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REPUBLIC OF KENYA




PARLIAMENT
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THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FOURTH SESSION

SELECT COMMITTEE ON IMPLEMENTATION

REPORT ON
SUBMISSIONS FROM STAKEHOLDERS REGARDING IMPLEMENTATION
STATUS OF LEGISLATIONS, PETITIONS AND RESOLUTIONS PASSED BY THE
HOUSE

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 30 JUN 2020	DAY: WED
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DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

JUNE, 2020

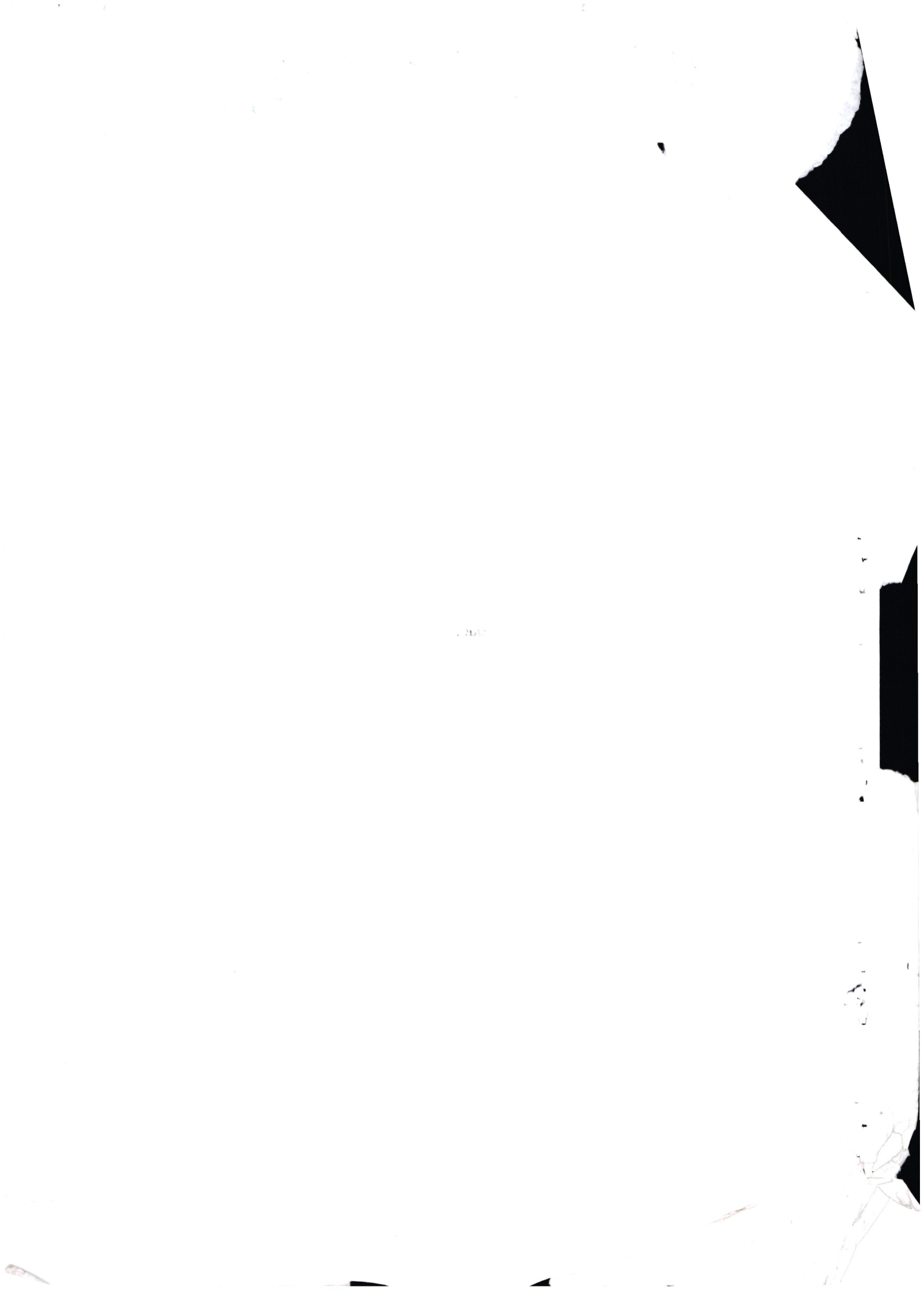


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MINUTES

ADOPTION LIST

SUBMISSIONS

ABBREVIATIONS & ACRONYMS

CBK	Central Bank of Kenya
EIA	Environment Impact Assessment
FY	Financial Year
GoK	Government of Kenya
ICT	Information Communication Technology
KDF	Kenya Defence Forces
Kshs.	Kenya Shillings
KWS	Kenya Wildlife Services
TSC	Teachers Service Commission
PELIS	Plantation Establishment and Livelihood Improvement Scheme
MNOs	Mobile Network Operator
NA	National Assembly
NPS	National Police Service
NPR	National Police Reservists
NYS	National Youth Service
OSBP	One Stop Border Point
REDD +	Reducing Emissions from Deforestation and forest Degradation, plus the sustainable management of forests, and the conservation and enhancement of forest carbon stocks
RRI	Rapid Response Initiative
SAF	Social Assistance Fund
SMART	Specific, Measurable, Achievable, Realistic and Time bound

CHAIRPERSON'S FOREWORD

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

The Committee wrote to the various Ministries on 23rd July, 2018 and again on 23rd July, 2019 requesting for implementation status of resolutions, petitions and adopted Committee reports passed by the House. The status of implementation included in the report contains submissions by various Ministries and Government Agencies received from August, 2018 to November, 2019. The report entails a compilation of the responses received and their status of implementation as at the time of adoption of the report.

The Committee registers its appreciation to the Office of the Speaker and the Clerk of the National Assembly for facilitating it towards the achievement of its mandate and the production of this report.

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

HON. MOITALEL OLE KENTA, MP

EXECUTIVE SUMMARY

In line with its mandate, the Select Committee on Implementation wrote to various Ministries seeking the status of implementation of various House resolutions. This is pursuant to Standing Order 209 (2) which provides that the Committee shall scrutinize the resolutions of the House (including adopted Committee reports), petitions and the undertakings given by the National Executive and examine whether or not such decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within the minimum time necessary and whether or not legislation passed by the House has been operationalised and where operationalised, the extent to which such operationalisation has taken place within the minimum time necessary.

The Committee wrote to the Ministries and Government Agencies on 23rd July, 2018 and again on 23rd July, 2019 with an attached list of House Resolutions pending before them seeking their status of implementation, including challenges being faced while implementing them. The Committee during its various sittings scrutinized the written submissions received from the stakeholders, it also held meetings with some Ministries to seek clarification and deliberate further on submissions provided. The records of evidence submitted to the Committee form the basis of the Committee's report on the implementation status as outlined in the Report.

In its deliberations, the Committee observed that lack of legal frameworks to guide government policies hampers efficient implementation and operations of policies. Also, inadequate budgetary allocations hinder implementation of House Resolutions. Further, late and incomplete responses by Ministries usually lead to back and forth communication with the Committee thus delaying reporting to the House. Additionally, most of the motions/legislations introduced in the House are not subjected to a thorough scrutiny on the viability of their implementation. This makes the House to pass resolutions that are not in line with the existing Government's Agenda and Mid-term policies. The Committee also observed that the inordinate delay of court cases is hampering the implementation of House resolutions and consequently the Committee is unable to conclusively report on the implementation of affected resolutions, especially under the Ministries of Lands, and Environment & Forestry.

The Committee after deliberations recommends that:-

- 1. Clear legislations should be developed to implement various government policies.**
- 2. The National Assembly should develop an online tracking tool for the implementation of House resolutions as a matter of priority for effective follow up of implementation of House resolutions.**
- 3. The National Assembly should enhance its scrutiny of laws, resolutions and motions to ensure that resolutions passed are implementable.**
- 4. The House and by extension committees should ensure all resolutions passed are Specific, Measurable, Achievable, Realistic and Time bound, to ensure they are implemented and for effective follow up of the same.**

1.0 PREFACE

1.1 Mandate of the Committee

The Select Committee on Implementation is established pursuant to the provisions of Standing Order 209 of the National Assembly Standing Orders. The Committee scrutinizes the resolutions of the House (including adopted Committee reports), petitions and the undertakings given by the National Executive and examine whether or not such decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within the minimum time necessary; and whether or not legislation passed by the House has been operationalized and where operationalized, the extent to which such operationalization has taken place within the minimum time necessary.

Standing Order 201 further provides that, within sixty days of a resolution of the House or adoption of a report of a select committee, the relevant Cabinet Secretary under whose portfolio the implementation of the resolution falls shall provide a report to the relevant committee of the House in accordance with Article 153(4) (b) of the Constitution.

1.2 Committee Membership

The Committee membership comprises -

Chairperson

Hon. Moitalel Ole Kenta, MP
Narok North Constituency

Orange Democratic Movement

Vice Chairperson

Hon. Godfrey Osotsi, MP
Nominated

Amani National Congress

Members

Hon. Maj. (Rtd.) John Waluke Koyi, MP
Sirisia Constituency

Jubilee Party

Hon. Paul Simba Arati, MP
Dagoretti North Constituency

Orange Democratic Movement

Hon. Alois Lentoimaga, MP
Samburu North Constituency

Jubilee Party

Hon. Joseph Wathigo Manje, MP
Kajiado North Constituency

Jubilee Party

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

Jubilee Party

Hon. Johnson Many Naicca, MP
Mumias West Constituency

Orange Democratic Movement

Hon. Onesmas Kimani Ngunjiri, MP
Bahati Constituency

Jubilee Party

Hon. George Theuri, MP
Embakasi West Constituency

Jubilee Party

Hon. Francis Munyua Waititu, MP
Juja Constituency

Jubilee Party

Hon. Richard Onyonka, MP
Kitutu Chache South Constituency

Ford Kenya

Hon. Paul Odalo Abuor, MP
Rongo Constituency

Orange Democratic Movement

Hon. Owen Yaa Baya, MP
Kilifi North Constituency

Orange Democratic Movement

Hon. Hassan Oda Hulufu, MP
Isiolo North Constituency

Kenya Patriots Party

Hon. Nelson Koech, MP
Belgut Constituency

Jubilee Party

Hon. Joshua Mbithi Mwalyo, MP
Masinga Constituency

Wiper Democratic Movement-Kenya

Hon. (Dr.) Daniel Kamuren Tuitoek, MP
Mogotio Constituency

Jubilee Party

Hon. Silvanus Osoro, MP
South Mugirango Constituency

Kenya National Congress

Hon. Michael Thoya Kingi, MP
Magarini Constituency

Orange Democratic Movement

Hon. Generali Kiprotich Korir, MP
Langata Constituency

Jubilee Party

Hon. Charles Ngusya Nguna, MP
Mwingi West Constituency

Wiper Democratic Movement-Kenya

Hon. Jared Okello, MP
Nyando Constituency

Orange Democratic Movement

1.3 Committee Secretariat

The secretariat facilitating the Committee comprise -

Ms. Tracy Chebet Koskei
Clerk Assistant I/Team Leader

Mr. Peter Mwaura
Senior Legal Counsel

Mr. Joseph Okong'o
Senior Media Relations Officer

Mr. Abdirahman Hassan
Clerk Assistant II

Mr. Donald Manyala
Research Officer II

Ms. Jane Serem
Audio Officer

Mr. Moses Kariuki
Sergeant-at-Arms

2.0 INTRODUCTION

1. The Committee commenced to appraise itself on the implementation status of House resolutions pursuant to Standing Order 209 (2) which requires the Committee to scrutinize the resolutions of the House (including adopted Committee reports), petitions and the undertakings given by the National Executive.
2. The Committee wrote to various Ministries on 23rd July, 2018 and again on 23rd July, 2019 seeking an update on the implementation status of the following resolutions and reports (inquiries and petitions) that are under their purview: -

Motions

- (1) Resolution that the National Government formulates and implements a policy on the criteria for recruitment and remuneration of Village Elders.
- (2) Resolution that all Disciplined Forces should give first priority to National Youth Service (NYS) graduates during recruitment.
- (3) Resolution on a review of terms and conditions for recruitment, remuneration and deployment of National Police Reservists in arid and semi-arid (ASALs) areas.
- (4) Resolution that the Government exercises its power to protect Kenya from harassment by external threats and takes adequate measures to ensure that Kenyan territorial integrity is guaranteed and safeguarded including through the establishment of a naval force to man the Lake Victoria Waters.
- (5) Resolution on the Fast-tracking of the Implementation of National Employment Authority (NEA) Act.
- (6) Resolution on the Establishment and Maintenance of an integrated up-to date database of persons seeking for employment.

Reports

- (7) The Report on the Ratification of the East African Community Protocol on Cooperation in Meteorological Services.
- (8) Report on the East African Community Protocol on Information and Communication Technology Networks.
- (9) Report of the Departmental Committee on Environment and Natural Resources on the Inquiry into Forest Resource Management and Logging Activities in Kenya.
- (10) Inquiry into Procurement and Implementation of the Excisable Goods Management (EGMS) System for Printing, Supply and Delivery of Security Revenue Stamps Complete with Track and Trace System, and an Integrated Production Accounting System by the Kenya Revenue Authority.

Reports on Petitions

- (11) Report on Petition on the challenges in the implementation of the Social Assistance Programme in Samburu North Constituency by the Hon. Alois M. Lentoimaga, M.P.
- (12) Petition on the proposed demolitions of buildings for purposes of expansion of Likoni Lunga Lunga Road.
- (13) Petition on the construction of speed bumps and the establishment of rumble strips between Madeya and Rangala Trading centers along Kisumu-Busia Highway.
- (14) Petition for the erection of bumps and construction of a footbridge at Kangoro Bus Stop along Embu-Meru Highway.
- (15) Petition on the upgrading of Old Mombasa Road/Maasai Road A, B & C in Nairobi County to bitumen standards to ease movement of people, goods and services.
- (16) Petition on the erection of speed bumps along Kakamega-Mumias Road.
- (17) Petition on decongestion of Bomas–Ongata Rongai–Kiserian Road.
- (18) Petition on the delayed carpeting of a section of the Meru-Maua Road from Farm to Murera gate, Meru National Park.
- (19) Petition on delayed reconstruction of Kabani-Kangundo Bridge along Thwake River.
- (20) Petition on the deplorable state of Karatina-Jambo Road.
- (21) Petition on tarmacking of the Gatiguu/McVast-Matangani-Ithanga-Kirathani-Mayuuya/ Ng’ang’a- Makuyu Road.
- (22) The Report on a Petition on Non-Issuance of Title Deeds to Land Owners of Embakasi West Constituency.
- (23) The Report on a Petition on Rectification of Records in the Register for Land Parcel Number Igembe/Ndoleli/Athina/Ruujine/2554.
- (24) Report on the Public Petition regarding implementation of delocalization policy by the Teachers’ Service Commission.
- (25) Report on the Petition regarding lifting of the ban on logging and harvesting of the Mangroves in Lamu County.
- (26) Report on a petition on alleged impending demolition on buildings along the Mtandawanda –Kizingitini Road in Pate Island.
- (27) Report on the Petition on Oil marketers Companies involved in the supply and distribution of Jet A1 Fuel.
- (28) Report on the Petition regarding fraudulent Medical Bill issued by MP Shah Hospital on Account of treatment of the Late Matilda Anyango.

In response, various Ministries submitted the status of implementation to the Committee.

IMPLEMENTATION STATUS OF VARIOUS HOUSE RESOLUTIONS

3.0 MOTIONS

3.1 Resolution that the National Government formulates and implements a policy on the criteria for recruitment and remuneration of Village Elders

3. The motion was proposed by Hon. George Murugara, M.P. and was passed by the House on 3rd April, 2019. The Ministry of Interior and Coordination of National Government submitted the status of implementation of the Resolution on 20th August, 2019. Further, the Chief Administrative Secretary in the Ministry, Hon. Patrick Ntutu appeared before the Committee on 5th November, 2019.

3.1.1 Implementation status

4. In an effort to empower citizen participation in management of security and governance in the Country, the Government has been engaging the services of respectable members of the community, commonly referred to as village elders. The elders form a key link between the Government and the members of the public through the Chiefs and Assistant Chiefs.
5. However, no facilitation has been provided for these elders over the years since the Ministry has no budgetary allocation for the payment of village elders. Further, most village elders are outside the employable age bracket approved by the Government; and, there has not been any standardization on the sizes of villages.

3.1.2 Observation

6. The Resolution has not been implemented.

3.1.3 Challenges

7. No facilitation has been provided for these elders over the years since the Ministry of Interior and Coordination of National Government has no budgetary allocation for their payment. Further, there is no legislation regarding the recruitment, deployment and remuneration of the village elders and the definition of villages and standardization of the villages across the Country.

3.1.4 Recommendation

8. There is need to fast track the development of legislation on village elders, this would formalise their existence and regulate their operations and subsequent financial facilitation.

3.2 Resolution that all Disciplined Forces should give first priority to National Youth Service (NYS) graduates during recruitment

9. The motion was proposed by Hon. Michael Muchira, M.P and was passed by the House on 18th April, 2018.
10. The motion stated that giving priority to National Youth Service graduates when disciplined forces are carrying out their recruitment will significantly reduce their recruitment cost, training period and subsequently training cost and in addition create jobs for these skilled youth. Subsequently, Parliament wrote to the Ministries of Interior and Coordination of National Government; the Ministry of Defence; Ministry of Tourism & Wildlife; the Ministry of Environment & Forestry and the Ministry of Public Service, Youth & Gender Affairs. The Ministries submitted written submission

on various dates to the Committee.

3.2.1 Implementation status

11. The Ministries, on various dates responded that priority is given to NYS graduates who present themselves for recruitment, however the recruits must be fit and qualified. Factors such as national outlook, equal representation are also considered.

3.2.1 Observation

12. The resolution is being implemented.

3.2.2 Recommendation

13. There is need to ensure that the NYS graduates recruited into the disciplined forces qualify for the recruitment. Further, the recruitment should be free and fair and within the relevant legal framework.

3.3 Resolution on a review of terms and conditions for recruitment, remuneration and deployment of National Police Reservists in arid and semi-arid (ASALs) areas

14. The motion was proposed by the Hon. Alois Lentoimaga, M.P and was passed by the House on 26th September, 2013. The Committee wrote to the Ministry of Interior on 19th March, 2019 and a reminder on the same was sent on 23rd August, 2019. The Committee received submission from the Ministry of Interior and Coordination of National Government on 20th August, 2019. Further, the Chief Administrative Secretary in the Ministry, Hon. Patrick Ntutu appeared before the Committee on Tuesday, 5th November, 2019.

3.3.1 Implementation status

15. The Ministry submitted that Reserve officers are recruited, trained and deployed to compliment both Kenya Police Service and Administration Police Service in their mandate. They are kitted with existing National Police Service items of uniform.
16. Reserve Officers are entitled to free medical care from Government Medical facilities in regard to injuries sustained or illness contracted while on duty. A report of injury or death is duly prepared by his/her commander and forwarded to the Inspector General of Police.
17. A Reserve Police officer is required by law to serve for a non-extendable period of five (5) years. Promotion is done in accordance with National Police Service Act.
18. The Reservists are entitled to a stipend allowance of Kshs. 5,000 per month.
19. The Commission is yet to commence the vetting of the existing police reservists because it is still undertaking the vetting of police officers in the National Police Service.
20. Upon conclusion of vetting of the Reservists, the process of fulfilling the resolution on recruitment, remuneration and deployment shall be determined and provided as per the Act.

3.3.2 Observation

21. The resolution has been partially implemented, however the Committee noted that the implementation process has been very slow.

3.3.3 Recommendations

- (i) The stipend of Kshs. 5,000 is very little and should be enhanced. Further, the police reservists pay should be based on their rank as opposed to a flat rate for all reservists.
- (ii) The Government should expedite the process of disarmament, especially in conflict prone areas such as Suguta Valley.
- (iii) The process of recruitment of the reservists should be fast-tracked given their important role of peace keeping in ASAL areas.

3.4 Resolution that the Government exercises its power to protect Kenya from harassment by external threats and takes adequate measures to ensure that Kenyan territorial integrity is guaranteed and safeguarded including through the establishment of a naval force to man the Lake Victoria Waters

22. The motion was tabled by the Hon. John Mbadi, M.P, Leader of Minority and was passed by the House on 25th July 2018. The Ministry of Defence provided a written submission on 27th August, 2019.

3.4.1 Implementation status

23. The Kenya Defence Force through the Ministry of Defence is currently implementing the Boni Securitization Programme which is reinforced by deployments of Kenya Defence Forces personnel along the Kenya-Somalia Boundary. It is expected that the Boni Securitization Programme once completed will create a physical barrier to infiltration of armed insurgents into the Republic of Kenya while also providing continuous monitoring of border areas. This will facilitate timeous response to potential breach of national security.
24. Currently, the KDF is engaged in Operation Linda Boni multi-agency security initiative with the objective of securing Boni Forest and denying its usage by Al Shabaab. The operation is also intended to protect the citizens within Lamu and Tana River Counties and by extension the Republic of Kenya from attacks by Al Shabaab.
25. The Kenya Navy continues to maintain its presence within Kenya's exclusive economic zone in the Indian Ocean in order to protect Kenya's territorial integrity and sovereignty over the extended exclusive economic zone.
26. The deployment of the Kenya Defence Forces as part of AMISOM in the Republic of Somalia is intended to degrade and neutralize Al Shabaab inside Somalia thus deny it resources, freedom and capacity to conduct attacks within the Republic of Kenya. AMISOM operations thereof contribute to the national security of Republic of Kenya.
27. The Ministry of Defence led the multi-agency initiative to establish the Kenya Coast Guard Service. The Kenya Coast Guard Service Act, No.11 of 2018 had since been enacted by the National Assembly. Under Section 8 as read together with Section 2 of the Act, the Kenya Coast Guard Service is required to provide maritime security and safety in the territorial waters. Territorial waters include inland waters such as Kenya's share of Lake Victoria.
28. The Kenya Coast Guard Service will therefore be responsible to provide security in the territorial waters including Lake Victoria thereby protecting territorial integrity of the Republic of Kenya. It will also protect the citizens of Kenya who are undertaking legitimate activities within its territorial waters.

29. The Kenya Coast Guard Service Council is currently operationalizing Service to enable it deliver its mandate within the territorial waters.

3.4.2 Observations

30. Implementation on-going.

3.4.2 Recommendation

The Government should fast track resolving the matter of the ownership of Migingo island as it is a matter of sovereign interest.

3.5 Resolution on the Fast-tracking of the Implementation of National Employment Authority (NEA) Act

31. The motion was tabled by Hon. Faith Gitau, MP and passed by the House on 18th April, 2018. The Ministry of Labour & Social Protection provided a written submission dated 30th August, 2019.

3.5.1 Implementation status

32. The Ministry of Labour submitted that the National Employment Authority (NEA) was established by NEA Act No. 3 of 2016 which was assented to by H.E the President on 1st April, 2016.

33. The Act transformed the National Employment Bureau, one of Departments of the Ministry of Labour and Social Protection into Authority. The NEA Board was constituted in October 2016.

34. Since its establishment, NEA has been able to achieve major milestone; among these are:

- i) Categorization by the State Co-operation as Advisory Committee.
- ii) Development of the operationalization instruments.
- iii) Development of the Strategic Plan.
- iv) Design and implementation of curriculum on Home management.
- v) Design and implementation of pre-departure training programme for migrant workers.

3.5.2 Observation

35. The Act has been operationalized.

3.6 Resolution on the Establishment and Maintenance of an integrated up-to date data base of persons seeking for employment

36. The motion was tabled by Hon. Faith Gitau, M.P and passed by the House on 18th April, 2018. The Ministry of Labour & Social Protection provided a written submission dated 30th August, 2019.

3.6.1 Implementation status

37. NEA is the Government agency mandated to provide public employment services to jobseekers and employers. Section 20 (1) (2) of the NEA Act requires any person seeking employment to register with NEA. These services are not charged. NEA has developed an online system for registration of jobseekers (NEAIMS). This is a robust system that facilitates registration and placement of jobseekers in employment.

3.6.2 Observation

38. Resolution has been implemented.

3.6.3 Recommendation

There is need to need to create more awareness of the existence of the Authority.

4.0 REPORTS

4.1 The Report on the Ratification of the East African Community Protocol on Cooperation in Meteorological Services

39. The Committee on Regional Integration tabled its report on the consideration of the East African Protocol on Cooperation in Meteorological Services, on 22nd August, 2018.

4.1.1 Committee Recommendations

(1) On the Protocol

40. Having considered the protocol, the Committee recommended that the National Assembly approves the ratification of the Protocol.

(2) On Bills:-

41. The Committee recommended that the following Bills await re-introduction into the Fourth Assembly of the East African Legislative Assembly:

- (1) The EAC Cross Border Trade in Professional Service Bill, 2017.
- (2) The East African Community Prohibition of Female Genital Mutilation Bill, 2016.
- (3) The EAC Retirement Benefits or Specified Heads of Organs Bill, 2016.
- (4) The EAC Youth Council Bill, 2017.

(3) The Committee further recommended that the Ministry of East African Community should:-

42. Submit the versions forwarded for assent of the East African Community Counter-Trafficking in Persons Bill, 2016 and the East African Community Prohibition of Female Genital Mutilation Bill, 2016 before the Committee could give its input in respect of the same.

4.1.2 Implementation status

43. The Ministry of East African Community and Regional Development made a written submission vide a letter dated 3rd August, 2019 on the following as the status of implementation:-

(1) The instrument of ratification of the protocol has since been deposited with the EAC secretariat. Other partner states are at various stages of ratifying the protocol. The protocol will come into force upon ratification by all the partner states.

(2) The first batch of the bills lapsed with the 3rd Assembly. Only the Youth Council Bill has since been reintroduced and partner states public hearings conducted.

(3) The final versions of the East African Community Counter-Trafficking in Persons Bill, 2016 and the East African Community Prohibition of Female Genital Mutilation Bill, 2016 passed by EALA have not yet been shared with the partner states for assent.

4.1.3 Observations

44. The Protocol is yet to come into effect because it has not been ratified by other partner states in the region.

45. Bills are at various stages of consideration.

4.2 Report on the East African Community Protocol on Information and Communication Technology Networks

46. The report was tabled by the Committee on Regional Integration.

4.2.1 Committee Recommendation

47. The Committee recommended the ratification of the EAC protocol on Communication Technology networks since it would facilitate successful operation and cross border interconnection of broadband.

4.2.2 Implementation Status

48. Uganda, Rwanda and Kenya have ratified the protocol while Tanzania is yet to. It can only come to force once all partner states have ratified the protocol.

4.3 Report on the Inspection Visit to the Isebania One Stop Border Post

49. The Committee on Regional Integration undertook a visit to inspect the operations at the Isebania Border Post from 22nd to 25th March, 2018 and upon return prepared a report that was tabled before the House.

50. The Committee received written submissions from the Ministry of East African Community dated 12th August, 2019. The Ministry of Interior and Coordination of National Government appeared before the Committee on 5th November, 2019 to make submissions on the matter.

4.3.1 Committee Recommendations and Implementation status

51. The following is a status of implementation of the House resolutions:-

Recommendation 1: The Partner States should sensitize and encourage their citizens to embrace the EAC spirit of enhancing regional integration and reciprocity treatment in engaging with other Partner States. Kenya Presidential directive on free movement within EAC without requirement of passport is not reciprocated in Tanzania.

Implementation Status

- (i) The Ministry of East African Community and Regional Development integrated sensitization in the 2018/2019 work plan and conducted sensitization in various Counties;
- (ii) Kenya and Tanzania have mutual understanding of allowing border residents movement up to a distance of 15 kilometres on either side of the border without the need for travel documents. This issue was reiterated by Hon. Ministers from MEAC of Kenya and Tanzania in 2012 and 2013 in Namanga and Isebania/Sirare borders respectively; and
- (iii) The Ministry in liaison with other border agencies has continuously conducted sensitization programmes in Isebania and other borders on the need for border cohesion. The last program was carried out in July, 2018. More programmes are planned for this financial year.

Recommendation 2: The Partner States to implement uniform application of procedures at all border posts facilities along the Kenya/Tanzania borders in terms of clearing of goods and people at the entry/exit points. Procedures at Sirare Border Post are not similar with those at Namanga Border Post.

Implementation Status

- i) A coordinated border management policy is being implemented at all border points to enhance uniform approach to border clearance procedures.
- ii) The OSBP construction is near completion, awaiting official launch by the Heads of State in November 2019. This will address asymmetry in clearance of goods and persons and reduce on time taken to undertake border clearance formalities.

Recommendation 3: The Partner States to lift the periodical ban on exports of fish and levies and fees imposed on the exports. There are numerous non-tariff barriers being imposed on exports out of Tanzania to Kenya. There is an export ban on Tilapia and un-processed Nile Perch from Tanzania to Kenya. High fees/levies for export permits of agricultural produce from Tanzania. These permits are only available at Dar-es-Salam as there are no local offices at Sirare to offer these services.

Implementation Status: The Kenya Government is continuing to engage the two partner states through the EAC structures to consider reviewing the associated levies.

Recommendation 4: The Department of Immigration through the Ministry of Foreign Affairs should harmonize the business visa and other related requirements. The business visa rates are higher in Tanzania.

Implementation Status: In April 2019, the Kenya government held bilateral meeting with the United Republic of Tanzania and agreed to initiate further talks with a view to abolishing the levies. A follow up meeting is scheduled in September 2019.

Recommendation 5: The Partner States to heighten security at the border areas and encourage joint border coordinating committee meetings to ensure structured engagement.

Implementation Status: There is an ongoing border engagement between Kenya and the United Republic of Tanzania security agencies. The engagement is under the coordination of the Cross Border Committees constituted at the OSBP. Further, in Migori, the Ministry liaises with the security agencies that hold regular meetings with counter parts from Mara District of Tanzania.

Recommendation 6: The additional borders entry/exit points including Muhuhu Bay, Nyamtiro and Kopanga to be gazetted and a law enacted to create mobile border stations and manned by all border agencies. The distance between Isebania border area of control and the next border entry point of Namanga is 297 km. This leaves a vast stretch along the border that is un-manned and no record of activities happening in the various border crossings. This is both a security and revenue risk to the country.

Implementation Status: The Ministry of Interior and Coordination of National government, in collaboration with other agencies has identified potential entry points in Migori, Kajiado and Narok, pending appropriate approval.

Recommendation 7: That the barrier erected at the entrance of Isebania Border Post facility by the Migori County government be removed.

Implementation Status: The matter has already been brought to the attention of Migori County Government and talks are ongoing involving KRA, MEAC&RD and the Migori leadership.

Recommendation 8: The OSBP authorities should ensure multi-stakeholder collaboration and partnership among border communities and relevant agencies.

Implementation Status: The Ministry has helped the OSBP to establish joint border coordination committee as a platform for coordination. The platform has support of Border management Committees. Various sensitisation forums have been organised by the International Organisation for Migration (IoM) and Border Management Secretariat.

Recommendation 9: The Ministry of EAC should fast track efforts to harmonize policies in order to facilitate cross border trade within the region.

Implementation Status: The Ministry in collaboration with the office of the Attorney General and the Kenya Law Reform Commission (KLRC) is in the process of developing a policy on harmonization of national laws to facilitate effective harmonization and approximation of laws with the Treaty and other external obligations.

Recommendation 10: The Government should enhance the public private dialogue involving government and communities.

Implementation Status: The Government holds quarterly stakeholders forum that brings together the public and private sector agencies to discuss on deepening and integration of markets. It also holds annual national dialogue forums that bring together private sector and civil society.

Recommendation 11: Partner states should strengthen security along the borders and encourage joint border coordinating Committee meetings to ensure structured engagement.

Implementation Status: The Government has adopted a “one government approach” policy geared towards addressing security issues. Further, a multi-agency team in place has boosted security along the border.

4.3. 2 Observations

52. Implementation is on-going.

4.3. 3 Challenges

53. The following are some of the challenges hindering implementation of the above House resolutions:-

- i) The United Republic of Tanzania has been slow in effecting agreed resolutions which has restricted activities such as free trade of Kenyan business entities.
- ii) The barrier erected at the entrance of Isebania OSBP by the County government of Migori is yet to be removed.

4.3.4 Recommendations

All relevant agencies should engage towards removing the barrier erected at the entrance of Isebania OSBP by the County government of Migori.

4.4 Report of the Departmental Committee on Environment and Natural Resources on the Inquiry into Forest Resource Management and Logging Activities in Kenya

54. The Departmental Committee on Environment and Natural Resources carried out an inquiry into Forest Resource Management and Logging Activities in Kenya and tabled its report on 3rd May, 2018.

55. The Ministry of Environment and Forestry made a written submission vide a letter dated 26th August, 2019 on the status of implementation of the report.

4.4.1 Implementation status

56. The following shows the Committee’s recommendations and status of implementation:-

Recommendation 1: That The KFS withdraws from commercial plantations and gradually converts the 134,000 hectares of commercial plantation into natural forest by restoring the cleared land with indigenous trees. Subsequently, the Executive should create new natural forest boundaries with Nyayo Tea Zones in order to create buffer zones.

Implementation Status: The Moratorium on harvesting of Forest Plantations from Public Forest is still in force and Restoration of the un-stocked areas is ongoing.

Recommendation 2: The Ministry of Environment and Forestry should provide incentives, enabling policies and other relevant interventions to private commercial forest plantation in order to increase the forest cover and to promote timber Industry.

Implementation status: The Ministry advertised for the recruitment of Board of Directors to operationalize the Forest Conservation and Management Trust Fund which will support investments in the Forest Sector in the country.

In addition, the Ministry has developed a Strategy for increasing tree growing and therefore contribute towards the attainment of 10% tree cover. This is planned to commence in the F/Y 2019/2020.

Recommendation 3: KEFRI and KFS should be adequately funded and supported to develop high quality indigenous and exotic tree seedlings and nurseries in order to restore government forest land and to promote private commercial plantation.

Implementation status: The Ministry has secured funding from the National Treasury to support the Tree Planting Campaign and embarked on preparations for its implementation through KFS and KEFRI among other Government Agencies.

Recommendation 4: Punitive penalties should be entrenched in law to curb forest destruction and illegal logging. The Forest Conservation and Management Act (No. 34 of 2016) should be amended to provide for punitive penal provisions.

Implementation Status: The Forest Conservation and Management Act (No.34 of 2016) is currently undergoing review to provide for punitive penalties provisions.

Recommendation 5: Kenya should take advantage and claim carbon credits to help in her efforts at forest and general ecosystem conservation. The Ministry of Environment and Forestry should create awareness on carbon credit to enable Kenyans to embrace the programme.

Implementation status: The Ministry of Environment and Forestry has created Secretariat of Climate Change at its Headquarters to be responsible on matters of climate change and spearhead implementation of the public education and awareness programme.

Further, the Ministry has also launched the REDD+ programme with the support of UNDP under the funding of the Forest Carbon Partnership Facility of the World Bank. This programme will develop a strategy and investment plan to access Carbon Credits to support forest conservation.

Recommendation 6: Tree seedlings should be made readily available to citizens especially through empowerment of the youth and women in collaboration with KEFRI and KFS. The youth and women are encouraged to join cooperative movements in order to access cheaper seedlings under economies of scale.

Implementation status: Currently KFS, KEFRI and the Kenya Meteorological Department have prepared information on appropriate tree species matching with agro-ecological sites, and location of nurseries where trees and fruit trees can be accessed.

Further, KFS has an existing programme of Farm and Dryland Forestry which deals with seedlings production and tree planting outside gazetted government forests. Through this, KFS has embarked on intensifying production of tree seedlings all over the country by improving the existing tree nurseries and establishing model tree nurseries in some counties as well as encouraging schools, individuals, churches and women groups to produce the tree seedlings to make them available for planting.

Recommendation 7: The Ministry of Environment and Forestry should spearhead inter-ministerial collaboration with the Ministries of Petroleum and Mining, Water and Sanitation, Tourism and Wildlife in coming up with an all encompassing strategy on conservation and management of forests, water and other natural resources in the country. Their operation should be coordinated from the Office of the President.

Implementation status: The Ministry has prepared a draft strategy for increasing national forest cover and initiated the formation of the Inter-ministerial Committees at National and County Levels to coordinate the efforts. The Strategy is now at the Cabinet for approval.

Recommendation 8: The Ministry of Environment and Forestry should develop capacity of KEFRI and KFS on matching of seedlings to specific regions. The Ministry should also develop standards for the development of nurseries across the country.

Implementation status: Guidelines for species site matching has been developed and incorporated in the Strategy for tree growing to be enhanced by tree planting towards 10% tree cover project.

Recommendation 9: The Ministry of Environment and Forestry is urged to come up with a master plan on environmental conservation spanning at least 25 years in collaboration with all stakeholders.

Implementation status: National Forest Programme 2016-2030 has a strategic framework for forest policy, planning and implementation to coordinate the sector development. The framework will enable the ministry to coordinate forest investments in the country. Currently the process of preparing an implementation action plan which shall involve the participation of all stakeholders including the public, private sector, civil society and communities is underway.

Recommendation 10: The Ministry of Environment and Forestry should focus on plantations in ASAL areas to grow tree cover in the country in order to increase the supply of forest products since there is no competition in those areas in agriculture and human habitation.

Implementation status: The KFS has an existing programme of Farm and Dryland Forestry which deals with promotion of commercial tree growing outside gazetted government forests which include ASAL areas and is being manned by competent forest officers. The Service has posted officers to all the 47 counties to provide forestry advisory services as required.

Recommendation 11: The Ministry of Environment should spearhead regular tree planting exercise in collaboration with all government ministries, departments, agencies, disciplined forces, donors and other stakeholders across the country.

Implementation status: The Ministry and KFS have intensified partnership with government ministries, departments, agencies, disciplined forces, donors and other stakeholders across the country for enhanced tree planting e.g. KTDA, ADC, Rhino ARK among others.

Recommendation 12: The Ministry of Environment and Forestry should carry out an audit of the saw millers and further assessment on how to reduce them in order to ease pressure exerted on the forest.

Implementation status: The Ministry has commenced an audit of the saw millers through a letter Referenced DENR/EMC/40 dated 11/6/2019. KFS has developed an e-registration system that will be used for registration of all the applicants for prequalification of saw millers. Also licensing bidding on e-line is in progress.

Recommendation 13: KFS should put up systems in which the saw millers will be required to have corporate social responsibility programmes in order to give back to community.

Implementation status: KFS is developing a system in which saw millers will be required to have corporate social responsibility in their areas of operation.

Recommendation 14: KFS should fully implement the participatory forest management policy to ensure that Community Forest Associations benefit from the forests since they host and protect them.

Implementation status: Implementation of participatory management between KFS and Community Forest Associations is ongoing. KFS has done contractual agreement on forest operation role assigned to CFAs in 2019-2020 work plan.

Recommendation 15: CFAs should conduct regular elections to curb situations where some CFA officials collude with forest rangers or condone malpractices.

Implementation status: Community forest associations will be registered with the Registrar of Societies and conduct their election in accordance with the provision of that society.

Recommendation 16: KFS should implement the PELIS program in consultation with the CFAs to avoid conflict with the community.

Implementation status: KFS is implementing the PELIS program in consultation with the CFAs. KFS has initiated inter-institutional forums composed of KFS, NACOFA, FSK, COG, and KEFRI to carry out and give way forward with regard to PELIS and how to address the challenges.

Recommendation 17: KFS should streamline the operations of the PELIS system to curb the abuse of forest by rangers. Equally, riparian areas should be out of bounds for the PELIS system.

Implementation status: The inter-institutional forums composed of KFS, NACOFA, FSK, COG, and KEFRI is expected to streamline the PELIS system and operations.

Recommendation 18: Kenya Forest Service should recruit forest rangers to ensure there are adequate numbers to effectively manage and conserve the country's forest resources. The recruitment should prioritize communities living around forest.

Implementation status: The KFS Board has already approved the recruitment of 1,500 Forest Rangers to ensure adequate numbers to effectively manage and conserve the country's forest resources. The recruitment will be done immediately funds will be made available.

Recommendation 19: KFS should transfer guards who have stayed in one area for more than 2 years. This would curb the habit of rangers abandoning their core business of forest conservation and management and resorting to farming under the PELIS system and other malpractices in collusion with cartels in the sector.

Implementation status: KFS identified forest rangers who had stayed in one area for more than 3 years and is in the process of transferring them as per policy.

Recommendation 20: KFS should streamline the allocation of forest materials through a bottom-up approach in order to mitigate the alleged corruption associated with the allocations done at the KFS head office.

Implementation status: Moratorium on removal of forest material is still on, except for sustainable harvesting of mangrove forest in Lamu County. The Service has however prepared the procedures for allocating plantations to licensees which is aimed at streamlining the process.

Recommendation 21: The Ministry of Environment should ensure that KFS is adequately funded to implement its activities.

Implementation status: The Ministry has engaged with the MTEF Sector Working Group to request for enhanced funding to support activities of KEFRI and KFS. Once funds are adequately provided, KFS and KEFRI will develop high quality exotic and indigenous seedlings. The National Tree Planting Campaign is already an approved project for the next four years and provides funding for tree seedlings production. The process has secured an allocation of Kshs. 1 billion for increased tree planting in the country and contributes towards 10% tree cover.

Recommendation 22: The Ethics and Anti- corruption Commission should investigate the immediate former KFS Board Chairperson for possible conflict of interest and abuse of office contrary to Section 101 of the Penal Code and Public Officers Ethics Act, 2003. If found culpable, he should be barred from holding any public office.

Implementation status: The Ministry has invited the Directorate of Criminal Investigations (DCI) and EACC to conduct investigations and prosecute those culpable.

Recommendation 23: The Committee finds the suspension of KFS senior managers to have been done illegally and unprocedurally by Chairman of KFS Board. The Committee therefore recommends that the KFS senior managers be immediately reinstated and any fresh action be procedurally done.

Implementation status: The process of addressing the un-procedural suspension has been addressed by the current Board and the irregularities has now been dealt with.

Recommendation 24: The Cabinet Secretary, Ministry of Environment and Forestry should immediately reconstitute the KFS Board, with utmost attention to integrity and independence of incoming board members, to replace former board whose term expired on 31st March, 2018. This will ensure continuity and action on matters requiring the Boards' attention at KFS.

Implementation status: A new Board was constituted in June, 2018 and is operational.

Recommendation 25: The executive should streamline the functions of KWS, KFS and KWTA in order to mitigate the perceived conflict and enhance their effectiveness.

Implementation status: The Ministry is seized of the concern and is addressing it through consultations with the respective institutions.

4.4.2 Observations

57. Implementation on-going.

58. At the time of writing the report, the moratorium banning Forest Logging had been extended for a year (until November 24, 2020).

4.5 Inquiry into Procurement and Implementation of the Excisable Goods Management (EGMS) System for Printing, Supply and Delivery of Security Revenue Stamps Complete with Track and Trace System, and an Integrated Production Accounting System by the Kenya Revenue Authority

59. The inquiry by the Public Investments Committee (PIC) into the procurement process and Implementation of the Excisable Goods Management System (EGMS) by the Kenya Revenue Authority (KRA) begun towards the end of the Eleventh Parliament. This was occasioned by widespread reports on the alleged irregularities in the procurement process. After an initial inquiry into the matter, the PIC of the Eleventh Parliament resolved to request the Auditor General to conduct a Special Audit on the matter to enable the Committee objectively conclude on the matter. By the time of completion of the Special Audit - 30th June 2017 - the Eleventh Parliament had adjourned *sine die* and therefore could not consider the matter. The matter was therefore taken up by the successor PIC of the Twelfth Parliament.
60. In the said Special Audit Report, the Auditor General observed that there were irregularities in the procurement process of the EGMS:
- a) Alteration of substance of the Expression of Interest (EOI) contrary to section 59(3) of the Public Procurement and Asset Disposal Act 2005;
 - b) Failure to ensure availability of sufficient funds prior to initiating procurement proceedings contrary to section 26(6) of the Public Procurement and Asset Disposal Act 2005; and
 - c) Failure to submit Legal Notice No. 110 of 2013, Gazette Notice No. 12856 of 2013 to the National Assembly for approval violated the provisions of the Statutory Instrument Act, 2013.

PETITION NO. 532 OF 2017

61. On 19th October 2017, Mr. Okiya Omtatah Okoiti filed a Petition No. 532 of 2017 in the High Court against the Commissioner General of KRA, the Cabinet Secretary for the National Treasury and SICPA Solutions SA (“SICPA”), the Swiss firm that had been awarded a tender by KRA to implement EGMS. In his petition, the petitioner faulted the legality of both Legal Notice No. 110 of 18th June 2013 and Gazette Notice No. 12856 of 5th September 2013 for want of meeting Constitutional dictates of Public Participation; and irregular procurement process of the impugned EGMS by the KRA. The issues raised for determination in the said Petition were essentially similar to the terms of reference under which the Auditor General prepared the Special Audit. These were detailed in the judgment rendered on 12th March 2018 in the said petition thus:

- (i) *Whether there was adequate Public Participation in the enactment of the impugned Gazette notices and in the decision to acquire and implement the EGMS.*
- (ii) *Whether KRA violated the law governing direct procurement in awarding the tender to SICPA.*

- (iii) *Whether the impugned legal instruments were void on grounds that they were enacted in a manner that violated the Constitution and/or the Statutory Instruments Act.*
- (iv) *Whether the imposition of the tax created an unfair tax burden on the public and the manufacturers and or whether it offended Article 43 (1) (a),(c), & (d) rights.*
- (v) *Whether the EGMS system duplicated functions of KEBS and the Anti-Counterfeit Agency.*

62. The High Court rendered its judgment and determined, inter alia, that KRA violated the provisions of the Statutory Instruments Act 2013 in procuring the EGMS by not undertaking a meaningful public participation programme; direct procurement of EGMS tender was irregular and offended the provisions of Public Procurement and Disposal Act 2005 and that imposition of excise duty of (Kshs 1.50) was bound to have an impact on the rights to clean water in adequate quantities as provided under Article 43 (1)(d) of the Constitution.

63. From the above findings, the Court in line with the provisions of Article 23(3) of the Constitution declared that:

- (a) *the Repealed Legal Notice 110 of 18th June 2013 and Gazette Notice No. 12856 of 5th September 2013 were enacted in a manner inconsistent with the provisions of the Constitution and the Statutory Instruments Act, hence they were null and void;*
- (b) *the Legal Notice Number 53 of 30th March 2017 was enacted in a manner inconsistent with the Constitution and the Statutory Instruments Act in that there was no adequate public participation prior to its enactment, hence the same is null and void;*
- (c) *Legal Notice Number 53 of 30th March 2017 on the introduction of an excise duty on bottled Water, Juices, Soda and other Non-Alcoholic Beverages and Cosmetics be quashed;*
- (d) *KRA crafts and implement a meaningful programme of public participation and stakeholder engagement in the process of the tendering Tender Number KRA/HQS/DP-423/2014-2015 and or to ensure that the direct procurement meets the strict statutory requirements of any of the requirements of Section 103 (2) (a) to (e); and*
- (e) *award of Tender Number KRA/HQS/DP-423/2014-2015 for the EGMS awarded by the KRA to SICPA.*

64. KRA and SICPA appealed this ruling at the Court of Appeal, faulting the Court for misapplying itself to the applicable law for the award of the tender and wrongly finding that the Legal Notices relating to EGMS amounted to the imposition of new taxes. KRA and SICPA applied for a Stay of the Orders granted by the High Court arguing that their appeal had a high chance of success and that implementation of the Order by the High Court would lead to a colossal loss to the government both in terms of the investment into EGMS and the loss of Excise.

65. On 11th May 2018, the Court of Appeal granted a stay of the Orders of the High Court pending the hearing and determination of the Appeal. The Appeal is still pending. Mr. Omtatah thereafter moved to the Supreme Court to Appeal against the grant of the stay orders by the Court of Appeal. The Application is also pending before the Supreme Court.

4.5.1 Recommendations by the Public Investments Committee and Implementation status

66. The following are the recommendations the Committee made: -

- (1) Whereas Kenya Association of Manufactures and Kenya Revenue Authority confirmed that there was public participation in the roll-out of the Excisable Goods Management System, the Kenya Revenue Authority, the Kenya Bureau of Standards and the Anti-Counter Agency should conduct extensive and all-inclusive public participation prior to implementing systems such as EGMS.
- (2) Parliament should legislate on a law on public participation as provided for in the Constitution.
- (3) The Kenya Revenue Authority should share their current Excisable Goods Management Systems with the Kenya Bureau of Standards and the Anti-Counterfeit Agency at no extra cost to the manufacturers.
- (4) Upon expiry of the existing contract, the Kenya Revenue Authority, Kenya Bureau of Standards and the Anti-Counterfeit Agency should develop a multifunctional stamp for use by the three government's entities, or any other that will need the system, which will ensure efficient monitoring and reduce wastage of public funds utilized in developing different stamps.

4.5.2 Implementation status

67. Kenya Revenue Authority vide a letter dated 9th August, 2019, submitted the following as the status of implementation of the House resolutions:-

- (1) The Authority has incorporated public participation in all its programmes. The authority attached evidence of its engagement with the public in form of advertisement in newspapers. The Public Participation Bill, 2018 is now being considered before Senate.
- (2) The Authority has analyzed the legal and administrative requirements for implementation of these recommendations and has found that it is necessary to amend the following legislation:
 - i) Excise Duty Act 2015, and related subsidiary legislation
 - ii) The Standards Act Cap 496, Laws of Kenya
 - iii) The Anti-Counterfeit Act, 2008
- (3) In addition, the three institutions have to develop a joint administrative arrangement to facilitate compliance with regulatory requirements. Upon the

development of this joint administrative arrangement, the system can be adopted by the other regulatory agencies and thus have a single stamp implemented.

- (4) The Authority will engage other agencies through multiagency framework in order to progress this matter.

4.5.3 Observations

68. Implementation has been done.

4.6 The Report on Sessional Paper No. 1 of 2017 on the National Land Use Policy from the Ministry of Lands and Physical Planning

4.6.1 Implementation status

69. The Ministry of Lands and Physical Planning made a written submission on the implementation status of the policy vide a letter dated 7th August, 2019.
70. The Ministry submitted that the following milestones have been covered as part of the implementation of the Policy: -
- i. The National Technical Committee has been established and operationalized;
 - ii. The Ministry had scheduled to launch the National Council for Land Use Policy in August 2019;
 - iii. The Ministry has reviewed the various Policies and Statutes and identified areas of review to bring them to accord with the Policy;
 - iv. The Ministry has lined up regional sensitization workshops to engage technical officers in the Counties in preparation for the launch of the County Technical Implementation Committees; and
 - v. Implementation of the Policy is a key performance target for the Ministry in the current financial year.

4.6.2 Observation

71. The National Council for Land Use Policy is yet to be launched.

4.6.3 Recommendation

72. The Ministry should fast track the launch of the National Council for Land Use Policy.

5.0 PETITIONS

5.1 Report on Petition on the challenges in the implementation of the Social Assistance Programme in Samburu North Constituency

73. The Petition was tabled by the Hon. Alois Lentoimaga, M.P, the Member for Samburu North on behalf of residents of Samburu North. The Petition was referred to the Departmental Committee on Labour and Social Welfare which tabled the report on 24th April, 2018.
74. The Petitioners prayed that the National Assembly through the Departmental Committee of Labour and Social Welfare;
- a) Recommends that the Ministry of Labour and Social Protection put in place measures to address the challenges experienced in disbursement of the social security assistance funds;
 - b) Recommend an increment in social assistance disbursed to the vulnerable members of the society;
 - c) Recommend for continuous engagement between county/sub-county levels and locational levels to identify changes required; and
 - d) Makes any other order or direction that it deems fit in the circumstances of the matter.
75. The Committee on Implementation received written submission from the Ministry of Labour and Social Protection on 30th August, 2019.

5.1.1 Committee's recommendations and status of implementation

76. The following is a status of implementation of the House resolutions:-

Recommendation 1: The Ministry of Labour and Social Protection should review the Social Assistance Act, 2013 and put in place enabling regulations that guide the management of the Social Protection fund as envisaged in the Kenya National Social Protection Policy, 2011.

Implementation status: The Ministry reviewed the Social Assistance Act, 2013 and proposed to establish a Social Assistance Fund. Based on guidance from KLRC, the Ministry has written to the National Treasury requesting for establishment of Social Assistance Fund (SAF) in line with Public Finance Management Act.

Recommendation 2: That contracted Payment Service Providers (Banks and their agents) are obligated to implement the 6 km radius policy on pay point location to prevent beneficiaries from walking/traveling long distances hence losing on earnings through theft and unnecessary costs.

Implementation status: The current contract with the four banks obligates the banks to implement 6 km radius in zones A and B and 20km for zone C for at least 80% of the beneficiaries. However, this obligation is to be met progressively through increasing Bank Branches and Agents across the country to shorten the distances travelled by beneficiaries to access the money.

Recommendation 3: The contracted Payment Service Providers should develop an alternative mechanism of identification of beneficiaries to serve as a backup to the biometric

process; this will enhance the process of identification and provide real-time monitoring of beneficiaries and the caregivers records.

Implementation status: Whereas biometric finger prints remains the preferred means of authentication of beneficiaries during payment as per the contract, the programme beneficiaries have an alternative of PIN whenever their biometric fail due to old age or defaced finger prints. However, PIN is issued to beneficiaries with approval of sub county officers.

Nevertheless, under the Account based payment system, beneficiaries can access money within 6 months unlike previous card-based payment system where the payment window was 21 days.

Recommendation 4: That to enhance livelihoods and better living standards of the eligible beneficiaries, the committee recommends that going forward there is need for Ministry of Labour and Social Protection to scale up the program through additional funding without increasing the capitation to individual beneficiaries.

Implementation status: The Ministry's intention is to enrol all eligible beneficiaries into the programmes so as to enhance their livelihoods. However, this intention is thwarted by inadequate funding. For instance, for the last two financial years the programme has been underfunded by over Kshs. 12 billion for the beneficiaries already in the programme.

Recommendation 5: The Ministry of Labour and Social Protection should relook into the criteria of recruitment of beneficiaries for proper identification of deserving beneficiaries.

Implementation status: The Ministry has set out clear eligibility criteria for each of programme component. These criteria are set up in the programme operations manual.

Recommendation 6: The Ministry of Labour and Social Protection should initiate Monitoring and Evaluation and impact assessment process for proper management of the funds.

Implementation status: The Ministry has been conducting regular monitoring of the programme implementation processes by headquarter teams. In addition, several operational monitoring has been carried out by Price Water House Coopers to assess the programme compliance with its objectives.

To enhance this, a monitoring and evaluation strategy is being developed to guide future exercises. However, the Ministry had contracted an external firm to carry out Impact evaluation for Orphans and Vulnerable Children component programme and a final report is expected by end of October 2019.

Recommendation 7: The Ministry of Labour and Social Protection should ensure the immediate constitution and operationalization of grass root committees such as Constituency Social Assistance Committee and the Beneficiary Welfare Committee.

Implementation status: The Ministry has sent circulars to all counties to reconstitute grass root committees, constituency social Assistance Committees and Beneficiaries Welfare committees in areas where their term has expired and form them in areas where they never existed to assist in programme implementation. Further, the Ministry has developed a Beneficiaries Outreach Strategy which contains beneficiaries' centric messages meant to capacity building of beneficiaries to know their rights and responsibilities.

Recommendation 8: The Ministry of Labour and Social Protection should improve the capacity of its field offices both at the County and Sub County levels in order to enhance the effectiveness of service delivery to the beneficiaries.

Implementation status: For the last one year, the Ministry has been holding periodic review meetings with County officers from the Department of Social Development, Department of Children's Services and National Council for Persons with Disabilities (NCPWD) to share key programme information in order to create standardization and create more synergy in programme implementation. In addition, the Ministry has procured a number of vehicles and motorcycles to enhance officer's mobility during field work. Besides, more equipment such as computers have been procured and issued to officers to ease communication with headquarter.

Recommendation 9: The Ministry of Labour and Social Protection should delegate to the County offices minor amendments to beneficiary details that often cause delays in accessing the funds.

Implementation status: The Ministry within this financial year plans to train officers on Case management modules after which some modules of programme Management Information System will be decentralized to county and sub county offices to allow officers make necessary updates to beneficiary's data online. This is anticipated to shorten time taken for case of management.

Recommendation 10: The Ministry of Labour and Social Protection should extend the payment window beyond the two weeks period as is currently practiced to at least one (1) month to cater for arid and semi-arid areas with vast terrains.

Implementation status: Currently, all cash transfer programme beneficiaries are being paid through the new payment model, which is account based. Under this payment model, beneficiaries are given up to six months to access their money before account become dormant. So, they have longer period to collect their money unlike the previous system.

5.1.2 Observation

77. Implementation on-going. However concern has been raised that pay points are far in between especially in far flung areas.

5.1.3 Recommendation

78. The Ministry of Labour and Social Protection should assess the number of pay points to ensure they are easily accessible and where need be consider adding more.

5.2 The Report on a Petition on behalf of residents of Mowlem Ward, Embakasi on irregular allocation of Land LR. 11379/3

79. The Petition was tabled by Hon. George Theuri, M.P, on 13th December, 2017 on behalf of residents of Mowlem Ward, Embakasi West Constituency.

80. The Petitioners alleged that they were allocated houses by the then City Council of Nairobi under the Umoja Estate Tenant Purchaser Scheme in 1976. The agreement for the purchase of the said houses stipulated that after full payment of the purchase fees each owner was to be issued with a title deed. However, the beneficiaries of the scheme were not issued with the title deeds even after settling the purchase fees.

81. The Petition was forwarded to the Departmental Committee on Lands for consideration.

5.2.1 Recommendations of the Departmental Committee on Lands

82. In the Report of Parliament dated April 30, 2019, the Departmental Committee on Lands made amongst others the following recommendations: -
- i) The National Government in collaboration with the Nairobi City County Government caters for all the costs of processing fresh applications to be made by allottees for the purpose of processing lease documents in order to facilitate the completion of issuance of title documents within six months of receipt of applications from the allottees.
 - ii) The Ministry of Lands and Physical Planning conclude the survey of the remaining 10% of un-surveyed land in Embakasi West Constituency within ninety days of tabling of the report to facilitate the processing of lease documents and subsequent issuance of title deed.

5.2.2 Implementation Status

83. The Committee on Implementation received a written submission from the Ministry of Lands on 7th August, 2019 indicating that:-
- i) The Ministry of Lands and Physical Planning waived payment of all statutory fees for processing and issuance of Title Deeds to the beneficiaries under the National Titling Programme.
 - ii) The survey has been done by the Nairobi City County Government and is in the process of quality control.
 - iii) The Ministry of Lands and Physical Planning will proceed to issue titles once Nairobi City County Government forwards the leases to the Ministry.

5.2.3 Observation

84. Implementation is on-going albeit at a very slow pace.

5.2.4 Challenge

85. The Nairobi City County Government is yet to forward leases to the Ministry of Land and Physical Planning for processing of titles.

5.2.5 Recommendation

86. The Nairobi City County Government should expedite the process of forwarding leases to the Ministry of Land for processing of titles.

5.3 The Report on a Petition on Rectification of Records in the Register for Land Parcel Number Igembe/Ndoleli/Athina/Ruujine/2554

87. The Petition was tabled by Hon. Kubai Iringo, M.P on behalf of Mr. John Bernard Nthuku and his family.
88. The Petitioner alleged that Mr. John Bernard Nthuku of land registration No. 2554/Igembe/Ndoleli/Athiru Ruujine has been in occupation of the land. That the ground measurements of the parcel of land are larger than the scaled area indicated in the Registry Index Map of the Meru North Land Registry.

5.3.1 Recommendation by the Departmental Committee on Lands

89. The Ministry of Lands and Physical Planning conducts a new survey and rectifies the record in the land registry for parcel Igembe/Ndoleli/Athiru Ruujine 2554 within sixty (60) days from the date of tabling the report.

5.3.2 Implementation Status

90. The land parcel has been re-surveyed and the register rectified as directed.

5.3.3 Observations

91. The Matter has been concluded.

5.4 The Report of the Departmental Committee on Lands on the Petition on the resettlement of Ntirimiti Subuiga Squatters on land parcels Nos. 2806/3 (Subuiga Bosnia) and 2822/3 (Ntirimiti Settlement Scheme)

5.4.1 Implementation Status

98. The Ministry submitted that Ntirimiti Subuiga Squatters, from Buuri Constituency, Meru County, petitioned the National Assembly to be settled on parts of LR. No. 2806/3 and LR. No. 2822/3 in 2015. They claimed to have lived on parts of the two parcels since 1991 after allocation by the Government.
99. LR No. 2806/3 was gazetted as a game corridor as Per Gazette Notice No. 3452 of July 30, 1991. It's a wildlife migratory route for elephants to Samburu National Reserve. Due to human wildlife conflict, the squatters were evicted from the area in 1995.
100. On the recommendation that the National Land Commission should look into the status of LR 9762/2 with a view of settling the squatters on the land, it was established that LR 9762/2 is registered to Mariana Limited.
101. A team from the Ministry visited the land on August 2, 2018 and established that LR No. 9762/2 measuring approximately 6192 acres is privately owned by Mariana Limited. Mariana limited has offices and a factory within the farm. The land in question is private land and is therefore not available for settlement.

5.4.2 Observation

102. The matter has been concluded.

5.5 Report on the Public Petition regarding implementation of delocalization policy by the Teachers' Service Commission

103. The public petition regarding implementation of delocalization policy by the Teachers' Service Commission was presented to the National Assembly by Hon. Patrick Mariru, MP on 24th February, 2019 on behalf of teachers in Laikipia West Constituency.
104. The Teachers Service Commission provided a written submission dated 12th September, 2019 to the Committee.

5.5.1 Recommendations of the Departmental Committee on Education and Research

105. The Departmental Committee on Education and Research made the following recommendations:-

Recommendation 1: While it is the mandate of the Teachers Service Commission to hire, deploy and transfer teachers, the following factors have to be considered before the exercise is undertaken; teachers approaching retirement, teachers with alternative abilities and family considerations.

Recommendation 2: Government should ensure that security and housing for teachers are guaranteed in cases of transfers to regions away from their homes to enable them perform their duties effectively.

Recommendation 3: The Teachers Service Commission should evaluate individual transfer cases before they are transferred and vet individual teachers' cases to confirming their employment status and consider all relevant factor before effecting the transfers as opposed en-masses transfers.

Recommendation 4: Transfer of teachers should be undertaken through a consultative approach by involving the relevant stakeholders.

5.5.2 Implementation Status

106. The following is a status of implementation of the House resolutions:-

- (i) The Commission has made a policy decision and directed that teachers who are aged 55 years and above are exempted from transfer outside their home Counties. Further, teachers living with exceptional disabilities have been exempted from transfers out of their home County to allow them work efficiently. Similarly, a teacher taking care of their spouse or child with exceptional disability or medical condition cases is considered on merits of each case. However, such hardship must be proven so that the waiver is not abused.
- (ii) To ensure safety and security of teachers, the Commission has from broad national policy perspective, collaborated with state and non-state actors with a view to ensuring that teachers work in a safe environment. Further, the Commission has from time and again recommended to both the national and county governments on measures for protection of teachers and learning institutions.
- (iii) In effecting its transfer policy as provided in the Code of Regulation for teachers, the Commission requires every teacher asking for transfer to fill a Transfer Form. The teachers are required to attach documentary evidence in cases of health, disability or exceptional hardship which must tally with the information on record. The requests are considered on individual basis premised on the merits of each case.
- (iv) Accordingly, the transfer of teachers is carried out as a routine duty of the Commission granted by Constitution and the law. The Commission is required to ensure all public learning institutions are well staffed with qualified teachers thus the transfer and that teachers are distributed in a manner to ensure equity and fairness across the Country. The Commission from time to time considers, where appropriate, recommendation made by different stakeholders including Boards of Management, Sponsors, Parents Teachers Associations and community interests.

5.5.3 Observations

107. The resolutions are being implemented.

5.5.4 Recommendations

108. The Committee noted that some teachers over 55 years of age had been transferred far from their home counties before the policy came into effect. The Teachers Service Commission should therefore reverse such transfers to ensure that the Teachers over 55 years of age are transferred back to their home counties.

109. The Commission should also consider teachers sent to hostile areas for their security.

5.6 Petition on the proposed demolitions of buildings for purposes of expansion of Likoni Lunga Lunga Road

110. The Hon. Khatib Mwashetani, the Member for Lunga Lunga Constituency tabled the petition on behalf of Residents of Pongwe, Pate Island, Lunga Lunga Constituency regarding Impending eviction of residents of Pongwe, Pate Island from LR No. 1083, Shimoni, Kwale.

111. The Petitioners prayed that the National Assembly, through the Departmental Committee on Transport, Public Works and Housing:-

- (i) Intervenes to have the expansion of the Likoni-Lungalunga road be effected without demolition of the buildings in Lunga Lunga Constituency;
- (ii) Recommends and ensure that the Kenya National Highways Authority halts the proposed demolitions.

112. The petition was forwarded to the Departmental Committee on Transport, Public Works and Housing for consideration. The Committee tabled its report on 15th October, 2015.

5.6.1 Committee Recommendations

113. The Committee made the following recommendations:-

The Ministry of Transport, Infrastructure and Urban Development should:

- (1) Follow due process in dealing with land acquisition and project-affected persons (PAPs) before the commencement of the expansion works.
- (2) Not carry out demolition without fair compensation to the project affected persons (PAPs).
- (3) The Kenya National Highways Authority should expeditiously engage the stakeholders and identified PAPs in consultations prior to implementation of the project.

5.6.2 Status of Implementation

114. The Ministry of Transport, Public Works and Housing submitted a written submission vide a letter dated 16th August, 2018.
115. The demolition targeted structures that were encroaching on the road reserve. This exercise was conducted and the road reserve cleared of any encroachment. This is an ongoing exercise being conducted countrywide.

5.6.3 Observation

116. The matter has been concluded.

5.7 Petition on the construction of speed bumps and the establishment of rumble strips between Madeya and Rangala Trading centers along Kisumu-Busia Highway

117. The petition was tabled by the Hon. James Opiyo Wandayi, MP, Ugunja Constituency, on behalf of residents of Ugunja Constituency regarding the Construction of speed bumps and establishment of rumble strips between Madeya and Rangala Trading centres along Kisumu-Busia Highway.

118. The Petition was forwarded to the Departmental Committee on Transport, Public Works and Housing which tabled its report on 14th November, 2013.

5.7.1 Implementation Status

119. The Ministry of Transport submitted a written submission vide a letter dated 16th August, 2018.

120. Humps and Signage installed at all locations along the Kisumu-Busia Highway where pedestrian safety considerations were observed. However, at Madeya & Rangala pedestrian conflicts were not critical since the temporary encroachments within road reserve were removed after due consultation with the residents and the Area Chief.

5.7.2 Observations

121. The prayers of the Petitioners have been implemented.

5.8 Petition for the erection of bumps and construction of a footbridge at Kangoro Bus Stop along Embu-Meru Highway

122. The Petition was tabled by Hon. Onesmus Muthomi Njuki, MP, the then Member for Chuka Igambang'ombe Constituency, on behalf of residents of Chuka Igambang'ombe Constituency. The Petition was forwarded to the Departmental Committee on Transport, Public Works and Housing which tabled its report on 18th June, 2015.

5.8.1 Status of Implementation

123. The Ministry of Transport submitted a written submission vide a letter dated 16th August, 2018.

124. Standard Humps and Signs have been installed at the location. The footbridge design/construction has not been considered since the road as a whole is currently characterized with many speed bumps especially at the trading centres. The suggested footbridge is a major investment that requires studies and designs.

125. There are some Engineering aspects that have been employed as part of the 3E's (Engineering, Education and Enforcement) approach to road safety on this road. KeNHA in collaboration with NTSA will come up with strategies to educate the public and enforce observance of the prescribed speed limits along the road.

126. The Ministry further pointed out that the bus stop in question is illegal; nevertheless, the safety of the school kids is of paramount importance to the Ministry. However, the Ministry through KeNHA will make every effort to seek a solution that will be beneficial to all.

5.8.9 Observation

Humps and speed signs have been installed as per the prayers of the petitioners.

5.8.9 Recommendation

The Ministry should fast track the construction of a footbridge in the area.

5.9 Petition on the upgrading of Old Mombasa Road/ Maasai Road A, B & C in Nairobi County to bitumen standards to ease movement of people, goods and services

127. The Petition was tabled on Tuesday, 2nd December, 2014 by the Hon. Sunjeev Birdi, a then nominated Member of Parliament on behalf of Business owners and residents operating and living around Old Mombasa Road/Maasai Road A, B & C in Nairobi County.

128. The Petition was forwarded to the Departmental Committee on Transport, Public Works and Housing which tabled its report on 18th March, 2015.

5.9.1 Status of Implementation

129. The Ministry of Transport submitted a written submission vide a letter dated 16th August, 2018.

130. The contractor, China Wu Yi Co. Ltd to rehabilitate Old Mombasa/Maasai road has been procured under Eastlands Regeneration Programme Lot 3 and is mobilizing to site. The contract period is 12 months commencing on 24th August, 2018 and was expected to be completed by August, 2019.

131. Road A – done to completion, Road B- Not constructed but motorable; Road C – Substantially completed.

5.9.2 Recommendation

132. The Committee has requested the Ministry to provide the status of the road. The status will be provided in the Committee's subsequent report.

5.10 Petition on the erection of speed bumps along Kakamega-Mumias Road

133. The Petition was tabled on Thursday, 21st April, 2016 by the Hon. Raphael M. Otaalo, the then Member for Lurambi Constituency on behalf of residents of Lurambi Constituency.

134. The Petition was forwarded to the Departmental Committee on Transport, Public Works and Housing which tabled its report on 3rd August, 2016.

5.10.1 Committee Recommendations

135. The Committee made the following recommendations:-

- (1) The Kenya National Highways Authority (KeNHA) fast tracks the procurement of the erection of standard speed bumps at Lutonyi, Mwitoti and Shibuli.
- (2) Rogue road constructors who have been granted tenders to construct, repair and/or rehabilitate roads in the country but fail to meet the required specifications and/or standard be blacklisted by the Ministry of Transport, Infrastructure, Housing and Urban Development.
- (3) Ministry of Transport, Infrastructure, Housing and Urban Development, through the Kenya National Highways Authority (KeNHA) and the National Transport and Safety Authority increases their surveillance across the country's road network to tame the rogue road users.

5.9102 Status of Implementation

136. The Ministry of Transport, Public Works and Housing submitted a written submission vide a letter dated 16th August, 2018.

137. The Ministry submitted that Humps and warning signs have been erected at locations where need for them was identified with input of residents.

5.10.3 Status of Implementation

The prayers of the petitioners have been implemented.

5.11 Petition on decongestion of Bomas –Ongata Rongai – Kiserian Road

138. The Petition was tabled on Thursday, 9th June, 2016 by the Hon. Joseph Manje, MP (Kajiado North Constituency) on behalf of residents of Kajiado North Constituency regarding Decongestion of Bomas-Ongata Rongai-Kiserian Road.

139. The Petitioners prayed that the National Assembly, through the Departmental Committee on transport, Public Works and Housing:-

- (1) Intervenes to have the Bomas-Ongata Rongai-Kiserian Road into dual carriage road with service lanes to decongest it.
- (2) Makes any other recommendations that may be deemed fit in addressing the plight of the said residents.

5.11.1 Committee Recommendations

140. The Petition was forwarded to the Departmental Committee on Transport, Public Works and Housing for consideration. The Committee tabled its report on 17th August, 2016 with the following recommendations:-

- (1) Ministry of Transport, Infrastructure, Housing and Urban Development through the Kenya National Highways Authority (KeNHA) should put the Bomas – Ongata Rongai – Kiserian under the Annuity Roads Programme.
- (2) The Bomas–Ongata Rongai–Kiserian Road should be designed as a dual carriage road with service lanes to decongest it.
- (3) Ministry of Transport, Infrastructure, Housing and Urban Development should also put in place temporary measures to ensure other alternative roads near the area are passable so as to decongest the Bomas-Ongata Rongai-Kiserian Road.

5.11.2 Status of Implementation

141. The Ministry of Transport, Public Works and Housing submitted a written submission vide a letter dated 16th August, 2018.
142. The Ministry submitted that KeNHA is currently implementing a Performance Based Contracting maintenance Project on the road while awaiting funding for its expansion under the Annuity Programme.

5.11.3 Observation

143. Implementation is on-going.

5.11.4 Recommendation

144. The Government should hasten release of funds for the expansion of the road.

5.12 Petition on the delayed carpeting of a section of the Meru-Maua Road from Farm to Murera gate, Meru National Park

145. The Petition was tabled on Wednesday, 23rd March, 2016 by Hon. Cyprian Kubai Iringo, M.P. on behalf of residents of Igembe Central Constituency regarding delayed re-carpeting of a section of the Meru-Maua Road from farm to Murera Gate, Meru National Park.
146. The Petition was forwarded to the Departmental Committee on Transport, Public Works and Housing which tabled its report on 17th August, 2016.
147. The Petitioners prayed that the National Assembly through the Departmental Committee on Transport, Public Works and Housing:-
 - (1) Investigates why the Ministry of Transport, Infrastructure, Housing and Urban Development has not disbursed the full amount required to re-carpet the 28-kilometre section of the road from Farm (along Meru- Maua road) to Murera Gate (Meru National Park);
 - (2) Ensures that the Government has set aside the remaining Kshs. 70,000,000 for tarmacking the road in the 2016/2017 Financial Year;
 - (3) Establish when construction work shall commence and the timeline within which construction is set to be concluded; and
 - (4) Makes any other order and/or direction that it seems fit in mitigating the plight of the Petitioners.

5.12.1 Committee recommendations

148. The Committee made the following recommendations:-

- (1) An allocation from the Emergency Fund under the Cabinet Secretary in the Ministry of Transport, Infrastructure, Housing and Urban Development be disbursed to enable the Kenya Rural Roads Authority to enable the Authority undertake construction works on the 28-kilometre section of the road from Farm (along Meru- Maua road) to Murera Gate (Meru National Park);
- (2) The Igembe Central Constituency Roads Committee should allocate funds to cater for periodic maintenance of the road from Farm (along Meru-Maua road) to Murera Gate (Meru National Park).

5.12.2 Status of Implementation

149. The Ministry of Transport, Public Works and Housing submitted a written submission vide a letter dated 16th August, 2018.

150. The rehabilitation on this road is currently ongoing and is venture between the Ministry of Tourism (employer) and General Manger, Design & Construction (KeRRA) offering technical services.

151. The road was repackaged to fit the contract sum and was varied from 26km to 11.5 km and the remaining 14 km to be repackaged as a new contract. The Principal Secretary, Ministry of Tourism was informed about this development and has concurred.

5.12.2 Observation

152. Implementation is on-going.

5.13 Petition on delayed reconstruction of Kabani-Kangundo Bridge along Thwake River

153. The Petition was tabled on Wednesday, 22nd June 2016 by the Hon. Robert Mbui, the Member for Kathiani Constituency on behalf of residents of Kathiani Constituency on delayed re-construction of Kathiani – Kangundo bridge along Thwake River.

154. The Petitioners prayed that the National Assembly through the Departmental Committee on Transport, Public Works and Housing:-

- (1) Investigates reasons for the inordinate delay by the Kenya Rural Roads Authority (KeRRA) to rebuild the Kathiani –Kangundo bridge, yet emergency funds had been set aside to mitigate El-Nino-related disasters such as destruction of roads and bridges; and
- (2) Recommends immediate re-construction of the bridge with a view of restoring economic activities and interactions between the two regions back to normalcy.

5.13.1 Committee Recommendations

155. The Petition was forwarded to the Departmental Committee on Transport, Public Works and Housing which tabled its report on 3rd April, 2017.

156. The Committee recommended that the Bailey bridge be installed as a temporary solution pending investigations that are key to inform the Kenya Rural Roads Authority (KeRRA) on the type of bridge to be constructed in future.

5.13.2 Status of Implementation

157. The Ministry of Transport, Public Works and Housing submitted a written submission vide a letter dated 16th August, 2018.

158. The Ministry submitted that the Kenya Rural Roads Authority (KeRRA) has installed a modular bridge (Bailey Bridge) across the Muumbuni-Kathiani –Kangundo as a short term measure to ensure motorability and accessibility. The bridge was further extended by 6.25m in June, 2017 due to flooding and wash out.

5.14 Petition on the dilapidated state of the sections of Karatina-Jambo Road Loop Through Ihwagi, Giakaibei and Kagochi to Karatina University and Gitunduti, Gaikuyu to Karatina Hospital

159. The Petition was tabled on Thursday, May 05, 2016 by Hon. Peter Weru, the then Member for Mathira Constituency on behalf of residents of Magutu and Iria-ini, Mathira Constituency.

160. The Petition was forwarded to the Departmental Committee on Transport, Public Works and Housing which tabled its report on 17th August, 2016.

161. The Petitioners prayed that the National Assembly through the Departmental Committee on Transport, Public Works and Housing:-

- (1) Investigates the circumstances behind the delay in disbursement of the funds meant for re-carpeting the dilapidated tarmacked section and upgrading the earthen section to bitumen standard;
- (2) Intervenes with a view to ensure that dilapidated tarmacked section of the said road are speedily re-carpeted to avert any further loss and property through accidents; and
- (3) Makes any other order and/or direction that it deems fit in mitigating the plight of the petitioners.

5.14.1 Committee Recommendations

162. The Committee made the following recommendations:-

That the Ministry of Transport, Housing and Urban Development should:

- (1) Fast track the procurement process for the rehabilitation of the Karatina-Jambo – Kagochi section of the road under the Roads 10,000 km Low Volume Seal (LVS) programme.
- (2) Fast track the procurement process for the upgrading of the section of the road between Kagochi-Karatina University–Gitunduti under the Development Partner AFD funded R 2000 Low Volume Seal (LVS) program and road works to commence within 2016/2017 Financial Year.

- (3) Fast track the procurement process for the upgrade to bitumen standards of the Gitunduti – Gaikuyu–Karatina Hospital section of the road R 10,000 Km program.

5.14.2 Status of Implementation

163. The Ministry of Transport, Public Works and Housing submitted a written submission vide a letter dated 16th August, 2018.

164. The Ministry submitted that the contract for the construction of Jambo (Jn A2) Kagochi-Hombe –Kwa Wambuo –State Lodge-Giagatika and Muranga-Kiriaiani road was terminated following a ruling by the High Court of Kenya on the same (Miscellaneous Civil application No. 100 of 31st July, 2017. Consequently, the road construction shall be considered in future subject to availability of funds.

5.14.3 Recommendation

165. The Government should release funds to enable construction of the road.

5.15 Petition on tarmacking the Gatiguu/McVast-Matangani-Ithanga-Kirathani-Mayuuya/ Ng’ang’a- Makuyu Road

166. The Petition was tabled on Tuesday, 26th November, 2013 by the Hon. Humphrey Kimani Njuguna, the then Member for Gatanga Constituency, on behalf of residents of Gatanga Constituency regarding the Tarmacking of the Gatiiguru-McVast-Matangani-Ithanga, Kirathani, Miyuu ya Ng’ang’a-Mukuyu Road.

167. The Petition was forwarded to the Departmental Committee on Transport, Public Works and Housing which tabled its report on 18th March, 2015.

5.15.1 Status of Implementation

168. The Ministry of Transport submitted a written submission vide a letter dated 16th August, 2018.

169. The contractor for this road, M/s Stecol Corporation is on site and will carry out the works for a period of thirty six (36) months at a contract sum of Kshs. 3.2 Billion. The expected date of completion is 19th September, 2020.

5.15.2 Observation

170. Implementation is on-going

5.15.3 Recommendation

171. The road project should be supervised to ensure it is completed within schedule.

5.16 Report on the Petition regarding lifting of the ban on logging and harvesting of the Mangroves in Lamu County

172. The Petition on Lifting of Ban on Logging and Harvesting of Mangrove Trees in Lamu County was presented to Parliament on 3rd May, 2018 by the Hon. Capt. Ruweida Obo, Lamu County MP.

173. The petitioners prayed that the Departmental Committee on Environment and Natural Resources: -

- (i) Investigates and inquires into the matter with a view to causing the government to lift the ban on harvesting of mangrove trees.
- (ii) Makes any other further order(s) or direction(s) that is deemed fit in the circumstances of the petitioners.

5.16.1 Recommendations of the Departmental Committee on Environment & Natural Resources

174. The Committee made the following recommendations: -

- (i) The Cabinet Secretary for Environment and Forestry lifts the ban on the harvesting of the mangrove trees immediately with a view to changing the livelihoods of the residents that had been affected due to a blanket imposition of the moratorium.
- (ii) Upon the lifting of the ban, Kenya Forest Service to open up the area from Ndau to Kiunga on the Somalia border to mangrove harvesting which would assist in the regeneration and conservation of the mangrove forest.
- (iii) The Kenya Forest Service works closely with the Lamu Community to ensure continued sustainable exploitation of the mangrove trees.
- (iv) The Ministry of Environment and Forestry and other relevant national government agencies together with the County Government within six months of tabling of the report engages with the residents and stakeholders in Lamu County to explore other alternative means of livelihood to reduce pressure and total reliance on the mangrove trees.

5.16.2 Implementation status

175. The Ministry of Environment and Forestry made a written submission vide a letter dated 26th August, 2019 on the following as the status of implementation of the report.

- i) The Ministry following the recommendations, held consultations with the local community and leaders and recommended for special exemption on Mangrove harvesting in Lamu County on the basis of safeguards to ensure sustainable harvesting and restoration.
- ii) To this end, the Ministry developed a model on safeguards for special exemption on harvesting of mangroves from the moratorium in Lamu County and was approved by the Cabinet. The model provided guidelines and conditions on which the harvesting of mangroves was to be based on. All eligible applicants were instructed to apply for harvesting licenses.
- iii) Three sensitization meetings involving KFS, KEFRI, Lamu County Government and community were held. In the meeting, the community was sensitized on the model of safeguards and the license application process. After the meeting a total of forty one (41) interested community members collected application forms from the office of the Ecosystem Conservator. Out of these, only twenty nine (29) applicants comprising of four (4) women, five (5) youth, one self-help group and nineteen (19) men managed to return fully filled forms to the office of the Ecosystem Conservator.

- iv) The applications were opened and evaluated by an Ad hoc committee composed of officers from KFS, KWS, NEMA, County Government of Lamu, and Kenya Maritime Authority.
- v) The evaluation criteria were on the basis of citizenship, KRA pin and ID, area of operation, quantity required and previous performance in mangrove harvesting among others. During evaluation, women, youth, the venerable and people living with disabilities were given priority.
- vi) The Evaluation committee recommended the approval of issuance of forest general license for applications and the results forwarded to the Head of Conservancy Coast region. The Forest Conservation Committee Coast region held a special meeting and reviewed the recommendations of the County Committee and upheld the decision of the Ad hoc committee of Lamu County.
- vii) A Procurement Committee appointed by the Chief Conservator of Forest at KFS head quarter recommended to KFS Board to approve issuance of General Forest License to the applicants. On 21st March 2019, the Cabinet Secretary Ministry of Interior and Coordination of National Government Dr. Fred Matiangi presided over the handing over of the twenty two (22) successful applicants with timber license for mangrove harvesting by the Chief Conservator of Forest on behalf of KFS Board of Directors.
- viii) On 22nd March 2019, a meeting was held by the successful licensees to take them through the special licenses as a way of familiarization on all the obligations, requirement and implementation procedures.
- ix) On 22nd to 29th March, 2019, the old licensees were removed from the old stock of harvested mangroves.
- x) On 27th March 2019, sensitization was done to Senior Agencies Commanders at Operation Fagia Msitu in Manda Naval Base.

5.16.3 Observation

176. The Resolutions have been implemented.

5.17 Report on a petition on alleged impending demolition on buildings along the Mtandawanda –Kizingitini Road in Pate Island

177. The Petition by the residents of Lamu County was presented to the House by the Hon. Capt. Ruweida Mohamed Obo, the Member for Lamu County on 24th April, 2018. The petitioners prayed that the National Assembly through the Departmental Committee on Transport, Public Works and Housing: -

- (i) Investigates and inquires into the matter with a view to causing the government to compensate private land owners holding legitimate ownership documents and who are likely to be affected; and
- (ii) Makes any other further order(s) or direction(s) that is deemed fit in the circumstances of the Petitioners.

5.17.1 Recommendations by the Departmental Committee on Transport, Public Works and Housing:-

178. The Committee made the following recommendations:-

- (i) KeRRA provides the Master Plan for the area to establish if there was road reserve set aside.
- (ii) The Government should only compensate persons whose private property was demolished but not those who were on the road reserve.

5.17.2 Implementation status

179. The Ministry of Transport, Public Works and Housing submitted a written response vide a letter dated on 7th August, 2019.

The Ministry submitted that no demolitions were carried out during implementation of the project for Spot Improvement of Mtandawanda-FAZA-Kizingitini Road (E991). The properties marked for demolition were all within the 20m corridor; however, no demolition was carried out because the project limited itself to the existing road corridor in the interest of humanitarian.

Furthermore, the National Assembly Departmental Committee on Transport, Public Works and Housing and the Office of the Director of Public Prosecutions have separately conducted inquiries into the matter and concluded that no compensation was to be made to individuals with property within the road.

The road was improved under National Government provisions of the Equalization Fund and was substantially completed in August, 2018.

Structures that remain on the road corridor portend a serious risk to road users and therefore recommended that all stakeholders be amenable to finding alternatives that would ultimately allow for the demolition of all demarcated structures.

5.17.3 Observation

The matter has been concluded.

5.18 The Petition on Oil marketers Companies involved in the supply and distribution of Jet A1 Fuel

180. The petition was tabled before the House by the Hon. Speaker on behalf of Messrs Pius Omolo and Agoi Vedell, on behalf of oil marketers in Country.

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

- i) Over the past years, the Oil Companies have been licensed by the Energy Regulatory Commission (ERC).
- ii) Despite the requirement for Oil Marketing Company to obtain licenses prior to engaging in the business of supplying Jet fuel to airlines at Jomo Kenyatta International Airport (JKIA) and Wilson Airport among others, the market has been penetrated by unlicensed and illegal agents who are able to offer lower prices than Open Tender System (OTS) prices therefore distorting prices.
- iii) As a result, Oil Marketing Companies have incurred losses due to the fact that the local oil marketers have invested in infrastructure and the pricing of jet fuels is based on the OTS as required by Law.

- iv) There is need to investigate the influx of illegal marketers in the country and reconsider the manner in which the pricing of jet fuel is undertaken.
- v) Despite efforts of the petitioners raising the matter to ERC and Ministry of Petroleum, the response was unsatisfactory.

182. The Petitioners in their prayers, sought that the National Assembly, investigates and inquires into all the issues raised in the petition and gives direction it deems fit in the circumstances.

5.18.1 Recommendations by the Departmental Committee on Energy

183. The Committee made the following recommendations:-

- 1) Energy Regulatory Commission (ERC) and Kenya Airports Authority (KAA) must ensure that only licensed and fully compliant Oil Marketing Companies (OMC) are allowed to supply and sale Jet A1 fuel to the airlines operating in the Airports around the country.
- 2) ERC in conjunction with KAA to review and audit the status of all Oil marketing companies operating and supplying jet fuel in the country with a view of ensuring only licensed OMC's are in operation at the airports. The findings of the review and audit be submitted to the Committee within a period of sixty (60) days.
- 3) Kenya Airports Authority should ensure that all the airlines that operate and fuel in the country engages only licensed Oil Marketing Companies for this purpose.
- 4) Energy Regulatory Commission (ERC) before licensing any Oil Marketing Company to supply Jet A1 to Airlines must possess the commensurate internationally accepted insurance as per International Civil Aviation Organization (ICAO) standards.
- 5) The ERC must ensure that all Oil Marketing Companies (OMC) that are issued with licenses must have internationally accepted infrastructure at the airports or proof of a joint venture for use of existing infrastructure facilities within the airports.
- 6) The Kenya Revenue Authority to investigate Ms. Pacific Aviation, Ms. ASM Kenya and all other companies providing hospitality for Oil Marketing Companies in the sale of Jet A1 fuel in the country to ascertain their tax compliance and their status of registration in Kenya.
- 7) The National Treasury considers to exempt Jet A1 fuel from the 8% Value Added Tax as a way of giving incentives to the local aviation investment in the country in order for them to compete in the region.
- 8) The Kenya Revenue Authority (KRA) put in place similar Tax regime on Jet A1 fuel at Wilson Airport similar to the one at Jomo Kenyatta International Airport since several airlines at Wilson Airport are/becoming regional in their operations. An example is Safarilink Aviation which flies to Kilimajaro Airport but are subjected to different Jet A1 tax regime from Jambo Jet flying to Entebbe airport from Jomo Kenyatta International Airport.
- 9) Competition Authority to review and investigate the business practices among the oil marketing companies involved in jet fuel business with a view to ensure a level playing field among the operators.

5.18.2 Implementation status

184. Implementation status by KRA

Recommendation 6: The Kenya Revenue Authority to investigate Ms. Pacific Aviation, Ms. ASM Kenya and all other companies providing hospitality for Oil Marketing Companies in the sale of Jet A1 fuel in the country to ascertain their tax compliance and their status of registration in Kenya.

Implementation status

(i) KRA has reviewed the tax compliance of the companies providing hospitality for Oil Marketing Companies and the report is provided herein below:

SN:	Company	Tax Status
1.	PACIFIC AVIATION MANAGEMENT AND CONSULTING CO	Filing
2.	ASM	Filing
3.	KENYA PIPELINE CO LTD	Filing
4.	VIVO ENERGY KENYA LTD	Filing
5.	LIBYA OIL KENYA LTD	Filing
6.	TOTAL (K) LTD	Filing
7.	GULF ENERGY LTD	Filing
8.	FLAMEX PETROLEUM LTD	Filing
9.	FINEJET LTD	Filing
10.	TRISTAR TRANSPORT LTD	Filing
11.	KENOLKOBIL LTD	Filing
12.	HELLER PETROLEUM LTD	Filing
13.	AEROGLOBAL AVIATION SERVICES LTD	No itax Pin
14.	DALBIT PETROLEUM LTD	Filing
15.	BAKRI ENERGY LTD	Filing
16.	HARED ENERGY LTD	Filing
17.	MOGAS KENYA LTD	Filing
18.	TEXAS ENERGY LTD	Filing
19.	ZACOSIA TRADING LTD	Filing
20.	LAKE OIL LTD	Filing
21.	WORLD FUELS SERVICES KENYA LTD	Filing
22.	SKYTANKING (K) LTD	Filing

Recommendation 8: Kenya Revenue Authority (KRA) put in place similar Tax regime on Jet A1 fuel at Wilson Airport similar to the one at Jomo Kenyatta International Airport since several airlines at Wilson Airport are/becoming regional in their operations. An example is Safarilink Aviation which flies to Kilimajaro Airport but are subjected to different Jet A1 tax regime from Jambo Jet flying to Entebbe Airport from Jomo Kenyatta International Airport.

They noted that Legal Notices No. 47 of 2005 and No. 102 of 2015 allowed for warehouse of Jet A1 at JKIA, Moi International Airport and in Lokichogio in duly licensed depots maintained by petroleum companies. Wilson Airport is yet to be gazetted as one of the places for warehousing of Jet A1 to enable delivery of duty free fuel to aircrafts.

185. Implementation Status by the Competition Authority

The Competition Authority conducted the investigation as recommended by the House and developed the following road map;

- i) Identification of key agencies
- ii) Identification of jet fuel industry including the key logistic in supply and distribution
- iii) Determine the relevant market and market shares of each market player
- iv) Establish existing contractual agreement
- v) If Market share point to a dominant firm in the relevant market
- vi) The Authority to make a determination after analyzing the gathered evidence

Identification of key stakeholders

The Competition Authority identified key stakeholders who include Energy and Petroleum Authority (ERPA), Kenya Airport Authority (KAA), NEMA, Oil Marketing Companies (OMC) and Petroleum Institute of East Africa (PIEA).

Identification of key Logistic in supply and distribution channels

The authority has documented the importation and pricing mechanism in the industry including the landing cost and established the existing storage and operation infrastructure vis-a-vis international practices.

Determination of the relevant market and market shares for each player.

The process of collating data to determine the market share is ongoing.

Existing Contractual Arrangements

The authority has identified the supply chain arrangement for the relevant product and summoned for the contract between ASM and Kenol-Kobil to interrogate it and determine if it contain provision which infringe any provision of the Competition Act.

5.18. 3 Observation

186. The Committee is awaiting submissions on the status of implementation from the National Treasury and the Energy Regulatory Commission. The status of implementation will be included in the Committee's subsequent report.

5.19 Report on the Petition regarding fraudulent Medical Bill issued by MP Shah Hospital on Account of treatment of the Late Matilda Anyango

187. The Petition was filed by the Consumer Federation of Kenya regarding fraudulent medical bill issued by MP Shah Hospital, Nairobi on account of treatment of the late Matilda Anyango. The Petitioners prayed that:

- (i) The Committee on Health investigates the matter with a view to having the hospital bill charged for the treatment of the late Matilda Anyango reviewed.
- (ii) Consider enacting a legislation to regulate the cost of medical treatment and procedures so as to curb increasing cases of fraud in billing of medical services and insurance covers.

5.19.1 Departmental Committee on Health Recommendations

188. As per the first prayer: “the Committee on Health investigates the matter with a view to having the hospital bill charged for the treatment of the late Matilda Anyango reviewed”.

The Committee found out that the hospital has since waived the entire bill of Kshs. 865,805 and the prayer has therefore been satisfied.

189. As per the second prayer: “Consider enacting a legislation to regulate the cost of medical treatment and procedures so as to curb increasing cases of fraud in billing of medical services and insurance covers”

190. The Committee recommended that the Cabinet Secretary, Ministry of Health immediately gazettes the Professional Fees Rules and Guidelines of 2006 (2nd Edition) to replace the current prevailing exorbitant Guidelines.

191. The Ministry, KMPDB, and Pharmacy & Poisons Board then reviews within six months, reasonable Professional Fees Rules and Guidelines, Regulations on cost of service of medical devices and drugs and in general, costing of healthcare, with a view of ensuring that all fees are in tandem with the UHC agenda. This should be done with proper consultations and public participation.

5.19.2 Implementation Status by Pharmacy and Poisons Board on Recommendation No. (ii)

192. The Board, taking cognizance of its mandate of ensuring safety, quality and efficacy of medical products and health technologies, has made significant strides towards implementation of the said recommendations, more specifically relating to cost and therefore affordability of medical devices and drugs. This includes:

- (i) Establishment of a multi-stakeholder ad hoc committee with the primary objective of determining strategies for Pharmaceutical Price and mark-up Management along the distribution chain; and

(ii) Development of a framework for the regulation of parallel importation of medicines with a view to ensuring access to affordable medicines.

193. The Board advised that Pharmacy professionals do not charge any professional fees in meting out their services.

6.0 COMMITTEE OBSERVATIONS

194. During its Sitting held on Thursday, 18th June, 2020, the Committee made the following observations: -

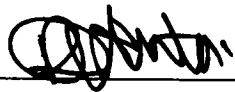
- (1) Lack of legal frameworks to guide government policies hampers the efficient implementation and operations of the policies.
- (2) Inadequate budgetary allocations hinder implementation of House resolutions.
- (3) Late and incomplete responses by Ministries which usually leads to back and forth communication with the Committee thus delaying reporting by the Committee to the House.
- (4) Most of the motions/legislations introduced in the House are not subjected to a thorough scrutiny on the viability of their implementation. This makes the House to pass resolutions that are not in line with the existing Government's Agenda and Mid-term policies.
- (5) Some resolutions of the House are not SMART (Specific, Measurable, Achievable, Realistic and Time bound); this poses a problem on their implementation.
- (6) There is lack of an online tracking tool for implementation of House resolutions.
- (7) The inordinate delay of court cases is hampering the implementation of House resolutions and consequently the Committee is unable to conclusively report on the implementation of affected resolutions, especially under the Ministries of Lands & Physical Planning and, Environment & Forestry.
- (8) While Kenya has ratified most protocols, other partner states in the East Africa Community are yet to do so therefore hampering the implementation of the protocol.

7.0 COMMITTEE RECOMMENDATIONS

195. During its Sitting held on Thursday, 18th June, 2020, the Committee made the following recommendations: -

1. **Clear legislations should be developed to implement various government policies.**
2. **The National Assembly should develop an online tracking tool for the implementation of House resolutions as a matter of priority for effective follow up of implementation of House resolutions.**
3. **The National Assembly should enhance its scrutiny of laws, resolutions and motions to ensure that resolutions passed are implementable.**
4. **The House and by extension committees should ensure all resolutions passed are Specific, Measurable, Achievable, Realistic and Time bound, to ensure they are implemented and for effective follow up of the same.**

Signed



Date

29/06/2020

Hon. Moitalel Ole Kenta, MP

Chairperson, Committee on Implementation

ANNEXURES

ANNEXURE 1

MINUTES

MINUTES OF THE 13TH SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON THURSDAY, 18TH JUNE, 2020, IN THE 5TH FLOOR COMMITTEE ROOM, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS, AT 12.00 PM.

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. The Hon. Alois Musa Lentoimaga, MP
3. The Hon. George Theuri, MP
4. The Hon. (Dr.) James Kipkosgei Murgor, MP
5. The Hon. Maj. (Rtd.) John Waluke Koyi, MP
6. The Hon. Joseph Wathigo Manje, MP
7. The Hon. Paul Simba Arati, MP
8. The Hon. Charles Ngusya Nguna, MP
9. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
10. The Hon. Hassan Oda Hulufu, MP
11. The Hon. Joshua Mbithi Mwalyo, MP
12. The Hon. Michael Kingi, MP
13. The Hon. Owen Yaa Baya, MP

APOLOGIES

1. The Hon. Godfrey Osotsi, MP - **Vice Chairperson**
2. The Hon. Richard Onyonka, MP
3. The Hon. Francis Munyua Waititu, MP
4. The Hon. Johnson Manya Naicca, MP
5. The Hon. Onesmas Kimani Ngunjiri, MP
6. The Hon. Generali Nixon Kiprotich Korir, MP
7. The Hon. Jared Okello, MP
8. The Hon. Nelson Koech, MP
9. The Hon. Paul Odalo Abuor, MP
10. The Hon. Silvanus Osoro, MP

IN-ATTENDANCE

COMMITTEE SECRETARIAT

1. Mr. Abdirahman G. Hassan - Second Clerk Assistant
2. Ms. Jane Serem - Audio Officer I
3. Ms. Zeinab Wario - Sergeant-at-Arms

MIN. NO.NA/COI/2020/61:

PRELIMINARIES

The Chairperson called the meeting to order at five minutes past twelve o'clock and said the Prayer. The agenda for the meeting was adopted, as proposed and seconded by the Hon. Owen Baya, MP, and the Hon. (Dr.) James Murgor, MP, respectively.

MIN. NO.NA/COI/2020/62:

CONFIRMATION OF MINUTES

The agenda item was deferred.

MIN. NO.NA/COI/2020/63:

CONSIDERATION AND ADOPTION OF THE REPORT ON SUBMISSIONS FROM STAKEHOLDERS

The Committee, following deliberations, unanimously adopted the report on submissions from stakeholders regarding implementation status of Legislations, Petitions and Resolutions passed by the House, after it was proposed by the Hon. Joshua Mwalyo, MP, and seconded by the Hon. Hassan Hulufu, MP. The Committee made the following observations and recommendations: -

Committee Observations

1. Lack of legal frameworks to guide government policies hampers the efficient implementation and operations of the policies.
2. Inadequate budgetary allocations hinder implementation of House Resolutions.
3. Late and incomplete responses by Ministries which usually leads to back and forth communication with the Committee thus delaying reporting by the Committee to the House.
4. Most of the motions/legislations introduced in the House are not subjected to a thorough scrutiny on the viability of their implementation. This makes the House to pass resolutions that are not in line with the existing Government's Agenda and Mid-term policies.
5. Some resolutions of the House are not SMART (*Specific, Measurable, Achievable, Realistic and Time bound*); this poses a problem on their implementation.
6. There is lack of an online tracking tool for implementation of House resolutions.
7. The inordinate delay of court cases is hampering the implementation of House resolutions and consequently the Committee is unable to conclusively report on the implementation of affected resolutions, especially under the Ministries of Lands & Physical Planning and, Environment and Forestry.
8. While Kenya has ratified most protocols, other partner states in the East Africa Community are yet to do so therefore hampering the implementation of the protocol.

Committee Recommendations

In view of the observations made, the Committee made the following recommendations: -

1. Clear legislations should be developed to implement various government policies.
2. The National Assembly should develop an online tracking tool for the implementation of House resolutions as a matter of priority for effective follow up of implementation of House resolutions.
3. The National Assembly should enhance its scrutiny of laws, resolutions and motions to ensure that resolutions passed by the House are implementable.
4. Committees and extension the House should ensure all resolutions passed by the House are SMART, to ensure they are implemented and for effective follow up of the same.

MIN. NO.NA/COI/2020/64:

**CONSIDERATION OF THE
REPORT ON THE PETITION
BY SHREE SAI INDUSTRIES
ON RECONSIDERATION OF
HOUSE RESOLUTION**

The agenda item was deferred.

MIN. NO.NA/COI/2020/65:

**CONSIDERATION OF THE
REPORT ON
COMPENSATION OF
FLOOD VICTIMS**

The Committee considered the report by the Departmental Committee on Energy, on public petition by residents of Garsen Constituency on compensation of flood victims by KENGEN and resolved to invite the Managing Directors of Kenya Electricity Generating Company (KENGEN) and Tana & Athi River Development Authority (TARDA) for a meeting on **Thursday 2nd July, 2020**, to consider implementation status of the aforementioned report.

MIN. NO.NA/COI/2020/66:

**CONSIDERATION OF THE
STATEMENT ON THE
PROGRESS OF
CONSTRUCTION OF
RONALD NGALA UTALII
COLLEGE**

The Committee considered the Statement by the Hon. Owen Baya, the Member for Kilifi North Constituency, regarding the progress of construction of Ronald Ngala Utalii College, in view of the status of Implementation of the Special Report by Public Investment Committee (PIC) on the college.

In that regard, the Committee resolved to invite the Cabinet Secretary for Tourism & Wildlife, for a meeting on **Wednesday 1st July, 2020**, to apprise the Committee on the implementation status of the Special Report by PIC on the Tourism Fund's Ronald Ngala Utalii College in Kilifi County and the aforementioned Statement.

MIN. NO.NA/COI/2020/67:

**CONSIDERATION OF THE
STATEMENT REGARDING
THE BANNING OF SECOND-
HAND CLOTHES**

The Committee considered the Statement by the Hon. Yussuf Hassan Abdi, the Member for Kamukunji Constituency, regarding the banning of importation of second-hand clothes in Kenya, and resolved the following: -

- i. The Committee to seek for a legal opinion on whether utterances made by the Cabinet Secretary for Industrialisation, Trade and Enterprise Development during her vetting process amount to an Executive undertaking; and
- ii. Request for Hansard recordings of the vetting of the Cabinet Secretary which was done by the Committee on Appointments during its Sitting of Thursday, 20th February, 2020.

MIN. NO.NA/COI/2020/68:

**CONSIDERATION OF THE
STATEMENT ON FORCED
RAILING OF CARGO FROM
MOMBASA TO NAIVASHA
ICD BY SGR**

The Committee considered the Statement by the Hon. Abdullswamad Sharrif Nassir, the Member for Mvita Constituency, on forced railing of cargo from Mombasa to Naivasha ICD by SGR.

In its consideration of the Statement, the Committee noted that there was no Report or resolution of the House on the aforementioned statement for the Committee to implement.

During the meeting, the Committee was informed that the same Statement was also sent to the Departmental Committee on Transport, Public Works & Housing on 3rd June, 2020, long before it was forwarded to the Implementation Committee.

Consequently, the Chairperson of the Departmental Committee on Transport presented before the House a response from the Ministry of Transport, Infrastructure, Public Works, Housing & Urban Development on Tuesday 16th June, 2020.

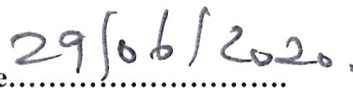
Considering that the Speaker had instructed the Committee on Implementation to follow up on implementation of the Statement and having in mind that there was no

report to implement and the matter was already responded to on the floor on the House, the Committee noted the need to consult further on the matter.

MIN. NO.NA/COI/2020/69:

ADJOURNMENT

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

Sign.......... Date..........
(Chairperson)

ANNEXURE 2

ADOPTION LIST



The National Assembly




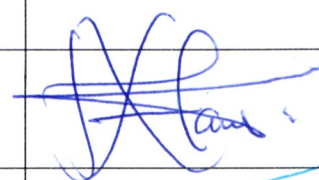
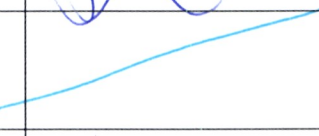
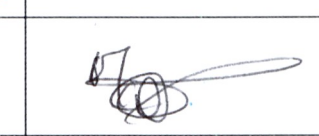
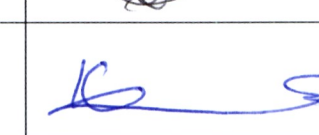
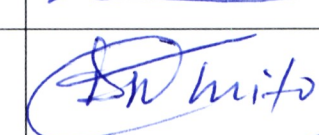
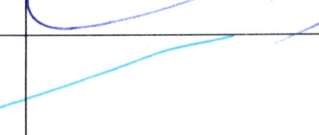
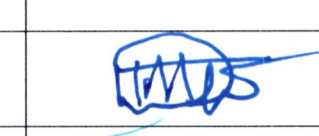
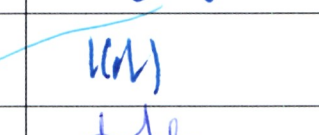
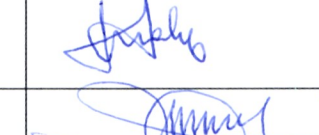
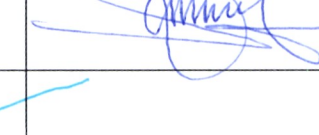
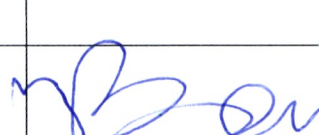
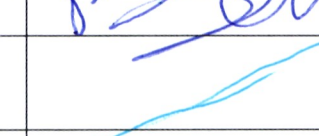
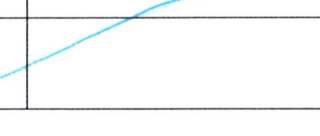

12th Parliament-4th Session-2020

Committee on Implementation

We, the Members of the Committee on Implementation, have pursuant to Standing Order 199 adopted the Report on Submissions from stakeholders regarding implementation status of Legislations, Petitions and Resolutions passed by the House. We affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity.

Venue: 5th floor, Committee Room, Continental House Date: Thursday, 18th June, 2020

S/NO.	NAME	SIGNATURE
1.	The Hon. Moitalel Ole Kenta, MP – Chairperson	
2.	The Hon. Godfrey Osotsi, MP - Vice Chairperson	
3.	The Hon. Richard Onyonka, MP	
4.	The Hon. Alois Musa Lentoimaga, MP	
5.	The Hon. Francis Munyua Waititu, MP	
6.	The Hon. George Theuri, MP	
7.	The Hon. (Dr.) James Kipkosgei Murgor, MP	
8.	The Hon. Maj. (Rtd) John Waluke Koyi, MP	

9.	The Hon. Johnson Manya Naicca, MP	
10.	The Hon. Joseph Wathigo Manje, MP	
11.	The Hon. Onesmas Kimani Ngunjiri, MP	
12.	The Hon. Paul Simba Arati, MP	
13.	The Hon. Charles Ngusya Ngunu, MP	
14.	The Hon. (Dr.) Daniel Kamuren Tuitoek, MP	
15.	The Hon. Generali Nixon Korir, MP	
16.	The Hon. Hassan Oda Hulufu, MP	
17.	The Hon. Jared Okello, MP	
18.	The Hon. Joshua Mwalyo Mbithi, MP	
19.	The Hon. Michael Thoya Kingi, MP	
20.	The Hon. Nelson Koech, MP	
21.	The Hon. Owen Yaa Baya, MP	
22.	The Hon. Paul Abuor, MP	
23.	The Hon. Silvanus Osoro, MP	

Committee Clerk
Name Abdirahman Hassan


.....
(Signature)

Date 18/6/2020

ANNEXURE 3

SUBMISSION FROM STAKEHOLDERS

437



MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING, URBAN DEVELOPMENT
AND PUBLIC WORKS
STATE DEPARTMENT OF INFRASTRUCTURE

OFFICE OF THE PRINCIPAL SECRETARY

Telephone: (020) 2723232
Fax: (020) 2719658
Email: ps@infrastructure.go.ke
Website: www.transport.go.ke
When replying please quote:

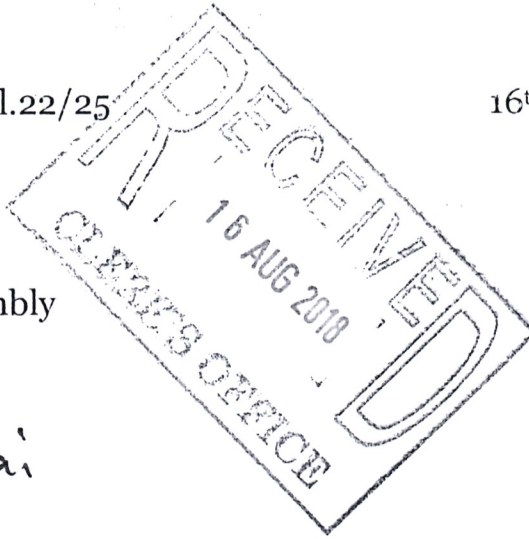
WORKS BUILDING
NGONG ROAD
P.O. Box 30260-00100
NAIROBI-KENYA

① 01 communication
8/17/08

MOTIH&UD/I/A.24.04.Vol.22/25

16th August, 2018

Michael R. Sialai, EBS
Clerk of the National Assembly
P.O. Box 41842-00100
NAIROBI



② ROSE
pls deaf
AA
20/8/18

Dear *Mr. Sialai*

**RE: REQUEST FOR INFORMATION ON IMPLEMENTATION
STATUS OF HOUSE RESOLUTIONS BY SELECT COMMITTEE
ON IMPLEMENTATION**

Reference is made to your letter Ref.NA/DCS/CO1/2018/ (103) dated 24th July, 2018 on the above subject matter.

Please find the current status of the mentioned projects as indicated in the attached matrix.

Yours *Sincerely*

Julius Korir, CBS
PRINCIPAL SECRETARY

Encls

APPENDIX 1

	RESOLUTION	DATE ADOPTED	CURRENT STATUS
1	A Petition on proposed demolitions of buildings for purposes of expansion of Likoni Lunga Lunga Road	16.7.2016	The Demolitions targeted structures that were encroaching on the road reserve .This exercise was conducted and the road reserve cleared of any encroachment. This is an ongoing exercise being conducted countrywide.
PETITIONS			
1	A Petition on the construction of speed bumps and the establishment of rumble strips between Madeya and Rangala Trading centers along Kisumu-Busia Highway	14.11.2013	Humps and Signage Installed at all locations along the Kisumu-Busia Highway where pedestrian safety considerations were observed. However, at Madeya & Rangala pedestrian conflicts were not critical since the temporary encroachments within road reserve were removed after due consultation with the residents and the Area Chief.
2	A Petition for the erection of bumps and construction of a footbridge at Kangoro bus stop along Embu-Meru Highway	18.6.2015	Standard Humps and Signs have been installed at the Location. The Footbridge Design/construction has not been considered since the road as a whole is currently characterized with many speed bumps especially at the trading centres. The suggested footbridge is a major investment that requires engineering studies and designs. There are some Engineering aspects that have been employed as part of the 3E's(Engineering, Education and Enforcement) approach to road safety on this road. KeNHA in collaboration with NTSA will come up with strategies to educate the public and

		<p>enforce observance of the prescribed speed limits along the road.</p> <p>It should also be pointed out that the bus stop in question is illegal; nevertheless, the safety of the school kids is of paramount importance to the Ministry. However, The Ministry through KeNHA will make every effort to seek a solution that will be beneficial to all.</p>
3	<p>A Petition on the upgrading of Old Mombasa Road/Maasai Road A,B & C in Nairobi County to bitumen standards to ease movement of people ,goods and services</p>	<p>18.3.2015</p> <p>-The contractor (China Wu Yi Co.Ltd) to rehabilitate Old Mombasa / Maasai Road has been procured under Eastlands Regeneration Programme Lot 3 and is mobilizing to site. The contract period is 12 months commencing on 24th August, 2018 and expected to be complete by August, 2019.</p> <p>Road A-done to completion</p> <p>Road B-Not constructed but is motorable.</p> <p>Road C- Substantially completed.</p>
4	<p>Construction of footbridges along Thika Superhighway</p>	<p>3.8.2016</p> <p>The construction of 4 No. Of footbridges has started and is expected to be completed by December,2019</p>
5	<p>A Petition on the erection of speed bumps along Kakamega-Mumias Road</p>	<p>3.8.2016</p> <p>Humps and Warning signs have been erected at locations where need for them was identified with input of the residents.</p>
6	<p>A Petition on decongestion of Bomas-Ongata Rongai-Kiserian</p>	<p>17.8.2016</p> <p>KeNHA is currently Implementing a PBC (Performance Based Contracting) Maintenance</p>

	Road		Project on the Road while awaiting funding for its expansion under Annuity Programme.
7	A Petition on the delayed carpeting of a section of the Meru-Maua Road from Farm to Mureru gate Meru National Park	17.8.2016	The rehabilitation of this road is currently ongoing and is a venture between the Ministry of Tourism (Employer) and General Manager Design & Construction (KeRRA) offering technical services. The road was repackaged to fit the contract sum and was varied from 26 Km to 11.5Km and the remaining 14 Km to be repackaged as a new contract. The principal Secretary, Ministry of Tourism was informed about this development and has concurred.
8	A Petition on delayed reconstruction of Kabani-Kangundo bridge along Thwake River	17.8.2016	KeRRA has installed a modular bridge (Bailey Bridge) across the Muumbuni-Kathiani-Kangundo as a short term measure to ensure motorability and accessibility. The bridge was further extended by 6.25 m in June, 2017 due to flooding and wash out.
9	A Petition on the state of Karatina Jambo Road	17.8.2016	The contract for the construction of Jambo(Jn A2)-Kagochi-Hombe-Kwa Wambui-State Lodge-Giagatika and Muranga-Kiriani road Was terminated following a ruling by the High Court of Kenya on the same(Miscellaneous Civil application No.100 of 31 st July,2017. Consequently, the road construction shall be considered in future subject to availability of funds.
10	Report on the Petition on	2017	The Contractor for this road, M/s Stecol Corporation

	tarmacking the Gatiguu-McVast-Matangini-Ithanga-Kirathani-Mayuuya/Ng'ang'a-Makuyu Road		is on site and will carry out the works for a period of 36 months at a contract sum of Ksh 3.2 Billion. The expected date of completion is 19 th September, 2020.
ACTS			
11	Engineering Technology Act, No. 23 of 2016		The Board was constituted by the Cabinet Secretary, Ministry of Education hence not domiciled in this Ministry.
12	Engineers Act, 2011	27 th January, 2012	The Act was operationalised in 2013 and the Board subsequently instituted. Details in Appendix 1.



OFFICE OF THE PRESIDENT

Telegraphic Address: "Rais"
Telephone: Nairobi 2227411
When replying, please quote

MINISTRY OF INTERIOR
AND CO-ORDINATION
OF
NATIONAL GOVERNMENT

P.O. Box 30510-00100
Nairobi

Our Ref. **OP.PA. 1/29**
And date

20th August, 2019

Clerk of the National Assembly
NAIROBI

**RE: REQUEST BY THE SELECT COMMITTEE ON
IMPLEMENTATION FOR THE IMPLEMENTATION STATUS
OF HOUSE RESOLUTION**

Reference is made to your letter ref.NA/DCS/COI/2019(60) dated 23rd July, 2019.

Forwarded herewith please find submissions on the implementation status of House Resolution.

MOFFAT M. KANGI, EBS
FOR: PRINCIPAL SECRETARY/INTERIOR

Encl.

The registration of Births and Deaths is governed by the Births and Deaths Registration Act CAP149 enacted in 1928 [GOK, 1928]. The Act provides for compulsory and immediate registration of all Births and Deaths that occur in Kenya, regardless of nationality. It also provides for optional registration of Births and Deaths of Kenya citizens that occur outside the Country.

Enclosed herewith please find a report on the established registration offices in the Country.

**3. RESOLUTION THAT ALL DISPLINED FORCES TO GIVE
FIRST PRIORITY TO NATIONAL YOUTH SERVICE (NYS)
GRADUATES DURING RECRUITMENT**

In the year 2015, 2016 and 2017, Kenya Prison Service recruited 100, 50 and 50 NYS graduates respectively. The training and recruitment is guided by the following:

i. Nine months for regular recruit constables and 13 months for cadets

The training programme is structured to cover both academic and professional units to ensure that the Kenya Prisons Service trainees are in line with the International standards and best practices in handling inmates in a humane manner while ensuring rehabilitation and reformation is archived. The cumulative contact hours translate to nine months for recruit constables and thirteen months for cadets.

ii. Common bond

The Kenya Prisons Service has been recruiting from NYS and the Country at large. All recruits undergo a similar concurrent and cohesive training programme to cultivate a common bond and unity as correctional officers.

STATUS OF IMPLEMENTATION OF HOUSE RESOLUTIONS

1. POLICY ON THE CRITERIA FOR RECRUITMENT AND REMUNERATION OF VILLAGE ELDERS

In an effort to empower citizen participation in management of security and governance in the Country, the Government has been engaging the services of respectable members of the community, commonly referred to as village elders. The elders form a key link between the Government and the members of the public through the Chiefs and Assistant Chiefs.

However, no facilitation has been provided for these elders over the years since the Ministry of Interior and Coordination of National Government has no budgetary allocation for their payment. Further, there is no legislation regarding the recruitment, deployment and remuneration of the village elders and the definition of villages and standardization of the villages across the Country.

2. ESTABLISHMENT OF CIVIL REGISTRATION CENTRES IN EVERY CONSTITUENCY

The Constitution of Kenya, 2010, recognizes the civil registration function as a primary basis for establishing Kenyan citizenship (Article 12,13 &14) by recording the occurrence of a birth to give a child its conclusive identity, which includes name, parentage, and nationality. Article 53 (1) (a) of the Constitution expressly provides for registration to fulfill the first right of every child born in Kenya.

iii. National Outlook

Kenya Prisons Service potential recruitment candidates are sourced countrywide in all the 290 constituencies and the NYS to create a national outlook and equal representation.

4. THE STATUS OF DOCUMENTATION AND AUTOMATION OF REGISTRATION OF FIREARMS FOR THE NATIONAL POLICE SERVICE IS ON COURSE AND ONGOING.

The following Units/Commands have so far been automated;

S/NO.	FORMATIONS/UNITS/SUB COUNTIES
1.	G.S.U
2.	KPC
3.	LOGISTICS CENTRE
4.	ELDORET AIRPORT
5.	DIPLOMATIC POLICE
6.	A.P.T.U
7.	CID NAIROBI AREA
8.	TPU
9.	RAILWAY NAIROBI
10.	MOMBASA AIRPORT
11.	CENTRAL BANK
12.	CFB
13.	DAADAB
14.	KENYA POLICE STAFF COLLEGE
15.	MARITINE
16.	SOB 4
17.	KERICHO
18.	MATUNGU
19.	SABATIA
20.	RACHUONYO SOUTH
21.	RACHUONYO NORTH
22.	MBITA
23.	MBEERE
24.	MBEERE SOUTH
25.	HAMISI

26.	MAARA
27.	VIHIGA
28.	EMUHAYA
29.	KONON
30.	POKOT CENTRAL
31.	NANDI NORTH
32.	CHEPATAIS
33.	MT ELGON
34.	NYAKACH
35.	MUHORONI
36.	NYANDO
37.	BURETI
38.	MUMIAS
39.	BONDO
40.	KURESOI
41.	MATUNGULU
42.	MOLO
43.	RARIENDA
44.	BUTERE
45.	LANGATA
46.	SOTIK
47.	NANDI CENTRAL
48.	NANDI EAST
49.	NANDI SOUTH
50.	RONGAI
51.	MERU CENTRAL
52.	KHWISERO
53.	DAGORETI
54.	KAREN
55.	LOWER YATTA
56.	ELDORET WEST
57.	KITUI
58.	MATINYANI
59.	LAGDERA
60.	NZAMBANI
61.	ELDORET SOUTH
62.	KITUI WEST
63.	KATULANI
64.	KATHIANI
65.	LAIKIPIA WEST
66.	NYAHURURU
67.	KAJIADO NORTH

68.	LAMU EAST
69.	LAMU WEST
70.	BARINGO EAST
71.	BEGUT
72.	ISINYA
73.	BALAMBALA
74.	BANISA
75.	BUNA
76.	BURA
77.	BUURI
78.	FAFI
79.	GARISSA
80.	HABASWENI
81.	IGEMBE NORTH
82.	ISIOLO
83.	LOIYANGALANI
84.	MARSABIT NORTH
85.	MERTI
86.	NAKURU NORTH
87.	NJORO NORTH
88.	NJORO
89.	SUBUKIA
90.	TARBAJ
91.	WAJIR EAST
92.	WAJIR NORTH
93.	WAJIR SOUTH
94.	WAJIR WEST

5. POLICY DEVELOPMENT FOR THE IMPROVEMENT OF NPRs WELFARE INCLUDING PAYMENTS, PROVISION IN CASE OF DEATH, DISTINCT UNIFORMS FOR NPRs AND TRAININGS BEFORE DEPLOYMENT AND DURING COURSE WORK.

Reserve officers are recruited, trained and deployed to compliment both Kenya Police Service and Administration Police Service in their mandate. They are kitted with existing National Police Service items of uniform.

Reserve Officers are entitled to free medical care from Government Medical facilities in regard to injuries sustained or illness contracted while on duty. A report of injury or death is duly prepared by his/her commander and forwarded to the Inspector General of Police

A Reserve Police officer is required by law to serve for a non-extendable period of five (5) years. Promotion is done in accordance with National Police Service Act.

A total of 40 Reserve Police Officers were selected among existing NPRs in Elgeyo Marakwet, Baringo and West Pokot, trained in Magadi GSU camp for one month and are currently camping in Elgeyo Marakwet for quick response (Composition – Elgeyo Marakwet -20, West Pokot-15, Baringo (East Pokot) – 5). A further selection for training is underway in Laikipia West and Turkana Counties (Kapendo area)

The Reservists are entitled for a stipend allowance of Kshs. 5,000 per month. Currently they have been paid up to January, 2019 while 40 NPRs camping in Elgeyo Marakwet have been paid up to March, 2019. Plans are underway to release February payment to the others Generally, there are concerted efforts to improve their welfare.

6. DECLARATION OF CATTLE RUSTLING AS A NATIONAL DISASTER;

Cattle rustling is an age-long crime which has been in existence amongst pastoral communities and the society in general. The cattle rustling has evolved and changed faces over time. In the past, the cattle rustlers raided in the night, stole a few heads of cattle and their tools of operations were mainly spears, shields, bows and arrows. During such raids, cultural norms were respected where old men, children and women were not purposely killed. However, over time,

LIVESTOCK RAIDS

REGION	LIVESTOCK RAIDS								
	2016/ 17	2017/ 18	DIF F	%DIF F	2017/ 18	2018/ 19	DIF F	%DIF F	TOTA L
RIFT VALLEY	310	379	69	22	379	225	154	-41	914
NAIROBI	0	0	0	0	0	0	0	0	0
CENTRAL	4	2	-2	-50	2	0	-2	-100	6
NORTH EASTERN	6	4	-2	-33	4	2	-2	-50	12
EASTERN	4	5	1	25	5	7	2	40	16
COAST	0	0	0	0	0	0	0	0	0
NYANZA	6	4	-2	-33	4	2	-2	-50	12
WESTERN	0	0	0	0	0	0	0	0	0
TOTAL	330	394	64	19	394	236	158	-40	960

PERSONS KILLED

REGION	PERSONS KILLED								
	2016/17	2017/ 18	DIFF	%DIFF	2017/18	2018/ 19	D I F F	%DI FF	TO TAL
RIFT VALLEY	67	86	19	28	86	59	-27	-31	212
NAIROBI	0	0	0	0	0	0	0	0	0
CENTRAL	0	0	0	0	0	0	0	0	0
NORTH EASTERN	0	0	0	0	0	4	4	0	4
EASTERN	4	3	-1	-25	3	1	-2	-67	8
COAST	0	0	0	0	0	0	0	0	0
NYANZA	0	0	0	0	0	0	0	0	0
WESTERN	0	0	0	0	0	0	0	0	0
TOTAL	71	89	18	25	89	64	-25	-28	224

cattle theft has evolved with the acquisition of guns, raiders now strike at will and they no longer respect cultural norms resulting in killing of old men, children and women.

Areas in North Rift affected by cattle rustling are Turkana, West Pokot, Elgeyo Marakwet, Baringo, Laikipia and Samburu Counties. A larger population of the communities inhabiting this region are pastoralists. Historically, these communities have over the years engaged in cattle rustling.

Analysis of the problem and reasons why there is no need of a special fund;

In the three-year period a total of **54,070** livestock were stolen where **25,148** were recovered. A total of **224** people were killed and **237** were injured as illustrated in the table below;

YEAR	2016/17	2017/18	2018/19	TOTAL
LIVESTOCK RAIDS	330	394	236	960
PERSONS KILLED	71	89	64	224
PERSONS INJURED	71	100	66	237
LIVESTOCK STOLEN	16,909	23,169	13,992	54,070
LIVESTOCK RECOVERED	8,185	11,176	5,787	25,148

Cattle rustling related incidences generally increased in the Fiscal year 2017/18 as compared to 2016/17 and dropped in 2018/19. The 2017/18 increase can be attributed to the General elections in the Country. This has been illustrated in the tables below;

REGION	PERSONS INJURED								
	2016/17	2017/18	DIFF	%DIFF	2017/18	2018/19	DIFF	%DIFF	TOTAL
RIFT VALLEY	65	95	30	46	95	60	-35	-37	220
NAIROBI	0	0	0	0	0	0	0	0	0
CENTRAL	0	0	0	0	0	0	0	0	0
NORTH EASTERN	4	4	0	0	4	6	2	50	14
EASTERN	0	0	0	0	0	0	0	0	0
COAST	0	0	0	0	0	0	0	0	0
NYANZA	2	1	-1	-50	1	0	-1	-100	3
WESTERN	0	0	0	0	0	0	0	0	0
TOTAL	71	100	29	41	100	66	-34	-34	237

PERSONS INJURED

NUMBER OF LIVESTOCK STOLEN

REGION	LIVESTOCK STOLEN								
	2016/17	2017/18	DIFF	%DIFF	2017/18	2018/19	DIFF	%DIFF	TOTAL
RIFT VALLEY	16,017	22,618	6,601	41	22,618	13,760	8,858	-39	52,395
NAIROBI	0	0	0	0	0	0	0	0	0
CENTRAL	2	1	-1	-50	1	0	-1	-100	3
NORTH EASTERN	366	278	-88	-24	278	216	-62	-22	860
EASTERN	518	266	-252	-49	266	7	-259	-97	791
COAST	0	0	0	0	0	0	0	0	0
NYANZA	6	6	0	0	6	9	3	50	21
WESTERN	0	0	0	0	0	0	0	0	0
TOTAL	16,909	23,169	6,260	37	23,169	13,992	9,177	-40	54,070

NUMBER OF LIVESTOCK RECOVERED

REGION	LIVESTOCK RECOVERED								
	2016/17	2017/18	DIF F	%DI FF	2017/18	2018/19	DIFF	%DI FF	TOTAL
RIFT VALLEY	7,825	10,996	3,171	41	10,996	5,787	5,209	-47	24,608
NAIROBI	0	0	0	0	0	0	0	0	0
CENTRAL	2	1	-1	-50	1	0	-1	-100	3
NORTH EASTERN	70	35	-35	-50	35	0	-35	-100	105
EASTERN	284	142	-142	-50	142	0	-142	-100	426
COAST	0	0	0	0	0	0	0	0	0
NYANZA	4	2	-2	-50	2	0	-2	-100	6
WESTERN	0	0	0	0	0	0	0	0	0
TOTAL	8,185	11,176	2,991	37	11,176	5,787	5,389	-48	25,148

From the above analysis, it is clear, cattle rustling is reducing and under control. Hence the reason there is no need to declare it a national disaster as it affects only a small section of the Country and most people in those areas are abandoning the practice and adopting new methods of economic activities.

② ROSIE
please deal
FA
07/8/19



THE NATIONAL ASSEMBLY
RECEIVED
07 AUG 2019
DIRECTOR COMMITTEE SERVICES
Time:.....
7/8/19

THE PRESIDENCY
MINISTRY OF PUBLIC SERVICE, YOUTH AND GENDER
STATE DEPARTMENT FOR PUBLIC SERVICE AND YOUTH
Office of the Principal Secretary

Ref: MPSY.CS/6/2

5 August 2019

Mr. Michael Sialai, EBS
Clerk of the National Assembly
Main Parliament Building
NAIROBI

③ CHOMWENO
please note
FA
07/8/19

Dear *John N.A.*

**REQUEST BY THE SELECT COMMITTEE ON IMPLEMENTATION FOR THE
IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS**

Reference is made to your letter REF: NA/DCS/COI/2019/ (55) dated 23rd July, 2019.

In order to submit a comprehensive report for the petition, the Ministry requires input from relevant Departments specifically education, Labour, National Treasury and Interior. We have already written to the Ministries and their submissions have not been received.

The purpose of this letter is to seek your indulgence with the committee to have the submission date reviewed to a later date to allow for a comprehensive report.

Yours *Sincerely*
[Signature]

DR. F.O. OWINO, PhD
PRINCIPAL SECRETARY.

RECEIVED
08 AUG 2019
CLERK'S OFFICE

Copy to: **Prof. Margaret Kobia, PhD, MGH**
Cabinet Secretary
Ministry of Public Service, Youth and Gender
Harambee House
NAIROBI

Ukesh
please deaf
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07/8/19



THE NATIONAL ASSEMBLY
RECEIVED
07 AUG 2019
DIRECTOR COMMITTEE SERVICES
Time:.....
7/8/19

THE PRESIDENCY
MINISTRY OF PUBLIC SERVICE, YOUTH AND GENDER
STATE DEPARTMENT FOR PUBLIC SERVICE AND YOUTH
Office of the Principal Secretary

Ref: MPSY.CS/6/2

5 August 2019

Mr. Michael Sialai, EBS
Clerk of the National Assembly
Main Parliament Building
NAIROBI

(3) Chomweno
please note
FA
07/8/19

Dear *Dear N.A.*

REQUEST BY THE SELECT COMMITTEE ON IMPLEMENTATION FOR THE IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS

Reference is made to your letter REF: NA/DCS/COI/2019/ (55) dated 23rd July, 2019.

In order to submit a comprehensive report for the petition, the Ministry requires input from relevant Departments specifically education, Labour, National Treasury and Interior. We have already written to the Ministries and their submissions have not been received.

The purpose of this letter is to seek your indulgence with the committee to have the submission date reviewed to a later date to allow for a comprehensive report.

Yours *Sincerely*
[Signature]

DR. F.O. OWINO, PhD
PRINCIPAL SECRETARY.

RECEIVED
05 AUG 2019
CLERK'S OFFICE

Copy to: **Prof. Margaret Kobia, PhD, MGH**
Cabinet Secretary
Ministry of Public Service, Youth and Gender
Harambee House
NAIROBI



Annex I

THE PRESIDENCY
MINISTRY OF PUBLIC SERVICE, YOUTH AND GENDER
STATE DEPARTMENT FOR PUBLIC SERVICE AND YOUTH
Office of the Principal Secretary

Telephone: Nairobi 227411
Ext 22527/22483
Email: ps.psy@psyg.go.ke

Harambee House
P.O. Box 30050-00100
NAIROBI

Ref. No. MPYG.CS/2/6

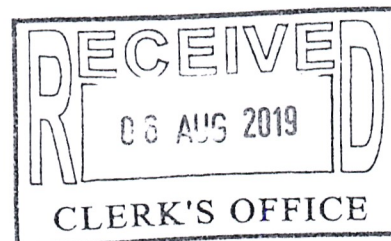
31st July, 2019

Dr. Eng. Karanja Kibicho, CBS
Principal Secretary
State Department of Interior
Ministry of Interior and Coordination of National Government
Harambee House
NAIROBI

Dr. Julius Muia
Principal Secretary
National Treasury
Ministry of National Treasury and Planning
Treasury Building
NAIROBI

Dr. Richard Belio Kipsang, CBS
Principal Secretary
State Department for Early Learning and Basic Education
Ministry of Education
Jogoo House
NAIROBI

Eng. Peter K. Tum
Principal Secretary
State Department for Labour
Ministry of Labour and Social Protection
Social Security House
NAIROBI



Dear *Colleagues,*

**REQUEST BY THE SELECT COMMITTEE ON IMPLEMENTATION FOR
THE IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS**

The Committee on Implementation in the National Assembly is mandated to scrutinize resolutions of the House including adopted Committee reports, petitions and the undertakings given by the executive and to examine whether such decisions and undertakings have been implemented and

I xamA

whether such implementation has taken place within the minimum time necessary.

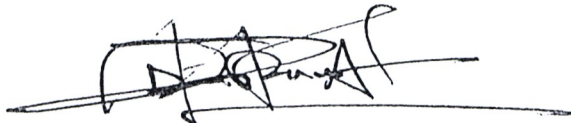
In this regard, the Committee has written to this Ministry requesting to be apprised on the implementation status and challenges faced, if any, in the implementation of the Resolution for the Government to **waive** the payment of fees by job-seeking youth in the country, and to fast-track implementation of National Employment Act which requires the establishment and maintenance of an integrated and up-to-date database of all persons seeking employment.

On Wednesday, 18th April, 2018, the House passed a Motion sponsored by the Hon. Faith Wairimu Gitau, MP, which urges the Government through the Ministry of Public Service, Youth and Gender to waive the payment of fees paid by job-seeking youth in the country and a requirement to produce numerous documentations including:

1. Tax Compliance Certificate (KRA)
2. Certificate of good conduct (DCI)
3. Higher education loan clearance certificate (HELB)
4. EACC clearance
5. Credit Reference Certificate (CRB)

This is therefore to request your office to provide a position on the area under your purview on the action taken and challenges faced if any, in the implementation of the waiver.

The Ministry of Public Service, Youth and Gender is expected to respond to the request by the select Committee on Implementation on or before **Tuesday 7th August 2019.**



DR. F. O. OWINO, PhD
PRINCIPAL SECRETARY

Encl.

Copy to: Prof. Margaret Kobia, PhD., MGH
Cabinet Secretary
Ministry of Public Service, Youth and Gender
Harambee House
NAIROBI

Michael M. Sialai, EBS
Clerk of the National Assembly
Clerk's Chambers
Parliament Buildings
NAIROBI

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT (SECOND SESSION)

MOTION AS PASSED

Motion Passed on: Wednesday, 18th April, 2018

THAT, aware that the average youth population in Kenya is thirty five (35) percent of the total population of the country; further aware that majority of this population is in the job market entry level; noting that Article 55 of the Constitution obligates the State to take measures to ensure that the youth access employment; concerned that this access is hindered by the requirement to produce numerous documentation including a *tax compliance certificate (KRA)*, *certificate of good conduct (DCI)*, *higher education loan clearance certificate (HELB)*, *EACC clearance*, *Credit Reference Certificate (CRB)*; further concerned that these documents cost not less than four thousand five hundred shillings (Ksh.4,500) to acquire; deeply concerned that most of the jobseekers in the youth bracket cannot raise this prohibitive amount for purposes of job application; this House urges the Government through the Ministry of Public Service, Youth and Gender Affairs to waive the payment of these fees by job-seeking youth in the country, and further urges the Ministry to immediately fast-track implementation of the National Employment Authority Act which requires the establishment and maintenance of an integrated and up-to-date database of all persons seeking employment.

Sponsor:

THE HON. FAITH WAIRIMU GITAU, MP
MEMBER FOR NYANDARUA COUNTY

RESPONSE TO A REQUEST BY THE SELECT COMMITTEE ON IMPLEMENTATION FOR THE IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS

The Committee would like to be apprised on the implementation status and challenges faced, if any, in the implementation of:-

A resolution that the government considers through all the disciplined forces to give first priority in recruitment of their servicemen and women to all willing NYS graduates which will significantly reduce their recruitment cost, training period and subsequently training cost and in addition create jobs for these skilled youth.

Introduction:

Hon. Chairman, I submit as follows;

The National Youth Service has actively engaged the disciplined forces to ensure that an effective engagement in the recruitment of the NYS Servicemen and women. However, it is important to note that the role of the National Youth Service during the above-mentioned recruitment of servicemen/women exercises by discipline services is to avail interested NYS candidates and provide recruitment venue.

Appended here below are tables showing the number of servicemen and women who were enlisted into the (I) Kenya Defense Forces, (ii) National Police Service and (iii) Kenya Prisons Service in the year 2017 and 2018.

(I) RECRUITMENT OF NYS BY KENYA DEFENCE FORCES JULY, 2017 AND APRIL 2018

CONSTABULARY RECRUITMENT:

The Kenya Defense Forces undertook two recruitments in July 2017 and April 2018 during which the force recruited a total of 312 officers. The following is a breakdown of the recruitment by gender and ethnicity:

S.NO.	GENDER BALANCE	2017	2018
1.	MALE	116	148
2.	FEMALE	15	33
	TOTAL	131	181

S.NO.	ETHNIC BALANCE	2017	2018
1.	BORANA	-	2
2.	BURJI	-	1
3.	CHONYI	-	1
4.	EMBU	3	1
5.	GIRIAMA	1	3
6.	KALENJIN	33	41
7.	KAMBA	13	16
8.	KIKUYU	18	44
9.	KISII	6	12
10.	KURIA	3	3
11.	LUHYA	12	22
12.	LUO	15	18
13.	MERU	8	5
14.	MIJIKENDA	7	3
15.	POKOMO	-	1
16.	SABAOT	-	2
17.	TAITA	6	5
18.	TESO	6	1
	TOTAL	131	181

(ii) RECRUITMENT OF NYS BY NATIONAL POLICE SERVICE

MAY, 2017 RECRUITMENT:

The National Police Service undertook one recruitment in May 2017 during which the force recruited a total of 198 officers. The following is a breakdown of the recruitment by gender, ethnicity, and sub county:

SR.NO.	GENDER BALANCE	NUMBER
1.	MALE	151
2.	FEMALE	47
	TOTAL	198
SR.NO.	ETHNIC BALANCE	NUMBER
1.	DIGO	1
2.	DURUMA	2
3.	EMBU	1
4.	GABRA	1
5.	GIRIAMA	1
6.	KALENJIN	23

7.	KAMBA	14
8.	KEIYO	1
9.	KIKUYU	32
10.	KIPSIGIS	5
11.	KISII	20
12.	KURIA	8
13.	LUHYA	29
14.	LUO	18
15.	MBEERE	1
16.	MERU	8
17.	NANDI	2
18.	OGIEK	1
19.	POKOMO	1
20.	POKOT	6
21.	SABAOT	5
22.	SAMBURU	1
23.	SOMALI	1
24.	SUBA	3
25.	TESO	9
26.	TUGEN	1
27.	TURKANA	3
	TOTAL	198

RECRUITMENT BY SUB COUNTY DISTRIBUTION

SR.NO.	SUB COUNTY DISTRIBUTION	NUMBER
1.	ALDAI	2
2.	ALEGO	1
3.	AMAGORO	2
4.	AMUKURA	1
5.	BARINGO CENTRAL	1
6.	BARINGO NORTH	1
7.	BARINGO SOUTH	1
8.	BOBASI	2
9.	BOGETUTU	1
10.	BOMET CENTRAL	1
11.	BONCHARI	2
12.	BORABU	1
13.	BUMULA	1

14.	BUNGOMA CENTRAL	1
15.	BURETI	1
16.	CHEPALUGU	2
17.	CHERANGANY	5
18.	CHESOEN	1
19.	CHESUMEI	1
20.	ELDORET EAST	1
21.	EMUHAYA	1
22.	ENDEBESS	2
23.	FUNYULA	1
24.	GACHOKA	2
25.	GALOLE	1
26.	GATANGA	1
27.	GICHUGU	1
28.	GILGIL	1
29.	IGEMBE SOUTH	1
30.	IKOLOMANI	1
31.	IMENTI CENTRAL	1
32.	ISIOLO EAST	1
33.	KABICHBICH	1
34.	KAGEMA	1
35.	KAMARINY	1
36.	KANDARA	2
37.	KAPENGURIA	1
38.	KAPSOKWONY	1
39.	KAPTAMA	1
40.	KARACHUONYO	1
41.	KARATI	1
42.	KARIOBANGI NORTH	1
43.	KASIPUL	1
44.	KATHIANI	3
45.	KIENI EAST	2
46.	KIENI WEST	1
47.	KILGORIS	1
48.	KILOME	1
49.	KIMININI	2
50.	KINANGOP	3
51.	KIPIPIRI	1
52.	KIPKELION WEST	1
53.	KISII CENTRAL	1
54.	KISUMU	2

55.	KISUMU EAST	1
56.	KISUMU WEST	1
57.	KITUI WEST	1
58.	KITUTU MASABA	2
59.	KOIYWA	1
60.	KURIA	1
61.	KURIA EAST	4
62.	KURIA WEST	3
63.	KWANZA	4
64.	LAIKIPIA CENTRAL	1
65.	LAIKIPIA EAST	1
66.	LARI	1
67.	LIKUYANI	1
68.	LOKICHA	1
69.	LUANDA	1
70.	LUGAGA	1
71.	LUGARI	2
72.	MAARA	1
73.	MACHAKOS	1
74.	MAGARINI	1
75.	MAKUENI	2
76.	MANYATTA	1
77.	MARABA	1
78.	MASABA NORTH	2
79.	MATETE	1
80.	MATHIOYA	1
81.	MATHIRA	1
82.	MATHIRA EAST	1
83.	MATUGA	1
84.	MATUNGU	3
85.	MBEERE SOUTH	1
86.	MBEERE NORTH	1
87.	MBITA	1
88.	MBOONI	1
89.	MERU CENTRAL	2
90.	MOIBEN	2
91.	MOSOP	1
92.	MOYALE	1
93.	MT. ELGON	2
94.	MUHORONI	1
95.	MUMIAS WEST	1

96.	MWALA	2
97.	N. MUGIRANGO	1
98.	NAIVASHA	1
99.	NAKURU	1
100.	NANDI HILLS	1
101.	NANDI NORTH	1
102.	NAROK WEST	1
103.	NDARAGUA	1
104.	NDIA	1
105.	NJORO	1
106.	NYAKACH	1
107.	NYANDO	1
108.	NYARIBARI	1
109.	NYARIBARI CHACHE	1
110.	NYARIBARI MASABA	2
111.	NYATIKE	1
112.	NYERI	1
113.	OLKALAU	1
114.	RONGO	1
115.	OTHAYA	1
116.	POKOT SOUTH	1
117.	RAVIN WEST	1
118.	RANGWE	2
119.	RONGAI	1
120.	ROYSAMBU	1
121.	RUIRU	1
122.	RURAL	1
123.	SABAOT	1
124.	SAMBURU	1
125.	SAMBURU CENTRAL	1
126.	SEME	1
127.	SHIANDA	1
128.	SHINYALU	1
129.	SIGOR	3
130.	SIGOWET	1
131.	SIRISIA	1
132.	SOY	2
133.	SOTIK	1
134.	SOUTH KINANGOP	1
135.	STAREHE	1
136.	SUBA	1

137.	SUBUKIA	1
138.	SUNA EAST	1
139.	TARBAJ	1
140.	TESO NORTH	1
141.	TESO SOUTH	3
142.	TIGANIA EAST	2
143.	TONGAREN	1
144.	TRANSMARA EAST	2
145.	UGUNJA	1
146.	USONGA	1
147.	VIHIGA	1
148.	WEST MUGIRANGO	2
149.	WEBUYE	1
150.	WEBUYE EAST	2
	TOTAL	198

(iii) RECRUITMENT OF NYS BY KENYA PRISONS SERVICE

MAY, 2017 RECRUITMENT

The Kenya Prison Service undertook one recruitment in May 2017 during which the service recruited a total of 100 officers. The following is a breakdown of the recruitment by gender, ethnicity and Sub County:

SRL NO.	GENDER BALANCE	NUMBER
1.	MALE	75
2.	FEMALE	25
	TOTAL	100

S. NO.	ETHNIC BALANCE	NUMBER
1.	BORANA	1
2.	DOROBO	1
3.	BUKUSU	5
4.	BURJI	1
5.	EMBU	1
6.	KAMBA	14
7.	KIKUYU	9
8.	KIPSIGIS	9
9.	KISII	23

10.	KURIA	1
11.	LUHYA	5
12.	LUO	8
13.	MARAKWET	3
14.	MASAAI	1
15.	MERU	2
16.	NANDI	7
17.	SABAOT	4
18.	SAMBURU	1
19.	TAITA	1
20.	TUGEN	2
21.	TURKANA	1
	TOTAL	100

**RECRUITMENT BY SUB COUNTY
DISTRIBUTION**

S.NO.	SUB COUNTY DISTRIBUTION	NUMBER
1.	BOMET	5
2.	BUNGOMA	7
3.	CHEPTAIS	1
4.	ELGEYO	2
5.	EMBU	1
6.	GUCHA	3
7.	HOMABAY	3
8.	KAJIADO	1
9.	KAKAMEGA	5
10.	KERICHO	3
11.	KIAMBU	2
12.	KISII	15
13.	KISUMU	4
14.	KITUI	5
15.	KOIBATEK	1
16.	LAIKIPIA	1
17.	LONDIANI	1
18.	MACHAKOS	4
19.	MAKUENI	4
20.	MARSABIT	1
21.	MERU	1
22.	MIGORI	1
23.	MOYALE	1
24.	MURANGA	1
25.	NAIROBI	1

26.	NAIVASHA	1
27.	NAKURU	1
28.	NANDI	4
29.	NAROK	1
30.	NYAMIRA	2
31.	NYANDARUA	2
32.	NYERI	5
33.	NZAU	1
34.	SIAYA	1
35.	SOTIK	1
36.	TAITA	1
37.	THARAKA NITHI	1
38.	TRANSNZOIA	2
39.	UASIN GISHU	3
	TOTAL	100

Conclusion

In conclusion, the National Youth Service is keen to progress service men and women in to other disciplined forces as forward strategy and career progression. In this regard, the Ministry is keen to see that in every recruitment, 30% of the total number of recruits enlisted by the KDF and each disciplined service be allotted to NYS servicemen/women.

The current population of National Youth Servicemen/women is **62,153** who will exit the Service following successful paramilitary training, national service and vocational training.

DR. F.O. OWINO, PhD
PRINCIPAL SECRETARY

1580

② TRACY
CHERRY

please do
FA
09/9/19



① DZ committee
8
319/19

MINISTRY OF DEFENCE
OFFICE OF THE PRINCIPAL SECRETARY

Telegraphic Address: "DEFENCE"
Fax No .020-2723446
Telephone: 020-2737310
Email: ps@mod.go.ke

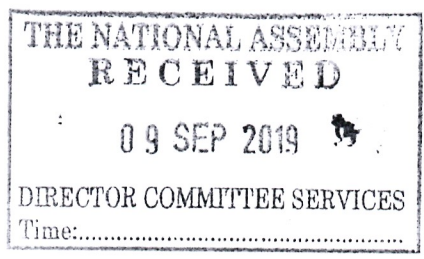
ULINZI HOUSE
P.O. Box 40668-00100
NAIROBI
KENYA

③ Emergent
please note
FA
09/9/19

When replying please quote: MOD.17/08

27th August, 2019

Mr. Michael Sialai, EBS
Clerk of the National Assembly
Parliament Buildings
P.O. Box 41842 - 00100
NAIROBI



Dear Michael,

RE: REQUEST BY THE SELECT COMMITTEE ON IMPLEMENTATION FOR THE IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS

We refer to your letter NA/DCS/COI/2019/ (61) dated 23rd July, 2019.

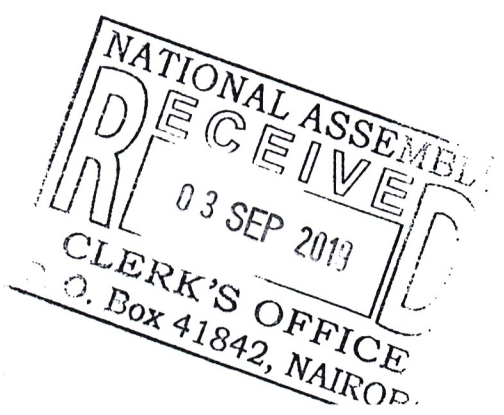
Forwarded herewith please find the status of the implementation of the House Resolutions.

A soft copy has been forwarded to the Committee's Clerk as requested.

Kindly acknowledge receipt.

Gordon O. Kihalangwa
MAJ. GEN. (RTD) DR. GORDON O. KIHALANGWA, CBS
PRINCIPAL SECRETARY

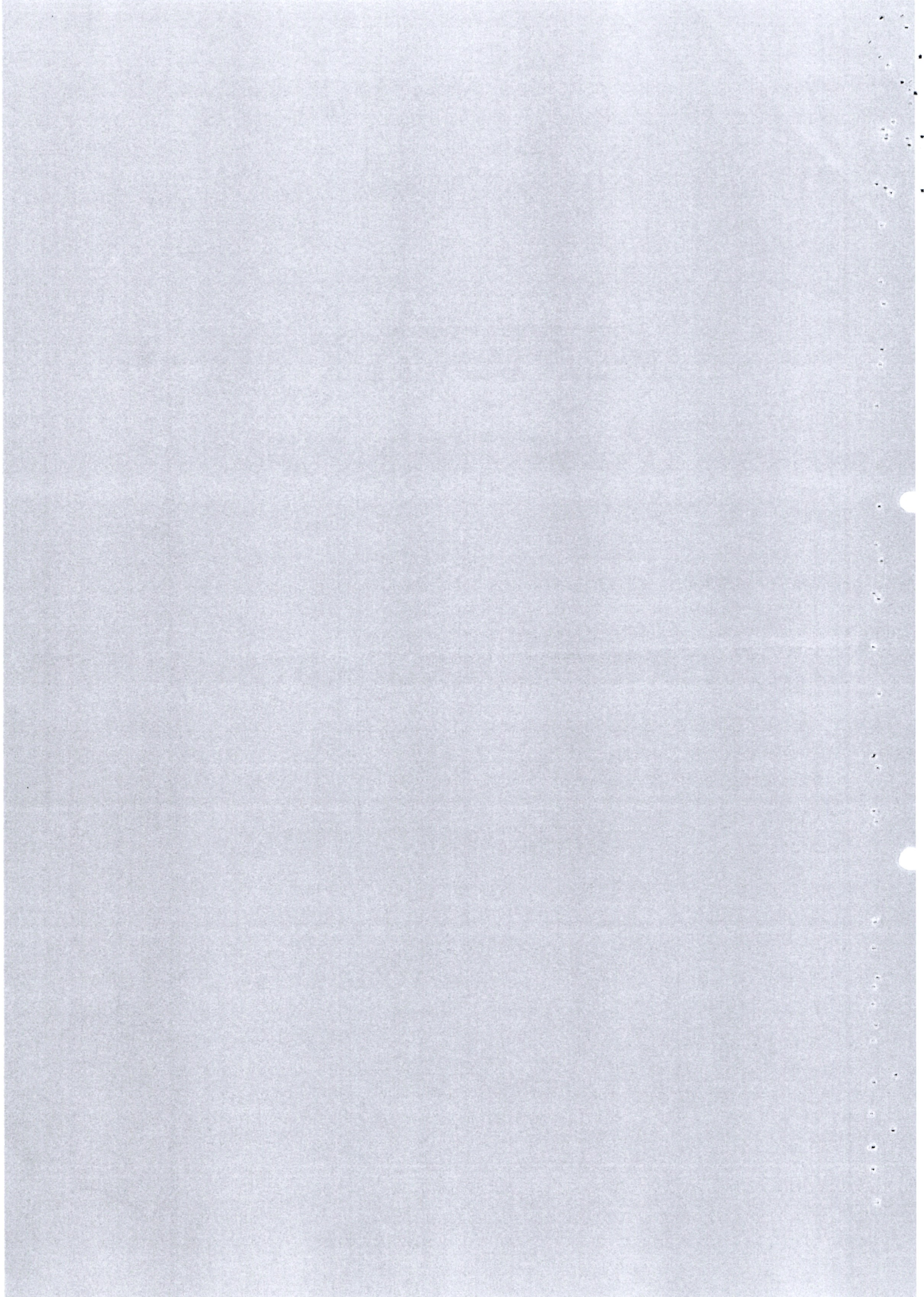
Attach.





MINISTRY OF DEFENCE

IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS



IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS

RESOLUTION NO. 1

1. A resolution that the Government considers through all the disciplined forces to give first priority in recruitment of their servicemen and women to all willing NYS graduates which will significantly reduce their recruitment cost, training period and subsequently training cost and in addition create jobs for these skilled youth as communicated vide letter Ref. No. KNA/L&P/2018/RES/14/(029) dated 11 July 2018.

Comments

The Ministry conducts recruitment in the Counties as required by Section 28(3) of the Kenya Defence Forces. The Ministry grants priority to NYS graduates who present themselves for recruitment provided they are eligible and pass medical screening. In December 2018, 420 NYS graduates were recruited into the Kenya Defence Forces as service members and constables. This is a significant increase from the 181 NYS graduates recruited in March 2018.

RESOLUTION NO. 2

2. A resolution that the Government exercises its power to protect Kenyans from harassment by external threats and takes adequate measures to ensure that Kenyan territorial integrity is guaranteed and safeguarded including through the establishment of a naval force to man the Lake Victoria Waters as adopted on 25th July 2018.

Comments

a. The KDF through the Ministry of Defence is currently implementing the Border Securitization Programme which, is reinforced by deployments of Kenya Defence Forces personnel along the Kenya-Somali Boundary. It is expected that the Border Securitization Programme once completed will create a physical barrier to infiltration of armed insurgents into the Republic of Kenya while also providing continuous

monitoring of border areas. This will facilitate timeous response to potential breaches of national security.

b. Currently the Kenya Defence Forces is engaged in Operation Linda Boni, a multi-agency security initiative with the objective of securing Boni Forest and denying its usage by Al Shabaab. The operation is also intended to protect the citizens within Lamu and Tana River Counties and by extension the Republic of Kenya from attacks by Al Shabaab.

c. The Kenya Navy continues to maintain its presence within Kenya's extended exclusive economic zone in the Indian Ocean in order to protect Kenya's territorial integrity and sovereignty over the extended exclusive economic zone.

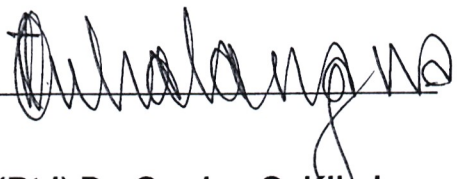
d. The deployment of the Kenya Defence Forces as part of AMISOM in the Republic of Somali is intended to degrade and neutralize Al Shabaab inside Somalia, thus deny it resources, freedom and capacity to conduct attacks within the Republic of Kenya. AMISOM operations thereof contribute to the national security of the Republic of Kenya.

e. The Ministry of Defence led the multi-agency initiative to establish the Kenya Coast Guard Service. The Kenya Coast Guard Service Act, No.11 of 2018, has since been enacted by the National Assembly. Under Section 8 as read together with Section 2 of the Act, the Kenya Coast Guard Service is required to provide maritime security and safety in the territorial waters. Territorial waters include inland waters such as Kenya's share of Lake Victoria.

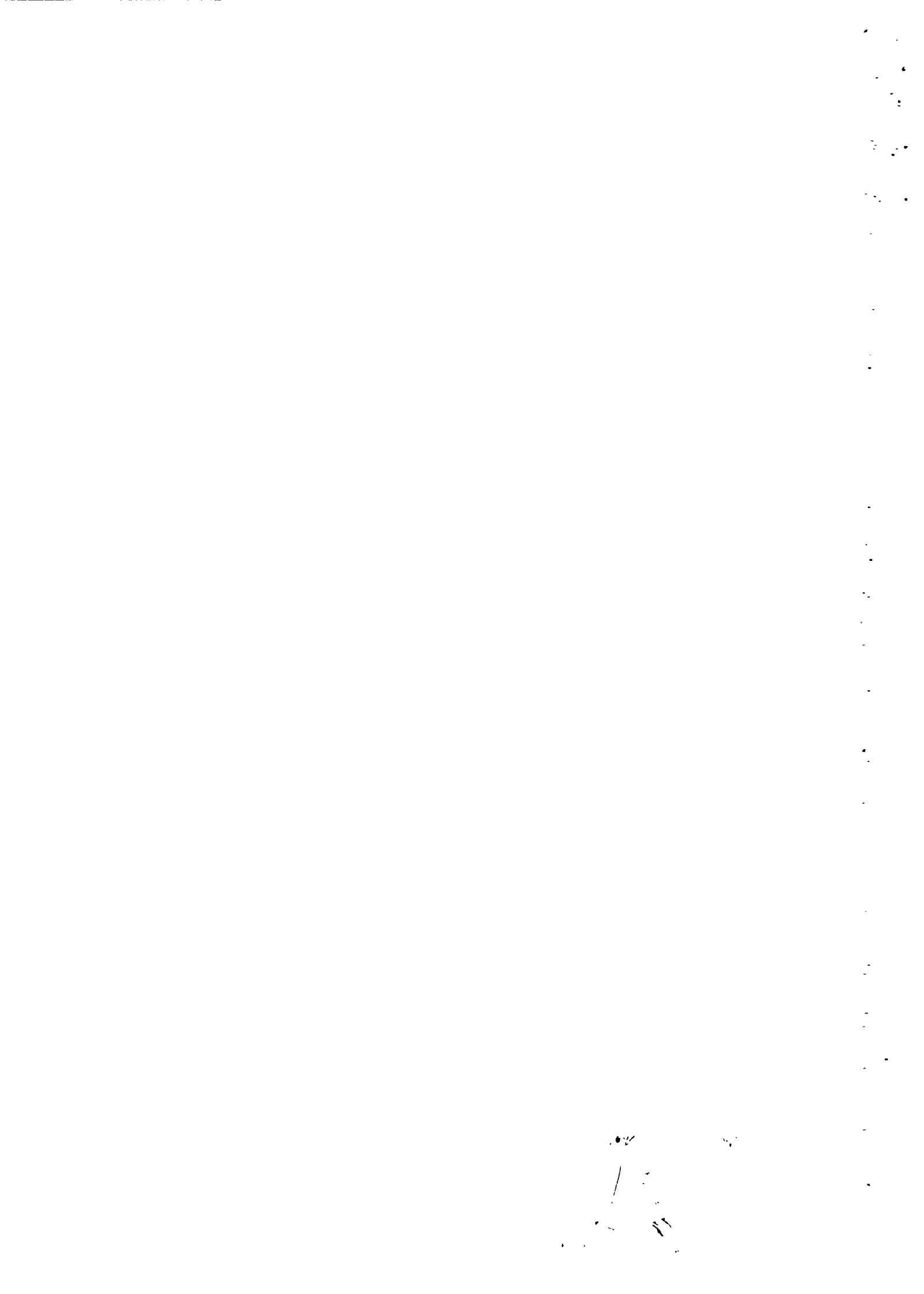
f. The Kenya Coast Guard Service will therefore be responsible for providing security in the territorial waters including Lake Victoria thereby protecting the territorial integrity of the Republic of Kenya. It will also protect the citizens of Kenya who are undertaking legitimate activities within its territorial waters.

g. The Kenya Coast Guard Service Council is currently operationalizing the Service to enable it deliver its mandate within the territorial waters.

Dated at Nairobi 27th day August 2019

Signed 

Maj Gen (Rtd) Dr. Gordon O. Kibalangwa, CBS
Principal Secretary
Ministry of Defence





**MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING,
URBAN DEVELOPMENT AND PUBLIC WORKS
STATE DEPARTMENT OF INFRASTRUCTURE**

Office of the Principal Secretary

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WORKS BUILDING
NGONG ROAD
P.O. Box 30260-00100
NAIROBI, KENYA

Ref: MOTIHUD&PW/1/A/24.04 Vol. I/51

6th August , 2019

Mr. Michael Sialai, CBS
Clerk of the National Assembly
Parliament Buildings
NAIROBI

Dear *Mr. Sialai*

**RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON
TRANSPORT, PUBLIC WORKS AND HOUSING**

I refer to your letter ref.NA/COI/2019/(79) dated 23rd July,2019 on the above subject and I wish to respond as follows:

1. Fourth Report of the Special Funds Accountst Committee

The Ministry was not officially involved in the seating and adoption of the Fourth Report of the Special Funds Accounts Committee on the Audited Financial Statements for the Kenya Roads Board Fund and as such, we are not in a position to give a statement on the matter.

**2. Allege Demolition of Building along Mtandawanda-
Kizingitini Road**

In response to the letter Ref.NA/DLP/PP/2018(019) dated 16th August ,2018 I would like to clarify that no demolitions were carried out during implementation of the project for Spot Improvement of Mtandawanda-Faza-Kizingitini Road(E991).The property marked for demolition were all within the 20m corridor; however, no demolition was carried out because the project

limited itself to the existing road corridor in the interest of humanitarian considerations.

Furthermore, the National Assembly Departmental Committee on Transport, Public Works and Housing and the Office of the Director of Public Prosecutions have separately conducted inquiries into the matter and concluded that no compensation was to be made to individuals with property within the road corridor.

The road was improved under National Government provisions of the Equalization Fund and was substantially completed in August, 2018.

I further wish to reiterate that structures that remain on the road corridor portend a serious risk to road users and therefore would recommend that all stakeholders be amenable to finding alternatives that would ultimately allow for the demolition of all demarcated structures.

Yours *Sincerely*

A handwritten signature in black ink, appearing to read 'Julius Korir', written over a horizontal line.

Julius Korir, CBS
PRINCIPAL SECRETARY

Telephone: +254-20-318688
Fax: +254-20-2240066-341935-344333
E-mail: communication@mfa.go.ke
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When replying please quote Ref. No. and date



HARAMBEE AVENUE
P.O. BOX 30551-00100
NAIROBI, KENYA

MINISTRY OF FOREIGN AFFAIRS

Ref. No. **MFA.ADM.1/102A-VOL. XXI (30)**

7 August 2019

Mr. Michael R. Sialai, EBS
Clerk of the National Assembly
Parliament Buildings
NAIROBI

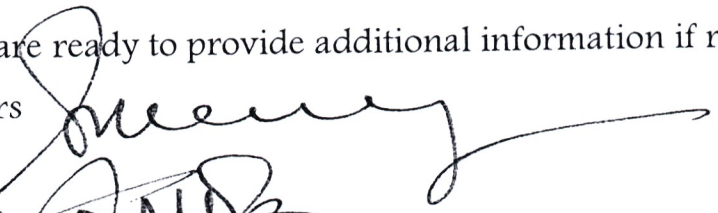
Dear 

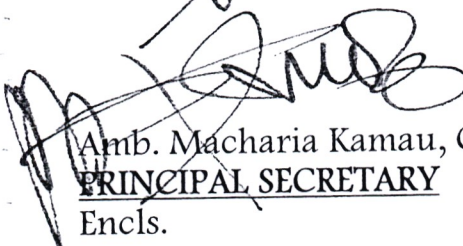
RE: REQUEST BY THE SELECT COMMITTEE ON IMPLEMENTATION FOR THE IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS

I acknowledge receipt of the letter Ref: NA/DCS/COI/2019/(58) dated 23rd July 2019 on the above subject matter. I enclose herein progress reports on the implementation status of the listed reports for your information:

- 1. The Report of the Departmental Committee on Defense and Foreign Relations on the Ratification of the African Continental Free Trade Area (AFCFTA) Agreement; and the Ratification of the COMESA-EAC-SADC Tripartite Free Trade Area (TFTA) Agreement.*
- 2. The Report on inspection visit to the Isebania one-stop boarder post in Migori County.*
- 3. The Report on Inspections visits to Kenya's Diplomatic Missions.*

We are ready to provide additional information if required.

Yours 


Amb. Macharia Kamau, CBS
PRINCIPAL SECRETARY
Encls.

THE REPORT THE DEPARTMENTAL COMMITTEE ON DEFENSE AND FOREIGN RELATIONS ON THE RATIFICATION OF THE AFRICAN CONTINENTAL FREE TRADE AREA (AFCFTA) AGREEMENT; AND THE RATIFICATION OF THE COMESA-EAC-SADC TRIPARTITE FREE TRADE AREA (TFTA) AGREEMENT

The Ministry of Foreign Affairs wishes to report on the Ratification of the African Continental Free Trade Area (AFCFTA) Agreement; and the Ratification of the COMESA-EAC-SADC Tripartite Free Trade Area (TFTA) Agreement as follows:

A. Ratification of the African Continental Free Trade Area (AFCFTA) Agreement

1. Kenya participated in the negotiation of the Agreement Establishing the African Continental Free Trade Area (AFCFTA) and the three Protocols (on Trade in Goods, Trade in Services and Rules and Procedures on the Settlement of Disputes) concluded in March 2018 and was among the first country to sign on 21st March 2018. During the time, 44 AU Member States signed the Agreement during the Extraordinary Summit that was held in Kigali. To date, 54 AU member states out of 55 that have signed the Agreement. Only Eritrea is yet to sign the Agreement. In addition, Kenya was also among the first countries to ratify and deposit instrument of ratification of the AFCFTA on 10th May 2018.
2. The Agreement came into force on 30th May 2019 after the 22nd State Party deposited instrument of ratification. To date, 27 State Parties have deposited instruments of ratification. The AFCFTA was launched on 7th July 2019 in Niamey, Niger.
3. Kenya, together with AU Member States participated in the negotiation of Phase I and II issues. Phase I issues covers the Agreement Establishing the AFCFTA; the Protocols on Trade in Goods; Trade in Services; and Rules and Procedures on the Settlement of Disputes. Phase II to cover the following protocols; Protocol on Intellectual Property Rights, Protocol on Investment and Protocol on Competition Policies.
4. The entry into force of the Agreement signified a favourable milestone in enhancing intra-African trade. However, the entry into force does not mean that the State Parties to the Agreement can begin to trade with each other under the AFCFTA terms. There are still some significant outstanding issues that must be concluded for the Agreement to be implemented. These issues, include; conclusion of Rules of Origin; and submission of schedules of tariff concessions, as well as schedules of commitment for trade in services.
5. In March 2019, the African Union Commission invited AU Member States to express interest in hosting the Secretariat. Consequently, seven Member States – Egypt, Eswatini, Ethiopia, Ghana, Kenya, Madagascar and Senegal, submitted their bids to the Commission. A Technical Evaluation

Team was deployed to the bidding countries to assess their suitability and capabilities. Subsequently, the Team presented a report to the Summit, through relevant AU bodies, for a decision and it followed that the Republic of Ghana won the bid to host the AfCFTA Secretariat.

B. Ratification of the COMESA-EAC-SADC Tripartite Free Trade Area (TFTA) Agreement

6. The TFTA Agreement has been signed by 22 member countries, namely Angola, Botswana, Burundi, Comoros, Democratic Republic of Congo (DRC), Djibouti, Egypt, **Kenya**, State of Libya, Madagascar, Malawi, Mauritius, Namibia, Rwanda, Seychelles, Sudan, Tanzania, Uganda, South Africa, Swaziland, Zambia and Zimbabwe. To date, five countries have ratified the Agreement: **Kenya**, Egypt, Uganda, South Africa and Rwanda. The Agreement requires 14 ratifications to enter into force. The TFTA was launched on 10 June, 2015 in Sharm El Sheikh, Egypt at the Third Tripartite Summit.
7. After the launch of the TFTA, the Summit provided 12 months from the launch of the TFTA to conclude outstanding negotiations issues on rules of origin, trade remedies and tariff offers. However, due to a number of challenges faced in the process, the deadline of June 2016 was not met, and the commencement of Phase II negotiations – covering trade in services and other trade related matters – has been delayed pending the conclusion of negotiations on Phase I issues.

8. Challenges:

- i. Negotiation process – negotiating key trading tools like the rules of origin, tariff offers among others fails to meet deadline set.
- ii. Fast tracking the ratification by State Parties
- iii. Poor/inadequate infrastructure across the continent – one of the major barrier to trade and development in the Continent and may cause a challenge during the AfCTA's implementation.
- iv. Competition in local markets as some local companies that are taking advantage of economies of scale may grow faster than others and capture dominant positions in market.
- v. Different institutional and regulatory arrangement of each country may affect implementation of the AfCFTA and the TFTA. Such include technical barriers to trade (standards, technical regulations and Conformity assessment regimes) and SPS requirements
- vi. Different levels on products production amongst State Parties

9. Expectation from State Parties:

- I. Ensure sustainability of the AfCFTA Agreement by continuously providing the necessary support such as financial, political, technical and including the timely provision of information.

- II. AfCFTA Secretariat, the Commission and RECs to develop a framework of cooperation to further facilitate the development of the intra-Africa trade.
- III. African Ministers of Trade (AMOT) to work towards ensuring that Africa succeeds in getting the position of Director General of the World Trade Organization (WTO) falling vacant on 31st August 2020 and contribute to the strengthening of the multilateral trading system following the established AU relevant processes and procedures;
- IV. Develop implementation modalities for the following Annexes of the TFTA agreement: Annex III on non-tariff barriers to trade; Annex IV on rules of origin; Annex V on customs co-operation and mutual administrative assistance; annex VI on trade facilitation; annex VII on transit trade and transit facilitation; Annex VIII on technical barriers to trade and Annex IX on Sanitary and Phytosanitary (SPS) measures.

MINISTRY OF FOREIGN AFFAIRS
NAIROBI
AUGUST 2019

THE REPORT ON INSPECTION VISIT TO THE ISEBANIA ONE-STOP BOARDER POST IN MIGORI COUNTY

Regarding the Report on Inspection visit to the Isebania one-stop boarder post in Migori County, Kenya Revenue Authority informed the Ministry of Foreign Affairs that:

1. The Isebania OSBP is not operational i.e. Kenya and Tanzania agencies at the OSBP operate as separate entities.
2. There is shortage of operational equipment which has delayed the flow process of movement of people and goods. This is a matter that needs to be reviewed by the two partner states. It is recommended that the gate to the Tanzanian side of the OSBP which is currently closed to be opened.

The Ministry of Foreign Affairs further recommends that the Committee may wish to refer to the Kenya Revenue Authority and the Ministry of East Africa Community and Regional Development, being the lead agencies in the implementation of this directive.

MINISTRY OF FOREIGN AFFAIRS
NAIROBI

AUGUST 2019

THE REPORT ON INSPECTIONS VISITS TO KENYA'S DIPLOMATIC MISSIONS

The Ministry of Foreign Affairs wishes to report on inspections visits to Kenya's Diplomatic Missions as follows:

1. IMPLEMENTATION STATUS ON HUMAN RESOURCE

I. STATUS ON MISSIONS THAT HAD HUMAN RESOURCE ISSUES

S/No.	Missions that had Human Resource Issues	Human Resource Issue/Challenge	Implementation Status
1.	Kenya Diplomatic Mission to Tokyo, Japan	a) Inadequate staff b) Heavy workload c) High cost of leaving – review remuneration	2 Officers identified for deployment Review of remuneration has started
2.	Kenya Embassy in Bern – Switzerland	a) To open Mission in Bern	Head of Mission appointed undergoing pre-departure training
3.	Kenya Mission to UN in Geneva	a) Lack of staff	Two staff already posted
4.	Kenya Embassy in Washington, DC	a) Lack of staff due to recalls	3 Staff identified for posting
5.	Kenya Embassies in Seoul – South Korea	a) Shortage of staff b) Need for posting of tourism and trade attachés	Head of mission appointed pending determination for posting Ministries for Tourism and Trade contacted for posting attachés in the current financial year
6.	Kenya Embassy of the Peoples Republic of China	a) Review of remuneration b) Shortage of staff	2 Officers to be deployed identified Review of remuneration has started
7.	Embassy/Permanent Mission of the Republic to Kenya in Vienna, Austria	a) Inadequate staff b) Need for posting of Education attaché c) Develop a Diaspora office	Head of mission and a deputy ambassador appointed undergoing pre-departure training Ministry of education contacted to prepare for attaché
8.	Embassy of the Republic of Kenya in the Russian Federation - Russia	a) No Head of mission b) Need for posting of an education attaché'	Head of Public service notified of the need to appoint Head of Mission Ministry of Education contacted to identify attaché

9.	Kenya High Commission in Ottaa, Canada	a) No Pension scheme b) Post more staff and increase capacity	Terminal benefits to be paid to local staff who served on permanent terms this Financial year. Thereafter all staff to be translated to contract as per Public service commission guidelines 2014
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II. MILESTONES IN IMPLEMENTATION OF THE ABOVE RECOMMENDATIONS

After the departmental committee on defence and foreign relations gave their recommendations in August 2018 and also after a thorough review of the Ministry's mandate, growing demands for Kenya's leadership, challenging regional and global environment, the general moratorium on recruitment in the last ten (10) years, as well as the necessity for growing foot print, it vindicated the Ministry's stated requirements for additional personnel.

At that time in August 2018, the establishment of the Foreign service personnel was stringent and lean thus making it difficult to promote enough and suitable officers to distribute at both headquarters and the missions abroad. It was felt that:

- The ideal staff distribution of the Ministry should conform to best corporate practices of a pyramidal structure, with few officers at the apex and more officers at the bottom.
- However, the Ministry's structure did not conform to this structure and thus did not provide
- (a) Appropriate technical support for optimal performance and
(b) Effective succession management

In this regard, the Ministry requested the Public Service Commission for Expansion of the Foreign Service Establishment. Subsequently the Commission vide letter Ref: PSC/EMC/3/17 dated 22nd November 2018 approved an expansion of the Foreign Service Establishment from the current 572 to 1094 posts.

This expansion of the establishment has now allowed 215 foreign service officers to be appointed and promoted to higher grades as explained below. Some of the promoted Ambassadors/officers are undertaking pre-departure training in readiness for new assignments abroad. The Accountants and Office administrators have already left to missions to take up new postings this year 2019.

The Ministry with the approval of the Public Service Commission has promoted 103 serving officers to various Job Groups ranging from Job Group M-P between the period November 2018 and June 2019. Forty-two (42) officers in the entry level in Job Group 'J' who were employed in 2017 have all been promoted to Job Group 'K' giving way to 116 vacancies at entry level. These 116 vacancies have been advertised by the Public Service Commission.

The Appointment of High Commissioners, Ambassadors and Consul Generals remains the prerogative of the President as provided for under Article 132 (2) (e) of the Constitution. Under the Ministry's Scheme of Service, progression from JG "S" to "T" is on appointment to the position of High Commissioner/ Ambassador. This is the highest grade in the Civil Service.

In this regard, His Excellency the President on 1 May 2019 promoted and appointed 20 serving Foreign Service officers/Ambassadors Job Group 'T' to serve in various Missions abroad as well as in the Headquarters. The Ministry is in the process of filling the vacant posts at the entry level. This posts have been created by the recent promotions that have seen officers move to one or two Job Groups higher from the entry to the peak. In 2018, the President with the approval of the National Assembly appointed twenty-two Ambassadors. This year, the Ministry has seen career diplomats promoted to the rank of Ambassador/High Commissioners and Deputy Head of Missions w.e.f 1st May, 2019. All at Job Group 'T'. This has created a more ideal staff distribution at the Ministry thus conforming to best corporate practices of a pyramidal structure.

It is worth noting that the Ministry of Public Service Youth and Gender Affairs has issued a circular on the 17-tier effectively reducing the current ranks in the civil service from current 21 down to 17. The implementation that begins this month in August 2019 will automatically move officers in grade 'M' to 'N' and those serving in grade 'Q' will move to grade 'R' thus completing the promotion cycle of all officers across the cadres in the ministry.

III. CHALLENGES IN IMPLEMENTATION OF HUMAN RESOURCES DECISIONS

(a) Recruitment

- **Local staff:** In 2014, the Public Service Commission gave out guidelines on the recruitment of local staff in the mission that: they should be hired on contract terms of not more than 3 years and that recruitment should be through competitive process that includes advertising, recruitment and selection. However, there are still challenges:
 - The diversity of Local Labour laws applicable in various countries that in most cases results into Litigations
 - Lack of staffing norms of local staff in each country
 - Lack of standardized salary structure in each country
 - Lack of regulations for training of local staff

- Most missions have not been able to translate the terms of service from permanent to local contract. This has been caused by lack of funds due to budgetary constraints.

(b) Deployment

- (i) Due to the Austerity measures instituted across the larger government MDAs, the Ministry has not been able to adequately and predictably deploy officers to Missions abroad.

(c) Challenges in Capacity Building

The human resource development capacity in the Ministry is also affected negatively by the out dated scheme of service over a period of time that included:

- Lack of a comprehensive training curriculum for Foreign Service officers within the Foreign Service Academy that resonates the current scheme of service.
- Lack of Diplomatic training for the Administrative function in the Ministry.
- Lack of adequate funds to carry out training.

(d) Personnel Emoluments Allocations in the Last Five (5) Budget Financial Years

- The table below illustrates the Personnel Emoluments allocation in the last five (5) budget financial years. The increase in allocation has been minimal over the years thus fueling the above challenges. Among the challenges is the expanded diplomatic foot print which has grown over the years. Opening of new missions requires deploying human personnel to articulate the Ministry's mandate. The current budget allocation of Ksh. 7.69 B is not adequate to accommodate the growing compliment of staff in the ministry and also the high cost of living.
- The Ministry has a current liability of **Ksh. 150M** for payment of gratuity to Ambassadors at Headquarters whose contracts have expired and **Ksh. 80M** for payment of gratuity for Ambassadors at the Missions abroad and whose contracts have expired.
- The contract end period is determined once the Ambassadors/ High Commissioners are recalled back by the appointing authority.
- The Ministry has another liability in respect to Local staff. These are employees who are engaged on local agreement terms at the missions abroad. In 2014, the Public Service Commissions directed that all Local staff be engaged on a not more than 3-year local contract terms. This saw the Missions translate the terms of service for formerly engaged permanent employees to local contract terms. This exercise had not been adequately

budgeted for and thus the Ministry still struggles to clear a liability of **Ksh. 200M** in respect of payment of gratuities and dues owed to the locally engaged staff to avoid litigation issues arising.

- In total the Ministry requires **Ksh.430M** on Personnel Emoluments to clear the liability.

S/No	FINANCIAL YEAR	P.E ALLOCATION (Ksh.)
1	2014/15	5,959,630,225.00
2	2015/16	6,772,350,186.00
3	2016/17	6,960,023,571.00
4	2017/18	7,318,800,000.00
5	2018/19	7,660,470,000.00
6	2019/20	7,688,670,000.00

IV. RECOMMENDATIONS TO THE ABOVE CHALLENGES

To address the above challenges, the Ministry has embarked on the review of the entire Ministry's career development path, to create Kenya's Foreign Service Cadre as follows: -

- Determine entry criteria to the Foreign Service, and clarify the career path of the Foreign Service Officers
- Reduce the banding years of progression from entry to exit
- Review the organizational structure of Ministry of Foreign Affairs
- propose lateral infusion of skills and competencies
- Review the Foreign Service Institute curriculum - The Current Foreign Service Institute curriculum does not adequately respond to the needs of the Ministry. Similarly, the Scheme of Service for Foreign Service Officers has not expressly identified the requisite skills and competencies to mirror the career path. The courses should be designed to mirror the career path of the Foreign Service Officers to achieve specific learning outcomes in the professional development of the officers at each stage of their career path.
- The Ministry has embarked on a comprehensive programmatic review of the Foreign Service Academy to effectively deliver on its mandate of equipping Foreign service officers with skills and knowledge to ensure effective representation and articulation of Kenya's Foreign Policy.

2. IMPLEMENTATION ON THE MINISTRY'S TRANSPORT POLICY AND STANDARDS

1) BACKGROUND

A retreat of a **Parliamentary Committee on Foreign Relations & Defence** and Ministry officials took place in Naivasha in **February 2019**. Among issues that were raised was **inconsistency on transport guidelines** and in Kenya Missions abroad. It was noted that when the Parliamentary Committee visited some Missions, motor vehicles were purchased without following standard guidelines.

For instance, the following were noted:

- Representational cars for Ambassadors/High Commissioners were not standard
- There was neither a policy in place for servicing vehicles nor for replacement of vehicles
- It was not clear how long a vehicle could be used before the same could be disposed

2) DEVELOPMENTS

Against that background, a taskforce was constituted in March, 2019 with specific terms of reference. **The objectives of the taskforce was to come up with a transport policy to guide in the operations of transport both at the Ministry Headquarters and in Missions abroad.**

The taskforce sought views from stakeholders both at the Ministry and Missions abroad, reference was made to the **National Transport Policy**, and **other Policy documents on transport**. Subsequently, a Draft transport policy domesticated to the Ministry and Missions abroad was developed.

Some of the keys areas that have been addressed in the Draft transport policy document included the following;

- Putting in place a Transport Management Committee
- Rules and regulations in management of Protocol vehicles
- Procedures of acquisition of Motor vehicles
- Hiring & Leasing
- Replacement of vehicles
- Motor vehicle inventory
- Use and control of motor vehicles
- Allocation of motor vehicles
- Motor vehicle maintenance, safety and protection
- Maintenance and repair
- Insurance
- Handling of accidents
- Disposal of motor vehicles

3) CURRENT STATUS

The Draft transport policy is under finalization. its anticipated that the final document will be printed by October 2019 for the same to be operational. Once the policy is in place the document will address concerns raised by the parliamentary Committee including other issues outlined above.

3. STATE OF PROPERTIES OWNED BY GOVERNMENT OF KENYA IN MISSIONS ABROAD

a. General Condition

Most of the government owned properties in missions abroad are old having been acquired in the early years of Kenya's diplomacy, and suffer various defects, while some have become dilapidated over the years due to poor maintenance.

Missions that own government properties and were visited by the Parliamentary team are:

- i) New York – Embassy offices, Ambassador's residence and three staff houses
- ii) Washington DC – Embassy building, Ambassador's residence and three staff houses
- iii) Ottawa – Chancery and Ambassador's residence
- iv) Tokyo – Embassy building
- v) Beijing – Chancery and Ambassador's residence

b) Implementation Status of Properties Visited

S/NO	IMPLEMENTATION STATUS	CHALLENGES
1.0	<p>New York</p> <ul style="list-style-type: none"> ➤ <i>Ambassador's residence</i> – this property is dilapidated and a proposal to dispose was denied by The National Treasury which advised redevelopment ➤ <i>Three staff houses</i> <ul style="list-style-type: none"> • <i>Contracts</i> for comprehensive repairs of the three staff houses have been signed • Work is ongoing 	<ul style="list-style-type: none"> • Funds have not been allocated for redevelopment <p>NONE</p>
2.0	<p>Washington D.C</p> <ul style="list-style-type: none"> ➤ Contract has been awarded for comprehensive repairs and renovations of embassy building ➤ <i>Ambassador's residence and staff houses</i> - are in fair to good condition and contracts have been awarded for repairs and renovations. 	<ul style="list-style-type: none"> • The Ministry does not have adequate funding to complete the contract within the period of 12 months specified in the Contract • Inadequate budgetary provision leads to

		contracts stretching over a period of several years and consequent penalties by the contractors
3.0	Ottawa ➤ <i>Chancery and Ambassador's residence</i> - are in very good condition after comprehensive renovations carried out in FY 2012/2014.	• Need for adequate annual maintenance budget
4.0	Tokyo ➤ <i>Embassy building</i> - is in fair condition	• Need for adequate annual maintenance budget
5.0	Beijing <ul style="list-style-type: none"> • Embassy building - is small and inadequate to accommodate the needs of the Mission • Ambassador's residence requires renovation works 	<ul style="list-style-type: none"> • Lack of budgetary provision to extend the properties or purchase an alternate chancery • Inadequate maintenance budget

2.0 State of Leased Properties in Kenya Missions Abroad

- a. Leased properties in Missions abroad are generally in good condition since the Missions are in charge of the decision of where to live and are able to relocate if the need arises.
- b. Main challenge is inadequate budgetary provision for internal maintenance works and provision of contractual services.
- c. However, in a few missions like Moscow and Havana, the foreign government is the provider of housing to diplomatic Missions and this is sometimes constraining with regard to options available.

3.0 Challenges associated with acquisition of properties abroad by the Ministry

i) Inadequate budgetary allocation

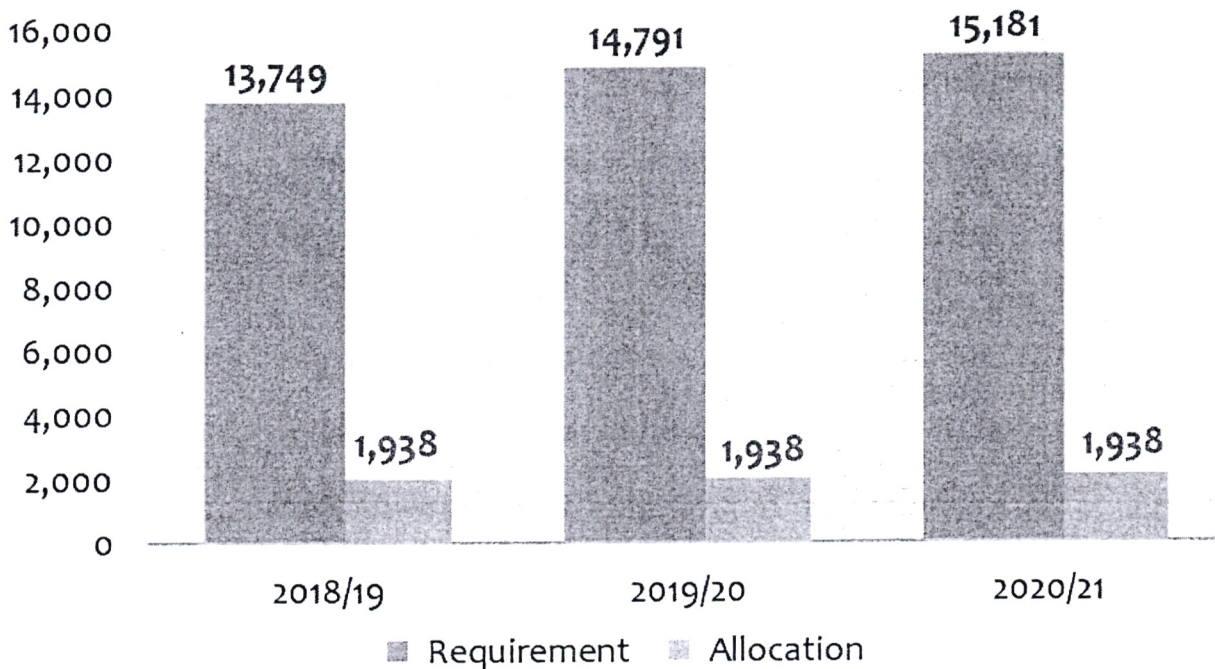
Inadequate and uncertain budgets that are often subjected to budget cuts makes it difficult for the Ministry to execute planned acquisition, replacement and maintenance of properties and other assets in Missions abroad. Between FY 2013/2014 and 2018/2019, development budget allocation has been as indicated in the Table below:

Development budgetary allocation FY 2013/2014 to 2018/2019

FY	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17	17/18	18/19
Amount (Ksh. Mn)	855.0	466.4	770.0	545.0	341.5	1160.0	708.0	2,379	470.0	1,587.7

Given the relatively high cost of properties in foreign countries, the budget has been inadequate to cater for planned acquisitions.

Allocation versus requirements 2017/2018 to 2020/2021 is presented below.



To bridge the gap between the Ministry's requirements and allocations, other interventions are proposed outside of the normal budgetary processes.

ii) Budget cuts

Austerity measures normally affect the Ministry's plan for acquisition, implementation of ongoing construction projects, maintenance plans as well as acquisition and replacement of movable assets. For instance, in Pretoria and Mogadishu the construction has taken about 5 years instead of the 18 months original contract period.

iii) Delays in release of exchequer - release of funds close to the end of the financial year by which time certificates have accumulated and projects have been shut down often affects implementation of projects.

Consequences

- Penalties – interest charges, mobilisation charges, idle time etc,
- Inability to absorb the budgets during the FY – for instance when funds are released on the last days of June and get to the Missions the following day i.e. 1st July.
- Delays in completion of projects
- Continued rent payment e.g. in Mogadishu

4.0 Policy on acquisition (Assets Acquisition and Management Plan)

The Ministry has developed an Assets Acquisition and Management Plan which proposes acquisition of at least three properties per year to reduce on the extremely high rental expenditure which currently stands at approximately Ksh.

3.0 billion per year. The Plan also proposes strategies for modernisation of old dilapidated properties, repairs and maintenance schedules.

The Ministry's plan of acquisition requires adequate funding to actualise and proposes sources of funds as follows:

a) Strategic intervention fund by The National Treasury

- A fund that is ring fenced and separate from the Sector Resource Bidding process. This is a practice in many countries, for instance in South Africa funding for acquisition of diplomatic properties is normally voted directly by the parliament.
- The strategic intervention to be operationalized as a fund to allow for roll over of the funds at the end of the FY.
- Requirement is at least Ksh. 5.0 billion per year for fifteen years

b) Use of borrowed funds to be repaid using rental allocation

Rents for leased properties in Missions abroad are usually high and charged at a premium. Currently, the total annual rental payments stand at around Ksh.3.0 billion. The allocation can be utilised to repay borrowed funds.

Funds can be borrowed from the following:

- a) Lenders in host countries where interest are low,
 - b) Local sources such as NHIF
- Seed capital will be required to roll out the mortgage programme,
 - Government guarantee will be required

c) Use of capital proceeds from sale of properties that have ceased to be viable

Some of the existing diplomatic properties have ceased to be viable for a number of reasons including; changing neighbourhoods that become unsuitable for diplomatic use, or heightened insecurity, relocation of government administrative capitals for instance the government of Tanzania has moved its capital from Dar es salaam to Dodoma which will necessitate Kenya government to acquire properties in Dodoma and dispose of the ones in Dar es salaam.

d) Funding through Public Private Partnership (PPP) arrangement

- This will entail identifying private partners willing to provide funding, undertake construction and deliver a turnkey project. The partner will be repaid with funds generated from the projects or rental savings,
- Requires approval by The National Treasury and coordination by the PPP unit at the National Treasury.

e) Appropriation-in-Aid (A.I.A) collections from leased properties

- The Ministry rents space in Windhoek (Kenya House at Ksh. 100.0 million per year), Dar es salaam (Ksh. 36.0 million per year), Kampala and Harare. Total A.I.A approximates Ksh. 150.0 million per year,

The Ministry should be allowed to use these funds to acquire diplomatic properties

MINISTRY OF FOREIGN AFFAIRS

NAIROBI

AUGUST 2019

1580

② TRACY
EMERSON

please see
FA
09/9/19



① D/Committee
3/9/19

MINISTRY OF DEFENCE
OFFICE OF THE PRINCIPAL SECRETARY

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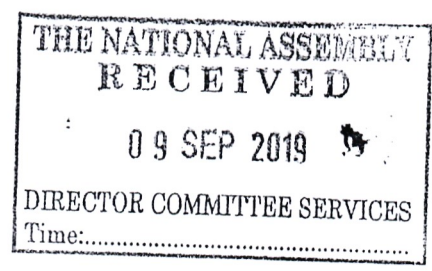
ULINZI HOUSE
P.O. Box 40668-00100
NAIROBI
KENYA

③ Emerson
please note
FA
09/9/19

When replying please quote: MOD.17/08

27th August, 2019

Mr. Michael Sialai, EBS
Clerk of the National Assembly
Parliament Buildings
P.O. Box 41842 - 00100
NAIROBI



Dear Michael,

RE: REQUEST BY THE SELECT COMMITTEE ON IMPLEMENTATION FOR THE IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS

We refer to your letter NA/DCS/COI/2019/ (61) dated 23rd July, 2019.

Forwarded herewith please find the status of the implementation of the House Resolutions.

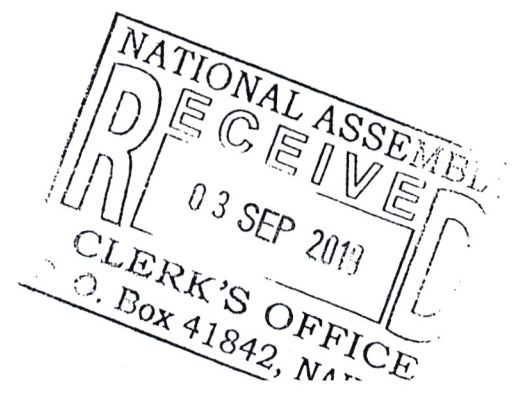
A soft copy has been forwarded to the Committee's Clerk as requested.

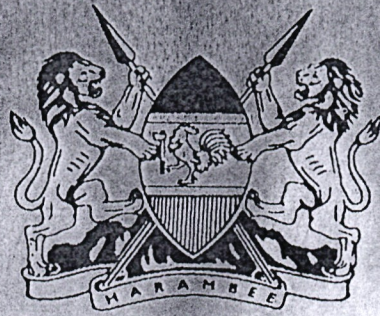
Kindly acknowledge receipt.

Gordon O. Kihalangwa

MAJ. GEN. (RTD) DR. GORDON O. KIHALANGWA, CBS
PRINCIPAL SECRETARY

Attach.





MINISTRY OF DEFENCE

IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS

IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS

RESOLUTION NO. 1

1. A resolution that the Government considers through all the disciplined forces to give first priority in recruitment of their servicemen and women to all willing NYS graduates which will significantly reduce their recruitment cost, training period and subsequently training cost and in addition create jobs for these skilled youth as communicated vide letter Ref. No. KNA/L&P/2018/RES/14/(029) dated 11 July 2018.

Comments

The Ministry conducts recruitment in the Counties as required by Section 28(3) of the Kenya Defence Forces. The Ministry grants priority to NYS graduates who present themselves for recruitment provided they are eligible and pass medical screening. In December 2018, 420 NYS graduates were recruited into the Kenya Defence Forces as service members and constables. This is a significant increase from the 181 NYS graduates recruited in March 2018.

RESOLUTION NO. 2

2. A resolution that the Government exercises its power to protect Kenyans from harassment by external threats and takes adequate measures to ensure that Kenyan territorial integrity is guaranteed and safeguarded including through the establishment of a naval force to man the Lake Victoria Waters as adopted on 25th July 2018.

Comments

a. The KDF through the Ministry of Defence is currently implementing the Border Securitization Programme which, is reinforced by deployments of Kenya Defence Forces personnel along the Kenya-Somali Boundary. It is expected that the Border Securitization Programme once completed will create a physical barrier to infiltration of armed insurgents into the Republic of Kenya while also providing continuous

monitoring of border areas. This will facilitate timeous response to potential breaches of national security.

b. Currently the Kenya Defence Forces is engaged in Operation Linda Boni, a multi-agency security initiative with the objective of securing Boni Forest and denying its usage by Al Shabaab. The operation is also intended to protect the citizens within Lamu and Tana River Counties and by extension the Republic of Kenya from attacks by Al Shabaab.

c. The Kenya Navy continues to maintain its presence within Kenya's extended exclusive economic zone in the Indian Ocean in order to protect Kenya's territorial integrity and sovereignty over the extended exclusive economic zone.

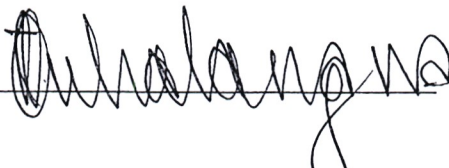
d. The deployment of the Kenya Defence Forces as part of AMISOM in the Republic of Somali is intended to degrade and neutralize Al Shabaab inside Somalia, thus deny it resources, freedom and capacity to conduct attacks within the Republic of Kenya. AMISOM operations thereof contribute to the national security of the Republic of Kenya.

e. The Ministry of Defence led the multi-agency initiative to establish the Kenya Coast Guard Service. The Kenya Coast Guard Service Act, No.11 of 2018, has since been enacted by the National Assembly. Under Section 8 as read together with Section 2 of the Act, the Kenya Coast Guard Service is required to provide maritime security and safety in the territorial waters. Territorial waters include inland waters such as Kenya's share of Lake Victoria.

f. The Kenya Coast Guard Service will therefore be responsible for providing security in the territorial waters including Lake Victoria thereby protecting the territorial integrity of the Republic of Kenya. It will also protect the citizens of Kenya who are undertaking legitimate activities within its territorial waters.

g. The Kenya Coast Guard Service Council is currently operationalizing the Service to enable it deliver its mandate within the territorial waters.

Dated at Nairobi 27th day August 2019

Signed 

Maj Gen (Rtd) Dr. Gordon O. Kibalangwa, CBS
Principal Secretary
Ministry of Defence



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

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Nairobi KENYA

Ref. No: ML & SP/SP. 37/5 VOL. II/(30).

Date: 5th August, 2019

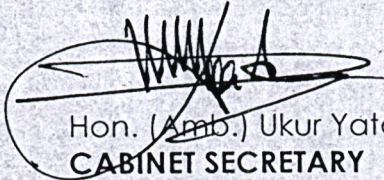
Clerk of The National Assembly
Parliament Building
NAIROBI

Attn: Mr. Adan Gindicha

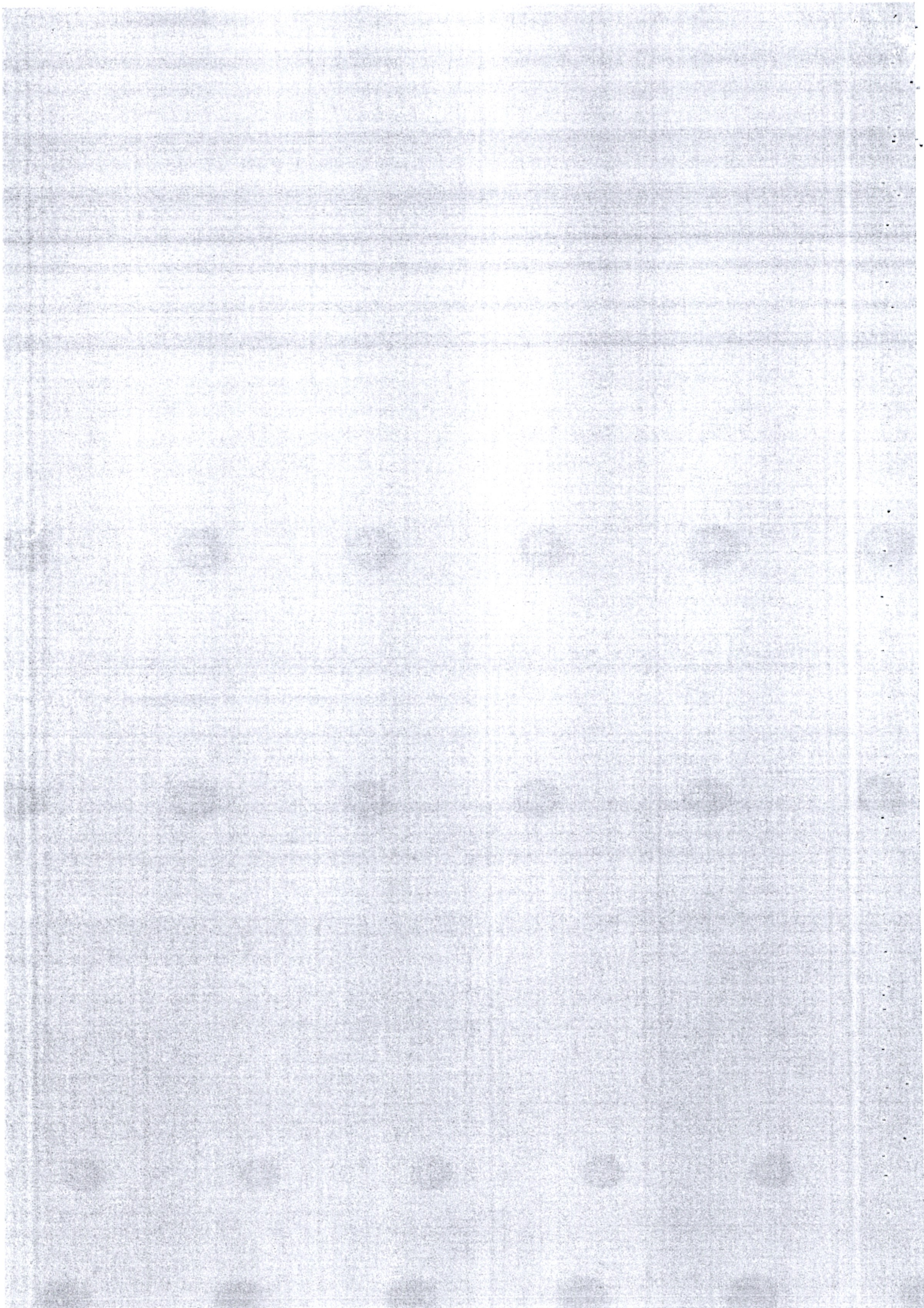
**REQUEST BY THE SELECT COMMITTEE ON IMPLEMENTATION STATUS OF HOUSE
RESOLUTIONS**

Reference is made to your letter No. **NA/DCS/COI/2019/(54)** of **23rd July, 2019** on the above subject.

Forwarded herewith is the report on a petition on the challenges in the implementation of the Social Assistance Programme as communicated vide letter **NA/DLP/PP/2018 /(016)** dated **9th August, 2018**.


Hon. (Amb.) Ukur Yatani
CABINET SECRETARY

Encls.



REPUBLIC OF KENYA



MINISTRY OF LABOUR AND SOCIAL PROTECTION

RESPONSES TO NATIONAL ASSEMBLY SELECT COMMITTEE ON LABOUR
AND SOCIAL WELFARE RECOMMENDATIONS

- a) **The Ministry of Labour and Social Protection should review the Social Assistance Act, 2013 and put in place enabling regulations that guide the management of the Social Protection fund as envisaged in the Kenya National Social Protection Policy, 2011**

Response: The Ministry reviewed the Social Assistance Act, 2013 and proposed to establish a Social Assistance Fund. Based on guidance from KLRC, the ministry has written to the National Treasury requesting for establishment of Social Assistance Fund (SAF) in line with Public Finance Management Act. In June 2019 the National Treasury established a task force to develop regulations for establishing the SAF within six months. This is expected to be completed by December 2019. An Amendment Bill to repeal the Establishment SAF in the Social Assistance Act of 2013 was also done.

- b) **That contracted Payment Service Providers (Banks and their agents) are obligated to implement the 6 km radius policy on pay point location to prevent beneficiaries from walking/traveling long distances hence losing on earnings through theft and unnecessary costs**

Response: It is true the current contract with the four banks obligates the banks to implement 6 km radius in zones A and B and 20km for zone C for at least 80% of the beneficiaries. However, this obligation is to be met progressively through increasing Bank Branches and Agents across the

country to shorten the distances travelled by beneficiaries to access the money.

c) The contracted Payment Service Providers should develop an alternative mechanism of identification of beneficiaries to serve as a backup to the biometric process; this will enhance the process of identification and provide real-time monitoring of beneficiaries and the caregivers records

Response: Whereas bio metric finger prints remains the preferred means of authentication of beneficiaries during payment as per the contract, the programme beneficiaries have an alternative of PIN whenever their bio fail due to old age or defaced finger prints. However, PIN is issued to beneficiaries with approval of sub county officers.

Nevertheless, under the Account based payment system, beneficiaries can access money within 6 months unlike previous card-based payment system where the payment window was 21 days.

d) That to enhance livelihoods and better living standards of the eligible beneficiaries the committee recommends that going forward there is need for Ministry of Labour and Social Protection to scale up the program through additional funding without increasing the capitation to individual beneficiaries

Response: The Ministry's intention is to enrol all eligible beneficiaries into the programmes so as to enhance their livelihoods. However, this intention is thwarted by inadequate funding. For instance, for the last two financial years the programme has been underfunded by over Kshs. 4billion for the beneficiaries already in the programme

e) The Ministry of Labour and Social Protection should relook into the criteria of recruitment of beneficiaries for proper identification of deserving beneficiaries

Response: The Ministry has set out clear eligibility criteria for each of programme component. These criteria are set up in the programme operations manual.

f) The Ministry of Labour and Social Protection should initiate Monitoring and Evaluation and impact assessment process for proper management of the funds

Response: The Ministry has been conducting regular monitoring of the programme implementation processes by headquarter teams. In addition, several operational monitoring has been carried out by Price Water House Coopers to assess the programme compliance with its objectives.

To enhance this, a monitoring and evaluation strategy is being developed to guide future exercises. However, the Ministry had contracted an external firm to carry out Impact evaluation for Orphans and vulnerable Children component programme and a final report is expected by end of October 2019.

g) The Ministry of Labour and Social Protection should ensure the immediate constitution and operationalization of grass root committees such as Constituency Social Assistance Committee and the Beneficiary Welfare Committee

Response: The Ministry has sent circulars to all counties to reconstitute grass root committees, Constituency social Assistance Committees and Beneficiaries Welfare committees in areas where their term has expired and form them in areas where they never existed to assist in programme implementation. Further, the Ministry has developed a Beneficiaries Outreach Strategy which contains beneficiaries' centric messages meant to capacity building of beneficiaries to know their rights and responsibilities.

h) The Ministry of Labour and Social Protection should improve the capacity of its field offices both at the County and Sub County levels in order to enhance the effectiveness of service delivery to the beneficiaries

Response: For the last one year, the ministry has been holding periodic review meetings with County officers from the Department of Social Development, Department of Children's Services and National Council for Persons with Disabilities (NCPWD) to share key programme information in order to create standardization and create more synergy in programme implementation. In


addition, the Ministry has procured a number of vehicles and motor cycles to enhance officer's mobility during field work besides more equipment such as computers and have been procured and issued to officers to ease communication with headquarter.

i) The Ministry of Labour and Social Protection should delegate to the County offices minor amendments to beneficiary details that often cause delays in accessing the funds

Response: The ministry within this financial year plans to train officers on Case management modules after which some modules of programme Management Information System will be decentralized to county and sub county offices to allow officers make necessary updates to beneficiary's data online. This is anticipated to shorten to time taken for case management.

j) The Ministry of Labour and Social Protection should extend the payment window beyond the two weeks period as is currently practiced to at least one month to cater for arid and semi-arid areas with vast terrains

Response: Currently, all cash transfer programme beneficiaries are being paid through the new payment model which is account based. Under this payment model beneficiaries are given up to six months to access their money before account become dormant. So, they have longer period to collect their money unlike the previous system.


Hon. (Amb.) Ukur Yatani
CABINET SECRETARY

Date:.....*8th August, 2017*.....

1141



MINISTRY OF LABOUR AND SOCIAL PROTECTION
STATE DEPARTMENT FOR LABOUR
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ML&SP/NEA/28/VOL1(52)

30th August 2019

Michael R. Sialai, EBS
Clerk to the National Assembly
P.O. Box 41842-00100
NAIROBI

① Dlcoms
Please deal
~~with~~
13/09/19

Dear *Michael*

RESPONSE TO PARLIAMENTARY MOTION

Please refer to your letter NA/DCS/COI/2019(54) dated 23rd July. 2019.

Enclosed please find the response to the motion by Hon. Faith Wairimu-Gitau, MP Member for Nyandarua County.

Yours

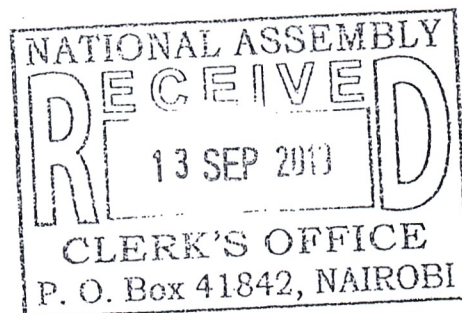
Sincerely

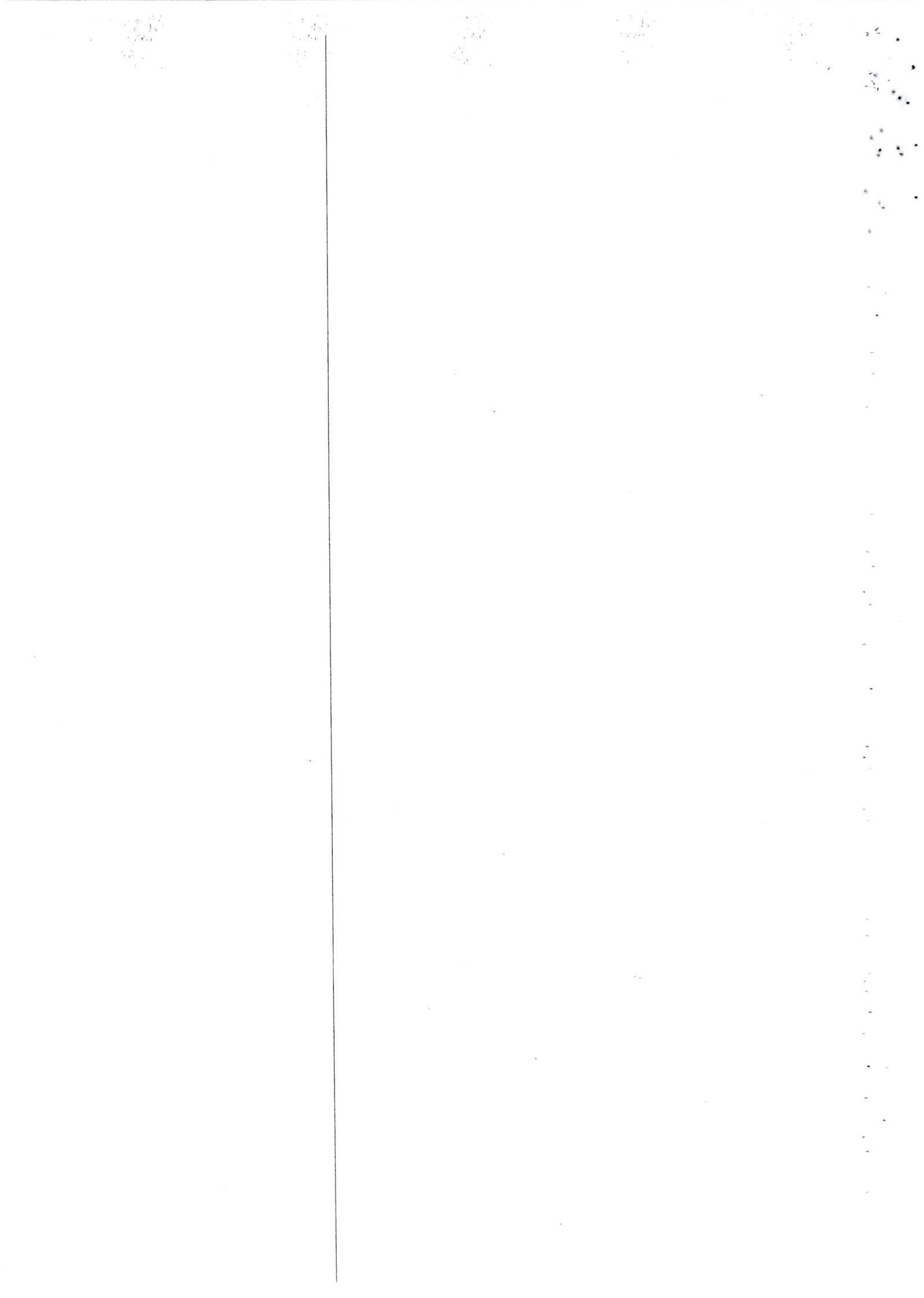
Peter K. Tum,OGW
PRINCIPAL SECRETARY

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17/9/19





MOTION BY HON. FAITH WAIRIMU GITAU, MP MEMBER FOR NYANDARUA COUNTY

Motion

1. **Fast-tracking Implementation of National Employment Authority (NEA) Act.**

Response

National Employment Authority (NEA) was established by NEA Act No. 3 of 2016 which was assented to by H.E the President on 1st April 2016. The Act transformed the National Employment Bureau, one of the Departments of the Ministry of Labour and Social Protection into the Authority. The NEA Board was constituted in October 2016. The Authority was officially launched on 17th May 2019. The main objective of NEA is: to provide for a comprehensive institutional framework for employment management, to enhance employment promotion interventions; to enhance access to employment for youth, minorities and marginalized groups and for connected purposes.

The main mandate of NEA is:

- a) Employment promotion.
- b) Provision of Employment Services.
- c) Labour Migration management.
- d) National Internship Programme.
- e) Collection, analysis and dissemination of labour market information.
- f) Employment tracking and measurements.
- g) National employment policy management.

Since its establishment, NEA has been able to achieve major milestones. Among these are:

- i) Categorization by the State Co-operation as Advisory Committee.
- ii) Development of the operationalization instruments.
- iii) Development of the Strategic Plan.
- iv) Design and implementation of curriculum on Homecare management.
- v) Design and implementation of pre-departure training programme for migrant workers.
- vi) Negotiated two Bilateral Labour Agreements with the State of Qatar and United Arab Emirates.
- vii) Facilitation of jobseekers to secure employment locally and abroad.

- viii) Development of a draft National Internship Policy and guidelines.
- ix) Development of a framework for monitoring employment creation.
- x) Automaton of NEA Services - Design and launch of an on online system, National Employment Authority Integrated Management System (NEAIMS).

Motion

2. Establishment and Maintenance of an integrated up-to-date data base of persons seeking for employment

Response

NEA is the Government agency mandated to provide public employment services to jobseekers and employers. Section 20 (1) (2) of the NEA Act requires any person seeking employment to register with NEA. These services are not charged. NEA has developed an online system for registration of jobseekers (NEAIMS). This is a robust system that facilitates registration and placement of jobseekers in employment. Through this system;

a) Jobseekers:

- i) Are able to register their profiles/biodata on line.
- ii) Can obtain information on available job opportunities countrywide.

b) Employers

Are able to:

- i) Access a pool of qualified job seekers registered in the system.
- ii) Reduce the recruitment costs and process of hiring

c) National Employment Authority

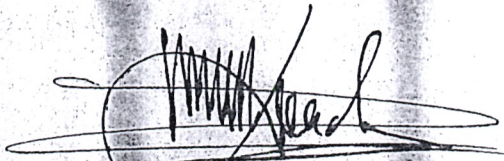
Is able to:

- i) Obtain an up to date information/data on matters concerning employment/unemployment in the country.
- ii) Get up to date information/data on the skill gaps which help in advising training Institutions on the required skills.
- iii) Register Recruitment Agencies.
- iv) Access the list of Kenyan Migrant Workers who have been cleared through the system.
- v) Obtain up-to-date information on Kenyans cleared through the system and working outside the country.

d) Private Employment Agencies

- i) Are able to declare job opportunities in foreign countries, particularly those whom we have signed a memorandum of understanding with.

The Ministry of Labour and Social Protection is supporting NEA in the development of this system as well as creation of awareness. Through this system, NEA has moved its operations from manual to a digital platform.



Hon. (Amb.) Ukur Yatani
CABINET SECRETARY



② TRAHEU
CHGBET

Place deced
FA 09/9/19



MINISTRY OF ENVIRONMENT AND FORESTRY

① Director
8
3/9/19

Telephone: 254-20-2730808/9
Fax: 254-20-2734722
Email: psoffice@environment.go.ke

N.H.I.F BUILDING
RAGATI ROAD
P. O. BOX 30126-00100
NAIROBI

REF: DENR/ADM/16/I/VOL.XI(29)

③ Emergent
Please note
FA 09/9/19

Date: 27th August, 2019

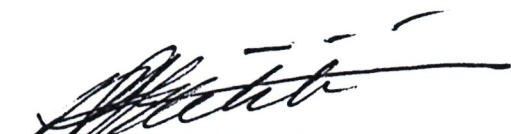
The Clerk of the National Assembly
Parliamentary Service Commission
NAIROBI (Attn: Jeremiah W. Ndombi)

REQUEST BY THE SELECT COMMITTEE ON IMPLEMENTATION FOR THE IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS

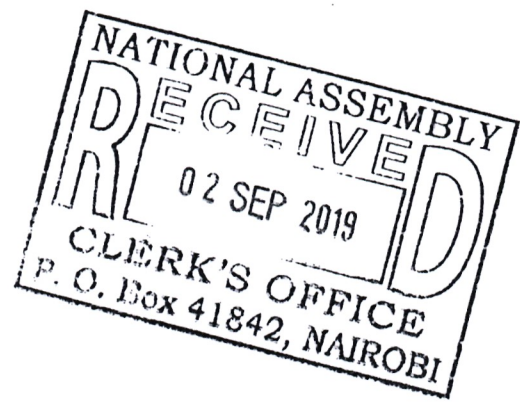
Reference is made to your letter no. NA/DCS/COI/2019(80) dated 23rd July, 2019 on the above subject.

Forwarded herewith please find twenty four (24) copies each of four (4) briefs duly signed by the Principal Secretary for your further action.

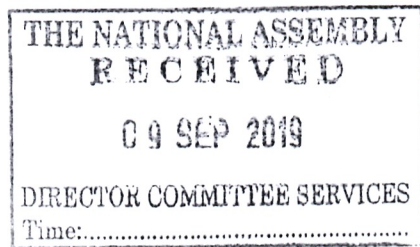
A soft copy of the same has been emailed to email address clerk@parliament.go.ke as requested.


Joel M. Kitili, CBS
PRINCIPAL SECRETARY

Copy to: Dr. Joseph Kinyua, EGH
Head of Public Service
Harambee House
NAIROBI



Mr. Keriako Tobiko, CBS, SC
Cabinet Secretary
Ministry of Environment and Forestry
NAIROBI





MINISTRY OF ENVIRONMENT AND FORESTRY

BRIEF BY THE PRINCIPAL SECRETARY TO THE SELECT COMMITTEE ON IMPLEMENTATION ON THE IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS – RECRUITMENT OF ALL WILLING NYS SERVICEMEN AND WOMEN INTO THE DISCIPLINED FORCES

The Select Committee on Implementation requested the Principal Secretary to apprise it on the implementation status and challenges faced, if any, in the implementation of a resolution that the Government considers through all the disciplined forces to give first priority in recruitment of their servicemen and women to all willing NYS graduates which will significantly reduce their recruitment cost, training period and subsequent training cost and in addition create jobs for these skilled youth as communicated vide letter Ref No. KNA/L&P/2018/RES.14/ (029) dated 11th July 2018.

Response

Hon. Chair, my Ministry through Kenya Forest service has not recruited any Service men or Women from the time the resolution was made and communicated vide the letter Ref. No. KNA/L&P/2018/RES.14/029 dated 11th July 2018.

However, the Service has been implementing a policy of similar nature since 2015 following a directive by His Excellency the President which was made prior to the National Assembly Resolution regarding recruitment of NYS graduates.

In this regard, in June, 2015 and January 2016, the Service advertised for nationwide recruitment of 488 Recruit Forest Guards whose core requirement for the position was for candidates to have successfully undergone through Basic National Youth Service Paramilitary Training and graduated. The Service conducted the recruitment at National Youth Service College-Gilgil and successful candidates reported immediately at Kenya Forestry College-Londiani for training before their deployment to the forestry protection and enforcement duties all over the country.

Thank you, Chair.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the end, positioned above a solid horizontal line.

**Dr. Ibrahim Mohamed, CBS
PRINCIPAL SECRETARY**



MINISTRY OF ENVIRONMENT AND FORESTRY

BRIEF BY THE PRINCIPAL SECRETARY TO THE SELECT COMMITTEE ON IMPLEMENTATION ON THE IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS – REPORT OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES ON THE INQUIRY INTO FOREST RESOURCE MANAGEMENT AND LOGGING ACTIVITIES IN KENYA

The Select Committee on Implementation requested the Principal Secretary to apprise it on the implementation status and challenges faced if any on the Report of the Departmental Committee on Environment and Natural Resources on the Inquiry into Forest Resource Management and Logging Activities in Kenya, as adopted on 7th August, 2018.

Response

Background

Hon. Chair, at the beginning of 2018, the Country experienced a prolonged dry spell that continued to this year. Concerns have been raised and this continue to be so with regard to acute shortage of water supply, degradation of forests on public and community land; mismanagement of plantation forests, the Shamba system, increased incidents of encroachment into water towers and other catchments areas; wanton logging, charcoal burning, and increased livestock grazing in public and

community forests all of which undermine the Country's capacity to sustain important ecological systems.

These concerns informed the decision of the Parliamentary Committee on Lands and Environment Sitting on 1st February, 2018 to commence on their motion and enquire into the malpractices. The Committee made twenty five (25) recommendations which the Government was to address. The update on the implementation of these recommendations is presented here below:

MATRIX ON STATUS OF IMPLEMENTATION

No	The Committee's Recommendation	Responsible	Status
1	The KFS withdraws from commercial plantations and gradually converts the 134,000 hectares of commercial plantation into natural forest by restoring the cleared land with indigenous trees. Subsequently, the Executive should create new natural forest boundaries with Nyayo Tea Zones in order to create buffer zones.	KFS, MEF	The Moratorium on harvesting of Forest Plantations from Public Forest is still in force and Restoration of the un-stocked areas is ongoing.
2	The Ministry of Environment and Forestry should provide incentives, enabling policies and other relevant interventions to private commercial forest plantation in order to increase the forest cover and to promote timber	MEF	<ul style="list-style-type: none"> The Ministry advertised for the recruitment of Board of Directors to operationalize the Forest Conservation and Management Trust Fund which will support

No	The Committee's Recommendation	Responsible	Status
	industry.		<p>investments in the Forest Sector in the country.</p> <ul style="list-style-type: none"> In addition, the Ministry has developed a Strategy for increasing tree growing and therefore contribute towards the attainment of 10% tree cover. This is planned to commence in the F/y 2019/2020.
3	KEFRI and KFS should be adequately funded and supported to develop high quality indigenous and exotic tree seedlings and nurseries in order to restore government forest land and to promote private commercial plantation.	MEF	<ul style="list-style-type: none"> The Ministry has secured funding from the National Treasury to support the Tree Planting Campaign and embarked on preparations for its implementation through KFS and KEFRI among other Government Agencies.
4	Punitive penalties should be entrenched in law to curb forest destruction and illegal logging. The Forest Conservation and Management Act (No. 34 of 2016) should be amended to provide for punitive penal provisions.	MEF, KFS	The Forest Conservation and Management Act (No.34 of 2016) is currently undergoing review to provide for punitive penalties provisions.
5	Kenya should take advantage and claim carbon credits to help in her efforts at forest and general ecosystem conservation.	MEF, KFS	<ul style="list-style-type: none"> The Ministry of Environment and Forestry has created Secretariat of Climate Change at its Head-Quarters to be

No	The Committee's Recommendation	Responsible	Status
	<p>The Ministry of Environment and Forestry should create awareness on carbon credit to enable Kenyans to embrace the programme.</p>		<p>responsible on matters of climate change and spearhead implementation of the public education and awareness programme.</p> <ul style="list-style-type: none"> The Ministry has also launched the REDD+ programme with the support of UNDP under the funding of the Forest Carbon Partnership Facility of the World Bank. This programme will develop a strategy and investment plan to access Carbon Credits to support forest conservation activities in the Country.
6	<p>Tree seedlings should be made readily available to citizens especially through empowerment of the youth and women in collaboration with KEFRI and KFS. The youth and women are encouraged to join cooperative movements in order to access cheaper seedlings under economies of scale.</p>	KFS, KEFRI	<p>Currently KFS, KEFRI and Kenya Meteorological Department have prepared information on appropriate tree species matching with agro-ecological sites, and location of nurseries where trees and fruit trees can be accessed.</p> <p>Further, KFS has an existing programme of Farm and Dryland Forestry which deals with seedlings production and tree planting outside gazetted government forests. Through this, KFS has embarked on intensifying production of tree seedlings all over the country by improving the</p>

No	The Committee's Recommendation	Responsible	Status
			existing tree nurseries and establishing model tree nurseries in some counties as well as encouraging private, schools, individuals, churches and women groups to produce the tree seedlings to make them available for planting.
7	The Ministry of Environment and Forestry should spearhead inter-ministerial collaboration with the ministries of Petroleum and Mining, Water and Sanitation, Tourism and Wildlife in coming up with an all-encompassing strategy on conservation and management of forests, water and other natural resources in the country. Their operation should be coordinated from the Office of the President	MEF	The Ministry has prepared a draft strategy for increasing national forest cover and initiated the formation of the Inter-ministerial Committees at National and County Levels to coordinate the efforts. The Strategy is now at the Cabinet for approval.
8	The Ministry of Environment and Forestry should develop capacity of KEFRI and KFS on matching of seedlings to specific regions. The ministry should also develop standards for the development of nurseries across the country.	MEF, KFS, KEFRI	Guidelines for species site matching has been developed and incorporated in the Strategy for tree growing to be enhanced by Tree Planting towards 10% tree cover project
9	The Ministry of Environment and Forestry is	MEF	The Ministry of Environment and Forestry has developed

No	The Committee's Recommendation	Responsible	Status
	<p>urged to come up with a master plan on environmental conservation spanning at least 25 years in collaboration with all stakeholders.</p>		<p>National Forest Programme 2016-2030 as a strategic framework for forest policy, planning and implementation to coordinate the sector development. The framework will enable the ministry to coordinate forest investments in the country. Currently the process of preparing an implementation action plan which shall involve the participation of all stakeholders including the public, private sector, civil society and communities is underway</p>
10	<p>The Ministry of Environment and Forestry should focus on plantations in ASAL areas to grow tree cover in the country in order to increase the supply of forest products since there is no competition in those areas in agriculture and human habitation.</p>	MEF, KFS	<p>The KFS has an existing programme of Farm and Dryland Forestry which deals with promotion of commercial tree growing outside gazetted government forests which include ASAL areas and is being manned by competent forest officers. The Service has posted officers to all the 47 counties to provide forestry advisory services as required.</p>
11	<p>The Ministry of Environment should spearhead regular tree planting exercise in collaboration with all government ministries, departments, agencies,</p>	MEF, KFS	<p>The Ministry and KFS have intensified partnership with government ministries, departments, agencies, disciplined forces, donors and other stakeholders across the country for enhanced tree</p>

No	The Committee's Recommendation	Responsible	Status
	disciplined forces donors and other stakeholders across the country.		planting e.g. KTDA, ADC, Rhino Ark among others.
12	The Ministry of Environment and Forestry should carry out an audit of the saw millers and further assessment on how to reduce them in order to ease pressure exerted on the forest.	MEF, KFS	Ministry has commenced the process of audit of the saw millers through letter Ref; DENR/EMC/40 dated 11/6/2019. KFS has developed an e-registration system that will be used for registration of the applicants for prequalification of sawmillers. Also licensing bidding on e-line is in progress
13	KFS should put up systems in which the saw millers would be required to have corporate social responsibility programmes in order to give back to the community in which they operate.	KFS	KFS is developing a system in which the saw millers will be required to have corporate social responsibility in their areas of operation.
14	The KFS should fully implement the participatory forest management policy to ensure that Community Forest Associations benefit from the forests since they host and protect them.	KFS	Implementation of participatory forest management between KFS and Community Forest Associations is ongoing. KFS has done contractual agreement on forest operation role assigned to CFAs in 2019-2020 work plan (CFA Policy change)
15	CFAs should conduct regular elections to curb situations where some CFA officials collude with forest	KFS	Community Forest Associations will be registered with the Registrar of societies and conduct their election in accordance with

No	The Committee's Recommendation	Responsible	Status
	rangers or condone malpractices.		the provision of the society act.
16	KFS should implement the PELIS program in consultation with the Community Forest Associations to avoid conflict with the community.	KFS	KFS is implementing the PELIS program in consultation with the CFAs. KFS has initiated inter-institutional forum composed of KFS, NACOFA, FSK, CoG, and KEFRI to carry out audit and give way forward with regard to PELIS and how to address the challenges. This was done through letter Ref. PELIS/KFS/Vol.V/98 of 21/1/2019
17	KFS should streamline the operations of the PELIS system to curb the abuse of forest by rangers. Equally, riparian areas should be out of bounds for the PELIS system.	KFS	The inter-institutional forum composed of KFS, NACOFA, FSK, CoG, and KEFRI is expected to streamline the PELIS system and operations.
18	Kenya Forest Service should recruit forest rangers to ensure there are adequate numbers to effectively manage and conserve the country's forest resources. The recruitment should prioritize communities living around forests.	KFS	The KFS Board has already approved the recruitment of 1,500 forest rangers to ensure adequate numbers to effectively manage and conserve the country's forest resources. The recruitment will be done immediately funds will be made available.
19	KFS should transfer forest guards who have stayed in one area for more than 2 years. This would curb the habit	KFS	KFS identified forest rangers who had stayed in one area for more than 3 years and is in the process of transferring them as per the policy.

No	The Committee's Recommendation	Responsible	Status
	of the rangers abandoning their core business of forest conservation and management and resorting to farming under the PELIS system and other malpractices in collusion with cartels in the sector.		
20	KFS should streamline the allocation of forest materials through a bottom-up approach in order to mitigate the alleged corruption associated with the allocations done at the KFS head office.	KFS	Moratorium on removal of forest material is still on except for sustainable harvesting of mangrove forest in Lamu County. The Service has however prepared the procedures for allocating plantations to licensees which is aimed at streamlining the process.
21	The Ministry of Environment should ensure that KFS is adequately funded to implement its activities.	MEF	The Ministry has engaged with the MTEF Sector Working Group to request for enhanced funding to support KEFRI and KFS. Once funds are adequately provided KFS and KEFRI will develop high quality exotic and indigenous seedlings. The National Tree Planting Campaign is already an approved project for the next four years and provides funding for tree seedlings production. The process has secured an allocation of KShs 1 billion for increased tree planting in the country and contributes towards 10% tree cover.

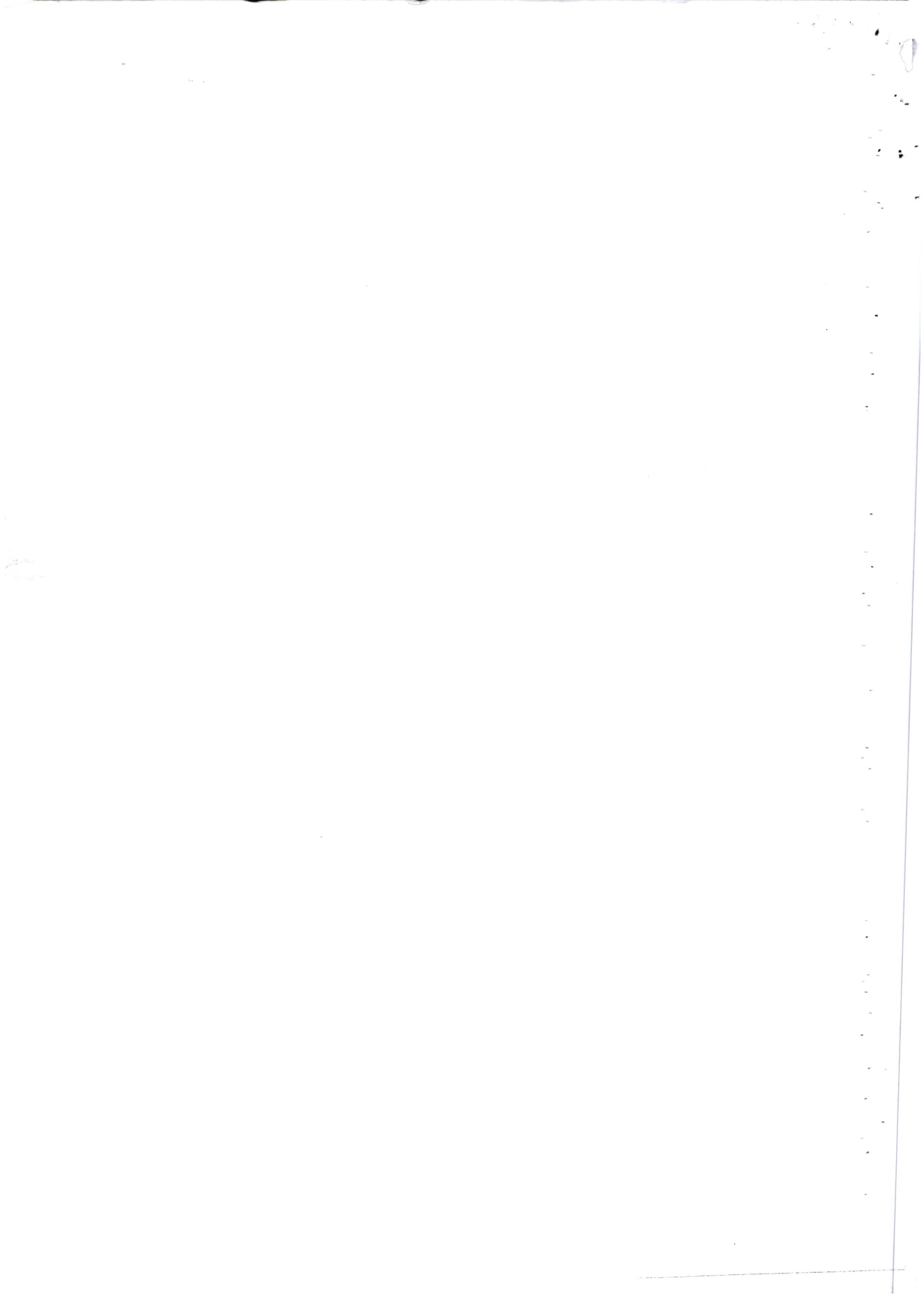
No	The Committee's Recommendation	Responsible	Status
22	The Ethics and Anti-Corruption Commission should investigate the immediate former KFS Board Chairperson for possible conflict of interest and abuse of office contrary to section 101 of the Penal Code and Public Officer Ethics Act 2003. If found culpable, he should be barred from holding any public office.	MEF	The Ministry has invited the Directorate of Criminal Investigations (DCI) and EACC to conduct investigations and prosecute those culpable.
23	The Committee finds the suspension of KFS senior managers to have been done illegally and procedurally by the Chairman of KFS Board. The Committee therefore recommends that the KFS senior managers be immediately reinstated and any fresh action be procedurally done.	KFS BOARD	The process of addressing the un-procedural suspension has been addressed by the current Board and the irregularities have now been dealt with.
24	The Cabinet Secretary, Ministry of Environment and Forestry should immediately reconstitute the KFS board, with utmost attention to integrity and independence of incoming board members, to replace the former board whose term expired on 31 st March, 2018. This will ensure continuity and action on	MEF	A new Board was constituted in June 2018 and is operational.

No	The Committee's Recommendation	Responsible	Status
	matters requiring the board's attention at KFS.		
25	The executive should streamline the functions of KWS, KFS and KWTA in order to mitigate the perceived conflict and enhance their effectiveness.	MEF	The Ministry is seized of this concern and addressing this through consultations with the respective institutions.

Thank you, Chair.



**Dr. Ibrahim Mohamed, CBS
PRINCIPAL SECRETARY**





MINISTRY OF ENVIRONMENT AND FORESTRY

BRIEF BY THE PRINCIPAL SECRETARY TO THE SELECT COMMITTEE ON IMPLEMENTATION ON THE IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS –A REPORT OF A PETITION REGARDING THE LIFTING OF THE BAN ON LOGGING AND HARVESTING OF THE MANGROVES IN LAMU COUNTY

The Select Committee on Implementation requested the Principal Secretary to apprise it on the implementation status and challenges faced, if any, in the implementation of a report of a petition regarding the lifting of the ban on logging and harvesting of the mangroves in Lamu County as communicated vide a letter Ref No. NA/DLP/PP/2018/ (025) dated 19th October 2018.

Response

Background

Hon. Chair, arising from the Moratorium on logging in Public and Community forests issued by the Government on 24th February 2018, the residents of Lamu County petitioned the Government to lift the Moratorium on harvesting of mangroves. The residents justified their petition on the basis that the moratorium had negatively affected over 15,000 people especially the residents of Ndau, Kiwayu, Faza, Kizingitini, Pate, Siyu, Manda, Kizuke and Mkunumbi. They also stated over the years they have depended on the Mangroves for their culture and livelihoods.

1. In response, the National Assembly Department Committee on Environment and Natural Resources visited Lamu and submitted a report which was tabled and adopted by the full house. Parliament resolved and directed the Ministry of Environment and Forestry to provide information on key matters which has been raised by the community.
2. Subsequently, the Cabinet Secretary, Ministry of Environment and Forestry sent a fact finding team to assess the issues relating to the petition in consultations with the local community and leaders on the ground and come up with recommendations and conditions on special exemption on harvesting of Mangroves in Lamu County.
3. The Team recommended for the special exemption on Mangrove harvesting in Lamu County on the basis of safeguards to ensure sustainable harvesting and restoration.
4. To this end, the ministry developed a model on safeguards for special exemption on harvesting of mangroves from the moratorium in Lamu county and was approved by the cabinet. The model provided guidelines and conditions on which the harvesting of mangroves was to be based on. The ministry recommended exemption of mangrove harvesting in Lamu County and instructed all eligible applicants to apply for licenses.
5. Three sensitization meetings involving KFS, KEFRI, Lamu County Government and community were held. In the meeting the community was sensitized on the model of safeguards and the license application process. After the meeting a total of forty one (41) interested community members collected application forms from the office of the Ecosystem Conservator. Out of these only twenty nine (29) applicants comprising of four (4) women, five (5) youth, one self-help group and nineteen (19) men managed to return fully filled forms to the office of the of Ecosystem Conservator.

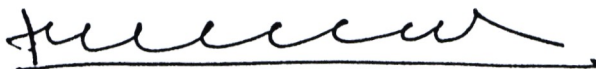
6. The applications were opened and evaluated by an Ad hoc committee composed of officers from KFS, KWS, NEMA, County Government of Lamu, and Kenya Maritime Authority.
7. The evaluation criteria was on the basis of citizenship, KRA pin and ID, area of operation, quantity required previous performance in mangrove harvesting etc. During evaluation, women, youth, the venerable and people living with disabilities were given priority.
8. The Evaluation committee recommended the approval of issuance of forest general license for applications and the results forwarded to the Head of Conservancy Coast region.
9. Forest Conservation Committee Coast region held a special meeting and reviewed the recommendations of the County Committee and upheld the decision of the Ad hoc committee of Lamu County.
10. A Procurement Committee appointed by the Chief Conservator of Forest at KFS head quarter recommended to KFS Board to approve issuance of General Forest License to the applicants
11. On 21st March 2019, the Hon. Cabinet Secretary Ministry of Interior and Coordination of National Government Hon. Dr. Fred Matiangi presided over the handing over of the twenty two (22) successful applicants with timber license for mangrove harvesting by the Chief Conservator of Forest on behalf of KFS Board of Directors.
12. On 22nd March 2019 –A meeting was held by the successful licensees to take them through the special licenses as a way of familiarization on all the obligations, requirement and implementation procedures.
13. On 27th March 2019-Sensitization was done to Senior Agencies Commanders at Operation Fagia Msitu in Manda Naval Base.

14. The Licensees gave out names of members of public whom they have authorized to harvest mangrove on the areas they were allocated.
15. On 22nd to 29th March the old licensees removed the old stock of harvested mangroves.

Progress of mangrove harvesting since the moratorium on harvesting was lifted

Month	Boriti	Vigingi	Mazio	Pau	Fuel wood
April	857.5	221.5	356	603..5	615
May	787.5	173	45	594	787.5
June	637.5	226	0	1245.5	-
Total	2282.5	620.5	401	1839.5	1300.5

Thank you, Chair.



**Dr. Ibrahim Mohamed, CBS
PRINCIPAL SECRETARY**



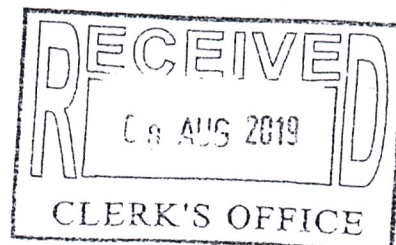
MINISTRY OF LANDS AND PHYSICAL PLANNING

SELECT COMMITTEE ON IMPLEMENTATION SUBMISSIONS ON THE IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS

Honourable Chair,

Pursuant to a letter NA/DCS/CO1/2019 (69) dated July 23, 2019 the National Assembly Select Committee on Implementation requested the Cabinet Secretary, Ministry of Lands and Physical Planning to provide written submissions on the following-

- i. Report on the alleged irregularities in the compensation for part of LR. No. 7879/4 to Ms. Afrison Import Export Ltd and Huelands Ltd by the National Land Commission
- ii. Report on the alleged irregular allocation of land set aside for settlement of Ontulili squatters
- iii. Report on a petition regarding the alleged irregular allocation of LR No. 11379/3 on behalf of Mowlem ward, Embakasi West
- iv. The report on a petition on non-issuance of title deeds to land owners of Embakasi west constituency.
- v. The report on a petition on the notice of demolition issued by nema and water resource authority to homeowners of seefar apartments
- vi. The report on a petition on rectification of records in the register for land parcel number Igembe/Ndoleli /Athina Ruujine/ 2554.



Honourable Chair, I wish to submit as follows-

1. REPORT ON THE ALLEGED IRREGULARITIES IN THE COMPENSATION FOR PART OF LR. NO. 7879/4 TO MS. AFRISON IMPORT EXPORT LTD AND HUELANDS LTD BY THE NATIONAL LAND COMMISSION

1.1 Background and Context

The National Land Commission compulsorily acquired part of L.R. No. 7879/4 measuring 5.727 hectares (ha) or 13.77 acres for Drive In Primary School and Ruaraka High School from Afrison Export Import Limited and Huelands Limited. The Commission made an award of Kshs. 3,269,040,600/= in compensation to Afrison Export Import Limited and Huelands Limited. Subsequently, the Commission paid the sum of Kshs. 1,500,000,000/= to Afrison Export Import Limited and Huelands Limited as partial compensation leaving a balance of Kshs. 1,769,040,600/=. The acquisition drew a great deal of public controversy which resulted in various entities inquiring into the matter including the National Assembly's Departmental Committee on Lands and the Senate Committee on County Public Accounts.

The National Assembly Departmental Committee on Lands conducted investigations into the acquisition of the land and prepared a report dated June 5, 2018. The Committee concluded that the acquisition of the land was illegal and contrary to the Land Act; that it failed to secure the public interest by ensuring that the title to the land acquired was registered in the names of the two schools and that it was contrary to Article 201 of the Constitution on responsible financial management. The Committee made various recommendations.

Recommendations by Parliamentary Committee on Lands

In the report of Parliament dated June 5, 2018 by the Departmental Committee on Lands, the following recommendations were made-

- i. The Chairperson of the National Land Commission and other officers of the Commission should take personal responsibility for acting contrary to the Land Act, 2012 and the Constitution
- ii. The Directorate of Criminal Investigations should investigate possible collusion among Afrison Export Import Limited and Huelands Limited, the National Land Commission, National Treasury and the Ministry of Education to fleece and swindle public funds

- iii. The EACC should take responsibility for loss of public funds for delay and failure to safeguard against loss of funds, by failing to act on time to freeze the accounts holding the funds pending conclusion of its investigations
- iv. The National Treasury should take responsibility for loss of public funds amounting to Kshs.1,500,000/- and for authorizing payment of Kshs.1,500,000/- without an express request from the Ministry of Education
- v. The National Land Commission should immediately secure the interest of the Government on the land compulsorily acquired in portions of LR. No. 7879/4 by taking possession of the title documents of the said parcel of land.

1.2 Implementation Status

According to the report, no recommendations were made by the Committee for implementation by the Ministry of Lands and Physical Planning.

Pursuant to the recommendations of the Committee, The National Lands Commission filed *Nairobi ELC Reference No. 1 of 2018 National Land Commission v Afrison Export Import Limited & 10 others* in which the Ministry of Lands and Physical Planning was made an interested party.

In a Judgement delivered on June 28, 2019 in the said case, Justice E. O. Obaga held that the two schools sit on public land. He further held that the land on which the two schools sit could not be the subject of compulsory acquisition. The portion on which the two schools sit was surrendered for public purposes and had accordingly been reserved for that purpose.

2. REPORT ON THE ALLEGED IRREGULAR ALLOCATION OF LAND SET ASIDE FOR SETTLEMENT OF ONTULILI SQUATTERS

Honourable Chair, I wish to submit as follows-

2.1 Background and Context

In the Petition before Parliament, it was alleged that land excised from the Mt. Kenya Forest in Ontulili area in Meru for settlement of squatters was irregularly issued to an individual instead of being issued in favour of the squatters.

2.2 Recommendation by Parliamentary Committee on Lands

In response to the prayers of the petitioners, the Departmental Committee on Lands recommended that the National Land Commission should determine the historical injustices case HS 085/2017 lodged by the Petitioners within three months from the date of tabling this report with a view to settling the genuine squatters.

2.3 Implementation Status

According to the report no recommendations were made by the Committee for implementation by the Ministry of Lands and Physical Planning.

3. REPORT ON A PETITION REGARDING THE ALLEGED IRREGULAR ALLOCATION OF LR. NO. 11379/3 ON BEHALF OF MOWLEM WARD, EMBAKASI WEST

Honourable Chair, I wish to submit as follows-

3.1 Background and Context

The National Land Commission and the Ministry of Lands and Physical Planning held different views on the ownership of LR. NO. 11379/3. The Commission stated that the land belonged to Kiambu Dandora Farmers Company while the Ministry indicated that it belonged to Dandora Housing Scheme Ltd.

3.2 Recommendations by Parliamentary Committee on Lands

- i. The National Land Commission does compensate the common membership of two hundred and twenty-five (225) members of Dandora Housing Scheme Limited and Kiambu Dandora Farmers Company Limited in accordance with the law
- ii. The Directorate of Criminal Investigations and the Ethics and Anti – Corruption Commission does investigate allegations of fraud and forgery of documents such as titles and court orders regarding the ownership of LR. No. 11379/3 with a view to recommending the prosecution of any person found culpable of having committed a criminal offence.

3.3 Implementation Status

According to the report no recommendations were made by the Committee for implementation by the Ministry of Lands and Physical Planning.

4 THE REPORT ON A PETITION ON NON-ISSUANCE OF TITLE DEEDS TO LAND OWNERS OF EMBAKASI WEST CONSTITUENCY.

Honourable Chair, I wish to submit as follows-

4.1 Background and Context

The Petitioners were allocated houses by the then City Council of Nairobi under the Umoja Estate Tenant Purchaser Scheme in 1976. The agreement for the purchase of the said houses stipulated that after full payment of the purchase fees each owner was to be issued with a title deed. However, the beneficiaries of the scheme were not issued with the titles deeds even after settling the purchase fees.

4.2 Recommendations by Parliamentary Committee on Lands

In the Report of Parliament dated April 30, 2019 the Departmental Committee on Lands made amongst others the following recommendations: -

- i. The National Government in collaboration with the Nairobi City County Government caters for all the costs of processing fresh applications to be made by allottees for the purpose of processing lease documents in order to facilitate the completion of issuance of title documents within six months of receipt of applications from the allottees
- ii. The Ministry of Lands and Physical Planning conclude the survey of the remaining 10% of unsurveyed land in Embakasi West Constituency within ninety days of tabling of this report to facilitate the processing of lease documents and subsequent issuance of title deed.

4.3 Implementation Status

- i. The Ministry of Lands and Physical Planning waived payment of all statutory fees for processing and issuance of Title Deeds to the beneficiaries under the National Titling Programme.
- ii. The survey has been done by the Nairobi City County Government and is in the process of quality control.

- iii. Once Nairobi City Government forward the leases to the Ministry we will proceed to title

5 THE REPORT ON A PETITION ON THE NOTICE OF DEMOLITION ISSUED BY NEMA AND WATER RESOURCE AUTHORITY TO HOMEOWNERS OF SEEFAR APARTMENTS

Honourable Chair, I wish to submit as follows-

5.1 Background and Context

Seefar Apartments registered as LR No 209/12108 consists of a development that has 288 residential apartments located within Nyayo Highrise Estate along Mbagathi Road. It was developed by Erdemann Property Limited in 2011. The apartments have a total of 1000 people with about 40% of the homeowners having acquired mortgages with various financial institutions and servicing loans.

Despite National Environment Management Authority (NEMA) and Water Resources Authority (WARMA) approving development of the apartments vide letters reference numbers PR/8208 dated 29th June, 2011 and WRMA/NRB/RIPARIAN/1(56) dated 17th April, 2015 respectively; NEMA issued an improvement notice (NEMA/5/4/Vol II) while WARMA issued Order Serial Number 30366 earmarking the apartments for demolition on allegation that they had been constructed on the riparian reserve along the Nairobi Dam and Ngong River.

5.2 Recommendations by Parliamentary Committee on Lands

- i. NEMA and WARMA undertakes an audit of all licences issued across the Country to verify the levels of compliance with licence conditions, the extents and reasons for causes of noncompliance, if any with a view to taking appropriate action against any person whose actions are established to be inconsistent with the Law and table a report before the National Assembly within three months of the tabling of the Report
- ii. The Ministry of Environment and Forestry, the Ministry of Water and Sanitation and the County Government of Nairobi should set up a task force to undertake a comprehensive study on the safety of the Nairobi Dam, its potential and the socio economic implications of rehabilitation

- or decommissioning it and table a Report before the National Assembly within three months of the tabling of the Report
- iii. The Inter-Agency Technical Team commissioned to assess the safety and viability of the dam should expedite its report to facilitate for further discussion between the home owners and the Government to determine the way forward. In the meantime, the Team should address any immediate safety concerns
 - iv. The Ministry of Water and Sanitation and the Ministry of Environment and Forestry, should spear head consultations with the Ministry of Lands and Ministry of Agriculture to harmonize the definition of the riparian land and subsequently submit an amendment to Parliament for consideration and enactment, and table a report before the National Assembly within three months of the tabling of the Report.
 - v. The Government should adopt harmonized position relating to the principles and process of the demolition exercise so as to assure the investors that the exercise is being undertaken in a manner that is not discriminatory
 - vi. The Ministry of Water and Sanitation should expedite the installation of sewer line facilities under the Nairobi Regeneration Programme to mitigate the pollution of the Nairobi Dam by effluent from the neighbouring residential areas.

5.3 Implementation Status

The recommendation referring to the Ministry of Water & Sanitation and the Ministry of Environment & Forestry spearheading consultation with our Ministry and Ministry of Agriculture is pending.

The Ministry is ready to give its input when the spearheading agencies initiate the consultations.

6 THE REPORT ON A PETITION ON RECTIFICATION OF RECORDS IN THE REGISTER FOR LAND PARCEL NUMBER IGEMBE/NDOLELI ATHINA RUUJINE 2554

Honourable Chair, I wish to submit as follows-

6.1 Background and context

The Petitioner claims that a Mr. John Bernard Nthuku of land registration no. 2554/Igembe/Ndoleli/Athiru Ruujine has been in occupation of the land. That

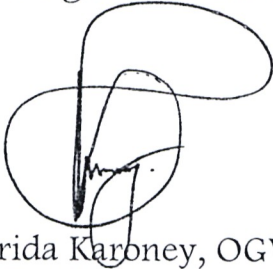
the ground measurements of the parcel of land are larger than the scaled area indicated in the Registry Index Map of the Meru North Land Registry.

6.2 Recommendation by Parliamentary Committee on Lands

The Ministry of Lands and Physical Planning conducts a new survey and rectifies the record in the land registry for parcel Igembe/Ndoleli/Athiru Ruujine 2554 within sixty (60) days from the date of tabling this report.

6.3. Implementation Status

The land parcel has been re-surveyed and the register rectified as directed. A copy of the green card is Annexed Marked **Annexure 1**.



Farida Karoney, OGW
CABINET SECRETARY

August 7, 2019

PART A - PROPERTY SECTION

EASEMENTS ETC
VIDE DISTRICT SURVEYOR
LETTER NO MN121M1P1D | COM
VOL X 103 OF 1181 2019.

1
 OPENED 24.5.2017
 REGISTRATION SECTION
 ICEBEB/NDOLELI ATHIRU NUUINE
 PARCEL NUMBER
 2554
 APPROXIMATE AREA
 0.64 2.36 HA
 REGISTRY MAP SHEET NO
 109/1/22/3

PART B - PROPRIETORSHIP SECTION

NAME OF REGISTRAR OR PROPRIETOR
 JOHN BERNARD NYHUKU
 TITLE DEED
 1 24.5.2017
 2 6.6.2017
 (1152587)

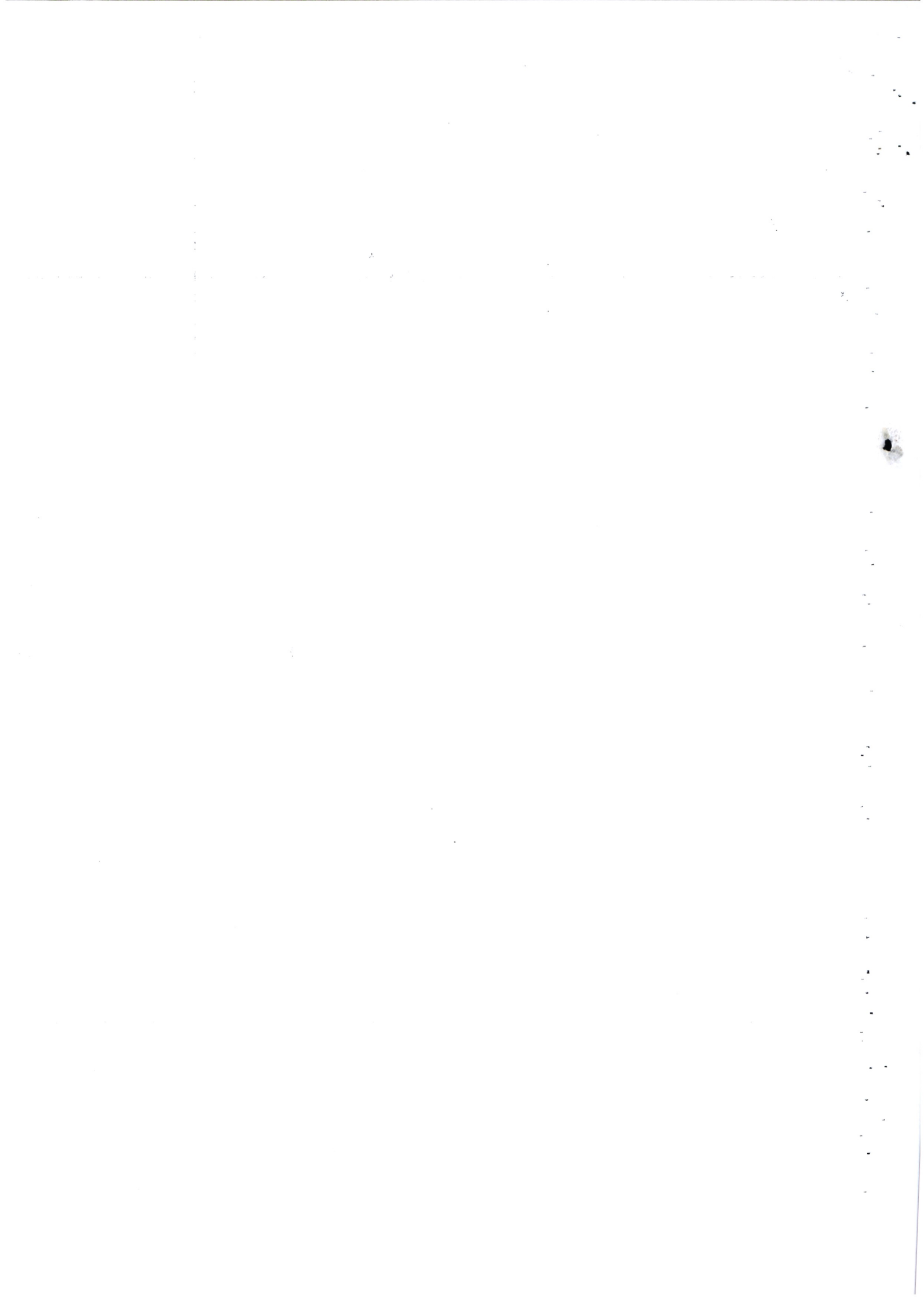
ISSUED

16/1/18
16/1/18

Parcel No.

2554

REGISTRATION SECTION





THE COMPETITION AUTHORITY OF KENYA'S UPDATE ON INVESTIGATIONS OF BUSINESS PRACTICES AMONG OIL MARKETERS COMPANIES (OMCs) INVOLVED IN THE SUPPLY AND DISTRIBUTION OF JET A1 FUEL.

A. Background

1. This Report is pursuant to a request by the **Select Committee on Implementation** status of House resolutions specifically that the Competition Authority of Kenya (the Authority) to review and investigate the business practices among the oil marketing companies with a view to ensure a level playing field among the operators.
2. Section 31 of the Competition Act empowers the Authority to investigate any conduct or practice which is alleged to constitute an infringement of prohibitions relating to restrictive trade practices or abuse of dominance. In addition sections 32 and 33 of the Act, provides the mode of procuring evidence while conducting investigations.
3. To conduct the Investigation, as recommended by the House Committee, the Authority developed the following RoadMap:-
 - i. Identification of the key Agencies/players/Stakeholders and their Mandate/role/objectives;
 - ii. Appreciation of the Jet Fuel Industry including the key logistics in supply and distribution channels;
 - iii. Determine the relevant market and market shares of each market player;
 - iv. Establish existing contractual agreements, if any, and practices and their effect on competition (do they suppress forces of supply and demand in the relevant market?)
 - v. If Market shares point to a dominant firm in the relevant market; does the Dominant firm abuse its dominant position as encapsulated under section 24 of the Competition Act;
 - vi. The Authority makes a determination after analyzing the gathered evidence.



ANNEX 1

B. Identification of the key players/stakeholders and their mandate/objective

4. The Authority has identified the following Agencies/Stakeholders/players as key to inform the investigations:
 - a. **Energy and Petroleum Regulatory Authority (ERPA):** it licenses persons engaged in the importation, refining exportation, wholesale, retail, storage or transport of petroleum in Kenya. Accordingly persons engaged in the sale of Jet AI in Kenya ought to satisfy the licensing conditions;
 - b. **Kenya Airports Authority (KAA):** it provides facilitative infrastructure for aviation services; Its main functions are: Administer, control and manage aerodromes;
 - c. **National Environmental Management Authority (NEMA):** to get a license for storage of petroleum products include the Environmental impact Assessment License from NEMA and a Confirmation from KEBS that the facility complies with Kenya Standard (Inspection Report); Fire clearance certificate; OSHO certificate; and valid certificate of calibration of the petroleum tanks;
 - d. **Oil Marketing Companies (OMCs):** these are the firms that are licensed to undertake the importation and distribution of petroleum products in the country. These are Kenol-Kobil; Gulf Energy, Aspam Energy, Oryx Energies, GAPCO, Vivo Energy, Galana, Total; Hass and Kencor. Pacific Aviation & Consulting Company and ASM Kenya.
 - e. **Petroleum Institute of East Africa (PIEA)** – it is the Industry’s association which conducts research relating to the oil and gas industry in the East African region.
5. To date, the Authority has interacted and gathered evidence from the following stakeholders: Kenya Airports Authority, Energy and Petroleum Authority, Pacific Aviation Management and Consultancy Company and Total (K) Ltd.
6. The Interaction with the following institutions is ongoing: Kenol-Kobil Ltd, ASM Kenya, Petroleum Institute of East Africa and a follow-up meeting with EPRA.

B. Identification of Key Logistics in supply and distribution channels

7. The Authority has documented the importation and pricing mechanism in the industry including the landing costs. We have also established the existing storage and operational infrastructure and juxtaposed it with International practices, in other aerodromes.
8. The Investigations have also so far covered the business (arrangement) for sourcing for Jet Fuel. We have identified the existing different arrangements employed by the accused and



ANNEX 1

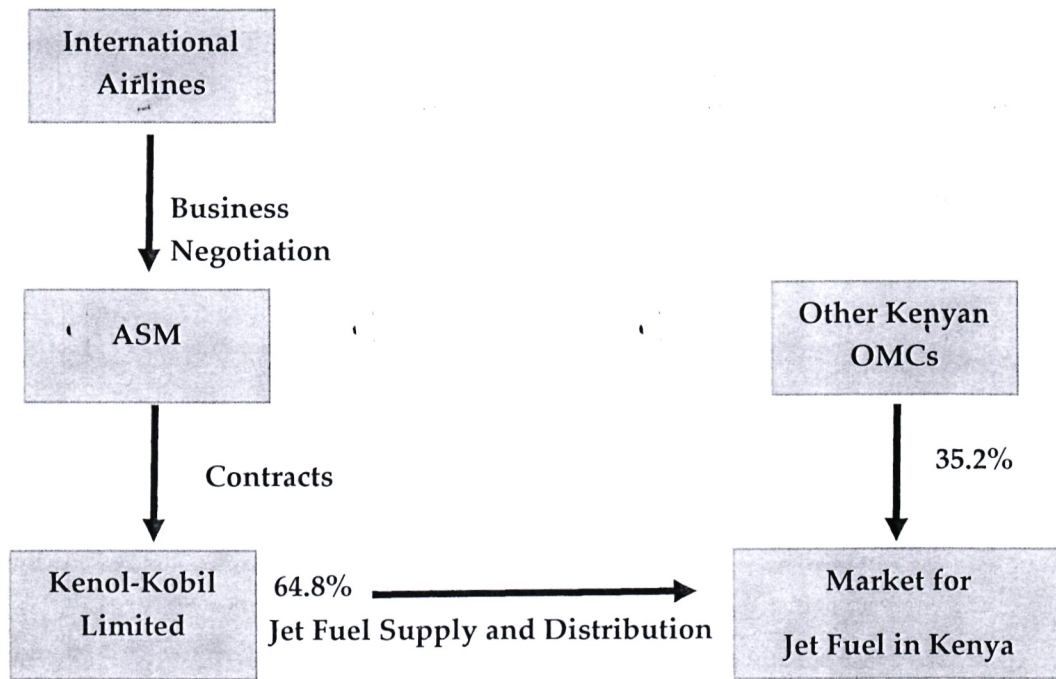
the other parties and which and why certain arrangements are preferred by International Airlines.

C. The determination of the relevant market and market shares for each player

- 9. The investigation has identified the relevant Jet A1 fuel – also known as aviation turbine fuel or avtur – imported as a Dual Purpose Kerosene (DPK) as the relevant Product Market. The identification is based on its use; its use and handling. Therefore, this is the focal-point of the investigation.
- 10. The process of collecting and collating data/turnover in order to determine market shares for each player in the Market is ongoing. This process involves summoning evidence from all market players and PIEA.

D. Existing Contractual Arrangements

- 11. Towards establishing the contractual arrangements; the Investigation has so far identified the supply chain arrangement for the relevant product. The vertical arrangement can be depicted as follows: -



- 12. We have summoned for the Contract between ASM and Kenol-Kobil to interrogate it and determine if it contains provisions which infringe any provision of the Competition Act.



ANNEX 1

E. Conclusion

13. The Competition Authority wishes the Committee to Note that the Authority has: -
- a. Initiated investigations into the Industry as recommended;
 - b. Documented an investigation roadmap, as guided by the Competition Act and internal guidelines. The Roadmap encompasses:
 - i. Identification of the key Agencies/players/Stakeholders and their Mandate/role/objectives;
 - ii. Appreciation of the Jet Fuel Industry including the key logistics in supply and distribution channels;
 - iii. Determine the relevant market and market shares of each market player;
 - iv. Establish existing contractual agreements, if any, and practices and their effect on competition (do they suppress forces of supply and demand in the relevant market?)
 - v. If Market shares point to a dominant firm in the relevant market; does the Dominant firm abuse its dominant position as encapsulated under section 24 of the Competition Act;
 - vi. The Authority makes a determination after analyzing the gathered evidence.
 - c. So far fully the Authority has actualized the above Roadmap up to (iii) while (iv) and (v) are partially achieved. Fulfillment of (iv) and (v) will cause the Authority's determination (Conclusion of the investigation).

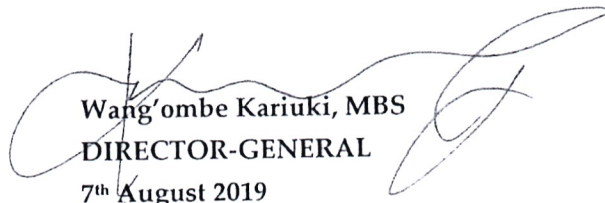
F. Request

14. The Authority therefore requests the Committee to indulge it in order to:-
- i. Summon evidence from the following players/key stakeholders ASM Kenya, Kenol-Kobil and Petroleum Institute of East Africa.
 - ii. Conclude collection and collation of data/sales to determine market shares of each and every player in the relevant market.
 - iii. Interrogate the contractual agreement/arrangement between ASM and Kenol-Kobil to determine if it contains clause/s which offend any provision of the Competition Act.



ANNEX 1

15. The grant of the above request will facilitate the Authority to conclude the investigation and make a determination.


Wang'ombe Kariuki, MBS
DIRECTOR-GENERAL
7th August 2019





THE COMPETITION AUTHORITY OF KENYA'S MEMORANDUM ON THE STATUS OF AMENDMENT OF THE INFORMATION AND COMMUNICATIONS ACT, 1998 AND THE COMPETITION ACT NO. 12 OF 2010 WITH THE SOLE MANDATE TO DETERMINE COMPETITION MATTERS ARISING FROM THE TELECOMMUNICATIONS SUB-SECTOR

A. Background

1. The Competition Authority of Kenya ("the Competition Authority") in response to the request by the Select Committee on Implementation submits on the 'the status of amendment of the Information and Communications Act, 1998 and the Competition Act No. 12 of 2010 to empower the Communications Authority with the sole mandate to determine competition matters arising from the telecommunications sub-sector.'
2. Although our view is that the suggested amendments of the legislative framework mainly is under the purview of the sector-specific regulator, (CA - the Communications Authority), we wish to update the committee regarding our ongoing initiatives towards informing the actualization of the recommendation in order to achieve an optimal position.
3. The Authority has developed a Road Map. The Road Map entails; (a) review of the current arrangement, (b) review of international practices (c) review of emerging issues including the Digital economy, (d) engagement with key stakeholders, and then, (e) develop a policy paper. Up to date the Authority has actualized (a), (b) and (c) and we are in the process of actualizing (d) specifically interacting with The National Treasury and Planning, Ministry of Information Communications and Technology, the Communication Authority and the Central Bank of Kenya.
4. Thus, premised on the above, the Authority wishes to update regarding the following:-
 - i. **Review of the current arrangement**
 - a. As per the International Best Practice there is concurrency between the Competition Authority and CA mandate with regard to regulation of competition in the telecommunications sub-sector.



- b. When promulgating the Competition Act, Parliament was not only alive to the necessity of concurrent jurisdiction but also to the challenges it may cause. Therefore, under Section 5 of the Competition Act, it provides that in all matters concerning competition, the Authority has primary jurisdiction. However, it provides for development of a working framework with sector regulator/s which may have concurrent jurisdiction with the Competition Authority.
 - c. Towards this the Competition Authority and CA signed MOU/framework in 2015 which has the objective of:-
 - ii. Identifying and establishing procedures for management of areas of concurrent jurisdiction;
 - iii. Promoting cooperation;
 - iv. Providing for the exchange of information and protection of confidential information; and
 - v. Ensuring consistent application of the principles of the Competition Act.
 - d. So far the MOU has achieved its objective since there has been no contradictory decisions emanating from the two agencies.
5. We also note that, Kenya is a signatory to regional treaties and therefore one of the Partner States of the East African Community (EAC) and a Member State of the Common Market for the Eastern and Southern Africa (COMESA). It therefore follows that Kenya is bound by these regional laws and their implementing regulations.
 6. The EAC Competition Act and the COMESA Competition Regulations which originates from their respective treaties have mandate to **all economic activities and sectors** having cross-border effect. We note that the EAC competition Act is anchored under Article 75 of the Treaty establishing the East African Community.
 7. It is important to recall therefore and as guided by the Constitution of Kenya 2010, that the National Competition legislations be aligned to the Regional statutes. The Kenyan Competition Act, upon review of the EAC competition experts, has been found to be approximated to the regional competition law.
 8. Thus, any amendment to the Kenyan Competition Act will cause disharmony with the requirements of the regional statutes to which Kenya is a signatory.



ii. Review of international best practices

9. We have established that concurrence jurisdiction in regulation of matters relating to competition is very common in the network and utilities sectors. Experiences with regulation of competition in network and utilities sectors illustrates the need for better coordination between the competition authorities on the one hand, and the sector regulators on the other.
10. The management of concurrent jurisdictions in these sectors has been clearly demonstrated by experiences and guidance in the European Union, its member States like United Kingdom, Germany, among others, and in South Africa as well. The situation in these jurisdictions, like in Kenya currently, requires that the primary jurisdiction in the regulation of competition in these sectors, as is the case in all other sectors, is bestowed on the macro-competition regulator.
11. In the United Kingdom, Competition and Markets Authority (CMA) which is the macro-regulator of competition, has concurrent jurisdiction with all sector regulators including the Ofcom. Ofcom regulates electronic communications, broadcasting and postal services.
12. It is important to highlight that the sector-specific regulators are only accorded the powers to apply the macro-competition laws and not to promulgate parallel competition provisions in their respective sector-specific laws.
13. This principle has been replicated in South Africa.
14. The common feature in all these countries with concurrent jurisdictions (and also with mature competition agencies and their law enforcement) is that they have developed and are implementing frameworks or MOUs to ensure smooth management of the areas of concurrency.
15. Another emerging institutional arrangement can be identified in the Netherlands where both ex-ante and ex-post regulation of the telecommunications sector are merged under the macro-competition regulator. This mandate has been conferred on the Netherlands Authority for Consumer and Markets (ACM). ACM is the macro-competition regulator whose mandate is to ensure fair competition between businesses and protection of consumer interests.



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16. Indeed, and generally so, within the European Union territory, the EU regulation framework advocates for sector-specific regulations to become more embedded in the general competition law.
17. We note that the changing approach to regulation of the telecommunications sector has been motivated by the emerging issues elaborated below.

iii. Review of Emerging issues

18. We note that there have been changes in the information technology sector leading to closer integration and therefore provision of services have been interlinked. The term Information and communications technology (ICT) is therefore a current term that is commonly used to an extensional information technology (IT) that unified communications and the integration of telecommunications (telephone lines information and wireless signals) and computers, as well as necessary enterprise software, middleware, storage, among others.
19. This level of integration and interrelation of these activities/services in the information and communications sector has blurred the boundary between the telecommunications and other subsectors.
20. This integration has taken cognizance of by the *Kenyan Digital Economy Blue Print, 2019* which has highlighted that Kenyan businesses are improving their productivity buoyed by both adoption and adaption of new technologies through e-government and financial services, among others. Specifically, the *Blue Print* envisages a situation where the economy is moving away from internet economy to digital economy where “the entirety of sectors operate using digitally-enabled communications and networks leveraging internet, mobile and other technologies” irrespective of industry
21. This scenario of close integration of activities in the digital economy therefore renders it very difficult to hive out the provision of telecommunications services to be subjected to a separate and exclusive legal regime.

B. Way Forward

22. We wish to request the committee to note that the next phase is engaging the relevant stakeholders which include, The National Treasury and Planning, Ministry of Information



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ANNEX 2

Communications and Technology, the Communication Authority and the Central Bank of Kenya and the Parliamentary Committee on Finance, Planning and Trade. In addition, the Authority shall interact with EAC Competition Authority and COMESA Competition Authority in order to develop a comprehensive position paper to inform the recommendations.


Wang'ombe Kariuki, MBS

DIRECTOR-GENERAL

7th August 2019





KENYA REVENUE
AUTHORITY

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KRA/M&CD/SEEM/19/08/E057

9th August 2019

Mr. Michael Sialai, EBS
Clerk of the National Assembly
Parliament Buildings
P. O. Box 41842-00100
NAIROBI

Dear Sir,

**RE: REQUEST BY THE SELECT COMMITTEE FOR THE IMPLEMENTATION STATUS
OF HOUSE RESOLUTIONS**

Your letter REF:NA/DCS/COI/2019/(66), dated 23rd July 2019 on the above matter refers.

In response to your request, we hereby submit status update on the following items;

1. The report of the Public Investments Committee on the inquiry into procurement and implementation of the Excisable Good Management System for printing, supply and deliver of Security Revenue Stamps complete with Track and Trace System and an Integrated Production Accounting System by the Kenya Revenue Authority as communicated vide a letter Re: No. NA/DLP/TBO/RES.11/2019 dated 7th June 2019.
2. The report on a petition on licensing of oil marketing Companies by the Energy Regulatory Commission as communicated vide a letter Ref: NA/DLP/PP/2018/38 dated 10th December 2018.

This is forwarded for your kind attention.

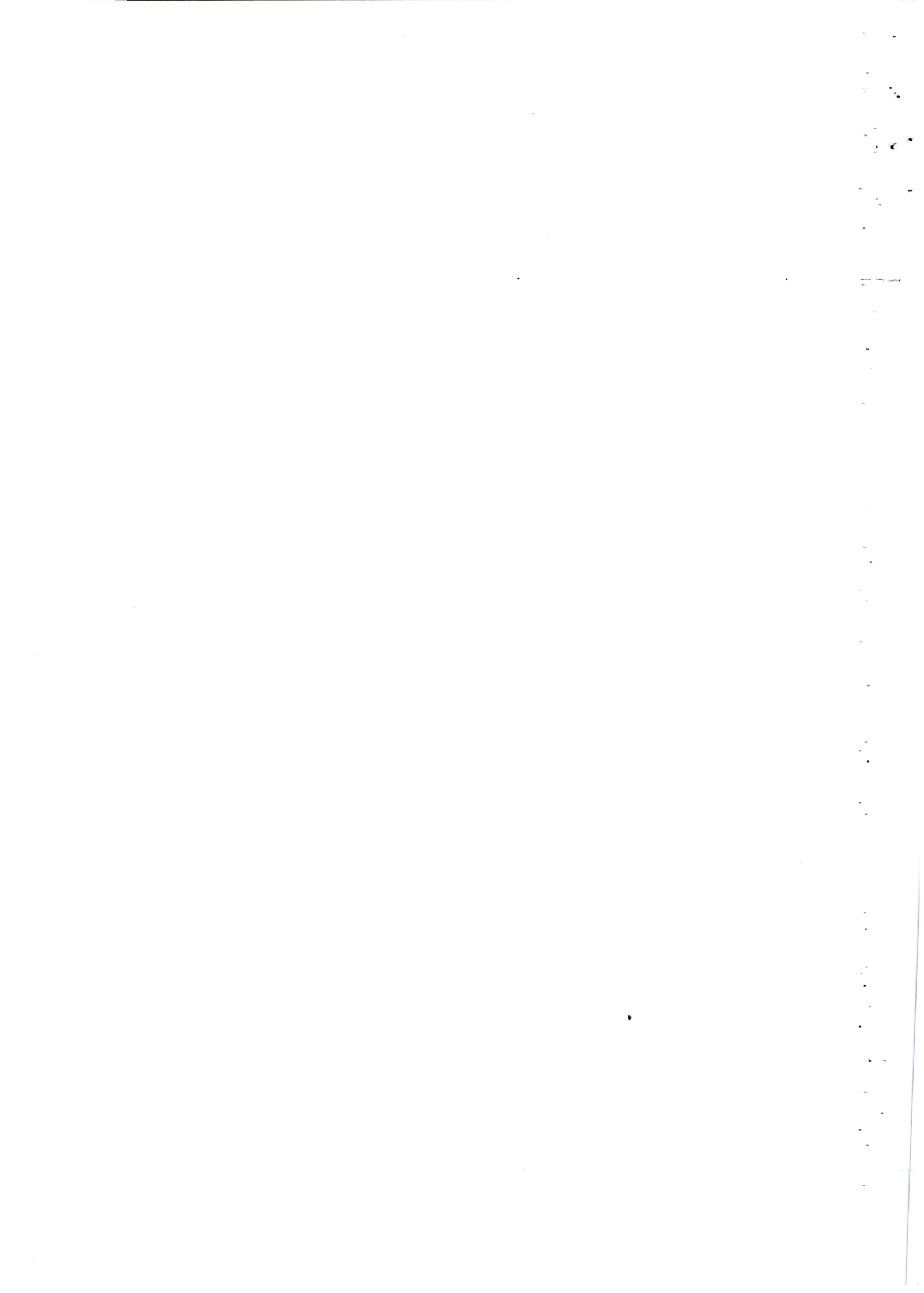
Yours

GRACE WANDERA
For: COMMISSIONER GENERAL

Encls

Tulipe Ushuru, Tujitegemeel!







KENYA REVENUE
AUTHORITY

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REPORT FOR THE SELECT COMMITTEE ON IMPLEMENTATION
FOR THE IMPLEMENTATION STATUS OF HOUSE
RESOLUTIONS

August 9th, 2019

KENYA REVENUE AUTHORITY
Confirmed
P. O. Box 48240 - 00100, NAIROBI
Date: 09/08/2019
Sign: G.W



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KENYA REVENUE AUTHORITY
Confirmed
P. O. Box 48240-00100, NAIROBI
Date: 9/02/2019
Sign: G.W



1.0 INTRODUCTION

The Committee on Implementation is a select Committee of the House established pursuant to Standing Order 209 of the National Assembly Standing Orders. The Committee is mandated to scrutinize resolutions of the House (including adopted Committee reports), petitions and the undertakings given by the executive and to examine whether such decisions and undertakings have been implemented and whether such implementation has taken place within the minimum time necessary.

In this regard, the Committee vide their letter **Ref: NA/DCS/COI/2019/(66), dated 23rd July 2019**, herewith attached request to be appraised on the implementation status and challenges faced by the Authority, if any, in the implantation of observation and recommendations contained in:-

1. The report of the Public Investments Committee on the inquiry into procurement and implementation of the Excisable Good Management System for printing, supply and deliver of Security Revenue Stamps complete with Track and Trace System and an Integrated Production Accounting System by the Kenya Revenue Authority as communicated vide a letter Re: No. NA/DLP/TBO/RES.11/2019 dated 7th June 2019.
2. The report on a petition on licensing of oil marketing Companies by the Energy Regulatory Commission as communicated vide a letter Ref: NA/DLP/PP/2018/38 dated 10th December 2018.

2.0 RESPONSES TO QUERIES RAISED BY THE COMMITTEE

2.1 *The report of the Public Investments Committee on the inquiry into procurement and implementation of the Excisable Good Management System for printing, supply and deliver of Security Revenue Stamps complete with Track and Trace System and an Integrated Production Accounting System by the Kenya Revenue Authority as communicated vide a letter Re: No. NA/DLP/TBO/RES.11/2019 dated 7th June 2019.*

	Recommendation	Response
1.	Whereas Kenya Association of Manufacturers and the Kenya Revenue Authority confirmed that there was public participation in the roll-out of the Excisable Goods Management System, the Kenya Revenue Authority, the Kenya Bureau of Standards and the Anti-Counterfeit Agency should conduct extensive and all-inclusive public participation prior to implementing systems such as EGMS	The Authority has incorporated public Participation in all its programmes. <i>(Attached are evidence of KRA's engagement with the public).</i>
2.	The Kenya Revenue Authority should share their current Excisable Goods Management System with the Kenya Bureau of Standards and the Anti-Counterfeit Agency at no	KRA has analyzed the legal and administrative requirements for the implementation of these recommendations and has found that it is necessary to amend the following legislation:

	extra cost to the manufacturers.	i. Excise Duty Act 2015, and related subsidiary legislation ii. The Standards Act Cap 496, Laws of Kenya. iii. The Anti-Counterfeit Act, 2008
3.	Upon expiry of the existing contract, the Kenya Revenue Authority, the Kenya Bureau of Standards and the Anti-Counterfeit Agency should develop a multifunctional stamp for use by the three government entities, or any other that will need the system, which will ensure efficient monitoring and reduce wastage of public funds utilized in developing different stamps.	In addition, the three institutions have to develop a joint administrative arrangement to facilitate compliance with regulatory requirements. Upon the development of this joint administrative arrangement, the system can be adopted by the other regulatory agencies and thus have a single stamp implemented. KRA will engage other agencies through multiagency framework in order to progress this matter.

2.2 The report on a petition on licensing of oil marketing Companies by the Energy Regulatory Commission as communicated vide a letter Ref: NA/DLP/PP/2018/38 dated 10th December 2018.

2.2.1 Recommendation for Action by KRA

- (i) The Kenya Revenue Authority to investigate Ms. Pacific Aviation, Ms. ASM Kenya and all other companies providing hospitality for Oil Marketing Companies in the sale of Jet A1 fuel in the country to ascertain their tax compliance and their status of registration in Kenya.

KRA has reviewed the tax compliance of the companies providing hospitality for Oil Marketing Companies and the report is provided herein below:

SN:	Company	Tax Status
1.	PACIFIC AVIATION MANAGEMENT AND CONSULTING CO	Filing
2.	ASM	Filing
3.	KENYA PIPELINE CO LTD	Filing
4.	VIVO ENERGY KENYA LTD	Filing
5.	LIBYA OIL KENYA LIMITED	Filing
6.	TOTAL (K) LTD	Filing
7.	GULF ENERGY LIMITED	Filing
8.	FLAMEX PETROLEUM LIMITED	Filing
9.	VIVO ENERGY KENYA LTD	Filing
10.	TOTAL (K) LTD	Filing
11.	GULF ENERGY LIMITED	Filing
12.	FLAMEX PETROLEUM LIMITED	Filing



SN:	Company	Tax Status
13.	AEROGLOBAL AVIATION SERVICES LTD	No itax Pin
14.	FINEJET LIMITED	Filing
15.	TRISTAR TRANSPORT LIMITED	Filing
16.	KENOLKOBIL LIMITED	Filing
17.	HELLER PETROLEUM LIMITED	Filing
18.	DALBIT PETROLEUM LTD	Filing
19.	BAKRI ENERGY LIMITED	Filing
20.	HARED ENERGY LIMITED	Filing
21.	MOGAS KENYA LTD	Filing
22.	TEXAS ENERGY LIMITED	Filing
23.	ZACOSIA TRADING LIMITED	Filing
24.	LAKE OIL LIMITED	Filing
25.	WORLD FUELS SERVICES KENYA LIMITED	Filing
26.	SKYTANKING (K) LTD	Filing

(ii) Kenya Revenue Authority (KRA) put in place similar Tax regime on Jet A1 fuel at Wilson Airport similar to the one at Jomo Kenyatta International Airport since several airlines at Wilson Airport are/becoming regional in their operations. An example is Safarilink Aviation which flies to Kilimanjaro Airport but are subjected to different Jet A1 Tax regime from Jambo Jet flying to Entebbe Airport from Jomo Kenyatta International Airport.

Legal Notices 47 of 2005 and No. 102 of 2015 allowed for warehouse of Jet A1 at JKIA, Moi International Airport and in Lokichoggio in duly licensed depots maintained by petroleum companies. Wilson Airport is yet to be gazetted as one of places for warehousing of Jet A1 to enable delivery of duty free fuel to aircraft.

KENYA REVENUE AUTHORITY
Confirmed
P. O. Box 48240 - 0100, NAIROBI
Date: 9/08/2019
Sign: G.W

PUBLIC NOTICES

University of Eldoret, P.O. Box 1126-10101
Nairobi, Kenya

OFFICE OF THE VICE-CHANCELLOR

The University of Eldoret Credit Accumulation Transfer System Policy, an option for diploma and other equivalent professional graduates to enter degree programmes by transferring credits is now offered.

All academic and admission information is available on the University website at www.ueldoret.ac.ke.
For further enquires contact:

Vice-Chancellor (Academic & Students' Affairs)
University of Eldoret,
P.O. Box 1126-10101,
Nairobi.

Email: vc@ueldoret.ac.ke
registrar@ueldoret.ac.ke

Tel: 0729 232 204

University of Eldoret is KAP 2001/2015 certified

Karatina University wishes to recruit qualified persons for the vacant positions listed below. Specific speciality website: www.kuat.ac.ke

ADVERTISE

Sl. No.	Position	Number of Posts	Gender
1	Senior Lecturer/Lecturer (NURSING)	15/12	
2	Deputy University Librarian	10	
3	Medical Officer	13	
4	Senior Accountant	13	
5	Senior Internal Auditor	13	
6	Senior Assistant Student Counsellor	11	
7	Registry Supervisor	7	

For information related to job specifications, requirements, kindly visit our website www.kuat.ac.ke should send the applications quoting the relevant received on or before Tuesday 2nd July, 2019.

Karatina University is an equal opportunity of either gender, persons with disability are encouraged to apply.



Public Notice

Management of Objections under section 117 of the Tax Procedures Act, 2016 and Reviews under Section 118 of the East African Community Customs Management Act, 2004

Through Gazette Notice No. 12046 dated 18th November, 2018 and Gazette Notice No. 1036 dated 1st February, 2019, the Commissioner General delegated the powers and functions relating to the handling of objections under the Tax Procedures Act, 2016 and the reviews under the East African Community Customs Management Act, 2004 to the Commissioner responsible for tax dispute resolution.

This transformation has the effect of distinguishing tax assessment processes up to the issuance of an assessment with the post assessment dispute resolution process from the point of an objection or review. The Commissioner responsible for Domestic Taxes and Customs and Border Duty will continue to handle the pre-objection and pre-review processes respectively whereas the Commissioner responsible for tax dispute resolution will deal with the objection and review processes until a decision is made. The transformation aims to consolidate, centralize and ensure independence of the management of the objections and review processes within Kenya Revenue Authority to the convenience of Taxpayers.

The changes arising implemented in phases. Those impacting on the Large Taxpayers Office (LTO) and the Medium Taxpayers Office (MTO) are already in place. The roll out programme for other stations shall be communicated in due course.

For any clarification in relation to this notice, please call our Contact Centre on Tel: 020 4 999 999, 0711 099 999 or Email: callcentre@kra.go.ke. You may also visit the nearest KRA Office or Huduma Centre.

Some details for legal services are available on the website.



**KENYA REVENUE
AUTHORITY**
ISO 9001:2015 CERTIFIED



Public Notice

Implementation of Integrated Customs Management System (ICMS) for Cargo Clearance

Kenya Revenue Authority notifies the Shipping Lines/Agents, Importers, Exporters, Clearing & Forwarding Agents, Consolidators and all other parties related to cargo clearance process of the commencement of implementation of the Integrated Customs Management System (ICMS) at the Port of Mombasa, Inland Container Depot Nairobi (ICDN) and the Border Stations.

The following Cargo Clearance documentations will be submitted through ICMS for all cargo whose expected date of arrival/ exit is 7th July 2019:

- Import Declaration Forms (IDFs),
- Sea Manifests/ Baplie/ IAR,
- Security Bonds,
- Cargo Declarations,
- Exemptions

Kindly note that:

- Sea manifests (Imports/Exports) will only be submitted in ICMS through system to system data exchange 48 hrs before vessel arrival/ departure;
- All House Manifests must include the Courier/ Consolidator PIN to enable cargo deconsolidation process;
- Cargo Handlers are required to ensure their systems are ready to receive system to system Customs Release Messages (CUSRES) as manual releases will be discontinued.

ICMS training and user creation is currently on-going and any of the above parties who desires to be trained should send a request to tpstraining@kra.go.ke

For clarification, please call our Contact Centres on Tel: (0)20 4 999 999; 0711 899 999 or Email: callcentre@kra.go.ke. You may also visit the nearest KRA Office or Huduma Centre.

Commissioner for Customs and Border Control

Inflation Adjustment on Excise Duty Rates

The Commissioner General is required under the Excise Duty Act, 2015 to adjust for inflation the rates of excise duty on all products that have a specific rate of excise duty, annually.

Kenya Revenue Authority would like to inform manufacturers and importers of excisable goods falling under the above category and members of the public that the Commissioner General will adjust the rates of excise duty using the average inflation rate for the financial year 2019/2020, as determined by the Kenya National Bureau of Statistics. The adjusted rates will be effective from 1st July 2019.

In compliance with statutory provisions, Kenya Revenue Authority invites interested members of the public and stakeholders to submit their views on the excise inflation adjustment, addressed to the Commissioner General, Kenya Revenue Authority, P.O. Box 48240-00100, Nairobi or emailed to stakeholder@kra.go.ke to be received on or before Monday, 24th June 2019.

Commissioner General

Disclaimer: KRA neither certifies that it will not accept responsibility for payments not received, credited and validated in the relevant KRA accounts. Corruption Reporting: +254 (0) 20 44 888. Email: corruptreporting@kra.go.ke. Short Messaging Services (SMS): Dial *5729 or Text to 22572. Contact Centre: +254 (0) 20 4 999 999; +254 (0) 11 699 999; Email: callcentre@kra.go.ke. Complaints & Information Center: Hotlines: +254 (0) 20 281 7702 / 7800; +254 (0) 20 3 343 342; Email: cr@kra.go.ke



Tulipe Ushuru, Tujitegemeel

KENYA



Public Notice

Public participation fora on 2019/2020 Financial Year Budget

Kenya Revenue Authority will carry out countrywide public participation fora on the 2019/2020 Financial Year Fiscal Budget. The fora target tax professionals, business leaders, the media and the general public, and will begin from 9.00am to 1.00pm on the dates and venues below:

DATE	TOWN	VENUE
19 th June 2019	Nakuru	Hotel Waterbuck
	Nyeri	Green Hills Hotel
	Mombasa	Kenya School of Government
	Kisumu	The Vic, Hotel
20 th June 2019	Eldoret	Starbucks Hotel
25 th June 2019	Nairobi	Hilton Hotel

For confirmation of attendance kindly Email: stakeholderengagement@kra.go.ke or please call our Contact Centre on Tel: (0) 20 4 999 999; 0711 699 999 or Email: callcentre@kra.go.ke

You may also visit the nearest KRA Office or Huduma Centre.



Public Notice


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In compliance with statutory provisions, Kenya Revenue Authority invites interested members of the public and stakeholders to submit their views on the excise inflation adjustment, addressed to the Commissioner General, Kenya Revenue Authority, P.O Box 48240-00100, Nairobi or emailed to stakeholder@kra.go.ke to be received on or before **Monday, 24th June 2019**.

Commissioner General

Disclaimer: KRA website managers shall not accept responsibility for payments not received, created and validated in the relevant KRA accounts. Corruption Reporting: +254 (0)20 984 668. Email: corruptionreporting@kra.go.ke. Short Messaging Services (SMS): Dial *5729* or Text to 22572. Contact Centre: +254 (0)20 4 999 959, +254 (0711) 090 573, Email: callcentre@kra.go.ke. Complaints & Information Center Helpline: +254 (0) 20 261 7700 / 7705. +254 (0) 20 3 503 542. Email: ic@kra.go.ke. 



Tulipe Ushuru, Tujitegemeel!



Tender Notice

Kenya Revenue Authority invites sealed bids from eligible candidates for the following tenders:

Description	Eligibility	Pre- Bid Date, Time and Venue	Closing Date and Time
RF/WHQ/EA/CS-076/2018-2019: Supply, Delivery and Implementation of a Web-Based Anonymous Reporting System	OPEN	27 th JUNE, 2019 10.00 AM	18 th JULY, 2019 11.00 AM

CONTENTS



**KENYA REVENUE
AUTHORITY**
ISO 9001:2015 CERTIFIED

Public Notice

Public Participation on Integrated Customs Management System (ICMS)

Kenya Revenue Authority was established by an Act of Parliament – the Kenya Revenue Authority Act, Chapter 469 of the Laws of Kenya. KRA is mandated with the responsibility of assessing, collecting and accounting for revenue on behalf of the Government of Kenya.

To enhance efficiency in service delivery, KRA is implementing the Integrated Customs Management System (ICMS). The ICMS Air Cargo Services were rolled out on 10th May 2019 and the Land & Sea Cargo Services will be rolled out on 7th July 2019.

In this regard, KRA invites the Shipping Lines/Agents, Importers, Exporters, Clearing & Forwarding Agents, Cargo Consolidators, and the General Public to engagement forums as follows:

DATE	VENUE
3 rd July, 2019	Starbucks Hotel, Eldoret
	OSBP KRA Conference Hall, Namanga
	OSBP KRA Canteen, Malaba
4 th July, 2019	Hilton Hotel, Nairobi
	OSBP Boardroom, Busia
5 th July, 2019	OSBP Boardroom, Tavana
	OSBP Boardroom, Isebania
9 th July, 2019	Kenya School of Government, Mombasa
	OSBP KRA Conference Hall, Moyale
10 th July, 2019	OSBP Boardroom, Lungu Lungu

All the above engagements will be held from 9.00am to 12.00pm.

For confirmation of attendance kindly Email: stakeholder.engagement@kra.go.ke
or please call our Contact Centre on Tel: (0) 20 4 999 999; 0711 099 999 or Email: callcentre@kra.go.ke
You may also visit the nearest KRA Office or Huduma Centre

Commissioner for Customs and Border Control

Public Notice

Public Participation Fora on the Go Live for the Excisable Goods Management System (EGMS)

Kenya Revenue Authority notifies the Public of the Go Live of the Excisable Goods Management System on Bottled Water, Juices, Soda and other non-alcoholic beverages and cosmetics effective 1st September 2019 as stipulated by Section 28 of the Excise Duty Act, 2015 and the Legal Notice 53 of 30th March 2017 (Excisable Goods Management System Regulations).

In this regard, KRA will carry out sector based and General Public Participation fora on EGMS. The fora target licensed manufacturers, importers, distributors and retailers, of Bottled Water, Juices, Soda and other non-alcoholic beverages and cosmetics, the media and the general public. The fora will be held from 9.00am to 12.00pm on the dates and venues below:

Date	Counties Covered	Venue	Time	Target Audience
15 th July, 2019	All	5th Floor Convention Centre, Times Tower, Nairobi	9:00am-12pm	Manufacturers, Importers distributors and retailers of Bottled Water
16 th July, 2019	All	5th Floor Convention Centre, Times Tower, Nairobi	9:00am-12pm	Manufacturers, Importers distributors and retailers of Juices
17 th July, 2019	All	5th Floor Convention Centre, Times Tower, Nairobi	9:00am-12pm	Manufacturers, Importers distributors and retailers of Non-alcoholic beverages
22 nd July, 2019	Mombasa & Kwale	Kenya School of Government, Mombasa	9:00am-12pm	General Public
	Kisumu and Siaya	The Vic Hotel Kisumu		
	Nyeri, Nyandarua, Laikipia & Muranga	Green Hills Hotel Nyeri		
24 th July, 2019	Matindi, Kilifi, Tana River & Lamu	Pine Court Hotel Matindi	9:00am-12pm	
	Busia, Bungoma, Kakamega & Vihiga	OSBP Boardroom Busia		
	Embu, Tharaka Nithi & Kirinyaga	Mountain Breeze Hotel Embu		
26 th July, 2019	Voi, Taita Taveta, Kitui & Makueni	Maghonyi Hotel Voi	9:00am-12pm	
	Kisii, Migori, Homabay & Nyamira	The Dans Hotel Kisii		
	Meru, Isiolo & Marsabit	The Alba Hotel Meru		
29 th July, 2019	All	Hilton Hotel Nairobi	9:00am-12pm	
	Narok & Bomet	Seasons Hotel Narok		
	Moyale, Turkana & Samburu	OSBP Boardroom Moyale		
30 th July, 2019	Nairobi, Kiambu, Kajiado & Machakos	The Hilton Hotel Nairobi	9:00am-12pm	General Public
31 st July, 2019	Nakuru, Kericho & Baringo	Waterbuck Hotel Nakuru	9:00am-12pm	
	Garissa, Wajir & Mandera	Lantern Hotel Garissa		
2 nd August, 2019	Uasin Gishu, Nandi, Elgeyo Marakwet, Turkana & Trans Nzoia	Starbucks Hotel Eldoret	9:00am-12pm	

For confirmation of attendance kindly Email: stakeholder.engagement@kra.go.ke or please call our Contact Centre on Tel: (0) 20 4 999 999; 0711 099 999 or Email: callcentre@kra.go.ke

Commissioner for Domestic Taxes





Public Notice

Draft Excise Duty Regulations 2019

Kenya Revenue Authority informs members of the public, manufacturers and importers of excisable goods that Draft Excise Duty regulations, 2019 have been developed and currently hosted on the Kenya Revenue Authority website (www.kra.go.ke)

In order to ensure wide consultation and public participation as stipulated in the Constitution of Kenya, 2010, Kenya Revenue Authority invites institutions, organizations, individuals and the public to submit their views and comments on these draft regulations.

The views and comments should be addressed in writing to: The Commissioner General, Kenya Revenue Authority, P.O Box 48240-00100, Nairobi or emailed to stakeholder.engagement@kra.go.ke to be received on or before Monday, 26th August, 2019 to facilitate the review and finalisation of the Regulations

For clarification please call our Contact Centre on Tel: (0) 20 4 999 999; 0711 099 999 or Email: callcentre@kra.go.ke

Commissioner General

Utazolamiri: KRA naituu taapayara that it will not accept responsibility for payments not received, credited and validated in the relevant KRA accounts. Corruption Reporting: +254 (0)20 4 999 999. Email: corruptionreporting@kra.go.ke Short Messaging Services (SMS): Dial (*5728) or Text to 23572 Contact Centre: +254 (0)20 4 999 999; +254 (0)711 0 999 999. Email: callcentre@kra.go.ke or info@kra.go.ke Information Centre Hotline: +254 (0) 20 231 7700 / 7700; +254 (0) 20 3 343 342. Email: info@kra.go.ke



Tullpe Ushuru, Tujitegemeo!



Public

Revised Electronic Tax F

Kenya Revenue Authority informs its fiscal devices about the issuance of Tax Registers in line with the require

The enhancements follow review o require online transmission of trans Invoice Management System (TIMS) population to the taxpayers VAT rei and ultimately reducing the cost of ta

The revised ETR technical specific portal (<https://itax.kra.go.ke>)

For clarification, please call our Cont: 999; 0711 099 999 or Email: callcentre@kra.go.ke the nearest KRA Tax Service Office o

Commissioner for I

Utazolamiri: KRA naituu taapayara that it will not accept respons: only for payments not received, credited Email: corruptionreporting@kra.go.ke Short Messaging Services (SMS): Dial (*5728) or Text to 23572 Information Centre Hotline: +254 (0) 20 231 7700 / 7700; +254 (0) 20 3 343 342. Email: info@kra.go.ke



Tullpe Ushuru

22

PUBLIC FORUM



KENYA REVENUE AUTHORITY

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KEY ISSUES RAISED DURING THE PUBLIC PARTICIPATION FORUM ON THE ROLL OUT OF EGMS HELD ON 15TH JULY 2019

No	Concern area	Key concern & recommended action
1.	System Roll-Out/Go-live Date	<p>The Roll-Out date having been set on 1st Sept. 2019, there were concerns whether KRA is prepared to go live on that date since there have been registered issues with the systems' encoding upon installation.</p> <p>There were also concerns about the Roll-Out date since representatives from KAM felt that they have had talks with KRA surrounding the system which are yet to be addressed and the same would affect all the players in the Industry.</p> <p>A section of the stakeholders also felt that owing to the large number of players in the Industry the Roll-Out date should be delayed to be sure that everything is well set and ready.</p> <p>KRA stated that it is well prepared for the Roll-Out and that whichever system teething challenge that was previously present is now resolved.</p> <p>The issues raised by KAM (13 issues) were not new and consultations have been on-going since 2016 where most (11 issues) have been resolved to the satisfaction of both parties, leaving two issues (cost and export) which were escalated and a compromise position arrived at. For cost, the compromise position was by reduction of the duty fee from 1.5 shillings per item to 50 cents per item. For export, stakeholders were advised to be content with the adjustments implemented to leverage even though they might not be exactly what they wanted.</p> <p>It was firmly asserted that the stakeholders should concentrate on Operation issues which can be addresses through the forum other than Policy issues which require redress through the Parliament. For policy issues the stakeholders were further advised to use the mechanisms in place that could address such issues that touch on the laws of the land.</p> <p>About the large number of stakeholders presenting a challenge to the Roll-Out, stakeholders were assured that KRA was ready for it.</p>

2.	Impact on the cost of doing business	<p>A section of stakeholders were concerned about the cost implication of going digital. This was a concern mainly by the SMEs. They feared that system would negatively interfere with their manual processes.</p> <p>There was also the question whether the installation of the system and maintenance was for the manufacturers and who will bare the burden in case of an accident/incident that affects the system.</p> <p>These fears were laid to rest after the stakeholders were informed that there operations will not be affected. The only imperative is that they be connected to the system through the internet (even through their phones with requisite security elements), since they should declare their processes online and in real time.</p> <p>KRA will purchase and install the system. The manufacturers will give space and security to the same.</p>
3.	Property Rights	<p>Since EGMS is managed by a third party, traders wanted to know if there will be secrecy in handling their business data.</p> <p>Traders were assured that their business information will be treated with confidentiality. Furthermore, the current laws already provide for secrecy in such matters and to add to that KRA has an agreement with the third party to ensure that there will be utmost secrecy in regards to dealing with business data.</p>
4.	Operations	<p>KRA affirmed that the system has been tested and approved to be capable of serving manufacturers in the bottled water Industry. The unique challenges for specific players can be looked into by discussions between KRA and the Manufacturers to find specific ways of dealing with the same. EGMS can handle a speed of 5000 units per minute. This is fast enough for any player in the Industry. The system is already working well in the alcoholic drinks Industry which is more exacting than the bottled water Industry.</p> <p>Other challenges that were mentioned were as a result of lack of adequate knowledge on how to deal with excise duty and had ways on working around them even in the current system. Traders were advised to visit their Tax Service Stations for help and/or attend the regular training sessions offered by KRA from time to time.</p>

Associations Present

KAM	Kenya Association of Manufacturers
AKS	Association of Kenya Suppliers
WBA	Water Bottlers Association



KENYA REVENUE AUTHORITY

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KEY ISSUES RAISED DURING THE PUBLIC PARTICIPATION FORUM ON THE ROLL OUT OF EGMS HELD ON 16TH JULY 2019

No	Concern area	Key concern & recommended action
1.	System Roll-Out/Go-live Date	1 st Sept. 2019 is the official Roll-Out date. KRA is well prepared to go live and all stakeholders were assured that all systems are in place for this and were urged to be ready to adopt and embrace the new system.
2.	Damaged goods	<p>Concern was raised on what happens to goods that get damaged after production and more so, when the damaged goods pose a health risk.</p> <p>Damaged goods should be promptly reported to KRA through the system and directly through the relationship manager. KRA has enforcement officers on duty 24/7 to address such problems in verifying the damage and facilitating for destruction. The juices that pose health risk can be poured but their containers kept for evidence and later destruction. The system has means of allowing for crediting the loss incurred through the spoilage and issuance of replacements.</p>
3.	Stolen/spoilt stamps	<p>The question arose whether KRA can monitor and detect stolen stamps and whether KRA can guarantee speedy resolution of spoilt stamps cases.</p> <p>Traders were asked to report stolen or spoilt stamps immediately on the system. By this, the system status of the stamps will change to reflect the situation. When enforcement officers come across such stamps in the market then enforcement procedures will take effect to deal with the problem.</p>
4.	Contract manufacturers	<p>Contract manufacturers who deal with multiple items which sometimes are from different clients wanted to know how configuration will be done to suite their business and who will do projections for future stamp production.</p> <p>KRA explained that configuration is done per product. The system can handle the multiplicity. On projections, KRA explained that the owner of the products is required to do the projections.</p>

5.	Operations	<p>Traders enquired on what will happen to those who bought stamps in bulk and are not utilized after the go-live date; also if the products are already out in the market. They also sought to know if there will be continued system maintenance.</p> <p>KRA will offer a window period (90 days) for utilization of stamps already procured by the go-live date; and for products already in the market. In case the stamps are too many then replacement with the new stamps can be organized. For products, KRA will allow for complete sale. But after the Roll-Out, all new production should be through EGMS.</p> <p>The Authority will also carry out regular system maintenance.</p>
6.	Production	<p>Stakeholders wanted to know if EGMS will affect production</p> <p>It was affirmed that EGMS will not affect production. If anything, it will enhance production. Experience from the alcohol and tobacco Industries has proved the system to be both effective and efficient. EGMS lines can run very fast and can allow synchronization with the existing speed of production.</p> <p>In case of break downs, increase or decrease of production or stoppage of production, the manufacturers should report promptly to KRA so that the status is noted.</p>
7.	Unique cases	<p>For unique cases the manufacturers have to liaise with KRA for a unique solution to be sought.</p>
8.	Waste/Spillage	<p>The allowable quantity of spillage/waste is 1%</p>
<p>EGMS is pegged on Sec. 28 Excise Duty Act 2015 under Legal Notice No. 53 of 2017</p>		



KENYA REVENUE AUTHORITY

ISO 9001:2015 CERTIFIED

KEY ISSUES RAISED DURING THE PUBLIC PARTICIPATION FORUM ON THE ROLL OUT OF EGMS HELD FROM 22ND JULY 2019 TO 26TH JULY 2019

No	Concern area	Key concern & recommended action
1.	System Roll-Out/Go-live Date	1 st Sept. 2019 is the official Roll-Out date. KRA is well prepared to go live and all stakeholders were assured that all systems are in place for this and were urged to be ready to adopt and embrace the new system.
2.	Stamp delivery	<p>Taxpayers raised concern on how they will easily and readily get stamps considering the distance from Nairobi. Basically, the cost of delivery and the time delivery will take.</p> <p>Stamp application is through the system. The processing and approval is through the Tax Service Office (TSO). So after application the taxpayer is supposed to liaise with the TSO for the approval. If getting to the KRA Head Quarters in Nairobi is a challenge, the taxpayer through the system has a provision for specifying the person (or courier) to pick the stamps. Decentralization of stamp issuance is under consideration but owing to the huge security implication surrounding the stamps, stamp issuance remains at Times Tower for now.</p> <p>In case stamps get lost on delivery then the taxpayer should report to the police and KRA. Anyone caught with the lost stamps will be held liable.</p>
3.	Stamp verification	<p>Taxpayers wanted to know how to verify stamps.</p> <p>KRA will publish through a gazette notice the stamp security verification features. To add to the KRA has provided a mobile phone App (Soma Label) that is empowered to tell if a stamp is legit or fake.</p>
4.	Spoilt stamps	<p>Taxpayers asked how spoilt stamps will be dealt with.</p> <p>The party responsible for spoilage bears the cost of replacement. If in the unlikely event it's KRA then upon return of the stamps to KRA a credit will be declared on the system and replacement done. If it's the manufacturer, then the manufacturer should not destroy the spoilt stamps but should keep them aside for KRA to verify before a replacement is done. In this case, the manufacturer bears the cost.</p>

5.	Stamp utilization	<p>Traders asked how manual stamp affixing will be done; how equality is realised in having stamp price fixed regardless of quantity; and how the manual stamps are packed.</p> <p>The manual stamps will be affixed in an area where on opening the container they'll be destroyed. This is to prevent recycling.</p> <p>On the question of equality, KRA said that as an Authority it has looked into equity instead where the pricing of the stamps is different with a graduation based on type of good. For water it's 50 cents, for juices and soda it's 60 cents, for beer, spirits and wine it's 2 shillings and 50 cents and for ready to drink beverages with minimal alcoholic content it's 1 shilling and 50 cents.</p> <p>The manual stamps are packed in a serialized reel.</p>
6.	EGMS relation to excise duty	<p>Taxpayers wished to know if there is a direct link between stamp price and excise duty.</p> <p>Stamp cost is not part of excise duty. It is an allowable expense which will be used to run EGMS. However, with time, the data from EGMS may be used to provide pre-populated data for use in excise duty filing.</p>
7.	Operation cost	<p>The question of who will bear what cost in EGMS use came up.</p> <p>KRA will bear the system cost, its installation and maintenance. The taxpayer is to bear the cost of space, security, power and internet.</p>
8.	Excisable goods importation	<p>For excisable goods importation, the goods have to be declared within five days. Then an order should be made through the system for the number of stamps. Issuance of the stamps will depend on the compliance status of the taxpayer.</p>
9.	Illegal products or stamps	<p>The question of who is blameworthy when goods are found without stamps or with fake stamps arose from taxpayers.</p> <p>Investigations will tell the blameworthiness of the parties involved but it is crucial for all parties to know their responsibility to verify the legitimacy of products and stamps using the available physical security features of stamps and the soma label App. The penalty for trading in illegal products or stamps is not less than 5M.</p>
10.	Operations	<p>Traders enquired on what will happen to those who bought stamps in bulk and are not utilized after the go-live date; also if the products are already out in the market.</p> <p>KRA will offer a window period (90 days) for utilization of stamps already procured by the go-live date; and for products already in the market. In case the stamps are too many then replacement with the new stamps can be organized. For products, KRA will allow for complete</p>

		sale. But after the Roll-Out, all new production should be through EGMS.
11.	Allowable number of stamps	<p>Traders asked if there is a minimum or maximum number of stamps that they are allowed to purchase at any given time.</p> <p>There is no set limit of the number of stamps that a trader can purchase. However, traders are advised to purchase a reasonable number in relation to their business. Forecasting will help in this where KRA will make sure that there are always stamps for sale and it will also help advise where the Authority is planning to change the security features.</p> <p>Traders were informed that to check overproduction of stamps, there will be no new issuance of stamps by KRA until at least 75% consumption of those already produced.</p>
12.	Production	<p>Stakeholders wanted to know if EGMS will affect production</p> <p>It was affirmed that EGMS will not affect production. If anything, it will enhance production. Experience from the alcohol and tobacco Industries has proved the system to be both effective and efficient. EGMS lines can run very fast and can allow synchronization with the existing speed of production.</p> <p>In case of break downs, increase or decrease of production or stoppage of production, the manufacturers should report promptly to KRA so that the status is noted.</p>
13.	Large scale importers	For large scale importers, KRA will liaise with the producing companies to enable affixing of the stamps at the country of production. This will facilitate importation and distribution by allowing faster clearance.
14.	Payment mode	Stamp payment will be done through any National Bank. It is the collection that is restricted to Times Tower – Nairobi.
15.	Waste/Spillage	The allowable quantity of spillage/waste is 1%
16.	Sampling	Sampling is allowable on request to the commissioner.
<p>NB: It was noted with great concern that most of the bottled water manufacturers did not indicate the production date and expiry date of their products.</p> <p>EGMS is pegged on Sec. 28 Excise Duty Act 2015 under Legal Notice No. 53 of 2017</p>		

THE PHARMACY AND POISONS ACT
(Cap. 244)
THE PHARMACY AND POISONS (PARALLEL
IMPORTED MEDICINAL SUBSTANCES) RULES 2019

ARRANGEMENT OF RULES

Rule

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- 1— Citation.
- 2— Application.
- 3— Interpretation.

PART II- CERTIFICATE OF PARALLEL
IMPORTATION AND PARALLEL IMPORT LICENCE

- 4— Qualification to parallel import medicinal substances.
- 5— Application for a certificate of parallel importation.
- 6— Issuance of a certificate of parallel importation.
- 7— Certificate of parallel importation not transferable.
- 8— Validity of certificate of parallel importation.
- 9— Rejection of an application for a certificate of parallel importation.
- 10— Application for renewal of certificate of parallel importation.
- 11— Application for parallel import licence.
- 12— Additional requirements by the Board.
- 13— Board inquiries in country of origin
- 14— Issuance of parallel import licence.
- 15— Licence not transferable.
- 16— Validity of licence.
- 17— Rejection of an application for a parallel import licence.
- 18— General conditions of parallel import licence.
- 19— Application for renewal of a parallel import licence.
- 20— Revocation, variation and suspension of parallel import licence.
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**FIRST SCHEDULE - APPLICATION FOR A CERTIFICATE OF
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**THIRD SCHEDULE— CONDUCT OF PROCEEDINGS OF THE
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LEGAL NOTICE NO.

THE PHARMACY AND POISONS ACT
(Cap. 244)

IN EXERCISE of the powers conferred by section 44 of the Pharmacy and Poisons Act, the Cabinet Secretary for Health, after consultation with the Pharmacy and Poisons Board, makes the following Rules—

**THE PHARMACY AND POISONS
(PARALLEL IMPORTED MEDICINAL
SUBSTANCES) RULES, 2019**

PART I- PRELIMINARY

- Citation. 1. These Rules may be cited as the Pharmacy and Poisons (Parallel Imported Medicinal substances) Rules, 2019.
- Application. 2. These rules shall apply to medicinal substances which are parallel imported and distributed on the Kenyan market except—
- (a) a medicinal substance prepared by a pharmacist in the pharmacy and dispensed without promotion, blood, blood plasma and blood preparations containing cellular elements of blood, or substances such as dental fillings and plates, or surgical preparations such as catgut and plaster of Paris bandages;
 - (b) non-registered patented medicinal substance for compassionate use;
 - (c) an orphan medicinal substance; or
 - (d) non-registered medicinal substance for named patient use and hospitals.
- Interpretation. 3. In these Rules, unless the context otherwise requires—

Cap. 244.

“Act” means the Pharmacy and Poisons Act;

“Appeals Committee” means Parallel Importation Appeals Committee established under **rule 48**;

“authorized officer” means the registrar, pharmaceutical analyst, pharmaceutical inspector, a medical officer, an inspector of medicinal substances, an administrative officer or a police officer in the rank of Superintendent and above;

“branded generic medicinal substance” means a medicinal substance usually intended to be interchangeable with the originator brand product, manufactured without a licence from the originator manufacturer and marketed after the expiry of patent or other exclusivity rights;

“certificate” means the certificate of parallel importation issued under **rule 6**;

“country of origin” means a country from which the parallel imported medicinal substance is imported;

“licence” means a licence granted under **rule 14** to allow the licensee to carry on parallel importation of a medicinal substance;

“licensee” means a person licensed to engage in parallel importation of a medicinal substance under these rules;

“marketing authorization” means the certificate of registration issued by the competent medicinal substance regulatory authority in the country of origin for the purpose of marketing or free distribution of a medicinal substance after evaluation for safety, efficacy and quality;

“marketing authorization holder” means a person who holds a marketing authorization;

“notification” means the process of entering actual movement and state of each unit of a medicinal substance into the tracing system established under **rule 43**;

“parallel importation” means the importation into Kenya, by a licensed importer of medicinal substance other than the marketing authorization holder or his or her technical representative of the following medicinal substances which require marketing authorization in Kenya—

No. 3 of 2001.

- (a) patented medicinal substances under section 58(2) of the Industrial Property Act, 2001;
- (b) non-patented medicinal substances; or
- (c) branded generic medicinal substances;

“parallel imported medicinal substance” means a medicinal substance imported into Kenya under these rules;

“pharmacovigilance” means the detection, assessment, understanding and prevention of adverse effects or any other medicinal substance-related problem; and

“risk management plan” means a detailed description of a plan that contains—

- (a) a description and analysis of the safety profile of the medicinal substance including a summary of the safety concerns; and
- (b) a set of medicinal substance vigilance and risk minimization activities designed to identify, characterize and manage risks relating to the medicinal substance including the assessment of the effectiveness of these activities and interventions.

**PART II - CERTIFICATE OF PARALLEL
IMPORTATION AND PARALLEL IMPORT
LICENCE**

Qualification to
parallel Import
medicinal
substances.
No. 17 of 2015.

4. A person shall not parallel import a medicinal substance into Kenya unless—

- (a) the person is incorporated as a limited liability company under the Companies Act, 2015;
- (b) the person has been granted a certificate of parallel importation;
- (c) the person is licensed to parallel import the medicinal substance;
- (d) the medicinal substance has a valid registration in Kenya under the Pharmacy and Poisons (Registration of Drugs) Rules; and
- (e) the medicinal substance has a valid market authorization in the country of origin.

L.N. 147/1981.

Application for a
certificate of
parallel
importation.

5.(1) A person who wishes to undertake parallel importation shall apply, to the Board, for a certificate of parallel importation in the Form 1 set out in the First Schedule.

(2) The application form shall be accompanied by—

- (a) a certified copy of the applicant's certificate of incorporation;
- (b) a certified copy of the applicant's memorandum and articles of association or its equivalent under the Companies Act, 2015;
- (c) the applicant's company profile as may be appropriate for parallel importation of medicinal substances;

No. 17 of 2015

- (d) a copy of certificate of registration, issued under section 9 of the Act, to the registered pharmacist who shall be at the premises;
- (e) a copy of certificate of registration of premises issued under section 23 of the Act;
- (f) a copy of wholesale dealer's licence issued under section 27 of the Act;
- (g) a copy of manufacturer's licence issued under section 35A of the Act, where applicable;
- (h) a copy of certificate of membership of Pharmaceutical Society of Kenya;
- (i) such other information as the Board require from time to time; and
- (j) the application fee prescribed in the Second Schedule.

Issuance of certificate of parallel importation.

6. The Board shall consider an application made under **rule 5** and where satisfied that all the necessary requirements have been met, issue a certificate of parallel importation to the applicant, within a reasonable time of the applicant lodging the application.

Certificate of parallel importation not transferable.

7. A certificate of parallel importation issued under **rule 6** shall not be transferred, assigned or encumbered in any way.

Validity of certificate of parallel importation.

8. The certificate of parallel importation granted under **rule 6** shall expire on 31st December of every year.

Rejection of an application for a certificate of parallel importation.

9.(1) The Board may, within fourteen days of receipt of an application under **rule 5**, consider and reject an application which in the opinion of the Board—

- (a) is substantially defective; or

(b) has not met the requirements of **rule 4**.

(2) The Board shall communicate the rejection of an application to the applicant within fourteen days of the Board's decision and shall state the reason for the rejection.

Application for renewal of certificate of parallel importation.

10.(1) The holder of certificate of parallel importation may apply to the Board for renewal of the certificate at least three months before the expiry of the certificate.

(2) The application referred to under paragraph (1) shall—

(a) be in **Form 1** set out in the First Schedule; and

(b) be accompanied by the renewal fees prescribed in the Second Schedule.

(3) The Board may renew a certificate where—

(a) it is satisfied that the licensee has been operating in compliance with these rules; and

(b) the certificate holder has fulfilled its tax obligations and submitted a current certified copy of a tax compliance certificate or its equivalent as issued by the Kenya Revenue Authority.

(4) Where the holder of a certificate submits an application for renewal of a certificate under paragraph (1), the certificate shall be deemed to be valid until the application for renewal is determined.

(5) A holder of a certificate of parallel importation who does not wish to renew a certificate shall inform the Board and specify the parallel imported medicinal substances within its possession and how it intends to dispose off the substances.

(6) The certificate of parallel importation of a holder who fails to apply for renewal of the certificate within the period prescribed in paragraph (1) shall, at the expiry of its validity, be deemed to have lapsed and the holder shall not parallel import or sell such medicinal substances or purport to do anything in relation to the medicinal substances in Kenya.

(7) A person who contravenes paragraph (6) commits an offence and is liable, upon conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding ten years, or to both.

Application for
parallel import
licence.

11.(1) The holder of a certificate of parallel importation shall apply to the Board for a license to parallel import a medicinal substance in **Form 2** set out in the First Schedule.

(2) An application made under paragraph (1) shall be accompanied by—

- (a) copies of the package insert and patient information leaflet translated into English or Kiswahili, where available;
- (b) an appropriately labelled sample of the medicinal substance to be imported;
- (c) information on the exporter, stating whether it is a manufacturer, packer, or wholesaler;
- (d) a statement of justification for importation of the medicinal substance including but not limited to the economic advantage of reduced price;
- (e) evidence that the medicinal substance is covered by an existing market authorization in the country of origin;
- (f) an undertaking that the applicant will ensure the continued safety, efficacy and quality of the

medicinal substance as determined by the Board in **Form 3** set out in the First Schedule;

(g) such other information as may be required by the Board from time to time; and

(h) the application fee prescribed in the Second Schedule.

Additional requirements by the Board.

12.(1) The Board may, when considering an application made under **rule 11**, make inquiries and request for such additional evidence and documents as the Board may consider necessary.

(2) The Board shall, within seven working days, specify to the applicant such additional evidence and documents as it may require under paragraph (1).

(3) The Board shall reject an application where an applicant fails to provide additional evidence and documents under paragraph (2).

Board inquiries in country of origin.

13. The Board may, where it considers it necessary,—

(a) make inquiries to the authorities in the country of origin of a medicinal substance to ensure that the medicinal substance in question has a valid marketing authorization in the country of origin;

(b) verify manufacturer details, the marketing authorization holder, the complete composition, the shelf life and the storage conditions; or

(c) carry out audits on the exporters.

Issuance of parallel import licence.

14.(1) The Board may, if satisfied that an applicant has met all the requirements, issue a parallel import licence to the applicant, within a reasonable time of the applicant lodging the application.

(2) The licensee may, upon receipt of a licence, proceed with the importation of the medicinal substance after the medicinal substance has been licensed.

Licence not transferable. **15.** A licence issued under **rule 14(1)** shall not be transferred, assigned or encumbered in any way.

Validity of licence. **16.** The licence issued under **rule 14(1)** shall expire on 31st December of every year.

Rejection of an application for a parallel import licence. **17.(1)** The Board may, within fourteen days of the applicant lodging the application under **rule 11**, reject an application which in the opinion of the Board—

- (a) is substantially defective; or
- (b) has not complied with the requirements under **rule 11**.

(2) The rejection referred to under paragraph (1) shall be communicated to the applicant within fourteen days of the Board's decision and shall state the reason for the rejection.

General conditions of parallel import licence. **18.** A licensee shall—

- (a) take measures to ensure the safe use of the medicinal substance and include them in the licensee's risk management plan;
- (b) comply with obligations on the recording or reporting of suspected adverse reactions;
- (c) comply with any other conditions or restrictions with regard to the safe and effective use of the medicinal substance; and

(d) establish an adequate pharmacovigilance system.

Application for renewal of a **19.(1)** A licensee shall apply to the Board for renewal of

parallel import
licence. a licence to parallel import medicinal substances at least three months before the expiry of the licence.

(2) An application under paragraph (1) shall—

(a) be in **Form 2** set out in the First Schedule; and

(b) be accompanied with the renewal fees prescribed in the Second Schedule.

(3) The Board may renew a licence where—

(a) it is satisfied that the licensee has been operating in compliance with these rules; and

(b) the licensee has fulfilled its tax obligations and submitted a current certified copy of a tax compliance certificate or its equivalent as issued by the Kenya Revenue Authority.

(4) Where the licensee submits an application for renewal of a licence under paragraph (1), the licence shall be deemed to continue in force until the application for renewal is determined.

(5) A licensee who does not wish to renew a licence shall inform the Board and specify the parallel imported medicinal substances within its possession and how it intends to dispose off the substances.

(6) The licence of a licensee who fails to submit an application for renewal of license within the period prescribed in paragraph (1) shall, at the expiry of its validity, be deemed to have lapsed and the licensee shall not parallel import or sell such medicinal substances or purport to do anything in relation to the medicinal substances.

(7) A person who contravenes paragraph (6) commits an offence and is liable, upon conviction, to a fine not exceeding one million shillings or to imprisonment for a

term not exceeding ten years, or to both.

Revocation,
variation and
suspension of
parallel import
licence.

20.(1) The Board may revoke, vary or suspend a parallel import licence if the Board determines that—

- (a) the medicinal substance to which the parallel import licence relates is harmful;
- (b) the medicinal substance's qualitative or quantitative composition is not as described in the application for the parallel import licence or the material supplied with it;
- (c) the application or the material supplied with it was incorrect;
- (d) there has been a breach of any of the terms of the parallel import licence or a requirement on packaging and leaflets;
- (e) a general condition of the parallel import licence has not been fulfilled;
- (f) the licensee has not complied with **rule 12**;
- (g) the licensee has ceased to be established in Kenya;
or
- (h) urgent action to protect public health is necessary, in which case it may suspend the parallel import licence.

(2) A person aggrieved by the decision to vary, revoke or suspend a licence may lodge an appeal to the Appeals Committee within thirty days from the date of the decision.

Suspension of
use, sale, supply
or offer for sale
or supply of
medicinal

21.(1) The Board may suspend the use, sale, supply or offer for sale or supply within Kenya of a medicinal substance or batches of a medicinal substance to which a parallel import licence relates if the Board determines

substance.

that—

- (a) the medicinal substance to which the parallel import licence relates is harmful;
- (b) the positive therapeutic effects of the medicinal substance do not outweigh the risks of the medicinal substance to the health of patients or of the public;
- (c) the medicinal substance lacks therapeutic efficacy, given that therapeutic results cannot be obtained from the medicinal substance;
- (d) the medicinal substance's qualitative or quantitative composition is not as described in the application for the parallel import licence or the material supplied with it; or
- (e) there has been a breach of any of the terms of the parallel import licence or a requirement on packaging and leaflets.

(2) The Board shall notify a licensee, in writing, of a suspension under this rule for a specified period that is to take effect from a date specified in the notice and shall also state reasons for the suspension.

(3) The Board may, in exceptional circumstances and for such a transitional period as the Board may determine, allow the supply of the medicinal substance to patients who are already being treated with a medicinal substance that is the subject of a suspension under this rule.

(4) A person who contravenes this rule commits an offence and is liable, upon conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding ten years, or to both.

(5) A person aggrieved by a decision made by the Board under this rule may appeal to the Appeals

Committee within thirty days from the date of the Board's decision.

Recall of a medicinal substance from the market.

22.(1) The Board shall, in writing, require a licensee whose licence has been revoked or suspended under **rule 20** to take all reasonably practicable steps to—

(a) inform wholesalers, retailers, medical practitioners, patients and any other person who may be in possession of the medicinal substance to which the parallel import licence relates of—

(i) the revocation or suspension;

(ii) the reasons for the revocation or suspension; and

(iii) any action to be taken to restrict or prevent the further use, sale, supply or offer for sale or supply of the medicinal substance.

(b) recall from the market in Kenya and recover possession of—

(i) the medicinal substance; or

(ii) the batches of the medicinal substance specified in the notice,

within the time and for the period specified in the notice.

(2) The licensee shall as soon as is practicable inform in writing the marketing authorization holder of the recall of the parallel imported medicinal substance.

(3) A person who contravenes paragraphs (1) and (2) commits an offence and is liable, upon conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding ten years, or to both.

PART III—INVENTORY OF PARALLEL IMPORTED MEDICINAL SUBSTANCE

Inventory of parallel imported medicinal substances.

23. The Registrar shall keep an inventory containing—

- (a) the names of all the holders of certificates of parallel importation;
- (b) the names of all licensees;
- (c) all parallel imported medicinal substances; and
- (d) such other information as may be determined by the Board from time to time.

Record-keeping obligations.

24. (1) A licensee shall at all times keep manual or electronic records of the origin, imported quantities, and batch numbers of the parallel imported medicinal substances.

(2) The licensee shall share the records kept under paragraph (1) with the Board, when required to.

(3) A person who contravenes paragraphs (1) and (2) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand or to imprisonment for a term not exceeding one year, or to both.

PART IV—PHARMACOVIGILANCE

Pharmacovigilance issues.

25.(1) The licensee shall establish a system for handling matters relating to pharmacovigilance including a system for —

- (a) identifying and reporting adverse reactions;
- (b) a system for safety recalls; and
- (c) the implementation of risk management plans and

direct healthcare professional communication letters.

(2) For the purposes of this rule—

“direct healthcare professional communication” means a single, additional risk minimisation measure sent by marketing authorization holder to healthcare providers to directly inform healthcare professionals about new and important information about a medicinal substance.

(3) The licensee shall submit periodic safety update reports to the Board twice a year.

(4) A periodic safety update report submitted under paragraph (3) shall contain—

- (a) summaries of data relevant to the benefits and risks of the medicinal substance, including results of all studies, with a consideration of their potential impact on the licence for the medicinal substance;
- (b) a scientific evaluation of the risk-benefit balance of the medicinal substance; and
- (c) data relating to the volume of sales of the medicinal substance and any data the licensee has relating to the volume of prescriptions, including an estimate of the population exposed to the medicinal substance.

(5) A person who contravenes this rule commits an offence and is liable, upon conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years, or to both.

(5) The court may, in addition to the penalty imposed under paragraph (4), order any medicinal substance in respect of which the offence has been committed or which has been used for the commission of such offence to be

forfeited.

Additional obligations.

26. In addition to the obligations under **rules 23 to 25**, a licensee shall—

- (a) declare information on its supplier, including the name, location and contacts of each of parallel imported medicinal substance;
- (b) take full responsibility of quality, efficacy, safety, potency, and security of parallel-imported medicinal substance;
- (c) ensure that the storage conditions, Good Distribution Practice and Good Manufacturing Practice are observed during transport and distribution of parallel imported medicinal substances;
- (d) have standard operating procedures;
- (e) comply with Pharmacy and Poisons Board guidelines on Good Distribution Practice;
- (f) recall and destroy parallel imported medicinal substances if the medicinal substances are determined not to comply with quality, safety or efficacy; and
- (g) declare the cost benefit of the medicinal substance to the public.

PART V—PRICING OF PARALLEL IMPORTED MEDICINAL SUBSTANCES

Principles of pricing of parallel imported medicinal substances.

27. The following principles shall guide all aspects of pricing of parallel imported medicinal substances—

- (a) the economic circumstances prevailing in the country;

- (b) the price of the locally available medicinal substance;
- (c) the cost of importation or packaging, where applicable;
- (d) government policy or directives; and
- (e) such principles as may be considered necessary.

Pricing
guidelines.

28.(1) The Board shall develop guidelines on the pricing of parallel imported medicinal substances to give effect to **rule 27**.

(2) A person who contravenes any provision of the guidelines developed under paragraph (1) commits an offence and is liable, upon conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years, or to both.

PART VI— PACKAGING AND LABELLING OF PARALLEL IMPORTED MEDICINAL SUBSTANCES

Labelling and
packaging
guidelines.

29.(1) The Board shall make guidelines on the labelling and packaging of parallel imported medicinal substances.

- (2) The guidelines shall provide for the following—
 - (a) the form and content of the package insert;
 - (b) the form and content of the patient information leaflet;
 - (c) the labelling of the parallel imported medicinal substance; and
 - (d) any other information on labelling and packaging that may be deemed necessary.

(2) A person who contravenes any provision of the guidelines commits an offence and is liable, upon conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years, or to both.

PART VII- INSPECTIONS

Places
authorized
officers may
enter.

30.(1) The authorized officers shall—

- (a) carry out regular inspections of premises; or
- (b) inspect consignments of medicinal substances at the port of entry.

(2) The authorized officers may, at any reasonable time, carry out regular inspection of premises and consignments of medicinal substances at the port of entry.

(3) Despite paragraph (2), authorized officers may enter any place in which the authorized officers believe, on reasonable grounds, that any person or persons is in any way contravening the provisions of these Rules.

(4) The authorized officer entering any premises under this rule shall, if so required, produce for inspection by the person who is or appears to be in charge of the premises his or her job identification card.

Powers of
authorized
officers.

31.(1) In order to carry out an inspection in any place pursuant to **rule 30**, an authorized officer may—

- (a) enter and inspect the premises or a port of entry;
- (b) take samples of any medicinal substance;
- (c) examine any medicinal substance;
- (d) require any person in such place to produce for inspection, in the manner and form requested by

the officer, the medicinal substance;

- (e) open or require any person in the place to open any container or package in the premises;
- (f) conduct any test or analysis or take any measurements; or
- (g) require any person found in the place to produce for inspection or copying, any written or electronic information that is relevant to the administration or enforcement of these Rules.

(2) The authorized officer shall submit a report to the Board after carrying out an inspection in accordance with paragraph (1).

Use of records.

32. When carrying out an inspection in any place, an authorized officer may—

- (a) use or cause to be used any computer system in the place to examine data contained in or available to the computer system that is relevant to the administration or enforcement of these rules;
- (b) reproduce the data in the form of a print-out or other intelligible output and take it for examination or copying;
- (c) use or cause to be used any copying equipment in the place to make copies of any data, record or document; or
- (d) scrutinize any other record system in use in that place.

Entry of
dwelling place.

33. An authorized officer may not enter a dwelling place except with the consent of the occupant or under the authority of a warrant issued under **rule 34**.

Magistrate court
to issue warrant.

34.(1) Upon an *ex parte* application by an authorized officer, a magistrate may, if the magistrate is satisfied by information on oath, issue a warrant authorizing an authorized officer or officers named in the warrant to enter and inspect a dwelling place, subject to any conditions specified in the warrant such as—

- (a) the dwelling place is a place referred to in **rule 33**;
- (b) entry to the dwelling place is necessary for the administration or enforcement of these rules; or
- (c) the occupant does not consent to the entry, or that entry has been refused or there are reasonable grounds for believing that it will be refused or seeking such consent shall hamper investigations.

(2) The time of such entry shall be between six o'clock in the forenoon and six o'clock in the afternoon of any day of the week.

Use of force.

35. An authorized officer executing a warrant issued under **rule 34** shall not use force unless the authorized officer is accompanied by a police officer of the rank of an inspector and above and the use of force is specifically authorized in the warrant.

Certificate of
analysis.

36. An authorized officer who has analyzed or examined a medicinal substance or a sample of it, under these Rules, shall issue a certificate and report setting out the results of the analysis or examination.

Assistance of an
authorized
officer.

37.(1) The owner of a place or the person in charge of a place and every person found in a place to be inspected by an authorized officer under these Rules shall—

- (a) provide all reasonable assistance to enable the authorized officer to carry out his or her duties under these Rules; and

(b) furnish the authorized officer with such information as the authorized officer reasonably require for the purpose for which entry into the place has been made.

(2) The authorised officer shall issue an inspection certificate once satisfied with the inspection.

(3) A person who fails to provide assistance or furnish an authorized officer with the required information commits an offence and is liable, upon conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years, or to both.

Obstruction.

38.(1) A person shall not obstruct or hinder, or knowingly make a false or misleading statement to an authorized officer who is carrying out duties under these Rules.

(2) A person who obstructs or hinders, or knowingly makes a false or misleading statement to an authorized officer who is carrying out duties under these Rules commits an offence and is liable, upon conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years, or to both.

Seizure.

39.(1) An authorized officer may, during an inspection under these Rules, seize any medicinal substance which or in relation to which the authorized officer believes, on reasonable grounds, that these Rules have been contravened and the authorized officer shall make a full inventory of the substances seized.

(2) The authorized officer may direct that any medicinal substance seized be kept or stored in the place where it was seized or that it be removed to another place.

(3) A person shall not remove, alter or interfere in any

manner with any medicinal substance seized unless authorized by an authorized officer.

Order
restoration.

for **40.**(1) Any person from whom a medicinal substance has been seized under **rule 39** may, within thirty days after the date of seizure, apply to the Board for an order of restoration.

(2) The Board may order that the medicinal substance seized under these Rules be restored immediately to the applicant if, on hearing the application, the Board is satisfied that—

- (a) the applicant is entitled to possession of the medicinal substance seized; and
- (b) the medicinal substance seized is not and will not be required as evidence in any proceedings in respect of an offence under these Rules.

Rejection of an
application for
order of
restoration.

41.(1) The Board may, within fourteen days of the applicant lodging the application, reject the application that fails to satisfy the requirements under **rule 40(2)**.

(2) The Board shall communicate the rejection under paragraph (1), in writing, to the applicant and shall state the reason for the rejection.

Appeal.

42.(1) A person aggrieved by the decision of the Board under **rule 41** may appeal to the Appeals Committee within thirty days of the Board's decision.

(2) The Appeals Committee may order that the medicinal substance be restored immediately to the applicant if, on hearing the application, the Appeals Committee is satisfied that—

- (a) the applicant is entitled to possession of the medicinal substance seized; and
- (b) the medicinal substance seized is not and will not

be required as evidence in any proceedings in respect of an offence under these rules.

(3) A person aggrieved by the decision of the Appeals Committee may appeal to the High Court within thirty days of the Appeals Committee's decision.

(4) The High Court may order that the medicinal substance be restored immediately to the applicant if, on hearing the application, the High Court is satisfied that—

- (a) the applicant is entitled to possession of the medicinal substance seized; and
- (b) the medicinal substance seized is not and will not be required as evidence in any proceedings in respect of an offence under these rules.

PART VIII—TRACING OF PARALLEL IMPORTED MEDICINAL SUBSTANCES

Establishment of a tracing system.

43. The Board shall establish and maintain a system that ensures that a registered parallel imported medicinal substance can be traced through the sourcing, manufacturing, packaging, storage, transport and delivery to the health facility, institution or private practice where the medicinal substance is used.

Data matrix of medicinal substances.

44.(1) The tracing system established under **rule 43** shall contain data matrix of parallel imported medicinal substances provided by the licensees.

(2) The data matrix, in relation to a medicinal substance, shall consist of—

- (a) business name;
- (b) name of marketing authorization holder;
- (c) name of the local technical representative;

- (d) date of manufacture;
- (e) the batch number;
- (f) the serial number; and
- (g) the expiry date.

(3) For the purposes of this rule,—

“data matrix” means a two-dimensional code in data matrix type or any other suitable code that provides the individualization of each medicinal substance as a safety feature.

Functions of the tracing system.

45. The tracing system established under **rule 43** shall be used to—

- (a) check the individualization, standards and content of the reported data matrix;
- (b) record the appropriate data matrix in the database and reject inappropriate ones;
- (c) track the importation, purchase, transfer, consumption, loss and reimbursement of each medicinal substance in the supply chain; and
- (d) recall and block transactions unauthorized under these rules and that are not allowed through the system.

Duties of a licensee.

46. The licensee shall—

- (a) register each of their medicinal substances on the tracing system;
- (b) make notification for matters including purchase, sale, return, importation and deactivation steps of the medicinal substances for expiry date, stealing and decomposition;

- (c) make notification of all cancelled activities and transactions carried out on the medicinal substances and confirm the convenient ones and refuse the inconvenient ones;
- (d) store for a minimum of five years and submit when required by the Board, written documentation of transactions including production and importation documents, bill of sale, receiving note and prescription; and
- (e) immediately inform the Board when they identify a medicinal substance that is subjected to notification to the tracing system but has not been notified to the system.

Batch recalls.

47. The licensee shall—

- (a) keep documents relating to the sale or supply of medicinal products under the licence which may facilitate the recall from sale of medicinal substances in accordance with paragraph (b);
- (b) maintain an emergency plan to ensure effective implementation of the recall of a medicinal substance from the market where recall is ordered by the Board.

**PART IX— THE PARALLEL IMPORTATION
APPEALS COMMITTEE**

The Appeals
Committee.

48.(1) There shall be an appeals committee to be known as the Parallel Importation Appeals Committee to consider and decide appeals from the decisions of the Board under these Rules consisting of—

- (a) the Chairman of the Board who shall be the chairman of the Appeals Committee;
- (b) two members of the Board;

- (c) one person nominated by the Consumers Federation of Kenya and appointed by the Cabinet Secretary;
- (d) one person nominated by the Hospital Pharmacists Association of Kenya and appointed by the Cabinet Secretary;
- (e) one person nominated by the Pharmaceutical Society of Kenya and appointed by the Cabinet Secretary;
- (f) one person nominated by the Kenya Pharmaceuticals Association and appointed by the Cabinet Secretary; and
- (g) one person nominated by the National Quality Control Laboratory and appointed by the Cabinet Secretary.

(2) In appointing the members of the Appeals Committee under paragraph (1)(c) to (g), the Cabinet Secretary shall take into account the gender, regional and other diversities of the people of Kenya.

(3) Any member may at any time, by notice to the Chairperson, resign from office.

(4) Where the office of any members become vacant, whether by death or otherwise, the Chairperson may appoint another person to be a member of the Appeals Committee for the remainder of the term of the member whose vacancy caused the appointment.

(5) The procedures for the conduct of meetings of the Appeals Committee shall be as provided in the **Third Schedule**.

(6) The Board shall provide secretariat services to the

Appeals Committee.

Procedure of Appeals. 49. (1) A person aggrieved by a decision of the Board may, within thirty days of receiving the decision, appeal to the Appeals Committee.

(2) Upon receipt of an appeal, the Appeals Committee, shall consider the appeal and may summarily reject the appeal, if it determines that the grounds of appeal are frivolous or vexatious or do not disclose sufficient reason for interfering with the decision of the Board.

(3) The Appeals Committee may, upon hearing an appeal, affirm or reverse the decision of the Board, or make such other order as the Appeals Committee considers necessary and fit.

(4) Any person who is aggrieved by the decision of the Appeals Committee may within thirty days appeal to the High Court.

PART X— MISCELLANEOUS PROVISIONS

Transition. 50. A person carrying out any activities involving parallel importation of medicinal substances immediately before the coming into force of these Rules shall, within six months from the date of coming into force, take all necessary measures to ensure full compliance with these Rules.

Offences in connection with application of parallel import licence. 51.(1) A person who, in the course of an application for the grant, renewal or variation of a parallel import licence for a relevant medicinal substance,—

- (a) fails to provide the Board with any information that is relevant to the evaluation of the safety, quality or efficacy of the medicinal substance; or
- (b) provides to the Board any information that is relevant to the evaluation of the safety, quality or efficacy of the medicinal substance but that is

false or misleading in a material particular,

commits an offence and is liable, upon conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years, or to both.

(2) In addition to the penalty under paragraph (1), the licence of a person convicted of an offence under this rule shall be revoked for a period of not less than three years.

Provision of
false or
misleading
information.

52.(1) The licensee commits an offence if the licensee provides false or misleading information about medicinal substance that is supplied pursuant to the obligations in these rules.

(2) A person who contravenes this rule is liable, upon conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years, or to both.

Failure to
comply with
urgent safety
restrictions.

53.(1) A licensee who—

(a) fails to inform the Board that the licensee has taken urgent safety restrictions on the licensee's own initiative; or

(b) fails to implement an urgent safety restriction imposed on the licensee by the Board,

commits an offence and is liable, upon conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years, or to both.

The offence of
use, sale, supply,
e.t.c of a
suspended
medicinal
substance.

54.(1) A person who knowingly, or having reasonable cause to believe, that such use, sale, supply or offer for sale or supply is suspended—

(a) sells, supplies or offers to sell or supply the

medicinal substance; or

- (b) procures the sale, supplies or offers for sale or supply of the medicinal substance,

commits an offence and is liable, upon conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years, or to both.

(2) In addition to the penalty imposed under paragraph (1), the court may order any medicinal substance in respect of which the offence has been committed or which has been used for the commission of such offence to be forfeited.

General offence
of breach of
provisions in
these rules.

55.(1) A person commits an offence if that person—

- (a) is the holder of certificate of parallel importation or licensee who fails to comply with any requirement or obligation in these Rules;
- (b) contravenes any prohibition in these Rules; or
- (c) fails to comply with any requirement imposed on a person by the Board pursuant to these Rules.

FIRST SCHEDULE

Form 1

(r.5 (1), 10(2)(a))

APPLICATION FOR CERTIFICATE OF PARALLEL IMPORTATION OR RENEWAL OF CERTIFICATE OF PARALLEL IMPORTATION

(to be submitted in six copies)

CONFIDENTIAL

The application shall be addressed to the Registrar, Pharmacy and Poisons Board, P.O. Box 27663, Nairobi

Application (Tick as appropriate):

Grant of new certificate of parallel importation		Renewal of certificate of parallel importation		Year	
--	--	--	--	------	--

Please use Block (Capitals) Letters

1. Name of applicant.....
2. Physical and postal address of the company:
 - (a) City/Town.....
 - (b) L.R.No.....
 - (c) Street.....
 - (d) Building.....
 - (e) P.O. Box.....
 - (f) Telephone Numbers.....
 - (g) E-mail Address.....
3. Date of incorporation
4. Certificate of incorporation No.....
5. CR12 search.....
6. Number and date of issue of previous certificate of parallel importation
7. The number of employees of the company.....
8. Declaration (by Director/Secretary):

I, the undersigned, hereby declare—

(a) THAT the particulars set out herein are true and correct to the best of my knowledge and belief;

(b) THAT if granted certificate of parallel importation, I shall transact parallel importation of medicinal substances in accordance with the provisions of the Pharmacy and Poisons Act, Cap. 244, these rules and any rules, guidelines or directive as may from time to time be issued by the Board.

Name.....

Signature.....

Date.....

APPLICATION FOR LICENCE OR RENEWAL OF PARALLEL IMPORTED MEDICINAL SUBSTANCE LICENCE/CERTIFICATE

(to be submitted in six copies)

CONFIDENTIAL

The application shall be addressed to the Registrar, Pharmacy and Poisons Board, P.O. Box 27663, Nairobi

Application (Tick as appropriate):

Grant of new licence		Renewal of licence		Year	
----------------------	--	--------------------	--	------	--

Please use Block (Capitals) Letters

1. Name of applicant.....
2. Physical and postal address of the company:
 - (a) City/Town.....
 - (b) L.R.No.....
 - (c) Street.....
 - (d) Building.....
 - (e) P.O. Box.....
 - (f) Telephone Numbers.....
 - (g) E-mail Address.....
3. Certificate of Parallel Importation No.
4. Number and date of issue of previous licence
5. Details of the medicinal substance to be parallel imported:
 - a. Trade Name (*Proprietary Product name*)
 - b. International Non-Proprietary Name
 - c. Strength of the Active Pharmaceutical Ingredient per unit dosage of the product
 - d. Pharmaceutical dosage form and route of administration.....
 - e. Packaging/Pack size of the product
 - f. Visual description of the product.....
 - g. Proposed shelf-life of the product.....

6. Registration number of the medicinal substance in Kenya
7. Justification for importation
8. Declaration (by Director/Secretary):

I, the undersigned, hereby declare—

(a) THAT the particulars set out herein are true and correct to the best of my knowledge and belief;

(b) THAT if licensed, I shall transact parallel importation of medicinal substances in accordance with the provisions of the Pharmacy and Poisons Act, Cap. 244, these rules and any rules, guidelines or directive as may from time to time be issued by the Board.

Name.....

Signature.....

Date.....

Form 3

(r.12)

LETTER OF UNDERTAKING

(to be submitted in six copies)

CONFIDENTIAL

Registrar,
Pharmacy and Poisons Board,
P.O. Box 27663,
NAIROBI

RE:

We undertake to ensure that all medicinal substances that we parallel import meet the safety, quality and efficacy standards as determined by the Board.

Yours sincerely,

Name and signature of applicant

SECOND SCHEDULE

FEEES

(r. 10(2)(b), 19(2)(b))

1. The following are the prescribed fees for the various licences as outlined in the table.

Type	Fees (Kshs)
Application for certificate of parallel importation	
Application for renewal of certificate of parallel importation	
Application fee for a new parallel import licence	
Appeal of rejected application for parallel import licence	
Application for renewal of parallel import licence	

2. Any fee payable under paragraph (1) shall be paid by bankers cheque payable to the Board or by any other means prescribed by the Board.
3. The prescribed fees in paragraph (1) may be reviewed by the Board from time to time.

THIRD SCHEDULE

(r. 48)

CONDUCT OF PROCEEDINGS OF THE PARALLEL IMPORTATION APPEALS COMMITTEE

- Quorum. 1.(1) The quorum of the Appeals Committee shall be five members, including the chairperson.

(2) Despite paragraph (1), members shall not be allowed to delegate their responsibility to their subordinate officers.

Majority decision.

2.(1) Decisions shall be taken by simple majority.

(2) In case of a tie, the proposal supported by the Chairperson shall prevail, and shall be signed by the members agreeing thereto.

Disclosure of interest.

3. If any member of the Appeals Committee has any interest in any particular proceedings before the Appeals Committee, he or she shall inform the Chairperson who may after considering the interest, appoint another person in his or her place for the purpose of that particular appeal.

Venue.

4. The Appeals Committee shall sit at such a place as it may consider most convenient, having regard to all the circumstances of the particular proceedings.

Rules.

5. Subject to the provisions of this Schedule, the Appeals Committee shall have power to make the rules governing procedures.

Proof of documents.

6. A document purporting to be a copy of an order of the Appeals Committee and certified by the Chairperson to be a true copy thereof shall in any legal proceeding be prima facie evidence of that order.

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PHARMACY AND POISONS BOARD
REPORT
PHARMACEUTICAL PRICE AND MARK UP MANAGEMENT
COMMITTEE

NOVEMBER 2018

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Abbreviations, Acronym and Definitions

Active substance: An ingredient that alone or in combination with one or more other ingredients is considered to be responsible for the therapeutic effect of a medicine (WHO Collaborating Centre for pricing and Reimbursement policies 2016).

Generic medicine: A Pharmaceutical product with the same qualitative and quantitative composition in an active substance and the same form as the reference medicine, and whose bioequivalence with the reference medicine has been demonstrated (WHO Collaborating Centre for pricing and Reimbursement policies 2016).

Generic reference pricing (GRP): A reimbursement policy in which products containing the same Active substance are clustered into a reference group. Third party payer funds at maximum to the reference price, while the patient must pay the difference between the purchasing price and the reference price, in addition to any co-payments.(WHO Collaborating Centre for pricing and Reimbursement policies 2016).

Generic substitution (GS): The practice of substituting a medicine with a less expensive medicine containing the same active ingredient (s). (WHO Collaborating Centre for pricing and Reimbursement policies 2016).

Originator medicine: The first version of a medicine. Developed and patented by an originator pharmaceutical company, which has exclusive rights to market the product for the duration of the patent or other exclusivity rights. Often also referred to as Brand medicines.(WHO Collaborating Centre for pricing and Reimbursement policies 2016).

Pharmaceutical group: Grouping of active substances according to the organ or system on which they act, and according to their chemical, pharmacological and therapeutic properties. (WHO Collaborating Centre for Drug Statistics Methodology 2018)

Reference price: A reimbursement ceiling, or the price up to which a third-party payer is willing to pay reimbursement for. (WHO Collaborating Centre for pricing and Reimbursement policies 2016).

A reference price system (RPS): A reimbursement policy in which identical medicines or similar medicines are clustered into reference price, while the patient must pay the difference between the purchasing price and the reference price, in addition to co-payments.(WHO Collaborating Centre for pricing and Reimbursement policies 2016).

Therapeutic Reference Pricing (TRP): A reimbursement policy in which chemically related, pharmacologically equivalent products or products with similar therapeutic effect are clustered into reference groups. The third-party payer funds at maximum to the reference price, while the patient must pay the difference between the purchasing price and the reference price, in addition to any co-payments. (WHO Collaborating Centre for pricing and reimbursement policies 2016).

Market Authorisation Holder (MAH): Holds the authorization to place and keep a medicine on the market. (WHO Collaborating Centre for Pricing and Reimbursement Policies 2016.)

1.0 Executive Summary

According to Adam Smith, the invisible hand of the competitive market results in more benefits to a society than any markets with government-regulated prices could hope for (Smith 1776). The government of Kenya and health insurance providers in Kenya strive to contain costs while providing effective healthcare for their patients, thus need for a national pricing strategy or policy that will include various direct and indirect pricing controls.

In pharmaceuticals, the issue of pricing and reimbursement is inextricably linked and interdependent.

Kenyan public are concerned about the higher expenditures for their prescriptions which require strategic interventions and services that are justifiable in order to assure cost effective outcomes.

Realization of Universal Health Coverage (UHC) requires a balance between the limited financial resources against optimal health outcomes. Thus, cost-effective evaluations of pharmaceutical cost intervention based on sound pharmacoeconomic models is key for the attainment of adequate reimbursement and payment for healthcare services rendered.

Kenyan Market remains a liberalized market where market forces dictate the price of medical products which ultimately lead to high cost of healthcare that is in-accessibility by majority of the population. The result is increased morbidity and mortality in addition to reduced quality adjusted life years (QALY) among Kenyans.

To address this problem, the Pharmacy and Poisons Board together with stakeholders set up a committee to look into the issue of pricing of health products and technologies within the supply chain. This committee, the Pharmaceutical price and mark up management committee held its meeting as from September 2018 though to November 2018.

The pharmaceutical industry stakeholder presented their position papers which was reviewed and summarized in into five key recommendations. The recommendations if implemented will play a pivotal role in realization of UHC in line with the government 'Big 4' Agenda. The recommendations include;

1. Implementation of a policy on prescribing by use of generic names
2. Implementation a pharmaceutical pricing portal available to the public
3. Strengthening the regulatory capacity of the Pharmacy and Poisons Board
4. Implementation of a national formulary that is harmonized with clinical treatment guidelines.
5. Establish a medical products price advisory committee at the Pharmacy and Poisons Board.

2.0 Introduction and Context

Kenyan medical products pricing structure is complicated and fragmented having different unregulated medical schemes and health insurance covers. These pharmaceutical sectors can be classified into 3 subsystems;

- the public sector which is largest in terms of number of healthcare facilities.
- the commercial private sector,
- the Faith Based Organizations (FBO's), Non-Governmental Organizations (NGO's) or Community Based Organizations (CBO's).

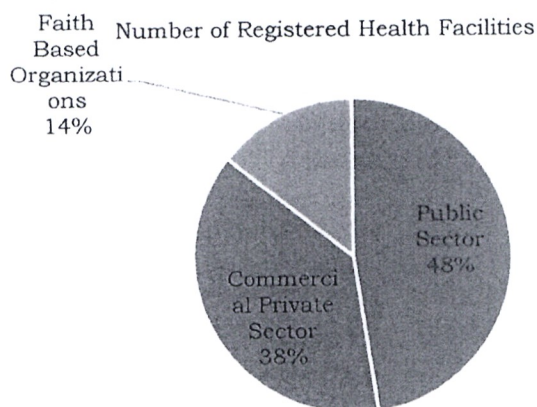
Fig.1: Number of Registered Health Facilities.

According to the Master Facility List (MFL) which includes all officially registered health facilities in Kenya, there are a total of 9,696 health facilities in the country.

In these subsystems, there exists different pricing mechanisms; in public sector for example the public hospitals charge for the cost of medicines and health technologies based on the length of treatment days/course of treatment(duration), or a fixed price per tablet. Patients in private wings attract a 20% mark-up charge over and above this cost. A few other items are priced differently either as a result of them being of a specialized nature or their suppliers being limited. The FBO's has a regressive mark-up system in which lower cost medicines attract a higher mark-up than the costlier ones are used.

The overhead and distribution costs are factored into the medicines selling price for all medicines. In the commercial private sector the price that is charged to the patient is based on the cumulative percentage (%) mark-ups passed down through the 5 distribution chain layers; manufacturer, importer, distributor, wholesaler and retailer (WHO-HAI Africa 2009).

The health financing is mixed and receives funds from taxation, the National Health Insurance (NHIF), Private Health Insurances, employer schemes, Community Based Health Financing (CBHF), user fees (Out of Pocket expenses), development partners and Non-Governmental Organizations (NGO's).



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According to the Kenya population and Housing census of 2014, the Kenyan population stood at 45 million people; of this, according to the Kenya Demographic and Health Survey (KDHS), 81% between the ages of 15 and 49 do not have any type of health insurance. This suggests that the country has approximately 25% prepaid healthcare insurance coverage. While the NHIF leads the way in providing health insurance in the country, the current proportion of citizens covered by the scheme stills falls short of national goals related to achieving universal access to health services. This is partly because recruitment into NHIF is not mandatory in the informal sector which carries 83% of the total workforce as is mandatory in the formal sector. Apart from NHIF, 29 other medical insurance providers currently operate in Kenya. As a result, the amount of out of pocket (OOP) spending remains high leading a lot of people into poverty and posing a barrier to access healthcare.

3.0 Historical Background

Kenya's first proposal at independence in 1963 was "free healthcare to all Kenyans" with the belief that a healthy nation would create greater economic development.

By 1965, the Government finalized the free healthcare for all concept and abolished OOP for people seeking care in locally managed public clinics. In 1970, the Ministry of health (MoH) nationalized the health system and extended the "free healthcare for all" policy to all public health facilities. However, in 1973, the Kenyan economy stagnated and it became financially impossible to continue operating public facilities without the charge of user fees. As a result, therefore, in 1989 the MoH reinstated the user fees. In 1992, a reform process took place which led to the creation of District Health Management Boards to facilitate cost-sharing and ensure the availability of funds for health services in peripheral areas.

In 1994, the Government published the Kenya Health Policy framework paper (KHPF) which envisioned implementation of a health care system that provides healthcare that is acceptable, affordable, and accessible to all. The policy has been implemented via two-5-year plans: The National Health Sector Strategic Plan (NHSSP-from 1999-2004) and the National Health Sector Strategic Plan 11(NHSSP 11-from 2005-2010). This policy organized the public health system into a hierarchical pyramid with the dispensaries being at the lowest of the pyramid but the majority and the apex comprising of the Referral Hospital. On the 27th August 2010, the country promulgated a new constitution which devolved the healthcare into 47 counties.

4.0 Cost Drivers (Forces Shaping the Market Prices)

4.1 Liberalized Market

The Kenyan market for a long time has remained an open market. This allows for prices of health products and technologies to be determined by market forces.

4.2 Commodity Supply Chain Components

This includes the Manufacturer's Selling Price (MSP), plus insurance and freight.

For the locally manufactured medicines, the pricing structure is the MSP plus the domestic transportation cost to the purchasing facility.

For the imported medicines, the pricing structure shall be the MSP plus the insurance and international freight.

4.2.1 Landed Price

The landed price includes all other price components that arise during the procurement of medicines and their delivery to the procurement office. This includes the banking fees for foreign currency purchases, inspection charges (either pre-or post-shipment), port fees (docking, storage, handling, insurance in port), customs clearing, import tariff, any other fee collected centrally by partner government agencies e.g PPB, and importer's mark-up. The landed price also includes local transport charges to the central warehouse of the importer or the wholesaler.

4.2.2 Wholesale selling price (private)

The wholesale selling price is based on the landed price, and includes either the wholesaler's overhead costs and distribution costs such as quality control, storage/warehousing costs, handling costs, salaries, security and rent costs and profit margins. Many of this are included in the wholesale mark-up percentages.

4.2.3 Retail Price (Private)

The retail selling price (pharmacy or chemist) is based on the wholesale selling price, and includes the retailer's additional expenses/overheads such as storage,

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handling, salaries and profit margins. Majority of this might be included in the retailer's mark-up percentages.

4.2.4 Dispensed Price

The dispensed medicine price includes the retail price plus any dispensing fees and any sales taxes (VAT) if applicable.

4.2.5 Mark-ups at Various levels of Supply Chain Distribution

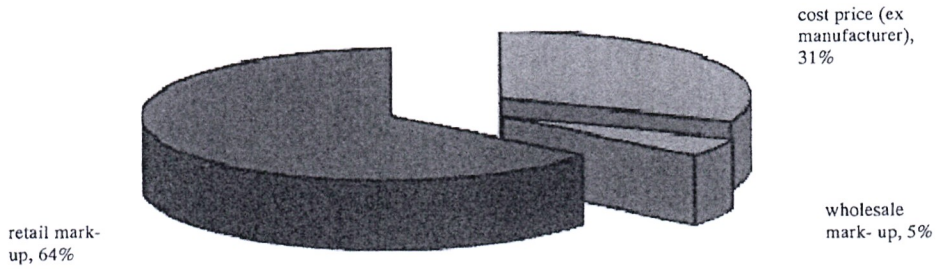
Medicine mark-ups are a constant feature as highlighted in the components of pricing structure. Ordinarily, the importers price of his/her medicine on the shelf as compared to its FOB price has a mark-up of approximately 10-12% including the insurance air freight, IDF (2.75%), customs clearing (3%) and local transport all borne as landing costs. Mark-ups on medicines in the Essential Medicines List (EML) and those not in the list vary with those in the list attracting a mark-up of up to 15-20% while those not within the list between 40-45%.

Wholesaling mark-ups average 14% though this varies between generic and branded products. The retailer mark-ups are estimated at an average of 25-33%. This however varies depending on the generic, branded and originator medicines with discounts to customers being arbitrary. Generally, the supply chain mark-ups are estimated to account for about 50-57% of the final cost of medicine to the patient with the manufacturer's cost being estimated to take up an average of 43%.

Table 1: Various % across the supply chain (Source: KPDA presentation)

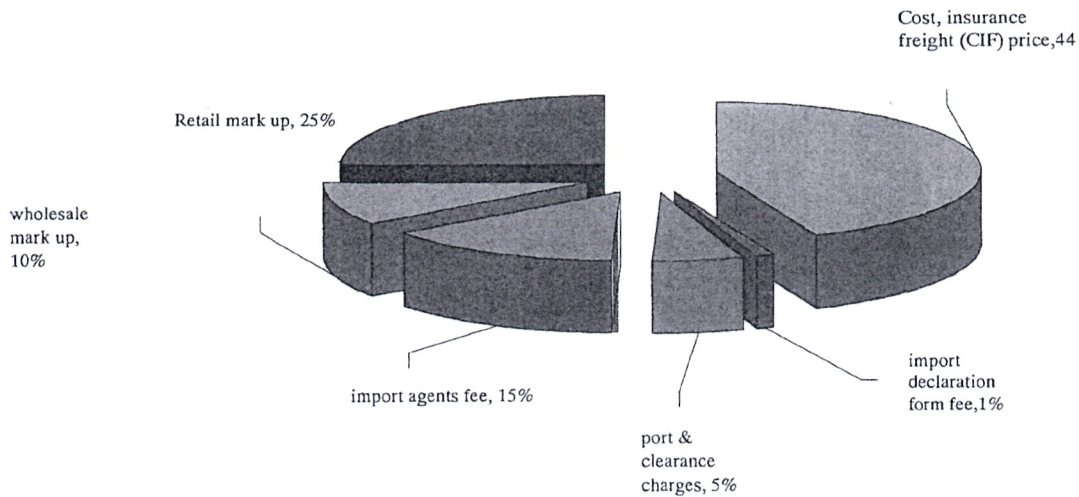
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FIGURE 2 Typical proportions of add-ons of final patient price for a locally produced generic product in the private sector



Source: Medicine Prices in Kenya; WHO.HAI-A September 2004

Figure 3 Typical proportions of add-ons of final patient price for a generic import product in the private sector



Source: Medicine Prices in Kenya; WHO.HAI-A September 2004

5.0 Kenya Health Market Overview

The Kenyan healthcare system is a mixed system with the following main components;

5.1 General tax financing:

This consists of certain “free” healthcare services in the public health facilities. The Government currently offers “free” maternity services as well as “free” care to children under 5 years in public facilities.

5.2 National Hospital Insurance Fund(NHIF):

The fund provides financing for public and private facilities that have been approved by the fund. NHIF is mandatory for formal sector workers. It covers about 2.9 Million Kenyans in the formal sector and an additional 4 million in the informal sector via the Health Insurance Subsidy Program for the poor (HISP). It offers outpatient as well as inpatient covers based on members' contribution premium.

5.3 OOP Health Spending:

According to Kenya Health Systems Assessment (2010), the number of Kenyans that pay out of pocket for their healthcare services is a third of the total health expenditure. This spending is a big barrier for Kenyans accessing healthcare services as it drives the poorer households easily into poverty. The cost of treatment continues to limit the access of care especially by the poor. It is estimated that 16% of the sick do not seek care due to financial constraints while 38% of them must sell their assets or borrow in order to finance their medical bills. In this category, one has to pay directly for health services at the point of consumption and as result 4.1% of the household face catastrophic expenditures.

5.4 Private Health Insurance:

The penetration of the private insurance in Kenya is about 2% of the total population. There are about 29 private insurance companies with activities in healthcare.

5.5 Employer Self-Funded Schemes

Health schemes whereby the employer offers health benefits as incentives to their workers and dependents via a self-insured in-house medical scheme.

5.6 Community Based Health Financing (CBHF) Schemes

These schemes meet the needs of the lower income population who traditionally have been left out of the private insurance schemes and NHIF.

5.7 Development Partners & NGO'S

Various development partners and NGOs have traditionally contributed significantly to healthcare financing and provision.

6.0 Key Challenges

6.1 Affordability

These impacts negatively on those accessing healthcare by out of pocket purchases or those accessing healthcare through insurance cover vide premium payments.

6.2 Market Fragmentation

This is depicted by the various pricing mechanisms which exist at each sector making product capitation as well as re-imburement difficulty.

6.3 Cost Inflation

These are usually driven by tariffs, utilization increases among others.

7.0 Healthcare Costs

Based on the afore going, healthcare costs remain one of the major threats to accessing healthcare. These healthcare costs could be of direct medical nature, direct nonmedical nature, indirect nonmedical and intangible costs. Table 1 below highlights some of these costs;

Table:2 Example of Healthcare Cost Categories

Cost Category	Costs
Direct medical costs	Medications Supplies Laboratory tests Healthcare professionals' time Hospitalization
Direct nonmedical costs	Transportation Food Family care Home aides
Indirect costs	Lost wages (morbidity) Income forgone because of premature death (mortality)
Intangible costs	Pain Suffering Inconvenience Grief
Opportunity costs	Lost opportunity Revenue forgone

Source: Pharmacotherapy; A Pathophysiological approach
Joseph T. DiPiro, Robert L. Talbert, Gary C. Yee et al

These costs could be analyzed against the backdrop of *cost of illness (COI)* which will highlight the disease burden, *cost minimization analysis (CMA)* which will highlight least costly alternative when comparing two or more treatment

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alternatives, *Cost effectiveness*(CEA), *Cost utility* (CUA) to express QALYs gained, *Cost benefit analysis*(CBA),

The information obtained from the analysis above can be used to support various decisions at several healthcare strata. This include: Clinical decisions, Formulary Management, Drug use policy, disease management, Resource allocation.

8.0 Pharmaceutical Price Regulation

8.1 Reference Pricing

In a reference price system, third party payers set a reimbursement threshold (**median price**) for a group of products regarded as interchangeable. In this case drugs are organized into limit groups (groups of chemically equivalent, therapeutically similar products, each sharing the same reimbursement limit). Drugs are placed into limit groups on the basis of their international non-proprietary name (INN) or, if the INN varies, drugs with similar effectiveness and the same indication). The purpose is to promote competition between pharmaceutical companies and to encourage consumers to make rational decisions. Typically, reference pricing is applied to off-patent markets. After an originator product's patent expires, generic products can enter the market and start to compete for a share. The diffusion of generic products and price reductions are interlocked; markets with a high share of generic products typically show larger decreases in prices than markets with a low share of generics (Dylst and Simoens 2011).

8.2 Supply and Demand Side Measures In Cost Containment

Rising pharmaceutical expenditures have lead governments to balance with containing public expenditure while still ensuring patient access to affordable medicines. Cost containment measures can be divided roughly into measures aimed at the supply side and measures aimed at the demand side. Supply side measures can target the manufacturer, wholesaler and the retailer at the pharmacy level. These measures can include: pricing at the manufacturer level, price control (Generic substitution, reference pricing, pharmacoeconomic evaluations of treatment regimens, addressing TBT's like tariffs). Demand side measures can include: Cost-sharing, co-payments, moving products to over the counter status, rational prescribing and use, National/County medicine formularies, Essential drug list items, Advertising restrictions, Educational interventions to public.

Pharmaceutical pricing is determined by five principle elements: Import prices, Internal mark-ups, Reimbursement prices, Mark ups in the public institutions, Competition to the private sector.

8.2.1 Import Prices

Import prices charged by the MAH or its agent are established based on the manufacturing costs and the assigned operational costs. Whereas these costs should be the basis of a fair pricing to the consumer, they are unlikely to be fully divulged by the manufacturer to the MAH or its agent.

8.2.2 Supply Chain Mark-ups

Prices charged in the trade/channel are dependent on commercial and financial variables. Whereas the financial variables may be outside of the handler at any stage in the trade channel, commercial interests should not be permitted to override the common principle to deliver medicines to the consumer at the most acceptable prices.

8.2.3 Reimbursement prices.

Prices paid for by key payers such as employers, insurance companies and the NHIF drive and shape prices charged by the final dispensers.

8.2.4 Pricing in the public sector

Public sector institutions provide the largest bulk of healthcare and pharmaceutical procurements in Kenya by volume. Procurements in this sector/institution are supported by direct funding and do not depend on self-generation of operational revenues.

8.2.5 Competition to the private sector

Whereas the private sector provides impactful provision of health and supply of products, it is not subjected to significant counterbalancing competitive pressure to modify prices charged downwards or to stability.

8.3 Generic Substitution

In generic substitution, pharmacists have either the right or the obligation to substitute a prescribed product with a chemically equivalent but less expensive one. Generic clustering is narrowest form of clustering. In generic clustering pharmaceuticals are clustered according to the active substance. This is typically referred to as generic reference pricing. In therapeutic reference pricing, pharmaceuticals with chemically-related, pharmacologically equivalent active substances or a similar therapeutic effect are grouped together. (Dylst et al.2011)

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9.0 RECOMMENDATIONS

Generally, after discussions and deliberations, the following are the key recommendations and the industry position on pricing;

9.1 COMPEL PRESCRIBING BY USE OF GENERIC NAMES IN PUBLIC SECTOR:

- Implement and enforce prescribing by use of generic names rather than trade names by all healthcare prescribers in public sector.
- There is need to have legislative reforms to make it compulsory for medical practitioners to prescribe medicines by generic names rather than by brand names.
- The pharmacist should be empowered to enforce generic substitution i.e. substituting the same chemical entity in the same dosage form for one prescribed by a different company.
- There need to educate healthcare professionals about the role of a pharmacist in generic substitution which is different from Therapeutic Substitution.

9.2 DEVELOP AND IMPLEMENT A PRICING PORTAL FOR THE PUBLIC

- The portal should contain prices of different brands to encourage competition and facilitate medical product reimbursement systems in addition to dissemination of price information to the public. It should be accessible by a short code message (sms). Pricing transparency in this form will inform manufacturer pricing activities as well as doctors in advising on patient treatment options, incorporating both the clinical benefit as well as cost considerations.

9.3 STRENGTHEN REGULATORY CAPACITY OF THE PHARMACY AND POISONS BOARD

- Establish it as an independent regulatory entity to enable it increase its technical human resource capacity.
- Continuous positive public relations by the Pharmacy and Poisons Board in order to assure the public on the quality of generic medicines in the market. The public needs to be reassured on the quality of generic products in the country through enhanced Pharmacovigilance and surveillance activities.
- Strengthen regulation and enforcement of pharmacy practice in Kenya.
- Streamline the process and regulation of parallel importation of medicines to allow patients to get the price benefit.
- Align registration and retention of health products and technologies to their cost implications to the patient (price declaration).

9.4 DEVELOP AND IMPLEMENT A NATIONAL FORMULARY THAT IS HARMONIZED WITH CLINICAL TREATMENT GUIDELINES.

- The national formulary should indicate the attendant costs.
- Promote adherence to the national standard treatment guidelines.

9.5 SET UP A PHARMACEUTICAL AND HEALTH PRODUCT PRICE ADVISORY COMMITTEE at The Pharmacy And Poisons Board whose ToR's shall include inter alia;

- Develop and continuously review mechanisms in place for *Internal and external price referencing (median price-limit groups)* to inform reimbursement mechanisms and copayments.
- Define information requirements and establish processes to institutionalize routine collection of data that will be appropriate for pricing of health services and commodities
- Institute a mechanism to monitor medicine price increases through notification to MoH/PPB with a view to regulating excessive increases;
- Routinely conduct market research and review prices based on market indices and inflation rates;
- Compensation based on outcomes. Work closely with other agencies to ensure healthcare providers get paid/rewarded and monitored for a best treatment outcome;
- Routinely come up with a pharmacoeconomic model of a treatment for an appropriate outcome measure to promote quality adjusted life years (QALYs) among Kenyans;
- Routinely using appropriate pharmacoeconomic techniques (Cost-minimization, cost-effectiveness, cost-utility, cost-benefit, cost of illness, cost consequence) recommend appropriate treatment options that inform the national formulary;

9.6 MINISTRY OF HEALTH (MOH) TO DEVELOP NATIONAL POLICY GUIDELINES THAT SHALL PROVIDE A ROADMAP TOWARDS PRICE REGULATION of medical products and health technologies.

9.7 TO ENSURE THE MOST EQUITABLE AND COMPARABLE PRICE GLOBALLY, MAH SHOULD BE REQUIRED TO SUBMIT A PUBLIC/CONSUMER PRICE CHARGED IN RELATABLE COUNTRIES OR COUNTRIES OF SIMILAR ECONOMIC STATUS AND RELATABLE HEALTHCARE REGIME. EVIDENCE OF THIS PRICING COMPARISON MUST BE SUBMITTED BY THE MAH DURING PRODUCT REGISTRATION AND RETENTION and the Board shall retain an absolute right to verify, accept or

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reject the submitted reference prices. The final import (FOB) price shall then be established by the MAH in liaison with PPB with all records available for public scrutiny at will.

9.8 THE NATIONAL REIMBURSEMENT FRAMEWORK SHOULD CONSIDER THE MEDIAN PRICE CHARGED ON ANY MOLECULE/GENERIC AS BEING THE STANDARD REIMBURSEMENT POINT.

9.9 PUBLIC INSTITUTIONS SHALL BE COMPELLED TO CURB MARK UPS CHARGED ON ALL DRUGS PROCURED. Any mark ups charged should be limited to full purchase cost recovery and associated logistics.

9.10 PUBLIC INSTITUTIONS SHOULD BE EMPOWERED TO DISPENSE TO ANY VALID PRESCRIPTION INCLUDING THOSE FROM THE PRIVATE SECTOR. The public facilities should be empowered to dispense to any patient bearing a valid prescription regardless of origin. This provides competition to the private sector. KEMSA can consider partner retail outlets.

LIST OF TABLES:

Table 1: Various % across the supply chain

Table:2 Example of Healthcare Cost Categories

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Fig.1: Number of Registered Health Facilities;

Fig.2: Typical proportion of add-ons of final patient price for locally produced generic drug in private sector;

Fig 3: Typical proportions of add-ons of final patient price for a generic imported product in the private sector;

ANNEXES:

Annex 1: PSK Position Paper

Annex 2: KAPI Position Paper

Annex 3: KPDA Position Paper

Annex 4: KPA Position Paper

Annex 5: MTRH Contribution

Annex 6: County Pharmacist Forum

Annex 7: FKPM Position

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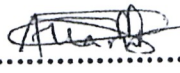
Name: Dr. Aneez Rahemtulla

Signature: 

Date: 27 November 2018

Chairman of the Committee


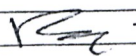
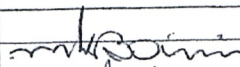
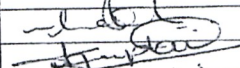
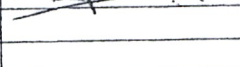

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REPUBLIC OF KENYA

MINISTRY OF EAST AFRICAN COMMUNITY AND REGIONAL
DEVELOPMENT

STATE DEPARTMENT FOR EAST AFRICAN COMMUNITY

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REPORT

ON

THE IMPLEMENTATION STATUS OF RECOMMENDATIONS AND
OBSERVATIONS BY THE NATIONAL ASSEMBLY SELECT
COMMITTEE ON REGIONAL INTEGRATION

REF NO. ADM.1/CONF/13/ VOL III (72)

AUGUST 2019

1.0 BACKGROUND

The National Assembly select Committee on Implementation vide letter REF/ NA/DCS/COI/2019 (85) of 23rd July, 2019 required the Ministry of East African Community to submit an appraisal on the status and challenges faced, if any, in the implementation of observations and recommendations in the following reports.

- i. Report by Committee on Regional Integration on the ratification of the East African Community Protocol on Cooperation of Meteorological Services as communicated vide a letter Ref. No. NA/DLP/RES.14/2018 / (044) dated 22nd August 2018.
- ii. Report on the Committee on Regional Integration on the East African Community Protocol on Information and Communication Technology Networks, which approves the ratification of the EAC Protocol on Information and Communication Technology Networks as communicated vide a letter Ref. No. KNA/L&P 2028/CERT./ (025) dated 19th December 2018.
- iii. Report on inspection visit to the Isebania One Stop Border Post in Migori County as communicated vide a letter Ref. No. NA/DLP/RES. 14/2018 (0420 dated 15th October 2018.

The Ministry submits as follows;

2.0 STATUS OF IMPLEMENTATION OF THE RECOMMENDATIONS OF THE REPORT BY THE COMMITTEE ON REGIONAL INTEGRATION ON THE RATIFICATION OF THE EAST AFRICAN COMMUNITY PROTOCOL ON COOPERATION OF METEOROLOGICAL SERVICES

S/N	Recommendation	Status of Implementation
1.	The following bills await reintroduction into the 4 th Assembly of the East African Legislative Assembly (EALA) <ul style="list-style-type: none"> • EAC Cross Border Trade in Professional Services Bill, 2017 • EAC Prohibition of Female Genital Mutilation Bill, 2016 • EAC Retirement Benefits for specified heads of Organs Bill, 2016 • EAC Youth Council Bill, 2017 	The first batch of the Bills lapsed with the 3 ^d Assembly. Only the Youth Council Bill has since been reintroduced and Partner States' public hearing conducted.
2.	The Ministry of EAC should submit the versions forwarded for assent of the EAC Counter-Trafficking in persons Bill, 2016 and EAC Prohibition of FGM Bill, 2016 before the Committee gives its input in respect to the same.	The final versions of the two Bills passed by EALA have not yet been shared with the Partner States for assent.
3.	Having considered the Protocol, the Committee recommended that the National Assembly approves	Kenya has deposited the instrument of ratification of the Protocol with the EAC

	the ratification of the EAC Protocol on Cooperation in Meteorological Services.	Secretariat. The other Partner States are at various stages of ratifying the Protocol. The Protocol will come into force upon ratification by all the Partner States.
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3.0 STATUS OF IMPLEMENTATION OF THE RECOMMENDATIONS OF THE COMMITTEE ON REGIONAL INTEGRATION ON THE EAST AFRICAN COMMUNITY PROTOCOL ON INFORMATION AND COMMUNICATION TECHNOLOGY NETWORKS, WHICH APPROVES THE RATIFICATION OF THE EAC PROTOCOL ON INFORMATION AND COMMUNICATION TECHNOLOGY NETWORKS

S/N	Recommendation	Status of Implementation
I.	The Committee recommends ratification of the East African Community Protocol on Information and Communication Technology Networks as it would facilitate successful operation and cross border interconnection of broadband Information Communication technology networks in EAC	Uganda and Rwanda have ratified the Protocol. Kenya, Burundi and Tanzania are yet to ratify the Protocol. The Protocol will come into force upon ratification by all the Partner States.

4.0 STATUS OF IMPLEMENTATION OF THE RECOMMENDATIONS AND OBSERVATIONS OF THE REPORT ON INSPECTION VISIT TO THE ISIBANIA ONE STOP BORDER POST IN MIGORI COUNTY

S/N	Recommendation	Background	Status of Implementation
1.	Partner States to sensitize and encourage citizens to embrace the EAC spirit by enhancing regional integration and reciprocity as demonstrated by H.E the President directive on free movement within EAC without requirements of passports. This is not reciprocated in Tanzania.	The principles of the Common Market as enshrined in Article 3(2) of the CMP commits Partner States to: observe the principle of non-discrimination of nationals of EAC Partner States on the ground of nationality, accord nationals of other Partner States not less favourable treatment than accorded to third parties, and ensure transparency in matters concerning other Partner States and share information for the implementation of	1.The Ministry integrated sensitization in her 2018/19 Workplan and undertook sensitization in various Counties. 2.Kenya and Tanzania have mutual understanding of allowing border residents free movement up to a distance of 15km on either side of the border without need for travel documents. This issue was reiterated by Hon. Ministers from MEAC

S/N	Recommendation	Background	Status of Implementation
		<p>the Protocol. The concept of free movement of persons as provided in the CMP does not translate to unregulated movement of persons in and out of the territories of the EAC Partner States. The CMP facilitates easier movement of East African citizens to move, reside and exit the territories of Partner States by providing a predictable legal environment. EAC citizens moving from one Partner States to another must undergo normal immigration processes at ports of entry and be in possession of valid</p>	<p>Kenya and Tanzania in 2012 and 2013 in Namanga and Isibania/Sirari borders respectively.</p> <p>3. The Ministry in liaison with other border agencies has continuously conducted sensitization programmes in Isibania and other borders on the need for cross border cohesion. The last programme was carried out in July, 2018. More programmes are planned for this financial year.</p>

S/N	Recommendation	Background	Status of Implementation
		travel documents.	
2.	The Partner States should implement uniform application of procedures at all border post facilities along the Kenya/Tanzania border in terms of clearing goods and people at the entry/exit points	In all border posts designated as points of entry and exit, there are border regulatory agencies such as the immigration, customs, police, bureau of standards, plant health, human health, veterinary controls, food and drug safety at certain borders. Due to the need for clearance by such agencies, all the border posts experience prolonged delays thus long queues of vehicles and people. This therefore calls for harmonization of procedures and documentation. To address this need, the EAC Partner States adopted the concept of One-	Coordinated Border Management policy is being implemented at all border points to enhance uniform approach to border clearance procedures. The Isebania OSBP is nearing completion and is scheduled for a launch by Their Excellencies in November 2019. This will address asymmetry in clearance of goods and persons and reduce on time taken to undertake border clearance formalities.

S/N	Recommendation	Background	Status of Implementation
		<p>Stop-Border-Posts (OSBP) along their borders.</p> <p>Under OSBP operations procedures, government agencies operating on both sides of the border jointly undertake clearance of goods and persons in each direction of traffic. The implementation of OSBP concept as an aspect of Coordinated Border Management is aimed at facilitating cross-border movements through reduction of the time taken in clearance procedures. Along the Kenya borders, Malaba, Busia, Isebania, Namanga, Taveta and LungaLunga border</p>	

S/N	Recommendation	Background	Status of Implementation
		<p>posts were selected for this concept. The six OSBPs have been completed and among them Taveta and Namanga, Busia and Malaba are operational. LungaLunga and Isebania, though the buildings are completed, are not operational due to ICT connectivity challenges. To facilitate the operations of the OSBP, an EAC OSBP Act 2016 has been formulated along with the Procedures Manual. The Act grants officers from adjoining Partner State right to implement their national laws while operating in a host Partner State.</p>	
3.	Kenya and	Tanzania has a	Kenya is

S/N	Recommendation	Background	Status of Implementation
	Tanzania should lift the periodical ban on exports of fish and levies and fees imposed on exports.	policy on export of fish and fish products which is enforced through issuance of permits. Tanzania enforces the ban on export of unprocessed fish. The same policy applies to export of agricultural products. The policy entrenches the need for value addition to raw materials prior to their export. Fish products that are exported to Kenya are in the form of animal feeds and fish maws used in pharmaceutical manufacturing. Tanzania exports fish products to the international market via Isibania border and	continuing to engage the two Partner States through EAC structures to consider reviewing the associated levies.

S/N	Recommendation	Background	Status of Implementation
		<p>through Mombasa Port. Such exports normally transit through Kenya.</p> <p>In view of the stated policy on export of fish and fish products traders are expected to meet stringent requirements to be issued with export permits.</p> <p>Therefore, as per the practice, Tanzania does not have a policy of banning export of fish and fish products periodically.</p> <p>Traders who meet the requirements as stipulated in the policy are allowed to export. However, those who fail to do</p>	

S/N	Recommendation	Background	Status of Implementation
		so are denied permits.	
4.	The Department of Immigration Services through Ministry of Foreign Affairs, should harmonize requirements for business visa and other related requirements	The United Republic of Tanzania charges East African business visa fee. This charge applies to all East Africans and is therefore not discriminatory. The charge is, however, preferential compared to charges levied on SADC nationals. East African nationals are charged USD 100 and SADC nationals USD 200.	Kenya held bilateral meeting with Tanzania in April, 2019 and the issue of charging Kenyan business persons a fee of USD 100 as business pass was discussed. It was agreed that talks be initiated with a view to abolish it. The two Countries are scheduled to meet again in September to discuss the issue further.
5.	Partner States should heighten security at the border areas and encourage joint border coordinating committee meetings to ensure	The Treaty for the establishment of EAC gives prominence to cooperation in security matters. To this end cross border security	There is a vibrant border related engagement between Kenyan and Tanzanian security agencies. The engagement takes place through

S/N	Recommendation	Background	Status of Implementation
	structured engagements.	<p>cooperation is being implemented in the region.</p> <p>Security issues around Isibania/Sirari area include but are not limited to:</p> <ol style="list-style-type: none"> 1. Human smuggling involving Ethiopians and Somalis being trafficked to South Africa. 2. Cross border livestock theft. This is facilitated by the culture of local communities. 3. Availability of unlicensed firearms and use of the same to commit cross border crimes. 4. Smuggling of restricted and prohibited goods including 	<p>cross border committees and Joint Border Coordination Committees that have been constituted particularly at One Stop Border Posts. MEAC&RD liaises with these agencies.</p> <p>In Migori the County Security team normally holds regular meetings with its counterparts from Mara Region of Tanzania.</p>

S/N	Recommendation	Background	Status of Implementation
		ethanol. These security issues among others call for cross border collaboration and coordination.	
6.	The additional PoEs including Muhuru Bay, Nyamtiro and Kopanga be gazetted and a law enacted to create mobile border stations and manned by all border agencies.	The gazettelement of new points of entry (POEs) is done by the National Security Advisory Committee on advice from the Border Control and Operations Coordination Committee. Once new PoEs are recognized by NSAC, the respective Partner States are consulted to similarly recognize the same	The Ministry of Interior and Coordination of National Government in liaison with other MDAs has already inspected potential points of entry in Migori, Narok and Kajiado counties with a view for gazettelement as new PoEs to address this challenge. The findings were ratified by BCOCC and are being considered by NSAC.
7.	The Committee recommended removal of the	Erection of a barrier at the entrance of the	This issue was brought to the attention of Migori

S/N	Recommendation	Background	Status of Implementation
	barrier at the entrance of Isibania OSBP facility erected by Migori County	OSBP at Isibania/Sirari by Migori County for purposes of collection of local levies is against the spirit of EAC integration and gives an impression that trucks are double charged, Migori County may consider removing the barrier.	County by MEAC&RD in 2016 and similarly MEAC&RD wrote to National Treasury to advise on the same. The National Treasury wrote to Migori County demanding removal of the same. The barrier is still there. However, talks are ongoing between KRA, MEAC&RD and Migori County.
8.	The OSBP authorities should ensure multi-stakeholder collaboration and partnership amongst border communities and other relevant agencies.	The OSBP is a trade facilitation tool that is applied at borders to promote a coordinated and integrated approach to facilitating trade, the movement of people, and improving security.	MEAC&RD has helped Isibania/Sirari OSBP to establish Joint Border Coordination Committee as a platform for partnership and cooperation. It has representation

S/N	Recommendation	Background	Status of Implementation
		<p>The concept eliminates the need for travelers and goods to stop twice to undertake border crossing formalities; and calls for the application of joint controls to minimize routine activities and duplications. OSBP is a shared facility bringing together border regulatory agencies of the two adjoining Partner States. Other stakeholders including service providers and the local community play a critical role in OSBP operations. Seamless operations of OSBP</p>	<p>from the local community on both sides of the border. The Lead Agencies in OSBPs with support from Border Management Committees (BMCs) have established a system to enhance collaboration among border regulatory agencies. The Lead Agencies under aegis of BMCs have institutionalized a system of consulting border stakeholders including local communities.</p>

S/N	Recommendation	Background	Status of Implementation
		<p>are grounded on the support from border regulatory agencies, traders, shippers, clearing agents, local community and the local administration. It is in this regard that multi-stakeholder engagement is essential in ensuring optimal operations and continuity. The EAC OSBP Act and Kenya Citizenship Amendments Act (2014) provides for a structured stakeholders engagement framework through the Border Management Committees, Joint Border Coordination</p>	

S/N	Recommendation	Background	Status of Implementation
		Committees and the Lead Agency.	
9.	The Ministry of EAC should fast track efforts to harmonize policies in order to facilitate cross border trade within the region	The Treaty for the establishment of East African Community in Article 126 2(b) stipulates that <i>“Partner States through their national institutions shall take necessary steps to harmonise all their national laws appertaining to the Community.”</i>	The Ministry in collaboration with the Office of the Attorney General and the Kenya Law Reform Commission and other stakeholders is developing a Policy on Harmonization of National Laws The document is informed by the need for Kenya to have a system to facilitate informed and effective harmonisation and approximation of laws to be in line with Treaties and other international obligations. Kenya as a country has a gap when it comes to amending its laws to be in line with the Treaties it

S/N	Recommendation	Background	Status of Implementation
			has ratified.
10.	The Governments of Kenya and Tanzania should enhance the public private dialogues between the Governments and business community	The EAC Treaty places private sector development at the heart of its strategy for accelerating growth, creating wealth and reducing poverty. At the regional level, there is a Consultative Dialogue Framework for engagement of the private sector in the integration process which is fully anchored in the Treaty. The Dialogue Framework provides for an Annual Secretary General's forum which is a platform that provides for regular dialogue between the EAC Secretary General and the private sector, civil society	The Government holds the following meetings with the private sector <ul style="list-style-type: none"> - Quarterly Ministerial Stakeholders' forum that brings together the public and private sector to discuss the deepening of the integration of the markets. - Annual National Dialogue Forum that brings together the private sector, civil society and other interest groups to discuss the progress and challenges in the EAC integration. - Various targeted stakeholder engagement forums with the

S/N	Recommendation	Background	Status of Implementation
		and other interest groups on how to improve the EAC integration process. The forum is cascaded at the Partner States as the National Dialogue Forums.	Chambers, of Commerce, Students, and cross border traders among others.
11.	Partner States should heighten security along the borders and encourage joint border coordinating committee meetings to ensure structured engagement.	<p>The EAC Common Market Protocol provides for the free movement of persons. This freedom has unanticipated outcomes that negatively impact peace and security and call for closer collaboration among the security agencies.</p> <p>The region is confronted by security threats such as:</p> <ul style="list-style-type: none"> ○ intra-state conflicts, ○ terrorism, radicalization 	<p>The Government has adopted “One Government Approach” policy geared toward addressing security issues. The Approach has been adopted along all borders across the country and has been instrumental in structuring dialogue and cross border security coordination.</p> <p>The Multi-Agency Team has boosted security along the</p>

S/N	Recommendation	Background	Status of Implementation
		<p>and violent extremism,</p> <ul style="list-style-type: none"> ○ porous borders and border conflicts, ○ piracy, human and drugs trafficking, ○ money laundering, ○ cybercrime, ○ motor vehicle theft, and ○ proliferation of Small Arms and Light Weapons. <p>To facilitate structured response to the threats the following instruments have been developed:</p> <ul style="list-style-type: none"> ○ EAC Peace and Security Protocol, ○ EAC Regional Strategy for Peace and Security, ○ EAC Protocol on Combatting Illicit Drugs Trafficking, 	<p>border and the team has structured engagement with security agencies of adjoining Partner States.</p>

S/N	Recommendation	Background	Status of Implementation
		<ul style="list-style-type: none"> ○ EAC Regional Small Arms and Light Weapons Policy, ○ East and Southern Africa - Indian Ocean Regional Maritime Strategy, ○ EAC Conflict Management and Resolution Framework, ○ EAC Refugee Management Policy. 	