

REPUBLIC OF KENYA



Approved
[Signature]
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ELEVENTH PARLIAMENT

NATIONAL ASSEMBLY – FOURTH SESSION

*Paper laid
Wednesday
23/11/16
Afternoon
5:17 PM
A. O. O.*

PUBLIC INVESTMENTS COMMITTEE

THE SPECIAL REPORT

ON

THE INQUIRY INTO THE ALLEGATIONS OF PROCUREMENT
IRREGULARITIES IN THE AWARD OF THE KENYA BUREAU OF
STANDARDS TENDER NO. KEBS/T057/2014-2015 FOR THE PROVISION
OF PRE-EXPORT INSPECTION SERVICES FOR USED MOTOR
VEHICLES

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PARLIAMENT BUILDINGS

NAIROBI.

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ABBREVIATIONS AND ACRONYMS

ATJ	Auto Terminal Japan Ltd
CAS	Central Alarm System
CBS	Chief of the Order of the Burning Spear
CEO	Chief Executive Officer
CPA	Certified Public Accountant
DOE	Department of Energy
EAA	East Africa Automobile Services Company Ltd
EGH	Elder of the Order of the Golden Heart of Kenya
HE	His Excellency
HSC	Head of State's Commendation (Civilian Division)
ISO	International Organization for Standardization
JAB	Japan Accreditation Board
JEVIC	Japan Export Vehicle Inspection Centre Company Ltd
JHTA	Japan Harbour Transport Association
JYP	Japanese Yen
KEBS	Kenya Bureau of Standards
KNBS	Kenya National Bureau of Statistics
MD	Managing Director
MGH	Moran of the Order of the Golden Heart of Kenya
MOU	Memorandum of Understanding
MP	Member of Parliament
NNSA	National Nuclear Security Administration
PIC	Public Investments Committee
PVoC	Pre-export Verification of Conformity
QISJ	Quality Inspection Services Inc. Japan
RFP	Request for Proposals
RPB	Radiation Protection Board
RPM	Radiation Portal Monitors
SLD	Second Line of Defence

TBT	Technical Barriers to Trade
UAE	United Arab Emirates
UK	United Kingdom
USSR	Union of Soviet Socialist Republics
WTO	World Trade Organization

1.0 PREFACE

1.1 Committee Mandate

The Public Investments Committee (PIC) draws its mandate from the National Assembly Standing Order No. 206 which outlines the functions of the Committee as follows:

- (a) **Examine the reports of the Auditor General on the public investment;**
- (b) **Examine the reports, if any, of the Auditor General on the Public Investments;**
- (c) **Examine, in the context of the autonomy and efficiency of the public investments, whether the affairs of the public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices.**

The Committee however is exempted from examining: -

- (a) **Matters of major Government policy as distinct from business or commercial functions of the public investments;**
- (b) **Matters of day-to-day administration; and**
- (c) **Matters for the considerations of which machinery is established by special statute under which a particular investment is established.**

1.2 Committee Membership

The Committee is comprised of the following Members:

1. **Hon. Adan Wehliye Keynan, CBS, MP** - **Chairperson**
2. **Hon. Anthony Kimani Ichung'wah, MP** - **Vice Chairperson**
3. Hon. Francis Mwanzia Nyenze, EGH, MP
4. Hon. (Dr.) Oburu Oginga, MGH, MP
5. Hon. (CPA) Thomas Ludindi Mwadeghu, CBS, MP
6. Hon. Adan Mohammed Nooru, MP
7. Hon. Franklin Mithika Linturi, MP
8. Hon. Athanas Wafula Wamunyinyi, MP
9. Hon. Elias Bare Shill, MP
10. Hon. Sammy Silas Komen Mwaita, MP
11. Hon. John Olago Aluoch, MP
12. Hon. (Dr.) Paul Otuoma Nyongesa, EGH, MP
13. Hon. (Eng.) John Kiragu, MP
14. Hon. Dorcas Kedogo, MP

15. Hon. Abdullswamad Sheriff Nassir, MP
16. Hon. Beatrice Nkatha Nyaga, HSC, MP
17. Hon. Bernard Munywoki Kitungi, MP
18. Hon. Chrisanthus Wamalwa Wakhungu, CBS, MP
19. Hon. Cornelly Serem, MP
20. Hon. (Eng). Stephen Ngare, MP
21. Hon. Irungu Kang'ata, MP
22. Hon. Johana Kipyegon Ng'eno, MP
23. Hon. John Muchiri Nyaga, MP
24. Hon. John Ogutu Omondi, MP
25. Hon. Korei Ole Lemein, MP
26. Hon. Mary Sally Keraa, MP
27. Hon. Onesmus Muthomi Njuki, MP

1.3 Justification for the Inquiry

The market for used motor vehicles in Kenya has been growing steadily from 65,987 road motor vehicles imported in the year 2011 to 109,781 that were imported into the country in the year 2015 (KNBS, 2016). There was also an increase in the import expenditures on motor vehicles which stood at Ksh. 118 billion in the year 2015 compared Ksh. 102 billion in the year 2014. It is estimated that Kenya imports approximately 9,000 used motor vehicles a month mainly from Japan, United Arab Emirates (UAE), United Kingdom (UK), Singapore and South Africa. Kenya is the leading market for used motor vehicles in Africa as it overtook South Africa as the largest destination of used passenger vehicles exports from Japan in the year 2009 (Japan Customs and Tariff Bureau, 2009). Further, available data indicates that Japan exported 65,469 used passenger vehicles to Kenya in the year 2015 (Japan Customs and Tariff Bureau, 2015). Kenya imports of used motor vehicle from Japan in the year 2015 represent approximately 60 percent of all used motor vehicle imports into the Country.

The Kenya Bureau of Standards (KEBS) is legally mandated to conduct quality inspection on all goods imported to Kenya including used motor vehicles. The inspection of imports into the Kenyan market commenced on 1st July 1995 following the gazette of Legal Notice No. 227 of 14th June 1995 by the then Minister for Commerce and Industry. Subsequent Legal Notices have since been issued by the Government to ensure all imports to Kenya meet set Kenya standards and other standards as approved by KEBS. Pursuant to the provisions of Legal Notice No. 66 of 10th June 1999 all imports which do not meet the set standards are prohibited imports.

The KEBS pre-export inspection of used vehicles is required to conform to KS 1515:2000 - Kenya Standard Code of Practice for Inspection of Road Vehicles. These standards were formulated by the KEBS Technical Committee (TC) 122 on Road Vehicles. KEBS is required to appoint a

vehicle inspection companies in the origin market for the second used motor vehicles which are mainly: Japan, United Kingdom, United Arab Emirates and the Republic of South Africa. The appointed company is required to inspect the vehicles at a fee paid for by the importer prior to export to Kenya. The inspections are a mandatory requirement conducted pursuant to the provisions of Legal Notice 78 of 15/07/2005 and in line with Kenya Standard KS 1515:2000 Code of Practice for Inspection of Road Vehicles. The main areas of motor vehicle inspection under the Kenya Standard KS 1515:2000 Code of Practice for Inspection of Road Vehicles: The inspection for age limit; the inspection for conformity to the Right Hand Drive (RHD) requirement; road –worthiness which includes safety requirements, electrical and mechanical condition of the vehicle; prohibition of modifications on vehicles; and odometer inspection among others. Further, due to the nuclear disaster at the Fukushima Daiichi Nuclear Power Plant in Japan in the year 2011, radiation inspection has become a critical requirement on the ports of Japan to ensure all goods including vehicles exported from Japan are not contaminated with radioactive materials.

Pursuant to its mandate under Standing Order 206 (6) (c), the Committee commenced inquiry the Kenya Bureau of Standards Tender No. KEBS/T057/2014-2015 for provision of pre-export inspection services to Quality Inspection Services Inc. Japan (QISJ) on 12th February 2015 following a resolution of the Committee on 29th January, 2015. The tender was awarded to QISJ as the sole service provider of used motor vehicle inspection services for a period of 36 months (3 years).

1.4 Committee Proceedings

Having commenced inquiry, the Committee invited the following witnesses to adduce evidence on the matter: -

- i. Mr. Charles Ongwae - Managing Director, Kenya Bureau of Standards
- ii. Dr. Nicholas Muraguri - Principal Secretary, Ministry of Health
- iii. Mr. Joel Kamande - Secretary, Radiation Board of Kenya
- iv. Ms. Catherine Wairi-Mturi – Managing Director, Kenya Ports Authority

The evidence adduced by these witnesses is captured in Section 3.0 of this Report. The Committee Minutes on these deliberations are annexed to the Report.

The Committee also pursuant to Article 229 of the Constitution, wrote to the Auditor General on 19th June, 2016 to request for a Special Audit Report on the said Tender. The Findings of the Auditor General laid on the table of the House on 11th February, 2016, are also captured in Section 3.0 of this Report.

The Committee also sent a nine-member delegation on a fact-finding mission to Tokyo, Japan to gather evidence from the directors and managements of various organizations. The visit was undertaken from 28th May to 6th June, 2016. The details of the Committee's findings in Tokyo are captured in Section 4.0 of this Report.

In addition, the records of evidence adduced, documents and notes received by the Committee form the basis of the Committee's Observations and Recommendations as outlined in the Report.

In making its Observations and Recommendations, the Committee also made reference to the provisions of the Constitution of Kenya 2010, the Standards Act Cap 496, Legal Notice No. 78 of 15th July 2005, the now repealed Public Procurement and Asset Disposal Act, 2005, the Radiation Protection Act Cap 243 and the Statutory Instruments Act, 2013.

These Observations and Recommendations, if taken into account and implemented, will enhance accountability, effectiveness, transparency, efficiency, prudent investment and financial management in state corporations and as a guide in future procurements.

1.5 Committee General Observations

From the oral and written evidence submitted, the Committee made the following observations and findings-

- (i) **THAT, the action by Kenya's Ambassador to Japan, H.E. Ambassador Solomon K Maina, to write a letter to KEBS recommending JEVIC, though undertaken in good faith, portrayed the Embassy in bad light, since it may be construed as an inappropriate influence on the tender by the Ambassador, contrary to provisions of Section 38 of the Public Procurement and Disposal Act 2005.**
- (ii) **THAT, similarly, the request by Mr. Damson Jackson, the Managing Director of JEVIC to the Kenyan Embassy to issue the Company with a letter of recommendation reflecting collaborative activities so as to support JEVIC's bid for the tender, was an act of inappropriate influence on tender evaluation contrary to the provisions of Section 38 (1a) of the Public Procurement and Disposal Act 2005.**
- (iii) **THAT, JEVIC was first awarded the tender to offer pre-export inspection of used vehicles to determine conformity to the requirements of the KS 1515:2000 by the Kenya Bureau of Standards (KEBS) in 2008. In 2011, the Company was again awarded a further 4-year contract with two other motor vehicle inspection companies; Auto Terminal Japan (ATJ) and Quality Inspection Services Inc. Japan (QISJ), until January 2015.**
- (iv) **THAT, in the year 2014, JEVIC was accused of permitting radioactive contaminated vehicles into Kenya when a high radioactive reading was found to be coming from a container with four second hand vehicles at the Port of Mombasa. In a letter dated 14th June 2016, JEVIC admitted that it inspected two out of the four vehicles and the other two extremely radioactive contaminated vehicles were inspected by another company.**
- (v) **THAT, following complaints and investigations of letting in defective and overage vehicles into the country, against the regulations, KEBS terminated its contract with JEVIC in August, 2014, four (4) months before the end of the contract period.**

- (vi) THAT, during bidding for Tender No. KEBS/T057/ 2014-2015, KEBS issued a notice to extend the contract for the other two companies Auto Terminal Japan (ATJ) and Quality Inspection Services Inc. Japan (QISJ), for three months (90 days) to allow for completion of the procurement process and left out JEVIC.
- (vii) THAT, JEVIC tendered for the current KEBS contract Tender No. KEBS/T057/ 2014-2015 and was among the three shortlisted companies of technical evaluation stage. The Company, however, failed to progress further at the financial evaluation stage of the tender that was awarded to QISJ. JEVIC appealed against the award but the appeal was dismissed by the Public Procurement Administrative Review Board.
- (viii) THAT, JEVIC is among the companies listed by Japan Harbour and Transport Association (JHTA) to offer motor vehicle pre-shipment inspection services.
- (ix) THAT, not all companies legally providing motor vehicle and radiation inspection services in Japan are accredited by the Japan Accreditation Board (JAB). JAB views the accreditation as an opportunity to spread the use of conformity assessment systems to spur their adoption to improve the quality of Japanese products. JAB, industrial groups and other Japanese agencies use accreditation and certification systems to promote to international standards, their products and services as part of Japan revitalization strategy and not necessarily to regulate the industry players.
- (x) THAT, Auto Terminal Japan (ATJ) is not listed by Japan Harbour and Transport Association (JHTA) as one of its radiation inspection firms at the ports of Japan. However, the Company is accredited to offer motor vehicle pre-shipment inspection and radiation inspection.
- (xi) THAT, ATJ tendered for the KEBS/T057/2014-2015 tender but was disqualified during the financial evaluation stage on grounds that it did not attach a valid and current tax compliance certificate. The certificate attached was for the period 1st October 2012 to 30th September 2013. The Request for Proposal did not state nor require that the tax compliance certificate must be for the immediate past year, furthermore at the time of opening the tender on 24th November 2014, no taxes were still due to be paid by ATJ since the taxes for the period 1st October 2013 to 30th September 2014 were still due to be paid on 30th November, 2014.
- (xii) THAT, Mr. Kiyooki Hatano, the Managing Director of QISJ was Managing Director and a Director of Jan's Trading Company Ltd from 24th July 2007 to 6th January 2010. He, however, relinquished his Directorship of Jan's Trading Company Ltd for personal reasons from 1st July 2009 and was regularized on 6th January 2010 by Yokohama District Legal Affairs Bureau Kanagawa Office through a certificate of closure of matter reference number TA128673.
- (xiii) THAT, QISJ was incorporated on 22nd July, 2009 under company corporate registration no. 0200-01-062427 with 1,600 as the aggregate number of issuable shares out of which 400 shares were the aggregate number of issued shares and capital of

JPY 20,000,000. The company established a branch in the United Kingdom on 21st February 2012 and another branch in the United Arab Emirates on 21st February 2013.

- (xiv) THAT, QISJ demonstrated that it has the required competence in personnel, equipment and procedures needed to offer motor vehicle inspection services. The company conducts the inspection in its own facilities or those leased from other inspection companies.
- (xv) THAT, QISJ rejected a total of twenty-three (23) vehicles between March 2015 and February 2016 contaminated with radiations.
- (xvi) THAT, on the issue of de-listing of QISJ by the Japan Harbour Transport Association, QISJ demonstrated to the Committee via email dated 5th October 2015 from JHTA, that the Association does not issue licences for radiation inspection because there is no official license based on the laws in Japan for an inspection body to conduct radiation inspection on used motor vehicles and machinery in the port area.
- (xvii) THAT, it is evident pursuant to the Legal Notice No. 78 of 2005, Kenya Bureau of Standards prepared the terms and conditions of contract for inspection of motor vehicles which include checking of presence of radioactive materials without consulting the Radiation Protection Board; at the time of appearing before the Committee, the Radiation Protection Board was not aware of the inspection contracts by KEBS and its suppliers.
- (xviii) THAT, the Kenya Bureau of Standards being in cognizance of the existence of the Radiation Act has chosen to ignore a crucial body that has the technical capacity to advice on matters of radiation. KEBS ought to have at least consulted the Radiation Board when coming up with the Terms of Reference for the supplier of the service.
- (xix) THAT, Section 7(a) of the Radiation Protection Act Cap 243 provides one of the functions of the Radiation Protection Board as *“to advice the Minister on matters relating to radiation protection and radioactive waste disposal.”* Further, Section 14(1)(a) of the Act gives the powers to the Chief Radiation Officer to enter, inspect and examine any premises or part thereof, both, motor vehicle, vessel, aircraft or any other vehicle in or upon which he has reasonable cause to believe that irradiation device, radio-active material or any other source of ionizing radiation is stored, used, transported or disposed.

It is therefore evident that there is a conflict between the Legal Notice No. 78 of 2005 and the Radiation Protection Act. When coming up with the Regulations, the Government ought to have been cognizant of the existence of Cap 243 which prevails in case of any inconsistency.

- (xx) THAT, from an analysis of the Functions of the Bureau under section 5 and the powers of the Council under section 7 of the Standards Act, none of the functions includes radiation protection analysis. The Regulation therefore amounts to casting a net too wide under a general provision of Section 20 that gives the Cabinet Secretary responsible for matters related to Standards, the power to make Regulations.

Section 20 of the Standards Act which is a general provision ought to have been exercised within the confines of the Functions of the Bureau and the powers of the Council and the same cannot override the substantive provisions of section 7 and 14 of the Radiation Protection Act.

- (xxi) THAT, it is also evident that the Legal Notice was issued on 15th July 2005; Legal Notices are deemed to expire ten years after making of the instrument with one extension; the 2005 Legal Notice has therefore expired by dint of Section 21 of the Statutory Instruments Act.

1.6 Committee General Recommendations

From the evidence adduced (oral and written) and the observations, the Committee recommends as follows:

- (i) THAT, to minimize unmerited litigation by losing bidders, KEBS should have a register of service providers who are pre-qualified through a due diligence exercise to ensure that only companies with required competence and experience to undertake inspection are invited to bid for future contracts.
- (ii) THAT, in order to ensure that a contracted company has a long-term commitment to inspection and keep off speculative bidders, KEBS should set minimum requirements for full ownership of inspection facilities by the inspection companies based on the proportion of the number of vehicles coming from each country. It is recommended that the inspection company should fully own at least fifteen (15) facilities in Japan, three (3) in the United Kingdom and one (1) in the United Arab Emirates, distributed in major ports and towns. Leases in these towns can only be allowed to supplement fully owned facilities. KEBS should properly evaluate ownership of these facilities.
- (iii) THAT, having noted that the inspection services provider does not have custody of the motor-vehicles after inspection, KEBS and the inspection company should institute a system of preventing and detecting tampering after inspection, including penalties/punitive measures against those exporters who have been found to have tampered with already inspected vehicles.
- (iv) THAT, Kenya Bureau of Standards and its appointed inspections service provider should evaluate possibilities of signing agreements with logistics service providers in the country of origin to ensure that custody of inspected vehicles is changed from exporter to the shipping company and it is moved to the port of exit immediately after inspection.

- (v) THAT, the Kenya Bureau of Standards should endeavour to prepare the terms and conditions of any contract for inspection of motor vehicles which includes checking of presence of radioactive materials in consultation with the Kenya Radiation Board which has technical capacity to advice on matters in relation to radiation.
- (vi) THAT, there is need to harmonize Legal Notice No. 78 of 2005 and the Radiation Protection Act; when coming up with the Regulations, the Government ought to be cognizant of the existence of Cap 243 which prevails in case of any inconsistency; the government should always endeavour to harmonize statutory instruments with existing legislations to avoid inconsistencies at all times.
- (vii) THAT, there is need to renew Legal Notice no. 78 of 15th July 2005 to conform with Section 21 of the Statutory Instruments Act on expiry of legal notices.
- (viii) THAT the Radiation Protection Board in consultation with the Office of the Attorney General should fast tract amendments to the Radiation Protection Act in order to give the Board adequate powers to deal with matters related to radiation in all aspects including motor vehicle inspection at all points of entry into Kenya.

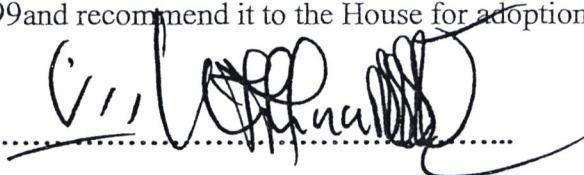
1.7 Acknowledgement

The Committee wishes to record its appreciation to the Office of the Speaker and the Clerk of the National Assembly for facilitating the work of the Committee in fulfilment of its mandate. The Committee is also grateful to all the witnesses who appeared and adduced evidence before it. Further, the Committee is grateful to the Staffs of: Parliament, Office of the Auditor-General, the Inspectorate of State Corporations and the National Treasury for the services they rendered to the Committee. It is their commitment and dedication to duty that made the work of the Committee and production of this Report possible.

We also acknowledge and thank the Ministry of Foreign Affairs and especially H.E Ambassador Solomon. K Maina, Kenya's Ambassador to Japan for securing appointments for the Committee with the various relevant agencies/companies in Japan which facilitated the Committee to meet the objectives of the visit.

It is now my pleasant duty and privilege, on behalf of the members of the delegation to table this Special Report on the inquiry into the allegations of procurement irregularities in the award of the Kenya Bureau of Standards (KEBS) Tender No. KEBS/T057/2014-2015 for The Provision of Pre-Export Inspection Services for Used Motor Vehicles pursuant to Standing Order 199 and recommend it to the House for adoption.

SIGN:



DATE:

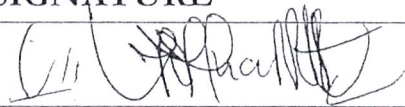
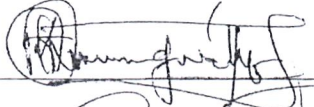
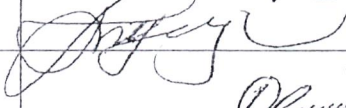
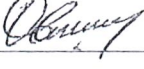
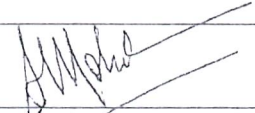
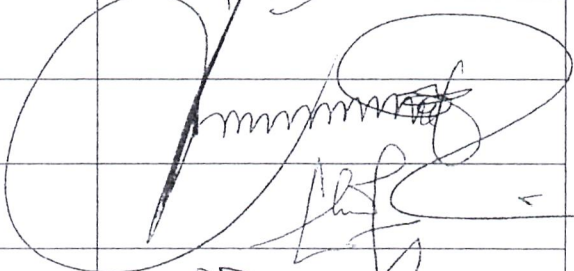
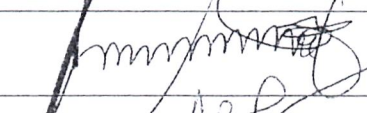
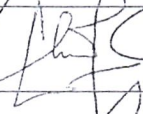


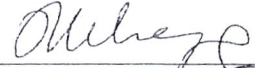
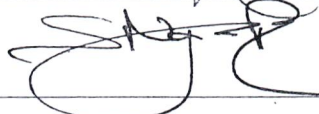

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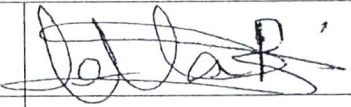
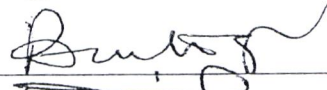
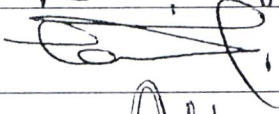
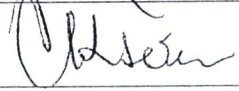
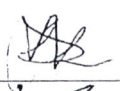
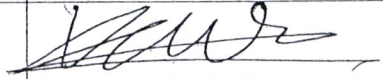
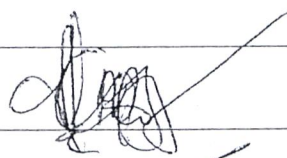
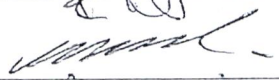
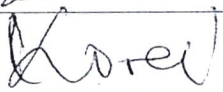
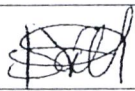

HON. ADAN WEHLIYE KEYNAN, CBS, MP
CHAIRPERSON

PUBLIC INVESTMENTS COMMITTEE

THE SPECIAL REPORT ON THE INQUIRY INTO THE ALLEGATIONS
OF PROCUREMENT IRREGULARITIES IN THE AWARD OF THE
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FOR THE PROVISION OF PRE-EXPORT INSPECTION SERVICES FOR
USED MOTOR VEHICLES

DATE: 18/11/2016

	NAME	SIGNATURE
1.	Hon. Adan Wehliye Keynan, CBS, MP	
2.	Hon. Anthony Kimani Ichung'wah, MP	
3.	Hon. Francis Mwanzia Nyenze, EGH, MP	
4.	Hon. (Dr.) Oburu Oginga, MGH, MP	
5.	Hon. (CPA) Thomas Ludindi Mwadeghu, CBS, MP	
6.	Hon. Adan Mohammed Nooru, MP	
7.	Hon. Franklin Linturi Mithika, MP	
8.	Hon. Athanas Wafula Wamunyinyi, MP	
9.	Hon. Elias Bare Shill, MP	
10.	Hon. Sammy Silas Komen Mwaita, MP	
11.	Hon. John Olago Aluoch, MP	
12.	Hon. (Dr.) Paul Nyongesa Otuoma, EGH, MP	
13.	Hon. (Eng.) John Kiragu, MP	
14.	Hon. (Eng.) Stephen Ngare, MP	
15.	Hon. Abdullswamad Sheriff Nassir, MP	

16.	Hon. Beatrice Nkatha Nyaga, HSC, MP	
17.	Hon. Bernard Munywoki Kitungi, MP	
18.	Hon. Chrisanthus Wamalwa, CBS, MP	
19.	Hon. Cornelly Serem, MP	
20.	Hon. Dorcas Kedogo, MP	
21.	Hon. Irungu Kang'ata, MP	
22.	Hon. Johana Kipyegon Ng'eno, MP	
23.	Hon. John Muchiri Nyaga, HSC, MP	
24.	Hon. John Ogutu Omondi, MP	
25.	Hon. Korei Ole Lemein, MP	
26.	Hon. Mary Sally Keraa, MP	
27.	Hon. Onesmus Muthomi Njuki, MP	

2.0 BACKGROUND INFORMATION

2.1 The Underpinning Legal Framework

The Kenya Bureau of Standards (KEBS) is a statutory body responsible for governing and maintaining the standards and practices of metrology in Kenya. It was established by Act of Parliament, the Standards Act, Chapter 496 of the Laws of Kenya. KEBS started operations in July 1974.

The Kenya Bureau of Standards is mandated to conduct quality inspection on all goods imported to Kenya including used motor vehicles. The inspection of imports into the Kenya market commenced on 1st July 1995 following the gazette of Legal Notice No. 227 of 14th June 1995 by the then Minister for Commerce and Industry. Subsequent Legal Notices have since been issued by the Government to ensure all imports to Kenya meet set Kenyan standards and other standards as approved by KEBS. Pursuant to the provisions of Legal Notice No. 66 of 10th June 1999, all imports which do not meet the set standards are prohibited imports.

Further, the KEBS tender for provision of pre-export inspection services of used motor vehicles is legally underpinned by the provisions of Article 227 of the Constitution of Kenya 2010; the Standards Act Cap 496; the Legal Notice No. 78 of 15th July 2005; the now repealed Public Procurement and Asset Disposal Act, 2005; the Radiation Protection Act Cap 243; the Statutory Instruments Act, 2013; and the Public Procurement and Asset Disposal Regulations 2006 among other legal and statutory instruments.

KEBS Code of Practice - KS1515:2000

The KEBS pre-export inspection of used vehicles is required to conform to KS 1515:2000 - Kenya Standard Code of Practice for Inspection of Road Vehicles.

KEBS appoints vehicle inspection companies in Japan, United Kingdom, United Arab Emirates and the Republic of South Africa to inspect vehicles prior to export to Kenya. The inspections are a mandatory requirement conducted pursuant to the provisions of Legal Notice 78 of 15/07/2005.

The areas of motor vehicle inspection under the Kenya Standard KS 1515:2000 Code of Practice for Inspection of Road Vehicles are:

- a) **Age Limit: - The inspection for age limit include**
 - (i) The vehicle shall be less than 8 years from the year of first registration.
 - (ii) The difference between the year of manufacture and the year of first registration shall not be more than one year
- b) **The Drive: - The vehicle shall be Right Hand Drive (RHD).**
- c) **Road –Worthiness: - This includes safety requirements, electrical and mechanical conditions of the vehicle.**
- d) **Prohibition of Modified Vehicles: -Modified vehicles are not allowed to be exported to Kenya**

- e) **Odometer Checking:** - The inspection firm is to ensure that the odometer is correct and there is no tampering with the odometer reading.

Further, due to the nuclear disaster at the Fukushima Daiichi Nuclear Power Plant in Japan in the year 2011, radiation inspection has become a critical requirement on the ports of Japan to ensure all goods including motor vehicles exported from Japan are not contaminated with radioactive materials.

2.3 The KEBS Tender No. KEBS/T057/2014-2015

The Kenya Bureau of Standards (KEBS's) Tender No. KEBS/T057/2014-2015 for the provision of pre-export inspection services for used motor vehicles was occasioned by the expiry of the previous tender which was awarded to three companies namely: Auto Terminal Japan Ltd (ATJ); Japan Export Inspection Centre Co. Ltd (JEVIC); and Quality Inspection Services Inc. Japan (QISJ) on 6th January 2012 starting from 16th January 2012 for a period of three years to January 2015.

The KEBS's Tender No. KEBS/T057/2014-2015 was awarded to QISJ as the sole service provider of used motor vehicle pre-export inspection services for a period of 36 months (3 years) effective 1st March 2015 at a contract sum of US\$ 34,787,400.

3.0 SUBMISSIONS BY OFFICIALS FROM GOVERNMENT AGENCIES

This Sections contains evidence submitted both orally and in writing by the following witnesses from the various government agencies: who were invited to make submissions and adduce evidence on the matter.:

- i. Managing Director, Kenya Bureau of Standards;
- ii. Managing Director, Kenya Ports Authority;
- iii. Secretary/CEO, Radiation Protection Board; and
- iv. Principal Secretary, Ministry of Health.

This Section also contains the findings of the Auditor General following a request by the Committee for a special audit to be carried out on the tender to establish adherence to the public procurement law and value for money following award of tender to the Quality Inspection Services Inc. Japan.

The observations/findings on each of the witness submission is also presented.

3.1 Evidence by Mr. Charles Ongwae, Managing Director, Kenya Bureau of Standards

Mr. Charles O. Ongwae, Managing Director, Kenya Bureau of Standards (KEBS), accompanied by Ms. Rhoda Kitui, Ag Head Procurement; Mr. Louise M. Racing, Legal Officer; Dr. Henry Kibet Rotich, Chief Officer, Research & Development; Mr. George Yichang, Legal Counsel; Mr. Simon Njoroge, Advocate and Mr. Samuel Omollo, Member, Tender Processing Committee appeared before the Committee on 12th February, 2015 and 26th May, 2016 to adduce evidence on the procurement process of the Motor Vehicle Pre-shipment Inspection Tender.

He submitted that-

1. The tenderers were required to meet the requirements of KS 1515:2000, which is a code of practice for inspection of road vehicles. The standard specifies general safety and environmental requirements for road vehicles. The payment for this technical (inspection) service is paid for by the importer of such road vehicles to the country. KEBS is the appointed administrator of this service on behalf of the Government. KEBS collects an administration fee to cover its costs and this fee is inclusive in the amount charged to the importer.
2. Due to safety and environmental considerations, a premium is placed on technical evaluation of the subject Request for Proposal;
3. The administration fee is incidental and not the main objective for procuring or awarding the subject tender i.e. it's not to generate profits or revenue for KEBS but a public function;
4. KEBS had faced the challenges with respect to inspection of road vehicles in terms of import of overage vehicles, import of Radioactive vehicles and import of defective vehicles, and so KEBS placed a significance on the Tenderer's capacity to ensure only vehicles meeting the KS 1515:2000 enter the country;

Overview of the Tendering Process

5. KEBS advertised in The Daily Nation and The Standard on 23rd October 2014 and on the KEBS website for 30 days. **(Appendix 1)**
6. As per the tender register, thirteen (13) tender documents were bought by potential bidders. Bidders sought clarification and an addendum was issued on 10th November 2014 accordingly addressing the queries raised.
7. On 19th November, 2014, the Tender Opening Committee was appointed by KEBS Managing Director to open the Tender No. KEBS/T057/2014/2015 as per regulation 60(1) of the PPDA. **(Appendix 2)**
8. The opening of the tender was done on 24th November 2014 at KEBS Headquarters Block A, Canteen before the various stakeholders. Seven bidders responded i.e. East Africa Automobile Services Co. Ltd (EAA); Bureau Veritas (BV); Quality Inspection Services Inc. Japan (QISJ); Auto Terminal Japan Ltd (ATJ); Wilna International Co. Ltd, Japan Auto Appraisal Institute (JAAI) and Japan Export Vehicle Inspection Centre Company Ltd (JEVIC). Thereafter the Tendering Processing Committee (TPC) was appointed by KEBS MD on 24th November 2014 to conduct the evaluations of the bids.
9. The evaluations were carried out at Kilaguni Resort, Mtito Andei in three (3) phases: a) Preliminary b) Technical and c) Financial. The choice of location was meant to eliminate interference of the evaluation process.
10. The bids from Bureau Veritas, Auto Terminal Japan and Wilna International Company Limited were considered non-responsive and thus were disqualified.

Technical Evaluation

11. From the results of the Technical evaluation, the Tender Processing Committee found East Africa Automobile Services, bidder no. 1; Bidder 3, Quality inspection Services Inc. Japan and bidder 7, Japan Export Vehicle Inspection Centre Company Limited attained the minimum score of 70 marks, which was required to proceed to the Financial Stage.

Financial Evaluation

12. On 3rd December 2014, the Tendering Process Committee carried out the opening of the financial bids at KEBS Headquarters Boardroom.
13. The Financial Evaluation is subject to a maximum score of 20 marks. The Tendering Committee noted that KEBS had set the minimum administration fee at USD 40 per vehicle. Any bidder proposing less than this would be deemed as un-responsive. Therefore, the proposals would be evaluated on the administration fee as follows
 - a) Less than USD 40 –nil
 - b) At USD 40- 15 marks
 - c) Greater than USD 40- 20 marks

14. The three bidders were ranked against their performance on financial criteria, the Overall score (OS); a sum of Technical score (TS) and Financial Score (FS) as follows

	Technical (TS)	Financial (FS)	Overall Score (OS)
East Africa Automobile Services Co. Ltd	72	20	92
Quality Inspection Services Inc. Japan.	78	20	98
Japan Export Vehicle Inspection Company	71	20	91

Tender Award

15. On the basis of their performance, Quality Inspection Services Inc. Japan (QISJ) by attaining an overall score of 98, QISJ were awarded the contract as per their bid proposal.
16. Under the contract, QISJ is required to carry out the inspection based on Kenya Standard KS 1515:2000 Code of Practice for Motor Vehicle Inspection of Road Vehicles. The areas of inspection under the standard are:
- (i) Age limit – this shall be less than 8 years from the year of first registration
 - (ii) The difference between the year of manufacture and the year of first registration shall not be more than 1 year.
 - (iii) The Drive – the vehicle should be right hand drive.
 - (iv) Road worthiness – this includes safety requirements, electrical and mechanical conditions.
 - (v) Prohibition of modified Vehicles - modified motor vehicles are not allowed in Kenya.
 - (vi) Odometer Checking.
17. The Contract with QISJ was signed on 2nd February 2015 and became effective from March 1st for 36 months.

Appeal by JEVIC and EAA

18. JEVIC and EAA filed requests for review of the KEBS decision to award the tender to Quality Inspection Service Inc. Japan with Public Procurement Oversight Authority on 22nd December 2014 while Auto Terminal Japan filed theirs on 20th December 2014.
19. During KEBS first appearance on 12th January 2015 at PPARB hearing, it was apparent that the review process would not be concluded by 15th January 2015 when the current contracts for motor vehicle inspection were expiring. KEBS made a decision through the Tender Committee to extend the Motor Vehicle Inspection contracts for a period of 90 days for two of the three service providers on the basis of performance.

20. JEVIC challenged its exclusion from the contract extension (90 days) and a notice of termination of their contract via KEBS letter dated 21st July 2014.
21. The Public Procurement Administrative Review Board (PPARB) dismissed all three appeals on 28th January 2015 and KEBS cleared to finalize the contract with QISJ.

Due Diligence Conducted

22. As resolved in the Tender Committee, a letter of award was sent to Quality Inspection Services Inc. Japan on 15th December 2014 and at the same time others sent to unsuccessful bidders. As per the Tender Committee resolution to do due diligence to be carried out before the contract is signed, the Tendering Processing Committee travelled to Japan, UAE and UK in December 2014 to perform it. The KEBS Audit Team also visited Japan in August 2015 to confirm the scope of operations of the Company.
23. The due diligence report by both teams confirmed that QISJ has the capacity to carry out pre-shipment inspection of motor vehicles for the next 36 months.
24. After the award of the tender in March 2015, other government bodies have also conducted due diligence visits, namely: -
 - (i) Principal Secretary, Ministry of Industrialization and Enterprise Development together with the Chairman of the National Standards Council and KEBS senior staff from 6th to 13th June 2015 visited the QISJ offices in Japan to understand the operations of the Company with respect to technical capacity;
 - (ii) Members of the National Standards Council and KEBS senior staff visited the Company in Japan to check on the capacity of the Company to undertake radiation checks in October, 2015. The team found QISJ performance as satisfactory.
 - (iii) Officers from the Auditor General Office visited QISJ offices in Japan in September 2015 and did a report.

Technical Capacity of QISJ

25. KEBS ascertained the technical capacity of QISJ during the tender process by evaluating their bid documents and in addition carrying out due diligence visit.
26. QISJ is a type A ISO/IEC 17020:2012 accredited body by Japan Accreditation Board since 2010.
27. The Company has 33 facilities for inspection of motor vehicles and 47 members of staff stationed around the testing centres in Japan. In addition, it has offices in the United Kingdom, Dubai and South Africa.
28. The performance of QISJ with respect to inspection of motor vehicles is evaluated once every year by KEBS at the various locations of its operations. An audit on this Company was done in August 2015 and was found to be operating within scope.

Physical Location and Directors of QISJ

29. QISJ is a company that exists and has offices in Japan, United Kingdom and South Africa. The various KEBS teams have confirmed the physical presence of these offices.
30. The Directors of QISJ are
 - (i) Mr. Kiyooki Hatano - Japanese
 - (ii) Mr. Hashim Hassan - British
 - (iii) Mr. Salem SaiphEbrahim Bin Touq Al Mansouri – UAE

Alleged conflict of interest of QISJ as a motor-vehicle dealer and as an inspector

31. The MD KEBS denied knowledge of any conflict of interest of QISJ and any dealings of QISJ as a dealer of motor vehicles. In the bid documents, a sworn statement on the issue of conflict of interest was attached as required in the tender document.
32. KEBS has instituted a number of measures to prevent tampering of motor vehicles after inspection. The roadworthiness certificate captures the actual mileage as read in the odometer at the time of inspection.

Committee Observations

The Committee observed that-

- (i) the Kenya Bureau of Standards management adhered to the provisions of the PublicProcurement and Disposal Act in processing Tender No. KEBS/T057/2014-2015 for the provision of motor vehicle pre-export inspection services.
- (ii) The appeal by JEVIC and EAAfor review of KEBS decision to award the tender to Quality Inspection Service Inc. Japan was dismissed by the Public Procurement Administrative Review Board on 28th January 2015, thereby allowing KEBS to finalize the contract with QISJ.
- (iii) Various government agencies including KEBS Tender Processing Committee and the Audit Committee conducted due diligence visits to ascertain the technical capacity of QISJ to carry out the tender arrived at the conclusion that indeed the Company has the capacity to carry out the inspection in accordance with Kenya Standard KS 1515:2000 - Code of Practice for Motor Vehicle Inspection of Road Vehicles.

3.2 Evidence by Ms. Catherine Wairi-Mturi, Managing Director, Kenya Port Authority

Ms. Catherine Wairi-Mturi, the Managing Director Kenya Ports Authority (KPA) accompanied by Patrick Nyoike General Manager Finance, Eng. A.M Samatar, General Manager Engineering, and Mr. Geoffrey Kavate, Accountant appeared before the Committee on 19th August, 2016 to adduce evidence on Inspection of Imported Motor Vehicles for Radiation Contamination.

She submitted that the KPA together with other government agencies has put in place various measures to protect the country from entry of radioactive contaminated vehicles. These include: -

Implementation of Second Line of Defence (SLD) Megaports Initiative Program

1. Second Line of Defence (SLD) Megaports Initiative Program is a key component of a multi-agency, multi-layered, defensive network that strengthens the overall capability of partner countries to deter, detect, and interdict illicit trafficking in special nuclear and other radioactive materials at key international seaports. This program is part of the Office of International Material Protection and Cooperation in the U.S. Department of Energy's National Nuclear Security Administration (DOE/NNSA).
2. The US Department of Energy (DOE) is the partner agency in the SLD program and has provided equipment (Radiation Portal Monitors – RPM) where all imported containers through the Port of Mombasa are expected to pass through. The Intergovernmental MoU between the Kenya Government and the United States of America was signed on 1st April 2009 while that of the Partner Agencies (Kenya Revenue Authority, KRA, Radiation Protection Board and Kenya Maritime Authority) on 14th January 2010.
3. Under the program 11 Radiation Portal Monitors (RPM) were installed at various locations near the berths and at the gates at the Port of Mombasa. The RPMs became fully operational on February 28, 2011.

Overview of the MoU between the Government of US and the Government of Kenya under the Second Line of Defence Megaports Initiative

The main objective of the MoU is to establish a cooperation mechanism to prevent the illicit trafficking in nuclear and other radioactive material.

Scope of Cooperation

4. The scope is as follows -
 - (i) Technical assistance in the form of equipment, material and training at the points of entry/exit for detecting and interdicting illicit trafficking in special nuclear material and other radioactive material
 - (ii) Installation at selected locations of equipment adapted as appropriate for customs control conditions.
 - (iii) Delivery of spare kit, test equipment and other maintenance equipment.

(iv) Technical support for maintenance.

Protection against Radiation for Imported Motor-Vehicles

5. Kenya Radiation Protection Board Management (KRPB) works together with the Kenya Bureau of Standards (KEBS) to inspect vehicles imported in the Kenyan market for clearance of such vehicles against radiation contamination from the source country.
6. Technical and regulatory standards are managed by Kenya Bureau of Standards (KEBS). The Pre-export verification of conformity (PVoC) is based on Article 5 of World Trade Organization – Technical Barriers to Trade (WTO-TBT) agreement, managed by KEBS on behalf of the Kenya Government concerning goods exported to Kenya. PVoC's are carried out by verification agents appointed by KEBS.
7. The overall objective of PVoC is to minimize the risk of unsafe and substandard goods entering Kenyan market, thus ensuring health, safety and environmental protection for Kenyans. The KEBS also works with several approved inspection companies globally for inspection of vehicles intended for import into Kenya.

Action taken by KPA following impounding of a Container at Kilindini Port in January 2013 that was found to be contaminated with Radioactive materials above acceptable levels.

8. On 26th January 2013 container number PONU7244724 (1x40') containing five motor vehicles imported by M/s Ali Baba Motors Limited was detected by Radiation Portal Monitors at lane 3 berth 16, of having significant levels of radioactivity.
9. The Kenya RPB officials subjected the container to secondary and tertiary inspection upon which the survey meters picked hot spots on both sides of the container and confirmed presence of radiation contamination. According to the RPB the Isotope Identifier showed presence of ¹³Cs and ²²⁶Ra radioisotopes at an average of 2000 Counts per Second.
10. The radioactivity levels were beyond acceptable level, subsequently RPB advised KRA Customs to compel the importer to immediately re-ship the consignment in order to protect the Kenyan public from exposure in accordance with CAP 243 Sec. 8(1), b, c, d, Sec. 8(2) and Sec. 18 a, b Laws of Kenya. KPA's main role in this particular incident was in the safe storage of the container at an isolated location before it was eventually shipped out of the country. The container was eventually re-shipped to its country of origin after a lengthy engagement with the importer.
11. Despite issuance of PVoC Certificates for motor vehicles at port of origin by KEBS appointed inspection companies, KRPB now conducts additional radiation checks upon arrival of the units at the Port of Mombasa, especially if they are from Japan to mitigate against future radiation risks.

Overview of the Inter-Agency Agreement under the Megaports Initiative: KRA, KPA, KRPB & KMA

Role of Kenya Revenue Authority

- (i) Facilitate deployment, installation and operation of equipment;
- (ii) Participate in technical workshops, site surveys and acceptance testing of radiation equipment;
- (iii) Designate operators in Central Alarm System (CAS) and One Stop Centre 24/7;
- (iv) Designate personnel for secondary work-station where Radiation Isotope Identification Device (RIID) scans are conducted;
- (v) Provide overall coordination relative to the project implementation.;
- (vi) Responsible for routine operation and maintenance of equipment;
- (vii) Designate appropriate personnel for the training of frontline officers and CAS operators; and
- (viii) Develop with other stakeholders' domestic response procedures and protocols in the operations of the installed alarm systems.

Role of Kenya Ports Authority

- (i) Facilitate deployment, installation and operation of the equipment;
- (ii) Develop domestic response procedures and protocols for the operations of the installed alarm systems;
- (iii) Supervise and manage the construction of necessary infrastructure for equipment infrastructure;
- (iv) Be responsible for security of equipment supplied;
- (v) Liaise with KRA to provide facilities and services for the training of personnel in the Project;
- (vi) Provide space for CAS and Megaports Server;
- (vii) Provide spaces for the construction of Radiation Portal Monitor (RPMs); and
- (viii) Provide operators to be trained in the operation and oversight function of the window CAS

Role of Radiation Protection Board

- (i) Facilitate and ensure testing and calibration of radiation detection equipment;
- (ii) Available for consultation and technical assistance in the identification of Radiation sources on a need basis;
- (iii) Respond promptly in event of nuclear material and other radioactive material to ensure cargo flows;
- (iv) Designate personnel for training; and

- (v) Develop domestic response procedures and protocols in the operation of the installed alarm systems.

Role of Kenya Maritime Authority

- (i) Participate in technical workshops, inspection and acceptance testing of Radiation equipment;
- (ii) Designate personnel for training; and
- (iii) Develop domestic response procedures and protocols in operations of the installed alarm systems

Committee Observations

The Committee observed that:-

- (i) On 26th January 2013, Container number PONU7244724 (1x40') containing five motor vehicles imported by M/s Ali Baba Motors Limited was detected by Radiation Portal Monitors at lane 3 berth 16 of having significant levels of radioactivity. The container was re-shipped to its country of origin, Japan after a lengthy engagement with the importer.
- (ii) Kenya has partnered with various agencies and governments including the United States Department of Energy to deter, detect, and interdict illicit trafficking in special nuclear and other radioactive materials at key international seaports. To this end, the Kenya Government and the United States of America signed an inter-governmental MoU on 1st April 2009 while Partner Agencies (Kenya Revenue Authority, Kenya Ports Authority, Radiation Protection Board and Kenya Maritime Authority) signed theirs on 14th January 2010.
- (iii) Under the Second Line of Defence (SLD) Megaports Initiative Program, 11 Radiation Portal Monitors (RPM) were installed at various locations near the berths and at the gates at the Port of Mombasa. The RPMs became fully operational on February 28, 2011. All imported containers through the Port of Mombasa are expected to pass through them.

3.3 Evidence by Mr. Joel Kamande, Secretary/CEO, Radiation Protection Board

Mr. Joel Kamande, the Secretary/CEO Radiation Protection Board accompanied by Prof. Erastus Gatebe appeared before the Committee on 4th August, 2016 to adduce evidence on the radiation inspection of motor vehicles.

He submitted as that-

Radiation Inspection of Motor Vehicles

1. Following the Fukushima Daiichi nuclear plant disaster of 12th March, 2011 in Japan, there was a worldwide concern that there would be contamination of consumer products and goods in Japan. Several months later after the nuclear accident, Europe, UK, USA, Republic of South Africa and other countries reported incidences of contaminated products and goods from Japan.

2. The Government of Kenya vide letter Ref. OP/CAB/.3/7A of 22nd August 2012 issued a goods communication radio alert to the relevant government agencies for necessary action. Fortunately, by this time the government had received a grant from the US government for installation of eleven radiation portal monitors at the port of Mombasa to screen all imports/export containerized cargo. Meanwhile, the Kenya Radiation Protection Board (RPB) had established an Inspectorate office at the port since 1990 again after the 1986 Chernobyl nuclear power accident in Ukraine of the then USSR.
3. The USA radiation portal monitors project is run by four government agencies namely: Kenya Revenue Authority, Kenya Ports Authority, Kenya Association of Manufacturers and Radiation Protection Board. A joint MoU spells out the duties of each of the agency and has an annexed Standard Operating Procedures (SOP).
4. On 26th January 2013, five (5) containerized used motor vehicle units at Berth 16 were detected by radiation portal monitors to be contaminated with radioactivity. The signature of the radiation was most likely from the Fukushima Daiichi nuclear accident. This consignment of cars had a KEBS certificate of road worthiness, which also indicated that they were from a “radiation free source in Japan”.
5. Given that most of the imported motor vehicles are brought in using Roll-on Roll off (RoRo) shipping vessels, the RPB was concerned that many imported vehicles could also be radio-contaminated. Consequently, RPB, KRA, KPA and KAM held consultative meetings and involved the stakeholders in the car import business to find ways of ensuring that all RoRo imported motor vehicles are screened for radiation emissions.
6. A Standard Operating Procedures (SOP) was finally adopted to ensure all motor vehicles entering Kenya either from local market, trans-shipment for transit are screened for radio-contamination. The exercise continues to date and is carried out in conjunction with radiation protection service providers certified by RPB. This is in order to avoid conflict of interest, since RPB is a regulator and not a service provider as required by the General Safety Requirements of the International Atomic Energy Agency (IAEA) to which Kenya is a member since 1965.
7. The other types of conventional goods are also screened for radioactivity to ensure public consumer health and safety, against standards published by IAEA and recognized under the Radiation Protection Act Cap.243 Laws of Kenya and Regulations thereunder.

Scope of Radiological contamination inspection of imported motor vehicles conducted by the Board at the Port of entry to guarantee public safety

8. The RPB has capacity and capability of itself and through Certified Technical Support Organisations (CTSOs) to screen imported vehicles and other goods for radiological contamination or radiation emissions. The Board also partners with KPA, KMA and KRA through an MoU to run the eleven installed Radiation Portal Monitors (RPMs) at the port which were provided as grant to Kenya by the US government in 2011.

contaminated, then a Rejection Form is issued to the officer-in-charge of the importing vessel for purposes of returning the contaminated motor vehicle to the country of origin.

(iii) The on-board radiation screening therefore ensures that motor vehicles with radiation emissions above public safety limits are barred from entering the country.

(iv) The fact that Kenya screens its imports (consumer products and motor vehicles) for radio-contamination also acts as a deterrent measure for importers from shipping in the goods that are harmful to local consumers.

Committee Observations

The Committee observed that: -

- (i) The Radiation Protection Board is the legally mandated body to protect the health and safety of people and the environment from the harmful effects of ionizing radiations from radiation sources. The Board meets its mandates through inspections, enforcing compliance with the Radiation Protection Act, licensing and registration of third parties (local radiation protection service providers) to undertake radiation inspections.
- (ii) The Board works in partnership with other government agencies namely Kenya Revenue Authority, Kenya Ports Authority, Kenya Bureau of Standards (KEBS) and Kenya Maritime Authority to inspect containerized imports and exports. A joint memorandum of understanding (MoU) developed spells out the duties of each of the agency with Standard Operating Procedures (SOPs).
- (iii) KEBS deviated from the Standard Operating Procedures for radiation inspection of imported motor-vehicles at the port and usurped the powers of RPB. This is by using service providers whose competence is unknown to the Board to undertake radiation inspection without involving the competent and legally responsible body i.e. Radiation Protection Board; RPB raised complaint to KEBS vide a letter Ref. RPB/CB/KBS/13/8 VOL.1 9(44) on 28th March, 2013.
- (iv) The Board is constrained in law and in its capacity to undertake radiation inspection surveillance at the ports of entry, thus the Board cannot give full assurance that all imported motor-vehicles and consumer goods imported into the country are free from radio-contamination.
- (v) The Board does not have adequate human resource capacity and financial resources to fully undertake its mandate of protecting the health and safety of people and the environment from the harmful effects of ionizing radiations from radiation sources.
- (vi) The Country does not have adequate skilled radiation experts and the few who are available and employed by the Board are also engaged in private practice as technical service providers to private companies registered to test for radiation at the ports. This creates a serious conflict of interest and casts doubts on the authenticity of radiation tests performed by the private companies at the ports.

3.4 Evidence by Dr. Nicholas Muraguri, Principal Secretary, Ministry of Health

Dr. Nicholas Muraguri, the Principal Secretary for Health accompanied by Prof. Erastus Gatebe (Chairperson, Radiation Protection Board), Mr. Saleh Bardad (Parliamentary Liaison Officer, Ministry of Health), Mr. Ibrahim ABM (Ministry of Health), Mr. Nixon Kirwa (Radiation Protection Board) and Mr. Joseph Maina (Radiation Protection Board) appeared before the Committee on 25th August, 2016 to adduce evidence on the matter of the Motor Vehicle Pre-Shipment Inspection Contract.

He submitted that: -

Role of the Ministry of Health in inspection of imported motor vehicles at the port of entry for possible radiation contamination

1. After the 1986 Chernobyl Nuclear Power Plant disaster in Ukraine, the Ministry operationalized the Radiation Protection Board (the Board). In three to four years, a branch of the radiation control inspectorate was opened at the port of Mombasa.
2. The objective was to carry out radio analysis of consumer foods imported into the country. The main focus then was on food items imported from Europe, Asia, and then the USSR. Milk powder imports were particularly targeted, considering that this product is used to make baby formula. It may be noted that growing children are more vulnerable to radiation damage.
3. At the time, the Board also continued to conduct random radiation checks on other types of goods. Since the early 1990s, the Board has consistently insisted on radio analysis of consumer products and has itself continued with random radiation checks on other goods, either as imports or for exports. Other countries to where Kenya exports bulk agricultural products have also demanded that a “radio contamination free” certificate, by the Board, accompanies the exports.
4. In 2010, the US Government entered into an MoU with the Kenya Government to install radiation portal monitors (RPM) at the port. However, the RPMs are only capable of detecting radioactive/nuclear materials in containerized cargo and continued to conduct random radiation checks on other goods including motor vehicles. This includes the period up to and beyond 2011 Japan nuclear electricity generation power disaster.
5. However, in January 2013, the RPM system detected radiation emissions from one container; ID PONU 7244724 (IX40) belonging to Alibaba Motors P.O Box 99967-80107 Mombasa, Kenya. The container was later scanned and found to contain 5 motor vehicles. Secondary radiation measurements by KRA and Tertiary measurements by the Board confirmed presence of nuclear related materials which were responsible for the radiation emissions.
6. Alibaba Motors Ltd was then advised through KRA to reshipe the container to its port of origin. It is at this point that Ali Baba objected and produced a “certificate of road worthiness” issued in Japan by JEVIC and KEBS stating under remarks “VERIFIED RADIATION FREE”.

7. Consultative meetings were then held amongst the stakeholders i.e. KRA, KPA, KEBS, KMA and the Board, where the Board insisted that the container should be reshipped to its port of origin.
8. There were suggestions by Alibaba that they should then be allowed to tranship the container to Tanzania arguing that three out of five vehicles in the container belonged to customers in Tanzania. However, the Board insisted that the container must be reshipped to Japan. Kenya is a member state of the International Atomic Energy Agency and in the spirit of collective responsibility must safeguard all nationalities from unnecessary and undue exposure to radiation.
9. As a result of the incident, the Ministry through the board called several meetings of stakeholders to discuss the incident and chart a way forward. The stakeholders included but not limited to; Kenya Car Importers Association, KMA, KRA, KPA, the Board, Clearing Agents and local radiation service providers.
10. It was then agreed that all imported motor vehicles be subjected to radiation checks and the exercise be carried on board the carrier ship by the local radiation protection service providers. All vehicles including those destined to neighbouring countries are checked. Those destined for Kenya are reprocessed for release by KRA but must first obtain the certificate of radioactivity free from the local radiation protection service providers, before the Board can advise KRA to release the vehicles.
11. This exercise was to be undertaken despite the fact that there are double checks for radiation emissions in Japan. The subject contaminated container cargo had also undergone a double check for radiation emissions in Japan, yet it set the RPM alarms off at the port of entry. This was the justification for the 100% radiation emission checks of car imports at the port of entry today.
12. Indeed, Kenya had in the past returned food consignments which were found to contain radio-contaminants after radio-analysis at the port of entry.
13. From January 2013 to date, a total of thirteen motor vehicles have been found to be radio-contaminated and have not been allowed into the country. In fact, when a vehicle is found to be contaminated it is not off-loaded from the carrier ship. Instead, a rejection note is issued to the ship captain who sails it back to the port of origin.
14. The IAEA basic safety standards require that a regulator in matters of ionizing radiation, like the Board, should not engage in radiation protection services, as this may result in conflict of interest. Technically, therefore, the Board cannot assume ownership of the Radiation Portal Monitors (RPM) at the port. The portals are under the KRA. Secondly, the board cannot purport to offer radiation protection services and can only review radio analytical results from the service providers for necessary action. The board however, continues to carry out random checks for purposes of quality control and audit.

Competence by Quality Inspection Services Japan (QISJ) to offer pre-shipment inspection services in conformity with Radiation Protection Act

1. The Ministry does not have jurisdiction over QISJ. Neither does any form of collaboration exist between QISJ and the Ministry. Agencies of the Ministry man the ports health offices to carry out various inspections and clearances, in order to safeguard the public from any harmful products. The Agencies include; Directorate of Public Health, Pharmacy and Poisons Board, and the Radiation Protection Board.
2. These agencies are responsible for ensuring the health and safety of consumer products at the point of entry even though such products may have foreign certification for imports.
3. It may be worthwhile to note that the Board is not privy to information on certification of goods by other agencies and conducts independent evaluations with information provided on IDI's and actual goods. Such independent evaluations are important, considering that goods may be shipped through third flag countries. Also, goods may be checked for worthiness at one physical point, in the country of origin, and shipped from another physical point in that country, i.e., subjecting the goods to environmental exposure within the country before shipment. Further, such goods may also be subjected to further "value correction" exercises after safety or worthiness tests and then shipped out.

Possible Link between the proliferation of cancer cases and importation of contaminated vehicles

4. There are no such reports and no studies have been undertaken. Generally speaking, such a study is untenable.
5. Radiation contaminated vehicles are isolated cases and cannot therefore generate adequate statistical data for analysis. Moreover, it would take many years to conclude such a study, if it were possible, since the latent period for some cancers are 20 to 30 years.
6. What is known though is that radiation is not capable of creating unique diseases. The kind if genetic mutations produced by radiation can be caused by other mutagenic agents, such as certain drugs, chemicals, or viral infections. Cells of cancer induced by radiation are indistinguishable from cells of cancers induced by other substances or activities in our environment. Further, high doses of radiation cause deterministic effects just like high doses of other mutagenic agents.

Coordination with various government agencies including Kenya Bureau of Standards in licensing of various Radiation Protection Service Providers

7. There exists a **Licensing and Technical Advisory Committee (LTAC)** under the Radiation Protection Board comprised of:
 - (i) Institute of Nuclear Science and Technology, University of Nairobi
 - (ii) Kenya Medical Research Institute
 - (iii) Kenya Bureau of Standards
 - (iv) National Intelligence Service
 - (v) Director of Medical Services

- (vi) Occupational Health and Safety Services Department
- (vii) National Commissions for Science and Technology
- (viii) Medical Practitioners and Dentist Board
- (ix) Kenya Medical Training College (KMTC) Lecturer
- (x) Society of Radiographers of Kenya
- (xi) National Environment Management Authority
- (xii) Attorney General's representative
- (xiii) Director of Public Prosecution's representative

8. The **Terms of Reference for the LTAC** include but are not limited to: -

- (i) Inventory and classification of radiation services, radioactive and nuclear materials, and facilities.
- (ii) Inspection protocols for Radiological facilities and Nuclear Safety.
- (iii) Radiation Protection Services and Technical Service Organizations.
- (iv) Licensing radiation facilities and workers and related Board registers.
- (v) Vetting of radiological and nuclear related activities, including radiation workers.
- (vi) Radiation Protection and Nuclear Safety Standards and Guidelines.
- (vii) International Atomic Energy Agency (IAEA) technical projects coordinated in the country.
- (viii) Other technical assistance and cooperation.
- (ix) Any other functions as may be directed by the Board.

9. There are relevant license application forms for various types of licenses including one for radiation protection service providers. Appropriate Inspection reports by the Radiation Control Inspectorate are attached to the license/certificate application form for consideration by the committee.

Committee Observations

The Committee observed that:

- (i) The Radiation Protection Board carries out quality control to ensure safety of the country from radiation.
- (ii) All vehicles imported into Kenya undergo double-check in Japan before being inspected at the port of Mombasa. Vehicles that do not conform to radiation standards are not offloaded.
- (iii) The involvement of Kenya Bureau of Standards in pre-shipment inspection to the exclusion of the Radiation Protection Board goes against the mandate of the Board.
- (iv) There is a need for harmonization between the Radiation Protection Act and the Legal Notice No.78 of 15 July 2005 with regards to the mandate of the Radiation Protection Board.
- (v) The Radiation Protection Board needs to be strengthened both financially and in human resource to be able to undertake its mandate effectively.

- (vi) The container ID PONU 7244724 (IX40) belonging to Alibaba Motors P.O Box 99967-80107 Mombasa, Kenya from which the RPM system detected radiation emissions was not re-shipped to Japan but was instead shipped to Tanzania.

3.5 Special Audit Report by the Auditor General

Following a request by the Committee on 19th June, 2015, the Auditor General conducted a Special Audit on Tender No. KEBS/T057/2014-2015 for Provision of Pre-Export Inspection for Use Motor-Vehicles and tabled his findings to the House on 11th February, 2016.

His findings are as follows:

Summary of Findings

Procurement Process Tender No. KEBS/T057/2014-2015

1. The procurement process for Tender No. KEBS/T057/2014-2015 commenced on 22nd August, 2014 just before the previous three existing contracts for the provision of pre-export inspection lapsed.
2. The procurement process was to source for a service provider to offer motor-vehicle inspection/verification services in accordance with Kenya Standard Code of Practice KS1515:2000 for inspection of road services.
3. On 23rd October 2014, KEBS advertised in the Daily Nation and the Standard newspapers the Request for Proposals (RFP) to offer motor vehicle inspection/verification services in accordance with Kenya Standard Code of Practice KS1515:2000 for inspection of motor vehicles. Thirteen (13) bidders bought the tender documents at Kshs. 1,000. An addendum was issued on 10th November, 2014 to clarify issues raised by bidders. A tender opening committee was appointed on 19th November, 2014 and the responses were opened on 24th November, 2014.
4. A tender evaluation committee was appointed on 24 November, 2014 and instructed to carry out both technical and financial evaluation, due diligence and inspection of Tender No. KEBS/T057/2014-2015 in strict adherence to the compliance and evaluation criteria set out in tender document and submit a report with recommendations by 1 December 2014.
5. Three (3) companies attained the minimum score of seventy (70) marks and therefore found to be technically responsive. The three responsive companies that therefore progressed to financial evaluation were:

Bidder No. 1: East Africa Automobile Services Company Ltd (EAA)

Bidder No. 3: Quality Inspection Services Inc. (Japan) (QISJ)

Bidder No. 7: Japan Export Vehicle Inspection Company (JEVIC)

6. Bidder No. 7 –JEVIC sought recommendations from the Kenyan Embassy in Japan vide letter Ref. KET/COM/17/XII dated 14November 2014 contrary to Section 38(a) and (b) of the Public Procurement and Disposal Act, 2005 on inappropriate influence on evaluations.
7. The tender processing committee evaluated the financial proposals on the basis of ‘Administration Fee’ submitted by bidders. Inspection fees charged for the exporter services under this contract were specified in Clause 2.11.2 Article b-1.
8. The overall score is the total of both the technical and financial scores. The three companies overall score is as indicated below: -
 - Bidder No.1 (EAA): OS=TS+FS; OS=72+20=92 marks**
 - Bidder No.3 (QISJ): OS=TS+FS; OS=78+20=98 marks**
 - Bidder No.7 (JEVIC): OS=TS+FS; OS=71+20=91 marks**
9. On the basis of evaluation carried out in accordance with the criteria set in the RFP document, QISJ attained an overall score of 98 marks and therefore recommended for the award of the contract.
10. The tender committee held its meeting No.8/2014/15 on 4December 2014 and approved the award of the tender No. KEBS/T057/2014-2015 to Quality Inspection Services Inc. Japan and directed that due diligence be carried out before signing the contract.

Appeal

11. EAA, JEVIC and ATJ made an application No.55/2014, No.56/2014 and No. 59/2014 respectively to the Public Procurement Administrative Review Board for review of the award of tender No. KEBS/T057/2014-2015.
12. On 21January 2015, the PPARB consolidated applications No.55/2014, No.56/2014 and No. 59/2014 since they were all seeking the same orders and heard them together. After taking into account all factors in the request for review, the PPARB did not make any order as to costs nor arrived at any decision.
13. On 28January 2015, the PPARB made the following orders in respect of application No.55/2014, No.56/2014 and No. 59/2014 in respect of the provisions of Section 98 of the Public Procurement and Disposal Act, 2005: -
 - (i) The Applicants bear their own cost for the request for review;
 - (ii) KEBS pay Kshs. 150,000 to the applicant(s) within seven (7) days and provide evidence of payment to the Board before 5 February 2015; and
 - (iii) KEBS proceed with and complete the procurement process.

Due Diligence

14. Various teams were sent to Japan, United Kingdom and United Arab Emirates to carry out due diligence by KEBS. The teams were required to verify and validate documentary

evidence, infrastructural, technical and managerial competence of QISJ to provide service as per the Kenya Standards KS1515:2000 code of practice. No team was sent to South Africa for due diligence process.

15. On 9 January 2015, the due diligence team issued a report signed by the six members who were involved in the exercise recommending that KEBS enter into contractual agreement with QISJ. The team was satisfied that the company had the requisite capacity to provide the service as per the Kenya Standard Code of Practice KS1515:2000.
16. On 2 February 2015, the Managing Director of KEBS and Managing Director of QISJ signed and sealed a contract for QISJ to provide motor-vehicle inspection service as per the Kenya Standard Code of Practice KS1515:2000. The contract was witnessed by Mr. George Sichangi for KEBS and Mr. Khalid Swaleh for QISJ.

Value of Money for the Tender

17. Section 29 of the Public Audit Act, 2003 provides that value for money is achieved through economy, efficiency and effectiveness. From an economy point perspective, the tender was allocated to the most technically qualified bidder. In terms of financial bids, the administrative fee offered by the bidder was US\$41 which was within the limit set out in the tender document by KEBS.
18. A review of the terms as per the Service Level Agreement between KEBS and QISJ required that vehicles be inspected within three (3) days of application for inspection. Waiting time registers highlighted that the longest waiting time was three days with the majority of vehicles inspected on the same day or the second day of application for inspection which highlights efficiency.
19. A comparison on the royalties received from motor-vehicles inspections from the three companies in the previous contracts i.e. JEVIC, QISJ and ATJ for the period between March 2014 and July 2014 versus a similar period in 2015 by QISJ alone indicated a 46% rise in royalties received over and above the collections of 2014, which is an indication of effectiveness, notwithstanding other factors that could have also affected importation of vehicles during the comparable periods.

Possible Fraud in the Procurement Process

20. An analysis of the procurement process for pre-export inspection services for used motor vehicles shows that the procuring entity complied with the law and regulations. Evaluation of the bids was as per tender documents bought by the bidders. The Auditor General could not establish indications for fraud in the process of awarding the tender for pre-export inspection service for used motor vehicles to Quality Inspection Services.

Verification of physical location of QISJ

21. QISJ was incorporated on 22 July 2009. The Company's head office and physical address is at YCC 1608, 22 DaikokuFotou, Tsurumi, Yokohama.

22. The company owns ten (10) inspection facilities in various locations/regions in Japan.
23. QISJ Inc. Dubai was first registered on 20 February 2013. The branch is owned by QISJ Japan and Salem SaifEbrahim Bin Touq as an agent. This is to fulfil UAE requirement. The branch's postal address is P.O. Box 99325, Parcel ID 6131291.
24. QISJ does not own any physical facilities in South Africa but has contracted International Conformity Assessment Solutions (pty) Ltd of 52 Grosvenor Road, Fairway Office Park, Gleneagle Building, Ground Floor, Bryanston 2021 South Africa, to carry out inspection of motor vehicles on its behalf.
25. QISJ was registered as a private limited company in United Kingdom on 21 February 2012. QISJ owns Barking and Tilbury inspection facilities and has leased thirteen (13) other facilities which are approved by Ministry of Transport and Communications in the UK.

Institutional capacity of QISJ to undertake motor vehicle inspection services in accordance with Kenya Standard (KS1515:2000)

Employees

26. QISJ has forty-seven (47), four (4) and six (6) members of staff in Japan, UAE and United Kingdom respectively. Therefore, the company has a total of (57) employees giving a service to exporters of motor vehicles to Kenya from the four source markets.
27. Motor-vehicle inspectors had an auto-mobile mechanics grade two (2) or three (3) which is equivalent to a diploma in automobile engineering. Other employees have competencies ranging from 1st to grade book keeping to university degrees.

Inspection Equipment

28. The company has installed pits, hydraulic jacks, side slip tester/wheel alignment tester, brake tester, sound level tester, emission gas measuring equipment for CO/HC (petrol and diesel), radiation emission tester and all handy tools required for inspections.

Inspection Procedures

29. The company has an inspection procedure that is followed in all its facilities in and outside Japan. This is to ensure uniformity and consistency in the way the company carries out its tests.

QISJ Tax Returns for the period 2011-2015

30. QISJ made tax returns between 1 April 2011 and 31 March 2015 of JPY 2,974,874, JPY 9,482,737, JPY 23,604,015, JPY 34,419,892 and JPY 27,071,850. The tax certificate is issued by Tsurumi District.
31. The company therefore has been filing its tax returns as required by the Japanese tax laws and regulations.

32. ICAS is fully registered by South Africa Revenue Services Income Tax and Value Added Tax (VAT) departments. VAT returns were up to date. The company is registered as a Small Business Enterprise and therefore does not qualify to pay income tax.
33. The revenue (taxes) in the United Kingdom is collected by Her Majesty Revenue and Customs Department. QISJ made tax payment of GBP 3,097,.67 for the period 1 March 2013 and 28 February 2014.
34. United Arab Emirates does not have a tax regime. Companies operating in these countries are not liable to pay taxes, therefore QISJ has not tax liabilities outstanding.

Possible conflict of interest by QISJ as an inspector and a dealer in exporting used motor vehicles

35. QISJ is registered to carry out survey, inspection, measurement assessment of automobile among other things. Japan Used Motor Vehicles Exporters Association confirmed that QISJ is not a member of the association and therefore would not be allowed to export motor-vehicles. The conflict of interest assertion that QISJ is a dealer in exporting used motor vehicles was not confirmed.
36. Further, Japan Accreditation Board (JAB) indicated that QISJ has no historical sanctions such as suspension, withdrawal since its initial accreditation in 2010. JAB has conducted two full size assessments and three surveillance assessments on QISJ. No serious non-conformity issues were found in all JAB's assessment.
37. In South Africa, the company is not directly involved in doing any other business. Therefore, there was no activity that would indicate a conflict of interest in its operations.
38. QISJ is registered as a quality inspection company in the United Kingdom. The company is not involved in any trading activities since its certificate of registration restricts it to inspection of motor vehicles only. The Auditor General could therefore not establish a conflict of interest in its operations in the UK.

Conclusion

39. The procuring entity observed the provisions of the Public Procurement and Disposal Act, 2005 and its Regulations in adjudicating the tender as the winning bidder was arrived at on the basis of the due tender process which was backed with a trail of documents in line with the procurement regulations.
40. The previous contract was handled by three firms which included QISJ that won the current contract. Based on this experience and evidence collected, the winning bidder QISJ is capable of handling the contract as required by Kenya Standard Code of Practice KS1515:2000.

Recommendations

41. To minimize unmerited litigation by losing bidders, KEBS should have a register of service providers who are pre-qualified through due diligence to ensure that only companies with

required competence, experience to undertake inspection are invited to bid for future contracts.

42. In order to ensure that a contracted company has a long-term commitment to inspection, and keep off speculative bidders, KEBS should set minimum requirements for full ownership of inspection facilities by the inspection companies based on proportion of number of vehicles coming from each country. It is recommended that the inspection company should fully own at least fifteen (15) facilities in Japan, three (3) in the United Kingdom and one (1) in the United Arab Emirates distributed in major ports and towns. Leases in these towns can only be allowed to supplement fully owned facilities. KEBS should properly evaluate ownership of these facilities.
43. Having noted that the inspection services provider does not have custody of the motor-vehicles after inspection, KEBS and the inspection company should institute a system of preventing and detecting tampering after inspection, including penalties/punitive measures against those exporters who have been found to have tampered with already inspected vehicles.
44. KEBS and its appointed inspections service provider should evaluate possibilities of signing agreements with logistics service providers in country of origin to ensure that custody of inspected vehicles is changed from exporter to the shipping company and it is moved to the port of exit immediately after inspection.

4.0 EVIDENCE BY WITNESSES DURING FACT-FINDING VISIT TO JAPAN

This section contains evidence submitted both orally and in writing by the various witnesses in Japan, where a delegation of the Committee undertook a fact-finding visit from 28th May to 6th June, 2016. The observations/findings and preliminary recommendations on each of the witness submission is also presented.

(a) Objectives of the Visit to Tokyo, Japan

The specific objectives for the inquiry visit by the delegation of members of the PIC were: -

- (i) To meet and gather crucial evidence from key witnesses in the inquiry in the Republic of Japan, where the companies that tendered for the motor vehicle pre-export contract have their headquarters;
- (ii) To establish the directorship of the companies that tendered for the contract, their registration and accreditation status by Japanese authorities to undertake pre-export inspection services of motor vehicles.
- (iii) Review the motor vehicle pre-export inspections procedures and its conformity to the Kenya Bureau of Standards (KEBS) code of practice KS 1515:2000;
- (iv) Verify the physical location of Quality Inspection Services Japan (QISJ) Ltd and its technical and financial competency to undertake the pre-export inspection services for used motor vehicle;
- (v) To determine whether there was any possible malpractice in the procurement of the services of QISJ by KEBS Ltd and adherence to the Kenya procurement laws and regulations;
- (vi) Establish any possible conflict of interest by QISJ and its Directors as an inspector and a dealer in exporting used motor vehicles to Kenya;
- (vii) To find out the technical capacity of Quality Inspection Services Japan (QISJ) Ltd to conduct radioactive contamination inspection;
- (viii) To establish the relationship between Quality Inspection Services Inc. Japan (QISJ) Ltd, Quality Inspection Services Inc. Japan (United Kingdom) and Jan's Trading Company Ltd;
- (ix) To establish the ISO Certification of the companies; and
- (x) Address the complaints arising out of the procurement process of the KEBS pre-export inspection tender.

(b) Meetings held in Tokyo, Japan

11. The Committee in its visit to Tokyo Japan met with Directors and Management of the following organizations: -

- (i) Embassy of the Republic of Kenya in Tokyo, Japan;
- (ii) Japan Accreditation Board;
- (iii) Japan Export Vehicle Inspection Centre Company Ltd (JEVIC)

- (iv) Quality Inspection Services Inc. Japan (QISJ);
- (v) East Africa Automobile Services Co. Ltd (EAA);
- (vi) Auto Terminal Japan Ltd (ATJ);
- (vii) Japan Harbor Transport Association; and
- (viii) JANS Trading Company Ltd. (Japan)

(c) Members of the Delegation

The Delegation comprised the following: –

- (i) **Hon. Adan Wehliye Keynan, CBS, MP –Chairperson/Leader of the delegation**
- (ii) Hon. Franklin Mithika Linturi, MP
- (iii) Hon. John Olago Aluoch, MP
- (iv) Hon. (Eng.) John Kiragu, MP
- (v) Hon. Dorcas Kedogo, MP
- (vi) Hon. Beatrice Nkatha Nyaga, HSC, MP
- (vii) Hon. Bernard Munywoki Kitungi, MP
- (viii) Hon. Cornelly Serem, MP
- (ix) Hon. John Muchiri Nyaga, MP

The delegation was accompanied by two officers of the Parliamentary Service Commission who provided the secretariat support.

4.1 Evidence by H.E Amb. Solomon Maina, MBS, Kenya’s Ambassador to Japan

The Ambassador, Extraordinary Plenipotentiary, His Excellency (HE) Mr. Solomon K Maina, welcomed and held a meeting with the delegation at the Embassy of the Republic of Kenya in Tokyo, Japan on Tuesday, 31st May 2016 at 9.00am. He was accompanied by other Embassy officials namely Mr. Paul Kalihi (Minister Counselor/ Deputy Head of Mission; Ms. Nelly N. Wwanjala (First Secretary); Ms. Naoko Yagi (Executive Assistant); Ms. Patricia N. Maangi (Administrative Attaché); Ms. Elma (Secretary); and Ms. Joseph (Office support staff).

4.1.1 Welcome Remarks and Objectives of the Visit

After a brief self-introductory session by the Embassy officials and the members of the delegation, the meeting started with welcoming remarks from H.E the Ambassador and introductory remarks from the Head of the Delegation, Hon. Adan W. Keynan, CBS who informed the meeting that:

1. The Public Investments Committee (PIC) of the National Assembly was undertaking a special inquiry into the Kenya Bureau of Standards (KEBS) tender no. KEBS/T057/2014-2015 for

the provision of pre-export inspection services for used motor vehicle which was awarded to Quality Inspection Services Japan (QISJ).

2. The foreign inquiry visit was undertaken pursuant to Article 125 clauses 1 and 2 of the Constitution of Kenya, 2010 which gives the Committee the power to call for evidence. The Article 125 (1) specifically states that “*Either House of Parliament, or any of its committees, has power to summon any person to appear before it for the purpose of giving evidence or providing information*”. For the purposes of clause (1), a House of Parliament and any of its committees has the same powers as the High Court: -
 - (a) to enforce the attendance of witnesses and examine them on oath, affirmation or otherwise);
 - (b) to compel the production of documents; and
 - (c) to issue a commission or request to examine witnesses abroad.
3. The Committee therefore scheduled an inquiry visit to Tokyo, Japan to examine the following witnesses abroad in line with Article 125 (2) (c): -
 - (i) His Excellency Amb. Solomon K. Maina, - Ambassador of Kenya to Japan;
 - (ii) The Directors and management of Japan Accreditation Board;
 - (iii) The Directors and management of Auto Terminal Japan (ATJ);
 - (iv) The Directors and management of Quality Inspections Services Japan (QISJ);
 - (v) The Directors and management of Japan Export Vehicle Inspection Center Co Ltd (JEVIC);
 - (vi) The Directors and management of Japan Harbour Transporters Association (JHTA);
 - (vii) The Directors and management of East African Automobile Services Co. Ltd (EAA);
 - (viii) The Directors and management of Jan’s Trading Ltd Japan.
4. The Inquiry visit was aimed at achieving the following objectives: -
 - (i) To ascertain the existence of Quality Inspection Services Japan (QISJ), its directors and business registration;
 - (ii) Relationship between QISJ and Jan’s Trading Company Ltd;
 - (iii) Verify institutional and technical capacity of QISJ to undertake pre-export inspections services of motor vehicles in accordance with Kenya Standards KS 1515:2000 Code of Practice for inspection of road vehicles which specifies general safety, health and environmental requirements; and specifically and ascertain its capacity to conduct radioactive contamination inspection;
 - (iv) Complaints arising out of the procurement process from other companies that bid for the tender including Auto Terminal Japan Ltd (ATJ), East Africa Auto Mobile

Services Company and Japan Export Vehicle Inspection Services (JEVIC) Company among others; and

- (v) Whether the H.E Mr. Solomon K. Maina, Ambassador Kenya Embassy in Japan had any inappropriate and undue influence in the procurement proceedings of the tenders by Kenya Bureau of Standards (KEBS).

4.1.2 Briefing on Operations of the Kenya Embassy in Tokyo

- 5. The delegation was briefed on the operations of the Kenya Embassy in Tokyo through a presentation by Mr. Paul Kaliih, Minister Counselor/ Deputy Head of Mission.

4.1.3 Submission by the H.E Ambassador S. K Maina on the Engagement of the Kenya Embassy in relation to the Contract

H.E Ambassador S. K Maina in his written submission informed the delegation as follows:

(a) Courtesy meeting with Managing Director of JEVIC Mr. Damon Jackson

- 6. On 13th November, 2014 the Managing Director of Japan Export Vehicle Inspection Company Ltd (JEVIC), Mr. Damon Jackson paid a courtesy call on him as the new ambassador in Tokyo, for purposes of acquainting him with the work of JEVIC in Japan. This included JEVIC's collaborative work with the Embassy in its drive to curb the prevalent used motor vehicle fraud, as well as support the Mission's promotion events, which is part of Economic Diplomacy agenda.
- 7. It is worth mentioning that the Embassy has always partnered with all Japanese companies with business interest in Kenya to carry out promotional activities and JEVIC was not an exemption.
- 8. Subsequently Mr. Jackson took the opportunity of the meeting and him of the advertisement of the Kenya Bureau of Standards (KEBS) for tender to supply pre-shipment inspection services of cars for the period beginning January 2015. He further requested the Embassy to give them a letter of recommendation reflecting collaborative activities.
- 9. In light of the above and given the fact that he found JEVIC's support to the work of the Embassy to be indeed true, he wrote an introductory letter dated 14th November 2014 about JEVIC and its collaborative activities with the Mission to the Managing Director KEBS. (**Appendix3**). Amb. Maina however categorically stated that the recommendation was made "**without any prejudice whatsoever to any existing procedural or regulatory processes**". In this case, it was his considered opinion that the letter was purely introductory and was in no way intended to form part of the procurement process undertaken by KEBS.

(b) Visit to Japan by Dr. Henry Rotich, KEBS Tender Processing Committee Chair

- 10. On Wednesday, 24th December 2014, at around 12:45 hours while in Kyoto on Christmas holiday, he received a call from Dr. Henry Rotich informing him of the presence of a KEBS team in Tokyo apparently for a due diligence exercise. Neither the Embassy nor the Ministry of Foreign Affairs had any prior notification of the team's planned visit nor their presence in

Tokyo until the said call was made through a Japanese mobile telephone number +81-990-7732-7601.

11. During this time and in keeping with the host country tradition, the Mission was already closed for Christmas and New Year Holidays and therefore he was not able to meet the team. The Mission resumed official duties on 6th January, 2015, upon which the Embassy received a letter dated 1st December, 2014, and signed by Dr. Rotich, seeking clarification on the ownership of the earlier mentioned introductory letter for JEVIC. The alleged letter signed by Dr. Rotich was an unofficial communication since it was neither on a letterhead nor bore a reference number or the stamp of KEBS.
12. Additionally, the said letter was posted from Tokyo, Japan and not Nairobi, Kenya as should have been the case. He thereafter wrote to KEBS informing them that he was not in a position to respond to an unofficial letter.
13. Thereafter, the Managing Director of KEBS communicated unofficially on the same matter vide letter Ref. KEBS/CONF./ADM/17- VOL.5 dated 14th February, 2015, clarifying the impartial position of the Embassy on the matter.

(c) Media Reports on the Japan Vehicle Inspection Centre (JEVIC)

14. On Saturday 24th January, 2015, his attention was drawn to an article appearing on page 11 of the Standard Newspaper regarding a failed bid by JEVIC. The appalling thing, however, was the fact that the paper had featured a copy of the introductory letter which he had written to the Managing Director, KEBS, in good faith, and without prejudice, to try and malign his name and indeed the name of the Kenya Embassy by insinuating that the Kenya Embassy in Tokyo was trying to tamper with the tendering process.
15. He took the responsibility to clarify the article to the Principal Secretary of the Ministry of Foreign Affairs & International Trade vide letter Ref. No KET/COM/17/XII (38) dated 26th January, 2016 for accountability reasons and also in case of any inquiries on the matter that would come through the Ministry.
16. In meeting with the KEBS Board which visited Japan unexpectedly from 4th October, 2015 to 17th October, 2015, the Board confessed that the letter was released to the press by unidentified official of KEBS. This was certainly a breach of the Civil Service Code of Regulations and Ethics by the Bureau to share with the media confidential information which had been conveyed in good faith.

(d) Visit to Japan by the Kenya Bureau of Standards

17. On 5th October, 2015, the Embassy received a four (4) member delegation from the Kenya Bureau of Standards which had apparently visited the Mission without prior notice. The team was led by Mr. Hillary Kosgey, a member of the Board of Directors. Other members of the delegation were Director Mr. Hussein Ali and KEBS officials Eng. Reuben Chesire and Eng. Gordon Anjore.

18. According to the team, the delegation had been sent by the Board of Directors on a fact finding mission following public complaints about radiation inspection related to use of motor vehicles export into Kenya. This was after the de-listing of Quality Inspection Services Japan (QISJ) by the Japan Harbour Transport Association (JHTA) in early September 2015.
19. During the meeting, the delegation requested the Mission to facilitate appointments with Japan Harbour Transport Association (JHTA) as well as Japan Accreditation Board (JAB). He expressed his disappointment due to the fact that the team failed to observe proper channels of communication prior to their visit. This not only undermines the Mission's capacity to seek appropriate appointments in good time, but also override desirable synergy that ensures all engagements are based on consensus and for the collective good. Nonetheless, the Embassy fully supported and facilitated the work of the team throughout their stay in Tokyo.
20. During the meeting with Japan Harbour Transport Association (JHTA) and the Japan Accreditation Board (JAB), it was observed that the team was keen to understand the reasons for the delisting of QISJ as one of the radiation inspectors. The team was emphatic on the need for proof of QISJ alleged ineptitude, without which then JHTA was requested to write a letter clearing the company.
21. Both agencies JHTA and JAB declined to provide a proof incriminating QISJ. They however stated that they would have no objection in providing evidence if a written official request was made through competent authorities of Kenya and Japan.
22. He shared the report of the visit with the Ministry of Foreign Affairs and International Trade vide letter Ref. No. KETR/COM/15/XVI(51) dated 12th October, 2015. In his communication, he clearly informed why the Japan Ports and Harbours Authority could not issue a written report on the reasons of delisting QISJ. He therefore recommended that KEBS formally communicate to the Ministry of Transport and the Ministry of Foreign Affairs and International Trade for action to be taken.
23. Additionally, given the gravity and sensitivity matter of radiation issue, he observed that in the said letter it would have been advisable for an independent audit team including Radiation Board, among others to have undertaken the fact finding mission.
24. In his closing submissions, the H.E the Ambassador informed the delegation that: -
 - (i) One of the Foreign Missions' mandates is to facilitate Kenya's economic transformation through economic diplomacy and related activities. The realization of this mandate calls for multi-sectoral and collaborative approach with all stakeholders on the ground.
 - (ii) In view of the foregoing, it has been the policy of the Kenya Embassy in Tokyo to relate with all business companies in good faith and fairness to inspire confidence amongst the country's foreign investors in pursuing economic diplomacy agenda. Part of this engagement includes introducing prospective companies with proven track record to related agencies in Kenya upon the companies' requests. In this case it is assumed that

the referred to, Kenya agencies have the aptitude to establish whether they can do business with the concerned companies or not.

- (iii) It would therefore be a remiss as a representative of the Government of the Republic of Kenya in Japan to shy away from introducing companies that wish to do business in Kenya, or fail to engage the Government on serious matters that touch on the livelihoods of Kenyans and the image of Kenya at large. It is indeed for this reason that 100 Japanese companies including three leading Japanese banks will actively participate in TICAD VI in Nairobi in August 2016.
- (iv) He acted in all fairness and without prejudice, within the mandate of the Embassy to strengthen economic and trade ties between Kenya and Japan. He is desirous that the matter will be dealt with appropriately for the collective good and continued strengthened relations between Kenya and Japan.

Committee Observations

The Committee made the following observations and findings from the submission by the Embassy of the Republic of Kenya, Tokyo Japan:

- (i) The Kenya Government Officials in Tokyo, Japan are doing a commendable job in promoting Kenya-Japan diplomatic relations.
- (ii) The letter dated 14th November 2014 by HE the Ambassador recommending JEVIC for positive consideration for the tender by KEBS was issued with a disclaimer that the recommendation was made without any prejudice to the existing procedural and regulatory process.
- (iii) The action by H.E. Ambassador Solomon K Maina to write a letter to KEBS recommending JEVIC though undertaken in good faith, portrayed the Embassy in bad light since it may be construed as an inappropriate influence on the tender by the Ambassador, contrary to provisions of Section 38 of the Public Procurement and Disposal Act 2005.
- (iv) The request by Mr. Damson Jackson, the Managing Director JEVIC to the Embassy to give them a letter of recommendation reflecting collaborative activities, so as to support JEVIC's bid for the tender was an act of inappropriate influence on tender evaluation, contrary to the provisions of Section 38 (1a) of the Public Procurement and Disposal Act 2005.

4.2 Evidence by Japan Export Vehicle Inspection Centre (JEVIC) Company Ltd

Mr. Aaron Treadway (Executive Director and General Manager International Operations) Mr. Jordi Vollom (Manager, Marketing Division); and Mr. Lee Sayer (Manager, IT) received the delegation on Tuesday 31st May 2016 from 11a.m to 1. 00p.m, at the JEVIC Boardroom in Tsurumi-Ku Yokohama City.

The witnesses submitted that—

(a) Company Profile

1. Japan Export Vehicle Inspection Center Company Ltd (JEVIC) is a Japanese registered company highly respected for its work in pre-shipment inspection and certification of cargo. Our services are primarily for used-vehicle inspection and extend to vessels, containers and new vehicles. The Company was established in 2001 to provide third party independent vehicle inspections to businesses exporting motor vehicles.

JEVIC's Competence and Experience in Pre-Shipment Inspections

2. JEVIC is ISO/IEC 17020:2012 accredited in New Zealand and with deep knowledge of all aspects of motor vehicle inspection in Japan and internationally. JEVIC provides independent pre-shipment inspections, surveys, verifications and certifications.
3. The Company has thorough knowledge of the inspection industry and the skills required to deliver the highest quality and most efficient service. Importing countries implement strict regulations to meet various safety and environmental policies; to assist in meeting such requirements and providing assurance to the importing countries, authorities and end users, JEVIC has employed the latest technology in pre-shipment inspection and verification.
4. The Company has world first-class facilities strategically located at major Japanese ports – in Yokohama, Kawasaki, Nagoya, Osaka and Kobe – and the Head Office is in Yokohama City and key vehicle pathways around the world.
5. With more than 30 other facilities for inspection purposes, JEVIC carries out inspections in countries such as Dubai and South Africa where vehicles are shipped from Japan and subsequently exported to other countries such as African nations. Subsidiaries and strategic partners are located throughout the world in Dubai, New Zealand, Singapore, the United Kingdom, South Africa, and Kenya.
6. JEVIC clients range from shipping agents, freight forwarders and vehicle importers/exporters to individuals and countries that require mandatory inspection and certification. They return to JEVIC time and time again because they have confidence in the extensive benefits we provide.
7. The Company currently has active service agreements for the decontamination of used motor vehicles with the New Zealand Ministry of Primary Industries (NZMPI), the New Zealand Transport Authority (NTZA) and the Australia Department of Agriculture (DOA). Decontamination at JEVIC facility is assurance that no organic matter is present at the time of export, thus keeping the bio-safety risks offshore. The US Department of Agriculture (USDA) and the Canadian Food Inspection Agency (CFIA) have approved JEVIC for inspection of pre-departure sea bound vessels.
8. Government clients of JEVIC include Uganda, Zambia and Sri Lanka.

(b) Inspection Services

9. The Company offers full range of services beyond roadworthiness and quarantine inspection. Odometer Verification – the authenticity of vehicle's mileage is confirmed before importing

the vehicle. The odometer may be removed for forensic inspection. Pre-export Appraisal – this is done to confirm the vehicles condition, accessories, structural and mechanical integrity with over 120 check points.

10. Radiation Inspection: - Since the Fukushima nuclear disaster in 2011, radiation inspections have been important part in ensuring the public of the safety of the imported vehicles. JEVIC is approved by the Japanese authorities and that JEVIC radiological assessment is accredited to ISO/IEC 17020:2012 in New Zealand.

(c) Independence and conflict of interest

11. JEVIC does not have any conflict of interest in the supply of vehicle pre-shipment inspection services. It is not involved in the purchase or selling of vehicles, shipping and freight forwarding.

(d) JEVIC engagements with Kenya Bureau of Standards

12. JEVIC was first awarded the tender to offer pre-export inspection of used vehicles to determine conformity to the requirements of the KS 1515:2000 by the Kenya Bureau of Standards (KEBS) in 2008.
13. In 2011, JEVIC and two other firms, Auto Terminal Japan (ATJ) and Quality Inspection Services Inc. Japan (QISJ), were contracted to inspect the vehicles before shipping to Kenya, however their contract with KEBS was terminated on allegations that some vehicles inspected by JEVIC were found to contain radioactive emissions, tampered export certificates and overage.
14. JEVIC however contends that loading of motor vehicles for export is done at the port outside the Company premises and exposure of the inspected vehicles to radioactive materials once in the port and in the shipment container during shipment is beyond the control of the Company.

Committee Observations

The Committee made the following observations from the submissions by JEVIC: -

- (i) JEVIC conducts inspections and tests motor vehicles for shipment in its premises and is among the companies listed by Japan Harbour and Transport Association (JHTA); an association which deals with major matters that seriously affect the employment conditions of port workers, to offer motor vehicle pre-shipment inspection services.
- (ii) JEVIC had motor pre-shipment inspection contract with KEBS from 2008 to 2011. It was again awarded a further 4-year contract with two other different motor vehicle inspection companies up to January 2015; however, following complaints and investigations of letting in defective and overage vehicles into the country, against the regulations, KEBS terminated the contract in August, 2014, four months before the end of the contract period.
- (iii) During bidding for the current Contract, KEBS issued a notice to extend the contract for the other two companies QISJ and ATJ for three months (90 days), to allow for completion of the procurement process and left out JEVIC.

- (iv) JEVIC tendered for current KEBS contract Tender No. KEBS/T057/ 2014-2015 in accordance with KEBS Code of Practice for Inspection of Road Vehicles (K1515:2000) and was among the three shortlisted companies for technical evaluation stage. However, it failed to progress further at the financial evaluation stage of the tender that was awarded to QISJ. JEVIC appealed against the award but the appeal was dismissed by the Public Procurement Administrative Review Board.
- (v) The request on 13th November 2014 by Mr. Damson Jackson, the Managing Director JEVIC to the Embassy of Kenya, Tokyo Japan to give them a letter of recommendation reflecting collaborative activities so as to support JEVIC's bid for the tender was an act of inappropriate influence on tender evaluation, contrary to the provisions of Section 38 (1a) of the Public Procurement and Disposal Act 2005.
- (vi) In the year 2014, JEVIC was accused of permitting radioactive contaminated vehicles into Kenya when a high radioactive reading was found to be coming from a container with four second hand vehicles at the Port of Mombasa. JEVIC agreed that two out of the four vehicles were inspected by it and the other two extremely radioactive contaminated vehicles were not inspected by the company as per their submission in a letter dated 14th June 2014. **(Appendix 4).**

4.3 Evidence by Japan Accreditation Board

Mr. Makato Kubo (Executive Director General), Mr. Yoshinobu Uematsu (Deputy Director-General), and Mr. Masaki Uematsu received the delegation on Tuesday 31st May 2016 from 3:00p.m to 4:30p.m at the Japan Accreditation Board (JAB) Boardroom in Shinagawa-Ku, Tokyo, Japan

After exchanges of compliments and introductions, Mr. Makato Kubo the Executive Director, JAB informed the delegation as follows: -

(a) Overview of Japan Accreditation Board

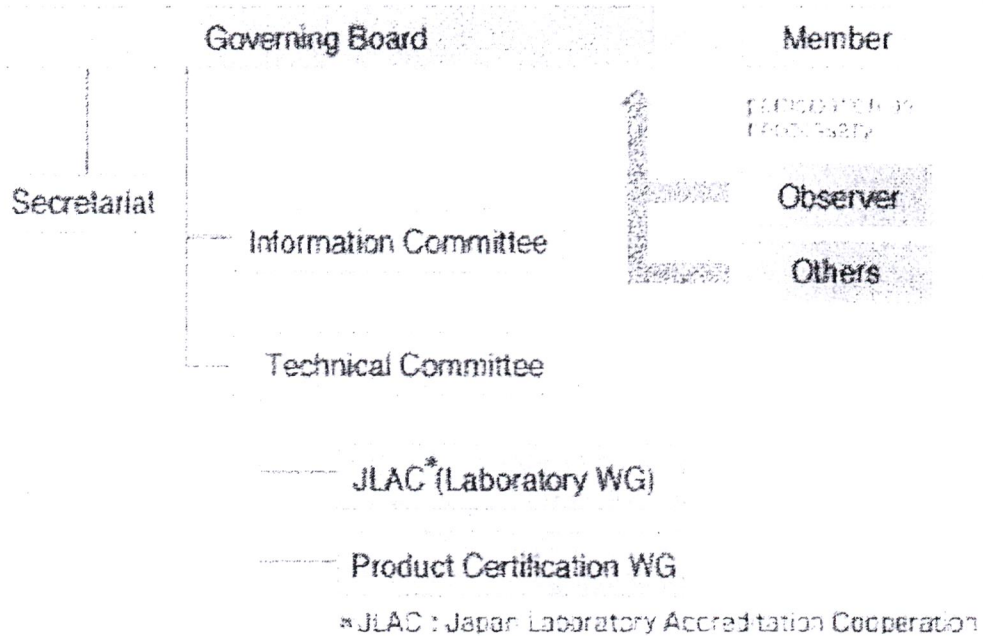
1. Japan Accreditation Board (JAB) was established on 1st November, 1993 as a private non-profit organization in accordance with the recommendation presented by the Japanese Industrial Standards Committee (JISC) and supported by 35 industrial organizations under the auspices of the Japan Federation of Economic Organizations.
2. JAB operates under the provisions of the Civil Law Act of Japan and it is the only organization in Japan carrying out almost all accreditation programs. It was authorized as a public interest incorporated foundation by Cabinet Office, Government of Japan on 1st July, 2010.
3. By conducting activities related to conformity assessment under Japanese Industrial Standards (JIS), international standards, or statutory and technical requirements, JAB seeks to establish and promote progress in the conformity assessment scheme in Japan and a multilateral/mutual recognition scheme with accreditation bodies abroad, through which to promote and contribute to the sound development of the Japanese economy and industry. JAB offers accreditation and registration of the following management systems:-

- (i) ISO/IEC 17021 management system certification;
 - (ii) ISO 9001 quality management systems;
 - (iii) ISO 14001 environmental management systems;
 - (iv) ISO/IEC 27001 information security management systems;
 - (v) ISO 22000 food safety management systems;
 - (vi) JIS Q 13485 medical device quality management systems;
 - (vii) JIS Q 9100 aerospace quality management systems;
 - (viii) TL 9000 telecommunications management systems;
 - (ix) ISO/IEC 17024 personnel certification bodies;
 - (x) ISO/IEC 17025 testing and calibration laboratories;
 - (xi) ISO 15189 medical laboratories; and
 - (xii) ISO/IEC 17020 inspection bodies.
4. At present, JAB is a member of international MLA (Multilateral Recognition Arrangement) groups for the accreditation of quality and environmental management system certification bodies, and MRA (Mutual Recognition Arrangement) group for testing laboratories, and medical laboratories.
5. JAB implements the following activities related to the conformity assessment scheme:
- (a) Accreditation and registration of management system certification bodies and personnel certification bodies;
 - (b) Accreditation and registration of product certification bodies;
 - (c) Accreditation and registration related to greenhouse gas (GHG) validation and verification bodies;
 - (d) Accreditation and registration of laboratories, medical laboratories and inspection bodies;
 - (e) Evaluation service based on the MRA Law;
 - (f) Publication of certified organizations (companies certified with a quality management system, an environmental management system, and others);
 - (g) Promotion of multilateral / mutual recognition from foreign accreditation bodies;
 - (h) Surveys and research;
 - (i) Response to complaints, etc. relating to accreditation / certification;
 - (j) Dissemination/ enlightenment and public relations activities;
 - (k) Exchange of information and cooperation with relevant bodies both in Japan and

abroad.

(b) Organization Structure of Japan Accreditation Board

6. The organization structure of JAB is as per the diagram



Source: Japan Accreditation Board

(c) Accreditation status of Quality Inspection Services Inc. Japan, Auto Terminal Japan Ltd, East Africa Automobile Company Ltd and JEVIC by JAB

7. Quality Inspection Services Inc. Japan is among the companies accredited currently by Japan Accreditation Board (JAB) to offer motor vehicle and radiation inspection. It was issued with accreditation certificate on 28th May 2015 with a validity period of 4 years; up to 30th April, 2018 as long as it continues to meet the accreditation conditions and qualifications by JAB.
8. Auto Terminal Japan Ltd, East Africa Automobile Company Ltd and JEVIC are not in the database of accredited companies by JAB.
9. JAB has not received any complaints from either from the port workers nor from the Japan Harbour and Transport Association on any malpractices regarding QISJ. In the event a complaint is received by JAB from the concerned stakeholders, JAB Complaints Committee institutes investigations and if the allegations are found to be true the Accreditation certificate is immediately revoked.

Committee Observations

The Committee made the following observations:-

- (i) JAB has accredited QISJ to offer motor vehicle and radiation inspection services despite allegations that the Company was delisted/declassified by the Japan Harbour and Transport Association in September 2015.
- (ii) JAB officials did not know the reasons behind the delisting of QISJ. They informed the Committee that JHTA could provide the appropriate response since it was the JHTA that delisted QISJ from its list.
- (iii) Not all companies legally providing motor vehicle and radiation inspection services in Japan are accredited by JAB. JAB views the accreditation as an opportunity to spread the use of conformity assessment systems to spur their adoption to improve the quality of Japanese products.
- (iv) JAB, industrial groups and other Japanese agencies use accreditation and certification systems to promote to international standards their products and services as part of Japan revitalization strategy and not necessarily to regulate the industry players.

4.4 Evidence by Auto Terminal Japan Ltd

Mr. Mamoru Fujie (Director and Chief Executive Officer), Dr. Isaac P. Kalua (Director Africa Affairs) and Ms. Mirane Borres Nakata (Quality Management Officer) received the delegation on Wednesday 1st June 2016 from 10:00 Hours to 12:30 Hours at the Auto Terminal Japan Ltd (ATJ) Boardroom in ShiohamaKisarazu-City Chiba

After exchanges of compliments, Mr. Mamoru Fuji the Chief Executive Officer informed the delegation as follows:-

Background of Auto Terminal Japan (ATJ)

1. Auto Terminal Japan Ltd. (ATJ) was established and registered and on 10 March 1997 and has been in motor vehicle inspection business for more than 17 years. It was established as an independent motor vehicle inspection company and started providing third party pre-shipment s for used motor vehicles.
2. On October 2004, ATJ put up its pre-shipment inspection terminal at the Port of Kobe within a Safety of Life and Sea Convention secured and approved facility where ATJ conduct its operations in proximity to major auction houses and major ports in West Japan, which includes Kobe, Osaka and Nagoya.
3. In October 2006, ATJ created its ATJ-Tokyo branch in Kisarazu, which is also an owner-operated terminal receiving and pre-export inspection facility. The establishment of this facility allows ATJ to expand its operations and provide inspection services within any of the major ports in East Japan, including Yokohama, Kawasaki and Kisarazu.
4. ATJ provides independent inspection and testing services of the highest industry standards without compromise.
5. ATJ can inspect, test and verify motor vehicle bound for any country in the world. It has

exceptional functional and technical expertise as well as state-of-the-art facilities coupled with industry knowledge.

Company Profile

6. ATJ provides superior world class inspection and testing services for previously owned or used motor vehicles, complying with both Japan domestic and international or other countries' requirements and standards and serving the exporters, importers and government regulatory agencies of motor vehicles.
7. Under the strict provisions set out within the International Organization for Standardization (ISO) 17020, ATJ has been accredited with the Type A third party inspection approval for pre-shipping inspections of used motor vehicles by New Zealand.

Type "A" Accreditation to ISO/IEC 17020:2012 Conformity Assessment – Requirements for the Operation of Various Types of Bodies Performing Inspection

8. ATJ is certified as an ISO/IEC 17020 company as per International Standards Organization Conformance Standard "General criteria for the operation of various types of bodies performing inspection" for Export Vehicle Inspections – Type A" and upgraded to ISO 17020:2012 Conformity Assessment, which is a critical requirement for the operations of various companies performing inspection of motor vehicle inspection.
9. Under the strict provisions set out within the International Organization for Standardization ("ISO") 17020, ATJ has been accredited with the Export Vehicle Inspection - Type "A" Inspection Body approval for pre-shipping inspections of used motor vehicles.
10. ATJ has fine-tuned its internal quality systems and business functionality to meet the requirements of ISO 17020:2012 so as to meet the general criteria for the operation of various types of bodies performing inspection.
11. ATJ is the first company to obtain approval Structural inspection processes approved under New Zealand's Import Health Standards from the Ministry of Agriculture and Forestry Bio-Security of New Zealand (MAF-BNZ) and New Zealand Transport Agency ("NZTA")
12. Auto Terminal Japan Ltd. is currently contracted by the Zambia Bureau of Standards (ZABS) to provide Pre-Shipment Roadworthiness Inspection (RWI) for Zambia for used motors vehicles from Japan, United Arab Emirates, Singapore, United Kingdom, South Africa and United States of America.
13. The Company also offers complete owner operated pre-shipping inspection services for both exporters and importers of used or pre-owned vehicles. Their main business is to provide the services required for the pre-shipment inspection and verification of used motor vehicles which comprise the following:

Product/Vehicle Inspection Services

14. The company offers various types of products / motor vehicle inspection services which include the following:

- (i) Bio-security pre-shipment inspection;
 - (ii) Vehicle Appraisal Inspection;
 - (iii) Pre-shipment non-invasive structural damage inspection;
 - (iv) NTZA – pre-shipment border inspection for all vehicle classes; and
 - (v) Roadworthiness Inspection.
15. The scope of this inspection service includes inspection done upon arrival and receipt of the vehicle at ATJ's yard sites. The vehicle is then checked as to the correctness of the vehicle information, its status and notes as to the damages and accessories of the vehicle are documented at this stage.
16. ATJ's independent vehicle appraisals are designed to provide customers with both historical vehicle's profiled data and physical inspection by a qualified technical expert to validate this information. This service is also known as Terminal Receiving Inspection (TRI). Upon arrival at ATJ's yard sites, vehicles are further inspected to identify whether those units have been through pre-purchase inspection or previously inspected by a vehicle auction or lease company's appraisal service. A vehicle has undergone pre-purchase inspection if it has a Vehicle Inspection Checklist with it. No vehicle can be released unless it has been subjected to ATJ's inspection processes duly conducted by its technically compliant specialists:-
- (a) Vehicle Appraisal Inspection
 - (b) Odometer Inspection
 - (c) Structural Inspection
 - (d) Quarantine Inspection
 - (e) Vehicle Valuation Inspection
 - (f) Vehicle History Inspection

Quarantine Inspection

17. The Pre-Quarantine inspection (PQI) service is to conduct inspection based on ATJ's internal Quarantine Inspection Procedure (ATJ-PRTD-004). Pre-quarantine inspection is an inspection process which ensures and validates that the decontamination of a vehicle has been properly done. This process is supported by verification and certification procedures to ensure that New Zealand Ministry of Agriculture and Forestry (NZMAF) bio security requirements have been met. The inspection covers all related used vehicles and vehicle parts: cars, car parts as well as the cargo inside inspected vehicles tires on rims.

Radiation Checks

18. All vehicles exported from Japan are inspected for any radiation or radioactive contamination. A reading on the level of contamination will be provided to the customer with a remark on whether it is below or above the allowable non-hazardous standard level of 0.3.

19. ATJ can provide surface inspection for vehicles including containers and vessels at all Japan ports. ATJ's inspection network has internal and external inspection lines as well as partner international inspection centres based in countries outside Japan.
20. ATJ has two owner-operated internal inspection centres located near the major ports of Kisarazu, Yokohama, Kobe and Osaka. The facilities are built "fit for purpose" with complete tooling and fixed permanent buildings and are registered with the Japanese Ministry of Land, Infrastructure, Transport and Tourism (MLIT) to meet Japan's safety standards and it's the only company in Japan which has been issued with a licence by MLIT to provide Japan roadworthiness inspection.

Conflict of Interest

21. ATJ is not directly or indirectly involved in the sale of second hand motor vehicles; its business is purely inspection of motor vehicles for export.
22. ATJ has established offices in Kenya, Myanmar and Zambia. The ATJ inspectors performed a demonstration of motor vehicle inspection service including testing for radiation for the delegation.

Bidding for Tender No. KEBS /T057/2014-2015

23. Following the KEBS advertisement for the Tender No. KEBS /T057/2014-2015, ATJ responded to the invitation, applied and submitted the pre-qualification and all documents in accordance with the tender document.
24. The KEBS Request for Proposals and Tender document at paragraph 2.3.1 required the proposal and tender to comprise the following: Instruction for tenders; general conditions of contract; special conditions of contract; schedule of requirements; details of services; tender form; contract form; confidential business questionnaire form; tender security form; and performance security form.
25. The KEBS Request for Proposals and Tender document at paragraph 2.7 required the proposal prepared by the tenderer to comprise the following components: A proposal form completed in accordance with Clause 2.8 below; documentary evidence established in accordance with Clause 2.11 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted; tender security furnished in accordance with Clause 2.12; and confidential business questionnaire.
26. The ATJ duly submitted all the above documents that KEBS required in response to the pre-qualification and tender parameters. ATJ believed that its submission on the pre-qualification was responsive to the set criteria and that the purpose of the pre-qualification proposal was to ensure that all bidders who qualified past this stage were suitable companies.
27. By a letter dated 15th December 2014 and delivered by email on the 16th of December 2014, the KEBS informed ATJ that its bid was not responsive on account of the reason the proposal by ATJ did not contain a valid tax compliance certificate.

28. ATJ contested this flimsy ground for disqualification by KEBS. Through Ochieng', Onyango, Kibet and Ohaga Advocates, ATJ on 30th December 2014 filed for an administrative review at the Public Procurement Administrative Review Board. The administrative review was filed on the following grounds:
- (i) Breach of Section 31 and 39 of the Public Procurement and Disposal Act 2005 and the Public Procurement and Disposal Regulations 2006 by the KEBS;
 - (ii) Breach of Article 227 of the Constitution of Kenya 2010 by the KEBS. The procedure that was adopted by KEBS in the preliminary evaluation was not transparent and was contrary to the object and spirit of the public procurement as set out in Article 227 of the Constitution as read together with Section 2 of the PPDA 2005.
 - (iii) Failure by KEBS to promote the integrity and fairness of procedures in evaluation criteria. The ATJ submitted that the KEBS did not respect and acknowledge the various laws provided in various countries so as to ensure the procurement process is on that is both fair and integrity based.
29. ATJ submitted that the decision to lock it out purportedly for not including a valid tax certificate was erroneous in fact and in law. The ATJ submitted an original valid certificate of Tax Payment dated October 27, 2014 issued by the Kisarazu Tax Office, Ministry of Finance in Japan. The certificate showed that that the ATJ amount of tax outstanding was JPY 0 hence ATJ had no tax due with the Japan Authorities as at 27th October 2014
30. The fiscal year of ATJ is from 1st October to 30th September of each year and the Kisarazu tax office requires ATJ Ltd to pay its taxes on annual basis.
31. The due date for the payment of such annual taxes is two months (2) after the last day of the business/fiscal year or by November 30th. Hence for the fiscal year from 1st October 2013 to 30th September 2014, the payment of ATJ's taxes was dues on November 30th, 2014.
32. The deadline date for the submission of the tender proposal documents to KEBS was 24th November 2014. On the KEBS deadline date of 24th November 2014, ATJ had no taxes due for payment and the certificate of tax payment dated October 27th, 2014 was still valid, true and accurate until the next certificate which was due to be issued on 30th November 2014
33. The requirement by KEBS of a tax compliance certificate as was stated in number 3 of Clause 2.11.1 of the appendix to tender documents did not specify /state a particular period or fiscal year that must be certified by the tax authority of the relevant country of head office of operation.
34. The contract for the provisions of the pre-export inspection service for used motor vehicles should have been awarded to at least three qualified and competent companies as was in the previous tender so as to promote competition and avoid monopoly.
35. ATJ in its oral submission indicated some of the potential areas where Kenya is exposed in the importation of used motor vehicles from Japan to include: odometer tampering where some

vehicles reaching the country have tampered odometers; damaged and repaired chassis which could be cause of some accidents in Kenya roads; collusion between motor vehicle exporters and inspection companies (vehicles are issued with inspection stickers without actual inspection done); stickers for radiation issued without radiation inspection done; stolen cars with changed chassis numbers; manipulation of vehicle export documentation; and manipulation of the standards of inspection where vehicle which fails tests go through other inspection agents.

Committee Observations

The Committee observed the following:-

- (i) Auto Terminal Japan is not listed by Japan Harbour and Transport Association (JHTA) as one of its radiation inspection firms at the ports of Japan. However, the Company is accredited to offer motor vehicle pre-shipment inspection and radiation inspection with fully fledged inspection facilities.
- (ii) ATJ was one of the companies that was contracted by the KEBS on 6th January 2012 to provide a pre-export inspection service for used motor vehicles for three years up to the year 2015.
- (iii) Auto Terminal Japan (ATJ) together with JEVIC and Quality Inspection Services Inc. Japan, were contracted by KEBS in 2012 to inspect the vehicles before shipping to Kenya in a tender that ended 2015. Following the end of the contract, the Company was granted a 90 days' extension by KEBS to continue with the pre-export services contract pending the conclusion of the procurement process for the new tender.
- (iv) ATJ tendered for the KEBS/T057/2014-2015 tender but was disqualified during the financial evaluation stage on grounds that it did not attach a valid and current tax compliance certificate. The certificate attached was for the period 1st October 2012 to 30th September 2013. The request for proposal did not state nor require that the tax compliance certificate must be for the immediate past year, furthermore at the time of opening the tender on 24th November 2014, no taxes were still due to be paid by ATJ since the taxes for the period 1st October 2013 to 30th September 2014 were still due to be paid on 30th November, 2014.
- (v) By a letter dated 15th December 2014 and delivered by email on the 16th of December 2016, the KEBS informed ATJ that its bid was not responsive on account of the reason the proposal by ATJ did not contain a valid tax compliance certificate. The grounds for disqualification of ATJ by KEBS was very flimsy and did not merit the decision taken by KEBS.
- (vi) ATJ appealed against the KEBS decision and filed a request for review at the Public Procurement Administrative Board (PPARB) in Kenya. The Appeal was struck out on technical groundson the basis that it was filed out of time in accordance with Regulation 77 of the Public Procurement and Disposal Regulations, 2006.

4.5 Evidence by JAN'S Trading Company Ltd

Mr. Umar H. Jan (the Founder and Chief Executive Officer of Jan's Holding Group Ltd), and Mr. Yasir Jan (Managing Director, Jan's Holding) received the delegation at Jan's Trading Ltd Boardroom in Namugi, Yokohama City, Tokyo Japan on Wednesday 1st June 2016 from 14:00 hours to 15:30 hours.

The Chief Executive Officer Mr. Umar H. Jan informed the delegation as follows: -

(a) Directors of Jan's Trading Ltd

1. The Directors of the Company are Mr. Umar H. Jan and Mr. Yassin Jan who are brothers, each having a 50% shareholding of the company. They are of Pakistani origin doing business in Japan.
2. Jan's Trading Company Limited is one of the biggest exporters of new and used cars worldwide. The Company is based in Japan and serves its customers from almost every part of the world. It has been in business of exportation of vehicles since the year 2000.
3. Jan's Trading Company is a member of the biggest auto auction groups in Japan which also includes Used Cars System Solutions (USS) Auction group, Toyota Auto Action (TAA) Group, Challenge Advance Assist (CAA) Auction Group, Japan Used Cars Association Group, ARAI Auction Group, Honda Auto Auction Group, Isuzu Umax Auction Group and many more.
4. The goal of Jan's Trading Company Ltd is to meet customer satisfaction through quality business by providing an easy and flexible environment without compromising on quality.
5. The Company has been selling motor vehicles to Kenya. Pre-shipment inspection of the motor vehicles imported to Kenya was done by JEVIC. Kenya has been one of the main markets for Jan's Trading Ltd, importing about 10,000 cars annually before the number reduced to less than 5,000 due to allegations levelled against him of drug trafficking into Kenya.
6. He has a sister in Kenya living in Mombasa and he last visited Kenya in October 2015. During one of his visits to Kenya, he was arrested by the Kenya Police on allegations of drug trafficking and was later released after interrogation.
7. He is no longer actively involved in the running of the Company and has since relinquished his responsibilities to his brother Mr. Yassin Jan.
8. Mr. Umar H. Jan, in his own submission categorically stated that he does not believe in the pre-export services of the second hand vehicles destined to Kenya from Japan, since Japan is an advanced country with better vehicle maintenance requirements and better roads than Kenya. The pre-export inspection services are additional unnecessary burden to car importers from Kenya.

Relationship between Jan's Trading Ltd Inc. Japan, Jan's Trading Ltd, Kenya, and Quality Inspection Services Japan (QISJ).

9. Mr. Umar H. Jan denied the existence of Jan's Trading Ltd, Kenya, however upon further interrogation he informed that he established and registered the Company to deal with motor vehicle importation, however, he closed it down and the Company has not been in business for the last 12 years.
10. The Managing Director of QISJ Mr. Kiyooki Hatano was a former employee and Director of QISJ up to 2009.
11. QISJ, a company which was formed by Mr. Kiyooki Hatano, undertakes pre-export inspections services of used motor vehicles for export.

Committee Observations

12. The Committee observed that:-
 - (i) Jan's Trading Limited is one of the largest Japanese exporters of used vehicles to Kenya.
 - (ii) The Managing Director of QISJ resigned as a Director of Jans Trading in 2009.
 - (iii) Jan's Trading office in Kenya is located opposite Railway Station, Mombasa.

4.6 Evidence by Quality Inspection Services Japan (QISJ)

Mr. Kiyooki Hatano (Managing Director), Mr. Michio Kono (Manager), Mr. Marwin Morado and other members of staff of QISJ received the delegation into QISJ Boardroom in Tsurumi-Ki, Yokohama City on Wednesday 1st June, 2016 from 15.30 hours to 16:30 hours.

After introductions, Mr. Marwin Morado and Mr. Michio Kono took the delegation through a presentation on QISJ. Mr. Marwin Morado and Michio Kono also assisted in the English- Japanese interpretation to enable the delegation communicate effectively with Mr. Kiyooki Hatano, the Managing Director QISJ.

The following is a summary of the presentation by Mr. Michio Kono including written submissions by Mr. Kiyooki Hatano, the Managing Director, Quality Inspection Services Japan (QISJ) dated 15th June 2016.

Background of Quality Inspection Services Japan (QISJ)

1. Quality Inspection Services is an independent third party inspecting company incorporated in Japan with its headquarters in YCC 1608 DaikokuFutou 22, Tsurumi, Yokohama, Kanagawa Japan and having inspection facilities and registered offices in the United Arabs Emirates, United Kingdom and South Africa.
2. The Company was incorporated on 22nd July, 2009. It was among the first companies in Japan to be accredited to ISO 17020 by the Japanese Accreditation Board (JAB) in the area of roadworthiness and vehicle inspection.
3. The Company is run by the Managing Director Mr. Hatano who is also the sole director and proprietor of the Company.

QISJ Scope of Accreditation

4. The scope of the Company's accreditation enables it to carry out the visual/body inspection, structural inspection, mechanical inspection, electrical system, safety inspection, radioactive contamination and document verification to prevent fraud. The Company also undertakes roadworthiness inspection, odometer verification, import and export third party independent verification and bio-security inspection,

QISJ Information Technology and Resources

5. QISJ has a custom built Customer Relationship Management System that is interlinked across all its inspection centres in four different countries. Development of the CRM was part of the objectives to realize QISJ strategy of delivering a complete service online and up-to-date database of roadworthiness status of vehicles.
6. An inspector can access the system to log a vehicle into the system after inspection. Once the inspection is completed an inspector will update the system with the inspection result. Clients such as KEBS and other registered customers can access and view a summary of their booked in vehicles, inspected mileage and inspection results and conformity or non-conformity of their inspected vehicles.

Inspection Facilities

7. QISJ has a total of thirty-four (34) inspection facilities located in strategic ports of Japan; of these QISJ owns 11 and 23 are leased, 26 inspection facilities in United Kingdom of which it owns 2 and leases 24. It also owns one inspection facility in the United Arab Emirates.

Inspection Procedures

8. The appointed inspectors, who must possess a minimum of diploma in vehicle inspection, make sure that the checklist has been fully followed without any bias or prejudice. The checklist is professionally documented report and is used to check the compliance or non-compliance of vehicles to be exported. The verdict of compliance or non-compliance is issued by the inspectors.

9. A window sticker is affixed on the windscreen by the authorized inspector of the vehicles which passed inspection and a certificate of roadworthiness is issued to the passed vehicle.
10. Non-compliant vehicles are issued with non-compliance report with details of non-compliance, and the vehicle is re-inspected if it has been repaired to obtain a certificate of roadworthiness.
11. If the non-compliance is of forgery or odometer alteration, or radiation levels are high, non-conformity certificate is issued instantly.

Complaints and Appeals

12. QISJ has documented procedures for dealing with complaints from clients or other parties and consideration for resolution of appeals against the results of the inspection, where these are carried out under legally delegated authority.

SWORN AFFIDAVIT BY MR. KIYOAKI HATANO, MANAGING DIRECTOR, QISJ DATED 15TH JUNE 2016 (APPENDIX 5)

The following is a summary of Mr. Kiyooki Hatano's written submission to clarify issues raised in the meeting held on 1st June, 2016 at QISJ offices in Japan: -

Conflict of interest between Jan's Trading Group Ltd and QISJ

13. Mr. Hatano, as the Managing Director and owner of QISJ categorically denied the existence of any conflict of interest between the two companies. He tendered his resignation due to personal reasons as the Director of Jan's Trading Company Ltd on 1st April 2009 (**Appendix 6**).
14. He also submitted a copy of a legal document named "Certificate of Closure of Matters" issued by Yokohama District Legal Affairs Bureau Kanagawa office indicating his resignation from Jan's Trading Company Ltd as from 6th January 2010. The time difference of eleven months between his letter of resignation dated 1st April 2016 and the registration of closure of matter dated 24th February 2010 is attributed to legal reasons. (**Appendix 7**)

The involvement of Messrs. Hashim Abdallah Hassan and Salem SaifEbrahim Bin Touq as "Directors" of QISJ

15. Mr. Hatano submitted that Mr. Hassan is QISJ nominee in the United Kingdom which was a requirement to legally establish the QISJ UK Company as per the letter of appointment (**Appendix 8**).
16. Mr. Hashim Abdallah Hassan was appointed Director QISJ UK from 6th February 2012. Mr. Salem SaifEbrahim is a United Arab Emirates (UAE) national who agreed to be QISJ local partner in UAE as required by UAE laws. Mr. Salem SaifEbrahim therefore does not hold shares or management position in QISJ and is only compensated a royalty of twelve thousand five hundred Dirhams (Dhs. 12,500/) or an equivalent of approximately Kenya shillings three hundred and seventy-five thousand (Ksh. 375,000/-) per annum as per the contract of appointment of local agent (**Appendix 9**).

The establishment of QISJ inspection centres: -

17. Mr. Hatano submitted a list of QISJ inspection centres which are either owned or leased in Japan indicating the date of establishment or commencement of lease (**Appendix 10**).
18. He also provided the list of QISJ owned or leased inspection centres at the time of bidding for the contract (**Appendix 11**).

The business relations between QISJ and East Africa Automobile Services Co. Ltd (EAA)

19. Mr. Hatano submitted that QISJ signed an agreement with EAA on 8th February 2010 to lease EAA facilities for conducting road-worthiness inspection of used vehicles for export. The agreement was verbally terminated on 24th October 2014 at a meeting held between the Managing Directors of the two companies. This termination was communicated formally to the Managing Director, EAA on 4th November 2014 vide a letter signed by Mr. Kiyooki Hatano, MD QISJ (**Appendix 12**).
20. Mr. Hatano categorically submitted that at no time did QISJ sub-contract the services of EAA or any company in Japan. QISJ only leased the facilities of EAA for the purpose of using their equipment.

Royalty fees payment to KEBS

21. Mr. Hatano submitted that QISJ pays KEBS USD 41.00 per vehicle inspected. Every month, based on the vehicles inspected count, QISJ sends monthly royalty fees to KEBS by international bank transfer. The monthly submissions to KEBS for the period March 2015 to May 2016 is attached (**Appendix 13**).
22. The number of vehicles inspected for the period March 2015 to May 2016 is also attached (**Appendix 14**).

De-listing of QISJ by Japan Harbour Transport Association (JHTA)

23. Mr. Hatano submitted that on 26th August 2011, JHTA appointed seven (7) companies including QISJ as preferred establishments for the measurement of radioactive contamination of used motor vehicles and construction machineries handled by members of JHTA at the ports in Japan. The appointment was made by announcement letter sent to members of the JHTA's Special Central Committee On Safety dated 26th August 2011 (**Appendix 15**).
24. QISJ commenced radiation services at the ports in Japan after getting clarification from JHTA, that QISJ is not supposed to sign any contract with JHTA and that QISJ should follow the guidelines posted on JHTA website (<http://zenkoku-kowan.jp/pdf/agreement2012.pdf>). The guideline document is hereby attached (**Appendix 16**).
25. QISJ did not receive any complaint whatsoever from JHTA during the period of 26th August 2011 and 27th August 2015 when it offered radiation measurement services for JHTA.
26. On 27th August 2015, Chairman, Central Safety Committee, JHTA sent a Memo to Special Members of each District of JHTA informing them that two companies (Automotive Technologies and QISJ) have been de-listed from providing measurement of radioactive contamination at the ports. The memo referred to the two companies as "foreign

capital companies” and “inadequate companies” judging from how they actually conducted radiation inspection services. (**Appendix 17**)

27. QISJ upon receipt of letter of de-listing made a request to JHTA for a meeting to clarify their letter of 27th August 2015. JHTA confirmed the meeting for 4th September 2015(**Appendix 18**)
28. On 4th September 2015, QISJ and JHTA held the meeting and JHTA verbally explained to QISJ that its de-listing was because the volumes of contaminated vehicles over the acceptance level of 0.3 micro Sieverts has been going down, making JHTA to cut down on number of firms providing radiation inspections for JHTA. QISJ raised concerns with JHTA that although there was no contract, a prior notice should have been sent to QISJ before such a letter was sent to their members informing them of the de-listing of QISJ.
29. QISJ raised the question of why JHTA referred to it as “foreign capital company” and “inadequate” in its letter of de-listing. JHTA did not fully answer the concerns of QISJ but instead sent a revised letter to its members which did not make any reference to the words “foreign capital company” and “inadequate” (**Appendix 19**)
30. There is no basis in Japanese law for JHTA to “black list” companies in Japan. JHTA confirmed in an email dated 5th October 2015 that there is no official license based on the laws in Japan for inspection body to conduct radiation inspection on used motor vehicles and machinery in the port area and, therefore JHTA never issues any such licence to anybody. (**Appendix 20**)

Why QISJ continues to perform radiation measurement even after they have been performed by appointed agents of JHTA

31. Mr. Hatano submitted that the de-listing of QISJ by JHTA does not in any way prevent QISJ from fulfilling its contractual obligations for overseas governments such as Kenya and Tanzania. QISJ has signed contract with KEBS to perform vehicle road worthiness inspection and conduct radiation measurement.
32. Through radiation measurements interventions within its contract with KEBS, QISJ has rejected a total of 23 vehicles between March 2015 and February 2016. The list of vehicles rejected by QISJ during the period is attached as **Appendix 21**.

Local Representative of QISJ during tender opening

33. Mr. Khalid Swaleh was the local Kenya representative during the opening of the tenders at KEBS offices in Nairobi.

Committee Observations

The Committee made the following observations and findings from the submissions of QISJ: -

- (i) Mr. Kiyooki Hatano, the Managing Director of QISJ was Managing Director and a Director of Jan's Trading Company Ltd from 24th July 2007 to 6th January 2010. He, however, relinquished his Directorship of Jan's Trading Company Ltd for personal reasons from 1st July 2009 and was regularized on 6th January 2010 by Yokohama District Legal Affairs Bureau Kanagawa Office through a certificate of closure of matter reference number TA128673.
- (ii) QISJ was incorporated on 22nd July, 2009 under company corporate registration no. 0200-01-062427 with 1,600 as the aggregate number of issuable shares out of which 400 shares were the aggregate number of issued shares and capital JPY 20,000,000. The company established a branch in the United Kingdom on 21st February 2012 and another branch in the United Arab Emirates on 21st February 2013.
- (iii) QISJ demonstrated that it has the required competence in personnel, equipment and procedures needed to offer motor vehicle inspection services. The company conducts the inspection in its own facilities or those leased from other inspection companies.
- (iv) QISJ rejected a total of twenty-three (23) vehicles destined for Kenya, between March 2015 and February 2016.
- (v) On the issue of de-listing of QISJ by the Japan Harbour Transport Association, QISJ demonstrated to the Committee via email dated 5th October 2015 from JHTA, that the Association does not issue licences for radiation inspection because there is no official license based on the laws in Japan for an inspection body to conduct radiation inspection on used motor vehicles and machinery in the port area.

4.7 Evidence by Japan Harbour Transport Association

Mr. Kazuyuki Horie (Executive Advisor, JHTA), Mr. Masaya Tamada (Secretary-General, Dock Workers Union); Mr. Hitoshi Tanaka (General-Manager, JHTA Liaison Department); Mr. Tadaomi Narita (Senior Researcher, JHTA); Mr. Takahishi Nakawa (Director; Business Development); and Mr. Takeshi Yashumira (Inspector) met with the delegation at JHTA board room in Shinbshi-Tokyo Tsurumi-Ki, Yokohama City, on Thursday 2nd June, 2016 from 15:00 hours –16:30 hours.

After introductions, Mr. Kazuyuki Horie, the Executive Advisor, JHTA informed the delegation that:-

1. JHTA officials started radiation tests at the Japan Ports three months after the East Japan (Fukushima) earthquake in March 2011 to enhance the safety of its workers.
2. In order to secure the safety of workers at the ports, all used cars and construction machines are to be tested by radiological examination under the responsibility of shippers. Since there were many vehicles to be checked in the beginning, JHTA sought the service of QISJ, in

addition to 4 other All Nippon Checkers Corporation companies that were already involved in the testing.

3. However, at some point, the dock workers complained that a relatively high amount of contamination was found on vehicles cleared by QISJ. The JHTA official noted that the number of vehicles requiring radiation testing had reduced drastically and the services of many testing companies were not necessary.
4. JHTA provided the names of five (5) companies which are the major (not the only) companies in Japan dealing with the issue of contamination with radioactive material. The said companies are:
 - (i) Japan Cargo Tallying Corporation (JCTC)
 - (ii) All Nippon Checkers Corporation (ANCC)
 - (iii) Nippon Kaiji Kentei Kyokai (NKKK)
 - (iv) Sinnippon Kentei Kyokai (SK)
 - (v) Japan Vehicles Inspection Company (JEVIC)

Committee Observation

The Committee observed that QISJ is not among the companies listed by JHTA to offer radiation inspection services for used motor vehicles at the ports of Japan. However, as earlier observed, in an email dated 5th October 2015 from JHTA, the Association admitted that it does not issue licences for radiation inspection because there is no official license based on the laws in Japan for an inspection body to conduct radiation inspection on used motor vehicles and machinery in the port area. The de-listing of QISJ by JHTA, therefore, does not affect the Company's capacity to effectively conduct motor vehicle pre-shipment inspection services.

4.8 Evidence by East Africa Automobile Services Company Ltd

Mr. Prosper Sugai (Director and CEO, EAA); and Stout Dean Lawrence (International Operations Manager) and other management & staff of East Africa Automobile Services Company Ltd (EAA) met with the delegation at EAA Company meeting room in Tsurumi-Ku, Yokohama City, on Thursday 2nd June, 2016 from 15:00 hours – 16:30 Hrs.

The meeting started with a demonstration at the yard of steps EAA follows in motor vehicle inspection, including testing for radiation. Thereafter, the meeting proceeded to EAA meeting room where a presentation was done by Mr. Stout Dean Lawrence and various issues raised responded to by both Mr. Prosper Sugai and Mr. Stout Dean Lawrence.

The following section provides a summary of the submissions made by EAA.

Profile of East Africa Automobile Services Company Limited

1. East Africa Automobile Services Company Ltd is a private limited liability company of Japanese origin founded in 2007 and registered in Japan and compliant under all laws applicable to motor vehicle inspections for Japan.
2. The headquarters are located in Rinkan, Yamato – City, Kanagawa – Japan.
3. The core business of the company is carrying out independent third party quality and safety inspections for road vehicles, equipment, plant and machineries in accordance with the clients' needs.
4. The Company ensures pre-shipment inspection of motor vehicles conforms to the pre-shipment standards in which it is contracted by clients, mainly government authorities to ensure that un-roadworthiness used vehicles are detected at the source and thus prevented from being exported to their home countries.
5. The company also offers vehicle inspections and testing services annually for the local market as per Japanese laws. Inspection services are done according to the National and International standards for environmental protection and road safety.
6. The staff have a wide knowledge of the inspection industry and are equipped with technology that provides high quality and efficient inspection services.
7. The Company owns inspection facilities, strategically located in Hokkaido, Okinawa, Yokohama (Tokyo Bay) which is the main port, Kawasaki (Tokyo Bay), Nagoya and Osaka, in Japan. The Company is also present in United Kingdom, Dubai-United Arabs Emirates and Tanzania.
8. EAA strives to ensure that exporters meet the environment and safety standards of the importing country. It carries out high quality pre-shipment inspection and issue certificates as proof of compliance and assurance to the importing country's authorities and end user.
9. EAA has pioneered the market in mobile pre-export inspection services where the company carries the inspection tools and equipment to the location of the vehicle rather than the vehicle being brought to the inspections yard owned by the company.
10. The company strives in protecting each and every customer from the risks incurred within the international trade and safety standards for the motor vehicle market.
11. The Company maintains independence in everything we do, so that its clients can be assured that they receive both quality and the highest level of safety standards.
12. EAA has been providing pre-shipment verification and conformity to standards inspections for used motor vehicles (PVoC) for the Tanzania Bureau of Standards (TBS) and Uganda National Bureau of Standards (UNBS) since its inception in 2007.

Why Motor Vehicle Inspection?

13. Governments worldwide are now aware and have taken a more active role against the increase in vehicle related accidents and cars brought in country below standard. They are worried how they can improve this problem and also save the environment.
14. It is agreed that vehicles should be subject to technical inspections and testing at the time of exporting. In this regard, East Africa Automobile Services Company Ltd having developed its own inspection system are providing this service at each of Japan's ports.
15. The company has more than seventeen (17) offices in Japan. Outside of Japan offices include the UK, SA, Singapore, UAE, Dubai and Bangkok.
16. These locations were specifically set to offer a route for Japanese citizens and diplomats returning from their official duties in those countries. This service was available to them should they decide to bring their personal vehicles back from abroad and have a roadworthiness inspection completed to drive the vehicle in Japan.

Vehicle Inspection test checks

17. The Company undertakes various inspection checks including but not limited to the following
 - (i) Brakes
 - (ii) Exhaust- tested for noise levels as well as gaseous emissions
 - (iii) Exterior Inspection
 - (iv) Headlamps
 - (v) Speedometer accuracy
 - (vi) Undercarriage i.e. suspension
 - (vii) Wheel alignment/ tyre's condition
 - (viii) Radiation contamination: - The aim of the test is to measure radiation dose on the surface, interior and on the tyres of motor vehicles when the vehicle is stationary. It is recommended that radiation emission should not exceed 0.3 microSv/hr (micro Sieverts per hour).

EAA Accredited to ISO/IEC 17020:2012

18. EAA is one of the few inspection firms in Japan that has been accredited with ISO/IEC 17020:2012 roadworthiness inspection, which is a demonstration that EAA has the required competence in personnel, equipment and procedures needed to effectively inspect and certify road vehicles to the expectations of the client and other interested parties. The Company received the accreditation in the year 2011.
19. The Company has the highest standard for an Inspectorate providing assurance, quality of inspection and accurate impartial results under the General Criteria for operation of various types of bodies (vehicular).

20. EAA uses the highest international standards in the world accredited for used vehicle inspection.
21. With ISO/IEC 17020:2012 accreditation EAA gives an assurance of complete confidence in both system documentation and technical competence.

EAA Inspection Capacity

22. EAA has installed equipment capacity in excess of 100,000 vehicle inspections per year.

Committee Observations

The Committee observed that: -

- (i) EAA is accredited with ISO/IEC 17020:2012 roadworthiness inspection, which is a demonstration that EAA has the required competence in personnel, equipment and procedures needed to offer motor vehicle inspection services.
- (ii) EAA partners with other motor-vehicle inspection companies.

5.0 COMMITTEE GENERAL OBSERVATIONS

5.1 Committee General Observations

From the oral and written evidence submitted, the Committee made the following observations and findings-

- (i) THAT, the action by Kenya's Ambassador to Japan, H.E. Ambassador Solomon K Maina, to write a letter to KEBS recommending JEVIC, though undertaken in good faith, portrayed the Embassy in bad light, since it may be construed as an inappropriate influence on the tender by the Ambassador, contrary to provisions of Section 38 of the Public Procurement and Disposal Act 2005.
- (ii) THAT, similarly, the request by Mr. Damson Jackson, the Managing Director of JEVIC to the Kenyan Embassy to issue the Company with a letter of recommendation reflecting collaborative activities so as to support JEVIC's bid for the tender, was an act of inappropriate influence on tender evaluation contrary to the provisions of Section 38 (1a) of the Public Procurement and Disposal Act 2005.
- (iii) THAT, JEVIC was first awarded the tender to offer pre-export inspection of used vehicles to determine conformity to the requirements of the KS 1515:2000 by the Kenya Bureau of Standards (KEBS) in 2008. In 2011, the Company was again awarded a further 4-year contract with two other motor vehicle inspection companies; Auto Terminal Japan (ATJ) and Quality Inspection Services Inc. Japan (QISJ), until January 2015.
- (iv) THAT, in the year 2014, JEVIC was accused of permitting radioactive contaminated vehicles into Kenya when a high radioactive reading was found to be coming from a container with four second hand vehicles at the Port of Mombasa. In a letter dated 14th June 2016, JEVIC admitted that it inspected two out of the four vehicles and the other two extremely radioactive contaminated vehicles were inspected by another company.
- (v) THAT, following complaints and investigations of letting in defective and overage vehicles into the country, against the regulations, KEBS terminated its contract with JEVIC in August, 2014, four (4) months before the end of the contract period.
- (vi) THAT, during bidding for Tender No. KEBS/T057/ 2014-2015, KEBS issued a notice to extend the contract for the other two companies Auto Terminal Japan (ATJ) and Quality Inspection Services Inc. Japan (QISJ), for three months (90 days) to allow for completion of the procurement process and left out JEVIC.
- (vii) THAT, JEVIC tendered for the current KEBS contract Tender No. KEBS/T057/ 2014-2015 and was among the three shortlisted companies of technical evaluation stage. The Company, however, failed to progress further at the financial evaluation stage of the tender that was awarded to QISJ. JEVIC appealed against the award but the appeal was dismissed by the Public Procurement Administrative Review Board.

- (viii) THAT, JEVIC is among the companies accredited by Japan Harbour and Transport Association (JHTA) to offer motor vehicle pre-shipment inspection services.
- (ix) THAT, not all companies legally providing motor vehicle and radiation inspection services in Japan are accredited by the Japan Accreditation Board (JAB). JAB views the accreditation as an opportunity to spread the use of conformity assessment systems to spur their adoption to improve the quality of Japanese products. JAB, industrial groups and other Japanese agencies use accreditation and certification systems to promote to international standards, their products and services as part of Japan revitalization strategy and not necessarily to regulate the industry players.
- (x) THAT, Auto Terminal Japan (ATJ) is not listed by Japan Harbour and Transport Association (JHTA) as one of its radiation inspection firms at the ports of Japan. However, the Company is accredited to offer motor vehicle pre-shipment inspection and radiation inspection with fully fledged inspection facilities.
- (xi) THAT, ATJ tendered for the KEBS/T057/2014-2015 tender but was disqualified during the financial evaluation stage on grounds that it did not attach a valid and current tax compliance certificate. The certificate attached was for the period 1st October 2012 to 30th September 2013. The Request for Proposal did not state nor require that the tax compliance certificate must be for the immediate past year, furthermore at the time of opening the tender on 24th November 2014, no taxes were still due to be paid by ATJ since the taxes for the period 1st October 2013 to 30th September 2014 were still due to be paid on 30th November, 2014.
- (xii) THAT, Mr.KiyoakiHatano, the Managing Director of QISJ was Managing Director and a Director of Jan's Trading Company Ltd from 24th July 2007 to 6th January 2010. He, however, relinquished his Directorship of Jan's Trading Company Ltd for personal reasons from 1st July 2009 and was regularized on 6th January 2010 by Yokohama District Legal Affairs Bureau Kanagawa Office through a certificate of closure of matter reference number TA128673.
- (xiii) THAT, QISJ was incorporated on 22nd July, 2009 under company corporate registration no. 0200-01-062427 with 1,600 as the aggregate number of issuable shares out of which 400 shares were the aggregate number of issued shares and capital of JPY 20,000,000. The company established a branch in the United Kingdom on 21st February 2012 and another branch in the United Arab Emirates on 21st February 2013.
- (xiv) THAT, QISJ demonstrated that it has the required competence in personnel, equipment and procedures needed to offer motor vehicle inspection services. The company conducts the inspection in its own facilities or those leased from other inspection companies e.g East Africa Automobile Services Company Ltd.
- (xv) THAT, QISJ rejected a total of twenty-three (23) vehicles destined for Kenya, between March 2015 and February 2016.

- (xvi) THAT, on the issue of de-listing of QISJ by the Japan Harbour Transport Association, QISJ demonstrated to the Committee via email dated 5th October 2015 from JHTA, that the Association does not issue licences for radiation inspection because there is no official license based on the laws in Japan for an inspection body to conduct radiation inspection on used motor vehicles and machinery in the port area.
- (xvii) THAT, it is evident pursuant to the Legal Notice No. 78 of 2005, Kenya Bureau of Standards prepared the terms and conditions of contract for inspection of motor vehicles which include checking of presence of radioactive materials without consulting the Radiation Protection Board; at the time of appearing before the Committee, the Radiation Protection Board was not aware of the inspection contracts by KEBS and its suppliers.
- (xviii) THAT, the Kenya Bureau of Standards being in cognizance of the existence of the Radiation Act has chosen to ignore a crucial body that has the technical capacity to advise on matters of radiation. KEBS ought to have at least consulted the Radiation Board when coming up with the Terms of Reference for the supplier of the service.
- (xix) THAT, Section 7(a) of the Radiation Protection Act Cap 243 provides one of the functions of the Radiation Protection Board as “*to advise the Minister on matters relating to radiation protection and radioactive waste disposal.*” Further, Section 14(1)(a) of the Act gives the powers to the Chief Radiation Officer to enter, inspect and examine any premises or part thereof, both, motor vehicle, vessel, aircraft or any other vehicle in or upon which he has reasonable cause to believe that irradiation device, radio-active material or any other source of ionizing radiation is stored, used, transported or disposed.

It is therefore evident that there is a conflict between the Legal Notice No. 78 of 2005 and the Radiation Protection Act. When coming up with the Regulations, the Government ought to have been cognizant of the existence of Cap 243 which prevails in case of any inconsistency.

- (xx) THAT, from an analysis of the Functions of the Bureau under section 5 and the powers of the Council under section 7 of the Standards Act, none of the functions includes radiation protection analysis. The Regulation therefore amounts to casting a net too wide under a general provision of Section 20 that gives the Cabinet Secretary responsible for matters related to Standards, the power to make Regulations.

Section 20 of the Standards Act which is a general provision ought to have been exercised within the confines of the Functions of the Bureau and the powers of the Council and the same cannot override the substantive provisions of section 7 and 14 of the Radiation Protection Act.

- (xxi) THAT, it is also evident that the Legal Notice was issued on 15th July 2005; Legal Notices are deemed to expire ten years after making of the instrument with one extension; the 2005 Legal Notice has therefore expired by dint of Section 21 of the Statutory Instruments Act.

5.2 COMMITTEE GENERAL RECOMMENDATIONS

From the evidence adduced (oral and written) and the observations, the Committee recommends as follows:

- (i) THAT, to minimize unmerited litigation by losing bidders, KEBS should have a register of service providers who are pre-qualified through a due diligence exercise to ensure that only companies with required competence and experience to undertake inspection are invited to bid for future contracts.
- (ii) THAT, in order to ensure that a contracted company has a long-term commitment to inspection and keep off speculative bidders, KEBS should set minimum requirements for full ownership of inspection facilities by the inspection companies based on the proportion of the number of vehicles coming from each country. It is recommended that the inspection company should fully own at least fifteen (15) facilities in Japan, three (3) in the United Kingdom and one (1) in the United Arab Emirates, distributed in major ports and towns. Leases in these towns can only be allowed to supplement fully owned facilities. KEBS should properly evaluate ownership of these facilities.
- (iii) THAT, having noted that the inspection services provider does not have custody of the motor-vehicles after inspection, KEBS and the inspection company should institute a system of preventing and detecting tampering after inspection, including penalties/punitive measures against those exporters who have been found to have tampered with already inspected vehicles.
- (iv) THAT, Kenya Bureau of Standards and its appointed inspections service provider should evaluate possibilities of signing agreements with logistics service providers in the country of origin to ensure that custody of inspected vehicles is changed from exporter to the shipping company and it is moved to the port of exit immediately after inspection.
- (v) THAT, the Kenya Bureau of Standards should endeavour to prepare the terms and conditions of any contract for inspection of motor vehicles which includes checking of presence of radioactive materials in consultation with the Kenya Radiation Board which has technical capacity to advice on matters in relation to radiation.
- (vi) THAT, there is need to harmonize Legal Notice No. 78 of 2005 and the Radiation Protection Act; when coming up with the Regulations, the Government ought to be cognizant of the existence of Cap 243 which prevails in case of any inconsistency; the government should always endeavour to harmonize statutory instruments with existing legislations to avoid inconsistencies at all times.
- (vii) THAT, there is need to renew Legal Notice no. 78 of 15th July 2005 to conform with Section 21 of the Statutory Instruments Act on expiry of legal notices.
- (viii) THAT the Radiation Protection Board in consultation with the Office of the Attorney General should fast tract amendments to the Radiation Protection Act in order to give the Board

adequate powers to deal with matters related to radiation in all aspects including motor vehicle inspection at all points of entry into Kenya.

LIST OF APPENDICES

- Appendix 1: KEBS Newspaper advertisement dated 23rd October 2014**
- Appendix 2: Letter dated 19th Nov., 2014 appointing the Tender Opening Committee**
- Appendix 3: Letter dated 14th Nov. 2014 by Amb. S.K. Maina recommending JEVIC**
- Appendix 4: Letter by JEVIC dated 14th June 2014 regarding radioactive contaminated motor-vehicles at the port of Mombasa in 2013**
- Appendix 5: Submission by Mr. Kiyooki Hatano, Director, QISJ**
- Appendix 6: Mr. Hatano's resignation from Jans Trading Ltd dated 1st April 2009**
- Appendix 7: Certificate of Closure of Matters submitted by Mr. Hatano**
- Appendix 8: Mr. Hashim Abdallah Hassan's nomination as QISJ UK representative**
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- Appendix 16: JHTA Guidelines**
- Appendix 17: JHTA Memo dated 27.08.2015 de-listing QISJ**
- Appendix 18: QISJ letter dated 27.08.2015 seeking clarification on de-listing by JHTA**
- Appendix 19: JHTA response letter to QISJ**
- Appendix 20: JHTA email dated 5th October, 2015**
- Appendix 21: List of vehicles rejected by QISJ for the period March 2015 to February 2016**
- Appendix 23: Committee Minutes**



Kenya Bureau of
Standards

Standards for quality life

Tel 020 6948000/423/439; 0722202137/8; 0734600471/2; Website: www.kebs.org
Email: info@kebs.org or procurement@kebs.org

TENDER NOTICE

The Kenya Bureau of Standards (KEBS) invites sealed tenders from eligible firms for the following tenders:-

NO.	TENDER DESCRIPTION	TENDER REFERENCE NO.	TENDER OPENING DATE	TENDER FEE
1.	International Tender (RFP) for Pre-export Verification of Conformity(PVOC) to Standards services	KEBS/T056/2014/2015	Monday 24th November	1000
2.	International Competitive Bidding for Motor Vehicles Pre-Export Inspection Services	KEBS/T057/2014/2015	Monday 24th November	1000
3.	Provision of Public Relation Services for year 2014-2015	KEBS/T055/2014/2015	Thursday 6th November	1000
4.	Supply and delivery of Print on Demand HD Printer and bulk filler storage cabinet	KEBS/T058/2014/2015	Thursday 6th November	1000
5.	Provision of Storage area Network (SAN) and Data Backup System	KEBS/T059/2014/2015	Thursday 6th November	1000
6.	Prequalification Of Suppliers 2014 -2016 (Must be downloaded from the website)	As Per Category	Monday 3rd November 2014	Free

Tender documents detailing the requirements may be obtained from the Procurement Office, KEBS Centre, Popo Road, Off Mombasa Road, on normal working days between 9.00 a.m. and 4.00 p.m. or be downloaded from KEBS website: www.kebs.org upon payment of a non refundable fee as indicated in the table above for each tender document. The fee is payable in cash or bankers' cheque.

Completed tender documents in plain sealed envelopes clearly marked 'TENDER NUMBER AND TITLE OF THE TENDER' indicated on the envelope should be addressed and delivered to:

THE MANAGING DIRECTOR,
KENYA BUREAU OF STANDARDS,
P.O. BOX 54874 - 00200
NAIROBI.

Or be deposited in the Tender Box located at KEBS Centre Main Reception marked "TENDER BOX" so as to be received on or before the date/time indicated in the tender documents.

Tender opening will be carried out immediately thereafter at the KEBS Centre Canteen, Administration Block, Ground Floor. Tenderers or their representatives are free to attend the tender opening.

MANAGING DIRECTOR

KEBS - Standards for quality life



www.facebook.com/kebs.org

Kebs-ke

1999



Kenya Bureau of
Standards
Standards for quality life

KEBS/T057:2014-2015 TECHNICAL AND FINANCIAL EVALUATION REPORT

Appendix III- Appointment of Opening Committee



Kenya Bureau of Standards

Standards for Quality Life

MEMO

REF: KEBS/T056/2014/2015
KEBS/T057/2014/2015

DATE: 19/11/2014

TO: MD

FROM: AG. HOD (PROC)

SUBJECT: TENDER OPENING COMMITTEE FOR PRE-EXPORT
VERIFICATION OF CONFORMITY AND MOTOR VEHICLE INSPECTION

1. Mr. Albert Nyagechi
2. Mrs. Chemutai *Tanui*
3. Mr. Michael Oganga (PROC)
4. Mr. Peter Njau
5. Mrs. Rhoda Kirui
6. Mr. Jude Dede

You have been appointed as members of the Tender Opening Committee for the above tenders to be carried out on 24th November at 12.00 pm Kenyan local time at kebs Canteen. Minutes for the tender opening should be submitted to the Ag.HOD Procurement not later than 25th November, 2014 for further action.

Charles Ongwae
MANAGING DIRECTOR

RK

5 x 1/2 1997

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EMBASSY OF THE REPUBLIC OF KENYA

<http://www.kenyarep-jp.com>
E-mail: kenrep@kenyarep-jp.com

REF. No KET/COM/17/XII (35)

3-24-3, Yakumo Meguro-ku
Tokyo 152-0023, JAPAN
Telephone : 03-3723-4006/7
Facsimile : 03-3723-4488

14th November, 2014

The Managing Director,
Kenya Bureau of Standards,
NAIROBI, KENYA.

Dear Sir,

SUBJECT-RECOMMENDATION FOR THE JAPAN EXPORT VEHICLE
INSPECTION CENTRE (JEVIC)

As you might be aware, the above named Company is a leading and internationally recognized used motor vehicle pre-shipment inspection Company which was accredited with the highest International Standard-ISO/IEC 17020:1998 in the year 2001.

In the last 6 years alone, the Company has offered pre-shipment inspection services for used vehicles to Kenya and has since upgraded its services to include radiation detection and odometer verification to protect our people from used motor vehicle fraud. In this last 2 years alone the Embassy has explored and established a valuable partnership with JEVIC to fight used motor-vehicle fraud targeting Kenyans. This includes helping to trace fraudsters and various fraudulent activities by unscrupulous exporters to Kenya thereby saving Kenyans millions of shillings in fraudulent deals.

In addition, the Company has made its valuable contribution to the Mission's economic diplomacy agenda through its financial sponsorship of some activities by this Embassy which include Kenya's 50th anniversary Celebrations in Japan, sponsoring Investment promotion seminars and Conferences, annual Africa Golf Championships chaired by Kenya and other similar events held in Tokyo.

Exhibits



Tuesday, June 14, 2016
Ref. KE02062016_01aiii

Honourable Adan Keynan
Member of Parliament
Kenya National Assembly
Republic of Kenya

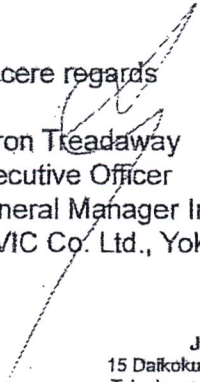
Dear Honourable Adan Keynan,

Reference: PIC Delegation visit to JEVIC 31 May 2016 information request _ Radiation units followup

Please find below the further information requested by Mr. Joash Kosiba on the Radiation units in followup to the JEVIC submission, submitted under Parliamentary Privilege.

1. Container of four used vehicles arrives in Mombassa January 2013, and was stopped due to the Port radiological hazard sensors being triggered.
2. Two units were bound for Kenya,
 - a. JEVIC inspected and cleared these two units; NCP60-0216867 (Nov 2012 Failed inspection 1.05uSv/hr (BKGD 0.05µSv/hr), Dec 2012 Passed inspection 0.1µSv/hr (BKGD 0.11µSv/hr)) & QG10-184396 (Oct 2012 Passed inspection 0.11µSv/hr (BKGD 0.09µSv/hr)).
3. JEVIC did not inspect or certify the other two vehicles in the container.
4. JEVIC were repeatedly denied access to examine the cargo in Mombassa.
5. JEVIC understand that the container was never opened in Kenya, and that the units were all shipped back to Japan early 2014 at the Exporters expense.
6. JEVIC have never been contacted by the Exporter or Port Authorities over these units.
7. JEVIC wrote to the KEBS MD 17 Oct 2014 KE:20141014001 reiterating that we had never received any written query or report from KEBS on the issue of the units, and had met twice with senior KEBS officials (Mr J. Abongs and Mr J. Wepukhulu) in verbal explanation of the circumstances which KEBS were content with. We considered the matter closed.

Sincere regards


Aaron Treadaway
Executive Officer
General Manager International Operations
JEVIC Co. Ltd., Yokohama, Japan

Σ χιλιοσκά

Registered No. 229 . 2016

NOTARIAL CERTIFICATE

This is to certify that Managing Director Kiyooki Hatano, Quality Inspection Services Inc., signed the attached document in my presence.

Dated this 15th day of Jun. 2016

Hitoshi Kuwana

HITOSHI KUWANA

NOTARY

JUN. 15. 2016



Attached to Yokohama District Legal Affairs Bureau.

32-19-202 Tsurumichuoh 4-chome, Tsurumi-ku, Yokohama, Japan.

2 x 1/2



株式会社クオリティーインスペクションサービス代表取締役波田野清昭
は、本職の面前で添付書面に署名した。

よって、これを認証する。

平成28年 6月15日、本公証人役場において
横浜市鶴見区鶴見中央四丁目32番19-202号

横浜地方法務局所属

公 証 人
Notary

松尾 名

HITOSHI KUWANA



総公証 № 403982 号

証 明

上記署名は、横浜地方法務局所属公証人の署名に相違ないものであり、かつ、その押印は、
真実のものであることを証明する。

平成28年 6月15日

横浜地方法務局長

松尾泰三



CERTIFICATE

This is to certify that the signature affixed above has been provided by Notary,
duly authorized by the Yokohama District Legal Affairs Bureau and that the Official
Seal appearing on the same is genuine.

Date JUN. 15, 2016

Taizou MATSUO

Director of the Yokohama District Legal Affairs Bureau

For legalization by the foreign consul in
Japan, this is to certify that the Seal
affixed hereto is genuine.

Date JUN. 15, 2016

A. Ogawa

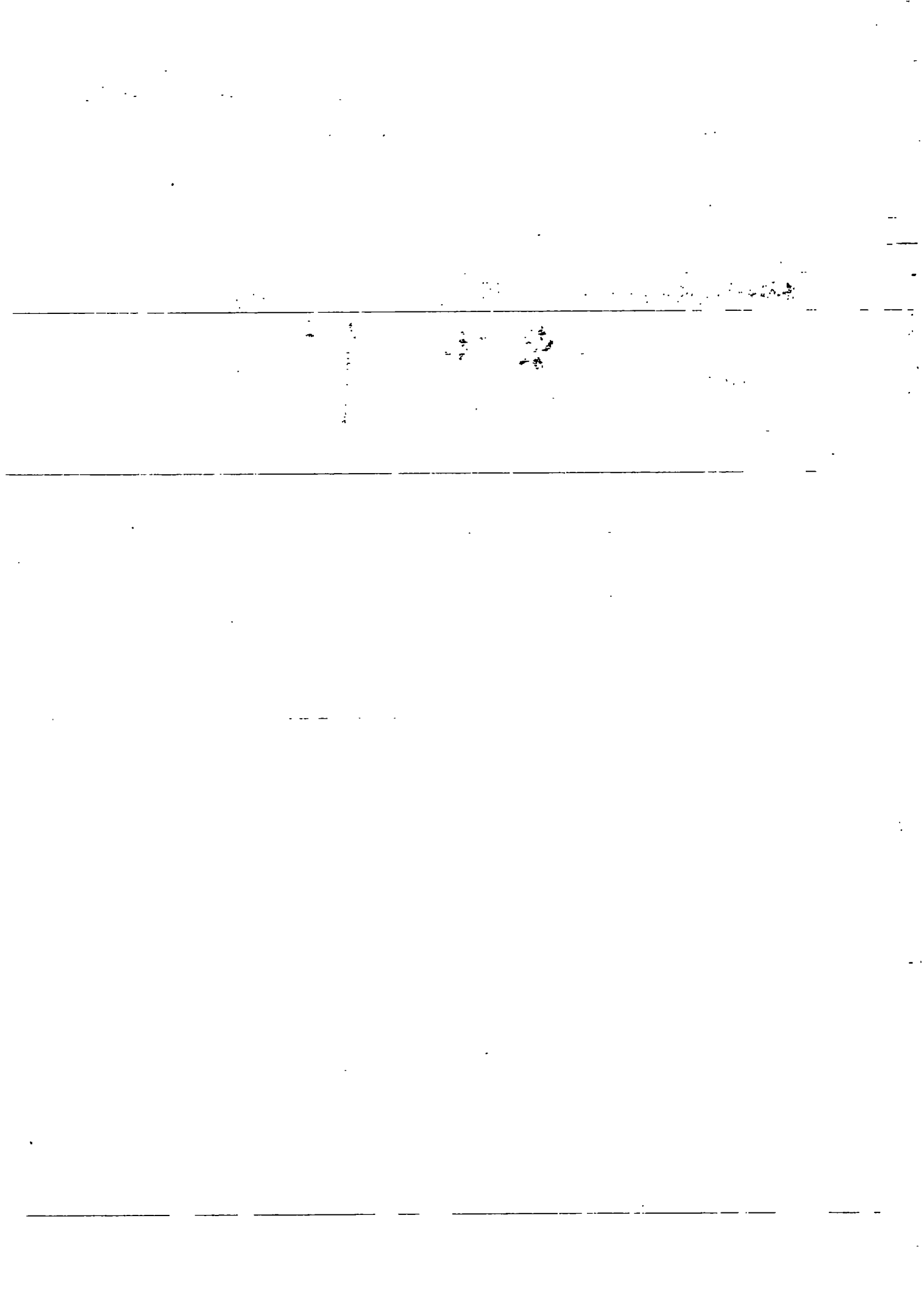
Ayako OGAWA

Tokyo, _____

Official

Ministry of Foreign Affairs
(Consular Service Division)





Appendix 6

1st April 2009

Mr. Jan Umar Hayat,
Managing Director,
Jan's Trading Company Limited

Letter of Resignation from Director and the company

I am writing to inform you that as stated at the meeting dated 30th March 2009, I intend to leave the company and resign from the post of Director as of 1st July 2009 for personal reasons.

I, Kiyooki Hatano, hereby further acknowledge and agree that I have no claim whatsoever against the company and any other claims or demands arising from my resignation.

I wish for the continued prosperity of the company, and express my sincere thankfulness to the kindness you have afforded me since I joined the company.

Kiyooki Hatano,
1-8-12 Komaoka, Tsurumi, Yokohama



Handwritten text at the top of the page, possibly a signature or name, appearing as "A. J. ...".

平成21年4月1日

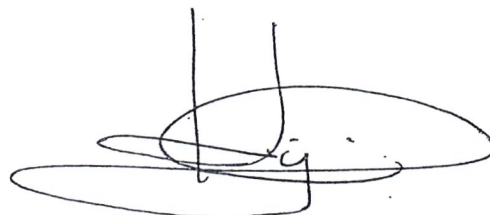
有限会社ジェーンズトレーディング
代表取締役 ジェーン ウマール ハヤット 殿

退社届及び取締役辞任届

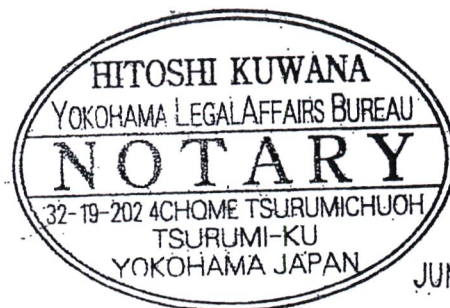
平成21年3月30日のミーティングにて申し上げた如く、私は、このたび一身上の都合により、平成21年7月1日をもって有限会社ジェーンズトレーディングを退職及び貴社の取締役を辞任いたしたく、お届けいたします。

私、波田野 清昭は、退職及び辞任に際し同意し一切のクレーム及び異議申し立てを行わないことを申し添えます。

末筆ながら、貴社ますますのご繁栄とご発展をお祈り申し上げます。
まずは書中にて御礼申し上げます。



平成21年4月1日
横浜市鶴見区駒岡一丁目8番
波田野 清昭



JUN. 15. 2016

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Appendix 7

CERTIFICATE OF CLOSURE MATTERS

5-8-49 Namamugi, Tsurumi, Yokohama
 JAN'S TRADING CO., LTD.

Head Office	<u>Hino Building 902,</u> <u>4-43-4-3 Tsurumichuo, Tsurumi, Yokohama</u>	
	<u>Maeda Chuo Building 7F,</u> <u>4-32-21 Tsurumichuo, Tsurumi, Yokohama</u>	2004/7/15 Moved ----- 2004/7/29 Registered
Capital Injection per lot	<u>JP Yen 50,000.-</u>	
Matters regarding Board Members	<u>Windy Fujimi 2 - 201,</u> <u>5-12-24 Fujimi, Urayasu, Chiba</u>	
	<u>Director</u> <u>JAN UMAR HAYAT</u>	
	<u>Avenir Muto 203,</u> <u>3-168-8 Honchodori, Tsurumi, Yokohama</u>	2001/11/15 Address Moved
	<u>Director</u> <u>JAN UMAR HAYAT</u>	----- 2001/11/15 Registered
	<u>132-64 Arai, Honmoku, Naka, Yokohama</u>	2005/6/13 Address Moved
	<u>Director</u> <u>JAN UMAR HAYAT</u>	----- 2006/5/11 Registered
	<u>1-25-8 Kamisueyoshi, Tsurumi, Yokohama</u>	2010/4/9 Address Moved
	<u>Director</u> <u>JAN UMAR HAYAT</u>	----- 2010/4/28 Registered
	<u>Windy Fujimi 2 - 201,</u> <u>5-12-24 Fujimi, Urayasu, Chiba</u>	
	<u>Director</u> <u>Takae Iino</u>	
<u>Avenir Muto 203,</u> <u>3-168-8 Honchodori, Tsurumi, Yokohama</u>	2001/11/15 Address Moved	
<u>Director</u> <u>Takae Iino</u>	----- 2001/11/15 Registered	
<u>132-64 Arai, Honmoku, Naka, Yokohama</u>	2005/6/13 Address Moved	
<u>Director</u> <u>Takae Iino</u>	----- 2006/5/11 Registered	
	2007/8/24 Resigned	
	----- 2007/8/29 Registered	

Appendix 1

5-8-49, Namamugi, Tsurumi, Yokohama

JAN'S TRADING CO., LTD.

	<u>1-8-12 Komaoka, Tsurumi, Yokohama</u>	2007/8/24 Assigned
	<u>Director</u> <u>Kiyooki Hatano</u>	2007/8/29 Registered
		2010/1/6 Resigned
		2010/2/24 Registered
	<u>Managing Director</u> <u>JAN UMAR HAYAT</u>	
		2010/1/6 Deleted After appointment of 1 Director, 2010/2/24 Registered

This is to certify that all matters of closure registered are stated herein.

(YOKOHAMA DISTRICT LEGAL AFFAIRS BUREAU)

June 2, 2016

Kanagwa Office of Yokohama District Legal Affairs Bureau

Registrar

Kenji Narita

閉鎖事項全部証明書

横浜市鶴見区牛久保五丁目8番49号
有限会社ジェーンズトレーディング

本店	横浜市鶴見区鶴見中央四丁目43番4号第3日野ビル902号室	
	横浜市鶴見区鶴見中央四丁目32番21号マコダ中央ビル7階	平成16年7月15日移転 平成16年7月29日登記
出資1口の金額	金5万円	
役員に関する事項	千葉県浦安市富士見五丁目12番24-201号ウインディ富士見2 取締役 <u>ジェーンウマールハヤット</u>	
	横浜市鶴見区本町通三丁目168番地8アブニール武藤203 取締役 <u>ジェーンウマールハヤット</u>	平成13年11月15日住所移転 平成13年11月15日登記
	横浜市中区本牧荒井132番地64 取締役 <u>ジェーンウマールハヤット</u>	平成17年6月13日住所移転 平成18年5月11日登記
	横浜市鶴見区上末吉一丁目25番地8号 取締役 <u>ジェーンウマールハヤット</u>	平成22年4月9日住所移転 平成22年4月28日登記
	千葉県浦安市富士見五丁目12番24-201号ウインディ富士見2 取締役 <u>飯野貴江</u>	
	横浜市鶴見区本町通三丁目168番地8アブニール武藤203 取締役 <u>飯野貴江</u>	平成13年11月15日住所移転 平成13年11月15日登記
	横浜市中区本牧荒井132番地64 取締役 <u>飯野貴江</u>	平成17年6月13日住所移転 平成18年5月11日登記 平成19年8月24日辞任 平成19年8月29日登記

横浜市鶴見区生麦五丁目8番49号
有限会社ジェーンズトレーディング

	横浜市鶴見区駒岡一丁目8番12号 取締役 <u>波田野清昭</u>	平成19年 8月24日就任
		平成19年 8月29日登記
	代表取締役 <u>ジェーンウマールハヤット</u>	平成22年 1月 6日辞任
		平成22年 2月24日登記
		平成22年 1月 6日取締役が1名となったため抹消
		平成22年 2月24日登記

これは登記簿に記録されている閉鎖された事項の全部であることを証明した書面である。

(横浜地方法務局管轄)

平成28年 6月 2日
横浜地方法務局神奈川出張所
登記官

成 田 兼 二



26



Quality Inspection Services Japan

Mr. Hashim Abdallah Hassan,
10 Felstead Close,
Palmers Green,
London, N13 5GN,
United Kingdom

Our ref: QISJ-20120206/02
Date: 2012/February/06

Dear Mr. Hashim Abdallah Hassan,

RE: INCORPORATION OF A BRANCH OF QUALITY INSPECTION SERVICES COMPANY IN THE UK.

Following your meeting with our Representative, we are pleased to inform you that we wish to work in partnership with you in order to swiftly start up a branch of Quality Inspection Services Inc. (QISJ) in the UK.

During the company board of directors meeting held at our headquarters on 6th January 2012, the company has decided to establish our own subsidiary company in the UK to win a strong customer base and expansion of our pre-shipment inspections in the UK for the Kenyan market and other countries as we have recently secured a contract with KEBS (Kenya Bureau of Standards) and we need to expand our roadworthiness inspection services to our customers in the U.K.

During the extra-ordinary meeting held at our headquarters on 1st February you have been introduced to us as a strong candidate for the role of one of our representative director for the U.K branch to start up the organization and make a ground work for our business. This means that QISJ shall reserve the rights to take up to 100% shares of the company and also reserve the right to nominate another director.

We, therefore, wish to appoint you as a Director of and a shareholder in the Company on conditions that:

- (a) You shall hold the shares in the Company and all rights attaching thereto and all dividends and other distributions payable thereon in trust and as nominee for Quality Inspection Services Inc. Japan (Company Corporate Reference Number Q200-01-062427) of YCC1608, 22 Daikoku-futo, Tsurumi-ku, Yokohama City (hereinafter called "QISJ"); and
- (b) You shall transfer the said shares to QISJ or to such other person as QISJ may nominate and that you shall deal therewith or act in relation thereto as QISJ may from time to time direct.

Additional elements of this Contract are:

- Annex 1: "Declaration of Trust"
- Annex 2: "Terms for Provision of The Services"

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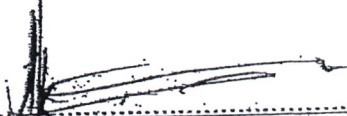
Declaration

I hereby irrevocably and unconditionally agree and consent to be appointed as a Director of and a shareholder in the Company.

I further agree and acknowledge that I shall hold the shares in the Company and all rights attaching thereto and all dividends and other distributions payable thereon in trust and as nominee for Quality Inspection Services Inc. Limited (Company Corporate Reference Number 0200-01-062427) of YCC1608, 22 Daikoku-futo, Tsurumi-ku, Yokohama City (hereinafter called "QISJ") and I hereby undertake to transfer the said shares to QISJ or to such other person as QISJ may nominate and otherwise to deal therewith or act in relation thereto as QISJ may from time to time direct.

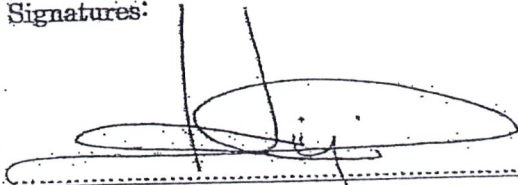
Please confirm your formal acceptance of appointment by signing the above declaration, Annex 1, Annex 2 and returning the signed copies to the head office prior to your commencement of work with us.
Please retain the one original for your records.

Signatures:



Hashim Abdallah Hassan
Date: February 6, 2012

Signatures:

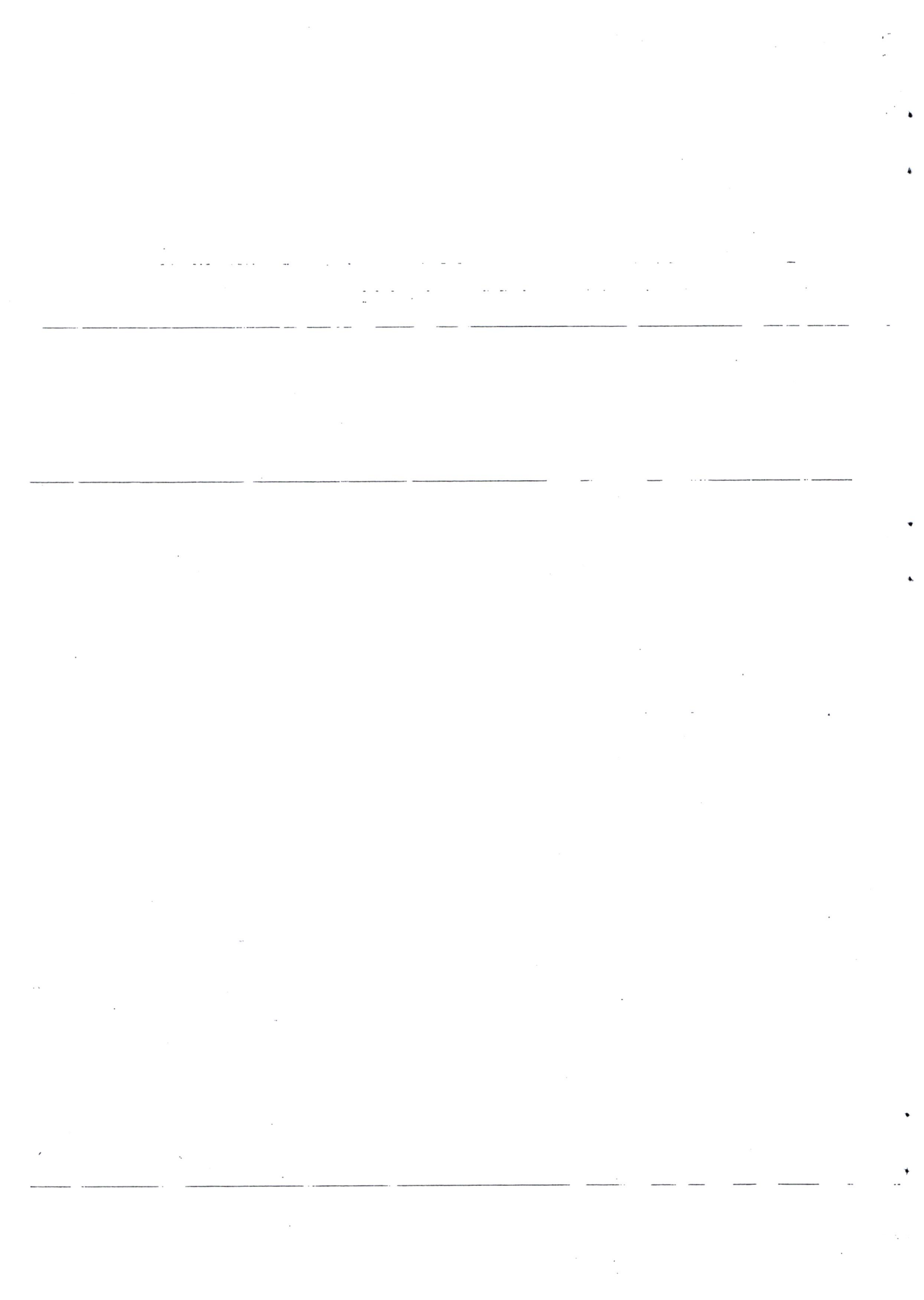


For Quality Inspection Services Inc. Japan: Kiyooki Hatano
Date: February 6, 2012



Quality Inspection Services Inc. Japan
〒230-0054 YCC1608 22 Daikoku Futo, Tsurumi, Yokohama
TEL: 045-500-6033 FAX: 045-500-6034
E-Mail: info@qisj.com
HP: http://qisj.com/

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Appendix 9

Contract of Appoint (Local Agent)

عقد تعيين
وكيل مواطن

Further to the Local order no. (13) of 2011 on Licensing of Vocationals and artisans in the Emirate of Dubai.

طبقا لاحكام الامر المحلي رقم (١٣) لسنة ٢٠١١م بشأن ترخيص المهنيين والحرفيين في إمارة دبي.

The contract is made of / / between:

انه في هذا اليوم الموافق / / حرر هذا العقد بين كل من:

1. Ms. **QUALITY INSPECTION SERVICES INC**, Japan National, head office Ycc 1608-22, Daikoku Futo Tsurumi, Yokohama, represented by Mr. **KIYOAKI HATANO**, Japan National, Date of birth: 18/07/1974 holder of Passport no. (TH4187104) M. 050 4303447, Address: Po. Box: 99325, Room No. 302, Fatima Building, Al Barasha, Dubai, UAE.

١. السادة/ مؤسسة خدمات فحص الجودة، الجنسية: اليابان، المكتب الرئيسي: ١٦٠٨- ٢٢ Ycc دايكوكوفوتسو، تسورومي، يوكوهاما، يمثلها بالتوقيع السيد/ كيواكي هاتانو، ياباني الجنسية، تاريخ الميلاد: ١٨/٠٧/١٩٧٤، يحمل جواز سفر رقم (TH4187104)، متحرك: ٤٣٠٣٤٤٧، و عنوانه: ص ب: ٩٩٣٢٥، رقم غرفة: ٣٠٢ بناية فاطمة، البرشاء، دبي، الإمارات العربية المتحدة.

(Hereinafter referred to as the "Firs Party").

(و يشار إليها هنا فيما بعد بـ "الطرف الأول").

2. Mr. **SALEM SAIF EBRAHIM BINTOUQ ALMANSOORI**, UAE National Date of birth: 18/09/1983, holder of passport No. J9KR25964, M. 055 6000026 place of Residence: P.O. Box: 3944, Villa # 506/1 Umm Al Quwain, UAE.

٢. السيد/ سالم سيف بن ابراهيم بن طوق المنصوري، الجنسية: الإمارات، تاريخ الميلاد: ١٨/٠٩/١٩٨٣ و يحمل جواز سفر رقم: J9KR25964، متحرك ٦٠٠٠٠٢٦، مكان الإقامة: ص ب: ٣٩٤٤، رقم فيلا: ٥٠٦/١، أم القيوين، الإمارات العربية المتحدة.

(Hereinafter referred to as the "Second Party").

(و يشار إليه هنا فيما بعد بـ "الطرف الثاني").

Preamble

Whereas the First Party has the desire to open a Branch of the company inside the Emirate of Dubai to practice its activity, and it has obtained the preliminary approval from Department of Economic Development under the trade name:

مقدمة:
حيث ان الطرف الاول يرغب في فتح فرع للشركة داخل امانة دبي لمزاولة نشاطها، و حيث انه قد تحصل على الموافقة المبدئية من دائرة التنمية الاقتصادية في دبي تحت الاسم التجاري:

الجزيرة لخدمات الترجمة القانونية
زاهر محمد زبير همد
مترجم قانوني محلف - عربي / انجليزي / عربي
رقم الترخيد: ٢٥٤
ALJAZEERA LEGAL TRANSLATION SERVICES
ZAHIR MOHAMMED ZUBEIR HIMMAD
Sworn Legal Translator Arabic / English / Arabic
License No. 254
Tel: 04 3972586, P.O. Box: 115461, Dubai, UAE

DUBAI
2011

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Alphabet

"Ms. QUALITY INSPECTION SERVICES (فرع) مؤسسة خدمات فحص الجودة (دبي)"
INC (Dubai Branch)"

To carry out the following activity:

Vehicles Technical Testing

لمزاولة النشاط:

الفحص الفني للمركبات

Whereas Articles (3) and (4) of the Local Order No. (13) of 2011 concerning licensing the Vocationals and Artisans in the Emirate of Dubai stipulated that the non-national Vocations and Artisans should have an agent from the citizens of the State, so it was agreed between the two parties on the following:-

وحيث ان المادتين (3) و (4) من الأمر المحلي رقم (13) لسنة 2011م بشأن ترخيص المهنيين والحرفيين في إمارة دبي قد استوجبتنا على مزاولة الأنشطة المهنية الحرفية من غير المواطنين ان يكون لهم وكيل من مواطني الدولة لذا فقد تم الاتفاق بين الطرفين على مايلي:-

Article (1)

The above preamble shall be considered an integral part of the conditions of this contract and shall be read therewith.

المادة (1)

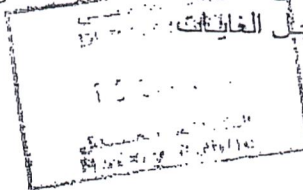
تعتبر المقدمة أعلاه جزء لا يتجزأ من شروط هذا العقد و تقرأ معه.

Article (2)

The first party hereby appoints The Second party as its "Local agent" in the Emirate of Dubai and Second party hereby agree to act as local agent.

المادة (2)

يعين الطرف الأول الطرف الثاني "وكيل مواطن" له في إمارة دبي و يوافق الطرف الثاني بان يكون الوكيل المواطن للطرف الأول خلال فترة سريان هذا العقد و اي تمديد له و ذلك من اجل الغايات المذكورة فيه.



Article (3)

The duties and obligations of the Second party towards the first Party and others are limited to extending the legal experience of an ordinary man in order to enable the First Party to carry out its activity in the Emirate of Dubai. Such as for example, to assist in obtaining and renewing the professional licenses and to assist in obtaining the necessary employment visas and renewing the same with Ministry of Labour and social affairs and other governmental and semi-governmental departments & bodies.

المادة (3)

تقتصر واجبات و التزامات الطرف الثاني تجاه الطرف الأول و الغير في تقديم خبره الرجل المعتاد المشروعية لتمكين الضرف الأول من ممارسة نشاطه في إمارة دبي، من ذلك على سبيل المثال المساعدة في استخراج الرخص المهنية وتجديدها والمعاونة في الحصول على تأشيرات العمل اللازمة وتجديدها لدى وزارة العمل و الشؤون الاجتماعية و غيرها من الدوائر و الهيئات الحكومية و شبه الحكومية.

الجزيرة لخدمات الترجمة القانونية
زاهر محمد زبير همد
مترجم قانوني محلف - عربي / الإنجليزي / اعرابي
رقم القيد: 254
ALJAZIRA LEGAL TRANSLATION SERVICES
ZAHAR RABHAMMED ZUBAIR HEMMAD
Sworn Legal Translator Arabic / English / Arabic
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Tel: 04 3972585, P.O. Box: 115462, Dubai, UAE

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Article (4)

The First Party shall be solely and fully responsible towards third parties for any debts or financial obligations due from it as from the date of signing this contract, which might be incurred as a result of its Practicing the activity in the Emirate of Dubai.

المادة (٤)

يكون الطرف الأول وبصفة منفردة مسئولاً مسؤلية كاملة تجاه الغير عن اية ديون أو التزامات مالية قد تنشأ في ذمته اعتباراً من تاريخ توقيع هذا العقد و التي قد تترتب نتيجة لممارسة النشاط في إمارة دبي.

Article (5)

The Second party shall not bear or be liable towards the First party for any civil responsibility or financial obligations related to the business and activity of the First Party inside & Outside Emirate of Dubai.

المادة (٥)

لا يتحمل الطرف الثاني و لا يلتزم تجاه الطرف الأول أو الغير بأية مسؤلية مننية أو التزامات مالية تتعلق باعمال و نشاط الطرف الأول داخل إمارة دبي و خارجها.

Article (6)

In consideration of all the services rendered By the Second Party hereunder, the first party is committed to pay to the Second party the sum of **(Dhs 12,500/=) Twelve thousand five hundred Dirhams** only per annum. This amount is considered the only right due to the Second Party.

المادة (٦)

مقابل تقديم الطرف الثاني لكافة خدماته بموجب هذا العقد، يلتزم الطرف الأول بأن يدفع للطرف الثاني مبلغاً و قدره (= / ١٢,٥٠٠ درهم) ققط اثنا عشر الفا و خمسمائة درهم سنوياً و يعتبر هذا المبلغ هو الحق الوحيد للطرف الثاني المترتب في ذمة الطرف الأول.

Article (7)

The of duration of this Contract shall be Five Gregorian years commencing from the date of issuance of the license and shall be automatically renewed for other similar periods unless either party informed the another party in a registered letter sent to the address stated first hereinabove of his intention not to renew this contract at least two months prior to its expiry date.

المادة (٧)

مدة هذا العقد خمس سنوات ميلادية واحدة تبدأ اعتباراً من تاريخ صدور مستند الترخيص و يجدد تلقائياً لمدد أخرى مماثلة ما لم يخطر أحد الطرفين الطرف الآخر بموجب كتاب مسجل على عنوانه المشار اليه في بداية هذا العقد برغبته في عدم التجديد و ذلك قبل شهرين على الأقل من انتهائه.

الجزيرة لخدمات الترجمة القانونية
زاهر محمد زبير همد
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رقم القيد: ٢٥١
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Article (8)

المادة (٨)

The relationship between the parties hereof shall be limited to the obligations referred to hereinabove, and under no Circumstances the parties shall be considered as partners or jointly liable for any financial obligations arising as a result of the first Party's carrying out its activity in the Emirate of Dubai.

تقتصر العلاقة بين الطرفين على الالتزامات المشار إليها أعلاه في هذا العقد، و لا يمكن بحال من الأحوال اعتبار الطرفين شريكين أو مسؤولين معاً عن أية التزامات مادية نتيجة لممارسة الطرف الأول لنشاطه في إمارة دبي.

Article (9)

المادة (٩)

Any dispute which may arise in connection with interpretation of the provisions of this contract shall be amicably settled failing which, Dubai Courts shall be the competent authority to settle the same.

أي نزاع ينشأ بين الطرفين فيما يتعلق بتفسير بنود هذا العقد يصار الى حله ودياً، في حالة عدم الاتفاق تكون محاكم دبي هي الجهة المختصة في الفصل فيه.

Article (10)

المادة (١٠)

10.1 This agreement shall not in any way effect the company's full ownership of its business including all its bank account and assets, tangible and intangible, together with the name and goodwill under which business is carried on and company shall maintain its absolute and unrestricted right to manage its business separately and solely from any business of the agent, according to its full power and discretion.

١٠,١ هذه الاتفاقية يجب ألا تؤثر بأي صورة من الصور على الملكية الكاملة للشركة لأعمالها و تشمل هذه كل حساباتها المصرفية و أصولها الملموسة الى جانب الاسم و السمعة التجارية التي تمارس بموجبها الأعمال و أن تحتفظ الشركة بحقوقها المطلق غير مقيد لإدارة أعمالها بشكل منفصل و بعيداً عن أية أعمال خاصة بالوكيل وفقاً لسلطاتها و قراراتها الخاصة.

10.2 The agent shall not intervene in any of the affairs of the Company's business except at the written request of the company and under the instructions of the company.

١٠,٢ على الوكيل الا يتدخل في أي من المسائل المتعلقة بأعمال الشركة الا اذا طلبت منه ذلك الشركة خطياً أو بناء علي توجيهاتها.

Article (11)

المادة (١١)

Neither party shall it any time during or after the termination of this agreement divulge any confidential information concerning the affairs or method of carrying on business of the other party.

يجب على الطرفين و في أي وقت خلال سريان أو بعد انتهاء هذه الاتفاقية عدم افشاء أية معلومات سرية تتعلق بأمر و طريق أداء أعمال الطرف الأخر.

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رقم الترخيص: ٢٥٤
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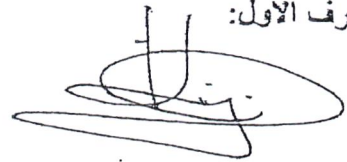
26

This contact was made in (4) copies, of which a copy shall be kept, after being authenticated by the Notary Public, another copy is lodged with the competent authority for the purposes of completing the necessary licensing procedures while each party shall keep a copy to act accordingly.

حرر هذا العقد من (٤) نسخ، يتم الاحتفاظ بواحدة منها بعد التوثيق لدى السيد الكاتب العدل، وتودع نسخة أخرى لدى السلطة المختصة لأغراض استكمال اجراءات الترخيص اللازمة، في حين يحتفظ كل طرف بنسخة منه للعمل بموجبه.

Signature of the First party:

توقيع الطرف الأول:



Signature of the Second party:

توقيع الطرف الثاني:



حكومة دبي
GOVERNMENT OF DUBAI

مكتب العدل
DUBAI COURTS
15 SEP 2015
الكاتب العدل
Notary Public

محاكم دبي
DUBAI COURTS

بتاريخ ٢٠١٥-٠٩-١٥ حضر امامي السيد/ كيواكي هاتانو بصفته المذكورة والسيد/ سالم سيف بن ابراهيم بن طوق المنصوري وبعد التعرف عليهم وقعوا على المستند بحضوري حسب الأصول.

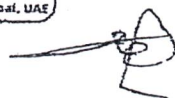
شيماء احمد شعبان

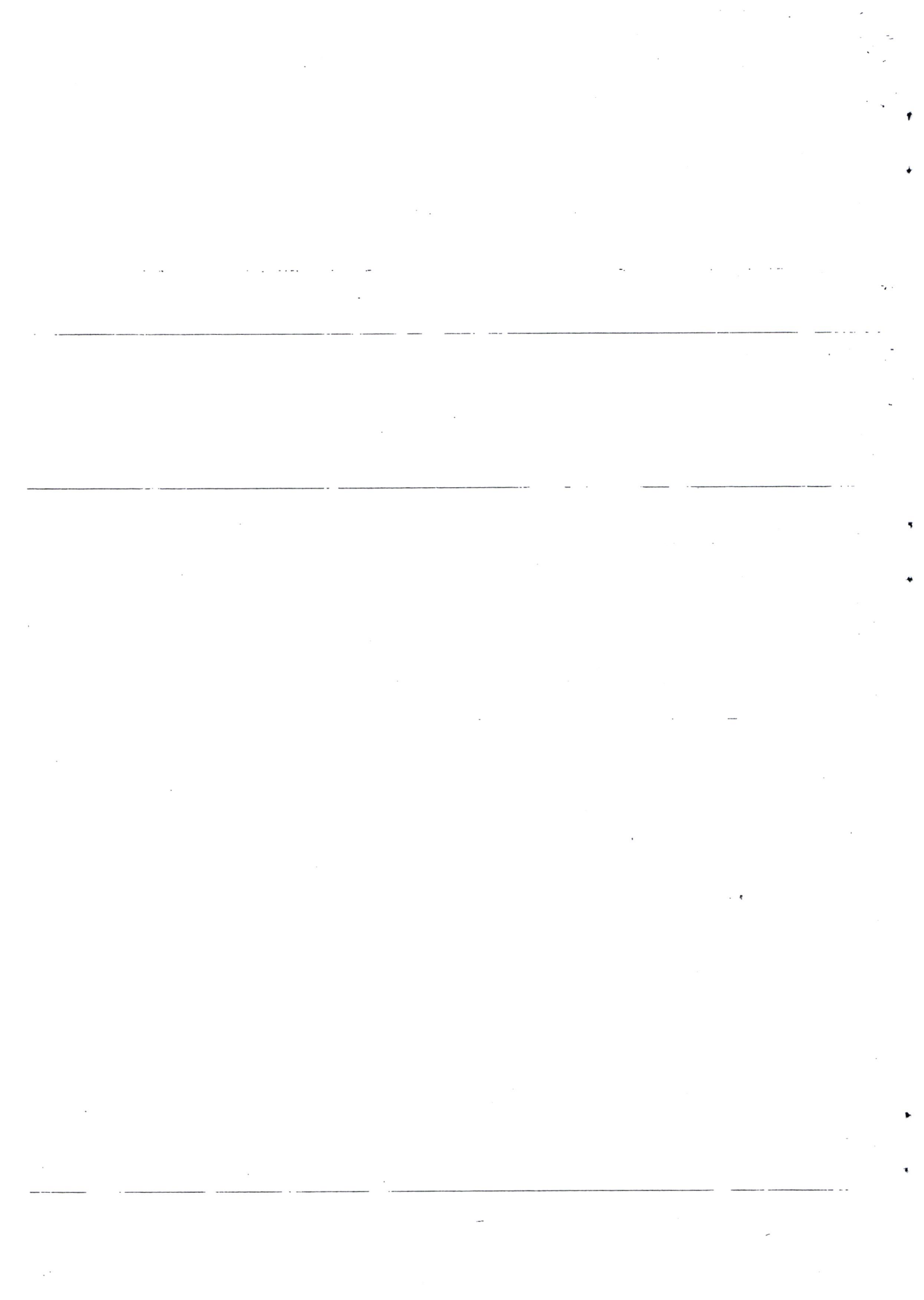
رقم الإيصال ٣٦١٠٥١
رقم المحرر ٢٠١٥/١/١٩٢٢٠٧
لطور ٩٨٥٢٩

الكاتب العدل

www.dc.gov.ae

الجزيرة لخدمات الترجمة القانونية
زاهر محمد زبير همد
مترجم قانوني محقق - عربي / إنجليزي / عربي
رقم القيد: ٢٥٤
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License No. 254
Tel: 04 3972586, P.O. Box: 115463, Dubai, UAE







رخصة مهنية
Professional License

License Details / تفاصيل الرخصة

License No.	684010	رقم الرخصة
Trade Name	QUALITY INSPECTION SERVICES INC (DUBAI BRANCH)	الإسم التجاري
Legal Type	Branch of Foreign Company	الشكل القانوني
Expiry Date	20/02/2016	تاريخ الإصدار
D&B D-U-N-S © No.		رقم الرخصة الأم
Register No.		عضوية الغرفة
	تاريخ الإنتهاء	Issue Date
	الرقم العالمي	Main License No
	رقم السجل التجاري	DCCI No.

License Members / أطراف الرخصة

Share / الحصص	Role / الصفة	Nationality / الجنسية	No. / رقم الشخص	Name / الإسم
	Co. Owner / مالك الشركة	China / الصين	441827	quality inspection services inc / مؤسسة خدمات فحص الجودة
	Manager / مدير	Japan / اليابان	589503	KIYOAKI HATANO / كيواكي هاتانو
	Company Agent / وكيل شركة	United Arab Emirates / الإمارات	418133	SALEM SAIF EBRAHIM BIN TOUQ ALMANSOORI / سالم سيف إبراهيم بن طوق المنصوري

License Activities / نشاطات الرخصة التجارية

Vehicles Technical Testing

التحسس الفني للمركبات

Address / العنوان

Telephone	971-4-3200979	تيليفون	P.O. Box	99325	صندوق البريد
Fax		فاكس	Parcel ID	8131291	رقم القطعة
Mobile No	971-52-8736705	الهاتف المتحرك	مستودع رقم 1 ملك عيسى عبدالله عيسى الكوس - رامس الخور الصناعية الثانية		

Remarks / ملاحظات

Print Date 15/09/2015 13:21 تاريخ الطباعة Receipt No. 12103538 رقم الإيصال

Activity Owners

الجهة التي لها صلاحية متابعة أنشطة

(وثيقة إلكترونية معتمدة وصادرة بدون توقيع من دائرة التنمية الاقتصادية، إمرارة صحة الليفت الواردة في الرخصة يرجى زيارة الموقع <http://www.dubaided.gov.ae>)

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UNITED ARAB EMIRATES

Ministry of Economy
Commercial Registration Dept.



United Arab Emirates

الإمارات العربية المتحدة

وزارة الاقتصاد
إدارة التسجيل التجاري

شهادة تجديد فرع منشأة أجنبية

Registration Renewal Certificate of Branch of Foreign Facility

اسم المنشأة:	مؤسسة خدمات فحص الجودة
:Facility Name	QUALITY INSPECTION SERVICES INC
رقم القيد:	4157
تاريخ القيد:	20-03-2013
انتهاء القيد:	19-03-2016
رقم القيد لدى دائرة التنمية الاقتصادية:	68010
الجنسية:	اليابان
عنوان المركز الرئيسي:	واي سي سي 22-1608 دايكوكو فوتو-تسور موميكو-يوكوهوما
الإمارة:	دبي
العنوان داخل الدولة:	راس الخور الصناعية - مستودع ملك عيسى عبدالله الكوس-الخور الصناعية 2-ص ب 99325 دبي، ص.ب.: 99325
اسم الوكيل:	سالم سيف ابراهيم بن طوق المنصوري
مدير المنشأة:	كيواكي هاتانو
المنشأة:	الفحص الفني للمركبات
:Activity	

المهندس / محمد احمد بن عبد العزيز الشحي

وكيل الوزارة للشؤون الاقتصادية

Issue Date

13-09-2015

تحريراً في:

20

OWN FACILITIES IN TENDER BIDDING DOCUMENT

NO.	REGION	NAME	ADDRESS	NEAREST PORT	LAND LEASE CONTRACT	
					FROM	TO
1	KANTO	QISJ KAWASAKI	7-2 Hiagashi Ogijima, Kawasaki-ku, Kawasaki-shi, Kanagawa	KAWASAKI	2012/3/10	2016/9/30
2	KANTO	QISJ KISARAZU	14-2 Shin Minato, Kisarazu-shi, Chiba	KISARAZU	2013/7/1	Automatic Renewal
3	KANSAI	QISJ KOBE	9 Koyocho Naka, Higashi Nda-ku, Kobe-shi, Hyogo	KOBE	2013/7/1	Automatic Renewal
4	CHUBU	QISJ NAGOYA	Toyo Soko Inami Motor Pool, 77 Shionagi Cho, Minato, Nagoya Aichi	NAGOYA	2014/10/1	Automatic Renewal

Appendix 10

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Abbey 10

LEASED FACILITIES IN TENDER BIDDING DOCUMENT

No.	REGION	NAME	ADDRESS	NEAREST PORT	Lease Contract	
					From	To
1	KYUSHU	AUTO LOGISTICS JAPAN HAKATA	4-10 Hakozaikifuto, Higashi-ku, Fukuoka-shi, Fukuoka	HAKATA	2009/06/01	Automatic Renewal
2	KANTO	JAPAN ENGINEERING	4-10, Torihama-cho, Kanazawa-ku, Yokohama-shi, Kanagawa	YOKOHAMA	2009/11/25	2017/11/25
3	KANSAI	OTSUKI JIDOSHA	932-1 Mita-cho, Kishiwada-shi, Osaka	OSAKA	2011/04/01	Automatic Renewal
4	CHUBU	FLASH RISE	5-3 Nishi Suehiro, Yatomi, Aichi	NAGOYA	2011/04/28	Automatic Renewal
5	KANTO	USS LOGISTICS	9-19 Daikoku, Tsurumi, Yokohama, Kanagawa	YOKOHAMA	2011/05/01	Automatic Renewal
6	KANSAI	ABA INTER CARS	3-10-28 Tadaoka-Kita, Tadaoka-cho, Osaka-shi, Osaka	OSAKA	2011/05/01	Automatic Renewal
7	KANSAI	KYOWA JIDOSHA	1-18-17 Kita Okajima, Taisho, Osaka	OSAKA	2012/10/22	Automatic Renewal
8	KYUSHU	KOGA JIDOSHA	031-4 Tanoura, Moji, Kitakyushu, Fukuoka	HAKATA	2013/02/15	Automatic Renewal
9	KYUSHU	ECL KITAKYUSHU	3-1-10 Shin Moji, Kitakyushu, Fukuoka	SHIN MOJI/MOJI	2013/11/01	Automatic Renewal
10	KANSAI	AUTO LOGISTICS JAPAN OSAKA	104 Shiomi-cho, Izumi Ohtsu-shi, Osaka	OSAKA	2014/05/01	Automatic Renewal
11	KANTO	PT	2396-1 Funagata, Noda-shi, Chiba	KAWASAKI	2014/06/10	Automatic Renewal
12	CHUBU	NOMURA JIDOSHA	1-329 Namiki, Nakamura-ku, Nagoya-shi, Aichi	NAGOYA	2014/06/20	Automatic Renewal
13	CHUBU	SEIRYO JIDOSHA	7-23 Honmachi, Kanie-cho, Ama-gun, Aichi	NAGOYA	2014/06/20	Automatic Renewal
14	KANTO	KEIHIN SHARYO HANBAI	5-8-42 Namamugi, Tsurumi-ku, Yokohama-shi, Kanagawa	YOKOHAMA	2014/09/26	Automatic Renewal
15	KYUSHU	IDE JIDOSHA KOGYOU	3-3-1 Kishi, Moji-ku, Kitakyushu-shi, Fukuoka	SHIN MOJI/MOJI	2014/10/17	Automatic Renewal
16	KANTO	AQUOS	5653 Kimagase, Noda, Chiba	KISARAZU	2014/10/27	Automatic Renewal
17	KANTO	KAWASAKI AUTOMOBILE ASSOCIATION	3-24-3 Shiohama, Kawasaki-ku, Kawasaki-shi, Kanagawa	KAWASAKI	2014/11/14	Automatic Renewal

Appendix II

Abbeville

GROWTH OF QISJ OWNED INSPECTION FACILITIES

NO.	REGION	NAME	ADDRESS	NEAREST PORT	LAND LEASE CONTRACT	
					FROM	TO
1	KANTO	QISJ KAWASAKI	7-2 Higashi Ogijima, Kawasaki-ku, Kawasaki-shi, Kanagawa	KAWASAKI	2012/3/10	2016/9/30
2	KANTO	QISJ KISARAZU	14-2 Shin Minato, Kisarazu-shi, Chiba	KISARAZU	2013/7/1	Automatic Renewal
3	KANSAI	QISJ KOBE	9 Koyochi Naka, Higashi Nda-ku, Kobe-shi, Hyogo	KOBE	2013/7/1	Automatic Renewal
4	CHUBU	QISJ NAGOYA	Toyo Soko Inami Motor Pool, 77 Shionagi Cho, Minato, Nagoya Aichi	NAGOYA	2014/10/1	Automatic Renewal
5	CHUBU	QISJ FLASH RISE	5-8 Nishi Suehiro, Yatomi-shi, Aichi	NAGOYA	2015/3/1	Automatic Renewal
6	KANTO	QISJ YOKOHAMA	9-19 Daikoku-cho, Tsurumi-ku, Yokohama-shi, Kanagawa	YOKOHAMA	2015/4/1	Automatic Renewal
7	KANTO	QISJ YOKOHAMA DAIKOKU FUTO	15 Daikoku-Futo, Tsurumi-ku, Yokohama-shi, Daikoku Futo Kanagawa	YOKOHAMA	2015/4/1	Automatic Renewal
8	KANSAI	QISJ KOBE SHINKO HIGASHI	6-21 Onohama-cho, Chuo-ku, Kobe-shi, Hyogo	KOBE	2015/4/1	Automatic Renewal
9	KANSAI	QISJ OSAKA	9, 10, 15 Yunagi-cho, Izumi Otsu-shi, Osaka	OSAKA	2015/4/1	Automatic Renewal
10	KANTO	QISJ HITACHINAKA	768-38 Terunuma, Touka-mura, Naka-gun, Ibaraki	HITACHINAKA	2015/5/1	Automatic Renewal
11	KANTO	QISJ FUTTU	104 Shin Tomi, Futtu-shi, Chiba	KISARAZU	2016/2/1	Automatic Renewal

GROWTH OF QISJ LEASED INSPECTION FACILITIES

No.	REGION	NAME	ADDRESS	NEAREST PORT	Lease Contract	
					From	To
1	KYUSHU	AUTO LOGISTICS JAPAN HAKATA	4-10 Hakozakifuto, Higashi-ku, Fukuoka-shi, Fukuoka	HAKATA	2009/06/01	Automatic Renewal
2	KANTO	JAPAN ENGINEERING	4-10, Torihama-cho, Kanazawa-ku, Yokohama-shi, Kanagawa	YOKOHAMA	2009/11/25	2017/11/25
3	KANSAI	OTSUKI JIDOSHA	932-1 Mita-cho, Kishiwada-shi, Osaka	OSAKA	2011/04/01	Automatic Renewal
4	CHUBU	FLASH RISE	5-3 Nishi Suehiro, Yatomi, Aichi	NAGOYA	2011/04/28	Automatic Renewal
5	KANSAI	ABA INTER CARS	3-10-28 Tadaoka-Kita, Tadaoka-cho, Osaka-shi, Osaka	OSAKA	2011/05/01	Automatic Renewal
6	KANSAI	KYOWA JIDOSHA	1-18-17 Kita Okajima, Taisho, Osaka	OSAKA	2012/10/22	Automatic Renewal
7	KYUSHU	ECL KITAKYUSHU	3-1-10 Shin Moji, Kitakyushu, Fukuoka	SHIN MOJI/MOJI	2013/11/01	Automatic Renewal
8	KANSAI	AUTO LOGISTICS JAPAN OSAKA	104 Shiomi-cho, Izumi Ohtsu-shi, Osaka	OSAKA	2014/05/01	Automatic Renewal
9	KANTO	PT	2396-1 Funagata, Noda-shi, Chiba	KAWASAKI	2014/06/10	Automatic Renewal
10	CHUBU	NOMURA JIDOSHA	1-329 Namiki, Nakamura-ku, Nagoya-shi, Aichi	NAGOYA	2014/06/20	Automatic Renewal
11	CHUBU	SEIRYO JIDOSHA	7-23 Honmachi, Kanle-cho, Ama-gun, Aichi	NAGOYA	2014/06/20	Automatic Renewal
12	KANTO	KEIHN SHARYO HANBAI	5-8-42 Namamugi, Tsurumi-ku, Yokohama-shik Kanagawa	YOKOHAMA	2014/09/26	Automatic Renewal
13	KYUSHU	IDE JIDOSHA KOGYOU	3-3-1 Kishi, Moji-ku, Kitakyushu-shi, Fukuoka	SHIN MOJI/MOJI	2014/10/17	Automatic Renewal
14	KANTO	AQUOS	5653 Kimagase, Noda, Chiba	KISARAZU	2014/10/27	Automatic Renewal
15	KANTO	KAWASAKI AUTOMOBILE ASSOCIATION	3-24-3 Shiohama, Kawasaki-ku, Kawasaki-shi, Kanagawa	KAWASAKI	2014/11/14	Automatic Renewal
16	KANTO	KOJIMA	17-9, Higashi Ogijima, Kawasaki-ku, Kawasaki-shi, Kanagawa	KAWASAKI	2015/01/22	Automatic Renewal
17	KANSAI	DAIKYO AUTO SERVICES	2 Yunagi-cho, Izumi Ohtsu-shi, Osaka	OSAKA	2015/01/27	Automatic Renewal
18	KANTO	ISUZU AUTO SERVICE	3193-2 Oaza Shinozuka, Ouramachi, Oura-gun, Gunma	HITACHINAKA	2015/02/09	Automatic Renewal
19	CHUBU	DAIEI JIDOSHA	4-18 Kawanishi-dori, Minato-ku, Nagoya-shi, Aichi	NAGOYA	2015/02/19	Automatic Renewal
20	CHUBU	KOSEI JIDOSHA	4-1-21 Inaei, Minato-ku, Nagoya-shi, Aichi	NAGOYA	2015/02/19	Automatic Renewal
21	CHUBU	NAGASE JIDOSHA	9 Oaza Umenogooza Miyahigashi, Toshima-mura, Ama-gun, Aichi	NAGOYA	2015/02/19	Automatic Renewal
22	KANTO	ECL AGENCY KISARAZU	10-1 Shin Minato, Kisarazu-shi, Chiba	KISARAZU	2015/2/20	Automatic Renewal
23	KANSAI	ECL AGENCY SENBOKU	2-8/9 Minami Takasago, Takatshi-shi, Osaka	OSAKA	2015/2/20	Automatic Renewal

Appendix 1

REF: QISJ-006-00013

DATE: November 4, 2014

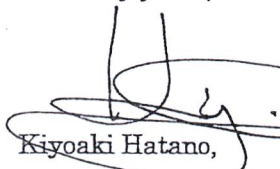
To: The Managing Director, East Africa Automobile Services Co., Ltd (EAA)

Dear Sir,

Re: Termination of Lease Agreement with EAA

This is to notify you that following the Meeting held on 10/24/2014 between the Managing Directors of two companies, Quality Inspection Services Inc. Japan (QISJ) has terminated with immediate effect the Lease Agreement of the use of EAA's inspection facilities to carry out motor vehicle inspection (reference number QISJ-0004 dated February 8th of 2010).

Sincerely yours,


Kiyooki Hatano,
Managing Director,



Quality Inspection Services Inc. Japan



Quality Inspection Services Inc. Japan

〒230-0054 YCC1608 22 Daikoku Futo, Tsurumi, Yokohama

TEL : 045-500-6033 FAX : 045-500-6034

E-Mail : info@qisjp.com

HP: <http://qisjp.com/>



12/18/2014

REF: QISJ-006-00013

日付: 2014年11月4日

代表取締役殿

イーストアフリカオートモービルサービス株式会社 (EAA)

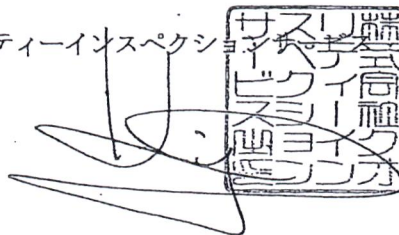
前略。

主題: 貴社 (EAA) との施設使用契約解除

2014年10月24日の両社代表取締役間で行なわれた会議に関連し、当社 (QISJ) は貴社との車両検査用の施設使用契約書 (書類番号 QISJ-0004 平成22年2月8日付) の解除を即行することを通達申し上げます。

敬具。

株式会社クオリティインスペクション
代表取締役
波田野清昭



Quality Inspection Services Inc. Japan
〒230-0054 YCC1608 22 Daikoku Futo, Tsurumi, Yokohama
TEL: 045-500-6033 FAX: 045-500-6034
E-Mail: info@qisjp.com
HP: http://qisjp.com/



施設使用契約について

文書番号：QISJ-004

株式会社クオリティインスペクションサービス（以下「甲」とする。）は、「EAST AFRICA AUTOMOBILE SERVICES 株式会社」（以下「乙」とする。）を「甲」の定めた路上使用適格性検査 検査場要件に基づき輸出自動車の検査場として使用契約し、双方の合意のうえ下記のとおり自動車検査用機械設備の施設使用契約を締結した為、その証として契約書2通を作成し、署名捺印のうえ双方一通ずつ所有するものとする。

(1) 乙は、甲に対し次の所在地に所有する自動車検査用機械設備一式（以下「検査設備」とする。）を賃貸することとする。

- 1（商品名）株式会社アルティア製移動式検査レーン
（設置場所）神奈川県横浜市鶴見区大黒埠頭 14 三井倉庫（株）J号地内
（ジャッキの有無）無
- 2（商品名）株式会社アルティア製移動式検査レーン
（設置場所）神奈川県横浜市鶴見区大黒埠頭 14 三井倉庫（株）J号地内
（ジャッキの有無）有
- 3（商品名）株式会社アルティア製移動式検査レーン
（設置場所）神奈川県川崎市川崎区東扇島7番地2 三石ヤード内
（ジャッキの有無）無
- 4（商品名）株式会社アルティア製移動式検査レーン
（設置場所）愛知県名古屋市中区空見町3丁目4番 三井倉庫株式会社 中部支社内
（ジャッキの有無）有
- 5（商品名）株式会社アルティア製移動式検査レーン
（設置場所）大阪府高石市南高砂2丁目助松8.9号地 イースタンカーライナー泉北営業所
（ジャッキの有無）無
- 6（商品名）株式会社アルティア製移動式検査レーン
（設置場所）兵庫県神戸市東灘区向洋町東4丁目15番4 東友コーポレーション内
（ジャッキの有無）有
- 7（商品名）株式会社アルティア製移動式検査レーン
（設置場所）福岡県京都郡苅田町長浜32番地 山九㈱北九州支店 苅田流通センター内
（ジャッキの有無）無

(2) 甲は、乙の検査設備を使用する場合は、予め乙に対し使用日時、検査台数を通知することとする。

(3) 検査設備の賃借料は次の通りとする。

車種・車格に関わらず一律 合格するまで1台につき ¥5,250（税込）

(4) 甲は、検査設備の賃借料を乙に対し次により支払うものとする。

(1) 乙は毎月の月末を締切日とし、翌10日までに甲に対し明細書を添えて支払請求するものとする。

(2) 甲は支払請求のあった月の月末までに乙に支払うものとする。

(5) 乙の権限を与えられていない者や非関係者が施設及び設備を使用することを許可しないものとする。

(6) 乙は施設及び機器は常に使用出来る状態を確保し続けること。

(7) 甲が検査設備に損害を与えたとき、又は乙が検査車両に損害を与えたときは、双方協議のうえ誠意をもって解決することとする。また、設備点検や校正の段階で、万が一設備の欠陥が見つかった場合は乙において修理または現状に復することとする。

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- (8) 乙は設備メーカー又は日本自動車機器工具協会による定期的な校正を受け、それらを記録すること。
(機器によるが、基本は1年ごと以内)
- (9) 乙は機器管理者による定期点検を行い、それらを記録すること。
(機器によるが、基本は稼働日及び又は施設使用日全て)
- (10) 設備点検や校正の段階で、万が一設備の欠陥が見つかった場合、それらは即座に撤去・隔離すること。
(該当する機器の選定や管理は乙に一任するものとする。ただし、それらが検査品や工程に影響する場合又はその可能性がある場合は、甲への報告及び承諾を得ることを義務とする)
- (11) 記録した文書及び電子データは、保管し常に開示可能な状態を維持していること。
- (12) その他、工程や品質、体制などに変更がある場合は、報告及び承諾を得ることを義務とする
- (13) 甲又は乙の都合により契約を解除しようとするときは、相手方に3か月以上前に予告しなければならない。
- (14) この契約に定めのない事項、又は予期しない事項が発生した場合は、甲及び乙は、関係法規、一般慣習等に従い誠意をもって協議解決することとする。
- (15) 甲は、乙が規定する路上使用適格性検査要件及び本書に定める事項に違反もしくはそれと同等・同様の問題に該当すると判断できる場合は、本契約は直ちに解除するものとする。
- (16) 情報機密は、顧客前の承諾なく第三者に対して直接、間接を問わず漏洩してはならない。これを「守秘義務」として厳守することとし、違反の生じた際は法廷措置によりこの問題を解決するものとする
- (17) 契約期間は、同一内容にて自動的に1年間更新されるものとし、それ以後も同様とする。



施設使用契約書

契約日：平成 22 年 2 月 8 日

甲住所：神奈川県横浜市鶴見区生麦 5 丁目 8 番 4 9

社名：株式会社クオリティーインスペクションサービス

連絡先：045-500-6033

氏名：代表取締役 波田野 清昭

乙住所：

社名：

神奈川県大和市下鶴間二丁目6番17号
シーズガーデン大和
EAST AFRICA AUTOMOBILE
SERVICES 株式会社

連絡先：

TEL: 046-219-293

FAX: 046-293-2

氏名：

代表取締役 菅井プロス

文書番号：QISJ-004

発行 平成 22 年

2 月 8 日

株式会社クオリティーインスペクションサービス

Contract checkpoint on the road test using the eligibility

Document number: QISJ-004

Quality Inspection Service Inc. (QISJ) and East Africa Automobile Services (EAA) have signed a contract agreement of leasing a facility at EAA for conducting the Road Worthiness Inspection of the exporting used vehicles.

The contract details are as follow.

1. QISJ is permitted to use a set of machinery and equipment, and vehicle inspection that are owned by EAA.

Location: 14 Daikoku Futo, Tsurumi, Yokohama, Kanagawa (without Jack)

Location: 14 Daikoku Futo, Tsurumi, Yokohama, Kanagawa

Location: 7-2 Higashi-Ogijima, Kawasaki, Kawasaki, Kanagawa

Location: 3-4 Sorami, Minato, Nagoya, Aichi

Location: 8-9 -2 Minami Takasago, Takaishi, Osaka

Location: 4-15-4 Koyo-cho Higashi, Higashi-Nada, Kobe, Hyogo

Location: 32 Nagahama, Kanda, Kyoto-gun, Fukuoka

2. QISJ will give a prior notice to EAA of conducting the inspection of the car including the time and date.
3. Test equipment rental shall be as follows.

Irrespective of any vehicle, a flat pass will be charged ¥5,250.- (tax included)

4. QISJ shall pay the rent as follow

1. QISJ shall make the payment at the end of the month; thus accompanied by a statement within 10 days.
 2. QISJ will pay on a monthly basis.
5. Any unauthorized person will not be allowed to use.
 6. EAA will be responsible to keep the facility and equipment in working order.

7. If thereabouts damage occurs at the facility during the inspection, then both parties will agree upon the terms and conditions, and in good faith resolve any defect to equipment without any due diligence.
8. Periodically, there shall be an inspection throughout the facility by the Japanese Automotive Service Equipment Association.
9. All inspection shall be recorded.
10. During the inspection and calibration equipment, emergency equipment is found defective, they will be removed promptly.

(Selection and management of appropriate equipment shall be left up to EAA. However, if there is equipment that affects the products and process, with EAA needs the consent and mandatory reporting to QISJ)

11. Documents and electronic data will continue to be maintained and always be available for disclosure.
12. If there processes, quality and system has to be changed, it is EAAs obligation to obtain written consent.
13. If either party wants to terminate the contract, ~~either party must give written consent~~ three months prior notice.
14. If there are any developments not stipulated in this contract, or in the event of unexpected occurrences, both parties, in accordance and essentially in good faith will be resolve them in common practice.
15. If there is any un-disindigenous or illegal activity, this contract will be immediately terminated.
16. All information will remain confidential any undisclosed information to third parties will result in violation of this contract, hence, legal proceedings may begin, and resolved in a court of law.
17. This contract is valid from February 8th, 2010 and its validity will be automatically extended for 1 year.

.....

.....

Facility Agreement

Contract date: February 8, 2010

Party Address: 5-8-49 Namamugi, Tsurumi-ku, Yokohama-shi, Kanagawa-ken Japan

Company Name: ㊤ Quality Inspection Service Inc.

Contact: 045-503 -3998

Name: Managing Director, Hatano Kiyooki ㊤

Client Address: Seas Garden Yamato 411,2-6-17 Shimo Tsuruma, Yamato, Kanagawa

Company Name: East Africa Automobile Services ㊤

Contact: 046-293-2933

Name: Director, Prosper Sugai ㊤

Please write the new address below if there is different address from the above address or if there are several addresses of the inspection factory.

1.

Article number: QISJ-004

February 8, 2010 issue

Quality Inspection Service Inc.

Monthly submission to KEBS as from MARCH 2015 to May 2016

Appendix 13

A	B	C	D	F	G	H	I
Monthly Payment Report for	Japan	Uk	Dubai	SA	Total No.	Monthly Payment Amount (G x \$41)	Remit Amount for Monthly Payment
2015/03	7075	550	24	10	7659	\$314,019	\$314,019
2015/04	8230	683	60	11	8984	\$368,344	\$368,344
2015/05	7018	443	71	19	7551	\$309,591	\$309,591
2015/06	8302	418	49	15	8784	\$360,144	\$360,144
2015/07	7510	406	45	64	8025	\$329,025	\$329,025
2015/08	7579	363	56	51	8049	\$330,009	\$330,009
2015/09	7533	317	29	57	7936	\$325,376	\$325,376
2015/10	8404	529	95	58	9086	\$372,526	\$372,526
2015/11	6138	450	150	45	6783	\$278,103	\$278,103
2015/12	1313	128	15	41	1497	\$61,377	\$61,377
2016/01	2319	251	36	29	2635	\$108,035	\$108,035
2016/02	3700	284	31	43	4058	\$166,378	\$166,378
2016/03	4759	290	40	81	5170	\$211,970	\$211,970
2016/04	4776	219	46	74	5115	\$209,715	\$209,715
2016/05	4537	308	43	57	4945	\$202,745	\$202,745
total	89193	5639	790	655	96277	\$3,947,357	\$3,947,357

Handwritten signature

13 Appendix

		2015.03-2016.05
1	SBT	19186
2	QUALITEX TRADING	5212
3	JANS TRADING	4990
4	ANA TRADERS	4270
5	IBC JAPAN	3301
6	DELIGHTS	2564
7	AL AIN JAPAN	2353
8	BE FORWARD	2031
9	ALHUSNAIN	1917
10	SHINE AUTO TRADING	1699
11	AUTO COM JAPAN	1673
12	RANA INTERNATIONAL	1528
13	OCEAN TRADING	1383
14	KOBE MOTOR COMPANY	1369
15	JAN TRADING	1103
16	ENHANCE AUTO	881
17	WORLD NAVI	859
18	MALIK BOEKI	833
19	YANAGISAWA HD	781
20	ICM JAPAN	762
21	TAS	721
22	YUASA TRADING COMPANY	659
23	TOKYO TRADING	656
24	AUTO CRAFT	637
25	PAPERA TRADERS	620
26	BHINDER CORPORATION	617
27	UK CORPORATION	587
28	NIKKYO	585
29	JAPAN VEHICLE	545
30	SANWA CORPORATION	544
31	OS NETWORK	514
32	BHINDER TRADING	512
33	IMPERIAL MOTORS	499
34	RASHID SONS	474
35	BOLPAK	461
36	GUNMA TRADING COMPANY	458
37	CHOUDHRY CORPORATION	444
38	NK INTERNATIONAL	437
39	TOMISYO	422
40	TAJ TRADING	421
41	RYUSO BANKIN	409
42	ALI ENTERPRISES	379
43	TORISE	371
44	J AUTO	370
45	MALIK MOTORS	367
46	JPC	354
47	KANDE NAGOYA TRADING	352
48	MALAK BOEKI	350
49	MINATO TRADING COMPANY	336
50	ADNAN LIMITED	322
51	BUTT TRADING	307
52	MATEL TRADING	305
53	AUTO SUPPLY JAPAN	303
54	ALIBABA INTERNATIONAL	297
55	TRENDY INFORMATION	297
56	GUNMA MOTOR	276
57	IMRAN TRADING	264
58	EXCIA	254
59	SHAHZAD TRADING	253
60	SHINE TRADING	251
61	MDK CORPORATION	249
62	CROSS CONTINENT CORPORATION	238
63	NISHIGUCHI KENJIRO	238
64	POKAL INTERNATIONAL	236
65	TRUST	234
66	DAIKYO JIDOSHAHANBAI CO., LTD.	232
67	SAS	232
68	GORGEOUS TRADING	218
69	P J ENTERPRISE	218
70	SANA TRADING	212
71	YAGUCHI ZAIN TRADING	206
72	LIMBOURG	205
73	PRIME GATE	201
74	BOLPAK MOTORS	196
75	MK INTERNATIONAL	185
76	RAO INTERNATIONAL	181
77	MAGARI JAPAN	179
78	PARS TRADING	177
79	ARAKAN BRIGHT	171
80	DIYATA JAPAN	168
81	AJ INTERNATIONAL	163
82	ENG	162
83	RECO	160
84	MJ AUTO JAPAN	158
85	SUBHAN TRADING	158
86	GOLDEN MILES	153
87	PREMIUM AUTO TRADING JAPAN	149
88	MUSHAN JAPAN	146
89	INTER DUNIA	145
90	KAYANI CORPORATION	144
91	LASHAR INTERNATIONAL	144
92	AFRIDI TRADING	143
93	MECCA TRADING	123
94	TAU	123
95	SAYURI INTERNATIONAL	117
96	MENGRANI JAPAN	113
97	J P TRADING	109
98	AUTOREC ENTERPRISE	99
99	BOLPAK IMPEX	98
100	JAN TRADING289	97

		2015.03-2016.05
101	JAPAN CAR AND BOAT	97
102	AISHA TRADING	96
103	YOKOHAMA TRADING INTERNATIONAL	96
104	CAR ADVISER	94
105	AL NOOR TRADING	91
106	HINODE SHOJI	91
107	ALI TRADING COMPANY	90
108	NIHON LANKA TRADINGS	88
109	UNIQUE TRADING	79
110	JUNNY INTERNATIONAL	78
111	KS INTERNATIONAL	78
112	BROOM	75
113	JAPAN AUTO SALE	71
114	GLOBAL AUTONET JAPAN	69
115	SAKURA TRADING	67
116	PAK TRADING	66
117	T AND I	66
118	CARIAN JAPAN	65
119	MIYAMURA KAIJIRUSHI SEKTYU	65
120	AFK TRADING	64
121	TOP RANK	64
122	TANAKA SEKTYU	63
123	AL SHUJAH MOTORS JAPAN	58
124	PROVIDE CARS	58
125	ARSH INTERNATIONAL	57
126	MEMON	56
127	PARTNERS ONE	54
128	ADM INTERNATIONAL	53
129	AVENUE	52
130	EVERY	52
131	ORIENT SHOKAI	51
132	PACIFIC EXPORT	50
133	JIMEX	49
134	YAMAKATSU	48
135	JAZFAH	46
136	OCEAN INTERNATIONAL	46
137	PARADISE TRADING	45
138	RIZUBI TRADING	45
139	FUJI ENTERPRISES	42
140	SAFARI	42
141	ZAZ EXPORT	42
142	MAEII	41
143	METEOR	41
144	MKS TRADING	40
145	RIMI INTERNATIONAL	40
146	DAIWA CORPORATION	39
147	UNIQUE TRADERS	39
148	BIZUPON	38
149	NEXTAGE	37
150	AJ AUTO EXPORTS	36
151	RR TRADING	36
152	SENTO SHINYA	36
153	ABE JAPAN	34
154	AKAPURKO TRADING	34
155	GLOBAL AUTO	34
156	INSHA TRADING	34
157	DAR CORPORATION	33
158	HANAKOU MOTORS	33
159	MJ TRADING	33
160	SHAFEEQ TRADING	33
161	WILLBE	33
162	FIRST AUTO TRADING	32
163	PHOENIX	32
164	SHINCHUO	32
165	ASAHI TRADING	31
166	CAR JUNCTION	31
167	MN TRADING	31
168	WORLD WIDE ENTERPRISE	31
169	ABACUS TRADE	29
170	ACE SUPPLY	29
171	CSO	29
172	MR.MACHINE	29
173	RAMA DBK	29
174	NUMBER ONE SOLUTIONS	28
175	ROYAL TRADING CO LTD	28
176	AGASTA	27
177	ALI TRADING	27
178	NBC CORPORATION	27
179	SKYPORT	27
180	GLOBAL PARTNERS	26
181	ONOHARA KAZUHIRO	25
182	TANOLI AUTO TRADING	25
183	TRIUMPH ENTERPRISE	25
184	HANNAN SHOUKAI	24
185	NEWGATE	24
186	NIHON KOUSAN	24
187	BMC	23
188	NIHON TSUSHO	23
189	THREE R CORPORATION	23
190	ZAEN MOTORS	22
191	MOTOR SUPPLY COMPANY	21
192	OASIS	21
193	SAJID INTERPRISES	21
194	ARFAN MUHAMMAD	20
195	PROSPER	20
196	SS MOTORS	20
197	SUGIYA YOICHIRO	20
198	TAJ TRADERS	20
199	WELL PLANNING	20
200	WILD GOOSE	20

Approved
AIO
14

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1007A

11

		2015.03-2016.05
201	WORLD AUTO TRADING	20
202	YR TRADING	20
203	KAMOME CORPORATION	19
204	KIMANI TOM	19
205	ORIENTAL VEHICLE EXPORTS	19
206	SH TRADING	19
207	ZEN	19
208	TRANSWORLD	18
209	UNIX	18
210	VALUE PLANNER	18
211	WINMARK	18
212	ACT FOR	17
213	DAN	17
214	INSSAN TRADING	17
215	ISFA TRADING	17
216	TOKYO ENTERPRISES	17
217	ZULFIQAR HAFIZ MOHAMMAD	17
218	AK SHOJI	16
219	KODAMA YOSHIYUKI	16
220	STAR JAPAN	16
221	YOKOHAMA ENTERPRISES	16
222	AS INTERNATIONAL MOTORS	15
223	AUTO MOTO JAPAN	15
224	HIKAR TRADING	15
225	NIHONSHA LAND	15
226	TOYONAGA AKIRA	15
227	ACT TRADING	14
228	AHMED AFTAB	14
229	CAR PARK SANKO	14
230	ZULFIQAR MOTORS	14
231	CREATE PULS	13
232	CVR GROUP	13
233	FUJIMOTO HIROHISA	13
234	G.M MOTOR	13
235	IMPERIAL SOLUTIONS	13
236	WELLER	13
237	YAMAZAKI TRADERS	13
238	BILAL TRADING COMPANY	12
239	FUJIYAMA TRADING	12
240	GILANI TRADERS	12
241	GOOD WILL JAPAN	12
242	HS INTERNATIONAL TRADING	12
243	KI COLTD	12
244	KYOYOU AUTO	12
245	PHOENIX JAPAN	12
246	QUALITY AUTO	12
247	UNOJIKOU	12
248	AUTO VALUE	11
249	GET CARS JAPAN	11
250	HAFIZ TRADING	11
251	JAPCO	11
252	NIPPON JIDOSHA INTERNATIONAL COMPA	11
253	ONE LOGISTICS	11
254	POLA	11
255	TOKYO JIDOSHU	11
256	TRADE HAUS LOGISTICS	11
257	AJ CORPORATION	10
258	FIVESTAR TRADING INTERNATIONAL	10
259	GEMINI GEMS INTERNATIONAL	10
260	JAPAN AUTO WORLD NETWORK	10
261	JAPAN OVERSEAS CORPORATION	10
262	MARUTEN	10
263	MKT JAPAN	10
264	OSAKA TRADING	10
265	RINZAI	10
266	SMILE TRADING	10
267	ACROSS TRADING	9
268	CARPAYDIEM	9
269	CHADHA JAGJIT SINGH	9
270	DARUSSALAM MOTORS	9
271	J.B.R.INTERNATIONAL	9
272	RAKUDA AUTO	9
273	SAIBA INTERNATIONAL	9
274	TOTSUKA MASAKAZU	9
275	ZEST	9
276	ASA TRADERS INTERNATIONAL	8
277	CAR WORLD	8
278	CHEEMA INTERNATIONAL	8
279	FARDAN ENTERPRISE	8
280	FREED	8
281	MATSUSHIMA HOLDINGS	8
282	NAGAKURA SYOKAI	8
283	NEPS LANKA	8
284	OCEAN MANA	8
285	SHINEI INTERNATIONAL	8
286	TMB TRADING	8
287	AMOOKA	7
288	ASSIST	7
289	EM INTERNATIONAL	7
290	FUJI TECHNOTRANS	7
291	HS INVESTMENTS	7
292	INTEGRITY EXPORT	7
293	JAPAN AFRICA MARKETING	7
294	KBC JAPAN	7
295	KEN AUTO TRADING	7
296	LION ROYAL	7
297	NISHIYAMA ANALYN PANDAY	7
298	RAMZI TRADING	7
299	SAITO YOSHIMITSU	7
300	SHALIMAR WORLD	7

		2015.03-2016.05
301	SUN SHINE	7
302	WAHAB TRADING	7
303	AMIN INTERNATIONAL CO	6
304	BISTA SHASHI BABU	6
305	CROWN TRADING	6
306	DARUSSALAM MOTORS	6
307	HAMZA TRADING COMPANY	6
308	HANAWA SHOJI	6
309	JAPAN NEPAL INTERNATIONAL	6
310	KAGA MOTORS	6
311	KENASE JAPAN	6
312	KUMARI TRADING	6
313	MASAKA TRADING	6
314	MYTHOS	6
315	OMORI KENICHI	6
316	ROYAL TRADING	6
317	RU CO LTD	6
318	SMS JAPAN	6
319	STARCRAFT	6
320	TENOKUCHO	6
321	AUTO ACCESS JAPAN	5
322	AVIX CORPORATION	5
323	BROS INTERNATIONAL	5
324	DEEN TRADING	5
325	EXPRESS GLOBAL	5
326	FAIR LINE	5
327	FORWORLD TRADE	5
328	GREASE	5
329	IWASE SHOTEN	5
330	KA SAGAMINO TRADE	5
331	KHAN INTERNATIONAL	5
332	MASUMOTO MINETATSU	5
333	MINATO MACHI INTERNATIONAL	5
334	MM ENTERPRISE	5
335	NEW GANDHARA	5
336	P NATS AUTO	5
337	SATO SHOKAI	5
338	SHIMIZU KOKUSAI BOEKI	5
339	STAGE ONE MOTORS	5
340	TQM INTERNATIONAL	5
341	YAMAGIN CORPORATION	5
342	ABASEEN AND BROTHERS TRADING	4
343	AD BROTHERS	4
344	ALPINE JAPAN	4
345	ASAKUSA MOTOR	4
346	AUTO MARKET JAPAN	4
347	BILAL TRADING	4
348	CHEPKWONY JUSTUS KIPLANGAT	4
349	EBS GROUP	4
350	FUTURE TRADING	4
351	GARAGE T	4
352	GES JAPAN	4
353	HAMADA MAYUMI	4
354	IDEX AUTO JAPAN	4
355	III	4
356	ITV	4
357	J LOGI	4
358	JAPAN PARTNER	4
359	JTM	4
360	KS TRADING	4
361	MOVEK INTERNATIONAL	4
362	NATURAL	4
363	RAJ INTERNATIONAL	4
364	RECO EXPORT	4
365	RESPECT MOTORS	4
366	SCUBISM	4
367	SYUEI TRADING	4
368	USED CARS JAPAN	4
369	WILUNA INTERNATIONAL	4
370	ZERO	4
371	AUTO ZONE	3
372	AUTOLINK HOLDINGS	3
373	AUTOSPECS	3
374	AZAM GENERAL	3
375	BIG TRADING COMPANY	3
376	BUDGET HOLDINGS	3
377	GEMMY TRADING	3
378	GLOBAL STANDARD	3
379	GRAND ENTERPRISE	3
380	JAPAN CAR DIRECT	3
381	JAPAN CAR NETWORK	3
382	JAPAN COMMERCE CORPORATION	3
383	KARACHI ENTERPRISE	3
384	KAWAGUCHI SHINPEI	3
385	KHAYRUN TRADING INTERNATIONAL	3
386	KK TRADING	3
387	KURIYAMA JIDOSHA KOGYO	3
388	MASUTANI KENICHI	3
389	NIPPON AUTO TRADER	3
390	OYABU MOTORS	3
391	ROYAL JAPAN	3
392	SAI AUTO	3
393	SANIYO MYCAR CENTER	3
394	SANWA SERVICE	3
395	SBI	3
396	SHONAN TRADING COMPANY	3
397	SIMPLE	3
398	SOBAN TRADING	3
399	STARCRAFT658	3
400	TAKAGI JOYOI	3

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	2015.03-2016.05	
501	DIRECT AUCTION	1
502	DUKES INTERNATIONAL	1
503	EL FINEST	1
504	ELEMENT CORPORATION	1
505	ENISHI	1
506	FS AUTO	1
507	FUJIKEN	1
508	FUJIMAKI	1
509	GELANI ENTERPRISES	1
510	GHANI USMAN	1
511	GLOBAL AUTONET JAPAN FUJIWARA	1
512	GLOBAL STAR	1
513	HARUKA MOTORS	1
514	HASU NIHON SHOUJI	1
515	HAYAKAWA YOSHINORI	1
516	HOTTA AUTO	1
517	ICHIKAWA DAISUKE	1
518	IS CORPORATION	1
519	ISHII NORIHIRO	1
520	ITO	1
521	JAPAN AUTO TRADING	1
522	JAPAN AUTO WORLD NETEORK	1
523	JAPAN TRADING	1
524	JAYA INTERNATIONAL	1
525	JBR INTERNATIONAL	1
526	JOUNDA MOTORS	1
527	KASUWA JAPAN	1
528	KATENDE SWATBU	1
529	KCC INTERNATIONAL	1
530	KEIHIN KOJUN	1
531	KIMATHI ROSE	1
532	KINGS AUTO	1
533	KOGUMA SHINJI	1
534	KOJIMA SHOKAI	1
535	KYOEI TRADING	1
536	KYOKUET BUIHIN KAITAI	1
537	LATIF INTERNATIONAL	1
538	LECO TRADING	1
539	LITESPEC	1
540	LITESPEC COMPANY	1
541	LOOP	1
542	M RISE	1
543	M3 JAPAN	1
544	MAKANGA JULIET OBANDA	1
545	MALIK YUKO	1
546	MALINDA PETER KYALO	1
547	MARANA INTERNATIONAL	1
548	MATSUSHITA ATSUSHI	1
549	MEER INTERNATIONAL	1
550	MEHRAN TRADING	1
551	MEIYO BOEKI SHOKAI	1
552	MIRZA AND COMPANY	1
553	MOBILE WORKERS	1
554	MOVE COMPANY	1
555	MOVEK INTERNATIONAL LTD.	1
556	MUGHAL TRADING	1
557	MWOGGEZI NICHOLAS	1
558	MX JAPAN	1
559	MY TRADING	1
560	NAKAHARA TAKANORI	1
561	NICHIBOU	1
562	NINOMIYA REI	1
563	NIPPON JIDOSHA INTERNATIONAL	1
564	NIPPON LANKA CORPORATION	1
565	PAN AFRICAN TRADING	1
566	PITAGORA AUTO	1
567	PLANET CITY JAPAN	1
568	PLY	1
569	PYRAMID AUTO	1
570	QAFF INTERNATIONAL	1
571	ROBINSON EXPORT	1
572	RUSH CORPORATION	1
573	RYOMOVILE	1
574	SAGAMINO JIDOSHA	1
575	SAINI	1
576	SALSABEEL	1
577	SANKI BOUEKI	1
578	SAWADA TRADING	1
579	SAYED CORPORATION	1
580	SHIMA SHOKAI	1
581	SHOWATUSHO	1
582	SIS JAPAN	1
583	SM TRADING	1
584	SMILE AUTO	1
585	SUGINO YOUHEI	1
586	SUPER ACROSS	1
587	T AND M	1
588	TAKAHASHI HISAO	1
589	TAKAHASHI KATSUYA	1
590	TERA TERA	1
591	TOKAI LOGISTICS	1
592	TSUBAKI JIDOUSYA	1
593	TSUBASA ENTERPRISE	1
594	VALLEYHILL	1
595	VERSION GROUP	1
596	WAITHERERO RACHEL	1
597	WAMBU JOE KINUTHIA	1
598	WATANABE KIKAKU	1
599	WILL CORPORATION	1
600	WORLD SMILE	1

	2015.03-2016.05	
601	YEN JOYS TRADING	1
602	YOSHIDA AUTO	1
603	YUNE INTERNATIONAL	1
604	ZAPP INTERNATIONAL	1
605	ZEN AUTO	1
606	3WM	1
607	3YS	1
合計		89083

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Appendix 15

Documents Reference Number: 23 -123

Date: August 26, 2011

Announcement to each member of Special Central Committee for Safety

Japan Harbor Transportation Association
Special Central Committee for Safety
Kimiaki Furuya, Committee Chairman

Subject: Measurement of Radioactivity Contamination of Used Vehicles and
Construction Machinery

With reference to the above, we believe that all of you have been following the Confirmation Letter by the Committee on the labor agreement dated August 17, 2011.

In that Confirmation Letter (Article 1 - 5), Zennikkenn, Nikken, Kaijickentei and Shin Nikken are appointed as the preferred establishment for measurement of radioactive contamination of the products captioned above.

We, hereby, officially announce that Jevic, ATF (Automotive Technologies) and Quality Inspection Services Inc. Japan have been newly admitted for undertaking the radiation measurement services.

Please let us know if there is any new request by an organization for radiation measurement that is judged by each local committee to be suitable to undertake the work.

We would appreciate your cooperation in forwarding this announcement to those who are concerned in your area.

End of the announcement.

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第 123 号
平成 23 年 8 月 26 日

All

中央安全専門委員 各位

社団法人 日本港湾協会
中央安全専門委員会
委員長 菅野 邦男

中古自動車・建機等に関する放射線測定について

標記に關しまして、去る 8 月 17 日付の中央安全専門委員会の労使暫定
確認書に基づき、関係各地区・各港において既に貴方協力がなされてい
ることと存じます。

当該確認書の 1 - (5) の公的証明機関について、委員会においては全
日検、日検、海事検定、新日検を優先機関として指名されておりますが、
測定実績を考慮し、今後、この他ジェイビック、ATL (オートモーティブ
テクノロジーズ) 及びクオリティーインスペクションサービスをこれに追
加することとなりましたのでお知らせ致します。

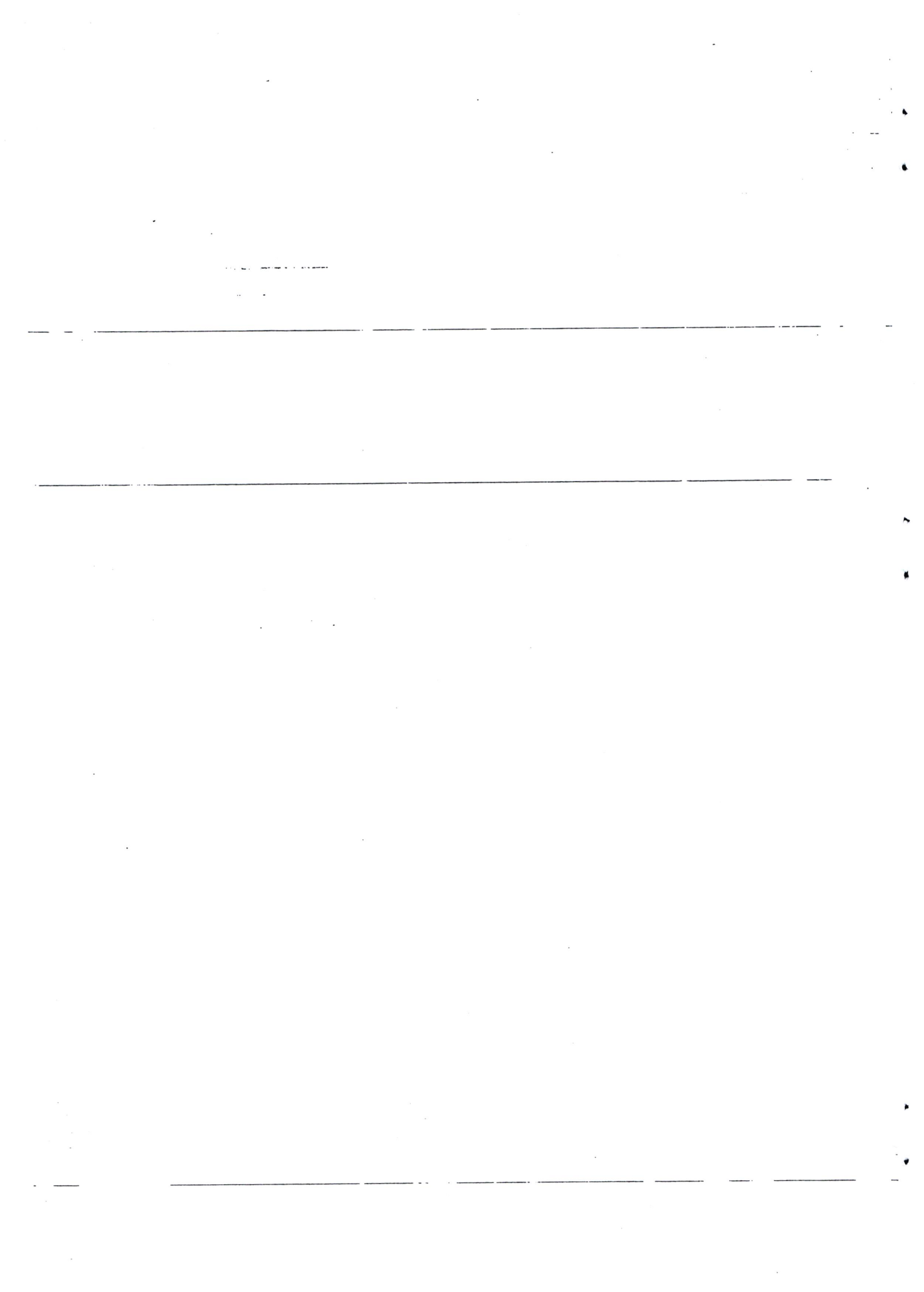
なお、今後各地において新たな検査会社の登録申し出があった場合に
ついては、当該地区 (港) 労使で協議の上、証明機関として妥当と確認され
れば、中央安全専門委員会への事前報告をもって了解と致したく考えます
ので、この旨ご承知置き下さい。

つきましては、貴職より関係各位にこの旨周知いただくようお願い申し
上げます。

以上

(写) 各地区港湾協会、特別会員

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Appendix 16

AGREEMENT & CONFIRMATION

(General Incorporated Association) Japan Harbor Transportation Association
Confederation of National Harbor Workers Union
Alliance of All Japan Harbor Transportation Workers Union

Ybbesudix 10

Article 15 Agreement on matters related to East Japan Great Earthquake and Accident of Fukushima Nuclear Plant #1

1. Tentative agreement on radiation contamination related to used vehicles/machinery dated August 17th 2011:

Due to the lack of guidance from the government body or shippers, we, Central Committee, shall confirm the tentative measures against the entry of above-mentioned cargo to the port area as follows:

Note

1. Radiation Measurement

- (1) To guarantee the safety of harbor workers, following radiation inspection shall be conducted at the responsibility and cost of shippers before the point of handling by port workers, such as before the gate to the port or other secluded area.
- (2) If radiation level of $0.3 \mu\text{sv/h}$ or $5.0 \mu\text{sv}$ (less than an hour) is measured on the cargo, port workers shall not handle the cargo and it must be shipped back at the cost of shipper.
- (3) The result of measurement shall be disclosed to all parties concerned. The cargo with contamination level of more than $0.3 \mu\text{sv/h}$ shall be daily reported to the Central Committee.
- (4) In the case of $5.0 \mu\text{sv}$ (less than an hour), the government body shall remove the cargo and let all the concerned government body take actions as per the guideline by the Ministry of Land, Infrastructure, Transportation and Tourism.
- (5) Radiation measurement shall be performed by the inspection bodies with official qualifications.
- (6) Adequate equipment shall be used for radiation level measurement.
- (7) All tyre houses, Front Grill and Wipers should be measured for radiation contamination.
- (8) Used vehicles/Machinery parts shall be inspected before port workers handling point.
- (9) In the case of any crisis, inspector shall immediately evacuate to a safer place, and protective clothing shall be worn if necessary.

Radiation Measurement Methods Comparison

(JHTA Guideline)

1. All Tire Houses
2. Front Grill
3. Wipers

(QISJ Inspection)

1. All Tire Houses
2. Front Grill
3. Wipers
4. Steering Wheel area
5. Back Door
6. All Door Knobs

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協定書・確認書集

一般社団法人 日本港運協会
全国港湾労働組合連合会
全日本港湾運輸労働組合同盟

4. 各ターミナルの詳細については地区協議する。

② アライアンス再編成に係る中央事前協議会労使議事確認（2012年（平成24年）2月20日付）

1. アライアンスの再編について、関係者は港湾労働者の雇用と就労・労働条件に影響を及ぼさないよう最大限の努力する。
2. また、港湾労働者の雇用と就労の機会向上を図るためのあらゆる方策について具体策を検討する。

第15項 東日本大震災・福島第一原発事故に伴う確認書

① 福島第一原発事故に伴う放射能汚染問題（中古自動車・建機等）に関する暫定確認書（2011年（平成23年）8月17日付）

福島第一原発事故に伴う放射能汚染問題について、本来、全ての貨物が放射能汚染地域の仕出し地において安全確認が担保された上で港頭地区への搬入を必要とするが、当面前中古自動車・建機等（内航貨物含む）は、主務官庁・荷主等による施策や措置の不作为実態を踏まえ暫定措置として、中央安全専門委員会は、次のとおり確認する。

記

1. 放射線測定について

(1) 港湾労働者の安全を確保するために、港湾労働者が扱う前の時点（自動車プールに搬入する時点、GO-DOWN（直行）の場合は、ゲート前若しくは別途隔離施設）で、荷主の責任に於いて全ての中古自動車・建機等の放射線検査を行う。

尚、当該検査に係る諸費用は荷主負担とする。

(2) 0.3マイクロシーベルト/時間以上5.0マイクロシーベルト/時間未満の数値が検出された場合は、港湾労働者の安全確保のため、港湾労働者は取扱わないこととし、荷主責任に於いて回収させる。

(3) 放射線検査の結果についての情報を全ての関係者に公開する。

尚、各港は0.3マイクロシーベルト/時間以上の貨物については、日毎における放射線検査日報（仮称）を中央安全専門委員会に提出する。

(4) 5.0マイクロシーベルト/時間以上の数値が検出された場合は、行政（港湾管理者）責任で以って隔離のうえ、全ての関係行政に、国土交通省がコンテナのガイドラインとして措置をとらせる。

(5) 測定にあたっては、公的証明資格を有している検査期間で以って行う。

(6) 測定機器については、非常時に充分対応できうる機器を使用する。

(7) 測定は、すべてタイヤハウス、フロントグリル、及びワイパー付近について行う。

(8) 中古自動車・建機等のパーツ貨物については、港湾労働者が取扱う前の時点（荷受段階）で同様の測定作業を行う。

(9) 検査員の安全確保として、危険な事態に陥ったと判断した場合は直ちに退避する。

また、放射線防護副は、必要（危険事態と判断したとき）に応じて着用する。

2. 本確認書について

Appendix 17

Doc ref: 27-082

2015/8/27

To:
Special Members of
Each District of Japan Harbor Transportation Association

From:
Chairman
Central Safety Committee
Japan Harbor Transportation Association

Re: Organizations to conduct radiation measurement of used motor vehicles and construction machinery

As you are aware, based on this year's Spring Labor Offensive Article 5 (2), our future actions on the captioned subject have been outstanding.

This committee discussed this issue on May 25 and August 24 and also made the on-site inspection observations.

Out of those inspection companies informed in our letter 23-123 of 2011/8/26, the Union informed us that the newly added 2 foreign capital companies (Automotive Technologies and Quality Inspection Services) were inadequate companies, judging from how they actually conduct inspections.

The Committee supports the Union's observation and has decided to exclude these 2 companies from the list of appointed inspection companies and makes this announcement to you herein.

Please inform your business associates concerned of this announcement.

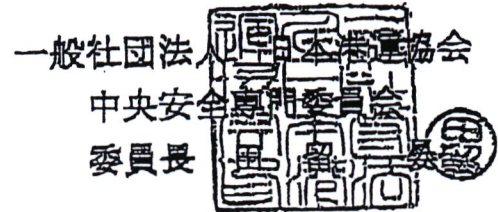
If these 2 companies conduct inspections, re-inspections by the other 5 companies will be required.

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ibnsayyid



A13

27 第 082 号
平成 27 年 8 月 27 日各地区港運協会 御中
特別会員 各位

中古自動車・建機等に関する放射線量測定事業者について

標記に関しまして本年の春闘協定書第 5 項の(2)に基づき、当専門委員会において、今後の対応が課題となっておりますことはご既承の通りであります。

本件について、去る 6 月 25 日及び 8 月 24 日にその対応につき当委員会で検討すると共にこの間、検査実態の現認作業を実施して参りました。

その結果、弊信 23 第 123 号（平成 23 年 8 月 26 日付）にて通知済の検査機関の内、いわゆる外資系で追加した 2 社（オートモーティブテクノロジーズ及びクオリティインスペクションサービス）については、その検査実態に照らし労働組合より、不適格な事業者である旨の指摘を受け、当委員会としてこれを是とし、指名事業者から除外することとなりましたので通知致します。

つきましては、お手数恐縮ですが、貴会（社）ご関係者にこの旨ご周知方ご手配下さるようお願い申し上げます。

なお、仮に当該前述の 2 社が施検した場合、他の指名 5 検査機関による再検査が必要となることを申し添えます。

以上

Appendix 13

Date: 1 September 2015
From: Mr. Kazuyuki Horie, Adviser (Japan Harbor Transportation Association)
To: Hiroshi Tonegawa (Quality Inspection Services Inc. Japan)
Re: Appointment of the meeting

Dear Mr. Tonegawa,

We confirm the meeting date and place as per your mail below.

Best regards,
Horie (JHTA)

Date: 1 September 2015
From: Hiroshi Tonegawa (Quality Inspection Services Inc. Japan)
To: Mr. Kazuyuki Horie, Adviser (Japan Harbor Transportation Association)
Re: Appointment of the meeting

Dear Mr. Horie (Japan Harbor Transportation Association),

Could you please confirm our meeting details as follows:

Date: 2015/09/04 at 14:00 hours
Place: 6-11-10 Koun Kaikan Building, Shinbashi, Minato-ku, Tokyo

Your confirmation would be much appreciated.

Best regards,
Hiroshi Tonegawa,
Quality Inspection Services Inc. Japan



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ALL
QISJ ADMINISTRATION <administration@qisjp.com>

RE: アポイントの日程の件

1 message

社) 日本港運協会 <nikkokyo-roumu-one@jhta.or.jp>
To: QISJ ADMINISTRATION <administration@qisjp.com>

1 September 2015 at 09:58

株式会社 クオリティーインスペクションサービス

利根川 様

日時・場所ともメール内容通りで間違いありません。

(日本港運協会 堀江)

From: QISJ ADMINISTRATION [mailto:administration@qisjp.com]
Sent: Tuesday, September 01, 2015 9:52 AM
To: nikkokyo-roumu-one@jhta.or.jp
Subject: アポイントの日程の件

一般社団法人 日本港運協会

ホリエ 様

いつも大変お世話になっております。

標記の件につきまして、下記のとおりで

間違いはないか確認させていただきますでしょうか。

日時: 2015/9/4 14:00

場所: 東京都港区新橋6-11-10 港運会館

ご確認及びご返信賜りますよう、よろしくお願いいたします。

株式会社 クオリティーインスペクションサービス

利根川



27第 082号
平成27年9月7日

AIS

各地区港運協会 御中
特別会員 各位

一般社団法人 日本港運協会
中央安全専門委員会
委員長 田 留 晏

中古自動車・建機等に関する放射線量測定事業者について
(一部訂正・再通知)

標記に関しまして本年の春闘協定書第5項の(2)に基づき、当専門委員会において、今後の対応が課題となっておりますことはご既承の通りであります。

本件について、去る5月25日及び8月24日にその対応につき当委員会で検討すると共にこの間、検査実態の現認作業を実施して参りました。

その結果、弊信23第123号(平成23年8月26日付)にて通知済の検査機関の内、追加した2社(オートモーティブテクノロジーズ及びクオリティーインスペクションサービス)については、労使協議の結果、指名事業者から除外することとなりましたので通知致します。

つきましては、お手数恐縮ですが、貴会(社)ご関係者にこの旨ご周知方ご手配下さるようお願い申し上げます。

なお、仮に当該前述の2社が施検した場合、他の指名5検査機関による再検査が必要となることを申し添えます。

以上

Appendix 19

Date: 5 October 2015
From: Kiyooki Hatano (Quality Inspection Services Inc. Japan)
To: Mr. Kazuyuki Horie, Adviser (Japan Harbor Transportation Association)
Re: Radiation Inspection in the port area

Dear Mr. Horie (Japan Harbor Transportation Association),

Hope this mail finds you well.

Knowing you are busy, I would like to take this opportunity to ask you regarding radiation inspection in the port area.

Subject: Radiation inspection in the port area

1. Do you, Japan Harbor Transportation Association (General Incorporated Association), issue any license based on the laws of Japan to an inspection body to carry out radiation inspection in the port area?

Your response would be highly appreciated.

Best regards,
Kiyooki Hatano,
Managing Director,
Quality Inspection Services Inc. Japan

4 x 1/2 1/2 1/2



QISJ ADMINISTRATION <administration@qisjp.com>

AIB

Fwd: RE: 港灣地域における放射線検査測定について

1 message

Hatano Kiyooki <hatano@qisjp.com>

5 October 2015 at 15:58

To: QISJ ADMINISTRATION <administration@qisjp.com>

—— 転送メッセージ ——

From: "日本港運協会" <nikkokyo-roumu-one@jhta.or.jp>

日付: 2015/10/05 15:20

件名: RE: 港灣地域における放射線検査測定について

To: "Hatano Kiyooki" <hatano@qisjp.com>

Cc:

株式会社クオリティーインスペクションサービス

代表取締役 波田野 清昭 殿

貴殿のご質問について事務連絡として回答いたします。

中古自動車・建機等の港頭地域における放射線量検査業務に関し、検査会社に我が国の法制度に基づく公式ライセンスは存在しないと伺っております。

従って弊会がかかるライセンスを発行するようなことはありません。

中央安全専門委員会 事務局

一般社団法人 日本港運協会

堀江 和幸

From: Hatano Kiyooki [mailto:hatano@qisjp.com]

Sent: Monday, October 05, 2015 2:30 PM

To: nikkokyo-roumu-one@jhta.or.jp

Subject: 港灣地域における放射線検査測定について

一般社団法人日本港運協会

堀江 殿

Handwritten signature

いつも大変お世話になっております。

株式会社クオリティーインスペクションサービスの波田野です。

お忙しいところ申し訳ありませんが、港湾地域における放射線検査測定について質問があります。

件名: 港湾地域における放射線測定について

1. 一般社団法人日本港運協会は、港湾地域における放射線検査測定を行う検査会社に対し日本の法律に基づくライセンス発行を行っているでしょうか？

ご多忙のところ、恐縮では御座いますが、宜しく願い申し上げます。

株式会社クオリティーインスペクションサービス

代表取締役 波田野 清昭

Quality Inspection Services Inc. Japan

Managing Director Kiyooki Hatano

YCC 1608 20 Daikoku-Futou, Tsurumi, Yokohama, Kanagawa, Japan.

Tel: +81-45-500-6033 Fax: +81-45-6034

URL www.qisjp.com E-mail hatano@qisjp.com



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Appendix 20

Date: 5 October 2015
From: Mr. Kazuyuki Horie, Adviser (Japan Harbor Transportation Association)
To: Kiyooki Hatano (Quality Inspection Services Inc. Japan)
Re: Radiation Inspection in the port area

Dear Mr. Kiyooki Hatano (Managing Director, Quality Inspection Services Inc. Japan),

I would like to answer your inquiry as follows:

We understand that there is no official license based on the laws in Japan for inspection body to conduct radiation inspection on used motor vehicles and machinery in the port area.

Therefore, we never issue any such license to anybody.

Best regards,

Kazuyuki Horie,

Executive Office,

Japan Harbor Transportation Association (General Incorporated Association)

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	Model	Registration No	Inspection Date	Remarks
1	IMPREZA WAGON	GH3-008985	2015/8/5	HIGH RADIATION LEVEL.
2	RUSH	J200E-0022971	2015/8/25	HIGH RADIATION LEVEL (GRILL 0.41 micro Sv/h, WIPER 0.49 micro Sv/h)
3	IMPREZA WAGON	GH3-008985	2015/9/4	HIGH RADIATION LEVEL.
4	COROLLA FIELDER	NZE141-9103275	2015/10/26	HIGH RADIATION LEVEL.
5	RUSH	J200E-0022971	2015/10/26	HIGH RADIATION LEVEL.
6	X-TRAIL	T31-005703	2015/10/28	HIGH RADIATION LEVEL (FRONT GRILL 0.90 micro Sv/h, WIPER 5.62 micro Sv/h, RIGHT FRONT TIRE 0.45 micro Sv/h, RIGHT REAR TIRE 0.32 micro Sv/h, RIGHT REAR DOOR HANDLE 0.30 micro Sv/h, LEFT REAR DOOR HANDLE 0.35 micro Sv/h, LEFT FRONT DOOR HANDLE 0.31 micro Sv/h, LEFT FRONT TIRE 0.34 micro Sv/h, STEERING WHEEL 0.42 micro Sv/h)
7	HILUX SURF	TRN215-0025759	2015/11/26	HIGH RADIATION LEVEL (RADIATOR 2.08 micro Sv/h)
8	AIRWAVE	GJ1-1210485	2015/11/9	HIGH RADIATION LEVEL (GRILL 0.32 micro Sv/h, WIPER 0.53 micro Sv/h)
9	HARRIER	ACU35-0022678	2015/11/10	HIGH RADIATION LEVEL (RADIATOR 0.41 micro Sv/h)
10	VITZ	KSP90-5121095	2015/11/11	HIGH RADIATION LEVEL (RADIATOR 1.32 micro Sv/h, WIPER 1.27 micro Sv/h, RIGHT FRONT TIRE HOUSE 0.84 micro Sv/h, LEFT FRONT TIRE HOUSE 3.34 micro Sv/h, LEFT FRONT DOOR KNOB 0.30 micro Sv/h, LEFT REAR DOOR KNOB 0.34 micro Sv/h, REAR GATE 0.55 micro Sv/h)
11	STREAM	RN6-1067081	2015/11/13	HIGH RADIATION LEVEL (Radiator 0.32 micro Sv/h)
12	WISH	ZNE10-0427091	2015/11/19	HIGH RADIATION LEVEL (WIPER 0.38 micro Sv/h) EXHAUST GAS LEAKS.
13	AIRWAVE	GJ1-1210485	2015/11/24	HIGH RADIATION LEVEL (FRONT WIPER 0.54 micro Sv/h, LEFT FRONT TIRE HOUSE 0.31 micro Sv/h)
14	COROLLA FIELDER	NZE141-9103275	2015/11/25	HIGH RADIATION LEVEL (RIGHT SIDE OF REAR GATE 1.02 micro Sv/h, RADIATOR AND CONDENSOR 0.37 micro Sv/h)
15	X-TRAIL	NT31-031155	2015/12/4	HIGH RADIATION LEVEL (RADIATOR 0.31 micro Sv/h, WIPER 0.74 micro Sv/h, RIGHT FRONT TIRE HOUSE 0.32 micro Sv/h)
16	PASSAT	WVWZZZ3CZ8-P073929	2016/1/8	HIGH RADIATION LEVEL (RIGHT FRONT TIRE HOUSE 0.42 micro Sv/h, RIGHT REAR TIRE HOUSE 0.67 micro Sv/h, LEFT REAR TIRE HOUSE 0.61 micro Sv/h)
17	LAND CRUISER PRADO	TRJ120-5151507	2016/1/15	HIGH RADIATION LEVEL (RADIATOR 0.31 micro Sv/h)
18	HILUX SURF	TRN215-0027963	2016/1/15	HIGH RADIATION LEVEL (RADIATOR 0.46 micro Sv/h)
19	AXELA	BKEP-315587	2016/1/21	HIGH RADIATION LEVEL (FRONT WIPER 0.94 micro Sv/h, RIGHT REAR TIRE HOUSE 0.34 micro Sv/h, LEFT REAR TIRE HOUSE 0.76 micro Sv/h)
20	MARK X	GRX120-3077085	2016/1/27	HIGH RADIATION LEVEL (RADIATOR 0.56 micro Sv/h)
21	PREMIO	ZRT260-3031779	2016/2/16	HIGH RADIATION LEVEL (GRILL 0.31 micro Sv/h, RADIATOR 1.23 micro Sv/h, WIPER 0.31 micro Sv/h)
22	HARRIER	MHU38-2073253	2016/2/23	HIGH RADIATION LEVEL (LEFT FRONT TIRE HOUSE 0.41 micro Sv/h, RIGHT FRONT TIRE HOUSE 0.39 micro Sv/h)
23	NOAH	ZRR70-0234551	2016/2/24	HIGH RADIATION LEVEL (WIPER 0.33 micro Sv/h)

15 xibnaga

List of Radiation Measurement Equipment

2016/6/2

A-18

Type	Kanto Region	Kanto Region (Chiba)	Chubu Region	Kansai Region	Kyushu Region
Radiation Tester	INSPECTOR USB 43440	INSPECTOR USB 44968	INSPECTOR USB 44822	INSPECTOR USB 45348	INSPECTOR + 32515
	2015/7/2	2016/2/8	2016/1/27	2016/4/22	2015/7/2
	2016/7/1	2017/2/7	2017/1/26	2017/4/21	2016/7/1
Radiation Tester	INSPECTOR USB 40933	INSPECTOR + 31986	INSPECTOR USB 44088	INSPECTOR USB 44781	INSPECTOR + 35853
	2016/3/11	2016/3/7	2016/1/22	2016/2/8	2016/3/7
	2017/3/10	2017/3/6	2017/1/21	2017/2/7	2017/3/6
Radiation Tester	INSPECTOR USB 44783	INSPECTOR USB 45279	PA-1000 3B2SSTL6	INSPECTOR USB 45280	
	2016/2/8	2016/4/12	2015/6/24	2016/4/12	
	2017/2/7	2017/4/11	2016/6/23	2017/4/11	
Radiation Tester	INSPECTOR + 34120			INSPECTOR USB 44092	
	2015/9/24			2016/1/22	
	2016/9/23			2017/1/21	
Radiation Tester	INSPECTOR USB 44782			INSPECTOR + 33252	
	2016/2/8			2015/6/30	
	2017/2/7			2016/6/29	
Radiation Tester	PA-1000 EOXKG849				
	2015/6/24				
	2016/6/23				
Radiation Tester	TCS-172B 203P3267				
	2015/8/27				
	2016/8/26				

**MINUTES OF THE 11TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
HELD ON THURSDAY, 12TH FEBRUARY, 2015 IN COMMITTEE ROOM 7, MAIN
PARLIAMENT BUILDINGS AT 10:00 AM.**

PRESENT

1. Hon. Adan Keynan, CBS, MP (Chairperson)
2. Hon. Dr. Oburu Oginga, MGH, MP
3. Hon. (CPA), Thomas Ludindi Mwadeghu, CBS, MP
4. Hon. Adan Mohammed Noor, MP
5. Hon. Franklin Mithika Linturi, MP
6. Hon. Wafula Wamunyinyi, MP
7. Hon. Elias Bare Shill, MP
8. Hon. Sammy Silas Komen Mwaita, MP
9. Hon. John Olago Aluoch, MP
10. Hon. Abdullswamad Sheriff Nassir, MP
11. Hon. Beatrice Nkatha Nyaga, HSC, MP
12. Hon. Bernard Munywoki Kitungi, MP
13. Hon. Cornelly Serem, MP
14. Hon. Johana Kipyegon, Ngeno, MP
15. Hon. John Muchiri Nyaga, HSC, MP
16. Hon. John Ogutu Omondi, MP
17. Hon. Korei Ole Lemein MP
18. Hon. Mary Sally Keraa, MP
19. Hon. Onesmus Muthomi Njuki, MP

ABSENT WITH APOLOGY

20. Hon. Antony Kimani Ichung'wah, MP (**Vice Chairperson**)
21. Hon. Francis Mwanzia Nyenze, MP
22. Hon. (Dr.) Paul Nyongesa, Otuoma, EGH MP
23. Hon. (Eng). John Kiragu, MP
24. Hon. (Maj.)(Rtd) John Waluke Koyi, MP
25. Hon. Chrisanthus Wamalwa Wakhungu, CBS MP
26. Hon. Ejidius Njogu Barua, MP
27. Hon. Irungu Kang'ata, MP

IN-ATTENDANCE

NATIONAL ASSEMBLY

- | | | |
|----------------------|---|----------------------|
| 1. Ms. Susan Maritim | - | Clerk Assistant I |
| 2. Ms. Rose Wanjohi | - | Clerk Assistant II |
| 3. Mr. Salem Lorot | - | Legal Counsel II |
| 4. Mr. Erick Ososi | - | Research Officer III |
| 5. Mr. Joash Kosiba | - | Fiscal Analyst I |

KENYA NATIONAL AUDIT OFFICE

- 1. Mr. Obed K. Chweya - Senior Manager
- 2. Mr. Geoffrey Irungu - Assistant Manager

INSPECTORATE OF STATE CORPORATIONS

- Mr. Patrick Wandaka - Assistant Inspector General

NATIONAL TREASURY

- Mr. John Munge - Accountant I

MIN NO./PIC/077/2015: PRELIMINARIES

The Chairperson called the meeting to order at twenty Minutes past ten O'clock and Prayer said by Mr. Erick Ososi.

MIN NO./PIC/078/2015: CONFIRMATION OF MINUTES

Confirmation of Minutes was deferred to the next meeting.

MIN NO. /PIC/079/2015: EVIDENCE: KENYA BUREAU OF STANDARDS (KEBS): PROCUREMENT PROCESS OF THE MOTOR VEHICLE PRE-SHIPMENT INSPECTION TENDER

The Managing Director, Kenya Bureau of Standards (KEBS), Mr. Charles O. Ongwae accompanied by Ms. Rhoda Kirui, Ag Head Procurement; Mr. Luise M. Rasanga, Legal Officer; Dr. Henry Kibet Rotich, Chief Officer, Research & Development; Mr. George Sichangi, Legal Counsel; Mr. Simon Njoroge, Advocate and Mr. Samuel Onjolo, Member, Tender Processing Committee appeared before the Committee to adduce evidence on the procurement process of the Motor Vehicle Pre-shipment Inspection Tender.

Pursuant to S.O 90, Hon Adan Keynan declared that Dr. Henry Rotich is known to him, having schooled together at Garbatula High School.

KEBS Presentation

The Managing Director, Kenya Bureau of Standards, informed the Committee as follows:

- 1) The tenderers were required to meet the requirements of KS 1515:2000 which is a code of practice for inspection of road vehicles. The standard specifies general safety and environmental requirements for road vehicles. The payment for this

technical (inspection) service is paid for by the importer of such road vehicles to the country. KEBS is the appointed administrator of this service on behalf of the Government. KEBS collects an administration fee to cover its costs and this fee is inclusive in the amount charged to the importer.

- 2) Due to safety and environmental considerations, a premium is placed on technical evaluation of the subject Request for Proposal;
- 3) The administration fee is incidental and not the main objective for procuring or awarding the subject tender i.e. it's not to generate profits or revenue for KEBS but a public function;
- 4) KEBS had faced the challenges with respect to inspection of road vehicles in terms of import of overage vehicles, import of Radioactive vehicles and import of defective vehicles, and so KEBS placed a significance on the Tenderer's capacity to ensure only vehicles meeting the KS 1515:2000 enter the country;
- 5) KEBS advertised in The Daily Nation and The Standard on 23rd October 2014 and on the KEBS website for 30 days.
- 6) As per the tender register, 13 tender documents were bought by potential bidders. Bidders sought clarification and an addendum was issued on 10th November 2014 accordingly addressing the queries raised;
- 7) On 19th November, 2014, the Tender Opening Committee was appointed by KEBS Managing Director to open the Tender No. KEBS/T057/2014/2015 as per regulation 60(1) of the PPDA;
- 8) The opening of the tender was done on 24th November 2014 at KEBS Headquarters Block A, Canteen before the various stakeholders. Seven bidders responded i.e. East Africa Automobile Services Co. Ltd (EAAS); Bureau Veritas (BV); Quality Inspection Services Inc. Japan (QISJ); Auto Terminal Japan Ltd (ATJ); Wilna International Co. Ltd, Japan Auto Appraisal Institute (JAAI) and Japan Export Vehicle Inspection Centre Company Ltd (JEVIC). Thereafter the Tendering Processing Committee (TPC) was appointed by KEBS MD on 24th November 2014 to conduct the evaluations of the bids.
- 9) The evaluations were carried out at Kilaguni Resort, Mtito Andei in a) Preliminary b) Technical and c) Financial. The choice of location was meant to eliminate interference of the evaluation process.

- 10)** The bids from Bureau Veritas, Auto Terminal Japan and Wilna International Company Limited were considered non-responsive and thus were disqualified.
- 11)** From the results of the Technical evaluation, the Tender Processing Committee found East Africa Automobile Service, bidder no. 1; Bidder 3, Quality inspection Services Inc. Japan and bidder 7, Japan Export Vehicle Inspection Center Company Limited attained the minimum score of 70 marks, which was required to proceed to the Financial Stage.
- 12)** On 3rd December 2014, the Tendering Process Committee carried out the opening of the financial bids at KEBS Headquarters Boardroom.
- 13)** The Financial Evaluation is subject to a maximum score of 20 marks. The Tendering Committee noted that KEBS had set the minimum administration fee at USD 40 per vehicle. Any bidder proposing less than this would be deemed as un-responsive. Therefore the proposals would be evaluated on the administration fee as follows
- a) Less than USD 40 –nil
 - b) At USD 40- 15 marks
 - c) Greater than USD 40- 20 marks
- 14)** The three bidders were ranked against their performance on financial criteria, the Overall score (OS); a sum of Technical score (TS) and Financial Score (FS) as follows

	Technical (TS)	Financial (FS)	Overall Score (OS)
East Africa Automobile Services	72	20	92
Quality Inspection Services Inc. Japan.	78	20	98
Japan Export Vehicle Inspection Company	71	20	91

- 15)** On the basis of their performance, Quality Inspection Services Inc. Japan (QISJ) by attaining an overall score of 98, QIS were awarded the contract as per their bid proposal.
- 16)** The Tender Processing Committee recommended a due diligence exercise be conducted to verify the performance of the service provider before signing the contract.

- 17) Observers were invited to attend and witness the deliberations and award session of the Tender Committee to QISJ as recommended by the Tender Processing Committee.
- 18) As resolved in the Tender Committee a letter of award was sent to Quality Inspection Services Inc Japan on 15th December 2014 and at the same time others sent to unsuccessful bidders. As per the Tender Committee resolution to do due diligence to be carried out before the contract is signed, the Tendering Processing Committee travelled to Japan, UAE and UK to perform it. The due diligence was at an advanced stage by 24th December 2014 when they received Public Procurement Administrative Review Board (PPARB).
- 19) JEVIC and EAAS filed requests for review of the KEBS decision to award the tender to Quality Inspection Service Inc Japan with Public Procurement Oversight Authority on 22nd December 2014 while Auto Terminal Japan filed their on 20th December 2014.
- 20) A due diligence report was prepared by the Tender Processing Committee and submitted to the Tender Committee. The due diligence report confirmed that QISJ has a capacity to carry out pre-shipment inspection of motor vehicles for the next 36 months.
- 21) During the KEBS first appearance on 12th January 2015 at PPARB hearing, it was apparent that the review process would not be concluded by 15th January 2015 when the current contracts for motor vehicle inspection were expiring. KEBS made a decision through the Tender Committee to extend the Motor vehicle Inspection contracts for a period of 90 days for two of the three service providers on the basis of performance.
- 22) JEVIC has challenged its exclusion from the contract extension (90 days). They do know why they were excluded and a notice of termination of their contract via KEBS letter dated 21st July 2014. The court case challenging the exclusion is yet to be determined.
- 23) The Public Procurement Administrative Review Board (PPARB) dismissed all three appeals on 28th January 2015 and KEBS cleared to finalize the contract with QISJ.
- 24) Contract signed with QISJ on 2nd February 2015 and is effective from March 1st for 36 months.

Committee Observations & Management Responses

The Committee made several queries and observations and Management responded as follows:

1) Allegations of Forged Documentation & Money Laundering:

On allegations of forged documents and money laundering, the KEBS Management responded that due diligence was conducted and the inconsistencies in the submitted documents verified.

JEVIC was found to have presented forged documents and was therefore disqualified from the tendering process. (Management to submit copy of the letter disqualifying JEVIC from the process)

2) Interference from Japanese Embassy to Kenya/Kenya Embassy to Japan:

On allegations of interference from Japanese Embassy to Kenya, the Management responded that the Embassy did not interfere in the process. However, it was alleged that the interference came from an official working in the Kenyan Embassy to Japan. Management has since written to the Embassy to seek further information on the matter.

3) Conflict of interest & QISJ Directorship

The Management responded that it has no information on the link between QISJ and JANS Trading Company and that tender documents are clear on the matter of conflict of interest.

The question of directorship of QISJ (UK), QISJ (Japan) and JANS Trading Company seems to be in question. Management was requested to avail information on the directorship of companies in question.

The Committee also heard that QISJ headquarters is registered in Japan with Japanese Director. KEBS sent a due-diligence team to Japan and confirmed this position.

4) Age Limit for importation of used vehicles

Legal Notice 78 of 15 July 2005 gives guidelines on importation of motor vehicles. Currently each East African country has its own rules on age limit for imported vehicles. The EAC is however working on harmonising importation guidelines for vehicles to be imported into the region.

5) Capacity to detect Radioactive Materials:

The Committee heard that the Radiation Protection Board of Kenya is charged with responsibility for protecting the health and safety of people and the environment

from the harmful effects of ionizing radiation. It regulates the use of ionizing radiation, exportation, importation, distribution and possession of radiation sources.

6) JEVIC termination of Contract

The Committee heard that JEVIC had been accused of permitting dangerous vehicles into Kenya when high radiation readings were found coming from a container with four used vehicles. JEVIC in its defence stated that the Company could not be held responsible for vehicles it did not inspect or the means used to ship them.

The Company was thereafter issued with a notice of termination of contract in July 2014, but a clause in the contract allows for 6 months notice, therefore its contract was extended to January 2015. JEVIC was allowed to go through the tendering process but failed at the tender evaluation level.

7) Motor-Vehicle Pre-shipment Contract 2014

On the 2014 pre-shipment inspection tender, JEVIC tendered and got to technical evaluation stage but could not proceed any further because their services had been terminated on technical grounds in July 2014 although the contract was due to expire in January 2015. The Company was however listed No.3 by the Tender Committee.

8) ISO Certification

KEBS management informed the Committee that all the companies that bided were ISO Certified and are registered with Japanese Inspection Agency and have the capacity to detect radio-active materials in vehicles before shipment (Management to avail copy of ISO certificate)

Additional Information Requested:

The Committee resolved to request KEBS to submit the following information not later than 20th February, 2015:-

- i. Copy of the advertisement for the motor vehicle pre-shipment inspection tender;
- ii. The bid documents of all the bidders and a copy of the bid registry;
- iii. KEBS procurement plan
- iv. KEBS budget vis-à-vis what the bidders bided;
- v. Minutes of the Tender Committee;
- vi. The Technical and Financial Reports of the bids;
- vii. Copy of Report on Due Diligence Visit to Japan to include the names and passport copies of the Tendering Committee delegation which travelled to

- Japan, the hotel they stayed in, copies of receipts, cost of the visit and meetings held;
- viii. The complaints from other unsuccessful bidders;
 - ix. Audited accounts of the bidders for the last three years;
 - x. ISO certifications and proof of membership of Japan Port and Harbour Association;
 - xi. Copy of letter allegedly written by an official in the Kenyan Embassy in Japan in support of QISJ;
 - xii. The profile of the QISJ Directors of the bidding companies e.g Mr. Abubakar Hassan, H. Hassan and Mr. Hatano.
 - xiii. QISJ directors, country of original registration, its branches and relationship with other bidders;

MIN NO. /PIC/080/2015: ANY OTHER BUSINESS

No other business arose.

MIN NO./PIC/081/2015: ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at thirty five minutes past twelve o'clock.

Signed.....

(Chairperson)

Date.....

24/2/2015

**MINUTES OF THE 48TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
HELD ON THURSDAY, 26TH MAY 2016 IN COMMITTEE ROOM 7, MAIN
PARLIAMENT BUILDINGS AT 10:00 AM**

PRESENT

1. Hon. Adan Wehliye Keynan, CBS, MP - Chairperson
2. Hon. Francis Mwanzia Nyenze, EGH,
3. Hon. Dr. Oburu Oginga, MGH, MP
4. Hon. (CPA) Thomas Ludindi Mwadeghu, CBS, MP
5. Hon. Wafula Wamunyinyi, MP
6. Hon. Sammy Silas Komen Mwaita, MP
7. Hon. Elias Bare Shill, MP
8. Hon. John Olago Aluoch, MP
9. Hon. (Dr.) Paul Nyongesa Otuoma, EGH, MP
10. Hon. (Eng). John Kiragu, MP
11. Hon. Dorcas Kedogo, MP
12. Hon. Abdullswamad Sheriff Nassir, MP
13. Hon. Beatrice Nkatha Nyaga, HSC, MP
14. Hon. (Dr.) Chrisanthus Wamalwa Wakhungu, CBS, MP
15. Hon. Cornelly Serem, MP Hon. Irungu Kang'ata, MP
16. Hon. Eng. Stephen Ngare, MP
17. Hon. Johana Kipyegon Ngeno, MP
18. Hon. John Muchiri Nyaga, HSC, MP
19. Hon. John Ogutu Omondi, MP
20. Hon. Korei Ole Lemein, MP
21. Hon. Mary Sally Keraa, MP

APOLOGIES

22. Hon. Anthony Ichung'wah Kimani, MP - Vice Chairperson
23. Hon. Adan Mohammed Nooru, MP
24. Hon. Franklin Mithika Linturi, MP
25. Hon. Bernard Munywoki Kitungi, MP
26. Hon. Irungu Kang'ata, MP
27. Hon. Onesmus Muthomi Njuki, MP

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Philip Lekarkar - Clerk Assistant III
2. Mr. Mohamed Boru - Clerk Assistant III
3. Mr. Charles Atamba - Research Officer III
4. Ms. Clara Kimeli - Legal Counsel II
5. Mr. Abdi Salat - Senior Sergeant-at-Arms
6. Ms. Rose Ometere - Audio Officer

OFFICE OF THE AUDITOR-GENERAL

1. Mr. George Nashon Otieno - Senior Manager, Audit
2. Mr. Daniel Kibirii - Manager, Audit
3. Mr. John Karingithi - Manager, Audit

THE NATIONAL TREASURY

Mr. John Munge - Accountant I

THE INSPECTORATE OF STATE CORPORATIONS

Mr. James Wangombe - Inspector

MIN/PIC/343/2016: PRELIMINARIES

The meeting started at twelve minutes past four O'clock with a prayer.

MIN/PIC/344/2016: CONFIRMATION OF MINUTES

Confirmation of previous Minutes was deferred to the Sitting.

MIN/PIC/345/2016: EVIDENCE BY KENYA BUREAU OF STANDARDS

Mr. James Ongwae, the Managing Director of Kenya Bureau of Standards accompanied by Hon. Lucas Maitha, KEBS Chairman; Ms. Anne Wanjau, Head of Finance and Ms. Goretti Nyariki, Head of Legal Services appeared before the Committee to adduce evidence on the accounts of the Bureau for the financial years 2012/2013 and 2013/2014 and Pre-Shipment Inspection Contract for Tender No. KEBS/T057/2014-2015 on the Provision of Pre-Export Inspection Service for Motor Vehicles.

MIN/PIC/346/2016: PARAGRAPHS 1 OF FYs 2012/2013 AND 2013/2014 ACCOUNTS - TRADE AND OTHER RECEIVABLES

The Committee heard that included in the trade and other receivables balance of Kshs. 177,937,482 as at 30th June 2014 includes long outstanding debts of Kshs. 17,500,000 owed by a law firm (under receivership) in a respect of a payment made to the firm for purchase of land in Donholm, Nairobi. Although the transaction later turned out to be fraudulent, recovery of the money had not been made as at 30th June 2014. Further the trade and other receivables balance of Kshs. 177,937,482 includes trade debtors totalling to Kshs. 59,956,770 and which had been long overdue. Further the prepayments amounting Kshs. 2,697,529 were made to three firms for goods and services that were not supplied or rendered.

~~In the circumstances, it has not been possible to confirm the adequacy of the provision for bad and doubtful debts of Kshs. 24,900,436 made in the financial statements and the accuracy and recoverability of trade and other receivables balance of Kshs. 177,937,482 as at 30th June 2014.~~

Management Response

The Managing Director informed the Committee that the trade and other receivables are long outstanding receivables from the following:

- (i) Makhecha & Company Advocates in respect of Kshs 17,500,000 paid as deposit for staff housing scheme that was never implemented. The matter was however forwarded to the Inspectorate of State Corporations in July 2011 for further direction. The Inspectorate of State Corporations in their letter dated 15th March 2013 recommended that the matter be referred to Ethics and Anti Corruption Commission for further action. In the meantime, recognizing that the debt is unlikely to be recovered, the management is proposing write of the amount. The principal owner of the law firm passed on several years ago and the law firm is inactive.
- (ii) Global Inspection South Africa Kshs. 19,423,268.55 relating to long outstanding dispute. The matter was referred to the court and eventually arbitration. The Company did not respond to arbitration and the business later closed down in South Africa and hence unable to be reached. Court process and arbitration has been stopped to mitigate against unnecessary legal costs. KEBS is going through unnecessary approvals to write off the debts.

Prepayments of Kshs. 2,697,529 were made to the following three firms for goods and services that were not delivered.

- (i) Tetralink Kenya Ltd - Kshs. 2,256,542 in respect to supply of goods in the year 2000/2001 which were never supplies and the supplier cannot be traced.
- (ii) Bestex Designers Kshs 153, 542 in respect to supply of goods in the year 2000/2001 which were never supplies and the supplier cannot be traced.
- (iii) Homelink Ltd Kshs. 287,550 in respect to supply of goods in the year 1999/2000 which were never supplies and the supplier cannot be traced.

KEBS has since put in place measures and controls to ensure that no payment is made without full proof of necessary documentation and proof of delivery of goods.

Committee Observations

The Committee observed that the Bureau was in breach of the Public Procurement and Disposal Act, 2005 by paying for goods and services without verifying the delivery of the goods and service.

The Committee directed the Managing Director to provide the following information by 7th June 2016: -

-
- (i) Chronology of events for the procurement of the Makhecha & Company Advocates law firm and the respective terms of reference when they were engaged.
 - (ii) Members of the Tender Committee involved in the procurement of the law firm and the companies involved;
 - (iii) Details of the Donholm Staff Housing Scheme;
 - (iv) Copies of correspondences between the KEBS, Makhecha & Company Advocates law firm, Global Inspection South Africa, Tetralink Kenya Ltd, Bestex Designers and Homelink Ltd on the attempts made to recover the funds paid.
-
- (v) Directors Tetralink Kenya Ltd, Bestex Designers and Homelink Ltd.

**MIN/PIC/347/2016: PARAGRAPH 2 OF FY 2012/2013 ACCOUNTS
- FINANCIAL PERFORMANCE**

The Committee heard that during 2012/2013 financial year, the Bureau made a loss of Kshs. 42, 693, 720 compared with a surplus of Kshs. 847,929,303 in 2011/2012 financial year. The loss is attributed to the decrease of income by Kshs. 341,422,477 or about 12% from Kshs. 2,776,650,144 as at 30th June 2012 to Kshs. 2,435,227,667 as at 30th June, 2013. The expenditure increased by Kshs. 549,200,546 or about 28% in the same period from Kshs. 1,928,720,841 to Kshs. 2,477,921,387. This trend is a reflection of weak financial management and if not checked could lead to solvency issues.

Management Response

The Managing Director informed the Committee that Bureau reported a loss of Kshs. 42,693,720 that was not due to poor financial management but during the financial year 2012/2013, the Bureau entered into a medical scheme for its staff making the insurance expenses increase by Kshs. 107,014,824. The Bureau also increased the staff salaries following approval by State Corporations Advisory Committee making the staff emoluments increase by Kshs. 424, 764,644.

The Bureau reported a surplus of Kshs. 363,925,103 for the year ended 30th June 2014 attributable to increase in revenue for the year hence cancelling out the deficit of Kshs. 42,693,720.

Committee Observations

The Committee observed that in the 2013/2014 financial year, the Bureau recorded a surplus and its financial position improved.

**MIN/PIC/348/2016: PARAGRAPHS 3 OF FYs 2012/2013 AND 2013/2014
ACCOUNTS - PROPOSED REGIONAL OFFICES AND
LABORATORIES PROJECT IN MOMBASA.**

The Committee heard that the Bureau invited tenders for construction of the proposed Regional Offices and Laboratories Project in Mombasa on 17th March, 2013. Preliminary expenses totalling to Kshs. 101,938, 209 were paid for the proposed project to various consultants.

Explanation and evidence obtained from the management indicated that the above consultants were picked from a list of pre-qualified consultants. However, neither the details on how the consultants were quoted nor the criteria used on evaluation and selection were produced for audit review. In addition, the amounts continue to be reflected as work in progress despite the fact that the contract was halted and the matter is under arbitration.

In the circumstances, the procurement of the consultants for the proposed Regional Offices and Laboratories Project in Mombasa was not done in line with the Public Procurement and Disposal Act, 2005 and hence Kshs. 1001,938,209 paid to the consultants was therefore irregular.

Management Response

The Managing Director informed the Committee that preliminary expenses were paid as follows: -

Firm	Role	Amount in Kshs
AAKI Consultants Architects & Urban Designers	Project Architects	39,324,640
Ngahu & Associates	Project Quantity Surveyors	14,606,868
Otieno Odongo & Partners	Project Structural & Civil Engineering Consultants	29,475,886
Professional Consultants	Project Electrical & Mechanical Engineers	13,933,893
Other Costs	NEMA, Mombasa Municipal Council	4,596,922
Total		101,938,209

The consultants were all pre-qualified for the period 2012/2013 and the Ministry of work assisted in appraisal of the firms. The Bureau sought approval and recommendations from the parent Ministry and the Ministry of Public Works respectively.

Committee Observations.

The Committee observed that;

- (i) The Bureau is a statutory body which should procure goods and services in accordance with the Public Procurement and Disposal Act, 2005 without seeking the direction of the Ministry,
- (ii) The Bureau was in breach of the Public Procurement and Disposal Act, 2005 Section 78 (3) failing to advertise the tender for the consultancy services for the proposed project.
- (iii) That the Committee has done and tabled a Report on the Proposed Regional Offices and Laboratories Project in Mombasa by KEBS and the matter will be discussed substantially during debate on the Report.

MIN/PIC/349/2016: PARAGRAPHS 4 OF FY 2013/2014 ACCOUNTS - BOARD EXPENSES

The Committee heard that during the 2012/2013 financial year, the Bureau incurred Board Expenses of Kshs. 50,954,532 compared to Kshs. 27,510,775 in 2011/2012. This resulted to an increase of Kshs. 23,443,757 against the budgeted amount of Kshs. 32, 154,00. In addition, the calendar of the Board meetings outlining the number of planned meetings for the year under review was not availed for audit verification. Consequently, it has not been possible to confirm the propriety of of unauthorized expenditure of Kshs. 18,800,532 incurred towards Board expenses during the year.

Management Response

The Managing Director informed the Committee that the Board expenditure incurred in the 2012/2013 financial year was above the annual budget because of the increased number of National Standards Council (NSC) meetings while sourcing the Chief Executive Officer. During the year there were two additional members to the NSC. These meetings were not anticipated during the budgeting process, however the NSC on 2nd May 2013 approved additional allocation of Kshs. 15 million to cater for the unforeseen circumstances.

Audit documents and approval have been forwarded to the Auditor General for verification.

Additional Information Requested

The Committee directed the Managing director to avail the documents to the Office of the Auditor General for verification.

MIN/PIC/350/2016: PRE-SHIPMENT INSPECTION CONTRACT FOR KEBS TENDER NO. KEBS T57/2014-2015 ON THE PROVISION OF MOOR VEHICLE INSPECTION SERVICE

The Managing Director informed the Committee that: -

1. The tender for provision of pre-export inspection services for motor vehicles was awarded to Quality Inspection Services Japan (QISJ). Under the contract, QISJ is required to carry out the inspection based on Kenya Standard KS 1515:2000 Code of Practice for Motor Vehicle Inspection of Road Vehicles. The areas of inspection under the standard are:
 - (i) Age limit - this shall be less than 8 years from the year of first registration
 - (ii) The difference between the year of manufacture and the year of first registration shall not be more than 1 year.
 - (iii) The Drive - the vehicle should be right hand drive.
 - (iv) Road worthiness - this includes safety requirements, electrical and mechanical conditions.
 - (v) Prohibition of modified Vehicles - modified motor vehicles are not allowed in Kenya.
 - (vi) Odometer Checking.

Technical Capacity of QISJ

2. KEBS ascertained the technical capacity of QISJ during the tender process by evaluating their bid documents and in addition carrying out due diligence.
3. QISJ is a type A ISO/IEC 17020:2012 accredited body by Japan Accreditation Board since 2010.
4. The Company has 33 facilities for inspection of motor vehicles and 47 members of staff stationed around the testing centres in Japan. In addition, it has offices in the United Kingdom, Dubai and South Africa.
5. The performance of QISJ with respect to inspection of motor vehicles is evaluated once every year by KEBS at the various locations of its operations. An audit on this Company was done in August 2015 and was found to be operating within scope.

Due Diligence Conducted

6. After the award of the tender in March 2015, a number of visits have been made to the Company by various teams namely: -
 - (i) Principal Secretary, Ministry of Industrialization and Enterprise Development together with the Chairman of the National Standards Council and KEBS senior staff from 6th to 13th June 2015 visited the QISJ offices in Japan to understand the operations of the Company with respect to technical capacity;

- (ii) KEBS Audit Team visited in August 2015 to confirm the scope of operations of the Company;
- (iii) Members of the National Standards Council and KEBS senior staff visited the Company in Japan to check on the capacity of the Company to undertake radiation checks in October, 2015. The team found QISJ performance as satisfactory.
- (iv) Officers from the Auditor General Office visited QISJ in Japan and did a report.

Physical Location of QISJ

7. QISJ is a company that exists and has offices in Japan, United Kingdom and South Africa. The various KEBS teams have confirmed the physical presence of these offices.

Directors of QISJ

8. The Directors of QISJ are
- (i) Mr. Kiyooki Hatano - Japanese
 - (ii) Mr. Hashim Hassan - British
 - (iii) Mr. Salem Saif Ebrahim Bin Touq Al Mansouri - UAE

Conflict of interest of QISJ as a dealer and as an Inspector

9. KEBS has no knowledge of any conflict of interest of QISJ and any dealings of the Company as a dealer of motor vehicles. In the bid documents, a sworn statement on the issue of conflict of interest was attached as required in the tender document.
10. KEBS has instituted a number of measures to prevent tampering of motor vehicles after inspection. The roadworthiness certificate captures the actual mileage as read in the odometer at the time of inspection.

Committee Observations

The Committee observed that: -

1. Cases of irradiated motor vehicles have been reported in the country since the award of the tender to Quality Inspection Services Japan. This raises questions on the capacity and thoroughness of the Company to undertake proper radiation inspection of motor vehicles imported to the country.
2. That the Director of QISJ Mr. Kiyooki Hatano worked as an employee and director of Jans Trading Company, Japan before establishing QISJ which is the biggest exporter of motor vehicles to Kenya; thus there could be a

close relationship between the two companies, one and inspector and the other an importer.

3. QISJ had allegedly been deregistered in Japan as an inspector of motor vehicles by Japan Transport and Harbour Association.

Additional Information Requested

The Committee directed the KEBS Managing Director to submit the following by Tuesday 7th June 2016: -

1. Due diligence inspection reports undertaken by the Principal Secretary Ministry of Industrialization and Enterprise, KEBS Audit Team and members of the National Standards Council and KEBS senior staff visited the Company in Japan to check on the capacity of the Company to undertake radiation checks in October, 2015;
2. Documentary evidence that QISJ had 33 branches/offices at the time of submitting tender bids;
3. Report of the vehicles smuggled into the country without going through inspection process and evasion of tax payment.
4. Royalties paid to QISJ by KEBS for conducting pre-export inspection;
5. Itinerary, hotel bookings and expenditure incurred of the KEBS officials of who visited QISJ in Japan.

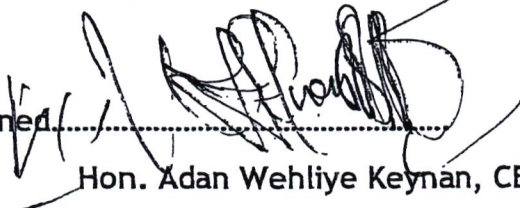
The Committee also resolved to invite the Board of KEBS at a later date to give evidence on the tender.

MIN/PIC/351/2016: ANY OTHER BUSINESS
No other business arose.

MIN/PIC/352/2016: ADJOURNMENT

There being no other business, the meeting was adjourned at 11:45am. The next meeting will be held on Tuesday 7th June, 2016 at 10:00am.

Signed.....



Hon. Adan Wehliye Keynan, CBS, MP

(Chairman)

Date.....

21/7/2016

MINUTES OF THE 65TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
HELD ON THURSDAY, 4TH AUGUST 2016 IN COMMITTEE ROOM 7, MAIN
PARLIAMENT BUILDINGS AT 11:30 A.M.

PRESENT

1. Hon. Adan Wehliye Keynan, CBS, MP - Chairperson
2. Hon. Dr. Oburu Oginga, MGH, MP
3. Hon. Franklin Mithika Linturi, MP
4. Hon. Sammy Silas Komen Mwaita, MP
5. Hon. John Olago Aluoch, MP
6. Hon. (Dr.) Paul Nyongesa Otuoma, EGH, MP
7. Hon. (Eng.) John Kiragu, MP
8. Hon. Dorcas Kedogo, MP
9. Hon. Abdullswamad Sheriff Nassir, MP
10. Hon. Beatrice Nkatha Nyaga, HSC, MP
11. Hon. (Dr.) Chrisanthus Wamalwa Wakhungu, CBS, MP
12. Hon. Cornelly Serem, MP
13. Hon. John Muchiri Nyaga, HSC, MP
14. Hon. Mary Sally Keraa, MP

APOLOGIES

15. Hon. Anthony Ichung'wah Kimani, MP - Vice Chairperson
16. Hon. Francis Mwanzia Nyenze, EGH, MP
17. Hon. Adan Mohammed Nooru, MP
18. Hon. (CPA) Thomas Ludindi Mwadeghu, CBS, MP
19. Hon. Wafula Wamunyinyi, MP
20. Hon. Elias Bare Shill, MP
21. Hon. Bernard Munywoki Kitungi, MP
22. Hon. Irungu Kangata, MP
23. Hon. Johana Kipyegon Ngeno, MP
24. Hon. (Eng.) Stephen Ngare, MP
25. Hon. John Ogutu Omondi, MP
26. Hon. Korei Ole Lemein, MP
27. Hon. Onesmus Muthomi Njuki, MP

NATIONAL ASSEMBLY SECRETARIAT

1. Ms. Susan Maritim - Clerk Assist
2. Mr. Philip Lekarkar - Clerk Ass'
3. Ms. Clara Kimeli - Legal C

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OFFICE OF THE AUDITOR-GENERAL

- 1. Mr. George Otieno Nashon - Deputy Director, Audit
- 2. Mr. Richard Nyanchieo - Deputy Director, Audit
- 3. Mr. Daniel Kibirii - Manager, Audit

THE INSPECTORATE OF STATE CORPORATIONS

Mr. Stephen Mbatia - Chief Inspector

MIN/PIC/486/2016: PRELIMINARIES

The meeting started at thirty-three minutes past eleven o'clock with a word of prayer.

MIN/PIC/487/2016: CONFIRMATION OF MINUTES

Confirmation of the minutes of the previous sitting was deferred to the next sitting.

MIN/PIC/488/2016: EVIDENCE BY RADIATION PROTECTION BOARD

Mr. Joel Kamande, the Secretary/CEO Radiation Protection Board accompanied by Prof. appeared before the Committee to adduce evidence on the radiation inspection of motor vehicles.

The Secretary/CEO Radiation Protection Board Mr. Joel Kamande informed the Committee as follows: -

1. Radiation Inspection of Motor Vehicles

- (a) Following the Fukushima Daiichi nuclear plant disaster of 12th March, 2011 in Japan, there was a worldwide concern that there would be contamination of consumer products and goods in Japan. Several months later after the nuclear accident, Europe, UK, USA, Republic of South Africa and other countries reported incidences of contaminated products and goods from Japan.

The Government of Kenya vide letter Ref. OP/CAB/.3/7A of 22nd August 2012 issued a goods communication radio alert to the relevant government agencies for necessary action. Fortunately, by this time the government received a grant from the US government for installation of eleven radiation portal monitors at the port of Mombasa to screen all imports/exports containerized cargo. Meanwhile, the Kenya Radiation Protection Board (RPB) had established an Inspectorate office at the port of Mombasa again after the 1986 Chernobyl nuclear power accident in the then USSR.

The radiation portal monitors project is run by four government agencies: Kenya Revenue Authority, Kenya Ports Authority, Kenya

Association of Manufacturers and Radiation Protection Board. A joint MoU spells out the duties of each of the agency and has an annexed Standard Operating Procedures (SOP).

- (d) On 26th January 2013, five (5) containerized used motor vehicle units at Berth 16 were detected by radiation portal monitors to be contaminated with radioactivity. The signature of the radiation was most likely from the Fukushima Daiichi nuclear accident. This consignment of cars had a KEBS certificate of road worthiness, which also indicated that they were from a “radiation free source in Japan”.
- (e) Given that most of the imported motor vehicles are brought in using Roll-on Roll off (RoRo) shipping vessels, the RPB was concerned that many imported vehicles could also be radio-contaminated. Consequently, RPB, KRA, KPA and KAM held consultative meetings and involved the stakeholders in the car import business to find ways of ensuring that all RoRo imported motor vehicles are screened for radiation emissions.
- (f) A Standard Operating Procedures (SOP) was finally adopted to ensure all motor vehicles entering Kenya either from local market, trans-shipment for transit are screened for radio-contamination. The exercise continues to date and is carried out in conjunction with radiation protection service providers certified by RPB. This is in order to avoid conflict of interest since RPB is a regulator and not a service provider as required by the General Safety Requirements of the International Atomic Energy Agency (IAEA) to which Kenya is a member since 1965.
- (g) The other types of conventional goods are also screened for radioactivity to ensure public consumer health and safety, against standards published by IAEA and recognized under the Radiation Protection Act Cap.243 Laws of Kenya and Regulations thereunder.

2. Scope of Radiological contamination inspection of imported motor vehicles conducted by the Board at the Port of entry to guarantee public safety

The RPB has capacity and capability of itself and through Certified Technical Support Organisations (CTSOs) to screen imported vehicles and other goods for radiological contamination or radiation emissions. The Board also partners with KPA, KMA and KRA through an MoU to run the eleven installed Radiation Portal Monitors (RPMs) at the port which were provided as grant to Kenya by the US government in 2011.

Terminal tractors that offload containerized cargo from ship vessels pass through the RPMs which are monitored at the Central Alarm Station (CAS) for automatic monitoring of radiation emissions.

Incase the RPMs detect radiation emissions, alarms are raised simultaneously to the Board, KPA, KMA and KRA through the CAS who then collectively carry out manual secondary inspections. If need be further tertiary inspection is carried out by the Board as the competent regulatory authority and necessary action taken as it has done on various occasions.

Conventional cargo and roll on/rollout (RoRo) motor vehicle vessels; including load on load off (LoLo) cargo, are monitored manually inside the ship by Board certified radiation protection service providers (TSOs).

Again once the TSOs detect contaminated motor vehicles and other goods, they immediately inform the Radiation Protection Officers based at the port who then carry out confirmatory tests before action. Such action may include but not limited to return of goods to ports of origin, recommendations on appropriate decontamination and subsequent radioactive waste management, safety and security of radioactive materials. Motor vehicles found radio-contaminated inside the ship vessel are not allowed to off load. The captain of the ship is handed a rejection form of the specific motor vehicle for purposes of return of the unit to the port of origin.

In the fiscal year 2015/2016 a total of 50,808 motor vehicle units were scanned for radio-contamination by two TSOs based in Mombasa. Some of the motor vehicle units scanned were destined to neighbouring countries. However, it is still important to scan motor vehicles on transit to ensure safety of the Kenyan public while the vehicles travel through the country. Radiation exposure limits to the public are derived from the International Commission on Radiological Protection (ICRP) and adapted in local legislation.

3. Conformity of Motor vehicle units' pre-export inspection to safety standards on radiation aspects

The Board was aware that imported motor vehicles were subjected to tests of roadworthiness and radiation emissions under KEBS administration. However, in January 2013 the radiation portal monitors team (KMA, KRA, KPA, RPB) received radiation alarm from an imported containerized cargo (motor vehicles) consignment at port Kilindini.

The Board therefore undertook immediate investigations and came up with the following findings.

- (a) Originally, the certification stickers from the port of origin read "from radiation-free zone". It was therefore not clear if the actual radiological

examination had been performed on the vehicles. However, later the KEBS certificate of roadworthiness was also found to be inserted with the words "this vehicle was surveyed and found to be within the internationally accepted limits at the time of inspection".

On enquiry from KEBS on the meaning of this insertion, it was explained that once the motor vehicles are inspected in the country of origin, some vehicles would still undergo re-conditioning and travel a distance of up to 400km for shipping.

The Board noted that under such circumstances the vehicles may be radio-contaminated in the process. This may explain the detection of radiation emission from the vehicles at the port of entry even after having been found not contaminated at pre-export inspection in the country.

The Board therefore undertook to ensure that all imports are scanned for radio-contamination to safeguard public health and safety against the harmful effects of ionizing radiation.

- (b) The said containerized consignment had 5 motor vehicles originating from Japan. 3 vehicles were destined for Tanzania and 2 for Kenya. The Board noted that it was important to screen both trans-shipment and transit goods to further safeguard the health and safety of the Kenya public. To this end the Board has offices at the port of Mombasa and JKIA to ensure this is done.
- (c) The radiation level from the said container was above the acceptable level for public exposure. Consequently, the Board and other government agencies (KPA, KRA, KMA) impounded the container and demanded its return to its port of origin. This was eventually done.

4. Compliance or non-compliance of imported motor vehicles inspected by Quality Inspection Services Japan to radiation safety standards

The Board office at the port of Mombasa processes Import Declaration Forms (IDFs) attached with locally sourced radiation free certificates. It may be worthwhile to note that the IDFs do not indicate the pre-export inspecting organizations.

However available statistics at the Board for screened vehicles by locally certified service providers indicate that measured radiation emissions of imported motor vehicles at the port of Mombasa are within acceptable limits for the period 1st March 2015 to date.

5. Allegations of radiation contaminated containerized motor-vehicles imported from Japan impounded at the port by the Board

The Board impounded a containerized consignment of 5 motor vehicles inspected and found to be radio-contaminated in January 2013. The consignment was then shipped back to the country of origin (Japan).

6. Measures put in place by the Board to bar vehicles with excessive radiations from entering the country

The Board in partnership with KMA, KRA, KPA and KEBS has developed a standard operating procedure part of which details the process of radiation screening for imports.

Motor vehicle screening for radio-contamination is undertaken on board the conveyance vessel. Should a motor-vehicle consignment be found and confirmed to be radio-contaminated then a Rejection Form is issued to the officer-in-charge of the importing vessel for purposes of returning the contaminated motor vehicle to the country of origin.

The on-board radiation screening therefore ensures that motor vehicles with radiation emissions above public safety limits are barred from entering the country.

The fact that Kenya screens its imports (consumer products and motor vehicles) for radio-contamination also acts as a deterrent measure for importers from shipping in the goods that are harmful to local consumers.

COMMITTEE OBSERVATIONS

The Committee observed that: -

1. Radiation Protection Board is the legally mandated body to protect the health and safety of people and the environment from the harmful effects of ionizing radiations from radiation sources. The Board meets its mandates through inspections, enforcing compliance with the Radiation Protection Act, licensing and registration of third parties (local radiation protection service providers) to undertake radiations inspections.
2. The Board works in partnership with other government agencies namely Kenya Revenue Authority, Kenya Ports Authority, Kenya Bureau of Standards (KEBS) and Kenya Maritime Authority to inspect containerized imports and exports. A joint memorandum of understanding (MoU) developed spells out the duties of each of the agency with Standard Operating Procedures (SPO).
3. KEBS deviated from the Standard Operating Procedures for radiation inspection of imported motor vehicles at the port and usurped the powers of RPB by using service providers whose competence is unknown to the Board to undertake radiation inspection without involving the competent and legally responsible body i.e. Radiation Protection Board. RPB raised

complaint to KEBS vide a letter Ref. RPB/CB/KBS/13/8 VOL.1 9(44) on 28th March, 2013.

4. The Board is constrained in law and in its capacity to undertake radiation inspection surveillance at the ports of entry thus the Board cannot give full assurance all that imported motor-vehicles and consumer goods imported into the country are free from radio-contamination.
5. The Board failed to respond to issues of capacity and compliance or otherwise by Quality Inspection Services, Japan (QISJ) to conduct pre-shipment inspection of motor-vehicles.

Committee Resolutions

The Committee resolved that; -

1. The Board provides names of all radiation inspection service providers operating in the country registered and licensed by the Board;
2. The Board provides its considered opinion on the capacity and competence of Quality Inspection Services Japan to provide radiation inspection services as contracted by KEBS;
3. The Board provides correspondences between RPB and KEBS on radiation inspection issues;
4. Legal challenges inherent in the current, Radiation Protection Act (Cap 243 of the Laws of Kenya) and advice on possible amendments.
5. The Principal Secretary Ministry of Health appears before the Committee to adduce evidence on the role of the Ministry on motor vehicle inspection for radiation contamination.

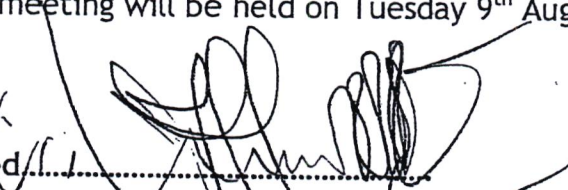
MIN/PIC/489/2016: ANY OTHER BUSINESS

No other business arose.

MIN/PIC/490/2016: ADJOURNMENT

There being no other business, the meeting was adjourned at 12:20 pm. The next meeting will be held on Tuesday 9th August at 10:00am.

Signed.....



Hon. Adan Wenhaye Keynan, CBS, MP

(Chairman)

Date.....

7/9/2016

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MINUTES OF THE 70TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON FRIDAY, 19TH AUGUST 2016 IN DODORI HALL PRIDE-IN HOTEL, MOMBASA AT 9:30 AM

PRESENT

1. Hon. Adan Wehliye Keynan, CBS, MP - Chairperson
2. Hon. Anthony Ichung'wah Kimani, MP - Vice Chairperson
3. Hon. (CPA) Thomas Ludindi Mwadeghu, CBS, MP
4. Hon. Dr. Oburu Oginga, MGH, MP
5. Hon. Adan Mohammed Nooru, MP
6. Hon. Francis Mwanzia Nyenze, EGH, MP
7. Hon. Elias Bare Shill, MP
8. Hon. (Dr.) Paul Nyongesa Otuoma, EGH, MP
9. Hon. (Eng.) John Kiragu, MP
10. Hon. John Olago Aluoch, MP
11. Hon. Dorcas Kedogo, MP
12. Hon. Beatrice Nkatha Nyaga, HSC, MP
13. Hon. Abdullswamad Sheriff Nassir, MP
14. Hon. Bernard Munywoki Kitungi, MP
15. Hon. (Dr.) Chrisanthus Wamalwa Wakhungu, CBS, MP
16. Hon. (Eng.) Stephen Ngare, MP
17. Hon. Irungu Kang'ata, MP
18. Hon. John Muchiri Nyaga, HSC, MP
19. Hon. John Ogutu Omondi, MP
20. Hon. Korei Ole Lemein, MP

APOLOGIES

21. Hon. Franklin Mithika Linturi, MP
22. Hon. Wafula Wamunyinyi, MP
23. Hon. Sammy Silas Komen Mwaita, MP
24. Hon. Cornelly Serem, MP
25. Hon. Johana Kipyegon Ngeno, MP
26. Hon. Mary Sally Keraa, MP
27. Hon. Onesmus Muthomi Njuki, MP

NATIONAL ASSEMBLY SECRETARIAT

1. Ms. Leah Mwaura - Clerk Assistant I
2. Mr. Philip Lekarkar - Clerk Assistant III
3. Mr. Charles Atamba - Research Officer III

OFFICE OF THE AUDITOR-GENERAL

1. Mr. George Otieno Nashon - Deputy Director, Audit
2. Mr. David Njoka - Director, Audit

THE INSPECTORATE OF STATE CORPORATIONS

Mr. Dominic Katiku - Inspector

THE NATIONAL TREASURY

Mr. John Munge - Accountant I

MIN/PIC/521/2016: PRELIMINARIES

The meeting started at forty-one minutes past nine o'clock with a word of Prayer.

MIN/PIC/522/2016: CONFIRMATION OF MINUTES

Confirmation of the minutes of the previous sitting was deferred to the next sitting.

MIN/PIC/523/2016: EVIDENCE BY KENYA PORTS AUTHORITY

Ms. Catherine Wairi-Mturi, the Managing Director Kenya Ports Authority accompanied by Patrick Nyoike General Manager Finance, Eng. A.M Samatar, General Manager Engineering, and Mr. Geoffrey Kavate, Accountant appeared before the Committee to adduce evidence on the Report of the Auditor General on the financial statements of Kenya Ports Authority for the 2013/2014 financial year, Status of the Authority's deposits held in banks as at 31st July 2016 and Inspection of Imported Motor Vehicles for Radiation Contamination.

MIN/PIC/524/2016: PROPERTY, PLANT AND EQUIPMENT

Stalled Projects

The Committee heard that property, plant and equipment figure of Kshs. 102,949,735,000 as at June 2014 include Kshs. 110,535,738 in respect of work-in-progress for six progress projects which had stalled for more than six years. Included in the stalled projects is a canteen valued at Kshs. 5,884,681.00 which was discontinued on the grounds that the land in question had already been allocated to Export Processing Authority (EPZA). The value of these stalled projects have since been impaired occasioning financial loss to the Authority and the dispute on the piece of land remains unresolved.

Management Response

The Managing Director informed the Committee that the is matter was deliberated upon and cleared during the 105th Parliamentary Investment Committee (PIC), meeting in July, 2014. Specific recommendations were given with regard to the Canteen project at Gate 18.

Committee Observations

The Committee observed that the matter was discussed in the 19th Annual Report and made following observations:

- (i) Kenya Ports Authority did not seek the necessary approvals from the relevant authorities before carrying out any construction.
- (ii) The Committee further observed that the Authority commenced Construction of the Canteen without confirming the ownership of the plot.

(iii) The Committee also observed that works at the canteen might not be worth the amount of money spent.

The Committee further made recommendations to the Ethics and Anti-Corruption Commission regarding the stalled Canteen whose action is yet to be known by the Committee.

Action taken after PIC Recommendations

Subsequent to the recommendations by the Committee, a series of meetings was held with the Export Processing Zone Authority, the owner of the land where the Canteen was built. It had been agreed that the land along Changamwe - Kipevu gate road be exchanged with other identified KPA parcels. The Board of EPZA has already approved the exchange. KPA Board has also scheduled a meeting on 23rd August, 2016 to take a decision on the matter. After the completion of the land exchange, the project will be revived.

KPA is yet to receive a progress report from the Ethics and Anti-Corruption Commission (EACC) on the investigations into the circumstances surrounding the construction of the canteen.

Unutilized Parcels of Land

The Committee heard that property, plant and equipment figure of Kshs. 102,949,735,000 as at June 2014 are 14 parcels of land measuring about 266.716 hectares and valued Kshs. 675,632,445.00 which are not utilized at all. This amounts to idle investments which is also outside the core business of the Authority. Most of the said parcels of land have been invaded by squatters and private developers who now occupy large portions on the parcels of land.

Consequently, in light of the above paragraphs, it has not been possible to confirm the ownership status of the parcels of land under dispute and that property, plant and equipment balance of Kshs. 102,949,735,000 is fairly stated as at 30th June 2014.

Management Response

The Managing Director informed the Committee that the current status of the fourteen (14) unutilized plots are as explained here below:

No	Description	Cost Kshs.	Status
i	Plot No. MSA/XLVII/81, 82 & 83; 1.466 Acres Housing the White House Buildings, Mombasa	84,380,000	These plots are secure
ii	Plot No. MN/III/528/E; 173.6 Ha, located at Takaungu, Kilifi	233,783,200.00	Partly Occupied by squatters

No	Description	Cost Kshs.	Status
iii	Plot No. LR/9093; 7 Ha, Located in Malindi	66,585,000.00	Partly Occupied by squatters
iv	Plot No. MS/46/I; 5.073 Ha, Located at Likoni; Mombasa	25,000,000.00	Utilized for social activities by the locals
v	Plot No. MS/1682/I; 2.708 Ha, located at Likoni, Mombasa	26,765,000.00	Occupied by squatters
vi	Plot No. MS/137/II; 2.46 Acres, Located at Mtongwe, Mombasa	21,600,000.00	Occupied by squatters
vii	Plot No. LR/16121; 2.5 Ha; Located at Shimoni, Kwale	9,325,550.00	The plot is secure
viii	Plot No. MN/V/1614; 2.5 Ha, Located at Kibarani, Mombasa	18,820,000.00	Occupied by squatters
ix	Plot No. MN/V/1683; 1.018 Ha Located at Miritini, Mombasa	6,288,695.00	The plot is secure
x	Plot No. MN/V/196; 63 acres, Located at Jomvu Kuu, Mombasa	63,000,000.00	The plot is secure
xi	Plot No. LR 24588; 9.182 Ha, Located in Malaba	19,650,000.00	The plot is secure
xii	Plot No. MN/17944/45; 2.4 Ha, Located in Kisumu	3,600,000.00	Occupied by squatters
xiii	Plot No. MN/VII/3794; 12.24 Ha, located at Chaani, Mombasa	90,735,000.00	Occupied by squatters
xiv	Plot No. MN 5325; 17.10 Hectares, Located at Taita-Taveta	2,500,000.00	The plot is secure
		675,632,445.00	

MIN/PIC/525/2016: RECEIVABLES AND PREPAYMENTS FY 2013/2014

The Committee heard that receivables and prepayments balance of Kshs. 4,408,826,000 as at 30th June 2014 includes amounts of Kshs. 287,231,402 and Kshs. 336,010,000 owed by the Ministry of Transport and Kenya Ferry Services Ltd

respectively, which have been outstanding for more than 16 years. Although the PIC in its 9th Ninth Report recommended that the Chief Executive Officer communicates with both the parent Ministry and the National Treasury with a view to ensuring that the receivables are paid to the Authority, no meaningful progress has been made in this regard.

Further, a review of a sample of the trade cargo debtors, marine debtors and rental debtors revealed that the Authority is still trading with debtors with outstanding balances of over 2 years and for whose debts the Authority had fully (100%) impaired leading to a total impairment of Kshs. 49,015,927. Authority should give status report of all debts, no such report was availed for audit verification. Further a review of debtors who responded during debtors' circularization, revealed that some balance included of the debtors, as per their confirmations, varied with the balances included in the financial statements by Kshs. 2, 479, 351.46. A reconciliation of these variances has not been availed for audit review.

Consequently, the accuracy and completeness of the receivables and prepayments of Kshs. 4,408,876,000 as at June 30th, 2014 could not be confirmed.

Management Response

The Managing Director informed the Committee that during the 105th Parliamentary Investment Committee (PIC), meeting in July, 2014 it was recommended that Management should continue to liaise with the National Treasury, the Ministry of Transport and Infrastructure development and Kenya Ferry Services with a view to recovering the debts.

The Authority made a follow-up with Ministry of Transport but there has been no progress. Management has recommended that in view of limited resources these debts are written-off from the books of KPA and KFS. It is noted that the debts are not in the books of National Treasury and the Ministry of Transport.

Kenya National Shipping line (Kshs. 28,120,663.61)

The firm is in agreement about the existence of the debt but is unable to pay. The Ministry through the State Department for Shipping and Maritime Affairs is currently restructuring the firm. KPA has already requested the Ministry of Transport & Infrastructure of its intention to divest from KNSL and write off the debts from its books.

The Eleven (11) firms have paid the amounts that were outstanding. The rest have continued to settle the debts or disputes settled.

Variances from Circularization of Debtors

M/s Keziah Njoki has continued to settle the debt while the Kenya Maritime Authority has settled all the bills.

Committee Observations

The Committee observed that: -

- (i) Although the Public Investments Committee in its 19th Report recommended that

the Managing Director communicates with both the Parent Ministry and National Treasury with a view to ensuring that the receivables are paid to the Authority, no meaningful progress has been made in this regard.

- (ii) Progress is being made in recovery of ex-staff advances and debts owed by firms trading with the Authority.

MIN/PIC/526/2016: OTHER INCOME

Sale of Passes

The Committee heard that included in other balance of Kshs. 504,291,000 is sale of passes figure of Kshs. 126,807,000. According to the Authority's Tariff guide, VAT was to be charged in addition to this sale figure. However, a review of the sale of the passes during the year under review indicated that the Authority failed to charge VAT on the sale of passes and instead deducted VAT of Kshs. 17,490,620 from the figure of Kshs. 126,807,000 hence understating other revenue income of Kshs. 17,490,620.

Investment Property

Included in other incomes of Kshs. 504,291,000 is Kshs. 167,105,000 relating to rent and rates receivables. However, the audit revealed that lease agreements in support of 7 rental properties were not signed for renewal. This has exposed the Authority to defaults in rent payments balance of Kshs. 131,881,000 as at 30th June 2014 as reflected in the financial statements.

In the circumstances it has not been possible to confirm that the figure of other incomes totaling Kshs. 504,291,000 is fairly stated.

Irregular Charging of Property

Documents availed for audit review indicated that the Board of Directors approved a charge of Kenya Ports Authority land of title number Mombasa/Block 1/254 (leasehold) of 3.07 acres. The charge is against a loan of USD 15 million taken by a tenant who has leased the piece of land for a period of 33 years from KPA.

The approval to charge the plot is against the KPA Act Section 19 which prohibits charging of the Authority's property by way of security for borrowed money. In addition, KPA may lose the charged property or repay the loan incase the borrower fails to repay the loan. In the circumstances the Authority is in breach of the law and runs a risk of losing property in the event the borrower defaults in the repayment of the loan.

Management Response

The Managing Director informed the Committee as follows: -

Sale of Passes

Prior to 1st December 2012, the rates for the sale of passes/entry charges to the port were not covered in the tariff, but were raised based on notices to port users, issued by management. At the time of their introduction in the revised tariff that became effective on 1st December, 2012, the rates were erroneously printed without adjusting

for VAT. Although item VIII of the General Provisions in the tariff states that all charges exclude VAT, the Authority could not charge it on the sale of passes, since it would have amounted to overcharging the customers. This printing error was corrected vide notice to port users dated 24th January 2014; however, it has no effect on the statement of comprehensive income as the accounting in the books is correctly recognized. Therefore, there was no under collection of revenue.

Investment Property

The query relates to failure to avail lease agreements in relation to the eight (8) rental properties. At the time of the audit, some information was not availed to the auditor. All the required information has been availed for scrutiny.

Charging of Property

The property in question was leased to Solvochem East Africa Limited. The lessee used the leasehold interest in the land to obtain a commercial loan upon approval by KPA. These arrangements are well provided in the KPA Act and are common practice in land conveyancing fully supported by existing legislation and hence there is no risk on the KPA property/ Lease.

Committee Observations

The Committee observed that: -

- (i) KPA leased the parcel of land Mombasa/Block 1/254 to Solvochem East Africa Limited which later used the leasehold to obtain a commercial loan from Eco-Bank Limited.
- (ii) KPA may lose the charged property or repay the loan incase the borrower fails to repay the loan.

Way Forward:

The Committee directed the Management to submit the following information: -

- (i) *Names of directors of Solvochem;*
- (ii) *The circumstances under which the 3-year lease was awarded to the Company and reasons for giving consent to charge on the property;*
- (iii) *Amount of money Solvochem has paid the Authority so far;*
- (iv) *Copy of the lease agreement between KPA and Solvochem; and*
- (v) *Correspondences between KPA and Solvochem.*

MIN/PIC/527/2016:

STATUS OF DEPOSITS HELD IN BANKS

The Managing Director informed the Committee that the Authority had the following deposits balances in various banks as at 31st July, 2016: -

Bank Details	Type of Deposit	Amount Kshs. (000)	Effective Interest rate %	Percentage of Cash holding %
KCB Mortgage	Mortgage	283,738.03	0.7	2.16%
Ecobank Kenya Ltd	Mortgage	19,340.82	0.2	0.15%
Housing Finance	Mortgage	374,573.92	1.25	2.85%
Housing Finance	Deposit	24,534.66	8.5	0.19%
Total Mortgage		702,187.43		5.34%
Equity Bank	Fixed Deposit	700,000.00	8.6	5.32%
Equity Bank	Call Deposit	304,290.00	5.5	2.31%
Housing Finance	Fixed Deposit	1,700,000.00	13.5	12.92%
*Chase Bank	Fixed Deposit	2,956,547.18	0%	22.48%
Co-operative Bank	Fixed Deposit	500,000.00	9.00	3.80%
Time Deposits		6,160,837.18		46.84%
CBK	Treasury Bills	5,718,624.00	10.5	43.48%
Total Treasury Bills		5,718,624.00		43.48%
National Bank	Current	33,384.32	0%	0.25%
KCB Bank Limited	Current	344.31	0%	0.00%
Citibank N,A	Current	406,176.28	0%	3.09%
Equity	Current	120,305.05	0%	0.91%
Stanbic Bank	Current	11,641.04	0%	0.09%
Current Accounts		571,851.00		4.35%
TOTAL		13,153,499.6 1		

Board and National Treasury Approvals

1. The Authority exercises strict adherence to the guidelines issued from time to time, by the National Treasury, with regard to financial decisions.

2. Treasury circulars No. 10 of July 1992 and No. 2 of February 1988 give the procedures for Board approvals for financial decisions. They stipulate that the Board shall be responsible and accountable for the moneys and financial business of the Authority. Circular No. 10 of July 1992 further stipulates that the Chief Executive shall obtain an approval from the Board and the National treasury for investments.
3. In compliance with the guidelines, the panel of banks in which the Authority places deposits is carefully and competitively selected. The selection includes an in-depth study of the financial viability and risk of each bank. This is done through analysis of Central Bank of Kenya approved disclosures and published information, with the objective of ensuring that the financial institutions in which the Authority places deposits are stable, and security of the deposits is guaranteed. The panel of banks selected is then presented to the Board of Directors for approval, before seeking the final approval from the National Treasury.
4. Placement of deposits in any of the approved banks is done in compliance with the Authority's Cash Management Policy, which guides on investment of surplus funds and other cash transactions, to realize value for money. The policy consolidates the Public Finance Management Act, the National Treasury guidelines and circulars, and Board approvals and directives.
5. The policy was recently revised to provide for limitation of exposure to any one bank and for increased placement of funds with Government Treasury Bills. This was as a result of placement under receivership of three banks (Bank of Dubai, Imperial Bank and Chase Bank) and the subsequent emergence of significant adverse information on several other banks in the market.

Committee Observations

The Committee observed that: -

1. KPA had Sh13.2 billion of fixed deposits in 13 commercial banks. Out of the amount, Sh5.7 billion is held in Treasury bills and Sh702 million in mortgages.
2. KPA had a total of Sh2,956,547,000 in a fixed deposit interest-earning account at the time Chase Bank collapsed, which it cannot access the full amount after the Bank was placed under receivership in April, 2016. The deposit has been earning zero interest after the insolvency of the Bank. Furthermore, some deposits were banked in December 2015, four months to the collapse of the Bank meaning that no due diligence was conducted by the Authority before identifying and opening the bank accounts.
3. KPA flouted Treasury Circulars No. 10 of July 1992 and No. 2 of February 1988 instructing all State Corporations to invest surplus funds in Treasury bills and bonds and opened 10 deposit accounts at various banks.

Way Forward

The Committee directed the Managing Director provide the following information by 26th September, 2016.

1. *Treasury approvals to deposit money in commercial banks.*
2. *Names of the officers who authorized opening of the bank accounts contrary to the Treasury's circulars;*
3. *Cash flow statements of the Authority for the last two years*

MIN/PIC/528/2016: INSPECTION OF IMPORTED MOTOR - VEHICLES

The Managing Director informed the Committee as follows: -

A. MEASURES PUT IN PLACE TO PROTECT THE COUNTRY FROM ENTRY OF RADIOACTIVE CONTAMINATED VEHICLES

Implementation of Second Line of Defense (SLD) Megaports Initiative Program

1. Line of Defense (SLD) Megaports Initiative Program is a key component of a multi-agency, multilayered, defensive network that strengthens the overall capability of partner countries to deter, detect, and interdict illicit trafficking in special nuclear and other radioactive materials at key international seaports. This program is part of the Office of International Material Protection and Cooperation in the U.S. Department of Energy's National Nuclear Security Administration (DOE/NNSA).
2. The US Department of Energy (DOE) is the partner agency in the SLD program and has provided equipment (Radiation Portal Monitors - RPM) where all imported containers through the Port of Mombasa are expected to pass through. The Intergovernmental MOU between the Kenya Government and the United States of America was signed on 1st April 2009 while that of the Partner Agencies (Kenya Revenue Authority, Kenya Ports Authority, Radiation Protection Board and Kenya Maritime Authority) on 14th January 2010.
3. Under the program 11 Radiation Portal Monitors (RPM) were installed at various locations near the berths and at the gates at the Port of Mombasa. The RPMs became fully operational on February 28, 2011.

Overview of the MOU between the Government of US and the Government of Kenya under the Second Line of Defence Megaports Initiative.

Objective

Cooperation to prevent the illicit trafficking in nuclear and other radioactive material.

Scope of Cooperation

- (i) Technical assistance in the form of equipment, material and training at the points of entry/exit for detecting and interdicting illicit trafficking in special nuclear material and other radioactive material
- (ii) Installation at selected locations of equipment adapted as appropriate for customs control conditions.
- (iii) Delivery of spare kit, test equipment and other maintenance equipment.
- (iv) Technical support for maintenance.

Protection against Radiation for Imported Motor-Vehicles.

- (i) Kenya Radiation Protection Board Management (KRPB) works together with the Kenya Bureau of Standards (KEBS) to inspect vehicles imported in the Kenyan market for clearance of such vehicles against radiation contamination from the source country.
- (ii) Technical and regulatory standards are managed by Kenya Bureau of Standards (KEBS). The Pre-export verification of conformity (PVoC) is based on Article 5 of World Trade Organization - Technical Barriers to Trade (WTO-TBT) agreement, managed by KEBS on behalf of the Kenya Government concerning goods exported to Kenya. PVoC's are carried out by verification agents appointed by KEBS.
- (iii) The overall objective of PVoC is to minimize the risk of unsafe and substandard goods entering Kenyan market, thus ensuring health, safety and environmental protection for Kenyans. The KEBS also works with several approved inspection companies globally for inspection of vehicles intended for import into Kenya.

B. ACTION TAKEN BY KPA FOLLOWING IMPOUNDING OF A CONTAINER AT KILINDINI PORT IN JANUARY 2013 THAT WAS FOUND TO BE CONTAMINATED WITH RADIOACTIVE MATERIALS ABOVE ACCEPTABLE LEVELS.

1. On 26th January 2013 container number PONU7244724 (1x40') containing five motor vehicles imported by M/s Ali Baba Motors Limited was detected, by Radiation Portal Monitors at lane 3 berth 16, of having significant levels of radioactivity.
2. The KRPB officials subjected the container to secondary and tertiary inspection upon which the survey meters picked hot spots on both sides of the container and confirmed presence of radiation contamination. According to KRPB the Isotope Identifier showed presence of ¹³Cs and ²²⁶Ra radioisotopes at an average of 2000 Counts per Second.
3. The radioactivity levels were beyond acceptable level, subsequently KRPB advised KRA Customs to compel the importer to immediately re-ship the consignment in order to protect the Kenyan public from exposure in accordance with CAP 243 Sec. 8(1), b, c, d, Sec. 8(2) and Sec. 18 a, b Laws of Kenya. KPAs main role in this particular incident was in the safe storage of the container at an isolated location

before it was eventually shipped out of the country. The container was eventually re-shipped to its country of origin after a lengthy engagement with the importer.

4. Despite issuance of PVoC Certificates for motor vehicles at port of origin by KEBS appointed inspection companies, KRPB now conducts additional radiation checks upon arrival of the units at the Port of Mombasa especially if they are from Japan to mitigate against future radiation risks.

C. COLLABORATION WITH OTHER GOVERNMENT AGENCIES IN ENSURING THAT ALL IMPORTED CONTAINERS ARE SCREENED FOR POSSIBLE RADIATION CONTAMINATION.

Overview of The Inter-Agency Agreement under the Megaports Initiative: KRA, KPA, KRPB & KMA

Role of Kenya Revenue Authority

- (i) Facilitate deployment, installation and operation of equipment.
- (ii) Participate in technical workshops, site surveys and acceptance testing of radiation equipment.
- (iii) Designate operators in Central Alarm System (CAS) and One Stop Centre 24/7.
- (iv) Designate personnel for secondary work-station where Radiation Isotope Identification Device (RIID) scans are conducted.
- (v) Provide overall coordination relative to the project implementation.
- (vi) Responsible for routine operation and maintenance of equipment.
- (vii) Designate appropriate personnel for the training of frontline officers and CAS operators.
- (viii) Develop with other stakeholders' domestic response procedures and protocols in the operations of the installed alarm systems.

Role of Kenya Ports Authority

- (i) Facilitate deployment, installation and operation of the equipment
- (ii) Develop domestic response procedures and protocols for the operations of the installed alarm systems
- (iii) Supervise and manage the construction of necessary infrastructure for equipment infrastructure
- (iv) Be responsible for security of equipment supplied
- (v) Liaise with KRA to provide facilities and services for the training of personnel in the Project
- (vi) Provide space for CAS and Megaports Server
- (vii) Provide spaces for the construction of Radiation Portal Monitor (RPMs)
- (viii) Provide operators to be trained in the operation and oversight function of the window CAS

Role of Radiation Protection Board

- (i) Facilitate and ensure testing and calibration of radiation detection equipment

- (ii) Available for consultation and technical assistance in the identification of Radiation sources on a need basis
- (iii) Respond promptly in event of nuclear material and other radioactive material to ensure cargo flows
- (iv) Designate personnel for training
- (v) Develop domestic response procedures and protocols in the operation of the installed alarm system

Role of Kenya Maritime Authority

- (i) Participate in technical workshops, inspection and acceptance testing of Radiation equipment
- (ii) Designate personnel for training
- (iii) Develop domestic response procedures and protocols in operations of the installed alarm systems

Committee Observations

The Committee observed that: -

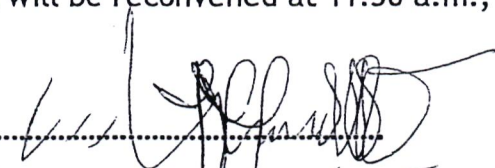
1. KPA has a designated radiation protection officer at the Port of Mombasa who works closely with officers from KRA, KEBS and RBP to ensure safety of imported goods,
2. On 26th January 2013, Container number PONU7244724 (1x40') containing five motor vehicles imported by M/s Ali Baba Motors Limited was detected by Radiation Portal Monitors at lane 3 berth 16 having significant levels of radioactivity.
3. The container was re-shipped to its country of origin, Japan after a lengthy engagement with the importer.

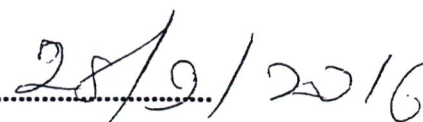
MIN./PIC/526/2016: ANY OTHER BUSINESS

No other business arose.

MIN./PIC/527/2016: ADJOURNMENT

There being no other business, the meeting was adjourned at 11:05 am. The next meeting will be reconvened at 11:30 a.m., same day.

Signed.....
Hon. Adan Wehliye Keynan, CBS, MP
(Chairman)

Date.....

MINUTES OF THE 77TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE
HELD ON THURSDAY, 25TH AUGUST 2016 IN COMMITTEE ROOM 7, MAIN
PARLIAMENT BUILDINGS AT 10:00 A.M.

PRESENT

1. Hon. Adan Wehliye Keynan, CBS, MP - Chairperson
2. Hon. Anthony Ichung'wah Kimani, MP - Vice Chairperson
3. Hon. Dr. Oburu Oginga, MGH, MP
4. Hon. Franklin Mithika Linturi, MP
5. Hon. Elias Bare Shill, MP
6. Hon. Sammy Silas Komen Mwaita, MP
7. Hon. (Dr.) Paul Nyongesa Otuoma, EGH, MP
8. Hon. (Eng.) John Kiragu, MP
9. Hon. Bernard Munywoki Kitungi, MP
10. Hon. Beatrice Nkatha Nyaga, HSC, MP
11. Hon. Abdullswamad Sheriff Nassir, MP
12. Hon. John Ogutu Omondi, MP
13. Hon. Wafula Wamunyinyi, MP
14. Hon. (Eng.) Stephen Ngare, MP
15. Hon. John Olago Aluoch, MP
16. Hon. Irungu Kangata, MP
17. Hon. John Muchiri Nyaga, HSC, MP
18. Hon. Cornelly Serem, MP
19. Hon. Johana Kipyegon Ngeno, MP
20. Hon. Mary Sally Keraa, MP
21. Hon. Onesmus Muthomi Njuki, MP
22. Hon. Korei Ole Lemein, MP

APOLOGIES

23. Hon. Francis Mwanzia Nyenze, EGH, MP
24. Hon. (CPA) Thomas Ludindi Mwadeghu, CBS, MP
25. Hon. Adan Mohammed Nooru, MP
26. Hon. (Dr.) Chrisanthus Wamalwa Wakhungu, CBS, MP
27. Hon. Dorcas Kedogo, MP

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Phillip Lekarkar - Clerk Assistant III
2. Mr. Mohamed Boru - Clerk Assistant III
3. Mr. Charles Atamba - Research Officer III
4. Ms. Clara Kimeli - Legal Counsel II

OFFICE OF THE AUDITOR-GENERAL

1. Mr. George Otieno Nashon - Deputy Director, Audit
2. Mr. David Njoka - Director, Audit
3. Mr. Richard Nyagwachi - Deputy Director, Audit

4. Mr. Daniel Kibiiri - Manager, Audit

THE NATIONAL TREASURY

Mr. John Munge - Manager

THE INSPECTORATE OF STATE CORPORATIONS

Mr. Nelson Kweya - Senior Assistant Inspector General

MIN/PIC/577/2016: PRELIMINARIES

The meeting started at fifteen minutes past ten o'clock with a word of prayer.

MIN/PIC/578/2016: CONFIRMATION OF MINUTES

Confirmation of the minutes of the previous sitting was deferred to the next sitting.

MIN/PIC/579/2016: EVIDENCE BY THE PRINCIPAL SECRETARY, MINISTRY OF HEALTH

Dr. Nicholas Muraguri, the Principal Secretary, Ministry of Health accompanied by Prof. Erastus Gatebe (Chairperson, Radiation Protection Board), Mr. Saleh Bardad (Parliamentary Liaison Officer, Ministry of Health), Mr. Ibrahim ABM (Ministry of Health), Mr. Nixon Kirwa (Radiation Protection Board) and Mr. Joseph Maina (Radiation Protection Board) appeared before the Committee to adduce evidence on the matter of the Motor Vehicle Pre-Shipment Inspection Contract, which is the subject of an investigation by the Committee.

MIN/PIC/580/2016: EXAMINATION OF AUDITED ACCOUNTS

The agenda item was deferred to another meeting.

MIN/PIC/581/2016: ROLE OF THE MINISTRY OF HEALTH IN INSPECTION OF IMPORTED MOTOR VEHICLES AT THE PORT OF ENTRY FOR POSSIBLE RADIATION CONTAMINATION

After the 1986 Chernobyl Nuclear Power Plant disaster in Ukraine, the Ministry operationalized the Radiation Protection Board (the Board). In three to four years, a branch of the radiation control inspectorate was opened at port Mombasa.

The objective was to carry out radio analysis of consumer foods imported into the country. The main focus then was on food items imported from Europe, Asia, and then the USSR. Milk powder imports were particularly targeted, considering that this product is used to make baby formula. It may be noted that growing children are more vulnerable to radiation damage.

At the time, the Board also continued to conduct random radiation checks on other types of goods. Since the early 1990s, the Board has consistently insisted

on radio analysis of consumer products and has itself continued with random radiation checks on other goods, either as imports or for exports. Other countries to where Kenya exports bulk agricultural products have also demanded that a "radio contamination free" certificate, by the Board, accompanies the exports.

In 2010, the US Government entered into an MoU with the Kenya Government to install radiation portal monitors (RPM) at the port. However, the RPMs are only capable of detecting radioactive/nuclear materials in containerized cargo and continued to conduct random radiation checks on other goods including motor vehicles. This includes the period up to and beyond 2011 Japan nuclear electricity generation power disaster.

However, in January 2013, the RPM system detected radiation emissions from one container; ID PONU 7244724 (IX40) belonging to Alibaba Motors P.O Box 99967-80107 Mombasa, Kenya. The container was later scanned and found to contain 5 motor vehicles. Secondary radiation measurements by KRA and Tertiary measurements by the Board confirmed presence of nuclear related materials which were responsible for the radiation emissions.

Alibaba Motors Ltd was then advised through KRA to reshipe the container to its port of origin. It is at this point that Ali Baba objected and produced a "certificate of road worthiness" issued in Japan by JEVIC and KEBS stating under remarks "VERIFIED RADIATION FREE" (Copy of certificate attached).

Consultative meetings were then held amongst the stakeholders i.e. KRA, KPA, KEBS, KMA and the Board, where the Board insisted that the container should be reshipped to its port of origin.

There were suggestions by Alibaba that they should then be allowed to tranship the container to Tanzania arguing that three out of five vehicles in the container belonged to customers in Tanzania. However, the Board insisted that the container must be reshipped to Japan. Kenya is a member state of the International Atomic Energy Agency and in the spirit of collective responsibility must safeguard all nationalities from unnecessary and undue exposure to radiation.

As a result of the incident, the Ministry through the board called several meetings of stakeholders to discuss the incident and chart a way forward. The stakeholders included but not limited to; Kenya Car Importers Association, KMA, KRA, KPA, the Board, Clearing Agents and local radiation service providers.

It was then agreed that all imported motor vehicles be subjected to radiation checks and the exercise be carried on board the carrier ship by the local radiation protection service providers. All vehicles including those destined to neighbouring countries are checked. Those destined for Kenya are reprocessed for release by KRA but must first obtain the certificate of radioactivity free

from the local radiation protection service providers, before the Board can advise KRA to release the vehicles.

This exercise was to be undertaken despite the fact that there are double checks for radiation emissions in Japan. The subject contaminated container cargo had also undergone a double check for radiation emissions in Japan, yet it set the RPM alarms off at the port of entry. This was the justification for the 100% radiation emission checks of car imports at the port of entry today.

Indeed, Kenya had in the past returned food consignments which were found to contain radio-contaminants after radio-analysis at the port of entry.

From January 2013 to date, a total of thirteen motor vehicles have been found to be radio-contaminated and have not been allowed into the country. In fact, when a vehicle is found to be contaminated it is not off-loaded from the carrier ship. Instead, a rejection note is issued to the ship captain who sails it back to the port of origin.

The IAEA basic safety standards require that a regulator in matters of ionizing radiation, like the Board, should not engage in radiation protection services, as this may result in conflict of interest. Technically, therefore, the Board cannot assume ownership of the Radiation Portal Monitors (RPM) at the port. The portals are under the KRA. Secondly, the board cannot purport to offer radiation protection services and can only review radio analytical results from the service providers for necessary action. The board however, continues to carry out random checks for purposes of quality control and audit.

MIN/PIC/582/2016:

COMPETENCE BY QUALITY INSPECTION SERVICES JAPAN (QISJ) TO OFFER PRE-SHIPMENT INSPECTION SERVICES IN CONFORMITY WITH RADIATION PROTECTION ACT.

The Ministry of Health does not have jurisdiction over QISJ. Neither does any form of collaboration exist between QISJ and MoH. Agencies of the Ministry man the ports health offices to carry out various inspections and clearances, in order to safeguard the public for any harmful products. The Agencies include; Directorate of Public Health, Pharmacy and Poisons Board, and the Radiation Protection Board.

These agencies are responsible for ensuring the health and safety consumer products at the point of entry even though such products may have foreign certification for imports.

It may be worthwhile to note that the Board is not privy to information on certification of goods by other agencies and conducts independent evaluations with information provided on IDI's and actual goods. Such independent evaluations are important considering that goods may be shipped through third

flag countries. Also, goods may be checked for worthiness at one physical point, in the country of origin, and shipped from another physical point in that country, i.e., subjecting the goods to environmental exposure within the country before shipment. Further, such goods may also be subjected to further "value correction" exercises after safety or worthiness tests and then shipped out.

MIN/PIC/583/2016:

**REPORTS IF ANY, ON THE POSSIBLE LINK
BETWEEN THE PROLIFERATION OF CANCER
CASES AND IMPORTATION OF
CONTAMINATED VEHICLES**

There are no such reports and no studies have been undertaken. Generally speaking, such a study is untenable.

Radiation contaminated vehicles are isolated cases and cannot therefore generate adequate statistical data for analysis. Moreover, it would take many years to conclude such a study, if it were possible, since the latent period for some cancers are 20 to 30 years.

What is known though is that radiation is not capable of creating unique diseases. The kind of genetic mutations produced by radiation can be caused by other mutagenic agents, such as certain drugs, chemicals, or viral infections. Cells of cancer induced by radiation are indistinguishable from cells of cancers induced by other substances or activities in our environment. Further, high doses of radiation cause deterministic effects just like high doses of other mutagenic agents.

MIN/PIC/584/2016:

**COORDINATION WITH VARIOUS GOVERNMENT
AGENCIES INCLUDING KENYA BUREAU OF
STANDARDS IN LICENSING OF VARIOUS
RADIATION PROTECTIONS SERVICE
PROVIDERS.**

There exists a Licensing and Technical Advisory Committee (LTAC) under the Radiation Protection Board comprised of:

- Institute of Nuclear Science and Technology, University of Nairobi (INST)
- Kenya Medical Research Institute (KEMRI)
- Kenya Bureau of Standards
- National Intelligence Service
- Director of Medical Services (DMS)
- Occupational Health and Safety Services Department
- National Commissions for Science and Technology (NACOSTI)
- Medical Practitioners and Dentist Board (MPDB)
- Kenya Medical Training College (KMTCC) Lecturer

- Society of Radiographers of Kenya (SoRK)
- National Environment Management Authority (NEMA)
- Attorney General's representative
- DPP representative

The Terms of Reference for the LTAC include but are not limited to: -

- Inventory and classification of radiation services, radioactive and nuclear materials, and facilities.
- Inspection protocols for Radiological facilities and Nuclear Safety
- Radiation Protection Services and Technical Service Organizations
- Licensing radiation facilities and workers and related Board registers.
- Vetting of radiological and nuclear related activities, including radiation workers.
- Radiation Protection and Nuclear Safety Standards and Guidelines.
- IAEA technical projects coordinated in the country.
- Other technical assistance and cooperation.
- Any other functions as may be directed by the Board.

There are relevant license application forms for various types of licenses including one for radiation protection service providers. Appropriate Inspection reports by the Radiation Control Inspectorate are attached to the license/certificate application form for consideration by the committee.

Committee Observations

The Committee observed that:

1. The Radiation Protection Board is not mandated to inspect goods coming into the country. The Board carries out quality control to ensure safety of the country from radiation.
2. The involvement of Kenya Bureau of Standards in pre-shipment inspection to the exclusion of the Radiation Protection Board goes against the mandate of the Board.
3. There is a need for harmonization between the Radiation Protection Act and the Gazette notice 78 with regards to the mandate of the Radiation Protection Board.
4. The Radiation Protection Board needs to be strengthened both financially and in human resource to be able to undertake its mandate effectively.
5. All vehicles imported into Kenya undergoes double-check in Japan before being inspected at the port of Mombasa. Vehicles that do not conform to radiation standards are not offloaded.
6. The container; ID PONU 7244724 (IX40) belonging to Alibaba Motors P.O Box 99967-80107 Mombasa, Kenya from which the RPM system detected radiation emissions was not re-shipped to Japan but was instead shipped to Tanzania.
7. The Committee was concerned about the lack of follow up with Japanese

- authorities on recourse to the container that emitted radiation.
8. The Committee also expressed concern on the suitability of radiation checks at inland ports of Kenya.

Committee Resolutions

1. The Committee directed the Ministry of Health and the Radiation Protection Board to come up with Standard Operational Procedures and share the same with the Kenya Bureau of Standards.
2. The Committee further requested the Ministry to provide the following additional information:
 - a. All correspondences between government agencies including but not limited to KRA, KPA, KEBS and RPB regarding the container; ID PONU 7244724 (IX40) belonging to Alibaba Motors from which the RPM system detected radiation emissions;
 - b. Standard Operating Procedure on how to handle situations where shipments are found to have radioactive emissions at Kenya's ports.

MIN/PIC/585/2016: ANY OTHER BUSINESS

No other business arose.

MIN/PIC/586/2016: ADJOURNMENT

There being no other business, the meeting was adjourned at 12:37 pm. The next meeting will be held on Tuesday, 6th September, 2016 at 10:00 am.

Signed.....

Hon. Adan Wehliye Keynan, CBS, MP

(Chairman)

Date.....

28/9/2016

MINUTES OF THE 105TH SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON FRIDAY, 18TH NOVEMBER, 2016 IN PWANI HALL, NYALI BEACH HOTEL, MOMBASA AT 2:30 PM

PRESENT

1. Hon. Adan Wehliye Keynan, CBS, MP - Chairperson
2. Hon. Anthony Ichung'wah Kimani, MP - Vice Chairperson
3. Hon. Francis Mwanzia Nyenze, EGH, MP
4. Hon. (Dr.) Oburu Oginga, MGH, MP
5. Hon. Wafula Wamunyinyi, MP
6. Hon. John Olago Aluoch, MP
7. Hon. (Eng.) John Kiragu, MP
8. Hon. Abdullswamad Sheriff Nassir, MP
9. Hon. Bernard Munywoki Kitungi, MP
10. Hon. Beatrice Nkatha Nyaga, HSC, MP
11. Hon. (Dr.) Chrisanthus Wamalwa Wakhungu, CBS, MP
12. Hon. Irungu Kang'ata, MP
13. Hon. Korei Ole Lemein, MP
14. Hon. Mary Sally Keraa, MP
15. Hon. Onesmus Muthomi Njuki, MP
16. Hon. Adan Mohammed Nooru, MP
17. Hon. Cornelly Serem, MP
18. Hon. (Eng.) Stephen Ngare, MP
19. Hon. John Muchiri Nyaga, HSC, MP

APOLOGIES

20. Hon. (CPA) Thomas Ludindi Mwadeghu, CBS, MP
21. Hon. Elias Bare Shill, MP
22. Hon. (Dr.) Paul Nyongesa Otuoma, EGH, MP
23. Hon. Dorcas Kedogo, MP
24. Hon. John Ogutu Omondi, MP
25. Hon. Franklin Mithika Linturi, MP
26. Hon. Sammy Silas Komen Mwaita, MP
27. Hon. Johana Kipyegon Ngeno, MP

IN-ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Philip Lekarkar - Clerk Assistant III
2. Mr. Mohamed Boru - Clerk Assistant III
3. Mr. Joash Kosiba - Fiscal Analyst
4. Ms. Clara Kimeli - Legal Counsel II

- 5. Mr. Joash Kosiba - Fiscal Analyst I
- 6. Mr. Charles Atamba - Research Officer III
- 7. Mr. Martin Wamae - Senior Sergeant-At-Arms
- 8. Ms. Rose Ometere - Audio Officer

OFFICE OF THE AUDITOR-GENERAL

- Mr. Joshiah Oyuko - Senior Manager, Audit

INSPECTORATE OF STATE CORPORATIONS

- Mr. Nelson Kweya - Inspector

THE NATIONAL TREASURY

- Mr. John Munge - Accountant I

MIN/PIC/776/2016: PRELIMINARIES

The Chair called the meeting to order at thirty five minutes past two O'clock after a word of prayer.

MIN/PIC/777/2015: CONFIRMATION OF MINUTES

Confirmation of minutes of the previous sitting was deferred to the next meeting.

MIN/PIC/778/2016: REPORT ON THE INQUIRY INTO THE ALLEGATIONS OF PROCUREMENT IRREGULARITIES IN THE AWARD OF THE KENYA BUREAU OF STANDARDS TENDER NO. KEBS/T057/2014-2015 FOR THE PROVISION OF PRE-EXPORT INSPECTION SERVICES FOR USED MOTOR VEHICLES

The Committee went through the draft of the Report on the Inquiry into the Allegations of Procurement Irregularities in the Award of the Kenya Bureau of Standards Tender No. KEBS/T057/2014-2015 for the Provision of Pre-Export Inspection Services for Used Motor Vehicles and recommended the following changes:

1. On page 53;
Under Committee Observations;
The Committee resolved to delete part (ii) and (iv) of paragraph 12.

MIN/PIC/779/2016: ADOPTION OF THE REPORT

The Members present unanimously adopted the Report on the Inquiry into the

Allegations of Procurement Irregularities in the Award of the Kenya Bureau of Standards Tender No. KEBS/T057/2014-2015 for the Provision of Pre-Export Inspection Services for Used Motor Vehicles as proposed and seconded by Hon. Anthony Ichung'wah Kimani, MP and Hon. (Eng.) John Kiragu, MP respectively, pursuant to Standing Order 199.

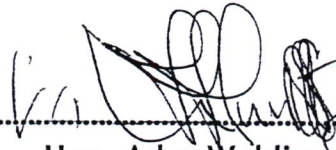
MIN/PIC/780/2016: ANY OTHER BUSINESS

No other business arose.

MIN/PIC/781/2016: ADJOURNMENT

There being no other business, the meeting was adjourned at 3:45pm. The next meeting will be held on Tuesday 22nd November, 2016 at 10:00am.

Signed.....



Hon. Adan Wehliye Keynan, CBS, MP
(Chairman)

Date.....

