1 billion were incurred.

Kenya Flower Council (KFC) in the county's leading representative body for growers, exporters and relevant cut-flower and ornamentals value chain actors whose members account for approximately 75 percent of Kenya's floricultural exports worldwide. The Kenya Flower Council standard to which all members must comply, is one of only two internationally benchmarked standards to demonstrate sustainable social, environmental and good agricultural business practices.

- END -

Annex IV (e)

Kenya Association of Manufacturers (KAM)

MEMORANDUM

ON

THE KENYA-UK EPA

TO

CHAIR
PARLIAMENTARY COMMITTEE ON TRADE, INDUSTRY & COOPERATIVES

PRESENTED BY

PHYLLIS WAKIAGA
CHIEF EXECUTIVE

KENYA ASSOCIATION OF MANUFACTURERS

FEBRUARY 2021

1.Introduction

The Economic Partnership Agreement (EPA) between the Republic of Kenya (A member of the East African Community, of the one part and The United Kingdom of Great Britain and Northern Ireland of the other part was signed on 8th December 2020.

Parties to the Agreement therefore is The Republic of Kenya (referred in the Agreement as the "EAC Partner State(s) in order to accommodate other Partner States that want to accede to the Agreement) and The United Kingdom of Great Britain and Northern Ireland.

The EPA is expected to serve as an instrument of development and shall promote sustained growth, increase the production and supply-side capacity of the EAC Partner States(s).

2. Scope of the Agreement.

The Kenya- UK EPA is based on EAC- EU model in scope and covers: General Provisions; Trade in Goods; Fisheries; Agriculture; Economic and Development Cooperation; Institutional Provisions; Dispute Avoidance and Settlement; General Exceptions; General and Final Provisions; and Annexes and Protocols to the above. (Please see the main Agreement attached to this summary).

A few areas worth noting in the Agreement are:

i. Article 3 -(Rendez-vous) Clause- where the Parties undertake to conclude the negotiations in the subject matters listed below within (5) years upon entry into force of this Agreement.

- Trade in Services
- Trade related issues namely:
- Competition Policy
- Investment and Private Sector Development
- Trade, Environment and Sustainable Development
- Intellectual Property Rights and
- Transparency in Public Procurement.

ii. Article 5 – Scope and Objectives where the objectives in trade in goods are to:

- Provide full duty -free and quota-free market access conditions for goods originating in the EAC Partner State(s) into the market of the UK on a secure, long term and predictable basis in accordance with the modalities established in this Agreement.
- Liberalize progressively and gradually the EAC Partner States(s) markets for goods originating from the UK in accordance with the modalities established in this Agreement.
- Preserve and improve market access conditions to ensure that the EAC Partner States(s) fully benefit from EPA.

iii. Article 4 – Principles –

- Allowing the EAC Partner States(s) to maintain regional preferences with other African countries without an obligation to extend them to the UK.
- Contributing to enhance the production, supply and trading capacities of the EAC Partner States.

iv. Article 141 – Review Clause- The Agreement shall be reviewed every 5 years from the date of its entry into force. (Other Articles can be referenced from the main Agreement).

3. **Annexes to the Agreement.**

It is important to distinguish that there are annexes in the main Agreement and in the Protocol 1 on the rules of origin.

Annexes in the Agreement which are integral part of the Agreement are:

- Annex I - Customs duties on products originating in the EAC Partner States(s).
- Annex II - Customs duties on products originating in the UK
- Annex III – Joint Statement of the Parties on the objectives and essential and fundamental elements of this Agreement.
- Annexes to Protocol 1- Concerning the definition of the concept of "Originating "products" and methods of administrative Cooperation. These include Protocol 1 which has many annexes on Information Certificate of origin, Administration

cooperation, Cumulation, Supplier Declaration etc. (Please refer to Protocol 1 attached).

In summary you will find that customs duties application to products originating in the UK imported into the territory of the EAC Partner States(s) are under Annex II(a). These are the products for immediate liberalization upon the entry into force of the Agreement which mainly attract MFN duty of zero per cent.

Customs duties applicable to products originating in the UK imported into the EAC that shall be liberalized after 7 years upon the entry of the Agreement are shown in Annex II(b) and those finished products to be liberalized by25th year are shown in Annex III(c) while the Exclusion list(sensitive products is shown in Annex II(d).

The exclusion list contains products designated by Kenya as sensitive and will therefore not be subject to liberalization. The sensitive list was arrived at through wider consultation with the private sector and other stakeholders in the wider economic, and also took into consideration the industrial and development aspirations of the EAC region as guided by various policy documents. Consideration was also taken on the products designated as sensitive under the EAC CET. Please see all the annexes attached.

This sensitive/exclusion list contains, in broad terms, the following items:

- Animal Products, both fresh or processed (meat, hams, sheep and goat products, horses, swine/pork,
- Fisheries products of all kinds- such as tuna,
- Dairy products- such Milk and milk products,
- Poultry and poultry products- such as birds, eggs,
- Agriculture product - both raw and processed such as fresh and chilled potatoes, tomatoes, onions, garlic, vegetables of all kinds, such as cabbage, sprouts, lettuce, cucumbers, mushrooms peas, beans etc; fresh and chilled fruits, e.g cashew nuts, bananas, pineapples avocados, mangoes, pawpaw, watermelons, apples, etc; coffee and coffee products- roasted and decaffeinated; tea products; spices; wheat and

wheat products; maize seeds and maize flour; palm oil products palm olein and palm stearin fraction; rice;

- Sugar and sugar products,
- Cocoa products such as chocolates,
- Food preparation e.g infant food, pasta sweet biscuits, cereals,
- Mineral water; drinks and beers, wines, tobacco products,
- salts, cement and related products,
- Chemical products e.g paints, acids, oxygen, petroleum jelly, soaps, fittings, Iron and steel products e.g. bars, iron sheets, boxes, cases,
- paper products,
- leather products,
- textiles and apparels products,
- wood products,
- glassware,
- primary cells,
- Motor vehicle parts e.g. engines, chassis.

4. Competitiveness of local manufacturers

The manufacturing sector in Kenya has demonstrated its resilience to withstand economic shocks while many sectors succumb to internal and external shocks such as drought for agriculture and tourism because of COVID 19, terrorism and negative media reporting.

It is therefore critical that local manufacturers are provided with a competitive manufacturing environment for Kenya to achieve economic prosperity through creation of wealth, employment, and poverty reduction.

The local manufacturers are operating in a globalized world and have to contend with increased competition in the domestic, regional and global markets. This therefore call for our national government and Parliamentary Committee on Trade, Industry and Investment to continue looking at the legislations that will facilitate investments and attention to the competitiveness of local industries and manufacturing.

The policy space provided by the Kenya- UK FTA on 7 years moratorium before the commencement of some tariff phased down to zero by 15th and 25th year for full liberalization will provide the National Government an opportunity to revitalize the industries in order to make them become competitive before tariff liberalization for the UK industries commence.

5. Recommendations

i. Local manufacturers have cost disadvantage of 12.8 percent as compared to other manufacturers in the region. Kenya's manufacturing sector was ranked 115 out of 152 countries in the global manufacturing. The Government will need to pay attention to competitive manufacturing environment which is mainly affected by in-bound, value-add and out-bound competitiveness factors that hinder the competitiveness of the Kenya's manufacturing sector. These are:

a). In-bound competitiveness: This touches on cost disadvantage contributed by levies on IDF on industrial inputs (1.5%), RDL on industrial inputs (1.5%), port and transport charges (1.5%), inspection delays (1.5%) and PVoC (0.5%). In-bound competitiveness contributes to 6.5% of the total cost disadvantage.

b). Value-add competitiveness: This touches on power (1.5%), fuel energy (1%), labour productivity and Occupational Health (2%) all contributing to 4.5% of cost disadvantage.

c). Out-bound competitiveness: This is about logistics turnround time (0.5%), delayed payments (1%), county levies and charges (0.2%) and harassment (0.1%). Out-bound competitiveness contributes 1.8% to cost disadvantage.

ii. Parliament should take advantage of the policy space provided by the Kenya- UK FTA on 7 years moratorium before the Kenya's phased down of some tariff lines to zero by 15th year and other by 25th year, and pass the necessary legislations that can lead to rapid revitalization of local industries and make them competitive.

iii. Kenya's top exports to UK are edible vegetables, tea, cut flowers, edible fruit and nuts, games and sports requisites, coffee, preparations of vegetables, fruit, nuts, live animals, oil seeds and oleaginous fruits, beverages, spirits and vinegar. Kenya has a potential to

increase her export products to UK for products like textiles and apparels, processed tea and coffee, leather products, fish, livestock products and edible vegetable oils. Most of these products are already protected by having them in Kenya's sensitive list. Such products would greatly benefit from Kenya- UK FTA if such sectors were provided with enabling business environment and issues of competitiveness addressed. There are also other sectors that are linked to horticultural sectors such as transporters, transport equipment, packaging polyethylene and roofing materials, chemicals, irrigation pumps and equipment. All these sectors can really rejuvenate the economy and reduce poverty through employment of thousands of people if we put in place national legislations aimed at improving performance of the exporting sectors and those with potential to export to the UK market through improving Kenya's competitiveness at both national and firm levels.

Annex IV (f)

Kenya Chamber of Commerce

NYAMBATI

KNCCI Growing your Business together
KENYA NATIONAL CHAMBER OF COMMERCE & INDUSTRY

SUBMISSION FOR KENYA NATIONAL CHAMBER OF COMMERCE AND INDUSTRY- KNCCI PRESIDENT - MR RICHARD NGATIA- ON THE KENYA -UK TRADE AGREEMENT ON 4TH , MARCH, 2021, TO THE TRADE AND INDUSTRY PARLIAMENTARY COMMITTEE AT OLE SERENI IN NAIROBI -KENYA- UK

- The United Kingdom of Great Britain (UK) is one of Kenya's most important trading partners.
- Kenya is the 73rd largest trading partner of UK, accounting for around 0.1% of total trade.
- Kenya exported Sh49.5 billion goods to UK last year up from Sh39.7 billion in 2019 while imports from UK dropped to Sh29.3 billion from Sh35.3 billion over the same period.
- In 2019, the UK market accounted for 43% of Kenya's exports of vegetables, as well as at least 9% of cut flowers.
- Both governments expects the EPA to benefit consumers and support jobs and economic development in Kenya by providing continuity in trading arrangements including duty-free and quota-free market access.
- The Economic Partnership Agreement between the Republic of Kenya, a Member of the East African Community and the United Kingdom of Great Britain and Northern Ireland, of the other part ("the EPA") is based on the EAC-EU EPA.

- The title of the agreement has been changed from the official title of the EAC-EU EPA to reflect that only Kenya is signing the agreement at this point in time. As such, the title of the agreement is the 'Economic Partnership Agreement between the Republic of Kenya, a Member of the East African Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part'
- The partnership aligns on the economic impacts and focuses solely on the changes made to our trading arrangements with Kenya (the "Parties") as a result of moving from the current arrangement to a new agreement.
- Our main goal here is to secure a high quality, comprehensive and inclusive trade agreement with the United Kingdom that builds on our existing strong relationship. With the following objectives

a) Better Kenya access to the UK markets
b) An improved competitive position for Kenyan exports to the UK
c) More prospects for increased two-way trade and investment
d) Reduced import costs for Kenyan businesses and consumers alike.
e) Establish new and better access to markets for services exports
f) Guarantees of existing services access in some new areas
g) Reduced regulatory barriers in different service sectors
h) Improving mobility for business travel, and trade
i) Enhanced protections and certainty for investors

Private sector participation in negotiations in partnership with the government:

As the private sector, we had an opportunity to participate in the government led negotiations as business management organization and a joint private sector consortium under the leadership of the principal secretary of trade and his team, we had sessions divided in to key thematic areas as follows:

Trade in Goods

The FTA should remove tariffs on trade between Kenya and the UK. Most should be eliminated on entry into force of the agreement, with the remainder phased-out over short, commercially meaningful time periods. These should be supported by mechanisms that address, now and in the future, non-tariff barriers impacting bilateral trade.

Rules of Origin

Rules of origin should be neutral, simple, and transparent and trade facilitating; as well as minimize the costs of compliance for business. The rules should reflect the 'substantial transformation' principle and be based on a 'change of tariff classification' rule for determining origin.

CUSTOMS PROCEDURES

Customs procedures under the FTA should be transparent, predictable and help facilitate trade. They should build on existing agreements such as the WTO Trade Facilitation Agreement. These procedures should enhance transparency by ensuring traders have access to trade-related information and to advanced rulings on tariff classification, origin and valuation.

Trade Remedies

The FTA should incorporate trade remedies provisions that reflect existing WTO rules on anti-dumping, safeguards and subsidies and countervailing measures. The pacts needs to examine proposals to promote transparency and due process in trade remedy proceedings.

Technical Barriers to Trade (TBT)

Effective mechanisms to address non-tariff barriers are important to Kenya. Our objective here will be to include a TBT chapter that builds on the WTO TBT Agreement and reduces impediments and costs to trade in key areas of export interest.

Sanitary and Phytosanitary Measures (SPS)

The agreement will seek to build on the existing high standard that had been under EU-EAC to provide for similar arrangements for processed foods and plants and plant products. It should also maintain the efficient functioning of the existing bilateral agreement, establish rules for biosecurity and food safety measures not covered by the agreement and put in place processes to provide for efficient and effective communication and consultation between competent authorities on SPS matters.

Trade in Services

The FTA should reflect and build on WTO access and principles, including recognizing the right of governments to regulate for legitimate public policy purposes. All sectors and modes of supply should be covered. Both market access and treatment equivalent to local competitors and services exporters from other countries should be guaranteed under the agreement. Both Kenya and the UK will need to limit this access in some areas.

Movement of Business Persons

Facilitating the movement of business persons for trade and investment purposes is an important enabler of growth in our commercial relationship with the UK. This should be supported by provisions covering expeditious

processing of visa applications and due process, including to ensure access to the information needed to submit visa applications.

Investments

The FTA should take account of Kenya's inwards investment regime and provide for the protection of Kenya investors and investments in the UK. The market access framework used for services trade should apply to market access commitments for investors and investment. On -state dispute settlement provisions state-to-state procedures will be considered.

Other cross-cutting and other regulatory issues

Digital Trade

Kenya needs to look to modern digital trade provisions in agreements, including the Digital Economy Partnership Agreement, to form the basis of a digital trade chapter that recognizes the contribution digital trade can make to economic growth and well-being. Public policy safeguards, including to protect privacy and other legitimate public policy objectives will form an integral part of this approach. The agreement should also explore possible cooperation with the UK on matters such as artificial intelligence, digital identities, digital inclusion, cyber-security and encryption, and use of digital technology and services for scientific and research collaboration, including in public health.

Government Procurement

The potential for government procurement to create new opportunities for business between Kenya and the UK, including through developing new supply chain connections, should be reflected in the FTA.

The chapter should take a principles-based approach in establishing fair, transparent, predictable and non-discriminatory disciplines to govern

covered government procurement; maintain the ability of governments to use procurement to achieve environmental, social and other outcomes; and provide certainty and transparency of market access commitments for exporters.

Intellectual Property

Kenya will need to take a balanced approach to providing robust protection for rights holders, while enabling reasonable access for Kenya to a wide range of IP-protected products and services at fair prices. The agreement needs to support both partners in providing open and transparent procedures under their IP regimes, minimizing compliance costs, incentivizing domestic innovation and creativity and facilitating the transfer and dissemination of new technologies, products and services.

Competition Policy and Consumer Affairs

The agreement needs to place mechanisms for competition policy cooperation. These should include provisions for consultation and notification, particularly where anti-competitive behaviour has affected trade and investment between the parties. Kenya will also seek to incorporate similar provisions protecting consumers from misleading or deceptive conduct.

Good Regulatory Practice/Regulatory Cooperation

This pact should acknowledges the importance of good regulatory practice and the important role of regulatory cooperation in facilitating trade and investment. This should recognize the right of governments to regulate to achieve legitimate public policy objectives, be based on a set of high level principles that allow for evolving practice and take account of country size and institutional differences, and establish a low-cost, responsive,

mechanism to support the consideration of regulatory cooperation between the UK and Kenya.

Trade and Labour

Kenya has a long-standing practice of inclusion of robust trade and labour commitments alongside and in its FTAs, as well as provisions for cooperation, consultation and dialogue on labour matters. Here we need to incorporate commitments to respect the fundamental labour practices and rights in the 1998 ILO Declaration; not to derogate from or fail to enforce labour laws to encourage trade and investment; and opposing the use of labour standards for protectionist purposes. We will advocate for effective mechanisms to provide for proper enforceability of the trade and labour commitments in the FTA.

Trade and Gender

Kenya sees opportunities for a forward looking agenda on trade and gender issues with the UK. This includes exploring undertakings aimed at increasing women's participation in trade and investment, promoting enforcement of laws regarding gender equality, and promoting trade and investment decisions that are complementary to the goal of women's economic empowerment.

Trade and Development

Trade and development provisions should recognize the contribution an open trade and investment environment can make to development and the role of development in promoting inclusive growth. In particular, we will want to consider whether there are ways we can work together in regional and multilateral bodies to promote more open and inclusive trade as an enabler for development, and examine any specific proposals for closer cooperation in Africa i.e. AfCFTA .

Small and Medium Enterprises (SMEs)

The agreement should include a dedicated SME chapter with the UK that reflects the importance we attach to facilitating SME access to the benefits of FTAs and incorporates commitments on ways to best support SMEs in utilizing trade agreements to full advantage This should develop a framework to recognize the importance of considering the challenges and opportunities for SMEs in the development of relevant chapters across the FTA, examine how best to make SMEs aware of opportunities under the FTA (including ways to ensure information is provided in a relevant and accessible format), and explore practical ways in which SMEs can be supported to take advantage of opportunities under the FTA.

What are the potential benefits of Kenya-UK FTA?

- The comprehensive agreement will increase two-way trade in goods and services, economic growth and job creation.
- The improved market access for goods and services will give Kenyan exporters a competitive edge when entering the UK market.
- Kenyan businesses and consumers will also benefit from greater access to competitively-priced goods and services, new technologies and innovative practices.
- It will avoid possible disruption to UK businesses such as florists who will be able to maintain tariff-free supply routes for Kenya's high-quality flowers.
- The agreement will positively benefit approximately 2,500 UK businesses that export goods to Kenya annually.
- This agreement will also further strengthen investment flows between the UK and Kenya, playing an important role in growing and diversifying the economy and creating jobs in the COVID-19 recovery phase.

- As the chamber, we are in a better position to place national products abroad – through trade fairs and developing positive country image and brands among other initiatives
- The chamber is a reliable partner to harness the export potential of Kenya agriculture, through suitable policy instruments, to make Kenya global power in agriculture and raise farmer's income.
- This will require we diversify our export basket, destinations and boost high value and value added agricultural exports including focus on perishables.
- The agreement will grant Kenya and the UK certainty and continuity of smooth trade operations with limited or no trade disruptions.
- The Kenya-UK trade deal provides for other EAC member states to join in by 2025.

Private Sector Recommendations

- Increasing exports ranks is among the highest priorities of any government wishing to stimulate economic growth.
- Developing new competitive products and services, as well as implementing new approaches to export promotion are critical to the further development of the Kenyan economy.
- The chamber will assist Kenyan exporters and companies to penetrate international markets and create a link between Kenya and the other countries.
- This agenda is achieved by working closely with the government to implement the national export strategy to rapidly increase Kenya's export capacity and business climate for business development and foreign investment.
- Work together with other agencies to improve on information collection and dissemination about foreign markets and requirements for exporting to make it competitive through our foreign missions abroad
- Exporting agricultural and food products to new destinations, the experts agreed, requires a thorough analysis of consumer preferences and other

requirements in the export markets, along with the robust understanding of standards, certification procedures to ensure quality products.

- Jointly institutional partnership mechanisms for pursuing market access, tackling barriers and deal with sanitary and phytosanitary issues.
- This collaboration is seen as a complement to other forms of government intervention.

Annex IV (g)
Kenya Association of Waste Recyclers (KAWR)

KENYA ASSOCIATION OF WASTE RECYCLERS

P.O Box: 329-00200, Nairobi, Kenya

Website: www.kenyarecyclers.co.ke

Email: info@kenyarecyclers.co.ke

Mobile: +254737526588; +254 721282548

Location: Off-Baba Dogo Road, Ruaraka Nairobi

To:

The Chairman,
Departmental Committee on Trade,
Industry and Co-operatives,
The National Assembly,
P.O Box: 41842-00100,
Nairobi.

Dear Sir,

RE: PRESENTATION ON THE KENYA UNITED KINGDOM ECONOMIC PARTNERSHIP AGREEMENT (EPA)

Introduction

Mr. Chairman,

The Kenya Association of Waste Recyclers (KAWR) is the umbrella body for the private sector industry involved in the materials recovery from waste, this include and is not limited to retrieval of materials from waste, repair, refurbishment, recycling, remanufacturing, composting, power generation, or any other initiative aimed at extracting value from material that would otherwise have been discarded as waste. We register members who operate under the following value chain:

- Waste pickers - reclaimers,
- Aggregators – scrap dealers,
- Transporters/Traders
- Value adders (Sorting, crushing, washers, pelletizers and mills that recycle)
- Converters- producers of finished goods from waste.

Our membership stands at 470 members in the apex and mid-value chain level spread across the country. These members supports thousands more who reclaim, sort and transport recovered materials.

Our vision:

To be the leader in resource conservation in Kenya.

Mission:

Creating a circular economy and sustainable environment through recycling.

Core objectives:

1. Education.
2. Advocacy.
3. Legislation.
4. Capacity building
5. Recycling data collection and research.

Impact of waste collection on the Economy - 2019

DETAILS	FACTS & FIGURES
Population	48m
Waste Generated – Daily	24,000Tons
Waste Recovered – Daily	10% recovery rate which is 2,400Tons (876,000 Tons annually)
Uncollected waste – Daily	21,600 Tons
Sustained Jobs	81,000
Per Capita Income per month	40,000/=
Turnover	40B
Percentage Contribution to GDP	4.2%

Mr. Chairman, Articles 10 and 118 of the Constitution makes it mandatory for State organs and officers to undertake public consultation and participation in the law-making process. However, these constitutional requirements have been blatantly violated in the preparation of the Economic Partnership Agreement between the Republic of Kenya and the United Kingdom of Great Britain and Northern Ireland in two major respects.

First, prior to signing of the Partnership Agreement the Cabinet Secretary responsible for trade was required to carry-out public participation so that persons and firms economic likely to be adversely affected by the Economic Partnership Agreement (EPA) could express their concerns. However, we wish to confirm that by 8th December, 2020 when the Trade Cabinet Secretary informed the media that Kenya had signed an Economic Partnership Agreement with the United Kingdom no public participation whatever had been conducted. Moreover, no such consultation was carried out before the Trade CS tabled the EPA before Parliament for ratification.

Secondly, the law requires the National Assembly to undertake public participation before it ratifies any treaty, international or bilateral agreement involving Kenya. Whereas we applaud our Parliament for insisting that public participation must be carried out, we wish to underscore the fact that public participation at the ratification stage is not a substitute for or cannot supplement the requirement for public consultation and engagement of stakeholders by the Cabinet Secretary before the Partnership Agreement was signed.

Mr. Chairman we wish to draw your attention to Article 94(2) and (5) that reads as follows:-

(2) Parliament manifests the diversity of the nation, represents the will of the people, and exercises their sovereignty.

(5) No person or body, other than Parliament, has the power to make provision having the force of law in Kenya except under authority conferred by this Constitution or by legislation.

In our humble submission Parliament is constitutionally obligated to do three things concerning the Economic Partnership Agreement now under consideration:-

1) To interrogate and confirm that the economic interest of the Kenyan people and industry have been adequately safeguarded and protected by the Executive in the contents of the EPA.

2) To protect the sovereignty of the Republic of Kenya and its people by ensuring that the economic interests of our people and industry are not subjugated to those of other states during the preparation of economic partnership agreement.

3) To ensure that the preparation, the signing and ratification of economic agreements is carried out in accordance with applicable statutes and the Constitution.

Mr. Chairman,

It is only by the Cabinet Secretary undertaking public consultations and participation prior to signing the economic partnership agreement that the above three safeguards could be realised. Consequently, since the Cabinet Secretary has failed to comply with the applicable statute and the Constitution, we beseech your Committee to recommend to Parliament that the only safe option is for the Economic Partnership Agreement to be rejected *in toto* so that the same may be subjected to the due process of our laws before the Cabinet Secretary can lawfully sign the EPA to bind the Republic of Kenya.

The foregoing notwithstanding, we wish to address you on the salient issues in the Agreement hereunder.

Our Concerns on the Contents of the EPA

Mr. Chairman,

The Economic Partnership Agreement (EPA) Kenya –UK proposes immediate and gradual reduction of tariffs on imports to and from UK which we feel will have both short and long-term negative impact on the recycling industry in Kenya at large. The table below captures our areas of concern as of the document **Annex 11 (a).**

HS 6	Description	Duty Rate %	Proposal	Rationale
470620	- Pulps of fibres derived from recovered (waste and scrap) paper or paperboard	0%	Maintain status quo	Local waste collection and recycling industry will be greatly slowed
470720	- Other paper or paperboard made mainly of bleached chemical pulp, not coloured in the mass	0%	Maintain Status Quo	Converters will not need supplies from recycled paper – Waste collectors, aggregators and mills will lose their business
470730	- Paper or paperboard made mainly of mechanical pulp (for example, newspapers, journals and similar printed matter)	0%	Maintain Status Quo	Converters will not need supplies from recycled paper
470790	- Other, including unsorted waste and scrap	0%	Maintain Status Quo	Construed as all other waste - Recovery of waste and scrap from local sources will be affected

Mr. Chairman, it would be noted that whereas the for the most part the EPA proposes a phased reduction of duty after an initial seven-year moratorium, when it comes to the paper industry it proposes an immediate reduction of duty to zero despite the fact that it is one of Kenya's most basic industry that objectively requires lots of state protection before exposure to foreign competition. Without a doubt, this unfortunate situation could have been avoided if only the Cabinet Secretary had engaged the public and stakeholders as required by the Constitution. Moreover, since the Cabinet Secretary has already agreed to oust or sign away the constitutional power of Parliament to protect Kenyans by taking away the right for Parliament to demand amendment of the EPA before ratification, the only safe option left is for Parliament to reject the EPA *in toto*.

Mr. Chairman, KAWR has been extensively involved in the latest legislations regarding waste management, namely:

- The National Sustainable Waste Management Bill (NSWB 2019) and Policy, which currently is with the National Assembly.
- The Extended Producer Responsibility Regulations (EPR 2020), which are awaiting gazettement by the Ministry of Environment.

When the abovelegislations are enacted, they will lead to an improvement in waste sector in Kenya.Waste is a resource that can be managed to achieve economic, social and environmental benefits.

Addressing the waste management challenge effectively in Kenya is critical to delivering on Kenyan's constitutional right to a clean and healthy environment for all enshrined in Article 42 of the 2010 Constitution. Basically, ensuring compliance with the Environmental Management and Coordination Act (EMCA, 1999) and Environmental Management and Coordination (Waste Management) Regulations of 2006 in order to ensure a clean and healthy environment for all, keeping in line with the Article 42 of the Constitution of Kenya 2010.

This Policy will advance Kenya towards a more sustainable and circular economy to create green jobs and wealth from the waste sector, facilitating realization of the Sustainable Development Goals particularly Goal Number 12 on Responsible Consumption and Production and move the country towards realization of the Zero Waste principle, whereby waste generation is minimized or prevented. It will help ensure that waste is collected, separated at the source, reused and recycled, and that the remaining waste stream is destined to a secure, sanitary landfill. If proper regulatory frameworks and incentives are in place, such a system will build long-term resilience, while generating new business and economic opportunities and providing broad environmental and social benefits to all Kenyans.

All these efforts will be in vain if imports of materials are allowed duty-free from the UK. For instance, duty-free importation of product HS47062000, which is pulps of fibres derived from recovered (waste and scrap) paper or paperboard will have a severe negative impact on the entire paper recovery industry. At the same time, duty-free importation of product HS47073000 which is paper or paperboard will have a severe impact on the mills that recycle recovered paper.

Economic impact of the recycling industry

Mr. Chairman,

The recycling industry provided job opportunities to over 81,000 people within its value chain who engage in material collection and processing to new products from waste and scrap. From the industry statistics, 90% of these persons lack vocation training hence the industry provides their only source of sustainable employment for them. These jobs would be greatly put at risk if the EPA gets into place and duty-free imports of alternative materials/products gets into market thereby leading to an unfair competition with locally manufactured goods from recyclables such as paper, plastics and other scrap materials.

In addition, recycling saves greatly in cost of handling waste during disposal by the local authorities by recovering 876,000 tonnes of materials per month. The recycling sector alone contributed to 4.1% of our National GDP in the year 2019.

In 2019, the duty on imported paper was lowered from 35% to 10% and this resulted in importation of paper by converters. As a result, the price and demand for waste paper dropped, thereby affecting the livelihoods of all those involved in both the recovery and recycling of waste paper. Fortunately, this situation was rectified in the 2019/2020 budget in which the application of 25% import duty on paper and paperboard was introduced instead of the 10%. Although converters imported enough stocks to last several months, once the same was exhausted, the

demand for waste paper increased and mills too had orders for paper. The ratification of the EPA will have the same effect as the bitter experience of 2019.

It is also noteworthy that there already is an excess capacity of paper recycling in the country. Mill capacity is 18,000T per month while demand is 7,000T. Consequently allowing duty-free importation of paper will be the final nail in the coffin for the mills. The ratification of this EPA will also mean that we will be working against the National Waste Management Strategy for a Zero Waste Principle whereby we are aware that recyclable waste is a resource that can be harnessed to create wealth, employment and reduce pollution of the environment.

Social impact of the industry

The recycling industry provides a chain of employment from the waste picking to the conversion (manufacturing of finished products from materials derived from waste recycling) level. These activities offers income thus putting reclaimers away from potentially engaging in criminal activities and drug abuse hence providing sustainable sources of income while combating lawlessness and other related criminal and undesirable activities at community level.

The industry also feed other sectors such as transport sector in the movement of the material from point of collection to the converters as well as those who lease out operation space to the recyclers.

Environmental impact

Mr. Chairman,

Article 42 of the Constitution on the right to a healthy Environment provides as follows:-

Every person has the right to a clean and healthy environment, which includes the right—

(a) to have the environment protected for the benefit of present and future generations through legislative and other measures, particularly those contemplated in Article 69; and

(b) to have obligations relating to the environment fulfilled under Article 70.

We wish to draw your attention to Article 21(1) of the Constitution which provides, inter-alia, that it is a "fundamental duty of the State and every State organ to observe, respect, protect promote and fulfil the rights and fundamental freedoms in the Bill of Rights". Viewed in this background, it is clear that in making and signing the EPA under consideration the Trade Cabinet Secretary has set out to bind the Republic of Kenya into an arrangement that in both the short and long terms will make it virtually impossible for Kenyans to have a clean environment through the mechanism of creating a circular economy and sustainable environment through recycling of all forms of waste. Conversely, as Kenya sets out to cause permanent damage on its environment the EPA will provide Great Britain with an efficient way to use the Kenyan economy to provide its recycling industry with a market for its products. The question must be asked by Parliament: Does the Cabinet Secretary have the power to treat Kenyans as second

class human beings? Why is the Cabinet Secretary making a mockery of our sovereignty at the hands of our former colonial masters?

Recycling is a practical waste reduction strategy which reduces the load of materials that end up at the dumpsite or is left uncollected in the environment. Making products locally from recycled materials uses less energy, waterand chemicals. In the case of recycling paper, every Ton of paper recycled saves 17 trees.

As per the 2019 Kenya Population and housing Census, Kenya population stands at 48 million with a per capita waste generation of 0.5kg **(Kenya Plastic Action Plan, KPAP 2019).**This translates to about 24,000 tonnes of waste per day out of which 12.0% consist of paper; 9.5% plastics; 66% Organic waste; 2.5% rubber, leather/textiles; 1.5%; glass; 1.5%; metals and 7.0% and other materials **(JICA, 2010).**

According to the Sustainable Waste Management Bill 2019, our recycling rate as a country stands at 10%. **This means that 21,600 tonnes of waste that that either left uncollected and un-recycled to the detriment of our environment**. With the right waste management practices such as those proposed by the Sustainable Waste Management Bill and Policy as well as the Extended Producer Responsibility regulations Kenya can close the gap related to recycling and circular economy. However, the success of this will depend on the demand for the recyclables as well as the political and legal framework.

Conclusion

Based on the facts above, importation of duty-free products that receive their raw material from recyclables,

- Will work against the constitutional rights of Kenyans to a clean and healthy environment.
- Will be detrimental to the recycling chain and jeopardise over **81,000 jobs**.
- Will lead to diversion of focus from the **21,600 Tons** of waste that currently remains uncollected daily.

The recycling industry in Kenya is still in its infancy stage and any interruption in the existing process will be cause for its collapse.

We wish to emphasise that the paper industry employees a cadre of hundreds of specialised personnel who cannot be employed elsewhere if they lose their employment. Without a doubt this industry will be completely destroyed within a year if Parliament agrees to ratify the EPA. Notably, as adverted to above currently Kenya is only able to recover 10 percent of the waste produced daily meaning that the local Recycling Industry needs considerable support to help in cleaning our environment as opposed to sudden exposure to foreign competition proposed by the EPA.

Finally since the EPA will be in force for 25 long years Parliament should indict the Executive for the unwarranted secrecy and hurry to sign and ratify a lopsided trade deal whose limited advantages to Kenya will benefit multi-national foreign corporations – most of them British – but

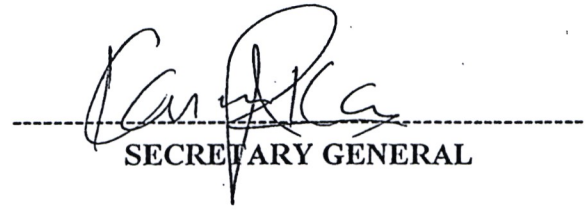
7

whose adverse impact will be borne by small scale and middle-level local firms and infant industry. We conclude by beseeching this Committee to recommend to Parliament to reject the EPA *in toto* in order that the Government of Kenya may renegotiate an agreement that treats Kenyans with requisite human dignity and protects their economic industry, jobs and environment.

There is a simple test for the EPA that Parliament should subject it to namely: Is Kenya better or worse off with the current version of EPA? Can this question be conclusively settled if the Trade Cabinet Secretary did not undertake public participation and engagement of stakeholders before signing the EPA? Besides the obvious benefit for Kenya's foreign multi-national corporations most of them British-owned, who else is benefiting from the EPA now that ordinary Kenyan firms and our infant industry will not benefit?

We thank you Mr. Chairman.

Dated at Nairobi this ----------9th---------- day of March, 2021



SECRETARY GENERAL

Annex IV (h)
Kenya Revenue Authority
On HS CODES BEET SUGAR

Gmail nuri kitel <nkiteln@gmail.com>

Fwd: HS CODES FOR BEET SUGAR

1 message

Johnson Weru <johnsonweru@gmail.com> Thu, Mar 4, 2021 at 4:42 PM
To: Betty C Maina <maina.betty@gmail.com>, Erick Nyambati - Clerk Trade Com'tee <nyambati08@gmail.com>, Milka Muthui <muthui.milka@gmail.com>, "clerk@parliament.go.ke" <clerk@parliament.go.ke>, "githii.mburu@kra.go.ke" <githii.mburu@kra.go.ke>, "githiimburu16@gmail.com" <githiimburu16@gmail.com>, nuri kitel <nkiteln@gmail.com>, ps trade <psfortrade@gmail.com>
Cc: "Hon. Lawrence Karanja - CAS trade" <karanjalawrenceoo1@gmail.com>

Eric

This is pursuant to yesterday's instruction from the chair of the parliamentary committee on Industry, trade and cooperatives, to both KRA and SDT&ED to formally indicate the applicable duty for beet sugar.

In compliance thereof , I hereby wish you submit the the email below from CG KRA confirming that Beet sugar attracts 100% duty or 460$ per metric tonne.

You proceed and enter into record the this email and it's trail from CG .

Warm regards

---------- Forwarded message ---------
From: <cg@kra.go.ke>
Date: Thu, 4 Mar 2021 at 16:24
Subject: HS CODES FOR BEET SUGAR
To: <johnsonweru@gmail.com>
Cc: <Githii.Mburu@kra.go.ke>

Good afternoon Sir,

We refer to your inquiry on the above subject and wish to confirm that beet sugar is specifically provided for in two tarifflines in the EAC CET2017 as:

Beet sugar:
1701.12.10 --- Jaggery
1701.12.90 --- Other

Both tarifflines are classified as sensitive items with duty rates of 100% or $460 per metric tonne, whichever is higher

Kind regards,

Eugenia
Commissioner General's Office

---------- Forwarded message ---------
From: **Johnson Weru** <johnsonweru@gmail.com>
Date: Thu, 4 Mar 2021 at 10:39
Subject: HS CODES FOR BEET SUGAR
To: <githiimburu16@gmail.com>, <githii.mburu@kra.go.ke>

Cc: <pamela.ahago@kra.go.ke>, <Joseph.Kaguru@kra.go.ke>, Bernard Kagira <bkagira@gmail.com>, Nelson Ndirangu <nmndirangu@gmail.com>, Betty C Maina <maina.betty@gmail.com>

Dear CG

During the public participation forum convened by the Parliamentary committee of Industry , Trade and Cooperatives , we are tasked to obtain from KRA, in its capacity as the competent agency in customs management , the HS codes for beet sugar.

In the Kenya-UK EPA annexes , there were concerns expressed by MPs that the agreement allowed DFQF entry of beet sugar into the country. However, we explained that beetroot was considered as a vegetable in the agreement but the processed product which is beet sugar is not . As such the MPs demanded that we provide proof that there specific HS code for beet sugar for the purpose of determining whether beet sugar is properly captured in the List of Sensitive Products (Excluded from Liberalization) under the Kenya-UK Economic Partnership Agreement

Our opinion is that beet sugar is among the products listed the schedule of sensitive products under annex 11d item 17011290 on page 259 (attached) .

We are therefore urgently requesting KRA to immediately indicate by return of e-mail that there is a specific HS code for beet sugar and if not advise how is it handled when it is imported into the country.

warm regards

Johnson Weru

--

Johnson Weru[attachment "Annex II D- Exclusion -extract.docx" deleted by Eugenia Murunga/OPM/KRA]

KRA Headquarters, Times Tower, Haile Selassie Avenue, Nairobi Kenya
Contact Centre: +254 20 4 999 999 / +254 711 099 999

www.kra.go.ke Kenya Revenue Authority @KRACare KENYA REVENUE AUTHORITY

https://www.kra.go.ke/images/KRA-Mail-Disclaimer.pdf

KRA Headquarters, Times Tower, Haile Selassie Avenue, Nairobi Kenya
Contact Centre: +254 20 4 999 999 / +254 711 099 999

www.kra.go.ke Kenya Revenue Authority @KRACare KENYA REVENUE AUTHORITY

https://www.kra.go.ke/images/KRA-Mail-Disclaimer.pdf

--

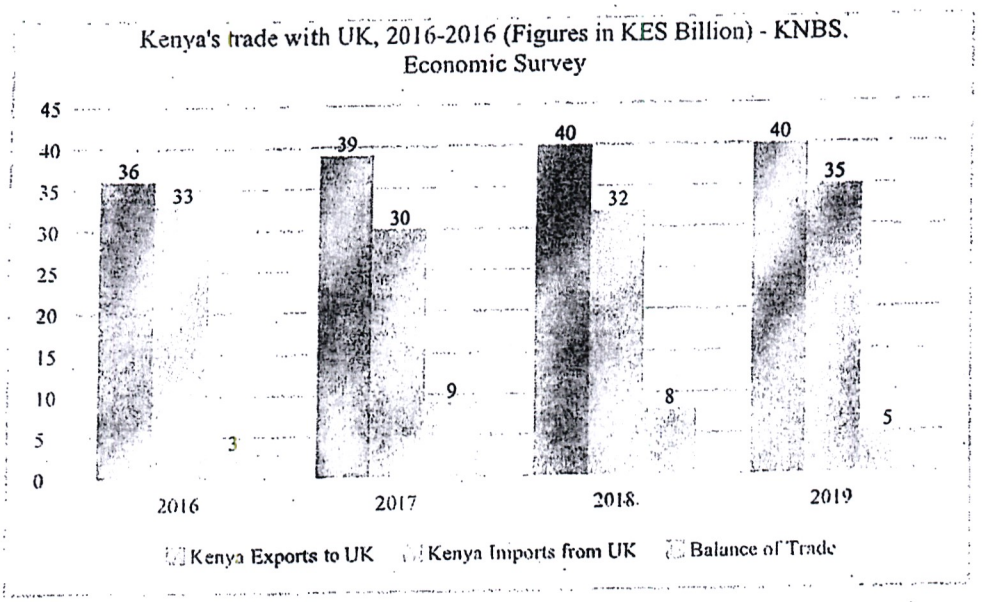
Johnson Weru

ANNEX V

STATISTICAL DATA ON EXPORTS AND IMPORTS

Economic benefits of the Kenya-UK EPA

A key economic benefit that Kenya immediately reaps from the Kenya-UK EPA is sustained exports to the UK and preservation of the gains that the country has made for the last 43 years under the EU/ACP trade regime and since January 2008 under the EAC EU EPA. This, as illustrated in the chart below, has sustained in growth in exports from KES 37.6 billion in 2016 to KES 49.5 billion by 2020 and a balance of trade surplus in favour of Kenya since 2016, KSH. 4.1 billion to KSH. 14.1 billion in 2020. Therefore, the Kenya-UK EPA shields the economy from losing the over KES40 billion market in the UK.



The Kenya-UK EPA further provides opportunity for Kenya to exploit the export market potential in the UK, which, for the products that Kenya has been exporting to the UK was in 2020 estimated at KSH. 49.5 billion (USD 490 million) 204 billion. If Kenya were to raise her market share in the UK by 5%, that, as illustrated in the table below, would translate to KSH. 1 Trillion (USD10 billion),.

Products	UK Market Size (UK Imports from the World) (USD '000')	Kenya's Exports to UK (USD '000')	Kenya's export share in the UK market (%)	Kenya's Export Potential in UK (USD '000')	Kenya's additional exports to the UK If Kenya's share in UK market were to be raised to 5% by 2025 (USD '000')
Manufactured products					
Agro Processed	30,739,327	16,530	0.1%	30,722,797	1,536,140
Textile and Apparels	27,729,740	2,020	0.0%	27,727,720	1,386,386
Leather and Footwear	10,708,217	908	0.0%	10,707,309	535,365
Agriculture					
Coffee	1,057,395	7,987	0.8%	1,049,408	52,470
Tea	356,102	150,898	42.4%	205,204	10,260
Horticulture					
Floriculture	10,624,127	105,292	1.0%	10,518,835	525,942
Fruits	6,303,784	5,801	0.1%	6,297,983	314,899
Vegetables	4,320,842	99,490	2.3%	4,220,852	211,043
Pulses	249,360,016	32	0.0%	240,328	12,016

Herbs and Spices					
Pepper of the genus Piper; dried or crushed	*105,994*	*1*	*0.0%*	*105,993*	5,300
Ginger, saffron, turmeric "curcuma", thyme, bay leaves, curry and other spices (excluding pepper)	*127,850*	*1,927*	*1.5%*	*125,923*	6,296
Fisheries	3,895,561	269	0.0%	3,895,292	194,765
Livestock					
Meat products	*5,375,833*	*0*	*0.0%*	*5,375,833*	*268,792*
Dairy (milk – liquid, condensed or dried), cheese and butter)	*3,520,040*	*0*	*0.0%*	*3,520,040*	*176,002*
Honey	*111,100*	*0*	*0.0%*	*111,100*	*5,555*
Mineral products	78,238,137	1,515	0.0%	78,236,622	3,911,831
Handicrafts	22,458,437	3,190	0.0%	22,455,247	1,122,762
Grand Total	**205,921,346**	**395,860**	0.2%	**204,029,958**	**10,275,824**

Source: :COMTRADE Data base

Economic benefits of the Kenya-UK EPA

A key economic benefit that Kenya immediately reaps from the Kenya-UK EPA is sustained exports to the UK and preservation of the gains that the country has made for the last 43 years under the EU/ACP trade regime and since January 2008 under the EAC EU EPA. This, as illustrated in the chart below, has sustained growth in exports from KES 37.6 billion in 2016 to KES 49.5 billion by 2020 and a balance of trade surplus in favour of Kenya since 2016, KSH. 4.1 billion to KSH. 14.1 billion in 2020. Therefore, the Kenya-UK EPA shields the economy from losing the over KES40 billion market in the UK.

The export potential in the UK for Kenya products was valued at USD204billion (or KES20trillion) in 2019. If Kenya were to raise her market share in the UK by 5%, targeting this potential, it would translate into exports KSH. 1 trillion (USD10 billion), an ambition that the country is pursuing over the next first years under the Export Development and Promotion Strategy .

KNBS
KENYA NATIONAL
BUREAU OF STATISTICS
Keeping you informed

Statistical Release BOP/3/2020

Quarterly Balance of Payments

Third Quarter, 2020

Kenya National Bureau of Statistics

31st December, 2020

Balance of Payments

During the third quarter of 2020, the current account deficit improved by 10.6 per cent to KSh 141.1 billion from KSh 157.9 billion in the third quarter of 2019, as shown in Table 1. This is partly attributable to the narrowing of international merchandise trade balance which improved by 16.1 per cent from a deficit of KSh 273.1 billion in the third quarter of 2019 to a deficit of KSh 229.0 billion in the third quarter of 2020. Net international trade in services inflows went down to a deficit of KSh 2.7 billion in the third quarter of 2020 from a surplus of KSh 41.2 billion in the corresponding quarter of 2019.

Exports which are a major source of foreign exchange increased by 11.1 per cent to KSh 163.7 billion in the third quarter of 2020 from KSh 147.3 billion in the corresponding quarter of 2019. The growth was supported by increased domestic exports of tea and horticulture partly due to minimal disruptions to the international supply of these commodities. On the contrary, imports on free on board (f.o.b) basis reduced by 6.6 per cent to KSh 392.7 billion in the quarter under review mainly as a result of decreased import expenditure on petroleum products. As a result of these developments, international merchandise trade balance improved by 16.1 per cent to a deficit of KSh 229.0 billion in the quarter under review.

In the third quarter of 2020, inflows of international trade in services remained subdued reducing to KSh 91.5 billion from KSh 138.8 billion in the same quarter of 2019. Depressed performance in the tourism and transport sub-sectors occasioned the significant decline. However, remittances from the diaspora increased by 28.9 per cent to KSh 87.6 billion boosting the surplus in the secondary income account to KSh 131.5 billion in the quarter under review.

Financial inflows were largely positive in the third quarter of 2020 but were lower than the corresponding quarter of 2019 on account of inflows in the other

investment account. As a result, net financial inflows reduced by 73.5 per cent from a surplus of KSh 120.9 billion in the third quarter of 2019 to a surplus of KSh 32.0 billion in the third quarter of 2020. Stock of gross official reserves declined by 2.8 per cent to KSh 951.0 billion as at the end of September 2020. The Kenya Shilling depreciated against the dollar to exchange at KSh 108 as at the end of September 2020 compared to KSh 103 as at the end of September 2019.

Table 1: Quarterly Balance of Payments, 2017-2020

KSh Million

Item	2017+		2018+				2019+				2020		
	Jul-Sep	Oct -Dec	Jan-Mar	Apr-Jun	Jul-Sep	Oct -Dec	Jan-Mar	Apr-Jun	Jul-Sep	Oct -Dec	Jan-Mar	Apr-Jun	Jul-Sep
A. Current Account	-162,653.7	-141,460.4	-132,840.5	-136,828.2	-125,376.0	-116,292.1	-100,621.5	-136,855.3	-157,893.4	-171,623.0	-110,904.6	-82,222.6	-141,082.5
Merchandise trade	-284,041.4	-260,261.5	-247,133.1	-276,213.8	-253,634.2	-256,256.1	-240,734.2	-277,780.7	-273,128.1	-297,918.4	-218,943.7	-187,395.5	-229,033.2
Exports f.o.b.[1]	146,503.2	150,699.7	162,515.1	159,133.1	151,646.7	143,286.6	157,749.4	147,208.0	147,264.7	146,542.0	179,823.2	139,147.6	163,697.7
Imports f.o.b.	430,544.5	410,961.1	409,648.3	435,346.8	405,280.8	399,542.7	398,483.6	424,988.7	420,392.8	444,460.4	398,766.9	326,543.1	392,730.9
Services Net	38,478.8	38,660.1	32,400.4	38,807.9	41,796.5	48,706.9	61,891.6	38,404.3	41,161.1	38,564.4	20,419.0	5,834.7	-2,705.4
Services: credit	123,620.1	116,892.4	131,240.2	138,198.9	137,831.4	147,607.2	150,295.3	141,013.6	138,816.6	143,050.9	122,596.2	89,734.9	91,486.3
Services: debit	85,141.3	78,232.4	98,839.8	99,391.0	96,034.9	98,900.3	88,403.7	102,609.3	97,655.6	104,486.4	102,177.2	83,900.2	94,191.7
of which													
Travel account	17,109.0	17,802.0	19,708.2	22,455.7	21,114.6	22,185.4	19,056.9	20,424.3	20,032.5	23,233.2	18,263.1	2,266.6	11,523.0
Credit	23,877.0	24,966.1	26,166.8	28,306.1	26,331.1	27,820.0	23,675.6	25,230.5	25,187.1	28,649.8	22,905.8	2,993.7	14,407.3
Debit	6,768.0	7,164.1	6,458.5	5,850.4	5,216.5	5,634.6	4,618.7	4,806.3	5,154.6	5,416.6	4,642.7	727.1	2,884.3
Primary income	-37,436.6	-43,118.0	-30,204.5	-41,875.6	-37,035.0	-37,693.6	-49,811.1	-46,187.5	-54,516.6	-45,820.7	-36,497.5	-33,532.6	-40,842.4
Credit	3,817.9	3,585.1	3,968.7	5,475.8	5,368.9	5,321.7	5,686.0	5,185.5	5,871.2	5,530.4	5,446.2	3,520.3	7,150.0
Debit	41,254.5	46,703.1	34,173.2	47,351.5	42,404.0	43,015.3	55,497.0	51,373.0	60,387.8	51,351.1	41,943.7	37,052.9	47,992.3
Secondary income	120,345.5	123,259.0	112,096.7	142,453.3	123,496.7	128,950.8	128,032.2	148,708.6	128,590.3	133,551.7	124,117.6	132,870.8	131,498.5
of which													
Diaspora remittances	51,263.8	58,894.3	65,920.6	74,747.8	64,700.6	70,208.3	67,856.4	80,788.9	68,006.6	72,819.0	71,098.7	81,390.0	87,633.8
B. Capital Account	1,497.0	3,601.0	8,406.0	9,369.0	3,579.0	5,239.0	4,259.0	8,680.0	2,802.0	5,405.0	2,468.0	4,506.0	3,915.0
C. Financial Account	-64,708.6	-121,033.2	-317,028.4	-39,994.0	-96,919.8	-208,105.2	-95,672.2	-284,121.5	-120,890.0	-135,608.0	-42,881.3	-179,940.3	-32,054.9
D. Net Errors and Omissions	27,434.9	-35,620.5	12,577.0	51,522.8	-14,983.9	-122,995.2	25,927.8	-62,163.2	47,399.2	4,751.2	18,150.4	-58,217.8	-72,857.1
E. Overall Balance	69,013.2	52,446.7	-205,170.8	35,942.5	39,861.1	25,943.0	-25,237.4	-93,783.1	-13,197.9	25,858.9	47,405.0	-44,005.8	177,969.7
F. Reserves and Related Items	-69,013.2	-52,446.7	205,170.8	-35,942.5	-39,861.1	-25,943.0	25,237.4	93,783.1	13,197.9	-25,858.9	-47,405.0	44,005.8	-177,969.7
Change in Gross Official Reserve	-70,600.3	-57,393.1	203,566.1	-41,254.7	-41,392.4	-32,217.2	23,712.4	86,486.8	11,652.5	-31,222.7	-48,909.7	118,080.8	-105,555.8
Credit and Loans from the IMF	-1,587.0	-4,946.4	-1,604.7	-5,312.3	-1,531.2	-6,274.2	-1,525.0	-7,296.2	-1,545.3	-5,363.8	-1,504.7	74,075.0	72,414.0
Memorandum items:													
Gross Official Reserves	813,473.1	756,215.2	942,046.1	902,826.9	860,682.1	836,208.8	851,141.3	952,277.5	978,575.4	923,762.9	904,009.9	1,037,522.1	950,993.0
End period exchange rate agains	103.25	103.23	100.85	101.05	100.96	101.85	100.75	102.30	103.89	101.34	104.69	106.52	108.50
Average exchange rate against U	103.52	103.35	101.83	100.76	100.71	101.91	100.73	101.30	103.42	102.52	101.88	106.50	107.94

[1] Adjusted for Coverage

+ Revised

Public External Debt

The stock of public and publicly guaranteed external debt amounted to KSh 3,663.5 billion as at the end of September 2020 having risen by 17.7 per cent from the levels recorded at the end of September 2019. This also represented an increase of 4.2 per cent in the stock of public external debt from the second quarter of 2020.

The stock of debt from multilateral lenders increased by 41.9 per cent from KSh 1,001.8 billion as at the end of September 2019 to KSh 1,421.8 billion as at the end of September 2020. Multilateral remained the leading source of public and publicly guaranteed external debt accounting for 38.8 per cent of the total stock of public external debt during the quarter under review, as highlighted in Table 2.

Outstanding public and publicly guaranteed external debt from commercial banks and bilateral lenders accounted for 30.6 per cent and 30.1 per cent, respectively, during the review period.

Table 2: Outstanding External Public and Publicly Guaranteed Debt, 2017/18 - 2020/21

KSh Million

Debt Source	Sept-18	Dec-18	Mar-19	Jun-19	Sept-19	Dec-19	Mar-20	Jun-20	Sept-20*
Bilateral	812,545	894,046	916,572	996,059	1,024,092	1,037,538	1,060,609	1,074,257	1,102,890
Multilateral	877,730	874,680	846,587	914,394	1,001,817	1,023,821	1,075,901	1,321,629	1,421,840
Commercial Banks	898,349	938,151	941,763	1,095,753	1,068,664	1,028,691	1,058,796	1,102,294	1,120,803
Suppliers Credit	16,709	16,857	16,676	16,932	17,194	16,773	17,328	17,630	17,958
Total	2,605,333	2,723,734	2,721,598	3,023,138	3,111,767	3,106,823	3,212,634	3,515,810	3,663,491

Provisional

Source: The National Treasury

International Merchandise Trade

International merchandise trade deficit narrowed by 14.7 per cent in third quarter of 2020 compared to the same period in 2019, as shown in Figure 1 and Table 3. Total exports rose by 11.1 per cent to KSh 163.7 billion, while imports declined by 6.2 per cent to KSh 420.8 billion during the period under review. Consequently, the volume of trade declined slightly from KSh 595.9 billion in the third quarter of 2019 to KSh 584.5 billion in the third quarter of 2020.

Figure 1: International Merchandise Trade Balance, 3rd Quarter, 2018-2020

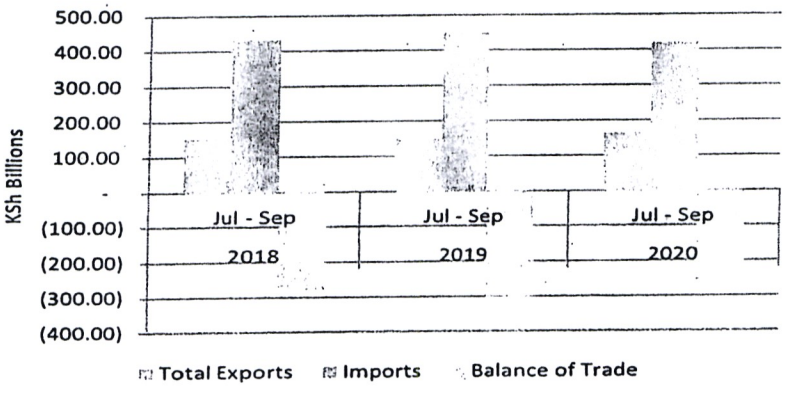


Table 3: International Merchandise Trade[1], 2018– 2020

KSh Million

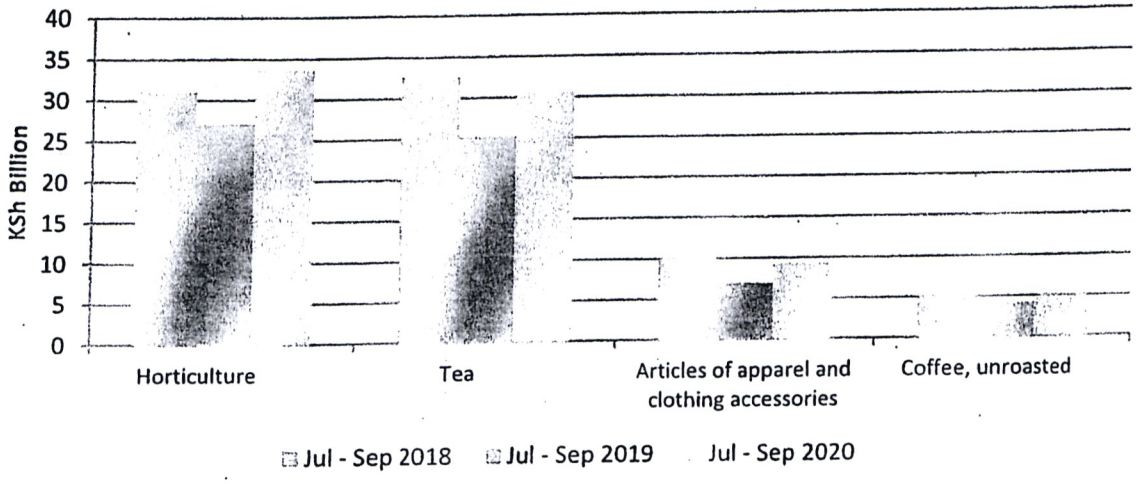
	2018		2019				2020		
	Jul - Sep	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sep	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sep
Total Exports	**151,646.7**	**143,286.6**	**157,749.4**	**147,208.0**	**147,264.7**	**146,542.0**	**179,823.2**	**139,147.6**	**163,697.7**
EAC	31,167.2	31,942.6	32,924.4	34,251.6	35,761.7	37,068.4	42,901.6	28,828.4	45,719.8
COMESA	39,278.2	39,009.1	40,144.9	40,448.5	40,938.9	41,925.4	51,461.1	37,717.2	51,915.6
EU	29,646.7	29,764.0	40,044.3	32,052.4	30,050.6	31,212.5	39,780.7	21,549.5	26,115.4
Far East Asia	28,184.4	26,542.8	23,616.9	20,867.1	22,344.6	23,147.7	24,656.5	26,565.8	22,400.2
Other Countries	54,537.3	47,970.7	53,943.4	53,840.1	53,930.6	50,256.4	63,924.9	53,315.2	63,266.5
Imports	**432,364.6**	**430,047.7**	**424,498.4**	**456,978.6**	**448,618.9**	**473,453.1**	**426,401.2**	**350,835.2**	**420,835.6**
EAC	16,307.1	14,306.8	13,358.3	16,888.9	20,515.4	15,080.6	12,042.7	11,108.1	15,866.6
COMESA	27,663.7	27,042.1	29,844.7	28,560.9	34,257.5	31,515.8	26,152.1	22,303.7	23,901.4
EU	55,033.7	55,400.0	66,083.8	49,369.4	58,259.6	61,715.1	54,569.4	42,313.8	57,513.4
Far East Asia	205,920.2	188,359.4	181,042.3	210,786.4	204,479.5	233,353.6	220,730.3	183,452.9	217,334.2
Other Countries	143,746.9	159,246.2	147,527.6	168,261.9	151,622.4	146,868.5	124,949.4	102,764.7	122,086.4
Balance of Trade	**(280,717.9)**	**(286,761.1)**	**(266,749.0)**	**(309,770.6)**	**(301,354.2)**	**(326,911.1)**	**(246,578.0)**	**(211,687.6)**	**(257,137.9)**
EAC	14,860.1	17,635.8	19,566.1	17,362.7	15,246.3	21,987.7	30,858.9	17,720.2	29,853.2
COMESA	11,614.5	11,967.0	10,300.2	11,887.6	6,681.4	10,409.5	25,309.0	15,413.5	28,014.2
EU	(25,387.1)	(25,636.1)	(26,039.5)	(17,317.0)	(28,208.9)	(30,502.6)	(14,788.7)	(20,764.3)	(31,398.0)
Far East Asia	(177,735.8)	(161,816.5)	(157,425.4)	(189,919.3)	(182,134.9)	(210,205.9)	(196,073.8)	(156,887.2)	(194,934.1)
Other Countries	(89,209.5)	(111,275.5)	(93,584.2)	(114,421.8)	(97,691.8)	(96,612.1)	(61,024.5)	(49,449.5)	(58,819.9)
Volume of Trade	**584,011.2**	**573,334.3**	**582,247.8**	**604,186.6**	**595,883.6**	**619,995.1**	**606,224.4**	**489,982.8**	**584,533.2**
EAC	47,474.2	46,249.5	46,282.6	51,140.5	56,277.0	52,149.0	54,944.3	39,936.5	61,586.5
COMESA	66,941.9	66,051.1	69,989.6	69,009.4	75,196.3	73,441.2	77,613.2	60,021.0	75,817.0
EU	84,680.4	85,164.0	106,128.1	81,421.8	88,310.2	92,927.6	94,350.1	63,863.3	83,628.9
Far East Asia	234,104.7	214,902.2	204,659.1	231,653.4	226,824.1	256,501.4	245,386.7	210,018.7	239,734.4
Other Countries	198,284.2	207,217.0	201,470.9	222,101.9	205,553.0	197,124.9	188,874.3	156,079.9	185,352.9

[1]Data includes Electricity and ICBT

Value of Domestic Exports

During the third quarter of 2020, earnings from domestic exports increased to KSh 144.8 billion from KSh 125.3 billion in the corresponding quarter of 2019 as presented in Figure 2 and Annex 1. This was driven mainly by an increase in the export values of principal export commodities including tea, horticulture, titanium ores and concentrates; and articles of apparel and clothing accessories which jointly rose by 16.0 billion. Similarly, export earnings from tobacco and tobacco manufactures; and coffee increased by 73.4 per cent and 18.4 per cent to KSh 4.0 billion and KSh 4.9 billion respectively, in the third quarter of 2020.

Figure 2: Domestic Exports of Selected Commodities, 3rd Quarter, 2018-2020



Export earnings from food and beverages by Broad Economic Category, accounted for 44.1 per cent of the total domestic exports and was valued at KSh 63.9 billion, an increase of 17.4 per cent from the third quarter of 2019, as illustrated in Annex 7. On the contrary, domestic exports of fuel and lubricants declined by 27.4 per cent to KSh 2.0 billion in the review period compared to a similar period in 2019. This was occasioned by a marked decline in the value of exported primary fuels and lubricants compared to the corresponding quarter of the previous year.

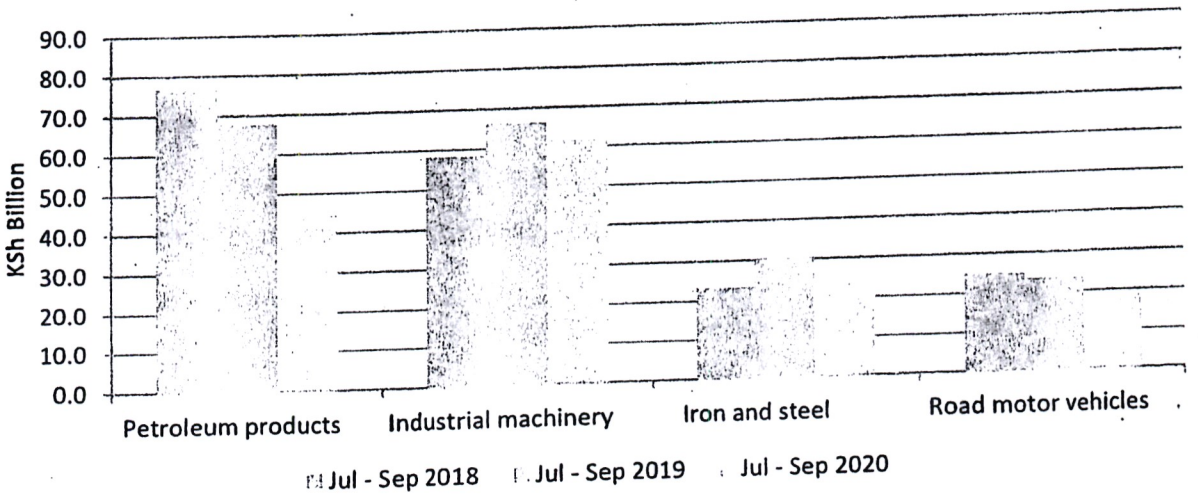
Value of Imports

The value of imports decreased by 6.2 per cent to KSh 420.8 billion in the third quarter of 2020 from KSh 448.6 billion in a similar quarter of 2019. During the review period, there were notable declines in import expenditures of major import commodities which included petroleum products (34.1%), road motor vehicles (20.5%), industrial machinery (7.0%); and iron and steel (23.5%), as shown in Figure 3. The decline in imports of these principal commodities, jointly amounted to KSh 39.7 billion as outlined in Annex 4. Conversely, the import bill on animal and vegetable oils; and medicinal and pharmaceutical products rose by 78.5 per cent and 61.2 per cent to KSh 21.8 billion and KSh 23.6 billion, respectively, over the same period.

During the period under review, quantities of imported animal and vegetable oils; and chemical fertilizers rose by 41.7 per cent and 73.8 per cent to 296,569 metric tonnes and 231,582 metric tonnes respectively, as shown in Annex 4. However, import quantities of unmilled wheat, iron and steel, and secondhand clothing declined by 29.4, 11.5 and 70.8 per cent respectively, compared to the same period in 2019.

Analysis of import expenditure by Broad Economic Category, indicated a decline in majority of the groupings as shown in Annex 8. Expenditure on import of fuel and lubricants dropped significantly from KSh 77.7 billion in the third quarter of 2019 to KSh 54.6 billion in the quarter under review. This decline was mainly on account of a 31.6 per cent decrease in the value of imports of processed fuel and lubricants.

Figure 3: Value of Imports of Selected Commodities, 3rd Quarter, 2018-2020



Direction of International Merchandise Trade

During the third quarter of 2020 total export earnings grew by 11.1 per cent to KSh 163.7 billion from KSh 147.2 billion in the third quarter of 2019 as presented in Annex 5. Africa accounted for 41.1 per cent of the total exports, exhibiting an increase of 16.6 per cent compared to the same quarter of 2019. The growth was mainly on account of an increase in exports to Uganda (34.1%) and South Sudan which more than doubled. The increase in domestic exports of crude palm oil, peas, and lubricants to Uganda and re-exports of food preparations to South Sudan were these partly attributable to the rise in exports to these destinations.

Total exports to the European Union accounted for 16.0 per cent of the total exports in the period under review and amounted to KSh 26.1 billion. Increased domestic exports of cut flowers to the Netherlands and coffee to Germany as well as re-exports of kerosene type jet fuel to the two destinations resulted to the growth in export revenues from the European Union.

Total exports to the United Kingdom exhibited an increase of 27.3 per cent to KSh 12.1 billion mainly on account of an increase in domestic exports of cut flowers and vegetables.

During the period under review, export earnings from Asia slightly decreased to KSh 36.9 billion from KSh 38.0 billion in the same quarter of 2019, translating to a 3.1 per cent decline. This could be partly attributable to a decrease in re-exports of Kerosene type jet fuel to the United Arab Emirates and domestic exports of crude petroleum oil to Singapore. On the other hand, exports to Pakistan increased by 35.5 per cent to KSh 13.3 billion, over the same period, largely driven by domestic exports of tea.

Total exports to America declined by 9.2 per cent to KSh 14.0 billion in the quarter under consideration. This development was as a result of significant decrease in the domestic exports of shelled nuts to the United States of America.

The total import bill during the third quarter of 2020, declined by 6.2 per cent from KSh 448.6 billion in the third quarter of 2019 to KSh 420.8 billion as shown in Annex 6. Asia remained the major source of imports. However, expenditure on imports from this region declined by 3.1 per cent and accounted for 63.7 per cent of the total imports. The decline was mainly as a result of a 43.5 per cent decrease in imports from United Arab Emirates (and a26.4 per cent decrease in imports from Saudi Arabia. This reduction was largely attributable to a decrease in imports of petroleum products. On the contrary, imports from China and Malaysia increased by 18.7 per cent and 73.6 per cent, respectively. The rise was partly as a result of

increased imports of rail locomotives from China and crude palm oil from Malaysia.

The value of imports from Africa declined by 31.8 per cent from KSh 66.6 billion in the third quarter of 2019 to KSh 45.4 billion in the third quarter of 2020. This was largely as a result of decreases in imports from South Africa (46.6%) and Uganda (41.7%). Commodities that exhibited significant declines from these source markets were iron and steel from South Africa, and milk from Uganda.

The value of imports from America reduced from KSh 23.8 billion in the third quarter of 2019 to KSh 21.4 billion in the review period partly on account of decreased imports of aircraft engines; aeroplanes and other aircrafts from the United States of America.

Similarly, the import bill from Austria declined by 75.1 per cent in the quarter under review mainly due to reduction in imports of machines for making bags, sacks or envelopes.

ANNEXES

Annex 1: Value of Domestic Exports of Principal Commodities[1], 2018– 2020

KSh Million

	2018		2019				2020		
Commodity	Jul - Sep	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sep	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sep
Tea	32,624.2	32,123.1	31,379.9	25,077.4	25,313.6	31,332.6	34,139.3	34,822.5	30,503.2
Horticulture	31,069.8	26,833.3	36,794.1	30,080.5	27,113.1	28,142.9	35,300.6	28,249.6	33,647.9
Coffee, unroasted	5,145.4	4,118.2	5,658.1	7,164.7	4,131.9	3,199.5	5,082.3	7,825.8	4,890.5
Articles of apparel and clothing accessories	9,810.2	8,541.9	7,650.2	9,106.5	6,933.3	8,269.0	7,717.2	6,256.5	9,341.2
Titanium ores and concentrates	3,590.3	3,716.9	3,004.0	4,502.2	1,311.4	3,496.8	5,268.7	5,289.9	3,207.7
Tobacco and tobacco manufactures	2,205.3	4,022.3	4,724.0	3,124.3	2,306.2	2,841.5	4,603.9	3,149.4	3,999.4
Medicinal and pharmaceutical products	3,238.3	2,489.7	2,465.3	2,728.8	2,692.3	2,388.6	2,506.0	2,340.0	3,160.7
Iron and steel	3,147.3	3,397.2	3,575.0	3,842.9	3,985.8	3,812.3	3,606.7	2,522.7	4,780.8
Essential oils	2,967.6	3,133.7	2,995.1	3,217.2	3,531.3	3,548.1	3,934.4	3,262.4	4,199.9
Organic & inorganic chemicals	2,296.2	2,585.1	2,522.6	2,340.1	2,241.0	1,629.7	2,401.1	1,904.1	1,861.4
Articles, n.e.s., of plastics	2,049.0	1,799.3	1,660.8	1,689.0	1,472.4	1,700.8	1,618.5	1,572.9	2,059.3
Soda ash	1,661.2	1,957.0	1,854.1	1,645.0	1,583.8	1,013.4	1,570.5	1,201.1	1,050.8
Edible products and preparations, n.e.s.	1,392.2	1,437.0	1,743.8	1,785.7	1,511.1	1,666.3	2,429.6	1,528.0	1,831.6
Petroleum products	968.1	809.7	707.4	582.3	886.9	1,295.6	1,275.8	848.9	1,881.3
Textile fibres and their waste	1,284.2	1,100.6	1,128.0	1,253.6	913.5	970.1	1,238.2	999.3	1,180.6
Industrial machinery	1,770.7	1,797.3	1,788.8	2,692.4	2,525.7	2,096.8	2,097.8	1,362.8	2,344.7
Sugar confectionery	1,145.5	1,331.4	1,145.2	1,003.6	1,254.5	1,463.7	1,454.5	1,116.0	1,448.6
Leather	779.3	964.8	907.1	926.3	625.4	488.8	514.0	538.1	516.1
Paper and paperboard and articles of paper or paperboard	1,276.3	1,147.6	1,193.8	1,534.8	1,354.6	1,536.3	1,359.3	1,018.0	1,381.0
Salt	1,008.2	1,091.4	926.3	883.4	1,131.9	913.7	1,027.9	1,216.6	1,257.1
Printed matter	1,181.5	1,142.2	620.4	1,718.4	345.6	455.1	1,695.8	506.1	2,610.7
Textile yarn,fabrics and related products n.e.s	630.2	968.3	956.5	922.2	954.6	1,011.2	1,024.7	1,258.0	1,370.4
Plastics in primary & non-primary forms	1,060.1	1,157.2	1,018.6	1,075.4	1,031.3	967.2	1,104.1	1,047.2	1,167.5
Cement	262.6	176.5	111.6	250.7	122.9	169.7	115.0	127.2	573.3
Animal and vegatable oils	1,481.6	1,625.7	1,637.8	1,437.0	1,696.5	1,659.4	1,838.4	2,459.5	3,616.5
Electrical machinery and apparatus, n.e.s.	559.5	516.1	461.1	482.5	587.8	508.4	626.6	371.1	764.3
Total	**112,384.0**	**107,510.6**	**116,314.5**	**108,939.3**	**95,387.0**	**105,055.7**	**123,353.9**	**111,221.6**	**122,831.5**
All other items	19,943.6	20,107.7	21,282.7	19,901.1	29,914.1	22,955.4	21,573.3	16,434.2	21,992.4
Grand Total	**132,327.7**	**127,618.3**	**137,597.2**	**128,840.4**	**125,301.1**	**128,011.1**	**144,927.2**	**127,655.9**	**144,823.9**

[1] *Data includes Electricity and ICBT*

Annex 2: Quantities of Domestic Exports of Principal Commodities, 2018 – 2020

		2018		2019				2020		
Commodity	Unit	Jul - Sep	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sep	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sep
Sugar confectionery	Tonnes	7,259.6	7,495.1	6,516.4	5,671.1	6,700.9	7,459.0	7,793.9	6,186.2	7,476.0
Coffee, unroasted	Tonnes	10,175.3	10,452.5	12,388.1	14,590.1	11,751.7	9,556.1	10,412.3	14,122.3	10,119.6
Tea	Tonnes	123,532.4	126,682.3	132,106.6	103,232.8	109,932.5	128,624.3	147,780.9	152,942.4	138,610.2
Tobacco and tobacco manufactures	Tonnes	3,224.0	5,992.9	8,004.3	4,721.6	3,624.9	3,818.1	7,177.6	4,319.3	5,832.0
Textile fibres and their waste	Tonnes	7,215.5	6,523.0	6,919.4	7,518.7	5,529.8	5,703.4	7,541.4	5,918.2	7,165.3
Salt	Tonnes	74,569.9	77,316.4	65,835.5	62,161.1	77,241.2	60,596.4	64,700.4	67,924.2	64,831.9
Titanium ores and concentrates	Tonnes	130,733.6	131,475.0	124,351.0	102,226.4	63,516.0	122,809.0	134,029.0	111,812.0	87,528.0
Animal and vegetable oils	Tonnes	14,068.7	19,221.1	23,734.1	19,840.6	20,598.3	21,229.7	22,560.8	25,910.8	32,070.5
Soda ash	Tonnes	73,988.5	82,635.0	77,451.0	69,375.8	64,173.0	43,033.6	69,208.4	51,880.2	46,307.3
Medicinal and pharmaceutical products	Tonnes	3,710.3	3,282.2	2,596.0	3,258.3	3,483.1	3,164.0	3,185.4	2,876.0	3,612.9
Essential oils	Tonnes	25,059.9	28,181.4	25,805.9	28,906.6	34,478.5	35,380.7	36,776.1	31,036.5	38,708.5
Plastics in primary & non-primary forms	Tonnes	6,591.6	5,955.6	6,174.8	6,440.5	6,237.5	5,239.0	5,379.0	5,630.2	7,571.2
Leather	Tonnes	4,219.3	5,371.2	4,997.7	4,923.6	2,965.7	2,887.3	2,746.6	1,838.5	1,754.3
Paper and paperboard and articles there of	Tonnes	7,518.2	5,510.9	6,635.0	8,439.4	9,670.6	8,908.5	6,532.3	5,107.3	9,393.0
Cement	Tonnes	23,629.5	15,313.7	9,017.7	20,305.1	11,982.9	18,914.4	11,632.3	11,297.3	63,401.3
Iron and steel	Tonnes	28,596.9	29,687.5	32,042.1	36,232.8	37,869.9	39,073.1	39,343.2	26,187.2	48,871.8
Printed matter	Tonnes	1,125.5	1,278.9	831.3	1,691.2	753.2	997.1	875.9	1,030.4	1,717.8
Articles, n.e.s., of plastics	Tonnes	9,851.5	7,923.4	7,413.6	14,596.4	6,702.3	8,220.4	7,676.1	7,492.2	9,811.5

Annex 3: Values of Imports of Principal Commodities[1], 2018 – 2020

KSh Million

	2018		2019				2020		
Commodity	Jul - Sep	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sep	Oct - Dec	Jan - Mar	Apr - June	Jul - Sep
Petroleum products	76,744.9	71,675.2	61,527.0	89,374.7	67,764.9	70,543.2	68,944.0	29,975.5	44,655.1
Industrial machinery	58,290.3	64,498.9	51,618.7	57,238.6	66,357.9	81,704.5	63,995.1	45,513.6	61,709.0
Telecommunications equipment and parts	7,307.6	7,275.6	9,081.4	4,350.2	4,763.2	7,722.2	5,736.1	4,980.1	7,667.7
Electrical machinery and apparatus, n.e.s.	4,289.8	6,417.2	4,064.3	8,690.3	5,854.8	7,810.0	5,710.1	5,152.1	7,836.6
Iron and steel	23,319.9	19,617.3	22,358.4	27,283.1	30,405.6	22,218.5	21,571.5	26,602.4	23,251.7
Road motor vehicles	24,922.7	24,848.8	19,035.8	23,916.6	23,449.0	24,483.4	22,244.5	15,190.3	18,645.8
Plastics in primary & non-primary forms	17,928.4	17,408.1	17,047.1	16,106.3	18,013.8	15,176.6	16,394.6	16,326.6	16,277.3
Animal and vegetable oils	11,886.6	15,709.1	16,904.0	14,522.0	12,215.7	16,233.9	25,720.6	22,171.3	21,804.3
Medicinal and pharmaceutical products	14,822.0	16,094.5	15,290.8	15,974.9	14,644.1	19,763.7	18,170.8	19,434.1	23,608.3
Textile yarn,fabrics,made-up articles n.e.s and related products	12,470.5	12,274.7	12,452.1	13,474.9	11,603.3	12,644.1	10,911.0	10,451.0	13,812.7
Made-up articles, wholly or chiefly of textile materials, nes.	1,808.8	1,581.2	1,558.1	1,651.4	1,237.5	1,872.9	1,423.0	2,514.4	2,623.5
Textile yarn	1,421.1	1,296.4	1,131.1	1,151.4	1,196.3	1,181.2	1,020.0	804.3	909.3
Paper and paperboard	9,713.7	9,585.3	9,774.8	8,693.8	9,643.6	10,536.3	9,089.2	8,336.3	8,464.8
Wheat, unmilled	10,547.2	10,274.8	13,186.8	13,339.0	11,457.7	13,209.3	14,787.0	13,372.5	8,862.2
Organic & inorganic chemicals	8,014.2	7,196.2	7,256.5	6,819.6	6,524.2	5,832.2	5,935.1	7,891.2	7,039.6
Rice	5,058.7	6,136.3	7,252.5	6,597.5	5,568.2	5,595.6	8,437.3	6,994.0	5,045.4
Aircraft, associated equipment and parts thereof	2,172.8	1,814.6	5,340.9	2,450.2	2,468.1	11,756.2	1,105.4	4,854.8	1,395.4
Chemical fertilizers	3,968.5	4,269.8	10,477.8	7,768.6	4,275.1	4,489.1	8,462.3	3,622.1	7,158.4
Essential oils	5,848.3	5,980.7	6,258.8	6,220.7	5,420.8	6,210.6	5,352.9	4,556.3	4,602.2
Wire products: nails screws, nuts, etc.	2,001.0	1,764.0	1,196.2	3,178.1	2,293.7	2,780.9	1,649.2	788.3	1,625.2
Rubber tyres, interchangeable tyre treads, tyre flaps and inner tubes	3,977.2	3,710.6	4,036.9	4,478.2	4,258.5	3,270.8	3,323.2	3,586.4	4,546.1
Structures and parts of structures, n.e.s., of iron, steel or aluminium	2,159.0	2,180.9	1,828.9	1,755.2	2,799.0	2,995.2	2,342.9	1,784.5	2,664.5
Miscellaneous chemical products, n.e.s.	4,738.2	3,626.5	3,016.4	3,637.2	3,473.9	4,839.1	3,568.3	4,102.8	5,189.2
Second - hand clothing	4,987.9	4,125.9	4,070.0	4,795.1	4,456.8	4,439.9	3,924.4	1,220.8	1,396.5
Non-ferrous metals	4,020.5	4,288.7	2,953.9	3,789.6	3,373.8	3,726.5	3,962.4	3,267.9	4,518.6
Articles of apparel and clothing accessories	3,705.7	4,845.1	3,475.6	4,608.1	3,984.6	4,768.9	3,227.8	3,018.4	4,649.8
Liquefied propane and butane	4,613.3	3,720.6	3,927.9	3,817.5	4,576.0	3,720.9	4,361.0	3,042.6	3,984.9
Insecticides and fungicides	3,498.2	3,094.1	3,262.9	3,207.0	2,085.2	2,678.4	3,954.5	4,888.5	4,618.8
Sugars, mollases and honey	5,815.2	8,894.0	8,501.5	7,380.2	8,938.7	7,765.0	8,624.8	5,289.3	4,754.5
Cement clinkers	2,182.5	2,250.2	2,437.0	1,593.6	2,061.9	2,284.8	1,369.4	1,642.6	3,204.4
Quality control instruments and apparatus, n.e.s.	2,865.2	4,293.1	2,218.4	2,325.2	3,078.4	3,452.6	2,191.9	1,936.0	2,293.5
Manufactures of base metal, n.e.s.	2,790.9	2,697.4	2,205.7	2,213.3	2,632.3	2,282.9	2,168.6	2,088.1	2,784.4
Automatic data proccessing machines and units thereof	3,183.3	2,787.3	4,740.4	5,096.0	3,549.3	4,555.8	3,342.5	3,767.5	3,705.8
Edible products and preparations, n.e.s.	3,069.6	2,994.0	2,511.6	2,557.1	2,998.4	4,906.8	3,049.1	4,067.2	3,070.8
Motorcycles and cycles fitted with an auxilliary motor	2,508.1	3,315.5	3,470.7	3,468.0	3,403.6	2,930.9	3,292.2	1,796.6	2,557.9
Pigments, paints, varnishes and related materials	2,087.5	1,841.6	1,910.7	2,045.4	2,220.1	2,315.3	2,199.4	2,297.5	2,161.3
Parts and accessories of motor vehicles	2,575.9	2,503.6	2,803.2	2,448.9	2,766.0	3,058.9	3,472.4	2,180.6	3,274.7
Articles, n.e.s., of plastics	2,616.7	2,026.7	2,124.8	1,909.9	2,209.8	2,298.9	1,824.4	1,701.7	2,187.1
Prefabricated buldings	1,042.4	706.5	587.2	636.6	931.5	547.6	509.8	1,483.5	886.1
Furniture and parts thereof; bedding, mattresses and similar furnishings	2,323.7	2,331.7	2,020.5	1,831.3	2,364.3	2,133.8	1,998.5	1,499.1	1,851.9
Maize(raw)	1,691.3	543.3	1,069.5	1,587.9	2,775.9	626.1	514.9	3,183.2	3,255.5
Agricultural machinery and tractors	2,203.0	2,517.3	2,146.1	1,523.6	1,683.3	1,644.3	1,973.7	1,618.4	2,127.3
Printed matter	1,476.5	2,560.1	1,910.6	1,570.5	1,495.1	3,197.7	1,182.0	1,059.4	1,281.1
Textile fibres and their waste	2,025.3	1,655.7	1,414.5	1,814.1	1,754.2	1,538.5	1,711.1	1,149.0	1,731.3
Footwear	1,433.4	1,311.7	1,319.7	1,807.9	1,399.2	1,616.5	864.9	647.6	1,326.2
Glassware	926.9	951.3	940.6	954.7	1,225.9	1,072.4	984.1	886.7	967.7
Tobacco and tobacco manufactures	2,540.7	2,024.1	889.4	253.6	2,196.2	1,714.8	187.8	188.4	200.9
Total	364,767.8	366,945.6	348,772.9	386,064.4	370,797.3	403,561.3	372,896.4	299,474.8	343,148.0
All other items	67,596.8	63,102.1	75,725.5	70,914.2	77,821.6	69,891.8	53,504.8	51,360.4	77,687.5
Grand Total	432,364.6	430,047.7	424,498.4	456,978.6	448,618.9	473,453.1	426,401.2	350,835.2	420,835.6

[1] *Data includes Electricity and ICBT*

Annex 4: Quantities of Imports of Principal Commodities, 2018– 2020

Commodity	Unit	2018		2019				2020		
		Jul - Sep	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sep	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sep
Animal and vegatable oils	Tonne	176,730.7	257,896.9	293,780.3	234,159.2	209,234.2	269,199.4	335,799.7	295,684.3	296,569.5
Sugars, mollases and honey	Tonne	99,725.9	168,917.1	159,465.0	141,344.9	166,770.7	147,659.7	158,505.7	93,513.0	83,175.0
Tobacco and tobacco manufactures	Tonne	8,780.5	7,322.1	2,872.2	777.0	8,265.9	6,286.5	1,040.8	883.6	856.6
Wheat, unmilled	Tonne	434,810.1	393,426.9	476,607.4	489,307.5	480,926.9	551,961.1	613,812.5	494,199.4	339,578.7
Rice	Tonne	120,506.2	150,639.3	181,518.6	159,608.5	129,725.6	137,283.4	200,019.6	166,616.3	110,091.5
Maize(raw)	Tonne	60,995.3	9,947.1	29,665.2	73,011.0	111,424.7	12,145.6	7,924.9	136,062.3	119,864.5
Medicinal and pharmaceutical products	Tonne	7,827.4	8,630.7	8,121.3	7,577.1	7,013.6	9,609.5	13,897.0	7,603.0	10,707.4
Essential oils	Tonne	15,224.4	17,614.8	18,080.4	18,227.5	19,045.4	16,694.6	17,762.4	14,953.0	21,016.0
Iron and steel	Tonne	314,874.1	258,245.7	324,513.9	419,365.6	460,564.3	359,728.3	382,733.1	404,117.6	407,468.2
Second - hand clothing	Tonne	52,646.7	43,099.4	42,950.6	50,485.5	45,659.3	45,374.4	40,936.0	12,081.5	13,334.1
Liquefied propane and butane	Tonne	70,573.9	56,699.5	73,503.1	65,593.3	95,289.7	70,021.5	73,415.0	80,433.0	91,000.0
Pigments, paints, varnishes and related materials	Tonne	12,648.3	10,175.8	10,675.2	9,685.1	11,940.1	11,670.5	12,099.7	12,917.3	12,174.8
Chemical fertilizers	Tonne	126,885.7	106,779.4	272,846.5	235,409.0	133,218.1	127,339.8	259,690.0	119,210.8	231,581.6
Insecticides and fungicides	Tonne	5,136.6	4,696.0	4,443.2	4,908.4	2,602.6	3,595.8	6,040.6	7,863.3	7,515.6
Miscellaneous chemical products, n.e.s.	Tonne	13,904.4	10,440.1	11,730.3	11,277.1	11,673.5	14,541.2	14,115.7	11,781.6	12,299.7
Rubber tyres, interchangeable tyre treads, tyre flaps and inner tubes	No.	2,399,520.0	3,263,760.0	2,463,099.0	2,896,810.0	2,837,325.0	1,972,780.0	2,716,191.0	1,957,678.0	3,390,202.0
Paper and paperboard	Tonne	97,410.1	90,697.6	95,479.5	84,460.4	94,340.0	105,900.6	96,669.1	88,345.0	84,420.1
Textile yarn	Tonne	6,200.4	5,656.5	5,215.2	5,464.0	5,464.4	5,684.0	5,140.9	4,139.5	4,673.1
Made-up articles, wholly or chiefly of textile materials, nes.	Tonne	7,556.5	5,241.5	5,350.2	5,806.6	4,767.2	6,921.0	6,032.0	5,939.3	8,810.2
Glassware	Tonne	13,507.6	14,083.1	15,012.3	15,104.2	17,939.8	16,771.2	16,430.4	13,516.2	14,399.6
Structures and parts of structures, n.e.s., of iron, steel or aluminium	Tonne	9,904.7	11,246.3	9,175.2	10,005.6	13,328.0	13,361.4	11,140.4	8,570.9	12,665.0
Manufactures of base metal, n.e.s.	Tonne	11,235.7	10,610.9	9,165.6	11,439.1	12,124.6	9,950.6	10,118.4	8,888.5	13,569.3
Automatic data proccessing machines and units thereof	No.	145,037.0	119,691.0	192,352.0	415,986.0	274,902.0	205,877.0	158,432.0	234,693.0	302,001.0
Prefabricated buildings	Tonne	4,888.4	2,897.4	2,184.8	1,880.8	3,102.2	2,232.4	1,665.0	2,865.7	2,413.7
Printed matter	Tonne	2,902.2	4,088.5	2,952.0	3,769.2	2,853.9	4,230.9	2,078.2	1,503.5	1,404.8
Articles, n.e.s., of plastics	Tonne	12,303.7	9,352.3	9,331.6	9,218.1	10,290.0	9,620.8	8,351.0	7,517.9	10,154.2
Motorcycles and cycles fitted with an auxilliary motor	No.	45,409.0	60,218.0	61,075.0	61,340.0	59,169.0	49,848.0	57,035.0	31,014.0	43,176.0
Cement clinkers	Tonne	457,498.5	464,338.9	501,987.0	347,886.1	436,321.6	527,646.9	327,549.0	389,220.3	749,000.0
Textile fibres and their waste	Tonne	7,388.0	5,966.9	5,006.0	6,263.0	6,693.0	6,138.4	7,028.9	5,039.2	7,556.9
Plastics in primary & non-primary forms	Tonne	121,553.7	118,461.5	124,124.6	122,201.2	136,933.9	117,027.3	137,515.2	133,268.5	141,910.6
Non-ferrous metals	Tonne	11,736.5	12,766.1	7,662.7	11,462.2	10,180.1	10,431.8	11,303.1	10,203.8	14,474.2
Wire products: nails screws, nuts, etc.	Tonne	12,558.9	10,446.8	7,975.1	15,246.2	12,526.1	16,571.3	7,568.6	4,568.1	9,185.6
Road motor vehicles	No.	28,319.0	31,482.0	20,324.0	28,944.0	28,761.0	31,257.0	23,630.0	16,251.0	22,650.0
Footwear	000' pairs	6,260.7	8,099.1	9,131.0	8,850.4	7,297.8	9,779.5	6,024.5	3,584.1	7,221.8

Annex 5: Values of Total Exports by Destination[1], 2018-2020

	2018		2019				2020		
Partner Country	July - Sept	Oct - Dec	Jan - Mar	Apr - Jun	July - Sept	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sep
EUROPE									
WESTERN EUROPE:									
European Union									
Belgium	1,010.6	1,334.8	2,878.4	1,749.7	1,531.4	1,209.0	2,655.6	1,438.8	1,347.7
Finland	165.0	111.7	365.7	181.2	181.6	82.9	229.8	277.7	216.8
France	2,331.5	1,794.5	1,889.2	1,792.2	2,197.8	1,985.2	1,947.5	2,388.0	2,814.4
Germany	2,316.0	2,454.9	3,164.7	3,387.8	2,447.1	2,306.5	3,461.1	3,895.3	4,008.4
Italy	757.5	808.8	1,096.7	734.3	691.7	956.9	875.8	818.0	1,084.1
Netherlands	10,595.9	10,092.0	14,457.8	12,122.3	10,097.7	11,327.0	13,145.0	8,797.2	12,536.6
Spain	1,192.6	1,018.0	1,132.3	1,275.7	1,000.9	1,027.6	1,091.3	1,824.3	1,520.1
Sweden	508.2	799.8	549.8	547.6	412.2	465.7	678.4	467.4	634.1
United Kingdom[4]	9,258.7	9,671.4	11,855.7	8,577.0	9,473.8	10,175.7	13,292.8		
Poland	553.2	526.0	1,339.1	382.4	439.0	491.9	729.7	458.3	579.3
Other	957.4	1,151.9	1,314.9	1,337.2	1,577.4	1,184.0	1,673.8	1,184.4	1,374.0
Total	**29,646.7**	**29,764.0**	**40,044.3**	**32,087.5**	**30,050.6**	**31,212.5**	**39,780.7**	**21,549.5**	**26,115.4**
United Kingdom[4] ...								12,147.9	12,055.6
Other Western Europe	1,946.1	1,849.2	2,168.5	2,175.7	1,365.6	1,312.6	2,432.6	2,506.9	2,102.2
Total Western Europe	**31,592.8**	**31,613.2**	**42,212.8**	**34,263.2**	**31,416.2**	**32,525.1**	**42,213.3**	**36,204.3**	**40,273.3**
EASTERN EUROPE:									
Russia Federation	1,711.7	1,566.7	2,131.5	1,573.6	1,302.3	1,340.9	2,166.7	1,548.3	1,955.5
Kazakhstan	609.2	927.1	810.1	526.3	968.1	922.5	996.1	1,020.1	769.7
Other	166.3	194.5	329.3	545.4	213.1	230.0	409.6	309.4	296.8
Total	**2,487.2**	**2,688.2**	**3,270.9**	**2,645.3**	**2,483.5**	**2,493.4**	**3,572.5**	**2,877.8**	**3,022.0**
TOTAL, EUROPE	**34,079.9**	**34,301.4**	**45,483.7**	**36,908.5**	**33,899.7**	**35,018.5**	**45,785.8**	**39,082.2**	**43,295.3**
AMERICA									
U.S.A	14,228.3	11,393.3	12,214.3	13,900.5	14,126.6	11,680.2	12,163.7	11,027.9	13,121.7
Canada	881.4	1,083.9	1,154.1	649.9	680.9	441.5	308.4	212.8	337.7
Other	1,947.8	733.9	209.8	207.0	584.6	226.2	220.1	434.0	509.3
TOTAL AMERICA	**17,057.5**	**13,211.1**	**13,578.2**	**14,757.4**	**15,392.1**	**12,347.9**	**12,692.1**	**11,674.7**	**13,968.7**
AFRICA									
South Africa	2,313.0	983.6	749.9	465.0	541.1	1,556.2	1,132.7	316.9	731.3
Rwanda	4,528.3	4,340.8	4,226.0	5,597.3	7,061.8	6,289.7	6,094.9	4,457.0	7,537.3
Egypt	4,512.2	4,869.2	5,272.3	4,783.0	4,288.3	4,583.7	5,430.3	4,535.1	3,676.9
Tanzania	7,377.4	7,563.1	7,410.0	8,375.9	8,650.9	9,171.1	7,986.6	6,329.9	8,333.0
Uganda	15,094.0	15,764.6	16,329.6	14,553.4	16,378.8	16,699.3	18,876.7	12,707.8	21,984.2
Burundi	2,276.8	1,571.8	2,127.4	1,574.3	1,475.5	1,548.7	1,372.3	1,243.7	1,805.1
Somalia	3,617.6	3,342.8	3,150.4	3,310.1	2,503.3	2,870.6	2,576.9	2,457.1	3,694.9
Ethiopia	2,059.7	1,289.9	1,324.8	1,648.2	1,850.6	1,691.1	2,087.7	2,690.3	2,292.9
Sudan	1,489.3	1,674.2	1,622.5	1,456.9	1,287.1	1,457.6	2,952.5	1,690.9	1,509.7
South Sudan	1,890.7	2,702.4	2,831.5	4,150.6	2,194.6	3,359.5	8,571.0	4,090.0	6,060.3
Democratic R of Congo	3,780.0	3,577.2	3,333.5	3,525.6	3,119.7	3,487.2	3,379.9	3,345.2	3,775.8
Zambia	1,210.2	1,377.5	998.1	1,056.2	1,296.3	1,013.4	835.8	989.6	1,403.2
Other	4,885.2	4,367.9	4,916.4	4,362.7	7,126.6	5,680.2	5,089.5	3,495.8	4,535.3
TOTAL AFRICA	**55,034.3**	**53,424.9**	**54,292.3**	**54,859.3**	**57,774.7**	**59,408.5**	**66,387.0**	**48,349.3**	**67,339.9**
ASIA									
MIDDLE EAST:									
Iran	644.9	600.1	586.1	661.4	382.8	493.1	560.5	453.4	354.6
Israel	208.6	239.4	118.9	169.0	152.1	152.5	143.9	122.3	142.1
Jordan	318.9	471.5	483.7	219.7	233.6	401.6	495.9	694.3	1,169.0
Saudi Arabia	2,553.7	2,018.3	2,070.2	2,714.1	1,363.6	2,755.1	2,153.9	1,543.1	2,335.9
United Arab Emirates	8,596.4	7,935.7	10,386.4	10,215.0	10,508.1	7,575.4	12,880.9	7,003.2	7,911.1
Yemen Arab Republic	1,195.2	1,063.5	1,054.6	1,081.7	1,249.4	1,591.9	906.1	1,207.7	1,138.4
Other	2,111.2	1,586.2	2,546.5	2,607.7	1,802.3	2,410.8	1,964.9	1,296.5	1,418.1
Total	**15,628.8**	**13,914.9**	**17,246.4**	**17,668.6**	**15,691.9**	**15,380.3**	**19,106.0**	**12,320.5**	**14,469.1**
FAR EAST									
China(Mainland)	2,531.2	4,305.9	3,409.3	4,070.9	3,377.7	4,302.5	4,225.4	3,810.1	3,240.3
India	2,496.3	1,714.5	1,702.4	1,348.5	1,336.9	1,016.6	1,265.1	870.9	1,838.8
Indonesia	246.4	229.8	251.1	177.0	368.9	287.0	174.8	259.1	214.8
Japan	1,233.6	1,364.2	1,347.4	1,531.1	1,202.0	1,397.5	1,200.4	1,654.9	868.9
Korea South	632.6	418.9	609.8	621.5	669.9	449.5	526.6	735.9	556.5
Pakistan	13,832.0	12,881.4	13,058.3	9,752.9	9,780.4	12,648.0	13,470.5	14,972.1	13,256.7
Singapore	99.0	170.0	141.7	111.0	1,564.6	144.8	121.2	194.6	97.4
Afghanistan	1,426.2	703.0	726.2	956.4	885.6	1,041.1	1,410.5	484.1	256.6
Thailand	1,950.1	2,139.0	757.8	742.1	905.4	366.0	433.2	841.8	428.1
Other	3,737.0	2,616.0	1,612.8	1,555.7	2,253.2	1,494.8	1,828.7	2,742.2	1,642.1
Total	**28,184.4**	**26,542.8**	**23,616.9**	**20,867.1**	**22,344.6**	**23,147.7**	**24,656.5**	**26,565.8**	**22,400.2**
TOTAL, ASIA	**43,813.3**	**40,457.7**	**40,863.3**	**38,535.7**	**38,036.5**	**38,528.0**	**43,762.5**	**38,886.3**	**36,869.3**
AUSTRALIA & OCEANIC									
Australia	616.6	561.8	776.1	648.9	597.2	389.6	556.2	477.0	645.9
Other	281.3	624.5	2,009.2	886.2	107.7	32.8	45.1	53.6	137.5	
TOTAL	**897.8**	**1,186.3**	**2,785.2**	**1,535.1**	**705.0**	**422.4**	**601.2**	**530.6**	**783.4**
All Other Countries	363.0	230.3	385.9	176.0	923.2	100.3	162.5	108.3	199.3
Aircraft and Ships Stores	474.9	360.7	436.1	533.5	716.4	10,432.0	516.4	1,241.8	
TOTAL	**705.2**	**746.6**	**612.0**	**1,458.7**	**816.7**	**10,594.5**	**824.7**	**1,441.1**	
TOTAL EXPORTS	**131,046.7**	**143,286.6**	**147,749.4**	**147,208.0**	**147,264.7**	**149,142.0**	**179,823.2**	**139,147.6**	**163,697.7**

[1] Data includes Electricity and ICBT

Annex 6: Values of Imports by County of Origin[1], 2018–2020

KSh Million

Partner Country	2018		2019				2020		
	Jul - Sep	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sep	Oct - Dec	Jan - Mar	Apr - Jun	Jul-Sep
EUROPE									
WESTERN EUROPE									
European Union									
Belgium	6,276.0	3,493.9	3,859.0	2,884.1	3,578.8	4,265.0	5,382.0	3,363.3	4,212.9
Finland	529.8	802.1	1,440.0	861.1	691.0	987.3	1,478.2	756.9	1,909.6
France	6,206.6	7,151.5	6,607.1	4,946.6	5,932.1	7,205.1	5,801.2	5,616.0	5,721.5
Germany	11,150.7	11,898.5	10,548.6	11,856.0	13,825.9	10,208.7	9,443.1	10,485.1	12,676.0
Italy	5,684.7	6,293.3	5,406.9	4,687.5	5,600.5	5,430.3	5,781.5	4,806.1	5,391.4
Netherlands	4,779.1	3,922.1	18,450.0	4,016.6	6,109.6	3,349.8	7,364.6	5,421.2	13,740.0
Spain	3,239.1	3,219.8	3,051.3	2,186.2	2,858.0	3,380.2	3,497.9	2,175.7	2,586.8
Sweden	1,738.9	2,539.6	1,119.1	1,641.2	1,570.0	1,642.2	1,285.2	1,281.4	1,868.0
United Kingdom[2]	8,115.8	8,036.1	8,372.0	8,888.5	8,505.3	9,500.0	7,330.0		
Denmark	1,503.0	941.3	1,205.1	692.8	1,131.9	1,053.7	1,420.7	598.8	1,064.5
Ireland	1,143.5	892.9	2,093.0	804.2	567.5	6,669.5	615.2	1,106.5	696.3
Czech Republic	682.2	1,679.1	525.9	508.9	816.0	699.8	694.3	1,004.9	1,025.3
Austria	602.6	857.0	569.9	994.5	2,436.7	710.0	790.9	818.7	607.3
Poland	1,058.8	1,107.3	798.3	915.4	1,929.5	1,732.2	1,530.2	815.2	878.3
Hungary	454.1	910.8	357.4	672.6	726.1	724.7	194.6	357.9	175.2
Other	1,868.9	1,654.8	1,680.2	2,813.2	1,980.7	4,156.7	1,959.6	3,706.2	4,960.3
Total	55,033.7	55,400.0	66,083.8	49,369.4	58,259.6	61,715.1	54,569.4	42,313.8	57,513.4
United Kingdom[2]								6,571.6	7,481.8
Other Western Europe	5,768.4	10,322.8	8,154.7	7,266.1	6,123.1	8,608.2	7,000.7	6,754.4	7,935.2
Total Western Europe	60,802.2	65,722.8	74,238.5	56,635.5	64,382.6	70,323.3	61,570.1	55,639.8	72,930.5
EASTERN EUROPE									
Russian Federation	14,296.0	7,108.8	5,773.8	5,861.1	13,357.5	8,741.0	5,701.8	9,272.7	10,333.0
Ukraine	1,337.0	4,549.4	208.1	1,388.1	2,076.6	3,287.9	2,244.3	1,765.8	1,821.2
Other	69.2	630.1	225.5	232.2	603.1	25.4	23.4	659.5	143.9
Total	15,702.3	12,288.3	6,207.4	7,481.5	16,037.2	12,054.3	7,969.6	11,698.0	12,298.1
TOTAL, EUROPE	76,504.4	78,011.1	80,446.0	64,117.0	80,419.9	82,377.6	69,539.7	67,337.8	85,228.6
AMERICA									
U.S.A	10,856.2	11,022.1	13,832.3	17,497.3	17,861.3	13,061.3	12,997.0	16,428.2	13,961.4
Canada	1,627.4	2,785.7	2,493.8	2,300.0	1,913.0	7,183.7	1,770.8	4,184.7	2,143.4
Brazil	1,869.2	3,254.5	1,106.5	1,253.7	1,334.2	1,507.5	1,895.4	1,186.9	1,234.6
Other	1,408.9	1,768.5	11,647.6	6,339.8	2,678.0	4,663.4	11,982.4	5,033.2	4,090.6
TOTAL AMERICA	15,761.8	18,830.8	29,080.2	27,390.8	23,786.5	26,415.8	28,645.7	26,833.0	21,430.1
AFRICA									
South Africa	13,939.3	16,303.6	17,384.6	21,093.8	21,876.5	13,654.5	14,354.1	10,230.1	11,692.0
Tanzania	4,243.4	5,118.4	5,036.5	7,916.3	8,710.7	5,852.5	5,612.2	5,216.7	8,839.4
Uganda	11,146.3	8,279.1	6,787.9	7,165.6	11,284.4	9,048.8	6,193.8	4,993.8	6,574.4
Swaziland	2,285.9	2,646.0	2,710.6	3,046.3	2,876.2	3,744.9	2,792.3	1,402.4	652.9
Mauritius	1,470.7	1,563.7	3,482.3	1,503.4	1,515.1	1,375.4	1,432.0	813.3	909.7
Rwanda	278.2	254.4	457.7	256.7	367.6	322.2	296.8	853.9	372.8
Zambia	1,428.2	1,999.0	1,537.5	1,316.7	2,789.1	1,041.8	1,089.2	347.6	1,017.5
Other	13,988.9	13,451.9	16,522.5	16,214.0	17,181.9	17,338.1	15,091.4	14,709.2	15,377.5
TOTAL AFRICA	48,781.1	49,616.1	53,919.6	58,512.7	66,601.5	52,378.2	46,861.9	38,567.0	45,436.0
ASIA									
MIDDLE EAST									
Iran	1,683.3	1,497.3	1,899.4	1,618.5	1,486.7	1,084.5	1,593.2	835.0	1,377.5
Israel	1,549.6	1,665.0	1,291.9	1,232.1	1,367.6	1,168.8	1,217.0	880.4	1,057.7
Jordan	142.6	98.3	429.4	154.0	208.4	358.3	261.9	120.9	80.6
Saudi Arabia	46,272.3	47,057.3	36,887.6	30,306.4	31,350.3	28,620.3	24,167.5	10,176.8	23,074.4
United Arab Emirates	28,867.8	37,395.3	31,519.2	56,790.8	34,623.7	44,893.4	27,650.3	14,517.2	19,554.4
Bahrain	137.9	4,254.7	188.2	662.6	172.3	52.5	138.7	254.7	174.4
Oman	3,136.5	450.1	4,467.6	1,825.1	2,109.8	892.5	3,302.0	388.3	1,904.2
Other	1,474.6	1,287.2	2,053.8	749.1	740.5	813.6	983.7	4,853.3	3,369.0
Total	83,264.5	93,705.2	78,737.2	93,338.7	72,059.3	77,884.0	59,314.3	32,026.7	50,592.3
FAR EAST									
China	89,470.9	78,632.8	77,302.6	94,231.6	88,171.9	115,372.6	80,893.1	76,977.5	104,653.1
India	53,852.4	39,348.7	37,205.8	49,801.8	48,331.7	43,520.8	57,921.5	37,244.8	45,956.7
Indonesia	11,325.0	13,696.1	14,493.5	11,882.8	12,405.9	11,848.1	20,264.1	16,959.6	10,030.5
Japan	26,376.4	30,615.5	19,895.2	26,055.6	25,065.7	28,411.6	22,700.1	18,901.4	22,167.3
Korea South	5,537.1	4,296.1	3,503.4	3,692.7	3,756.8	3,858.5	4,026.4	4,900.2	5,313.0
Pakistan	4,322.1	4,937.7	6,189.7	6,246.5	5,796.4	6,615.4	7,275.6	5,938.3	3,635.6
Singapore	852.1	618.2	2,921.0	1,217.5	921.1	1,830.6	3,332.5	1,194.8	1,545.5
Taiwan	2,377.6	2,607.1	3,647.0	3,317.1	4,359.8	3,631.9	2,550.8	3,735.9	2,502.4
Malaysia	2,845.3	5,090.3	4,755.3	3,433.8	7,404.0	10,055.5	12,345.2	9,687.1	12,853.2
Thailand	5,360.3	4,529.7	5,096.7	5,776.6	4,382.0	4,072.9	5,719.8	3,079.1	3,167.3
Other	3,601.0	3,987.1	6,032.1	5,130.5	3,884.3	4,135.7	3,701.1	4,834.3	5,449.7
Total	205,920.2	188,359.4	181,042.3	210,786.4	204,479.5	233,353.6	220,730.3	183,452.9	217,334.2
TOTAL, ASIA	289,184.8	282,064.5	259,779.5	304,125.1	276,538.8	311,237.6	280,044.6	215,479.6	267,926.5
AUSTRALIA & OCEANIC									
Australia	1,693.6	1,384.4	1,076.1	2,488.3	966.3	855.0	1,202.6	2,496.5	647.5
Other	391.3	115.0	191.4	296.8	121.1	146.3	102.9	103.9	149.9
TOTAL AUSTRALIA & OCEANIC	2,084.9	1,499.4	1,267.5	2,785.1	1,087.4	1,001.3	1,305.5	2,600.4	797.4
All Other Countries N.E.S. *Plus* Aircrafts & Shipstores	47.6	25.7	5.7	47.9	184.9	42.6	3.8	17.3	16.9
TOTAL IMPORTS	432,364.6	430,047.7	424,498.4	456,978.6	448,618.9	473,453.1	426,401.2	350,835.2	420,835.6

[1] *Data includes Electricity and ICBT*

[2] *United Kingdom exited the EU in February 2020*

Annex 7: Domestic Exports by Broad Economic Category[1], 2018 – 2020

KSh Million

	2018		2019				2020		
	Jul - Sep	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sep	Oct - Dec	Jan - Mar	Apr - Jun	Jul-Sep
Food & Beverages	**64,433.6**	**57,609.8**	**60,700.4**	**56,534.8**	**54,407.5**	**58,260.3**	**64,897.4**	**68,253.4**	**63,900.3**
Primary	**53,488.6**	**45,412.4**	**48,877.5**	**44,486.8**	**41,717.2**	**44,710.7**	**51,084.8**	**55,591.3**	**49,658.8**
For Industry	5,884.1	4,465.6	6,489.9	7,591.7	4,850.1	3,675.44	5,883.20	8,476.79	5,802.72
For Household Consumption	47,604.5	40,946.8	42,387.7	36,895.1	36,867.08	41,035.29	45,201.60	47,114.49	43,856.04
Processed	**10,945.0**	**12,197.4**	**11,822.8**	**12,048.0**	**12,690.3**	**13,549.6**	**13,812.6**	**12,662.1**	**14,241.5**
For Industry	1,060.3	994.4	880.0	1,042.8	882.2	1,247.54	1,086.83	1,143.11	1,064.48
For Household Consumption	9,884.8	11,203.0	10,942.8	11,005.2	11,808.1	12,302.02	12,725.77	11,519.00	13,177.02
Industrial Supplies (Non - Food)	**30,459.2**	**31,120.8**	**33,157.3**	**30,845.9**	**30,494.6**	**29,860.9**	**36,631.8**	**27,658.2**	**35,559.6**
Primary	10,534.9	11,530.4	13,957.8	11,234.2	10,467.2	10,457.34	16,418.06	11,586.24	11,055.85
Processed	19,924.4	19,590.4	19,199.5	19,611.7	20,027.4	19,403.57	20,213.74	16,071.94	24,503.72
Fuel & Lubricants	**1,156.7**	**1,047.6**	**1,005.4**	**848.2**	**2,721.2**	**1,548.0**	**1,503.6**	**911.3**	**1,974.6**
Primary	1.1	2.6	20.4	41.9	1,626.0	3.28	2.40	3.32	4.85
Processed	**1,155.6**	**1,045.0**	**985.0**	**806.3**	**1,095.3**	**1,544.7**	**1,501.2**	**908.0**	**1,969.7**
Motor Spirit	7.7	-	58.3	7.5	79.1	0.00	-	2.29	8.88
Other	1,147.9	1,045.0	926.7	798.7	1,016.2	1,544.72	1,501.23	905.70	1,960.87
Machinery & Other Capital Equipment	**1,528.3**	**1,703.2**	**2,339.4**	**2,953.4**	**2,597.3**	**2,152.9**	**2,374.4**	**1,818.6**	**3,123.9**
Machinery & Other Capital Equipment	1,202.0	1,305.9	1,979.5	2,516.4	2,039.3	1,418.22	1,784.04	1,521.52	2,722.18
Parts & Accessories	326.4	397.3	359.9	437.1	558.0	734.69	590.36	297.08	401.69
Transport Equipment	**955.4**	**1,584.0**	**1,579.0**	**1,586.5**	**1,494.6**	**1,683.9**	**1,560.8**	**732.5**	**1,233.9**
Passenger Motor Cars	6.3	59.6	99.1	25.1	168.8	87.62	61.22	20.83	44.93
Other	**949.1**	**1,524.4**	**1,479.9**	**1,561.4**	**1,325.7**	**1,596.3**	**1,499.5**	**711.6**	**1,189.0**
Industrial	332.1	938.9	920.7	972.6	522.1	773.10	621.35	260.37	318.43
Non - Industrial	32.0	29.2	56.7	48.4	73.2	56.38	134.98	15.33	74.78
Parts & Accessories	585.0	556.2	502.5	540.5	730.5	766.81	743.21	435.96	795.76
Consumer Goods not elsewhere specified	**33,794.2**	**34,552.6**	**38,814.9**	**36,071.7**	**33,563.6**	**34,505.0**	**37,957.7**	**28,281.9**	**39,020.7**
Durable	385.6	282.1	378.6	357.4	446.2	450.32	341.48	300.75	455.99
Semi Durable	10,030.5	8,683.5	7,697.7	9,380.3	10,695.2	8,985.12	8,056.86	7,689.56	10,681.43
Non Durable	23,378.1	25,587.1	30,738.6	26,333.9	22,422.2	25,069.54	29,559.31	20,291.58	27,883.24
Goods not elsewhere specified	**0.2**	**0.4**	**0.9**	**0.0**	**22.4**	**0.1**	**1.6**	**0.0**	**11.0**
Grand Total	**132,327.7**	**127,618.3**	**137,597.2**	**128,840.4**	**125,301.1**	**128,011.1**	**144,927.2**	**127,655.9**	**144,823.9**
PERCENTAGE SHARES:									
Food and Beverages	48.7	45.1	44.1	43.9	43.4	45.5	44.8	53.5	44.1
Industrial Supplies (Non-Food)	23.0	24.4	24.1	23.9	24.3	23.3	25.3	21.7	24.6
Fuel and Lubricants	0.9	0.8	0.7	0.7	2.2	1.2	1.0	0.7	1.4
Machinery and other Capital Equipment	1.2	1.3	1.7	2.3	2.1	1.7	1.6	1.4	2.2
Transport Equipment	0.7	1.2	1.1	1.2	1.2	1.3	1.1	0.6	0.9
Consumer Goods not elsewhere specified	25.5	27.1	28.2	28.0	26.8	27.0	26.2	22.2	26.9
Goods not elsewhere specified	0	0	0	0	0	0	0	0	0
TOTAL	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**

[1] *Data includes Electricity and ICBT*

Annex 8: Imports by Broad Economic Category[1], 2018 – 2020

KSh Million

	2018		2019				2020		
	Jul - Sep	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sep	Oct - Dec	Jan - Mar	Apr - Jun	Jul - Sep
Food & Beverages	39,121.8	40,917.8	43,909.2	47,226.2	47,002.1	45,815.8	46,944.1	44,464.3	36,661.7
Primary	19,079.0	16,608.3	20,102.8	23,670.2	21,832.5	20,237.6	20,572.3	22,160.2	18,119.7
For Industry	14,316.9	11,711.2	15,729.8	18,436.5	16,101.9	15,913.4	17,064.1	17,801.1	13,589.7
For Household Consumption	4,762.0	4,897.1	4,373.1	5,233.7	5,730.6	4,324.2	3,508.2	4,359.2	4,530.0
Processed	20,042.8	24,309.4	23,806.4	23,556.0	25,169.6	25,578.1	26,371.8	22,304.1	18,542.0
For Industry	4,828.5	7,164.5	6,213.3	6,370.7	9,037.5	5,963.3	5,946.2	4,781.1	4,249.8
For Household Consumption	15,214.3	17,144.9	17,593.1	17,185.3	16,132.0	19,614.8	20,425.6	17,522.9	14,292.2
Industrial Supplies (Non - Food)	150,065.5	143,697.0	149,622.1	151,423.1	151,484.1	148,419.2	155,468.9	143,396.6	160,273.6
Primary	10,683.6	9,309.0	7,798.2	8,464.2	10,290.8	10,302.5	7,466.3	5,133.5	4,959.6
Processed	139,382.0	134,388.0	141,823.9	142,958.9	141,193.3	138,116.6	148,002.6	138,263.1	155,314.0
Fuel & Lubricants	86,834.0	82,234.4	73,451.1	102,731.4	77,679.1	78,505.4	76,993.5	36,651.7	54,639.6
Primary	1,741.7	2,536.0	1,967.7	1,255.3	459.0	909.6	1,242.4	1,452.4	1,841.0
Processed	85,092.3	79,698.3	71,483.4	101,476.1	77,220.2	77,595.8	75,751.1	35,199.3	52,798.6
Motor Spirit	21,469.4	20,556.6	18,418.2	26,946.6	23,014.1	23,624.1	24,745.7	7,820.7	18,091.7
Other	63,623.0	59,141.8	53,065.2	74,529.5	54,206.1	53,971.7	51,005.4	27,378.6	34,707.0
Machinery & Other Capital Equipment	70,545.9	79,454.3	78,838.1	69,151.3	77,911.5	97,464.3	74,448.8	55,615.8	74,104.8
Machinery & Other Capital Equipment	58,000.8	65,566.1	68,653.5	56,924.9	62,987.9	73,162.9	55,104.7	45,541.8	60,093.4
Parts & Accessories	12,545.1	13,888.2	10,184.6	12,226.5	14,923.6	24,301.5	19,344.1	10,074.0	14,011.4
Transport Equipment	47,013.4	40,590.2	42,153.1	47,125.0	44,444.5	55,233.5	37,331.2	32,195.8	47,515.5
Passenger Motor Cars	15,988.9	16,244.7	11,823.5	15,899.6	15,646.4	15,842.4	11,835.0	9,071.6	12,361.9
Other	31,024.5	24,345.5	30,329.6	31,225.4	28,798.1	39,391.1	25,496.2	23,124.2	35,153.6
Industrial	18,275.1	11,156.8	15,062.4	14,249.5	11,127.5	24,954.6	12,619.9	11,985.9	20,314.4
Non - Industrial	2,838.8	3,680.0	3,984.0	4,014.4	3,710.3	3,425.7	3,695.4	1,980.1	2,988.5
Parts & Accessories	9,910.7	9,508.6	11,283.2	12,961.6	13,960.3	11,010.8	9,180.8	9,158.1	11,850.6
Consumer Goods not elsewhere specified	36,860.6	39,644.7	35,024.8	36,719.6	37,875.4	46,307.8	35,167.6	37,549.0	46,026.8
Durable	8,153.5	7,830.2	6,956.4	6,630.1	8,755.2	8,566.7	6,854.3	6,876.7	8,760.5
Semi Durable	10,650.0	11,115.6	9,400.9	10,623.5	10,434.5	12,014.6	9,134.5	9,937.8	12,164.8
Non Durable	18,057.1	20,698.9	18,667.5	19,466.0	18,685.7	25,726.5	19,178.7	20,734.5	25,101.4
Goods not elsewhere specified	1,923.3	3,509.4	1,500.0	2,601.9	12,222.1	1,707.2	47.1	961.8	1,613.6
Grand Total	432,364.6	430,047.7	424,498.4	456,978.6	448,618.9	473,453.1	426,401.2	350,835.1	420,835.6
PERCENTAGE SHARES:									
Food and Beverages	9.0	9.5	10.3	10.3	10.5	9.7	11.0	12.7	8.7
Industrial Supplies (Non-Food)	34.7	33.4	35.2	33.1	33.8	31.3	36.5	40.9	38.1
Fuel and Lubricants	20.1	19.1	17.3	22.5	17.3	16.6	18.1	10.4	13.0
Machinery and other Capital Equipment	16.3	18.5	18.6	15.1	17.4	20.6	17.5	15.9	17.6
Transport Equipment	10.9	9.4	9.9	10.3	9.9	11.7	8.8	9.2	11.3
Consumer Goods not elsewhere specified	8.5	9.2	8.3	8.0	8.4	9.8	8.2	10.7	10.9
Goods not elsewhere specified	0.4	0.8	0.4	0.6	2.7	0.4	0.0	0.3	0.4
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

[1] *Data includes Electricity and ICBT*

Annex 9: Quarterly Average Exchange Rate, 2018–2020

		Currencies										
Year	Period	1 US Dollar	1 Pound Sterling	1 Euro	USh/KSh	TSh/KSh	Rwanda Francs/KSh	1 UAE Dirham	100 Japanese Yen	1 Indian Rupee	1 Saudi Riyal	1 Chinese Yuan
	Jan	102.92	141.95	125.37	35.37	21.81	8.23	28.02	92.73	1.62	27.44	15.99
	Feb	101.40	141.72	125.29	35.87	22.20	8.44	27.61	93.86	1.58	27.04	16.04
	Mar	101.18	141.24	124.68	36.16	22.31	8.49	27.55	95.33	1.56	26.98	15.99
	Q1	**101.83**	**141.64**	**125.11**	**35.80**	**22.11**	**8.39**	**27.72**	**93.97**	**1.58**	**27.15**	**16.01**
	Apr	100.61	141.86	123.65	36.73	22.58	8.61	27.39	93.57	1.53	26.83	15.98
	May	100.66	135.68	118.96	37.01	22.67	8.62	27.41	91.72	1.49	26.84	15.79
	June	101.00	134.24	117.97	38.05	22.54	8.63	27.50	91.90	1.49	26.93	15.63
	Q2	**100.76**	**137.26**	**120.20**	**37.26**	**22.60**	**8.62**	**27.43**	**92.40**	**1.50**	**26.87**	**15.80**
2018	July	100.67	132.58	117.60	37.41	22.61	8.69	27.41	90.35	1.46	26.84	15.01
	Aug	100.61	129.68	116.25	37.06	22.71	8.72	27.39	90.67	1.45	26.83	14.69
	Sept	100.83	131.65	117.66	37.70	22.67	8.72	27.45	90.17	1.40	26.88	14.71
	Q3	**100.71**	**131.30**	**117.17**	**37.39**	**22.67**	**8.71**	**27.42**	**90.40**	**1.44**	**26.85**	**14.80**
	Oct	101.08	131.60	116.20	37.40	22.66	8.74	27.52	89.59	1.38	26.95	14.61
	Nov	102.36	132.08	116.35	36.54	22.46	8.68	27.87	90.35	1.42	27.28	14.74
	Dec	102.29	129.74	116.45	36.38	22.49	8.71	27.85	90.99	1.45	27.27	14.85
	Q4	**101.91**	**131.14**	**116.33**	**36.77**	**22.54**	**8.71**	**27.74**	**90.31**	**1.42**	**27.17**	**14.74**
	Jan	101.58	130.76	115.95	36.45	22.72	8.80	27.66	93.18	1.44	27.08	14.95
	Feb	100.23	130.29	113.81	36.64	23.23	8.94	27.29	90.89	1.41	26.73	14.87
	Mar	100.36	132.29	113.51	36.92	23.36	8.97	27.32	90.26	1.44	26.76	14.96
	Q1	**100.73**	**131.11**	**114.42**	**36.67**	**23.10**	**8.90**	**27.42**	**91.44**	**1.43**	**26.86**	**14.92**
	Apr	101.07	131.77	113.58	36.97	22.88	8.93	27.51	90.59	1.46	26.95	15.05
	May	101.15	130.06	113.17	37.22	22.74	8.95	27.54	91.95	1.45	26.97	14.76
	June	101.69	128.82	114.73	36.72	22.61	8.94	27.68	94.10	1.46	27.11	14.73
	Q2	**101.30**	**130.22**	**113.82**	**36.97**	**22.74**	**8.94**	**27.58**	**92.21**	**1.46**	**27.01**	**14.85**
2019	July	103.16	128.92	115.83	35.84	22.30	8.86	28.08	95.35	1.50	27.51	15.00
	Aug	103.30	125.59	114.96	35.76	22.26	8.88	28.12	97.12	1.45	27.54	14.64
	Sept	103.80	128.16	114.35	35.41	22.15	8.87	28.26	96.68	1.45	27.67	14.58
	Q3	**103.42**	**127.56**	**115.05**	**35.67**	**22.23**	**8.87**	**28.16**	**96.38**	**1.47**	**27.57**	**14.74**
	Oct	103.21	132.98	114.71	35.95	22.31	8.93	28.10	94.79	1.45	27.52	14.63
	Nov	102.81	132.82	113.18	35.94	22.37	9.08	27.99	93.88	1.44	27.42	14.61
	Dec	101.34	132.94	113.37	36.17	22.68	9.36	27.59	92.80	1.42	27.01	14.50
	Q4	**102.45**	**132.91**	**113.75**	**36.02**	**22.45**	**9.12**	**27.89**	**93.83**	**1.44**	**27.32**	**14.58**
	Jan	101.09	132.15	112.29	36.41	22.79	9.38	27.52	92.47	1.42	26.95	14.60
	Feb	100.79	130.83	109.94	36.45	22.91	9.43	27.44	91.58	1.41	26.87	14.40
	Mar	103.74	128.54	114.67	36.33	22.23	9.16	28.24	96.37	1.39	27.63	14.79
	Q1	**101.87**	**130.51**	**112.30**	**36.40**	**22.64**	**9.32**	**27.73**	**93.47**	**1.41**	**27.15**	**14.60**
	Apr	106.41	131.92	115.61	35.56	21.75	8.95	28.97	98.78	1.40	28.30	15.04
	May	106.68	131.29	116.12	35.54	21.70	8.88	29.04	99.55	1.41	28.40	15.02
2020	June	106.40	133.38	119.83	35.13	21.76	8.96	28.97	98.92	1.41	28.36	15.02
	Q2	**106.50**	**132.20**	**117.19**	**35.41**	**21.74**	**8.93**	**28.99**	**99.08**	**1.41**	**28.35**	**15.03**
	Jul	107.27	135.30	122.51	34.53	21.62	8.92	29.20	100.34	1.43	28.60	15.29
	Aug	108.14	141.85	127.83	34.00	21.48	8.91	29.44	102.07	1.45	28.83	15.60
	Sep	108.41	140.89	128.01	34.08	21.40	8.94	29.51	102.68	1.48	28.90	15.92
	Q3	**107.94**	**139.35**	**126.12**	**34.20**	**21.50**	**8.92**	**29.38**	**101.70**	**1.45**	**28.78**	**15.60**

ANNEX V

ATTENDANCE LIST

PROGRAM ON STAKEHOLDERS ENGAGEMENT

KENYA NATIONAL ASSEMBLY

COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

STAKEHOLDERS ENGAGEMENT ON THE KENYA-UNITED KINGDOM ECONOMIC PARTNERSHIP AGREEMENT

3RD TO 4TH MARCH, 2021 AT OLE SERENI HOTEL

ATTENDANCE REGISTER

	NAME	DESIGNATION (in full)	CELLPHONE & EMAIL	SIGNATURE
1.	Hon Adan Hagi Yussuf	Member of Parliament (MP)	0722849991 hajiadan2003@gmail.com	
2.	Hon Shang Ali	MP Lamu East	0722255077	
3.	Hon. David Mboni	MP, Kitui Rural	0722226967	
4.	Hon. Jude Njomo	MP Njomo	0722516334	
5.				

	NAME	DESIGNATION (in full)	CELLPHONE & EMAIL	SIGNATURE
6.	JOHN KIARIE WAWERU	MEMBER NATIONAL ASSEMBLY	<send2kiarie@gmail.com>	KJ
7.	Shakeel Shabbir CBS	MP - KNA	shakeelshabbirahmed@gmail.com	
8.	John K. Mutunga	MP - T/west	jkmutunga@gmail.com	
9.	WARUGURU. CATHERINE	MP LAIKIPIA	Cakia_2009@yahoo.com	
10.	Jared Okello	MP - Nyando	okelojared@gmail.com.	
11.	Alois Lentoimaga	MP Samburu North	0720225553 alentoimaga10@gmail.com	
12.				
13.				
14.				

KENYA NATIONAL ASSEMBLY

COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

STAKEHOLDERS ENGAGEMENT ON THE KENYA-UNITED KINGDOM ECONOMIC PARTNERSHIP AGREEMENT

3RD TO 4TH MARCH, 2021 AT OLE SERENI HOTEL

ATTENDANCE REGISTER

	NAME	DESIGNATION (in full)	CELLPHONE & EMAIL	SIGNATURE
1.	Lawrence Kavanja	CAS	—	
2.	Amb. Johnson Weru	PS	ps-fortrade@gmail.com	
3.	Roselyn Amadi	ADVISOR	0722207703	
4.	MICHAEL MANDU	ASSISTANT DIRECTOR SAT	0719781415	

	NAME	DESIGNATION (in full)	CELLPHONE & EMAIL	SIGNATURE
5.	Lydian Kinyoni	AO A	0725535279	
6.	STANLEY MWANGI	Trade Officer	0715483877	
7.	Musa Ikwemba	Trade Officer	0721324953	
8.	PERIS ODHIAMBO	TRADE OFFICER	0720021538	
9.	NEAH AWAH BARAZA	DEPUTY CHIEF STATE COUNSEL	0726051142	
10.				
11.				
12.				
13.				

KENYA NATIONAL ASSEMBLY

COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

STAKEHOLDERS ENGAGEMENT ON THE KENYA-UNITED KINGDOM ECONOMIC PARTNERSHIP AGREEMENT

3RD TO 4TH MARCH, 2021 AT OLE SERENI HOTEL

ATTENDANCE REGISTER

	NAME	DESIGNATION (in full)	CELLPHONE & EMAIL	SIGNATURE
1.	T. Rai	West Kenya Sugar	0723553326 tej@raisugar.com	
2.	Geoffrey Rimbere	Chairman FPGAK	0722930117	
3.	Edgar Odari	Econews Africa	0722502055	
4.	Davies Nyachieng'a	Econews Africa	0701622031	
5.	NEIL HELLINGS	—	0700 598990	

	NAME	DESIGNATION (in full)	CELLPHONE & EMAIL	SIGNATURE
6.	Amb. Nelson NDIRANGU	ADVISOR SDT	0722631958	
7.	Bernard Kagira	Consultant SDT	0705911136	
8.	Reuben Seda	Comm'l Marketing Officer	0735888905	
9.	Patricia Nyenga	Tech Officer	0724041768	
10.	Pauline	MOITED	0715402542	
11.	Nicholas Imbuywa	Chairman FPC-Kenya	0722495203	
12.	Mary Gulunje	Member-FPC Kenya	0722667154	
13.	Solomon Kosike	Parliament Media	0726653195	
14.	Samuel Tobiko	Metropol tv	0701161678	

	NAME	DESIGNATION (in full)	CELLPHONE & EMAIL	SIGNATURE
15.	SAMUEL OWINO	Reporter - Nation	0715703709	[signature]
16.	ROSEMARY K.	Reporter - Metropol TV	0713 951 953	[signature]
17.	Samuel Mbugua	Camera - CTV	0715766311	[signature]
18.	Emmaculate NIOKI	Kenya News Agency	0746312582	[signature]
19.	Susan Paul	KNA	0727582843	[signature]
20.	DENIS OTIENO	CITIZEN Reporter TV	0726023990	[signature]
21.				
22.				
23.				

KENYA NATIONAL ASSEMBLY

COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

STAKEHOLDERS ENGAGEMENT ON THE KENYA-UK ECONOMIC PARTNERSHIP AGREEMENT

3RD TO 5TH MARCH, 2021 AT OLE SERENI HOTEL (DAY 2)

ATTENDANCE REGISTER

	NAME	ORGANIZATION	CELLPHONE & EMAIL	SIGNATURE
1.	Jude Njomo	K.N.A	njomojude@gmail.com 0722516354	
2.	Hon. David Mboni	K.N.A	dmmboni2@gmail.com 0722226962	
3.	Dr. Mutunga J.K	National Assembly	JKMutunga@gmail.com 0721-222-828	
4.	Hon Sloot A.M.	K.N.A.	0722255071	

	NAME	ORGANIZATION	CELLPHONE & EMAIL	SIGNATURE
5.	Hon Kuria Kimani	M.P - Finance Committee	0717235845	
6.	Hon Shakeel Shabbir	Finance KNA	shakeelshabbirahmed@gmail.com 0722.801717	
7.				
8.				
9.				
10.				
11.				
12.				
13.				

KENYA NATIONAL ASSEMBLY

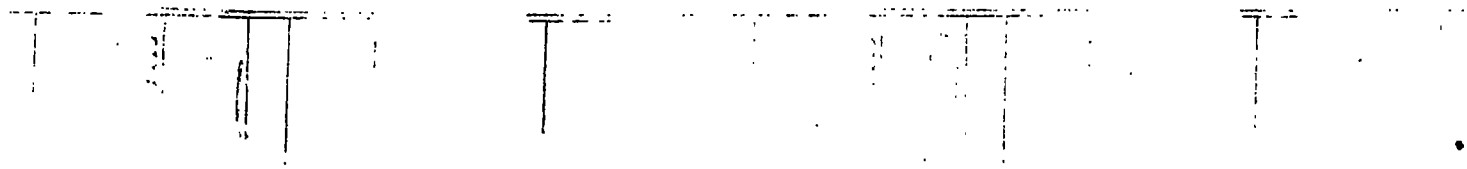
COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

STAKEHOLDERS ENGAGEMENT ON THE KENYA-UK ECONOMIC PARTNERSHIP AGREEMENT

3RD TO 5TH MARCH, 2021 AT OLE SERENI HOTEL (DAY 2)

ATTENDANCE REGISTER

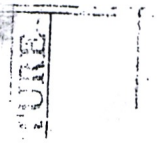
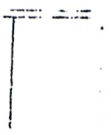
	NAME	ORGANIZATION	CELLPHONE & EMAIL	SIGNATURE
1.	Hon. Lawence Karanja	CAS - MOITED		
2.	Amb. Johnson Weru	PS - SDT/ED		
3.	MICHAEL MANJU	ASSISTANT DIRECTOR - SDT ED		
4.	MARYANNE MACHERU	SDT/ED		



	NAME	ORGANIZATION	CELLPHONE & EMAIL	SIGNATURE
5.	LEAH AHWAH BARAZA	OFFICE OF THE ATTORNEY GENERAL	0726051142 bayawah.laba@gmail.com	
6.	Roselyn Amadi	STATE DEPARTMENT for TRADE	0722207703 ros.elynamadi@hotmail.com	
7.	Amb. Nelson NDIRANGU	"	0722631958 nmndirangu@gmail.com	
8.	Tejveer Rai	West Kenya Sugar Co.	0723553326. tej@raisugar.com	
9.	NEIL HEZINGS	—	0705 599 990 neil_hellingse hotmail.com	
10.	Jasvant S. Rai	West Kenya Sugar	0722 203333	
11.	JIGNESH J. PATEL	KENYA ASSO of WASTE Recyclers (KAMOWA WASTE)	0722-959961	
12.	Geoffrey N. Kuria.	Kenya Association of Waste Recyclers	0722258369.	
13.	Richard Kainika	Kenya Ass. of Waste Recyclers	0721 282548	

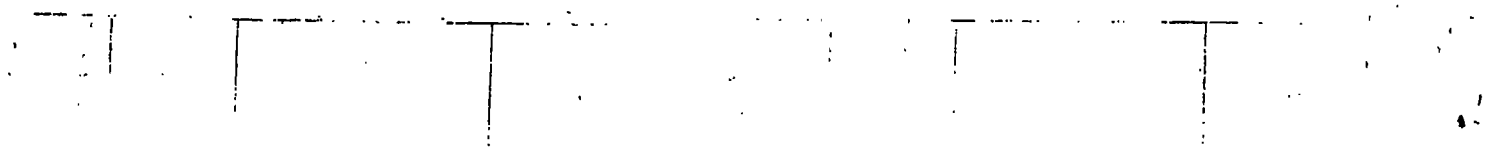


	NAME	ORGANIZATION	CELLPHONE & EMAIL	SIGNATURE
14.	NADIM MAWJI	MEMBER KENYA ASSOCIATION OF WASTE RECYCLERS + CEO KAMONGO WASTE PAPER KENYA LTD	0734506512 nadim@kamongo.co.ke	
15.	DAVIES NYACHIENG'A	ECONEWS AFRICA	0701622031 Ayachd@gmail.com	
16.	RICHARD FOX	Kenya Flower Council Flamingo Horticulture	0722 723 147 richard.fox@flamingo.net	
17.	Geoffrey Rimbere	Fresh Produce Exporters Association Kenya	0722930117 geoffrey@isgel.co.ke	
18.	Reakey Seda	FRESH PRODUCE EXPORTERS ASSOCIATION OF KENYA.	0711100767 rseda@fpeak.org	
19.	Bochaberi Nyandieka	METROPOL TV	0768956086 bochaberi99@gmail.com	
20.	ROSEMARY KINYANJUI	METROPOL TV	0713951953	
21.	SAMWEL TOBIKO	METROPOL TV	0701161678	
22.	Pauline Mohamed	MOITED	Pauline.Mohamed@kenyapsyta.go.ke	



	NAME	ORGANIZATION	CELLPHONE & EMAIL	SIGNATURE
23.	Musa Okwemba	Trade Officer SDT SED	0721324953 maokwemba@gmail.com	[signature]
24.	MILKA Muthui	P.T.D.O SDT & ED	0722219325 Muthui.milka@gmail.com	[signature]
25.	DR RUTO K ERICK	KNCCI CHAMBER VICE-PRESIDENT	doctor@redehospital.com	[signature]
26.	Masinde Onesmus	KNCCI Trade Manager	Onesmus.Masinde@KenyaChamber.or.ke	[signature]
27.	Liz Guantai	KNCCI Liaison Manager	liz.guantai@kenya chamber.or.ke	[signature]
28.	Boniface Nyoyo	TRADE OFFICER SDT SED	nyoyzi@gmail.com	[signature]
29.	Derrick Gelan	Farm Agritech	derrick@farm360.com	[signature]
30.	PERIS ODHIAMBO	TRADE OFFICER SDT SED	0720021538 pesisodhiambo2017@gmail.com	[signature]
31.	Lydiah Kinyoni	SDT	0725535279 lkinyoni@gmail.com	[signature]



MPs

KENYA NATIONAL ASSEMBLY

COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

STAKEHOLDERS ENGAGEMENT ON THE KENYA-UK ECONOMIC PARTNERSHIP AGREEMENT

3RD TO 5TH MARCH, 2021 AT OLE SERENI HOTEL (DAY 3)

ATTENDANCE REGISTER

	NAME	ORGANIZATION	CELLPHONE & EMAIL	SIGNATURE
1.	Jude Njomo	K.N.A	njomojude@gmail.com 0722 516334	
2.	JOHN KIARIE WAWERU	NATIONAL ASSEMBLY	kisendzkiarie@gmail.com 0722 716 975	
3.				
4.				

KENYA NATIONAL ASSEMBLY

COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

STAKEHOLDERS ENGAGEMENT ON THE KENYA-UK ECONOMIC PARTNERSHIP AGREEMENT

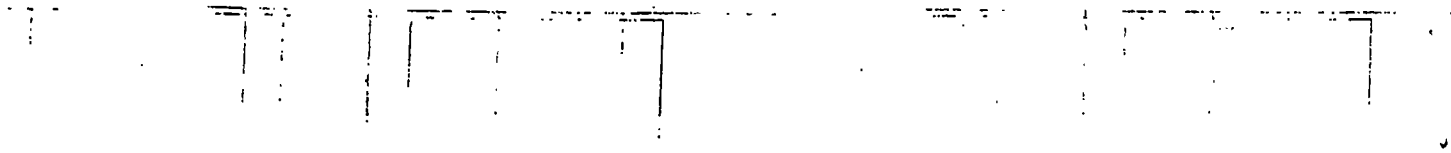
3RD TO 5TH MARCH, 2021 AT OLE SERENI HOTEL (DAY 3)

ATTENDANCE REGISTER

	NAME	ORGANIZATION	CELLPHONE & EMAIL	SIGNATURE
1.				
2.	Amb Johnson Weru	PS Trade		
3.	Bernard Kagia	SDT	0705711136 bkagia@gmail.com	
4.	Amb. Nelson NDIRANGU	SDT	0722639458 mmndirangu@gmail.com	


IRE

	NAME	ORGANIZATION	CELLPHONE & EMAIL	SIGNATURE
5.	MARYANNE MACHERU	SDT & ED		
6.	ALLAN GITHAIGA	OAG	0721614322 allangithaiga@gmail.com	
7.	Geoffrey N. Kuria.	Kenya Association of Waste Recyclers.	0722258369. geoffkuria@keyarecyclers.co.ke	
8.	Roselyn Amadi	State Dept for Trade	0722207703	
9.	LEAH AYWAH BARAZA	OFFICE OF THE ATTORNYE GENERAL	0726051142 baywah.lab@gmail.com	
10.	Dr. Esther Kimani	SPS Advisor	0722226239	
11.	Jane Kibwage	SDFA&BE	0722715517	
12.	LUCY A. OBUNGU	SDFA&BE	0722385671	
13.	Ephraim Wairangu	SDFA&BE	0725-915310	



	NAME	ORGANIZATION	CELLPHONE & EMAIL	SIGNATURE
14.	MILKA MUTHUI	SDT & ED	0722219325 Muthui.milka@gmail.com	[signature]
15.	MUSA OKWEMBA ~~Dr. Francis Muraya~~	SDT & ED	0721324953 maokwemba@gmail.com	[signature]
16.	Dr. Francis Muraya	Executive Office the President	fmuraya@gmail.com	[signature]
17.	Idian Kinjoni	SDT	0725535279	[signature]
18.	MICHAEL MANDU	SDT	0719781415	[signature]
19.	STANLEY MWANGI	SDT	0715[illegible]	[signature]
20.	Bonfax Njuma	SDT	0728924534	[signature]
21.				
22.				

FISHERIES DEPARTMENT

KENYA NATIONAL ASSEMBLY

COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

STAKEHOLDERS ENGAGEMENT ON THE KENYA-UK ECONOMIC PARTNERSHIP AGREEMENT

3RD TO 5TH MARCH, 2021 AT OLE SERENI HOTEL (DAY 3)

ATTENDANCE REGISTER

	NAME	ORGANIZATION	CELLPHONE & EMAIL	SIGNATURE
1.	Lucy A. Obunga	SDFA & BE	0722385671 lucyobunga@yahoo.com	
2.	Jane M Kibiwage	SDFA & BE jmkibiwage@gmail.com	0722715517	
3.	Ephraim Warangu	State Department for Fisheries, Aquaculture & BE	0725-915310 emwarangu@gmail.com	
4.	MILKA MUTHUI	SDT & ED	0722219325 muthui.milka@gmail.com	

	NAME	ORGANIZATION	CELLPHONE & EMAIL	SIGNATURE
5.	MUSA OKWEMBA	SDT ED	0721 324953 MAokwemba@gmail.com	
6.	Thomas Ochieng	EA TIMES	0720933454 ochiengf226@gmail.com	
7.	ELISAH OMONDI	THE TIMES NEWS PAPER	Elijanedango19@gmail	
8.	Grace Mwende	Kenyaon/inonews	0702589025 gracegmakovu@gmail.com	
9.				
10.				
11.				
12.				
13.				

PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FIFTH SESSION

DEPARTMENTAL COMMITTEE ON TRADE, INDUSTRY AND COOPERATIVES

3RD TO 5TH MARCH, 2021

OLE SERENI HOTEL

STAKEHOLDERS ENGAGEMENT ON THE KENYA-UNITED KINGDOM ECONOMIC PARTNERSHIP AGREEMENT

Office of the Directorate of Departmental Committees
The National Assembly
Parliament Buildings
NAIROBI

PROGRAMME

Day 1 — **Wednesday, 3rd March, 2021**

SESSION I: STAKEHOLDER ENGAGEMENT ON THE KENYA-UNITED KINGDOM ECONOMIC PARTNERSHIP AGREEMENT

Session Chair: Hon. Adan Haji Ali, MP, Chairperson, Trade, Industry & Cooperatives

8.00 - 8.30 a.m.	Registration
8.30 – 9.00 a.m.	Opening Remarks by *Hon. Adan Haji Ali, MP, Chairperson, Trade, Industry & Cooperatives*
9.00 – 9.30 a.m.	Remarks by Ms. Betty Maina, EBS *(Cabinet Secretary)*
9.30 – 10.30 a.m.	Presentation by the State Department for Trade & Enterprise Development *Presenter: Amb. Johnson Weru (Principal Secretary)*
10.30 – 11.00 a.m.	Plenary
11.00 – 11:30 a.m.	*Tea/Health Break*
11.30 – 12.00 p.m.	Parliamentary Caucus Committee on Economic and Business
12.00 – 12.30 p.m	Departmental Committee on Finance and National Planning
12.30 – 1.00 p.m	Departmental Committee on Agriculture and Livestock
1.00 – 2:00 p.m.	*Lunch Break*
2.00 – 5.30 p.m.	Question and Answers Session *Presenter: Amb. Johnson Weru (Principal Secretary)*

End of Day One

Day 2 — **Thursday, 4th March, 2021**

SESSION II: STAKEHOLDER ENGAGEMENT ON THE KENYA-UNITED KINGDOM ECONOMIC PARTNERSHIP AGREEMENT

Session Chair: Hon. Adan Haji Ali, MP, Chairperson, Trade, Industry & Cooperatives

9.30 – 10.00 a.m.	Presentation by Econews Africa *Presenter: CEO Econews Africa*
10.00 – 10.30 a.m.	Plenary
10.30 – 11:00 a.m.	*Tea/Health Break*