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THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – SECOND SESSION

COMMITTEE ON IMPLEMENTATION

Paper laid
By Hon. NT. Ole Kariuki, MP
Chair - Committee on
Implementation on
Thurs. 23.08.2018 (pm)
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REPORT ON
SUBMISSIONS FROM STAKEHOLDERS REGARDING
IMPLEMENTATION STATUS OF LEGISLATIONS, PETITIONS AND
RESOLUTIONS PASSED BY THE HOUSE

Directorate Committee Services
Clerk's Chambers
Parliament Buildings
Nairobi.

August, 2018

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ADOPTION LIST

MINUTES

SUBMISSIONS

ABBREVIATIONS & ACRONYMS

AFA	Agriculture and Food Authority
CA	Communication Authority of Kenya
CCCC	China Communications Construction Company
CEC	County Executive Committee
CEO	Chief Executive Officer
CRBC	China Roads and Bridges Company
CS	Cabinet Secretary
EACC	Ethics and Anti-Corruption Commission
EIA	Environment Impact Assessment
EU	European Union
FY	Financial Year
H.E	His Excellency
GoK	Government of Kenya
ICT	Information Communication Technology
ILRI	International Livestock Research Institute
IMF	International Monetary Fund
KALRO	Kenya Agriculture and Livestock Research Organisation
KCC	Kenya Cooperatives Creameries
KDF	Kenya Defence Forces
KENGEN	Kenya Electricity Generating Company
KEPHIS	Kenya Plant Inspectorate Service
KIBO	Kenya International Boundaries Office
KR	Kenya Railway
Kshs.	Kenya Shillings
KWS	Kenya Wildlife Services
MFA	Ministry of Foreign Affairs
NA	National Assembly
NBA	National Bio-Safety
NHIF	National Hospital Insurance Fund
NNP	Nairobi National Park

POMAC	Power of Mercy Committee
PSC	Public Service Commission
RAP	Relocation Action Plan
RRI	Rapid Response Initiative
Sec.	Section
SGR	Standard Gauge Railway
SME	Small & Medium Enterprise
TARDA	Tana Athi Rivers Development Authority
TVET	Technical Vocational Education Training
WRMA	Water Resources Management Authority
WRA	Water Resources Authority
WRUAs	Water Resource User Association

CHAIRPERSON'S FOREWORD

The Committee on Implementation is mandated to scrutinize resolutions of the House (including adopted Committee reports), petitions, legislation and the undertakings given by the National Executive and examine whether such decisions and undertakings have been implemented within the sixty (60) days provided for in the Standing Orders and whether such implementation has taken place within the minimum time necessary and if not a satisfactory explanation is provided for the delay in full implementation.

The Committee wrote to the various Ministries on 19th March, 2018 requesting for submissions on the implementation status of resolutions, petitions, adopted Committee reports and legislation passed by the House pending before the respective Ministries. The Committee further wrote to the stakeholders follow up letters on 23rd July, 2018. The report entails a compilation of the responses received and their status of implementation as at the time of adoption of the report.

The Committee registers its appreciation to the Office of the Speaker and the Clerk of the National Assembly for facilitation of coming up with the report.

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

Hon. Moitalel Ole Kenta, MP

EXECUTIVE SUMMARY

The Committee of Implementation after deliberation resolved to write to various Ministries seeking the status of implementation pursuant to Standing Order 209 (2) which provides that the Committee shall scrutinize the resolutions of the House (including adopted Committee reports), petitions and the undertakings given by the National Executive and examine—

- a) whether or not such decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within the minimum time necessary.
- b) whether or not legislation passed by the House has been operationalised and where operationalised, the extent to which such operationalisation has taken place within the minimum time necessary.

The Committee wrote to the Ministries on 19th March 2018 with an attached list of House Resolutions which are pending before them seeking their status of implementation including challenges being faced while implementing them. The Committee held sittings where it considered the written submissions received from the stakeholders. The records of evidence submitted to the Committee form the basis of the Committee's report on the implementation status as outlined in the Report.

In its deliberations, the Committee observed that: various House resolutions require financing and gaps in financing hamper implementation; Partner States to Protocol and agreements have shown reluctance or precipitate delays in signing protocols or bilateral agreements; and legal actions have been instituted which prevents whole laws or sections of the laws from being implemented thus delaying implementation of the Acts. The tabling of regulations to operationalise Acts takes an inordinately long time. Some Acts still require amendments in line with the "*Mwongozo code of Governance for State Corporations*" in terms of Board membership numbers; functions and mandate of Board Members; Term limits of Boards; inclusion/exclusion of Government officials in Board Membership. Finally it was observed some Acts lack clarity as to who is the implementing institution.

The Committee recommends that laws should be clear about who is the implementing institution. It recommends that amendments required to be passed in order to ensure the implementation of certain existing laws should be presented to the House for consideration forthwith. Further, more effort needs to be put into public awareness and stakeholders' involvement in law-making and the ramification of laws. Finally, the House should consider financial implications that accrue to implementation of its resolutions and allocate adequate funds to the implementing bodies.

1.0 PREFACE

1.1 Mandate of the Committee

The Committee on Implementation is a Select Committee of the House established pursuant to the provisions of Standing Order 209 of the National Assembly Standing Orders, with the following terms of reference:-

1. The Committee shall scrutinize the resolutions of the House (including adopted Committee reports), petitions and the undertakings given by the National Executive and examine-
 - a) whether or not such decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within the minimum time necessary; and
 - b) whether or not legislation passed by the House has been operationalized and where operationalized, the extent to which such operationalization has taken place within the minimum time necessary.
2. Standing Order 201 further provides that within sixty days of a resolution of the House or adoption of a report of a select committee, the relevant Cabinet Secretary under whose portfolio the implementation of the resolution falls shall provide a report to the relevant committee of the House in accordance with Article 153(4) (b) of the Constitution.
3. The Committee may, therefore, propose to the House, sanctions against any Cabinet Secretary who fails to report to the relevant select Committee on implementation status without justifiable reasons.

1.2 Committee Membership

Chairperson	The Hon. Moitalel Ole Kenta, MP
Vice Chairperson	The Hon. Godfrey Osotsi, MP
	The Hon. Richard Onyonka, MP
	The Hon. Alois Lentoimaga, MP
	The Hon. Johnson Many Naicca, MP
	The Hon. Paul Simba Arati, MP
	The Hon. Onesmas Kimani Ngunjiri, MP
	The Hon. George Theuri, MP
	The Hon. (Dr.) James Murgor, MP
	The Hon. Maj. (Rtd) John Waluke Koyi, MP
	The Hon. Francis Munyua Waititu, MP
	The Hon. Joseph Wathigo Manje, MP
	The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
	The Hon. Hassan Oda Hulufu, MP
	The Hon. Nelson Koech, MP
	The Hon. Generali Nixon Kiprotich Korir, MP
	The Hon. Owen Yaa Baya, MP
	The Hon. Paul Odalo Abuor, MP
	The Hon. Silvanus Osoro, MP

The Hon. Michael Thoya Kingi, MP
The Hon. Jared Okelo, MP
The Hon. Joshua Mbithi Mwalyo, MP
The Hon. Charles Ngusya Nguna, MP

COMMITTEE SECRETARIAT

- | | | |
|--------------------------|---|----------------------------------|
| 1. Ms. Rose M. Wanjohi | - | First Clerk Assistant/Lead Clerk |
| 2. Mr. Abdirahman Hassan | - | Third Clerk Assistant |
| 3. Mr. Dennis Abisai | - | Principal Legal Counsel |
| 4. Mr. Joseph Okongo | - | Media Relations Officer I |
| 5. Ms. Doreen Karani | - | Legal Counsel II |
| 6. Mr. Eugene Akaa | - | Research Officer III |
| 7. Mr. James Muguna | - | Research Officer III |
| 8. Mr. Moses Kariuki | - | Serjeant-at-arms |

2.0 INTRODUCTION

The Committee commenced to appraise itself on the implementation status of the on pursuant to Standing Order 209 (2) which required the Committee to scrutinize the resolutions of the House (including adopted Committee reports), petitions and the undertakings given by the National Executive.

The Committee wrote to the Ministries on 19th March, 2018 and as well as follow up letters on 23rd July, 2018 seeking an update on the implementation status of laws, sessional papers, adopted committee reports (inquiries, audited accounts and petitions) and regulations that are under their purview which the House has passed or adopted: -

1. Ministry of Water and Sanitation
2. Ministry of Education
3. Ministry of Labour and Social Protection
4. Ministry of Transport, Infrastructure, Housing and Urban Development
5. Ministry of Public Service, Youth and Gender Affairs
6. The National Treasury and Planning
7. Ministry of East Africa Community & Northern Corridor Development
8. Ministry of Agriculture, Livestock, Fisheries and Irrigation
9. Ministry of Interior and Coordination of National Government
10. Ministry of Defence
11. Ministry of Foreign Affairs
12. Office of the Attorney General and Department of Justice
13. Ministry of Information, Communication and Technology

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

2.1 MINISTRY OF WATER AND SANITATION

The Ministry of Water and Sanitation submitted its written responses on 5th April, 2018 on the following House resolutions under its purview.

RESOLUTION

2.1.1 The Resolution on Provision of clean and safe Water to all Public Facilities

The House adopted the resolution on 3rd August, 2016 and resolved that the Government formulates a financial framework for and provides tapped clean and safe water to all public facilities, especially primary schools, as water is life.

Status of Implementation

The Ministry submitted that access to clean safe water is currently at 60% coverage nationally. The Ministry is implementing measures to increase the access to clean safe water to 80% by 2020. The measures undertaken by the Ministry included a focused approach to planning prioritization and development of projects; the use of existing National and local level planning tools such as Master Plans, Strategies and Investment Plans to bring coherence in the water sector development and achieve faster results; a Rapid Result initiative (RRI) approach to the development of water projects; strengthening technical capacity in monitoring and evaluation of the sector activities and players to ensure quality compliance and value for money in supervision and over sighting construction of water development projects; collaborating with the County governments and incorporating CIDPs; mobilizing resources from the development partners to bridge the funding gap and adopt innovative funding mechanisms like EPCF and PPP; the development of National Water policy to guide the sector and implementing the Water Act 2016 to strengthen sector institutions; and mapping out areas of the country currently not served and propose projects for implementation and master plans for every county.

Challenges: To achieve universal access to water by the year 2030, the Ministry needs to spend Kshs 1.764 trillion which translates to an annual requirement of Kshs. 100 billion. The sector, however, receives only Kshs. 30 billion from the Government annually leaving a financing gap of Ksh.70 billion.

Therefore, the Ministry has to continue working closely with the National Treasury and key stakeholders in the Environment, Water and Natural Resources Sector Working group in the budget preparation and implementation to enhance the Ministry's development budget.

PETITION

2.1.2 A petition on the management of Ewaso Ngiro river resources by Water Resources Management Authority (Currently Water Resources Authority)

The Petitioners' prayers were that the National Assembly, through the Departmental Committee on Environment and Natural Resources, investigates the circumstances under which WRMA has been issuing water extraction and abstraction permits to upstream users in breach of Section 29(4) and Section 32(2) of the Water Act (2002), and intervenes with the relevant authorities to ensure that the permits issued contrary to the provisions of the Water

Act 2002 are revoked forthwith, with the view of alleviating the acute shortage caused to downstream users.

The report on the petition was tabled on 19th October, 2016. The Committee on Environment and Natural Resources then recommended that WRMA collaborates with security agencies to stop all illegal abstractions. Any individual or company carrying out illegal abstraction should be arrested and prosecuted. The Committee further recommended that the Ministry of Water and Irrigation should construct dams in the middle ridges of Ewaso Nyiro North River. The Ministry should consider constructing the Nantudu Dam proposed by the Ewaso Nyiro North Development Authority. This would ensure that the flow of the river is regulated throughout the year. An inter-agency unit should be established to carry out a forensic audit of the land encroached within the catchment areas, both upstream and downstream in order to initiate a process of reclaiming the same.

Status: To achieve implementation, the Water Resources Authority (WRA) has installed water monitoring networks at strategic points on the river to monitor water levels. The staff gauges installed are Q95, Q80 and Q50 and RGS 5BCo2 was rehabilitated; WRA Upper Ewaso Nyiro Sub Region collaborates with the Water Resource User Associations (WRUAs) and water users to protect the interests of legal water users. Compliance is sought by sensitization and where appropriate, enforcement measures are used. Water users register with WRA by applying for, renewing or varying allocation category B and C. It should be noted that water users' compliance has increased by 20%.

WRA has invested in the development of a Permit Database to support the management of permit and water use data. In effect, this means that allocated amounts and actual usage can be quickly compared through the functionality of the Permit Database. WRUA comments on all permit applications, renewals, transfers and amendments. Restrictions on abstraction comes into effect when water resource availability reduces. WRUA undertakes monitoring inspections during restriction periods.

Challenges: The financial challenge remains a fundamental hindrance to the Authority's achievement of its mandate.

ACTS

2.1.3 The Hydrologists Registration Act, 2016

The Act commenced on 7th July, 2017. The implementing agencies are the Cabinet Secretary (CS), Water & Sanitation and the Hydrologists Registration Board. The Act provides for registration of Hydrologists.

Status: The CS, Water and Sanitation is currently constituting the Board members of the Hydrologists Registration Board who will then commence the process of registration of hydrologists.

2.1.4 The Water Act, 2016

The Act commenced operationalization on 21st April, 2017. The Act is implemented by the Cabinet Secretary, Water & Sanitation; Water Resources Authority; and Water Works Development Agencies, Water Tribunal, Basin Water Resources Committees, Water Resources Users Associations and County Executive Committees (CECs), Water. It was

enacted to provide for the regulation, management and development of water resources, water and sewerage services. The Act aligns the water sector to the constitutional objectives of devolution and establishes various institutions and identifies their role in the management of water resources.

Status: The CS, Water and Sanitation after the gazetting the commencement of the Act on 21st April, 2017, created an inter-Government Water Sector Coordination Framework which was signed on 1st March, 2018. The Ministry has prepared working drafts of National Water Policy; National Water Resources Management Strategy; National Water Services Strategy; Water Harvesting and Storage Strategy; Water Sector Transition Plan Subsidiary Legislation for establishing Water Works Development Agencies; and National Water Harvesting & Storage Authority, Water Resources Authority and Water Sector Trust Fund which were to be launched by June, 2018.

2.2 MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY

STATE DEPARTMENT OF VOCATIONAL AND TECHNICAL TRAINING - OFFICE OF THE PRINCIPAL SECRETARY

The State Department submitted written responses to the Committee on House resolutions under its purview on 26th March, 2018.

RESOLUTION

2.2.1 The Resolution to upgrade Kitale Technical Training Institute to Wamalwa Kijana University of Science and Technology

The resolution was adopted on 30th October, 2014.

Status: The Ministry has since upgraded the institution to Kitale National Polytechnic by upgrading its physical facilities and capacity building of trainers. This is one of the intermediate steps of converting the institution into a University of Science and Technology. The Ministry is still building capacity of the Institution towards this end.

ACTS

2.2.2 The Kenya Qualification Act, No. 22 of 2013

The Act is known as Kenya National Qualifications Framework Act, No. 22 of 2014 and commenced on 14th January, 2015. The implementing agencies are the Cabinet Secretary, Education and the Kenya National Qualifications Authority. It was enacted to establish the Kenya National Qualifications Authority and to provide for the development of a Kenya Qualifications Framework.

Status: The Act has been operationalized by the Ministry by constituting a Board and appointing a Chief Executive Officer on an acting capacity. The Kenya National Qualifications Authority is currently building its internal capacity and has commenced the development of the Kenya Qualifications Framework.

Challenges: The main challenge is the inadequate budgetary allocation to hire staff and develop the necessary structures for delivering on its mandate

2.2.3 The Technical and Vocational Education and Training Act, No 29 of 2013

The Act came into force on 24th June, 2013 of which parts vii and ix commenced on 26th May, 2014. The implementing agencies are the Cabinet Secretary, Education and the Technical and Vocational Education and Training Authority. The law was enacted to provide for the establishment of a TVET system; to provide for governance and management of institutions offering TVET to provide for coordinated assessment, examination and certification; to institute a mechanism for promoting access and equity in training and to assure quality in TVET.

Status: The TVET Authority has already been operationalized by putting in place a management Board and recruiting a substantive Director-General. The Authority is currently discharging its mandate as per the Act, which includes registration and accreditation of TVET institutions, development of standards and quality. The TVET- Curriculum Development, Assessment and Certification Council (TVET-CDACC) has been operationalized with the

hiring of a substantive CEO and a Council. The Council has commenced the development of the Competency-Based Education and Training (CBET) for TVET. The Ministry is in the process of establishing the TVET funding Board and hiring a substantive CEO for the Board.

Challenges: The main challenge is the inadequate budgetary allocation to hire staff and develop the necessary structures for delivering its mandate.

2.3 MINISTRY OF LABOUR & SOCIAL PROTECTION

STATE DEPARTMENT FOR SOCIAL PROTECTION, PENSIONS AND SENIOR CITIZENS AFFAIRS

The State Department submitted a written response to House resolutions that fall under its purview on 24th April, 2018.

2.3.1 Sessional Paper No. 6 of 2014 on National Children Policy

The House adopted the policy on 11th October, 2016 to be implemented by the Cabinet Secretary, Labour and Social Protection. The policy interventions are under four pillars, namely: child participation, child development, child protection and child survival.

Status:

- 1) Child participation: The Children are involved in policy-making process e.g. during regional consultative fora and National Validation of the Children Bill, 2018 they were invited to workshops to discuss issues which were included in the draft bill. This being part of the basic principles of Child Participation. During the celebration of the Day of the African Child, children are fully involved in all activities in the forty-seven counties (47) i.e. their elected President and Deputy, County Child Governors take centre stage in addressing the public. Through County Children Assemblies, children meet to discuss matters touching on their wellbeing.
- 2) Under child development, child protection and child survival: the 2012 Kenya Social Protection Sector Review, reports that approximately 3.6 million children in Kenya are orphans or otherwise classified as vulnerable. The government's commitment to address the plight of this vulnerable category of society was through Presidential Bursary whereby students in secondary schools are identified and fees paid directly to their respective school's accounts. Thus, by December 2017 twenty-seven thousand four hundred and eight students (27,408) had benefited. Whilst, the Orphans and Vulnerable Children Cash Transfer (OVCCT) is catering for three hundred and fifty-three thousand Households (353,000) hosting on average four children in each household i.e. around one million, four hundred and twelve thousand children. This was about four hundred million Kenya shillings (Kshs. 400million) paid two thousand shillings monthly to guarantee their social and economic needs.
- 3) It should be noted that Universal Health Care for all children is free and the policy promotes free and affordable basic education to enhance holistic growth and development and participation in the development process at all levels.

Challenges: An increasing number of vulnerable children occasioned by societal poverty, drought and deaths of parents from HIV/AIDS and other causes has significant implications on national development and infrastructures.

Inadequate budgetary and other resources allocation has far-reaching impact to facilitate programmes targeted for children.

2.3 MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING AND URBAN DEVELOPMENT

STATE DEPARTMENT OF TRANSPORT

The State Department of Transport submitted written responses on 14th May, 2018 on the following House resolutions under its purview.

RESOLUTION

2.4.1 The Resolution for the provision of service lanes

The resolution was adopted by the House on 30th November, 2017. The Ministry of Transport and Infrastructure through the Kenya Urban Roads Authority, Kenya Rural Roads Authority and the Kenya National Highways Authority was urged to provide for service lanes in future road design plans and designate service lanes for emergency vehicles along the urban roads and highways throughout the country.

Status: The Ministry submitted that instructions have been issued to the Road Authorities to incorporate the resolution on provision of service lanes on urban roads and highways in all future road designs and construction.

SESSIONAL PAPER

2.4.2 Sessional Paper No. 3 of 2017 on Government guarantee in support of restructuring Kenya Airways

The sessional paper was adopted on 15th June, 2017.

Status: The Government guarantee was implemented by the National Treasury in support of restructuring of Kenya Airways.

ACTS

2.4.3 The Civil Aviation (Amendment) Act, 2016

The Act commenced on 4th October 2016. The implementing agencies are the Cabinet Secretary, Transport, Infrastructure, Housing and Urban Development and the Kenya Civil Aviation Authority (KCAA). It amended the Civil Aviation Act, 2013.

Status: Some of the amendments introduced and effected were changes to KCAA Board Composition by removing representation from the Ministry of Tourism; provisions on conflict of interest; dealing with aircrafts in distress and establishment of a KCAA Fund.

2.4.4 The Civil Aviation Act, 2013

The Act commenced on 25th January, 2013. The implementing agencies are the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development and the Kenya Civil Aviation Authority (KCAA). The 2013 Act repealed the Civil Aviation Act Cap 395. It provides for the control, regulation and orderly development of civil aviation in Kenya.

Status: A total of thirteen (13) Regulations have been promulgated under the Act. The Act established the Civil Aviation Authority as well as the National Civil Aviation Administration Tribunal that acts as an appellate body from KCAA decisions.

2.4.5 International Interest in Aircraft Equipment Act (No 27 of 2013)

The Act commenced on 14th January, 2013. The implementing agency is the Cabinet Secretary, Transport, Infrastructure, Housing and Urban Development. It gives effect to the provisions of the Convention on International Interests in Mobile Equipment and the protocol on the Convention to International Interest in Mobile Equipment on Matters Specific to Aircraft Equipment. The Act gives jurisdiction to the High Court to handle any matter under the Convention and Protocol.

Status: This has been implemented.

PROTOCOLS AND AGREEMENTS

2.4.6 Signing of Bilateral Air Services Agreements between Kenya/Ghana and Kenya/Niger

Status: The Kenya/Ghana Bilateral Air Services Agreement was signed on 13th December, 2014 in Nairobi during a State Visit and the Agreement is under implementation. The signing of the Kenya - Niger Bilateral Air Services Agreement was originally scheduled for 2nd December, 2015, however, due to unavoidable circumstances, it did not take place.

2.4.7 Protocol on Development and Operation of the Standard Gauge Railway

The Framework of the Northern Corridor Integration Projects was executed by the Republic of Kenya, Republic of Rwanda, Republic of South Sudan and the Republic of Uganda on 14th May, 2014. The protocol was adopted by the House on 10th June, 2015.

Status: The Protocol was referred to the Ministry of Foreign Affairs for action and onward transmission to the Attorney General for registration with the Registrar of Treaties and Protocols. The protocol requires Partner states to jointly develop and operate a modern, fast, reliable, efficient and high capacity railway transport system as a seamless single railway operation among the partner states with the specific objectives of the SGR project. There are several objectives of the protocol provisions which include the following: -

- 1) The first objective focuses on expediting economic growth and development of the parties by reducing the cost of doing business and increasing the region's competitiveness. The Mombasa - Kampala section is to be run by the same operator. The China Roads and Bridges Company (CRBC) has been appointed as the operator for the Mombasa - Nairobi Standard Gauge Railway (SGR).
- 2) The enhancement of spatial development along the SGR corridor. To this end, the Partner States are to institute policies to support the railway. The Government of Kenya (GoK) is developing policies that will attract cargo from road to rail.
- 3) Enhancement of efficiency and cost-effective movement of freight and passengers in the region to accelerate trade and services. The Governments of Kenya and Uganda are to institute policies for governments to own and maintain infrastructure, locomotives and rolling stock to guarantee the safety of operations and adequate investment and maintenance. The Policies have been developed and were approved by the Ministerial Committee at the 8th Summit. However, a monitoring and evaluation tool on the policies needs to be developed. Kenya has completed a study on the review of its policy, legal and institutional framework governing the railway subsector. A draft "Railways Bill" has

been formulated and awaits to be forwarded to the Attorney General (AG) before tabling in Parliament.

- 4) The fourth is sustained development of other transport infrastructure and adoption of new technologies to enhance economic development. This is to be achieved through the proposed development of the Industrial Parks and rail logistics city. The development of the Industrial Parks at Dongo Kundu and Naivasha and a rail logistics city in Athi -River are in the initial stages. A cabinet Memo on the same has been prepared.

ADOPTED COMMITTEE REPORTS

2.4.8 The Public Investments Committee's Special Report on the Procurement and Financing of construction of the Standard Gauge Railway Phase 1 Mombasa - Nairobi

The report was adopted by the House on 24th June, 2014. The Committee recommended among other recommendations, that the development of the Standard Gauge Railway project from Mombasa to Nairobi should proceed on condition that the Government fast-tracks the feasibility study, preliminary designs and costing for Phase II covering Nairobi-Malaba with a branch line to Kisumu in line with the tripartite agreement; fast-track the Procurement of Phase II (Nairobi-Malaba/Kisumu) of the Standard Gauge Railway once the financing agreement for Phase I is concluded taking into account the provisions of Article 227 of the Constitution and the provisions of Part IV of the Public Procurement and Disposal Act, 2005.

The Committee in its findings presented that the project has so far been procured within the law and that the Government would not incur any losses since the financing agreement has not been signed.

The Government was urged to competitively procure an independent supervision consultant so as to assure cost effectiveness, adherence to specification, quality guarantee and value for money. The Government was required to fast-track Phase II of the project to achieve the maximum viable economic potential in the region. The Public Procurement and Oversight Authority were to review the Public Procurement and Disposal Act, 2005 to align it with the Constitution and the evolving procurement processes more particularly sections 3, 9, 23 and 137 of the Public Procurement and Disposal Act, 2005. A proper legal framework be prepared by the Cabinet Secretary and submitted to Parliament within two months for approval and enactment so as to strengthen the structure and management of the RDF and ensure transparency.

The Mombasa -Nairobi SGR Phase 1 project was launched by H.E the President on 28th November 2013 at the proposed starting point at Changamwe Marshalling Yard. The launch recognized the project as the anchor phase for the proposed Mombasa - Kampala (Uganda) - Kigali (Rwanda) - Juba (South Sudan) SGR, whose support in the region is enshrined in the Tri-partite Agreement signed between the Government of Kenya, Uganda and Rwanda.

Status: The four countries are discussing a draft protocol to operationalize the Tri-partite Agreement. The construction of the line was completed in December, 2016 and was followed by test runs between January and May, 2017. CRBC was appointed as the Operator of the

Mombasa - Nairobi SGR for a renewable term of five (5) years. The launch of SGR operations took place on 30th May, 2017 with the flagging off of the cargo train by H.E at Port Reiz. The train arrived on 31st May, 2017 and was received on 1st June, 2017 and all the 71 containers offloaded. The passenger service was launched on 31st May, 2017.

The expansion and upgrade of the Inland Container Depot (ICD) Nairobi which began as SGR operations were expected to increase freight volumes handled at the ICD, Nairobi to the projected 405,000 TEUs per annum from the current 180,000 TEUs. The expanded ICD was launched on 16th December 2017. Madaraka Express Freight operations commenced in January 2018.

The Nairobi - Naivasha SGR Phase 2A project is part of the proposed Mombasa - Nairobi - Malaba Standard Gauge Railway Project. The project dubbed SGR Phase 2A is an extension of the Mombasa - Nairobi SGR project Phase 1 that was implemented by China Roads and Bridges Corporation (CRBC). The overall length of the Nairobi - Naivasha SGR IS 120.49 kilometres under the crossing city scheme with 11 proposed stations.

China Communications Construction Company (CCCC) was the EPC contractor of the project following the signing of a commercial contract with the Kenya Railways on 19th September, 2015 at a commercial contract price of USD 1.483 Billion financed by GoK budgetary allocation and a loan to GoK from Exim Bank of China. The duration of the contract is 42 months but the Contractor has undertaken to complete the work within 36 months. The overall progress of the project as at 28th February, 2018 was 19.69%.

An Environmental Impact Assessment (EIA) licence for the entire route was issued by NEMA on 13th December, 2016. A Relocation Action Plan (RAP) has been undertaken and a draft final report submitted to Kenya Railways (KR). KR is taking the lead in identifying the location for the industrial parks and the land required.

Challenges: The challenges that have faced the project include: cases filed at the National Environmental Tribunal challenging the EIA report and the line passing through the Nairobi National Park (NNP) (National Environmental Tribunal No 200 of 2017). The hearing of the case took place between 26th and 28th of March, 2018; and conservationists challenging the decision to have the line pass through the NNP. It should be noted that the KWS Board approved the line passing through the park and the Contractor was allowed to enter and start the works in February 2018. Security has also been a challenge with the local communities attacking the contractor's camps and workers from other communities.

2.5 MINISTRY OF PUBLIC SERVICE, YOUTH AND GENDER AFFAIRS

STATE DEPARTMENT OF PUBLIC SERVICE AND YOUTH - OFFICE OF THE PRINCIPAL SECRETARY

The Ministry of Public Service, Youth and Gender affairs submitted its written submissions on House resolutions under their purview on 10th April, 2018.

ACTS

2.5.1 The Public Service Commission Act No. 10 of 2017

The Act commenced on 26th April, 2017. The law was enacted to give effect to Articles 233 and 234 of the Constitution on the establishment of Public Service Commission (PSC) and its functions as outlined. It is implemented by the Public Service Commission.

Status: Upon assent and publication of the PSC Act, the Commission immediately adopted and ensured that all the provisions are adhered to in the daily operations. A Circular was also issued to all State Agencies to implement the provisions of the Act. The process of drafting the Public Service Commission Regulations commenced in May, 2015. The Draft Regulations were approved by the Commission to facilitate public participation in July 2017 and has so far undergone three (3) public participation processes as follows: the receipt of written memoranda from stakeholders in September and October, 2017; hosting a stakeholder validation workshop for Ministries, State Departments and Agencies on 7th and 8th February, 2018, and hosting a stakeholder validation workshop for State Corporations and Public Universities on 27th March, 2018. The Public Service Commission planned to hold another validation workshop for Cabinet Secretaries, Chief Administrative Secretaries and Principal Secretaries in April, 2018.

The Commission will thereafter input all stakeholder views, approve the draft regulations and forward the same to the Attorney General for approval by the relevant Parliamentary Committee and for publication in the Gazette.

2.5.2 The Public Service (Values and Principles) Act, No. IA of 2014

The Act came into force on 4th June, 2015. The implementing agencies include Constitutional Commissions, Independent Offices, County Public Service Board and County Assembly Service Board. The Act is meant to give effect to the provisions of Article 232 of the Constitution regarding the values and principles of public service.

Status: The PSC has implemented the Act through the following measures: issuance of the Diversity Management policy to the service; development and Implementation of the Framework for Implementation of value and principles, 2015; review, issuance and dissemination of the Public Officer Code of Conduct and ethics; the undertaking of promotional activities such as conferences, seminars, workshops and training; development of Ethics Curriculum in liaison with the Kenya School of Government; the inclusion of Ethic quotas in the recruitment and selection process; the undertaking of compliance evaluation on values and principles since 2012; and submission of annual compliance reports to the President and Parliament.

2.5.3 Public Service, Superannuation Scheme Act, No. 8 of 2012

The Act came into force by a legal notice. The Public Service Superannuation Scheme is implemented by the Cabinet Secretary, the National Treasury and Planning. The Act was enacted to establish the Contributory Public Service Superannuation Scheme for providing retirement benefits to persons in the public service.

Status: In July 2014, the National Treasury budgeted for Kshs 9.5 Billion for the roll-out of the Public Service Superannuation Scheme. In 2014, an amendment to the Act was proposed. The amendment was in line with a recommendation of the International Monetary Fund (IMF) technical assistance which proposed the deletion of a clause on "Recognition Bond" in the Act. The proposal was to safeguard the Government against current pension actuarial liability for existing employees amounting to Kshs. 991 billion. The "Recognition Bond" would have been recognized as an immediate public debt which would have further increased the existing public debt. The amendment to the Public Service Superannuation Scheme Act was included in the Finance Act No.14 of 2015.

The Chairperson of the Board of Trustees has been appointed by the Cabinet Secretary for the National Treasury. However, the Board of Trustees has not been fully constituted. The Board, when constituted, will appoint the Custodian of the Fund, Administrator of the Fund and the Fund Manager.

PETITION

2.5.4 Petition for reinstatement into the Public Service and Payment of Mr. Raphael Kitivi ID NO.3543931/Force NO. P/N 209190.

The petition was tabled on 22nd October, 2015.

Status: Mr. Raphael Kitivi was not found in the Civil Service Complement as his Civil Service Personal Number was not provided.

ADOPTED COMMITTEE REPORT

2.5.5 Report on the alleged irregularities on the Rolling Out of the Civil Servants Out-Patient Medical Insurance Scheme, Vol. I & II

The Report was adopted on 22nd June, 2012.

Status: The Government in fulfilment of its obligation under the Employment Act, 2007 and the Constitution of Kenya 2010 and to ensure access to quality healthcare introduced a Comprehensive Medical Insurance Cover for its employees with effect from 1st January, 2012. The scheme covered Civil Servants and Members of the Disciplined Services and their eligible dependants. Several measures have been taken to implement the recommendation of the Report as outlined below: -

First, a Standing Committee consisting of representative from the Ministry of Public Service, National Hospital Insurance Fund, Ministry of Health, Public Service Commission, Union of Kenya Civil Servants and the Insurance Regulatory Authority was constituted to oversee the

smooth implementation of the Medical Insurance Scheme for Civil Servants and Disciplined Services as per the recommendation of the Report.

Secondly, members of the Scheme under capitation are accorded an opportunity to select or change out-patient medical facilities on quarterly basis as per the recommendation of the Report.

Third, the processing of the last expense benefit claims for deceased principal members has been decentralized to NHIF branches countrywide as per the Report.

Fourth, the Ministry of Public Service, Youth and Gender Affairs in consultation with the National Hospital Insurance Fund and other stakeholder undertake Monitoring and Evaluation of the scheme biannually.

The Ministry of Public Service, Youth and Gender Affairs in consultation with the National Hospital Insurance Fund and other stakeholders also conduct sensitization on the benefits under the scheme. The Ministry of Public Service, Youth and Gender Affairs and other stakeholders including the Ministry of Health, Public Service Commission, Insurance Regulatory Authority and the Union of Civil Servants negotiate the Medical Scheme benefit package with NHIF on annual basis.

2.6 THE NATIONAL TREASURY AND PLANNING

The National Treasury and Planning submitted written responses on the House resolutions under its purview on 29th March, 2018

ADOPTED COMMITTEE REPORTS

The Cabinet Secretary, The National Treasury and Planning in the written submissions informed the Committee that Treasury memoranda on the implementation status of recommendations contained in the Public Accounts Committee Reports of Accounts and Funds of Government FY 2010/2011; FY 2011/2012; FY 2012/2013 all adopted on 4th March 2015 and FY 2013/2014 adopted on 18th August 2016 were submitted to National Assembly on 17th June 2016 and on 12th February 2018 respectively.

PETITIONS

2.6.1 A petition on VAT levied on Tips and gratuity in the hospitality industry

The report on the petition was tabled on 20th March, 2014.

Status: Service charge paid in lieu of tips is not subject to VAT provided that the service charge does not exceed 10% of the price of the service and is distributed to the employees of the hotel.

2.6.2 A petition on waiver of Taxes levied on new material used in the production of sanitary towels

The report on the petition was tabled on 13th October, 2016.

Status: The VAT Act was amended in 2016 to exempt sanitary towels and materials for making sanitary towels from VAT.

ACTS

2.6.3 Proceeds of Crime and Anti-money Laundering (Amendment) Act, No 3 of 2017

The Act commenced on 24th March, 2017. The implementing agencies are the Anti-money laundering Advisory Board and the Assets Recovery Agency. The amendments: give effect to the Principal Act; provide for the powers of the centre to impose civil penalties for non-compliance; and provide for a Director General instead of Director as well as the functions of the Board, staff and funds of the Agency.

Status: The following actions are being taken to implement the amendments contained in the Act: Arising from the approval of the National Assembly of the appointment of the Director General of the Financial Reporting Centre (FRC), the Cabinet Secretary for the National Treasury, has in consultation with the Anti-Money Laundering Advisory Board, appointed the Director-General and set out his terms and conditions of service; the centre has developed internal guidelines to govern monetary penalties and administrative regimes with respect to non-compliance with the provisions of the Act by reporting institutions; and the Asset Recovery Agency has embarked on the recruitment exercise for its own staff which is pegged on adequate funding to be provided for in the 2019/20 financial year.

2.6.4 Insurance (Amendment) Act No. 22 of 2017

The Act commenced operationalization on 7th July, 2017. The implementing agencies are CS, the National Treasury and Planning and Insurance Regulatory Authority. The amendments to the Act made changes to among other things, admitted liabilities and group accounts.

Status: The implementation of the act is on-going.

2.6.5 The Competition Act (Amendment) 2016

The implementing agency is the Competition Authority. These amendments to the principal Act related to the definitions, buyer power and which enabled the Authority to set a threshold for any merger excluded from the Act. The amendments providing for buyer power were introduced to regulate the abuse of dominance by big buyers such as large retail outlets.

Status: Rules that define thresholds for mergers that do not require notification to the Competition Authority have been developed. Upon completion of the public participation process, the approval of the Cabinet Secretary will be sought in accordance with section 42 of the Competition Act.

2.6.6 Banking (Amendments) Act, 2016

The Act commenced on 14th September, 2016. The implementing agency is the Central Bank of Kenya. The amendments related to disclosure information on loans, and powers of CBK to enforce interest ceilings set out under the Act.

Status: After commencement of the Act, the banking industry experienced slow growth in credit especially to the Micro, Small and Medium Enterprise (SMEs). It also saw the deposit accounts reclassified by banks to non-interest earning accounts. The amendment also affected the use of CBR as a monetary policy tool. In this regard, various efforts are being explored to address the effects being experienced following implementation of the Act.

2.6.7 Value Added Tax (Amendment) Act, No. 24 of 2016

The Act commenced on 24th August, 2014. It provided for the transportation of sugarcane from farms to milling factories as an item not subject to tax.

Status: The transportation of Sugarcane is not subject to Value Added Tax (VAT)

2.6.8 Public Procurement and Asset Disposal Act, 2015

This Act commenced on 7th January, 2016. The implementing agencies are CS, the National Treasury & Planning and the Public Procurement Regulatory Authority (PPRA). The Act was enacted to give effect to Article 227 of the Constitution and to provide procedures for efficient public procurement and for assets disposal by public entities.

Status: The implementation of the Act was undertaken through the combination of the law with the old regulations and procedures, the development of Regulations for the Act, which will be tabled in the National Assembly in due course and capacity building of procuring entities to ensure compliance with the law. The Ministry has issued a Legal Notice.

2.6.9 The Excise Duty Act No. 23 of 2015

The Act commenced on 1st December, 2015. The implementing agencies are Cabinet Secretary, the National Treasury & Planning and the Kenya Revenue Authority. It provides

for the charge, assessment, and collection of excise duty to make administrative provisions for the implementation of the Act.

Status: The Act is being implemented

2.6.10 The Tax Procedures Act, No. 29 of 2015

The Act commenced on 19th January, 2016. The implementing agencies are the Cabinet Secretary, the National Treasury & planning and the Kenya Revenue Authority. The Act harmonizes and consolidates the procedural rules for the administration of tax laws in Kenya

Status: The Act is being implemented

2.6.11 The Miscellaneous Fees and Levies Act. No 29 of 2015

The Act commenced on 21st September, 2016. The implementing agencies are CS, the National Treasury and the Kenya Revenue Authority. The Act provides for all fees and levies charged by the KRA.

Status: The Act is being implemented.

2.6.12 Insurance (Amendment) Act No. 1 of 2014

The Act commenced on publication. The implementing agencies are CS, the National Treasury & Planning and Insurance Regulatory Authority (IRA). The Act made amendments to the objects of the Act and addressed the issue of assistance in investigations among other changes.

Status: The implementation of the Act is going on well.

2.6.13 Value Added Tax (Amendment) Act, No. 7 of 2014

The Act commenced on 29th May, 2014. The Act provided for numerous changes to Act and included more exempt supplies such as sugarcanes, unprocessed plant species *camellia sinensis* under part 1 section A of the Act and excluded some items as well such as aeroplanes, aircrafts etc.

Status: The Act is being implemented.

2.6.14 The Tax Appeals Tribunal Act, No. 40 of 2013

The Act commenced on 1st April, 2015. The implementing agencies are CS, the National Treasury and the Tax Appeals Tribunal. The Act was passed in order to provide for dispute resolution mechanism that would manage and administer tax appeals.

Status: The Tribunal was formed and Tax appeal cases are being handled by the Tribunal.

2.6.15 Kenya Deposit Insurance Act, No. 10 of 2012

The Act came into force on 1st July 2014. The implementing agencies are CS, The National Treasury and Planning, CBK, Kenya Depository Insurance Corporation and Depository Fund Trustees. It was enacted to provide for the establishment of a deposit insurance system and for the receivership and liquidation of deposit-taking institutions. It also provides for the establishment of the Kenya Deposit Insurance Corporation and the Depository Fund.

Status: KDIC has been established. Due to deficiency in the KDI Act 2012, an amendment was enacted in 2013 which provided for definition of systematic risk, lesser cost rule as well as problem institutions. Further, Kenya Deposit Insurance Regulation, 2015 have also been issued under Legal Notice No.166 of August 21, 2015. Further amendments have also been effected through the Finance Act, 2017 to strengthen KDIC.

2.6.16 The Capital Markets (Amendment) Act, 2011

The Act commenced on 16th December, 2011. The implementing agencies are CS, the National Treasury & Planning and the Capital Markets Authority (CMA). The 2011 amendments made via the Finance Act related to the approval of securities exchange and empowering the CMA to issue supervisory guidelines and prudential standards.

Status: Section 2 of the Capital Markets Act was amended to redefine securities to include derivatives and also key personnel for purposes of fit and proper vetting of those managing licensed entities. More importantly, Section 11 was amended to expand the principle objective of the Authority to recognize the need for improved access to securities beyond traditional stocks. This provided investors with an opportunity to access a broad spectrum of securities products. The amendments also recognized Self-Regulatory Organizations (SROs) as exchanges. This enabled the Authority to delegate specific powers to an SRO subject to the oversight of the Authority.

In addition, the amendments introduced a hybrid bond market where publicly offered bonds can be traded either on the exchange or Over-The-Counter (OTC). This was meant to increase bond activity in both the primary and secondary bond markets.

The objectives of the amendments were meant to address long-standing issues that curtailed the growth of the capital markets sector in Kenya. This was also part of the foundation for the Capital Markets Master Plan (2014 - 2023) to make Kenya the heart of Capital Markets activity in Africa.

The implementation of the Master Plan is on-going and various milestone have been achieved such as the demutualization and self-listing of the Nairobi Securities Exchange (NSE) and the introduction of the derivatives market.

2.6.17 The Central Depositories (Amendment) Act, No. 38 of 2011

The Act commenced on 16th December 2011. The implementing agencies are CS, the National Treasury & Planning and the Capital Markets Authority. The Act facilitates the establishment, operation and regulation of central depositories, immobilisation and eventual dematerialisation of, and dealings in, securities deposited within Kenya. The 2011 amendments changed several sections of the Act, inserting functions of the CMA with respect to central depositories, rules and duties of a central depository, settlement guarantee arrangements, the establishment of central depository guarantee fund and the requirement for insurance among others.

Status: The Capital Markets Authority introduced amendments to the Central Depositories Act to strengthen supervision of central depositories and significantly reduce systemic risk.

These included strengthening of the Authority's power of supervision, investigation and intervention in respect of central depositories.

Further, the CD Act was amended to introduce a robust system, to reduce the risk and damage associated with settlement default on securities transactions and to provide for insolvency set-off in respect of the obligations between settlement participants. A guarantee fund was introduced and also provisions to have insurance policies put in place.

The primary objective of these amendments was to align Kenyan clearing and settlement process with international best practice and significantly reduce the risk associated with large-scale investment in listed securities by both local and foreign investors.

These provisions have led to the modernization of clearing and settlement including automation.

2.6.18 The Unclaimed Financial Assets Act, 2011

The Act commenced on 16th December 2011. The implementing agencies are CS, the National Treasury & Planning and the Unclaimed Financial Assets Authority (UFAA). The Act was enacted to provide for reporting and dealing with unclaimed financial assets. It establishes the UFAA and Unclaimed Financial Assets (UFA) Trust.

Status: The Current Unclaimed Assets Fund's value stands at Kshs 36.30B (for both received and those reported but not received assets). These are in form of cash received as CBK Trust Fund A/c which stands at Kshs 10.70B; Shares reported but not received - 447 million units valued at Kshs 25.50B; FCYs reported but not received Kshs 0.074B; 8.15 million units of Unit Trusts reported but not received valued at Kshs 0.015B; and 1,047 safe deposit boxes reported but not received.

The Fund has hired staff comprising of 35 employees. UFAA Regulation are now gazetted. One thousand, one hundred and fifty two (1,152) claims have been paid since the gazette of regulations.

2.6.19 The National Payment System Act, 2011

The Act commenced on 24th March, 2014. The implementing agency is CS, the National Treasury & Planning. The Act provides for the regulation and supervision of payment systems and payment service providers.

Status: The implementation of the Act is going on well.

2.7 MINISTRY OF EAST AFRICA COMMUNITY AND NORTHERN CORRIDOR DEVELOPMENT

The Ministry of East Africa Community and Northern Corridor Development submitted written responses on 5th April, 2018 on the following House resolutions under its purview.

ADOPTED COMMITTEE REPORT

2.7.1 Report of the Committee on Regional Integration on East African Community (EAC) Peace and Security Protocol and the Mutual Peace and Security Pact

The report was adopted on 6th October, 2015. The responsibility for the implementation of the pact is vested on the Cabinet Secretary responsible for, internal security, disaster management, refugee affairs, immigration affairs, prisons probation and aftercare services, peace building and conflict management, children affairs, registrar of motor vehicles marine services and any other area of cooperation that may be agreed by consensus of the partner states to be included in the Northern Corridor Integration Projects.

Status: An implementation framework for the Mutual Peace and Security Pact has been developed; a Joint Intelligence Centre has been established in Nairobi, and a conflict and dispute resolution and genocide resolution mechanisms have been developed.

Challenges: The United Republic of Tanzania and Republic of Burundi have not ratified the protocol and this has delayed implementation of the protocol at the regional level.

The changing political dynamics in the region that have led to infrequent meetings of the Summit of the Northern Corridor Integration Project and consequently a slowed implementation of agreed projects and programmes.

PETITION

2.7.2 A petition on delayed payment of benefits for the former employees of the defunct East African Community (EAC)

The petition was tabled on 19th August, 2014.

Following the dissolution of the EAC, the Partner States negotiated a Mediation Agreement for the division of assets and liabilities, which was signed on 14th May, 1984. The former employees of the defunct EAC from Kenya were concerned that some of the terminal benefits envisaged under the Agreement were not taken into consideration in the computation of their retirement benefits. This led to agitation by the employees and the formation of associations with a view of petitioning the Government of Kenya and Parliament to address the grievances.

Sometime in 1997, a group of former EAC employees from Kenya filed a suit in the High Court, *HCCC No.1879 of 1997*, seeking payment of pensions. The case was dismissed and ruled in favour of the Kenyan Government with the court holding that the government had complied with the terms of the Mediation Agreement.

This was followed by another suit by a group of former EAC Kenya employees at the East African Court of Justice, Ref. No 2 of 2010. The regional court dismissed the appeal filed by the former Kenyan EAC employees on the grounds that the jurisdiction for interrogating the

merits (or demerits) of their grievances did not lie with the regional court on account of the non-retrospective application of the new EAC Treaty of 2000.

To address this matter, the Government in October 2010, through the then Deputy Prime Minister and Minister of Finance directed that a Joint Taskforce of Government and former EAC employees to be constituted for purpose of inquiring into the claims and providing a recommendation to guide the way forward. The Joint Task Force, 2010 made several findings among which were that, upon the collapse of the community, the Government offered the former employees the option of either retiring and being paid benefits immediately or joining the Kenyan Civil Service on continuous service till retirement. The majority of officers were absorbed into Government and paid pension upon retirement based on their cumulative service to the Community and the Kenyan Civil Service and that each of the EAC institutions maintained a Provident fund; and that Provident Fund refunds continued to be paid to the relevant beneficiaries.

The Task Force, however, recommended that the former EAC Kenya employees be paid a token of appreciation and compensation for the suffering, inhuman treatment, disruption of career expectation and any other disturbances caused. In particular, the Task Force proposed that a total of Kshs 14 billion to be considered for payment to the eligible former EAC Kenya employees. However, the Treasury recommended that an ex-gratia payment of Kshs 150,000.00 to each of the eligible former EAC employees when the Task Force presented its report.

The National Treasury was advised to seek a legal opinion from the Attorney General on this matter on 14th June 2012, who in his response observed as follows: the former EAC employees had their matter settled in court, both in Kenya and the East African Court of Justice; the Government had no obligation whatsoever to settle any claims for pension or other benefits made by the former EAC Kenya employees unless compelled by law to do so; and there is no legal framework within which the Government could make any payments to the former. Ex-gratia compensatory payments to the former EAC Kenya employees was purely discretionary and dependent upon the formulation of a policy by the Government or upon enactment of legislation by Parliament.

On the basis of the above legal opinion and advice from the Attorney General, it was not possible for the National Treasury to prepare a Cabinet Memorandum for approval of payments to the former EAC Kenya employees.

The Ministry of EAC has previously appeared before the Joint Committees on Finance, Planning and Trade and Regional Integration to respond to the former EAC Kenya employees' issue.

Status: The Ministry of EAC and Northern Corridor stands guided by the legal advice and recommendations of the Hon. Attorney General on the matter in compliance with the judgments of the courts on the issue. The Ministry is also guided on recommendations by the National Treasury & Planning as the petition relates to financial obligation upon the Government. It would, therefore, be the relevant government agency to expound on financial matters involving the Government.

PROTOCOL

2.7.3 The Protocol for the establishment of the EAC Monetary Union

The report on the recommendation for the protocol was adopted on 30th October, 2014. The Treaty for the establishment of the East African Community in Article 5(1) set the objectives of the community and states that "the objectives of the community shall be to develop policies and programmes aimed at widening and deepening co-operation among the partner states in political, economic, social and cultural fields, research and technology, defence, security and legal and judicial affairs, for the mutual benefit." Further to Article 5 (1), the Partner State undertakes to establish among themselves a Customs Union, a Common Market, a Monetary Union and ultimately, a Political Federation in order to strengthen and regulate, among others, the industrial, commercial and infrastructural sectors (Article 5 (2)).

Status: The implementation of the Protocol is facing several challenges, among them being that the process of establishing institutions has been quite slow. To date the statute to establish East African Monetary Institute is yet to be finalized and yet this institution according to the roadmap was expected to be operational by 2015, therefore being more than a year behind scheduled has caused some of the tasks it was to spearhead to suffer. The establishment of a sound surveillance, compliance and enforcement framework is complex and requires a lot of resources to operationalize. The attainment and maintenance of macroeconomic convergence targets is not easy since it requires ceding of some level of sovereignty in some aspects such ability to raise debt beyond the agreed ceiling. The creation of a mechanism of resilience against external shocks including a stabilization facility is going to be very expensive. In the European Union (EU) case, funds to address structural imbalance take at least 0.5% of EU GDP. The production of reliable statistics is an expensive endeavour and requires the mobilization of resources from Partner States and Development Partners.

The Monetary Union is at a very critical integration stage that requires a lot of political will and solidarity. Partner states are therefore expected to exhibit a lot of political goodwill by preparing to cede sovereignty in the area identified by the protocol. Some of the areas they need to cede sovereignty include monetary and exchange rate and fiscal policies through adherence to performance convergence criteria.

2.8 MINISTRY OF AGRICULTURE AND IRRIGATION STATE DEPARTMENT OF CROPS DEVELOPMENT

The State Department submitted written responses on the following House resolutions which fall under its purview on 4th April, 2018.

RESOLUTIONS

2.8.1 A resolution for the establishment of a Fund for Fishermen to give them grants which among others will assist them to buy fishing gear.

The House passed the resolution on 23rd May, 2013.

Status: The Fishers Management and Development Act, 2016 established the Fish Levy Trust Fund whose objective was to provide supplementary funding of activities geared towards management, development and capacity building awards and urgent mitigation to ensure sustainability of the fisheries resource. Two people versant in freshwaters and marine water, two people nominated by the traders' exporters association and fish processors are among the members of the Board of Trustee. A selection panel recruiting the Board of Directors of the Fish Levy Trust Fund did not find a suitable candidate and recommended re-advertisement on 2/8/2017. Currently, data of applicants received has been reviewed and the Cabinet Secretary is set to appoint one (1) Trustees. A selection panel recruiting the Board of Directors of the Fish Levy Trust Fund did not find a suitable candidate and recommended re-advertisement on 2nd August, 2017. Currently, data of applicants has been received for review and the Cabinet Secretary is set to appoint one (1) Trustee.

2.8.2 A resolution to create Coastal and Inland Training Institution to build the capacity of fishing communities

The House adopted the resolution on 21st July 2016. The Government was urged to establish both inland and coastal training institutions and processing plants with a view of building capacity for fishing communities to maximize their returns from the lucrative fishing sector.

Status: In line with the Big Four agenda, the Ministry is working closely with Bandari College to transform into a National Maritime Centre of excellence for training low and mid-level personnel, able to be deployed anywhere in Kenya Fishery Waters. The Ministry is also upgrading the freshwater centre of excellence at Sagana Aquaculture Research and Training Centre and Kiganjo trout farm for the Cold Water fisheries. It is working with Ramogi Institute of Agriculture Technology (RIAT), Kenya Wildlife Training Institute and Moi University to harmonize and mainstream curriculum for fisheries training in line with the one developed together with Technical and vocation Training Authorities (TVETA) and accepted by the Kenya Institute of Education. The Ministry has also initiated the establishment of a fisheries crime law enforcement academy in collaboration with the University of Nairobi and Nelson Mandela Metropolitan University.

2.8.3 The resolution that cane millers provide for mandatory payment to cane farmers within 14 days upon delivery

The resolution was adopted on 12th October, 2017.

Status: Agricultural Food Authority (AFA) together with relevant stakeholders has established the Sugarcane Pricing Committee (SPC) with members drawn from the growers,

millers National/ County Government and the Sugar Research Institute. The key mandate of the committee is the management of the sugarcane pricing mechanism and reviewing of the Sugarcane Pricing formula. The committee meets bi-monthly to determine the minimum price paid by millers. It should be noted that private millers pay farmers within seven (7) days after cane delivery whereas government owned millers take between thirty (30) days and one year.

2.8.4 Resolution to establish a Livestock Insurance Fund

The resolution was adopted in 2016.

Status: The Kenya Livestock Insurance Program (KLIP) is being implemented by the Government of Kenya, through the state department of livestock (SDL), in partnership with World Bank and ILRI. It was started in 2015, covering Wajir and Turkana Counties. The program was scaled up in 2016 to cover to six counties of Isiolo, Marsabit, Mandera and Tana - River, Wajir and Turkana. In 2017, the program expanded to cover eight counties, including Garissa and Samburu. In 2018, KLIP will be rolled out to cover the rest of the fourteen (14) Arid & Semi-Arid Lands (ASAL) Counties which are frequently affected by severe drought which include West Pokot, Laikipia, Lamu, Narok, Kajiado and Baringo.

ADOPTED COMMITTEE REPORT

2.8.5 The Report of the Departmental Committee on Finance, Planning and Trade on the Privatization of the Public Sector Owned/Controlled Sugar Companies (Nzoia Sugar Company, Nyanza Sugar Company, Chemilil Sugar Company, Muhoroni Sugar Company and Miwani Sugar Company)

The report was adopted on 21st April, 2015.

Status: The Privatization Commission as part of their mandate is conducting stakeholder engagements to fast-track implementation of the report.

PETITIONS

2.8.6 A petition on the election of Chairperson of the Agricultural Society of Kenya

The report on the petition was tabled on 28th October, 2015. The Petitioners prayed that the House recommends that the Cabinet Secretary (CS) Ministry of Agriculture, Livestock and Fisheries finds and holds that his Lordship Justice Anthony Mrima of Kakamega High Court as not qualified to hold an elective office in the name of the National Chairman of ASK and calls for fresh elections of ASK for purposes of electing office-holders to be presided over by a returning officer appointed by the Cabinet Secretary, Ministry of Agriculture, Livestock and Fisheries in accordance with the provisions of the ASK constitution and Elections Rules of 2009. The Petitioners also prayed that the House recommends that the ASK constitution be amended accordingly to provide for the Principal Secretary (PS), Ministry of Agriculture, Livestock and Fisheries to be an automatic Board member of ASK to offer guidelines and represent public interest

Status: On 10th April, 2015, Hon. Justice A. Mrima was elected the National Chairperson of ASK, but he resigned shortly citing exigency of work as a judge of the High Court of Kenya. Eventually, Mrs Annabel Kiriinya was elected the National Chairperson of ASK on 27th February, 2016. Her term ends on 31st December, 2019.

2.8.7 Petition on the alleged change of the management model at the Kenya Tea Development Agency (KTDA)

The report on the petition was tabled on 9th March, 2016. The petitioner prayed that the House recommends an audit of the Kenya Tea Development Agency and the subsidiary companies; establishes how the Kenya Tea Development Agency (KTDA) which is a private agency acquired the rights to tea factories owned by small-scale farmers; establishes the method used in registration and incorporation of farmers factories; and reviews/repeals any legislation in regard to the tea sector.

Status: KTDA (MS) Ltd is registered as a Management Agent by Agriculture and Food Authority - Tea Directorate. The functions of the Management Agent is to offer professional management service in production, processing, financial and marketing services to the smallholder tea sector. A total of sixty (60) tea factory companies (owned by smallholder tea growers) have signed a Management Agreement with KTDA (MS) Ltd so far, making KTDA (MS) Ltd the largest tea management company in the world. Arising from studies done on the smallholder subsector by Competition Authority of Kenya (CAK), Tea Industry Task Force Report of 2016 and Food & Agriculture Organization (FAO) value Chain Study of 2016; several changes have been recommended on the Management model to address shortcomings in Governance and Marketing.

The KTDA (MS) Ltd Management model is regularly reviewed so as to improve service delivery and efficiency in line with the company objectives and emerging challenges/opportunities in the operating and global environment.

2.8.8 A petition on the establishment of the strategic reserves for long life-powered milk

The report on the petition was tabled on 8th May 2016. The Petitioners prayed that the House recommends that the Government, through the Ministry of Agriculture, Livestock and Fisheries and Kenya Dairy Board, establishes strategic reserves of long-life and powdered milk.

Status: The Strategic Food Reserve Oversight Board incorporated powder milk as one of the commodities in the reserves in FY 2016/17. New Kenya Cooperative Creameries (New KCC) which is the agent of the Oversight Board in the management and storage of the milk was provided with Kshs 700 million to procure milk from farmers and process to powder. To date, New KCC has procured 51,576 by 25kg bags of powder milk worth Ksh 700 million and is stored in their Eldoret facility.

2.8.9 A petition on lifting of the ban for the sale and export of the raw macadamia

The report on the petition was tabled on 2nd August, 2016. The petitioners prayed that the National Assembly, through the Departmental Committee on Agriculture and Livestock proposes amendments to the Agriculture, Fisheries and Food Authority (AFFA) Act 2013 to provide for the sale of raw produce, in particular, raw macadamia.

The Departmental Committee on Agriculture made the recommendations that: the ban on the sale and exportation of raw Macadamia nuts be maintained as provided in Section 43 of the Agriculture, Fisheries and Food Authority (AFFA) Act, 2013. It is in the best interest of the nut industry in the country for value addition; the Ministry of Agriculture, Livestock and

Fisheries, through the Agriculture Food and Fisheries Authority (AFFA), encourages licensing of more processors in the market to promote competition; the Ministry of Agriculture, Livestock and Fisheries, through the Agriculture, Fisheries and Food Authority (AFFA), in conjunction with the Nut Processors Association, intensifies sensitisation of nut farmers through training on various technologies and skills in Macadamia nut production and assist farmers to form groups to better their bargaining power; the Ministry of Agriculture, Livestock and Fisheries, through AFFA, spearheads the introduction of Macadamia farming in new areas that have shown more potential in growing the crop; the Ministry also supports the Macadamia nut farmers through the existing Commodities Fund as provided in the Crops Act, 2013; and , the Ministry of Agriculture, Livestock and Fisheries intensifies research activities in various nut growing areas in the country in order to improve the crop and ensure that it meets international standards.

Status: The petition was declined as it was against the spirit of job creation through value addition and industrialization. Macadamia nuts employ about one thousand five hundred (1,500) people directly and five thousand (5,000) indirectly. The subsector has registered local twenty-six (26) processors who are buying macadamia nuts from farmers at prices between Kshs 160-180 per kilogram.

2.8.10 A petition on the lifting of the ban on consumption of foods derived from GMOs and issuance of a permit to conduct field trials of Bt. Maize

The Petitioners prayed for the lifting of the ban on consumption of foods derived from Genetically Modified Organisms commonly referred to as “GMOs”, and issuance of a permit to conduct field trials of BT maize – a maize crop developed locally using genetic engineering for resistance to a common stalk borer. The report on the petition was tabled on 15th June, 2017.

Status: The Regulatory Team of Water Efficient Maize for Africa (WEMA) project contributed towards lifting of the ban. WEMA tasked KALRO to reach out to the Presidency through the Ministry of Agriculture and Council of Governors to make a case for the advancement of Biotech research in Kenya.

The ban has not yet been lifted but KALRO and other stakeholders are engaged in discussion to ensure research continues alongside advocating for the lifting of the ban. This included a group called "Women in Science" which submitted a memorandum to the President on the lifting of the ban, a Cabinet Memo to discuss the ban signed by the Ministries of Public Health, Agriculture and Environment was resubmitted and has been awaiting discussion by Cabinet.

A meeting was organized by National Bio-safety Authority (NBA) for; Chairman, CEOs and legal officers of institutions namely; KALRO, KEPHIS, NEMA, AATF, NBA and Bio-safety Appeals Board on the 15th of June, 2017 to discuss areas of conflicts in their laws in relation to GMOs which had resulted in the court case which is still pending in court.

Six sites of Kenya Agriculture and Livestock Research Organization stations, (Kakamega, Alupe, Kibos, Embu, Mwea and Thika) were identified and an Environmental Impact Assessment project report submitted to National Environment Management Authority and

copied to National Bio-safety Authority (NBA) and Kenya Plant Health Inspectorate Service (KEPHIS) for the sites to participate in national performance trials on MON810 (Bt. Maize)

Sites are yet to be inspected for suitability and approved by the Kenya Plant Health Inspectorate Service (KEPHIS)/ National Bio-safety Authority (NBA). A Plant Import Permit (PIP) is yet to be issued by Kenya Plant Health Inspectorate Service (KEPHIS) to enable National Performance Trails on Bt maize to take place.

Challenges: There has been a long delay in the implementation of these activities due to the administrative reasons associated with the ban on GMO importations since 2012.

ACTS

2.8.11 The Fisheries Development and Management (FMDA) Act No. 35 of 2016

The Act commenced on 23rd September, 2016. The implementing agencies are CS, Agriculture & Irrigation, the Kenya Fisheries Advisory Council and the Fish Marketing Authority. The Act provides for the management and development of fisheries and other aquatic resources to enhance the livelihood of communities dependent on fishing.

Status: The Act has established the Kenya Fisheries Service (KeFS), the Kenya Fish Marketing Authority (KFMA), the Fish Levy Trust Fund (FLTF) and the Kenya Fisheries Advisory Council (KFAC). The Act empowers the Cabinet Secretary, Ministry of Agriculture, Livestock and Fisheries to appoint Board of Directors for KeFS (section 11(1)-(6) and FMA (Section 201(1) - (6) and a Trustee for fish levy trust (section 28 (5)).

On 20th January, 2017, the Cabinet Secretary responsible for fisheries appointed an Inter-agency selection panel to assist the Cabinet Secretary in the recruitment process for the aforementioned Board of Directors and Trustee. The operations of the Interagency selection panel were before then guided by the Terms of Reference developed by the Secretariat to the selection panel drawn from the State Department for Fisheries and Blue Economy. Upon its establishment and as guided by the Terms of Reference (TOR), the selection panel developed a work plan to guide its activities. The panel was able to advertise, conduct interviews from 25th April, to 3rd May, 2017 and gave its recommendations to the Cabinet Secretary on 9th June 2017.

A Gazette Notice has been prepared for the Cabinet Secretary to gazette the nominees.

The Cabinet Secretary is obligated by law to appoint one (1) trustee to the Fish Levy Trust Fund. The selection panel did not, however, find a suitable candidate and recommended re-advertisement which was done on 2nd August, 2017. Data for applicants has been received and shortlisting was scheduled for April, 2018.

The law prescribes membership to the Fisheries Advisory Council. A letter to the Cabinet Secretary for Ministry of Education requesting for advise on which University has the required competency for membership to the Council has also been drafted for Cabinet Secretary signature. An Interim Secretariat offering secretariat services to the Fisheries Advisory Council drawn from SDF & BE is in place.

2.8.12 Fertilizer and Animal Foodstuffs (Amendment) Act No. 20 of 2015

The Act came into force on 26th October, 2015. The implementing agencies are the CS, Agriculture & Irrigation and the Animal Foodstuff Board of Kenya. The principal purpose of establishing the Fertilizer and Animal Foodstuffs Board of Kenya is to mitigate existing weak quality control measure in fertilizers and animal feeds industries within the country.

Status: In order to establish and operationalize the Board as provided for in the amended Act, the Ministry in November, 2017, nominated officers from the three State Departments of Agriculture and the Treasury to a task force to lay the foundation and define the roadmap towards the full realization of the Board. The task force held its first workshop at the Dairy Training Institute (DTI) from 28th January to 2nd February, 2018 and unbundled the board functions.

2.8.13 Agriculture and Food Authority Act, No. 13 of 2013

The Act came into force on 17th January, 2014. The implementing agencies are the CS Agriculture & Irrigation and the Agriculture and Food Authority. The Act provides for: the consolidation of laws on the regulation and promotion of agriculture generally; the establishment of the Agriculture and Food Authority; and the respective roles of the National and County Governments in agriculture excluding livestock and related matters in furtherance of the relevant provisions of the Fourth Schedule to the Constitution

Status: The Act has been implemented by merging eight (8) former Boards (Coconut Development Authority, Kenya Sugar Board, Tea Board of Kenya, Coffee Board of Kenya, Horticultural Crops Development Authority, Pyrethrum Board of Kenya, Cotton Development Authority and Sisal Board of Kenya). They are now Directorates under Agriculture and Food Authority (AFA). AFA has drafted sector-specific regulation and forwarded to the Ministry of Agriculture and Irrigation for Gazettement. The regulation is to enable AFA to implement the Agriculture and Food Authority Act, No. 13 of 2013 and Crops Act, No. 16 of 2013 effectively.

2.8.14 Crop Act No. 16 of 2013

The Act commenced on 1st August, 2014 and the implementing agencies are the Cabinet Secretary for Agriculture & Irrigation, AFA and Country Executive Committee (CEC) members for agriculture in the Counties. It was enacted to consolidate and repeal various statutes relating to crops and to provide for the growth and development of the agricultural crop. Certain parts of the Act are to be implemented by the County Governments as per the fourth schedule to the Constitution.

Status: In furtherance of the provisions of Section 40 of the Crops Act, the regulations were drafted in 2014 that include: the Horticulture Crops Regulations; the Coffee Industry Rules, Coffee Forms Rules and Nairobi Coffee Exchange Regulations; the Tea Industry Regulations; the Oils and Nuts Crops Regulations; Fibre Crops Regulations; the Sugar General Regulations, Sugar Import Export and by Products Regulations, the Sugar (imposition of Levy) order; the Pyrethrum Industry Regulations; the Commodities Fund Regulations and Crops Arbitration Tribunal Regulations.

The regulations were forwarded to the Kenya Law Reform Commission and to the office of the Attorney General for review.

The Attorney General advised that there was need for further consultation to be conducted between the Ministry, AFA and County Governments. This is on-going.

2.8.15 Kenya Plant Health Inspectorate Service Act, No. 54 of 2012

The Act came into force on 31st December, 2012. The Act established KEPHIS, whose functions and activities are implemented through Plants Protection Act, (Cap 324); the Seeds and Plant Varieties Act, (Cap. 326); the Agriculture Produce (Export) Act (Cap 319); the Suppression of the Noxious Weed Act, (Cap 325); the Agriculture Produce (Export) Act (Cap.319) repealed by the Crops Act (Second Schedule) in operation only by a gazette notice that suspended implementation of the repeal provision in the Crops Act; and the Suppression Noxious Weeds Act, (Cap. 325) which was repealed by the AFA Act of 2013 and its provisions included in the AFA Act. According to the AFA Act, implementation of these provisions is by the County governments yet suppression of noxious weeds is a national mandate especially regarding imports and exports.

Challenges: There are areas of conflict between the KEPHIS Act No. 54 of 2012 and the *Mwongozo Code of Governance for State Corporations* as follows: -

- 1) Clause 8(1)(e) provides that '... the managing director, who shall be secretary.' This clause needs to be reviewed to reflect this function is for the Corporation Secretary.
- 2) Clause 8(1)(d)(iii) provides that "... one who shall have knowledge and experience in matters relating to the seed sector." No Director has knowledge and experience in this area.
- 3) Clause 8(1)(d)(iv) provides that "... four who shall have knowledge and experience in a matter relating to the function of the service." The Board lacks two directors who resigned in 2016 & 2017.
- 4) Clause 10(4) provides that "... The managing directors shall hold office for a term not exceeding three years, on such terms and condition as may be specified in the instrument of appointment, and shall be eligible for re-appointment for one further term. This clause contradicts the *Mwongozo Code of Governance for State Corporations* that specifies the CEO must be appointed for 4 years renewable term. It should be noted that this applies also to Board appointments, for instance, the Ministry of Agriculture and Irrigation representative is in his 3rd-year term.
- 5) The requirement for Attorney General in all boards. The Board as constituted from KEPHIS Act does not have a requirement for a representative of the Attorney General; as per the *Mwongozo Code of Governance for State Corporations*. It is recommended that KEPHIS Act is amended to take into consideration this requirement.
- 6) It is recommended that the issues raised by the repeal of the Suppression of Noxious Weeds Act be considered and the AFA Act be reviewed as it may create confusion in Board actions.

2.8.16 The Veterinary Surgeons and paraprofessionals Act, 2011

The Act came into force on 2nd December, 2011. The implementing agencies are the CS Agriculture & Irrigation and the Kenya Veterinary Board. The Act provides for training, registration and licensing of veterinary surgeons and veterinary para-professionals.

Status: On 12th October 2011, the Kenya Association of Livestock Technicians (KALT) petitioned the High court of Kenya at Nairobi Milimani Courts concerning the constitutionality of some of the provisions in the Act through Petition No. 195 of 2011 where the Attorney General, Minister of Livestock Development, Minister of Forestry and Wildlife and Minister of Fisheries Development were named as respondents. The judgment in the case was delivered on 7th December 2012 and Justice D.S Majanja dismissed the petitioner's case. The regulations to operationalize the Act were gazetted on 14th March 2013 vide Kenya Gazette Supplement No. 46 (Legislative Supplementary No. 15, legal notice no. 48) in effect paving the way for implementation of the Act which is still on-going.

2.8.17 The Animal Technicians Act, 2010

The Act specified that it would come into effect within 90 days after assent. The implementing agencies are the Cabinet Secretary, Agriculture & Irrigation and the Animal Technicians Council. The Act was enacted to provide for the training, registration and licensing of animal technicians, regulation of standards and practice of the profession-

Status: The Act was withdrawn (following a Cabinet decision) because the Animal Technicians Act, 2010, dealing with paraprofessionals was presented to Parliament sponsored by a private member.

The Cabinet discussed the bill on 27th April, 2010 and directed the Attorney General to withdraw the bill, consolidate it with the Veterinary Surgeons and Veterinary Para-professionals bill 2009 and present it to Parliament as one.

2.9 MINISTRY OF INFORMATION, COMMUNICATIONS AND TECHNOLOGY

The Ministry of Information, Communications and Technology submitted written responses on House Resolutions under its purview on 26th March, 2018.

ACTS

2.9.1 The Kenya Information Communication (Amendment) Act, No 41A of 2013

The Act commenced on 2nd January, 2014. The implementing agencies are CS information, Communication and Technology and the Communication Authority of Kenya. The Act changed the name of the regulatory body from Communication Commission of Kenya to Communication Authority of Kenya and provided for the appointment of members of the Board. It also introduced new definitions of terms, addressed the freedom of media, independence of the authority, duties of telecommunication operators to register sim-card holders and the establishment of the communications and multimedia appeals tribunal among many other amendments.

Status: The implementation of the Kenya Information Communication Amendment Act (KICA) 2013 has actualized a framework for the realization of the right to freedom of information and the media as provided for under Article 34 of the Constitution of Kenya. Through the Act, Communication Commission of Kenya was transformed to Communication Authority of Kenya (CA) as an independent body that is free of government, political or any other commercial interests' controls to regulate the ICT sector.

The Ministry has developed and reviewed sixteen (16) subsidiary legislations under KICA.

The SIM- Card's Registration regime is under implementation.

The Communications and Multimedia Appeals Tribunal (CAMAT) was established and operationalized in 2017 as an overarching disputes settlement mechanism between parties in the entire communications and multimedia industry.

The Universal Service Advisory Council was established and operationalized in 2014 to advise Communications Authority and provide strategic policy guidance for the administration and implementation of the Universal Service Fund.

Challenges: Inadequate allocation of funds for Tribunal start-up and operational costs e.g. staffing, office space; the transition from the Ministry of ICT to Judiciary; an overlap of the mandate of Complaints Commission at the Communication and Multimedia Appeals Tribunal; the slow implementation of projects under the Universal Service Fund due to insecurity in selected sub-locations in Northern Kenya and along the coastal strip; the pending court case which delayed for two years the operationalization of Media Council, Complaints Commission and Communications and Multimedia Appeals Tribunal.

2.9.2 The Media Council Act, 2013 (No. 46) of 2013

The Act commenced on 10th January, 2014. The implementing agencies are the CS, ICT and the Media Council of Kenya. The law gives effect to Article 34(5) of the Constitution and establishes the Media Council of Kenya and the Complaints Commission.

Status: The Ministry established and operationalized the Media Council to promote the freedom and independence of the Media; set media standards and ensure compliance with those standards as set out in Article 34(5) of the Constitution.

The Ministry also established the Complaints Commission in 2017 to: mediate or adjudicate in disputes between the government and the media and between the public and the media and intra media on ethical issues; ensure the adherence to high standards of journalism as provided for in the code of conduct for the practice of journalism in Kenya; and achieve impartial, speedy and cost-effective settlements of complaints against journalists and media enterprises, without fear or favour.

Challenges: Inadequate funding of the Media Council and the Complaints Commission operations.

2.9.3 The Publication of Electoral Opinion Poll Act, No. 39 of 2012

The Act commenced on 22nd November, 2012. The implementing agency is the Cabinet Secretary, Information, Communication and Technology. The Act was enacted to provide for the manner of publication of electoral opinion polls.

Status: The Act is pending implementation because of the challenge of the lack of clarity on the institution responsible for implementation.

2.10 MINISTRY OF INTERIOR AND CO-ORDINATION OF NATIONAL GOVERNMENT

State Department for Correctional Services

The State Department submitted written responses on House Resolutions under its purview on 3rd April, 2018.

ACT

2.10.1 The Power of Mercy Act, 2011

The Act came into force on 5th September, 2011. The implementing agency is the Cabinet Secretary for Interior and Coordination of National Government. The Act was enacted to provide for the power of mercy under Article 133 and the appointment of the advisory committee. The State Department for Correctional Services is the implementing body of the Power of Mercy.

Status: As a member of the Power of Mercy Committee (POMAC), the Kenya Prisons Service facilitates the committee's entry into penal institutions in order to interview inmates on whose behalf petitions have been made. Kenya Prisons also submits requisite documentation to the committee through members of staff who have been gazetted as pardon officers.

To ensure that POMAC operates efficiently, they liaise with the committee's secretariat in identifying the penal institution where inmates who qualify to petition for the power of mercy are held. His Excellency the President released one hundred and two (102) long-term prisoners in 2016.

Challenges: The Kenya Prisons Service is a co-opted member of the Power of Mercy Committee, meaning that committee meetings can be held without the direct participation of department; inmates who are qualified to petition for mercy on account of the period spent in prison are at times disqualified due to the delay in determination of their appeals; prison officers gazetted as pardon officers and stationed in penal institutions should ideally be members of the secretariat, which is not the case; lack of continuous capacity building for all prisons officers engaged in the POMAC process; delays in receiving feedback from the committee after inmates' petitions have been forwarded to POMAC for deliberations; the POMAC visits to penal institutions are not consistent; for instance, the committee last visited Kamiti maximum Prison to interview inmates one year ago; and inmates serving long sentences and who are terminally ill have not been considered.

2.11 MINISTRY OF DEFENCE

The Ministry of Defence submitted written responses on House resolutions under its purview on 11th April, 2018.

ADOPTED COMMITTEE REPORT

2.11.1 The Report on continued occupation of Migingo and Ugingo Islands in Lake Victoria by Uganda security forces

The House adopted the report by the Departmental Committee on Justice and Legal Affairs on 17th March, 2016. The report endorsed the usage of diplomacy to resolve the question of ownership of Migingo and Ugingo Islands. The Committee rejected the use of military force to resolve the dispute.

Status: No KDF personnel has been deployed to the Islands. The verification of the boundary in accordance with documents prepared by the Colonial Government is being handled by the Kenya International Boundaries Office (KIBO) within the Ministry of Interior and Co-ordination of National Government.

ACTS

2.11.2 Kenya Defence Forces Amendment Act No.44 of 2016

The Act commenced by notice. The implementing agencies are CS, Defence and the Kenya Defence Forces. The amendments related to the interpretations provisions, generally to create a limitation on disclosure of military budget, the creation of auxiliary services (NYS) as part of KDF. The amendment corrected typos and omissions in the Act.

Status: Amendments were brought into force vide Legal Notice No. 23 of 10 March 2017.

2.11.3 Kenya Regiment (Territorial Force) (Repeal) Act, No. 40 of 2016

The Act came into force on 4th October 2016. The implementing agencies are the CS, Defence and the Kenya Defence Forces. The Act repeals the Kenya (Territorial Force) Act and subsidiary legislation made thereunder.

Status: The Territorial Force had already been disbanded by the Government prior to the repeal of the Act.

2.11.4 Prohibition of Anti-personnel Mines, Act 2015

The Act came in force on 26th October 2015. The implementing agency is the CS, Defence. It provides for the prohibition of use, stockpiling, production and transfer of anti-personnel mines and their destruction. It domesticates the Ottawa Convention.

Status: The KDF no longer holds within its inventory, any antipersonnel mines except a small inventory for training within the Engineers Brigade and within HPSS. The Ministry sends a yearly declaration to United Nations Office for Disarmament Affairs as required by Article 7 of the Ottawa Convention.

2.11.5 Kenya Defence Forces Act, No. 25 of 2012

The Act commenced on 17th September, 2012. The implementing agencies are Cabinet Secretary, Defence and the Kenya Defence Forces. The Act provides for the functions, organization and administration of the Kenya Defence Forces pursuant to Articles 232 and

239(6) of the Constitution, gives effect to Article 241 and other relevant Articles of the Constitution and provides for disciplinary matters.

Status: To operationalise the Act, regulations have been promulgated by the Defence Council which include: the Kenya Defence Forces (Commissioning of Officers) Regulations, 2017; the Kenya Defence Forces (Active Service punishment) Regulations, 2017; the Kenya Defence Forces (Internal Grievance Mechanism) Rules, 2017; the Kenya Defence Forces (Retired Officers and Service Members) Regulations, 2017; the Kenya Defence Forces (Constabulary) Regulations, 2017; The Kenya Defence Forces (Missing Persons) Regulations, 2017; the Kenya Defence Forces (Board of Inquiry) Regulations, 2017; the Kenya Defence Forces (General) Regulations, 2017; the Kenya Defence Forces (Execution of Sentence of Death) Regulations, 2017; the Kenya Defence Forces (Imprisonment) Regulations, 2017; and the Kenya Defence Forces Rules of Procedure, 2017.

The Courts Martial were convened and proceeded in accordance with the Act. Operations in support of the National Police Service are being conducted in accordance with sections 33, 34 and 35 of the Act. Disciplinary proceedings with the KDF are being undertaken in accordance with parts VI-VIII of the Act. Multilateral and Bilateral Defence Co-operation agreements ratified in accordance with section 37 and part XVIII of the Kenya Defence Forces Act. A Policy & Strategy Department was established in the Ministry to articulate the functions set out in section 10 of the Act.

2.12 OFFICE OF THE ATTORNEY GENERAL AND DEPARTMENT OF JUSTICE

The Office of the Attorney General and Department of Administrative Justice submitted the following responses on House Resolutions under their purview on 29th March, 2018.

ACTS

2.12.1 Companies (Amendment) Act, No. 28 of 2018

The Act commenced on 16th August, 2017. The implementing agency is the Attorney General. The amendments to the Act include new definitions and other amendments.

Status: The Act is being implemented

2.12.2 The Legal Aid Act, No. 6 of 2016

The Act came into force on 10th May, 2016. The implementing agencies are the Attorney General and the National Legal Aid Service. The Act gives effect to Articles 19 (2), 48, 50 (2) (g) and (h) of the Constitution to facilitate access to justice and social justice; establish the National Legal Aid Service; and to provide for legal aid and for the funding of legal aid. It also established a fund to assist in legal aid.

Status: The Act is in operation

2.12.3 The Witness Protection (Amendment) Act, 2016

The commencement of the Act was on 13th January, 2017. The implementing agencies are the Attorney General and the Witness Protection Agency. The amendments to the Act amended the definitions of some terms, the application of the Act and provided for funds of the Agency.

Status: The Act is in operation.

2.12.4 The Companies Act, No. 17 of 2015

The Act came into force on 15th September, 2015, Section 1 on 6th November, 2015 and Parts 1-14, 23, 31, 32,38, 40, 42, 1st sch, 2nd sch and 6th sch on 15th June, 2016 as well as other parts. The implementing agency is the Attorney General. The Act was an overhaul of the old Companies Act, Cap 486 in order to facilitate commerce, industry and other socio-economic activities by enabling one or more natural persons to incorporate as entities with perpetual succession, with or without limited liability, and to provide for the regulation of those entities in the public interest, and in particular in the interest of their members and creditors.

Status: The Act has been implemented and all incorporations are being done under the new Act which made it more affordable and efficient to register and regulate businesses online.

2.12.5 The Insolvency Act, No 16 of 2015

The dates of commencement: Parts I, II, III, First Schedule and Second Schedule: 30th November, 2015 Parts II, VI, VII, VIII, IX, X, XI, XII, Third Schedule and Fourth Schedule: 18th January, 2016, Part XIII: 4th March, 2016, Section 720: 27th June, 2016. The implementing agency is the Attorney General. The Act was enacted simultaneously with the Companies Act to ration of a framework for the efficient and equitable administration of the estates of insolvent natural persons and unincorporated entities comprising natural persons,

and the assets of insolvent companies and other body corporates that maintains a fair balance between the interests of those persons, entities, companies and bodies and those of their creditors and also for insolvent natural persons and unincorporated entities.

Status: The Act has been operationalised.

2.12.6 The Marriage Act, No. 4 of 2014

The Act commenced on 20th May, 2014. The implementing agency is the Attorney General. It was enacted to amend and consolidate the various laws relating to marriage and divorce.

Status: The Act is operational and the five systems of marriages have been implemented. However, the judiciary has not enacted rules to guide the court process on the implementation of the Act and is still relying on the matrimonial rules as per the Matrimonial Act now repealed.

2.12.7 The Victim Protection Act, No. 17 of 2014

The Act commenced on 3rd October, 2014. The implementing agency is the Attorney General and the Victim Protection Agency. The law was passed to give effect to Article 50 (9) of the Constitution to: provide for the protection of victims of crime and abuse of power; provide them with better information and support services; provide for reparation and compensation to victims; and provide special protection for vulnerable victims.

Status: The Act is operational.

2.12.8 National Centre for International Arbitration, No. 26 of 2013

The Act commenced on 25th January, 2013. The implementing agencies are the Attorney General and Nairobi Centre for International Arbitration. It was enacted to provide for the establishment of a regional centre for international commercial arbitration, the Arbitral Court and for mechanisms for alternative dispute resolution.

Status: The Act is operational and a number of arbitration cases have already been dealt with. However, there is a challenge to the constitution of the Board of Directors as it currently has 12 members as opposed to 9 as recommended by the Mwongozo code.

2.12.9 Kenya Law Reform Commission, Act No. 19 of 2013

The Act came into force on 25th January, 2013. The implementing agencies are the Attorney General and the Kenya Law Reform Commission. The Act provides for the functions, powers, management and administration of the Kenya Law Reform Commission.

Status: The Act is operational but there is need to broaden the stakeholder's representation in the Commission to include a lecturer in a public university in Kenya and a member appointed by the Cabinet Secretary upon recommendation by the Council of Governors.

2.12.10 Leadership and Integrity Act, No. 19 of 2012

The Act commenced on 27th August, 2012. The implementing agencies are the Attorney General and the Ethics and Anti-Corruption Commission. This Act was passed to effectuate and establish procedures and mechanisms for the effective administration of Chapter Six of the Constitution.

Status: The Act is in force. Any appointment to a position in a public office requires clearance from the Ethics and Anti-Corruption Commission.

2.12.11 Kenya School of Law, Act No. 26 of 2012

The Act commenced on 15th January, 2013. The implementing agencies are the Attorney General and the Kenya School of Law. The Act was made to provide for the establishment, powers and functions of the Kenya School of Law.

Status: The Act is operational but there are a few challenges with regard to the regulations in that there is no clarity on the admission of foreigners who undertake their studies in Kenyan universities and the criteria for admission for students who have undertaken a different education system from 8-4-4.

2.12.12 The Mutual Legal Assistance Act, 2011

The Act came into force on 2nd December 2011. The implementing agency is the Attorney General. The Act is for mutual legal assistance in criminal matters to be given and received by Kenya in investigations, prosecutions, and judicial proceedings

Status: Following the enactment of the Act, the government has affirmed its commitment to the strengthening of legal and judicial systems. To this end, a memorandum of understanding between the Swiss Federal Council and the Republic of Kenya on mutual legal assistance was signed after the commencement of the Act.

2.12.13 Limited Liability Partnership, 2011

The Act commenced on 16th March, 2012. The implementing agencies are the Attorney General's office and the Registrar of Companies. This Act is operational and makes provisions for the establishment of limited liability partnerships.

Status: The Act is operational and several limited liability partnerships have already been registered

2.12.14 The Witness Protection (Amendment) Act, 2010

The Act came into force on 12th May, 2010. The implementing agencies are the Attorney General and the Witness protection Agency. The Agency was established vide the amendments to facilitate the establishment and maintenance of a witness protection programme, among other functions.

A Victims' compensation fund was also to be established under the Act.

Status: The Act is in force and operational.

2.13 MINISTRY OF FOREIGN AFFAIRS

The Ministry of Foreign Affairs submitted written responses to the following House Resolutions under their purview on 11th April, 2018.

ADOPTED COMMITTEE REPORT

2.13.1 Report on the continued occupation of Migingo and Ugingo islands by Ugandan Security Forces

The Report was adopted on 17th March, 2016.

Migingo island is a rock in Lake Victoria that measures 2000sq. metres or 0.49 acres that is situated in the vicinity of the international boundary hence the foreign policy dimension. The continuous occupation of the two islands by Uganda Security forces remains a challenge between the two nations.

Status: Talks to resolve the dispute have stalled awaiting the finalization of the joint boundary survey along the Lake Victoria. Uganda has disputed the island as being Kenyan territory since 2004 and since then several meetings have been held to try and amicably resolve the issue, in 2009, both in Kampala and Nairobi, July 2011 in Nairobi and March 2016 in Eldoret. A joint technical survey was established by the two countries to complete demarcation of the entire Lake Victoria border as required by the UN and AU before 2017. However, due to differences on technical issues, the emplacement of boundary pillars did not commence.

The Joint Technical Committee on the survey of the border completed its report in March, 2014 but the report is yet to be forwarded to the Joint Ministerial Committee for consideration and direction. Meanwhile, Uganda in June 2016 requested for permission to carry out aerial surveys along the Kenya/Uganda International Boundaries. Kenya in 2012 introduced a Chief in Migingo without consulting Uganda, who in turn deployed Uganda Military to the islands. This, however, goes against the EAC agreement not to militarise Lake Victoria which would lead to military competition and security dilemma. Under the circumstances, it's difficult to have joint operations between the Kenyan Police and the Uganda Military.

It's imperative that an urgent meeting be convened and Kenya-Uganda joint border commissioners meet to discuss the way forward on the border issue. The Uganda Military should be withdrawn from the islands but a joint police security management of Migingo from both Countries be deployed to the islands as per the Police Agreement on 23rd August in Kampala.

Issues touching on International boundaries including Migingo are at present being handled by Kenya International Boundaries Office (KIBO).

Challenges: They include: the Colonial historical mistake of geography which continuous to haunt the two countries to date; concerns of possible militarization of Lake Victoria by the deployment of Uganda military to the islands vs the Provincial Administration Chief of Kenya thus going against the EAC Agreement; and delays in convening meetings of the Joint

Ministerial Committee to deliberate on the Joint Technical Committee Report and the Joint Border Commissioners to discuss the way forward on the border issues.

ACTS

2.13.2 Treaty Making and Ratification Act, No. 45 of 2012

The Act commenced on 14th December, 2012. The implementing agencies are the Cabinet Secretary, Foreign Affairs and the Parliament. The law was made to give effect to the provisions of Article 2(6) of the Constitution and to provide the procedure for the making and ratification of treaties.

Status: The Ministry of Foreign Affairs (MFA) established the Office of the Registrar of Treaties in September 2015. The office has been involved in the compilation of H.E the President's annual Report to the National Assembly (NA) on Kenya's fulfilment of International obligations presented during the state of the Nation address and compilation of the CS, annual report to the NA on treaties ratified by Kenya and which may in any way bind Kenya to specific actions in compliance with Sec 5(1) of the Act.

In June 2017, MFA launched the Registrar of treaty Database and Web Link accessible through the Ministry's website. The Ministry is currently in the process of compiling a Treaties Directory booklet which will comprise a list of the treaties that Kenya has signed, ratified and acceded to. It is also implementing global best practices in treaty depository including digitising the Treaty Register which will be serialized, indexed and includes all bilateral agreements.

As part of the requirement to create public awareness, the CS has been notifying the public through print media of every treaty which may in any way bind to or to which Kenya is a party to e.g. newspaper notice on Tuesday, 20th March, 2018. Further, a concept paper has been presented to the PS which calls for the involvement of various stakeholders including Ministries. This will require substantial resources to implement. The Ministry also responds to institutions and the public on inquiries relating to treaties.

Challenges: The Ministry is facing varying challenges to operationalise the Act which include: a procedure for signing treaties is not included in the Act; the need for regulations to implement the Act which can be achieved through a working group with representatives from the executive and the legislature; no proposed mechanism for monitoring implementation of Kenya's International Obligations; and that the Office of the Registrar of Treaties is financially constrained. Resources are required to retrieve information from various Ministries and to obtain missing data for instance instruments of ratifications. Poor record management makes retrieving of information from various Ministries' depositories difficult and time-consuming.

3.0 COMMITTEE OBSERVATIONS

The Committee observed **THAT**

1. The various House resolutions require financing yet how, when and within which period this will be accomplished is rarely discussed. Financing gaps hamper implementation, for instance, for the Ministry of Water and Sanitation to provide clean drinking water in public institutions as per the House resolution, it requires Kshs 100 Billion of which it has only received Kshs. 30 Billion. There is also inadequate budgetary allocation to hire staff and develop structures to deliver the mandates as required to operationalise various Acts e.g. the Kenya Qualifications Act 2013; TVET Act, 2013
2. Legal actions have been instituted which prevents whole laws or sections of the laws from being implemented thus delaying implementation of the Acts e.g. Cases filed by environmentalist challenging the Environmental Impact Assessment report on SGR and its passing through the National Park which caused a delay. There was a two-year delay to the implementation of the Media Council, Complaints Communication and multimedia tribunal due to court cases.
3. Tabling regulations in Parliament to operationalise Acts takes an inordinately long time which impacts on implementation of Acts.
4. Treasury Memoranda which provide the implementation status of Reports by Public Accounts Committee; Public Investments Committee; Budget & Appropriation Committee and soon Special Funds Account Committee are availed to these Committees as per their mandate.
5. Some Acts require to be amended for proper implementation, for instance, Nairobi Centre for International Arbitration Act, KEPHIS Act, still require amendments in line with the Mwongozo code of Governance for State Corporations in terms of Board membership numbers; functions and mandate of Board Members; Term limits of Boards; inclusion/exclusion of Government officials in Board Membership e.g. the Attorney General etc. The repeal of some Acts has created a gap in law on who should implement the provisions of the Act, for instance, the implementing body is not in line with the functions as outlined in the Fourth Schedule e.g. the AFA Act repealed the Noxious suppression Act whose implementation is under the National Government, however, the AFA mandates, this as a function to the County Governments.
6. Partner States to Protocol and agreements have shown reluctance or precipitate delays in signing protocols or bilateral agreements. For instance, the Bilateral Air Agreement between Kenya and Niger which had been scheduled to be signed in December 2015 has yet to be actualised. The signing of the SGR protocol between the EAC governments took an inordinately long time which at some point called into question whether it would be signed. The protocol on the formation of EAC Monetary Union is yet to be fully implemented.
7. Lack of clarity on who is the implementing institution in some Acts, for instance, the implementer of the Publication of Electoral Opinion Poll Act, 2012 is unclear.

4.0 COMMITTEE RECOMMENDATIONS

The Committee after deliberations recommends **THAT**

1. Laws should be clear about who is the implementing institutions. As a law is being drafted and brought for consideration to Parliament and gaps or lacuna in law that may arise should as far as is practical be avoided by ensuring all stakeholders views are taken into considerations especially from the implementing MDAs.
2. Amendments required to be passed in order to ensure the implementation of certain existing laws should be presented to the House for consideration forthwith.
3. More effort needs to be put into public awareness and stakeholders' involvement in lawmaking and the ramification of laws.
4. The House should consider financial implications that accrue to implementation of its resolutions and allocate adequate funds to the implementing bodies.

Signed  Date 16/08/2018

Hon. Moitalel Ole Kenta, MP

Chairperson, Committee on Implementation



The National Assembly



12th Parliament–2nd Session-2018

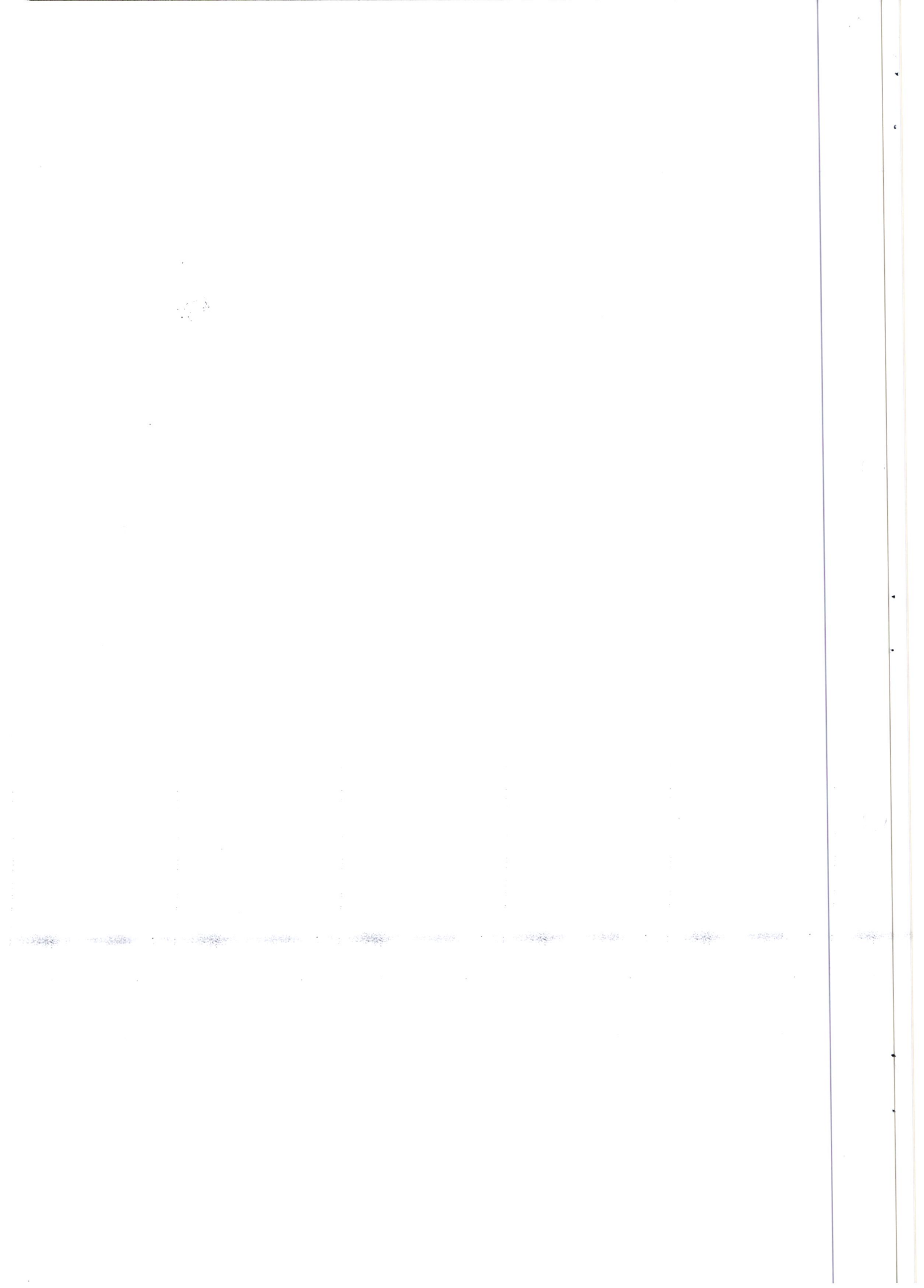
Committee on Implementation

AGENDA: Adoption of the following Reports: -

1. Report on implementation status of the Scrap Metal Act, 2015;
2. Report on implementation status of the Report by the Departmental Committee on Health on the allegations of sexual assault, breakdown of equipment, surgical mix-up and general operations of the Kenyatta National Hospital, the resolution on establishment of a National Health Referral Hospital in Mombasa County and the resolution to declare cancer a national disaster & establishment of a cancer fund to cater for cancer treatment and care;
3. Report on the Executive Seminar on Livestock Insurance Fund, Mombasa;
4. Report on inspection visit regarding land issues in Taita Taveta County;
5. Report on training on monitoring and evaluation of the Committee on Implementation in Mombasa;
6. Report on the 3rd Annual ICPAK Chapter Seminar, Johannesburg, South Africa;
7. Report on training on strengthening oversight using monitoring and evaluation tools at United Nations Institute on Training and Research (UNITAR), Geneva, Switzerland; and
8. The Report on submissions from stakeholders regarding implementation status of House Resolutions, Petitions, Adopted Committee Reports and Acts.

VENUE: 2nd Floor Boardroom, Protection House **DATE:** Thursday 9th August, 2018 at 10:00 a.m.

NO.	NAME	SIGNATURE
1.	The Hon. Moitalel Ole Kenta, MP - Chairperson	
2.	The Hon. Godfrey Osotsi, MP - Vice Chairperson	
3.	The Hon. Alois Musa Lentoimaga, MP	
4.	The Hon. Maj. (Rtd) John Waluke Koyi, MP	
5.	The Hon. Paul Simba Arati, MP	
6.	The Hon. (Dr.) James Kipkosgei Murgor, MP	
7.	The Hon. Onesmas Kimani Ngunjiri, MP	



8.	The Hon. Francis Munyua Waititu, MP	<i>F. M. Waititu</i>
9.	The Hon. Richard Onyonka, MP	<i>R. Onyonka</i>
10.	The Hon. Johnson Naicca, MP	<i>J. Naicca</i>
11.	The Hon. George Theuri, MP	<i>G. Theuri</i>
12.	The Hon. Joseph Wathigo Manje, MP	
13.	The Hon. (Dr.) Daniel Kamuren Tuitoek, MP	<i>D. Kamuren Tuitoek</i>
14.	The Hon. Hassan Oda Hulufu, MP	<i>H. Oda Hulufu</i>
15.	The Hon. Nelson Koech, MP	<i>N. Koech</i>
16.	The Hon. Generali Nixon Korir, MP	<i>G. Nixon Korir</i>
17.	The Hon. Owen Yaa Baya, MP	<i>O. Yaa Baya</i>
18.	The Hon. Paul Abuor, MP	<i>P. Abuor</i>
19.	The Hon. Silvanus Osoro, MP	<i>S. Osoro</i>
20.	The Hon. Michael Thoya Kingi, MP	
21.	The Hon. Jared Okelo, MP	
22.	The Hon. Joshua Mwalyo, MP	
23.	The Hon. Charles Ngusya Nguna, MP	



MINUTES OF THE 46TH SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON THURSDAY 9TH AUGUST, 2018, IN THE BOARDROOM ON 2ND FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDINGS AT 10.00 AM.

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. The Hon. Godfrey Osotsi, MP - **Vice Chairperson**
3. The Hon. Paul Simba Arati, MP
4. The Hon. Alois Musa Lentoimaga, MP
5. The Hon. George Theuri, MP
6. The Hon. (Dr.) James Kipkosgei Murgor, MP
7. The Hon. Maj. (Rtd) John Waluke Koyi, MP
8. The Hon. Francis Munyua Waititu, MP
9. The Hon. Joseph Wathigo Manje, MP
10. The Hon. Richard Onyonka, MP
11. The Hon. Onesmas Kimani Ngunjiri, MP
12. The Hon. Johnson Manya Naicca, MP
13. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
14. The Hon. Hassan Oda Hulufu, MP
15. The Hon. Nelson Koech, MP
16. The Hon. Silvanus Osoro, MP
17. The Hon. Generali Nixon Kiprotich Korir, MP
18. The Hon. Paul Odalo Mak'Ojuando Abuor, MP

APOLOGIES

1. The Hon. Michael Kingi, MP
2. The Hon. Jared Okelo, MP

ABSENT

1. The Hon. Charles Ngusya Nguna, MP
2. The Hon. Owen Yaa Baya, MP
3. The Hon. Joshua Mbithi Mwalyo, MP

IN-ATTENDANCE

THE NATIONAL ASSEMBLY

1. Mr. Abdirahman Gele Hassan - Clerk Assistant III
2. Mr. Moses Kariuki - Serjeant-at-arms

MIN. NO.COI/244/2018:

PRELIMINARIES

The Chairperson called the meeting to order at twenty-five minutes past ten o'clock followed by a word of prayer from the Hon. (Dr.) Daniel Kamuren Tuitoek, MP. Thereafter, the agenda of the day was adopted having been proposed and seconded by the Hon. (Dr.) Daniel Kamuren Tuitoek, MP, and the Hon. Godfrey Osotsi, MP, respectively, as follows: -

1. **Meeting with the acting Managing Director, Kenya Bureau of Standards to consider implementation status of the Report by the Departmental Committee on Agriculture and Livestock on inquiry into the crisis facing the sugar industry in Kenya;**
2. **Meeting with the acting CEO, Mumias Sugar Company to consider implementation status of the Report by the Departmental Committee on Agriculture and Livestock on inquiry into the crisis facing the sugar industry in Kenya;**
3. **Consideration of a report from the sub-committee on implementation of the National Budget;**
4. **Adoption of Reports; and**
5. **Consideration of pending business.**

MIN. NO.COI/245/2018:

CONFIRMATION OF MINUTES

The agenda was deferred.

MIN. NO.COI/246/2018:

**MEETING WITH THE ACTING MD,
KEBS**

The meeting did not take place since the acting Managing Director, Kenya Bureau of Standards has not appeared before the Committee as scheduled.

The Committee noted with concern that it had not received official communication from KEBS indicating that the acting Managing Director would not attend the meeting. Consequently, the Committee resolved to reschedule the said meeting to Thursday 16th August, 2018.

MIN. NO.COI/247/2018:

**MEETING WITH THE ACTING CEO,
MUMIAS SUGAR COMPANY**

The Chairperson informed the Committee that the acting CEO was not able to come with the management of Mumias Sugar Company as directed earlier. The acting CEO would write to the Committee to explain as to why he was not able to come with the management of the company.

MIN. NO.COI/248/2018:**REPORT ON SUB-COMMITTEE**

The sub-committee on implementation of National Budget informed the main Committee on its Terms of Reference and highlighted key issues that required implementation from the Budget and Appropriations Committee (BAC) Report on the Budget Estimates for the Financial Year 2018/2019.

The Committee was advised not to step on mandate of the BAC and Departmental Committees as it follows up on approved projects for implementation considering that departmental committees play the oversight roles.

MIN. NO.COI/249/2018:**ADOPTION OF REPORTS**

The Committee adopted the following Reports: -

1. The Report on Implementation status of the Scrap Metal Act, 2015;
2. The Report on Implementation status by the Departmental Committee on Health Report on the allegations of sexual assault, breakdown of equipment, surgical mix-up and general operations of the Kenyatta National Hospital, the Resolution on establishment of a national health referral hospital in Mombasa County and the Resolution to declare cancer a national disaster and establishment of a cancer fund to cater for cancer treatment and care;
3. The Report on the Executive Seminar on Livestock Insurance Fund, Mombasa;
4. The Report on inspection visit regarding land issues in Taita Taveta County.
5. The Report on training on monitoring and evaluation of the Committee on Implementation in Mombasa;
6. The Report on the 3rd Annual ICPAK Chapter Seminar, Johannesburg, South Africa;
7. The Report on training on strengthening oversight using monitoring and evaluation tools at United Nations Institute on Training and Research (UNITAR), Geneva, Switzerland; and
8. The Report on submissions from the stakeholders regarding implementation status of House Resolutions, Petitions, Adopted Committee and Acts.

MIN. NO.COI/250/2018:**ANY OTHER BUSINESS**

The following issues were raised: -

1. Consideration of submissions from stakeholders

The Committee noted the need to include the dates responses were received from various stakeholders and categorize the submissions into resolutions/motions, adopted committee reports, petitions and legislations passed by the House.

2. Study Visits/Proposed Training

- a) The Chairperson informed the meeting that the Committee received an invitation from the State University of New York in conjunction with the Centre for Parliamentary Studies & Training requesting for nomination of Members for training. The training is proposed to be undertaken from 14th to 23rd September, 2018 at Albany, New York.

The Committee had proposed the following seven (7) Members to undertake the training: -

- i. Hon. Godfrey Osotsi, MP – Vice Chairperson/Leader of the Delegation
 - ii. Hon. Onesmas Kimani Ngunjiri, MP
 - iii. Hon. Alois Musa Lentoimaga, MP
 - iv. Hon. Nixon Kiprotich Korir, MP
 - v. Hon. John Waluke Koyi, MP
 - vi. Hon. (Dr.) Daniel Kamuren Tuitoek, MP
 - vii. Hon. Jared Okelo, MP
- b) The Hon. Francis Waititu, MP, to replace the Hon. Jared Okelo, MP, for the proposed study visit to Romania.
 - c) The Hon. Paul Abuor, MP, to replace the Hon. Godfrey Osotsi, MP, Vice Chairperson, for the proposed study visit to Zambia.

MIN. NO.COI/251/2018:

ADJOURNMENT

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

Sign.......... Date...16/08/2018...

(Chairperson)

MINUTES OF THE NINTH SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON TUESDAY 27TH FEBRUARY, 2018 IN 4TH FLOOR BOADROOM, PROTECTION HOUSE, PARLIAMENT BUILDINGS, AT 11.00 AM.

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. The Hon. Godfrey Osotsi, MP - **Vice Chairperson**
3. The Hon. Alois Musa Lentoimaga, MP
4. The Hon. (Dr.) James Kipkosgei Murgor, MP
5. The Hon. Joseph Wathigo Manje, MP
6. The Hon. Paul Odalo Mak'Ojuando Abuor, MP
7. The Hon. Michael Thoyah Kingi, MP
8. The Hon. Jared Okello, MP
9. The Hon. Joshua Mbithi Mwalyo, MP
10. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
11. The Hon. Johnson Many Naicca, MP
12. The Hon. Silvanus Osoro, MP

APOLOGIES

1. The Hon. Francis Munyua Waititu, MP
2. The Hon. Charles Ngusya Nguna, MP
3. The Hon. Generali Nixon Kiprotich Korir, MP
4. The Hon. Owen Yaa Baya, MP

ABSENT

1. The Hon. Onesmas Kimani Ngunjiri, MP
2. The Hon. Maj. (Rtd) John Waluke Koyi, MP
3. The Hon. Richard Onyonka, MP
4. The Hon. Paul Simba Arati, MP
5. The Hon. Hassan Oda Hulufu, MP
6. The Hon. Nelson Koech, MP
7. The Hon. George Theuri, MP

IN-ATTENDANCE

NATIONAL ASSEMBLY

- | | | |
|-------------------------------|---|--|
| 1. Mr. Sheriffsam Mwendwa | - | Deputy Director. Litigation & Compliance |
| 2. Ms. Rose M. Wanjohi | - | Clerk Assistant II |
| 3. Mr. Abdirahman Gele Hassan | - | Clerk Assistant III |
| 4. Mrs. Doreen Karani | - | Legal Counsel II |
| 5. Mr. James Muguna | - | Research Officer III |
| 6. Mr. Moses Kariuki | - | Serjeant-at-arms |

MIN.NO.034/2018:

PRELIMINARIES

The Chairperson Hon. Moitalel Ole Kenta, MP called the meeting to order at twenty five minutes past eleven o'clock and said a word of prayer. The Agenda was adopted as proposed by the Hon. (Dr.) Daniel Kamuren Tuitoek, MP and seconded by the Hon. (Dr.) James Murgor, MP.

MIN. NO.035/2018:

CONFIRMATION OF MINUTES

The Minutes of the 8th Sitting held on Thursday 15th February, 2018 were confirmed as a true record of the proceedings having been proposed and seconded by the Hon. Michael Kingi, MP and the Hon. Joseph Manje, MP respectively.

MIN. NO.036/2018:

MATTERS ARISING

- (i) Under apologies, Hon. Silvanus Osoro, MP was erroneously recorded as absent yet he informed the meeting that he sent his apology through the Chairperson.
- (ii) *Under Min. No. 033/2018* on payment of Members' sitting allowances, the Committee was informed that the Secretariat forwarded the payment schedule for the Committee on 16th February, 2018. However, Members noted that the same was not reflected in their pay slip and resolved to send representatives to follow up on the matter.

MIN. NO. 037/2018:

CONSIDERATION OF PENDING BUSINESS

1. Resolution on Establishment of Disaster Management Authority.

The House urged the Government to speedily establish a Disaster preparedness Authority to handle issues of such magnitude and hasten the rehabilitation of the entire infrastructure destroyed by the floods.

Implementation status: The Cabinet Secretary in his submission on 21st February, 2017 stated that the draft National Policy on Disaster Risk Management document was presented before Cabinet for approval, who ruled that instead, the Policy should provide for the establishment of a revamped Department in the Ministry of Interior and Coordination of National Government which would perform the stated roles of NADIMA as envisaged in the draft policy.

Resolution: The Committee resolved to follow up on the status of the revamped Department in the Ministry of Interior.

2. Motion that completion of P3 forms is offered free of charge at all public healthcare facilities.

Implementation status: The Committee noted the submission from the Cabinet Secretary Interior that the Forms are normally issued by the Police for **free** but completion of the document is done at a government recognized hospital.

Resolution: The Committee, however, raised concern as to whether there are any charges attached to the Hospitals for the forms to be completed.

3. A petition for the compensation of Internally Displaced Persons (IDP's) in Molo and Enospukia.

The internally displaced persons were affected in 1992. The petitioners prayed that Parliament investigates the matter and helps them get suitable land for resettlement and secures their compensation.

Implementation Status: The Committee notes that the prayers of the Petitioners remain unimplemented as both the Cabinet Secretaries for Devolution and Interior have cited the provisions of the Prevention, Protection and Assistance to Internally Displaced Persons Act which limits the mandate of the NCIC to the post-2008 period; a position reaffirmed by the Attorney General. Therefore the affected persons are unable to access the Humanitarian Fund set up for the victims of the post-election violence of 2007/2008. The National Land Commission pursuant to Article 67 (3) of the Constitution and the provisions on historical injustices under the amended Section 15 of the National Land Commission Act is empowered to receive, admit and investigate all historical land injustices, complaints and recommend appropriate redress. It also defines the period from 15th June 1895 and 27th August, 2010 as the period during which such injustice is admissible. The Commission acknowledged that the matter was indeed within their purview and that *draft regulations on historical*

land injustice had been developed awaiting stakeholder input and eventual submission to Parliament for consideration.

Resolution: The Committee requested that they be appraised on whether the said draft regulations by the National Land Commission have been received and adopted in parliament.

4. A petition urging the Government to curb cattle rustling in Mukutani Division, Baringo County.

The petition, prays that Parliament:- (a) enacts a law on pastoralism and livestock farming; (b) amends the Firearms Act, Cap.114, to include disarmament, a procedure for disarmament, and to further devise other effective ways of addressing the issue of illicit arms; and, (c) resettles internally displaced persons occasioned by cattle rustling.

Implementation Status: The Committee, therefore, noted that the concerns of the Petitioners had been implemented.

Resolution: The Committee noted with concern that cattle rustling remains a menace in other areas. It resolved that the Cabinet Secretary, Interior and Coordination of National Government address the matter in the meeting scheduled for 13th March, 2018.

5. Report on the status of implementation of the privatization of all state-owned sugar factories.

On 27 November 2014, the Cabinet Secretary for the National Treasury appeared before the Committee of Finance, Planning and Trade requesting that Parliament approve the privatization Proposal for the public sector owned/controlled sugar companies. He submitted that the Privatization Proposal was approved by the Cabinet on 14 October, 2010 and brought to Parliament for approval pursuant to section 23(2) of the Privatization Act 2015. However, on 9 January 2013, Parliament resolved to postpone the privatization of the above sugar Companies until such a time when all the legislation affecting the agricultural sector was finalized, and the County governments are put in place. The legislative framework has since been enacted and the County governments put in place. The justification of the proposal was that the companies were faced with numerous challenges including transportation, obsolete machinery, low productivity and indebtedness.

Implementation Status: Not Implemented. However, several meetings most recently on the 9th January, 2018 had been convened between the Members of Parliament from sugar growing areas, the Ministry of Agriculture, Livestock & Fisheries, the National Treasury and the Privatization Commission to propose the way forward

Resolution: The Committee resolved to be appraised on the recommendations of the Report by the Departmental Committee on Agriculture regarding *the crisis facing the sugar industry in Kenya* as well as the status of the sugar regulations which were to be gazetted.

6. Resolution on Emergency Medical Care to Victims of Accidents and those in Emergency Medical Conditions. The Government to ensure that all health facilities provide emergency medical care to victims of accidents and those in emergency medical condition without denying them without denying them admission on grounds that they are not able to pay deposits.

Implementation Status: The Health Act, 2016 provides for the right of every person to emergency medical treatment and requires the operationalization of the Medical Fund.

Resolution: The Committee requested for the status of the operationalization of the Act and application of the Medical Fund.

MIN. NO. 038/2018:

A.O.B

1. The Committee resolved to reschedule the meeting with the Cabinet Secretary for Interior and Coordination of National Government regarding the implementation status of resolution on review of terms and conditions of Kenya Police Reservists in arid and semi-arid areas to 13th March, 2018.
2. The Committee further resolved to engage the CS during the said meeting on measures the Ministry has taken to deal with cattle rustling menace in the country.
3. The Committee resolved to write to the relevant MDAs for the status of implementation of legislations, resolutions of the House and Reports from Committees including on petitions before inviting them to a retreat for familiarization of Committee mandate and operations.

MIN. NO. 039/2018:

ADJOURNMENT

The meeting was adjourned at five minutes past one o'clock. The next meeting will be held on Thursday 1st March, 2018 at 11.00am.

Sign.....  Date..... 1/3/2018.....

(Chairperson)



② R. WANJOM
pls deal
FA 11/4/18



REPUBLIC OF KENYA

MINISTRY OF WATER AND SANITATION
OFFICE OF THE PRINCIPAL SECRETARY

① D/Comacc
pls

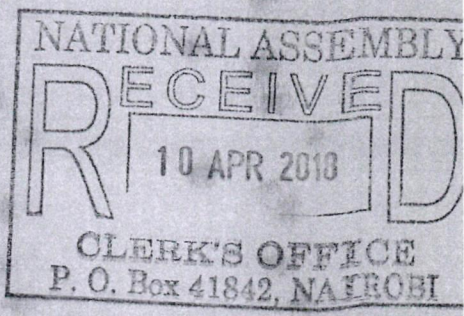
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Ref: WD/3/3/1366 (64)

5th April, 2018

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



Dear Clerk, NA

RE: INFORMATION ON IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS BY COMMITTEE ON IMPLEMENTATION

Reference is made to your letter ref. NA/COI/2018/(17), dated 19th March, 2018 on the above subject.

Forwarded please find the information on implementation status of House resolutions by Committee on Implementation.

YOURS

Sincerely

**JOSEPH W. IRUNGU, CBS
PRINCIPAL SECRETARY**



REPUBLIC OF KENYA
MINISTRY OF WATER AND SANITATION

REPORT ON IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS AND PETITIONS BY COMMITTEE OF IMPLEMENTATION

RESOLUTION	DATE ADOPTED	STATUS	CHALLENGES
Resolution on Provision of Clean and Safe Water to all Public Facilities	3 rd August, 2016	<p>Access to clean safe water is currently at 60% coverage nationally. The Ministry is implementing measures to increase the access to clean safe water to 80% by 2020. The following are among the measures;</p> <ul style="list-style-type: none">-Focussed approach to planning, prioritization and development of projects-Use of existing National and local level planning tools such as Master Plans, Strategies and Investment Plans to bring coherence in the water sector development and achieve faster results-Rapid Result Initiative (RRI) approach to development of water projects-Strengthening technical capacity in monitoring and evaluation of the	<p>To achieve universal access to water by the year 2030, we require to spend Ksh 1.764 trillion which translate to annual requirement of Ksh 100 billion. The sector however receives only Ksh30 billion from the Government annually leaving a financing gap of Ksh 70 billion. Therefore the Ministry has to continue working closely with National Treasury and key stakeholders in the Environment, Water and Natural Resources Sector Working group in the budget preparation and implementation to enhance the Ministry's development budget.</p>

<p>PETITIONS</p> <p>Petition on management of Ewaso Ng'iro river resources by Water Resources Management Authority (Currently Water Resources</p>	<p>19th October, 2016</p>	<p>sector activities and players to ensure quality compliance and value for money in supervision and oversighting construction of water development projects</p> <ul style="list-style-type: none"> -Collaborating with the County governments and incorporating CIDPs -Mobilizing resources from the development partners to bridge the funding gap and adopt innovative funding mechanisms like EPCF and PPP -Development of National Water policy to guide the sector and implementing the Water Act 2016 to strengthen sector institutions -Mapping out areas of the country currently not served and propose projects for implementation and master plans for every county 	
		<ul style="list-style-type: none"> -Water Resources Authority (WRA) has installed water monitoring networks at strategic points on the river to monitor water levels. The staff gauges installed are Q95, Q80 and Q50 and RGS 5BCo2 was rehabilitated. - WRA Upper Ewaso Ng'iro Sub Region collaborates with the Water 	<p>-Financial challenge remains a fundamental hindrance to the Authority's achievement of its mandate.</p>

Authority)

Resource User Associations (WRUAs) and water users to protect the interests of legal water users. Compliance is sought by sensitization and where appropriate, enforcement measures are used.

-Water users register with WRA by applying for, renewing or varying allocation Category B and C. Water Users Compliance has increased by 20%.

-WRA has invested in the development of a Permit Database to support the management of permit and water use data. In effect this means that allocated amounts and actual abstraction can be quickly compared through the functionality of the Permit Database.

-WRUA comments on all permit applications, renewals, transfers and amendments

-Restrictions on abstraction come into effect when water resource availability reduces. WRUA undertakes monitoring inspections during restriction periods.

ACT	ASSENT DATE	COMMENCEMENT DATE	IMPLEMENTING BODY	PROVISIONS	STATUS
The Hydrologists Registration Act, 2016	21 st June, 2017	7 th July, 2017	CS, Water Hydrologists Registration Board	The Act provides for registration of hydrologists	The CS, Water is currently constituting the Board Members of the Hydrologists Registration Board who will then commence the process of registration of hydrologists.
The Water Act, 2016	30 th Sept., 2016	21 st April, 2017	-CS, Water -Water Resources Authority -Water Works Development Agencies -Water Tribunal -Basin Water Resources Committees -Water Resources Users Associations -County Executive Committees (CECs), Water	It was enacted to provide for the regulation, management and development of water resources, water and sewerage services. The Act aligns the water sector to the constitutional objectives of devolution and establishes various institutions and identifies their roles in the management of water resources.	-CS, Water gazetted for commencement of the Act on 21 st April 2017. -Inter-Governmental Water Sector Coordination Framework was signed on 1 st March, 2018, The Ministry has prepared working draft of; -National Water Policy -National Water Resources Management Strategy -National Water Services Strategy -Water Harvesting and Storage Strategy -Water Sector Transition Plan -Subsidiary Legislation for establishing Water Works Development Agencies

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27/3/18

3. Rose Wanjohi
For Consensus by
the Committee
25/3/18



MINISTRY OF EDUCATION
State Department of Vocational and Technical Training
Office of the Principal Secretary

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NAIROBI

Ref. No.: MOEST/VTT/2/20 Vol.II/(10)

26th March, 2018

The Clerk of the National Assembly
P O Box 41842 - 00100
NAIROBI

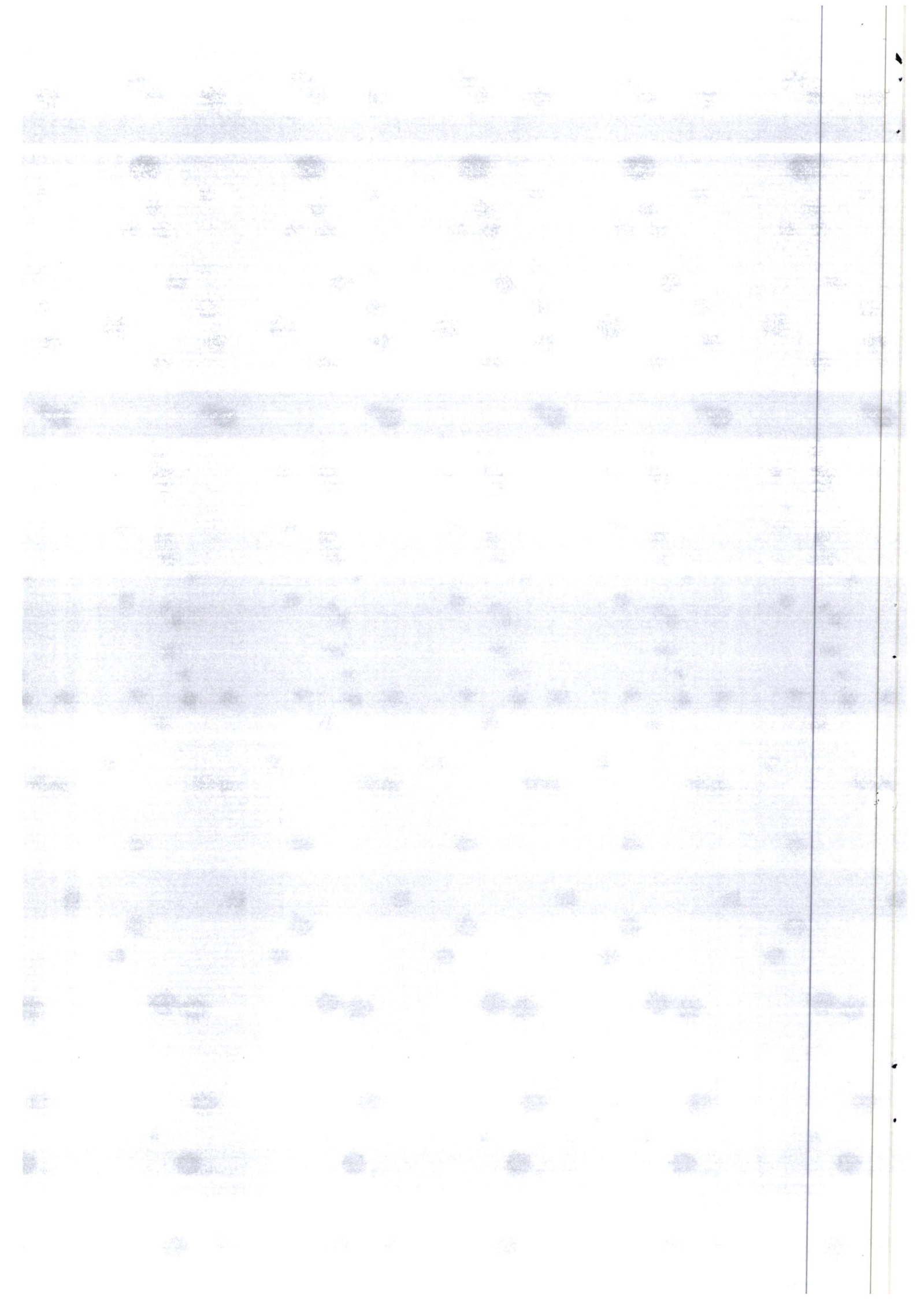
**REQUEST FOR INFORMATION ON IMPLEMENTATION STATUS OF HOUSE
RESOLUTIONS BY COMMITTEE ON IMPLEMENTATION**

Reference is made to your letter Ref.NA/COI/2018/(18) dated 19th March 2018 on the
above subject.

Attached please find the response from our State Department for your necessary action.

Kevit Desai, (PhD), MBS
PRINCIPAL SECRETARY

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27 MAR 2018
CLERK'S OFFICE



IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS BY COMMITTEE ON IMPLEMENTATION

	IMPLEMENTING BODY	IMPLEMENTATION STATUS
Kitale Technical Training Institute to be Wamalwa Kijana University of Science and Technology	Ministry of Education-State Department of Vocational and Technical Training	The Ministry has since upgraded the institution to Kitale National Polytechnic by upgrading its physical facilities and capacity building of trainers. This is one of the intermediate steps of converting the institution into a University of Science and Technology. The Ministry is still building capacity of the institution towards this end.

ACT	ASSENT DATE	COMMENCEMENT DATE	IMPLEMENTING BODY	PROVISIONS	IMPLEMENTATION STATUS
The Kenya Qualification Act No. 22 of 2013		14 th January, 2015	-CS Education -Kenya National Qualifications Authority	It was enacted to establish the Kenya National Qualifications Authority; to provide for the development of a Kenya Qualifications Framework	The Act is known as Kenya National Qualifications Framework Act No. 22 of 2014. The Act has been operationalized by the Ministry by constituting a Board and appointing a CEO on an acting capacity. The Kenya National Qualifications Authority is currently building its internal capacity and has commenced the development of the Kenya Qualifications Framework. The main challenge is the inadequate budgetary allocation to hire staff and develop the necessary structures for delivering on its mandate
Technical and Vocational Education and Training Act, No 29 of 2013	14 th January, 2013	24 th June, 2013: parts vii and ix 26 th May, 2014	-CS Education -Technical and Vocational Education and Training Authority	The law was enacted to provide for the establishment of a TVET system; to provide for governance and management of institutions offering	1. The TVET Authority has already been operationalized by putting in place a management board and recruiting a substantive Director General. The Authority is currently discharging its mandate as per the Act, Viz:-Registration and accreditation of

ACT	ASSENT DATE	COMMENCEMENT DATE	IMPLEMENTING BODY	PROVISIONS	IMPLEMENTATION STATUS
				<p>TVET; to provide for coordinated assessment, examination and certification; to institute a mechanism for promoting access and equity in training; to assure quality in TVET</p>	<p>TVET institutions, development of standards and quality</p> <p>The main challenge is the inadequate budgetary allocation to hire staff, develop the necessary structures for delivering on its mandate</p> <p>2. The TVET-Curriculum Development, Assessment and certification council (TVET-CDACC) has been operationalized with the hiring of a substantive CEO and a Council. The Council has commenced the development of the Competency Based Education and Training Curricula (CBET) for TVET</p> <p>The main challenge is the inadequate budgetary allocation to hire staff, develop the necessary structures for delivering on its mandate</p> <p>3. TVET funding Board</p> <p>The Ministry is in the process of establishing the Board and hiring a substantive CEO for the Board.</p> <p>The main challenge is the inadequate budgetary allocation to hire staff, develop the necessary structures for delivering its mandate.</p>

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26/08/18



**MINISTRY OF LABOUR & SOCIAL PROTECTION
STATE DEPARTMENT FOR SOCIAL PROTECTION, PENSIONS AND
SENIOR CITIZENS AFFAIRS**

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When replying, please quote
Ref. No: **MEACL&SP/SP/37/2/(21)**

Social Security House, Bishops Road
P.O. Box 40326/16936 - 00100
Nairobi KENYA

Date: **24th April, 2018**

The Clerk Of The National Assembly
Parliament Buildings
NAIROBI

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

Reference is made to your letter No. NA/COI/2018/(20) of 19th March, 2018 on the above subject.

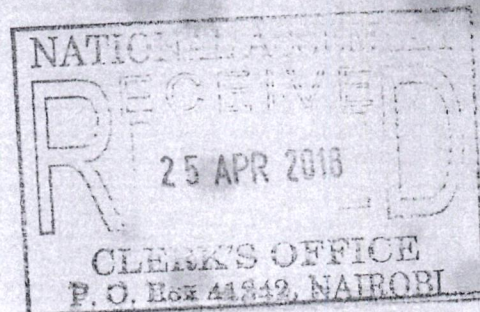
Forwarded herewith please find the status updates on:-

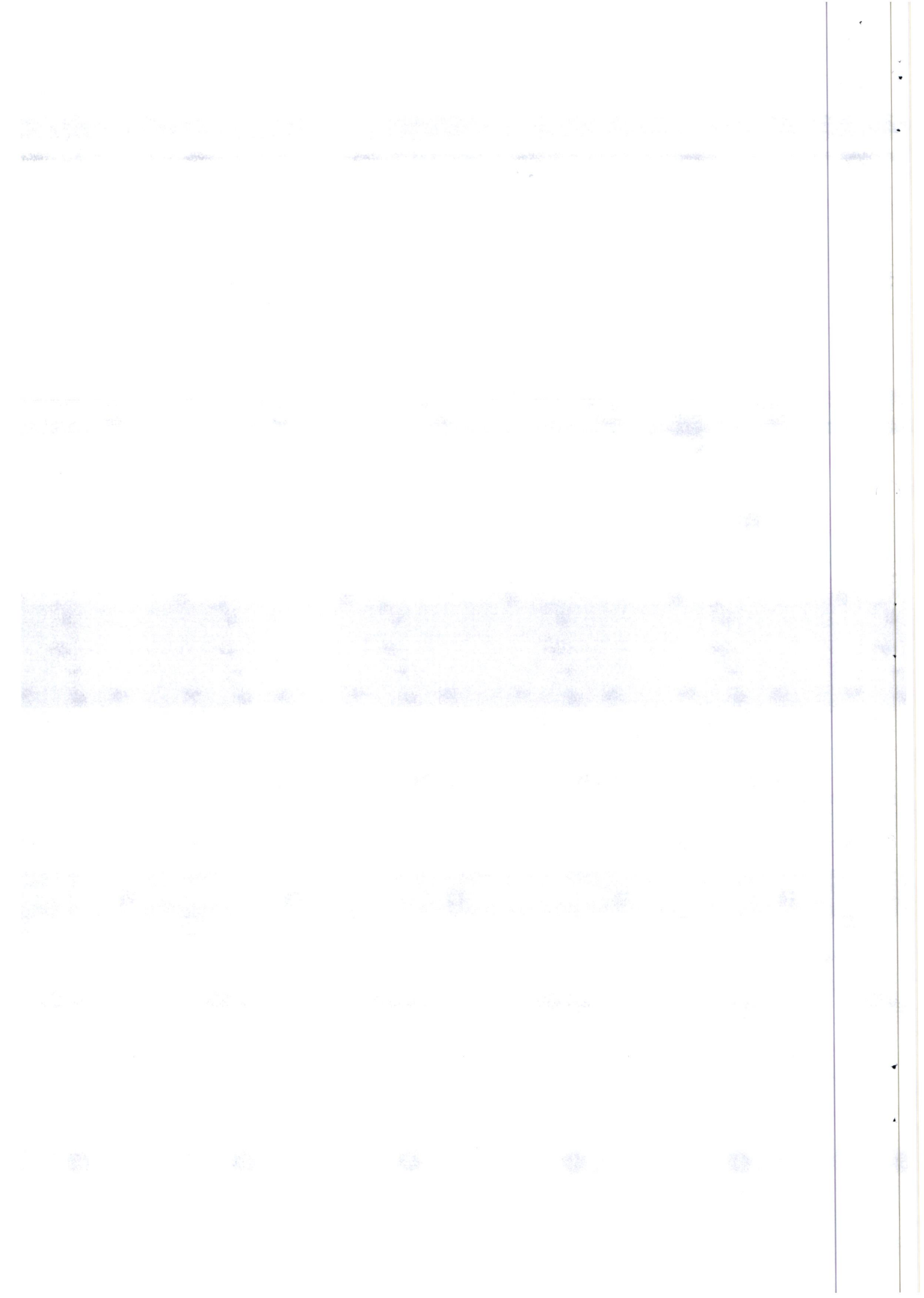
1. Sessional Paper No. 6 of 2014 on National Children Policy (**ANNEX I**)
2. Sessional Paper No. 2 of 2014 on National Social Protection Policy. (**ANNEX II**)

Soft copies of the same have been sent via your official email address.

E. K. Song'ony
FOR: PRINCIPAL SECRETARY

Encl:





ANNEX I



MINISTRY OF LABOUR & SOCIAL PROTECTION STATE DEPARTMENT FOR SOCIAL PROTECTION, PENSIONS AND SENIOR CITIZENS AFFAIRS

IMPLEMENTAION STATUS OF THE SESSIONAL PAPER NO. 6 OF 2014 ON NATIONAL CHILDREN POLICY

1. This policy was adopted on 11th October 2016. The policy interventions are under the four pillars, namely: child participation, child development, child protection and child survival.

Under Child participation:-

- Children are involved in policy making process like during regional consultative fora and National Validation of the Children Bill 2018 they were invited in workshops to discuss issues which were included in the draft bill. This being part of the basic principles of Child Participation.
 - During the celebration of the Day of the African Child children are fully involved in all activities in the forty seven counties (47) i.e. their elected President and Deputy, County Child Governors take centre stage in addressing the public.
 - They have County Children Assemblies whereby they meet to discuss matters touching their wellbeing.
2. Under child development, child protection and child survival:
 - Presidential Bursary: the 2012 Kenya Social Protection Sector Review, approximately 3.6 million children in Kenya are orphans or otherwise classified as vulnerable. The government's commitment to address the plight of this vulnerable category of society was through Presidential Bursary whereby students in secondary schools are identified and fees paid directly to their respective schools accounts. Thus Twenty Seven Thousand four Hundred and eight students (27,408) benefited by December 2017.
 - Whist, the Orphans and Vulnerable Children Cash Transfer (OVCCT) is catering for Three Hundred and Fifty Three Thousand House Holds

(353,000) hosting on average four children in each household i.e. around One million, Four Hundred and twelve thousand children. This was about Four Hundred Million Kenya Shillings (Kshs. 400Million) paid Two Thousand shillings monthly to guarantee their social and economic needs.

- Universal Health Care for all children is free.
 - Free and affordable basic education to enhance holistic growth and development and participation in the development process at all levels.
3. Challenges faced by the Ministry in the implementation of this policy:
- An increasing number of vulnerable children occasioned by societal poverty, drought, and deaths of parents from HIV/AIDS and other causes has significant implications on national development and infrastructures.
 - Inadequate budgetary and other resources allocation has far-reaching impact to facilitate programmes targeted for children.



**MINISTRY OF LABOUR & SOCIAL PROTECTION
STATE DEPARTMENT FOR SOCIAL PROTECTION, PENSIONS AND SENIOR CITIZENS AFFAIRS**

STATUS REPORT ON THE IMPLEMENTATION OF THE SESSIONAL PAPER NO. 2 OF 2014 ON THE NATIONAL SOCIAL PROTECTION POLICY

POLICY MEASURES

o	Pillar	Policy Measures	Current Status
1.	Social Assistance	Establish institutions and provide resources needed to provide social assistance to the various target populations.	<ul style="list-style-type: none"> • Creation of the state department for social protection • Creation of Social Assistance Unit for the implementation of the consolidated cash transfers
2.		Ensure that the design and implementation of all programmes and development approaches are coordinated, including those within social assistance and between social security and health insurance.	<ul style="list-style-type: none"> • County mapping, coordination and capacity assessment report • Development of MOUs between the Ministry and Council of Governors (county governments)
3.		Strengthen and scale-up existing social assistance programmes while widening their geographical and demographic coverage.	<ul style="list-style-type: none"> • Expansion of cash transfer programmes with current coverage of about 1.3 million beneficiaries • Design and roll out of <i>Inua Jamii</i> 70 years and above cash transfer to older persons with an approximate coverage of about 523,000 beneficiaries
4.		Put in place institutional frameworks for coordinating social assistance to ensure consistent and adequate levels of support	<ul style="list-style-type: none"> • Operationalization of the National Social Protection Steering Committee (NSPSC)

No	Pillar	Policy Measures	Current Status
5.		Conduct periodic reviews of instruments and strategies to reach the poor based on standards agreed upon by stakeholders such as ease of implementation, effectiveness in targeting, cost-effectiveness, and the impact on the welfare and livelihoods of the beneficiaries.	<ul style="list-style-type: none"> • Creation of Social Assistance Unit (SAU) for Consolidated Cash Transfer Programmes • Conducting of Programme Implementation and Beneficiary Satisfaction Survey (PIBS) 1 & 2 Conducting Social Protection Sector Review, 2017 • Review of the National Social Protection Policy (NSPP, 2011)
6.		Conduct research to inform the implementation of social assistance interventions on areas such as targeting, the adequacy of the transfer value, delivery mechanisms, social rights, and community/beneficiary participation.	<ul style="list-style-type: none"> • Transfer Values in Kenya's National Social Security System • Child vulnerability and social protection in Kenya • Assessment of the geographical and community-based targeting of WFP's Cash and Food for Assets programme in Kenya
7.		Determine the appropriate graduation and exit strategies for the different interventions while helping stakeholders to develop standards to be used to assess the appropriateness of these strategies.	<ul style="list-style-type: none"> • Design of the Kenya Social and Economic Inclusion Project (KESIEP) with a graduation and complementarily component for increased access to social and economic inclusion interventions
8.	Social Security	Strengthen the existing social security regime and establish comprehensive social security arrangements that will extend legal coverage to all workers, whether in the formal or informal sectors, and their dependants.	<ul style="list-style-type: none"> • Enactment of the National Social Security Bill 2013 • Regulations on the coverage of the informal already in place
9.		Undertake research into and consider viable options for extending coverage to those who work informally and their dependants in consultation with key stakeholders, including those in affected communities and sectors.	<ul style="list-style-type: none"> • NSSF has launched the process of hiring a consultant to carrying mapping of the informal in the major urban centers of Kenya with a view to covering them
10.		Devise ways to make membership of social security schemes compulsory, and enforce and monitor the compliance of those who are able to contribute.	<ul style="list-style-type: none"> • NSSF has strengthened its enforcement and compliance mechanisms and has initiated partnerships with key stakeholders to improve on compliance

o	Pillar	Policy Measures	Current Status
11.	Review and adjust governance and management arrangements to ensure that governance is representative of the interests of the Government, employers, and workers and that the management of the schemes is streamlined, cost-effective, and transparent	<ul style="list-style-type: none"> Implementation of the Governance and accountability sections of the NSSF Act Bill for the creation of retirement scheme for County staff has been submitted to Parliament 	<ul style="list-style-type: none"> NSSF has installed, a Social Security Pension Administration System (SSPAS) and ERS. This will enhance compliance, and effective payment of benefits,
12.	Introduce more coordination and integration between programmes as well as modernization where appropriate to ensure the efficient collection of contributions, widen geographic access to quality service delivery, and ensure the effectiveness of benefit payments.	<ul style="list-style-type: none"> NSSF has introduced biometric system of registration and they are in the process of converting all member records into their electronic system 	<ul style="list-style-type: none"> Plans are underway to review Retirement Benefits Authority Act A draft Pensions Policy has been prepared
13.	Develop synergies within social security and across the social protection spectrum, by harmonizing benefits where possible and by coordinating and integrating a system of providing multi-pillar retirement schemes, supported by integrated coordinated information systems and reliable contributor and beneficiary databases.	<ul style="list-style-type: none"> NSSF which was before the 2013 Act a Provident Fund is now a Pension Scheme 	<ul style="list-style-type: none"> The NSSF Act No. 45 has reviewed contributions and under the new Act members will pay to 12%. Sec. 50 of the No.45 NSSF Act of 2013, caps administrative costs at 2%
14.	Support effective standard-setting by independent regulators with an extensive regulatory and supervisory mandate.	<ul style="list-style-type: none"> NSSF which was before the 2013 Act a Provident Fund is now a Pension Scheme 	<ul style="list-style-type: none"> The NSSF Act No. 45 has reviewed contributions and under the new Act members will pay to 12%. Sec. 50 of the No.45 NSSF Act of 2013, caps administrative costs at 2%
15.	Promote the adoption of legislation, policies, and implementing measures aimed at replacing, where appropriate, lump-sum benefit payments with regular payments indexed to the cost of living.	<ul style="list-style-type: none"> NSSF which was before the 2013 Act a Provident Fund is now a Pension Scheme 	<ul style="list-style-type: none"> The NSSF Act No. 45 has reviewed contributions and under the new Act members will pay to 12%. Sec. 50 of the No.45 NSSF Act of 2013, caps administrative costs at 2%
16.	Increase the adequacy of benefits by setting target replacement rates close to minimum social security standards, raising contributions to appropriate levels (having reviewed rates and contributory ceilings), curbing excessive administrative costs, incorporating (where appropriate) the preservation and portability	<ul style="list-style-type: none"> NSSF which was before the 2013 Act a Provident Fund is now a Pension Scheme 	<ul style="list-style-type: none"> The NSSF Act No. 45 has reviewed contributions and under the new Act members will pay to 12%. Sec. 50 of the No.45 NSSF Act of 2013, caps administrative costs at 2%

No	Pillar	Policy Measures	Current Status
		of benefits, and ensuring that adequate returns on investments are passed on to contributors and beneficiaries.	
17.		Extend the range of social security benefits to cover such key areas of need including unemployment and comprehensive pre-natal and post-natal care for mothers and babies.	<ul style="list-style-type: none"> • Sec. 34 of the NSSF Act No. 45 provides for the Board of NSSF to introduce new benefits.
18.		Align social security schemes, laws, arrangements, and interventions with the Bill of Rights in the Constitution and, in so doing, ensure that any discrimination or unequal treatment is eliminated.	<ul style="list-style-type: none"> • The NSSF Act No. 45 Of 2013 is fully aligned to the Constitutions, International Standards and Kenya Vision 2030
19.		Determine the most appropriate role to be played by occupational schemes in extending social security coverage to those who can contribute to their own post-retirement welfare and security and risk mitigation.	<ul style="list-style-type: none"> • Retirement Benefits Authority currently carrying out a study
20.		Include mechanisms for rehabilitating and re-integrating unemployed workers into the job market in the design and implementation of social security schemes to avoid having to fund any unnecessary unemployment benefits.	<ul style="list-style-type: none"> • The National Employment Authority (NEA) in consultation with other stakeholders – Association of employers, and trade unions to reduce impact of job loss
21.	Health Insurance	Re-establish the NHIF as a fully-fledged comprehensive national health insurance scheme, which covers all Kenyans, and to which those who can afford it must contribute.	<ul style="list-style-type: none"> • Revised premiums through amendment of the NHIF Act to expand benefit package • Reviewed benefit package to offer more comprehensive benefits • NHIF has extended coverage to the formal sector, informal sector • NHIF also provides health insurance to the poor in Kenya through health insurance subsidies

o	Pillar	Policy Measures	Current Status
22.		Establish a framework for enabling those who are not able to contribute to access a core package of essential health services, including maternity care and treatment for HIV/AIDS and related diseases.	<ul style="list-style-type: none"> The current benefit package offers access to management of chronic ailments including HIV/AIDS and maternity services for all Kenyans The services are offered in all NHIF accredited facilities and the level of care depends on the level of facility e.g. dispensaries and health centers offer mostly primary healthcare
23.		Extend the range of benefits provided by the NHIF, including outpatient care, specialized treatment and quality of care assurance, sickness benefits, and mandated post-retirement health coverage.	<ul style="list-style-type: none"> Currently, the NHIF benefit package has been expanded to include outpatient, surgical packages, management of chronic ailments such as cancers, maternity services NHIF has a contract with Kenya Association of Retired Officers through which all retired public and civil servants continue to access their Civil Servants Scheme Benefits
24.		Ensure that benefits made available by the NHIF and other medical schemes are adequate and are geographically and demographically accessible.	<ul style="list-style-type: none"> NHIF has over 5,000 healthcare providers accredited to its network. This has greatly increased both geographic and demographic access to quality healthcare
25.		Streamline institutions by removing all duplication and inconsistencies between healthcare providers.	<ul style="list-style-type: none"> NHIF is a strategic purchaser of healthcare services for its members The role of streamlining institutions is the mandate of the Ministry of Health
26.		Establish a health insurance regulator to improve standard setting, regulation, and supervision in the health sector.	<ul style="list-style-type: none"> NHIF is regulated by the NHIF Act Insurance Regulatory Authority (IRA) regulates the private health medical insurers and other private insurance companies The Ministry of Health would lead the discussions and offer

No	Pillar	Policy Measures	Current Status
27.		<p>Provide a supportive framework for private sector participation in the health sector and determine the exact role, place, and function of medical benefit (insurance) schemes in relation to the NHIF and Government interventions in healthcare.</p>	<p>policy direction on setting up a health insurance regulator</p> <ul style="list-style-type: none"> • The market structure allows for private sector to operate in a competitive environment to offer complementary insurance and provide choice to Kenyans in addition to the NHIF cover • A robust National Hospital Insurance will stimulate competition amongst private health insurers. The positive impact of this will be fall in private health insurance premiums and value for money for the contributors. • It is expected that employers would in the long run prefer to contribute to the Social Health Insurance Scheme.

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

When replying please quote Ref

MOT&I/C/ADM/034/7/1 VOL.X(51)

14th May, 2018

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

Dear Sir

**INFORMATION ON THE IMPLEMENTATION STATUS OF HOUSE
RESOLUTIONS BY THE COMMITTEE ON IMPLEMENTATION**

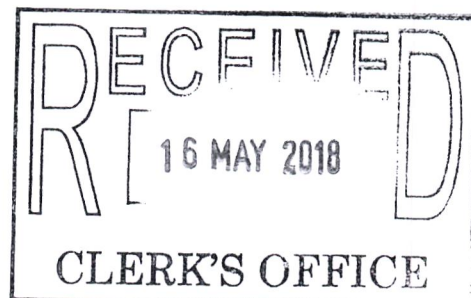
Reference is made to your letter NA/COI/2018/ (17) dated 19th march, 2018 on the above subject.

Attached is the copy of the status of information requested by the Committee for your further action.

Yours sincerely

**Prof. Arch. Paul M. Maringa (PhD), CBS, Corp. Arch, Maak, Mkip
PRINCIPAL SECRETARY**

Attach.





1) The Civil Aviation Act, 2013

The Act came into force on 25th January, 2013 and repealed the Civil Aviation Act Cap 395. The 2013 Act provides for the control, regulation and orderly development of civil aviation in Kenya. A total of thirteen (13) Regulations have been promulgated under this Act. The Act establishes the Civil Aviation Authority as well as the National Civil Aviation Administration Tribunal that acts as an appellate body from KCAA decisions.

2) The Civil Aviation Amendment Act, 2016

The Amendment Act came into force on 4th October, 2016 and amended the Civil Aviation Act, 2013. Some of the amendments introduced were changes to KCAA Board Composition by removing representation from the ministry of Tourism, provisions on conflict of interest, dealing with aircrafts in distress and establishment of a KCAA Fund.

3) International Interest in Aircraft Equipment Act

The Act was assented to on 14th January, 2013 and gives effect to the provisions of the Convention on International Interests in Mobile Equipment and the Protocol on the Convention to International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment. The Act gives jurisdiction to the High Court to handle any matters under the Convention and Protocol.

4) Signing of Bilateral Air Services Agreement between Kenya/Ghana and Kenya/Niger

The Kenya/Ghana Bilateral Air Services Agreement was signed on 13th December, 2014 in Nairobi during a State Visit and the Agreement is under implementation.

The signing of the Kenya – Niger Bilateral Air Services Agreement was originally scheduled for 2nd December 2015, however, due to unavoidable circumstances it did not take place.

5) Progress made on the Implementation of the SGR Protocol

The SGR Protocol was executed by the Republic of Kenya, Republic of Rwanda, Republic of South Sudan and the Republic of Uganda on 14th May, 2014. Kenya's Parliament adopted the protocol on 15th June, 2015. The protocol was referred to Foreign affairs for action and onward transmission to Attorney General for registration with Registrar of Treaties and Protocols.

Overall Objective: The protocol requires that Partner states to jointly develop and operate a modern, fast, reliable, efficient and high capacity railway transport system as a seamless single railway operation among the Parties with the specific objectives of the SGR project as follows:

	Specific Objective Protocol Provisions	Action	Progress status
1.	Expedite economic growth and development of the Parties by reducing the cost of doing business and increase the region's competitiveness.	The Mombasa-Kampala section to be run by the same operator	CRBC has been appointed as the operator for the Mombasa - Nairobi SGR,
2.	Enhance spatial development along the SGR corridor.	Partner states to institute policies to support the railway.	GoK is developing policies that will attract cargo from road to rail.
3.	Enhance efficient and cost effective movement of freight and passengers in the region to accelerate trade and services and	Kenya and Uganda to institute policies for governments to own and maintain infrastructure, locomotives, and rolling stock to guarantee the safety of operations and adequate investment and maintenance.	<p>Policies have been developed and were approved by the Ministerial Committee at the 8th Summit.</p> <p>A monitoring and evaluation Tool on the policies to be developed</p> <p>Kenya has completed a study on the review of its policy, legal and institutional framework governing the railway subsector. A draft bill "Railways Act" has been formulated and awaits to be forwarded to the AG for tabling in Parliament.</p>
4.	Sustain development of other transport infrastructure and adopt new technologies to enhance economic development.	Proposed development of the Industrial Parks and rail logistics city	<p>The development of the Industrial Parks at Dongo Kundu and Naivasha is in the initial stages</p> <p>Development of a rail logistics city in Athi River is in the initial stages. A cabinet Memo has been prepared.</p>

6) STATUS REPORT ON THE DEVELOPMENT OF MOMBASA – NAIROBI AND NAIROBI NAIVASHA STANDARD GAUGE RAILWAY

The Public Investment Committee Special Report on the Procurement and Financing of construction of the Standard Gauge Railway Mombasa - Nairobi was presented and cleared by Parliament.

- **Mombasa – Nairobi SGR Phase 1** - The project was launched by His Excellency the President on 28th November, 2013 at the proposed starting point at Changamwe Marshalling Yard. The launch recognized the project as the anchor phase for the proposed Mombasa – Kampala (Uganda) – Kigali (Rwanda) – Juba (South Sudan) standard gauge railway, whose support in the region is enshrined in the Tripartite Agreement signed between the Governments of Kenya, Uganda and Rwanda. The four countries are now discussing a draft Protocol to operationalize the Tripartite Agreement.
 - The Construction of the line was completed in December 2016 and was followed by test runs between January and May 2017.
 - CRBC was appointed as the Operator of the Mombasa - Nairobi SGR for renewable term of five (5) years.
 - The launch of SGR operations took place on 30th May 2017 with the flagging off of the cargo train by H.E at Port Reiz. The train arrived on 31st May 2017 and was received on 1st June 2017 and all the 71 containers offloaded. The passenger service was launched on 31st May 2017.

- **Expansion and upgrade of the Inland Container Depot (ICD) Nairobi** - The ICD was upgraded and expanded as SGR operations were expected to increase freight volumes handled at the ICD, Nairobi to the projected 405,000 TEUs per annum from the current 180,000 TEUs. The expanded ICD was launched on 16th December 2017. Madaraka Express Freight operations commenced in January 2018.

- **Nairobi - Naivasha SGR Phase 2A** - The Nairobi - Naivasha SGR project is part of the proposed Mombasa- Nairobi-Malaba Standard Gauge Railway Project. The project dubbed SGR Phase 2A is an extension of the Mombasa-Nairobi SGR Project Phase 1 that was implemented by China Roads and Bridges Corporation (CRBC). The

overall length of the Nairobi-Naivasha SGR is 120.49 kilometers under the crossing city scheme with 11 proposed stations.

- China Communications Construction Company (CCCC) is the EPC contractor of the project following signing of a Commercial Contract with Kenya Railways on 19th September 2015. Commercial contract price USD 1.483 Billion financed by GoK budgetary allocations and a loan to GoK from Exim Bank of China
- The duration of the contract is 42 months but the Contractor has undertaken to complete within 36 months.
- The overall progress of the project as at 28th February 2018 was 19.69%.
- Environmental Impact Assessment (EIA) licence for the entire route was issued by NEMA on 13th December 2016. A Relocation Action Plan (RAP) has been undertaken and a draft final report submitted to KR.
- KR is taking the lead in identifying the locations for the industrial parks and the land required.

The challenges that have faced the project include:

- a) Cases filed at the National Environmental Tribunal challenging the EIA report and the line passing through the Nairobi National Park (NNP) (National Environmental Tribunal No. 200 of 2017). The hearing of the case took place between 26th and 28th of March 2018.
- b) Conservationists challenging the decision to have the line pass through the NNP. The KWS Board approved the line passing through the park and the Contractor was allowed to enter and start the works in February 2018.
- c) Security has also been a challenge with the local communities attacking the contractor's camps and workers from other communities.

7) Resolution for provision of service lanes

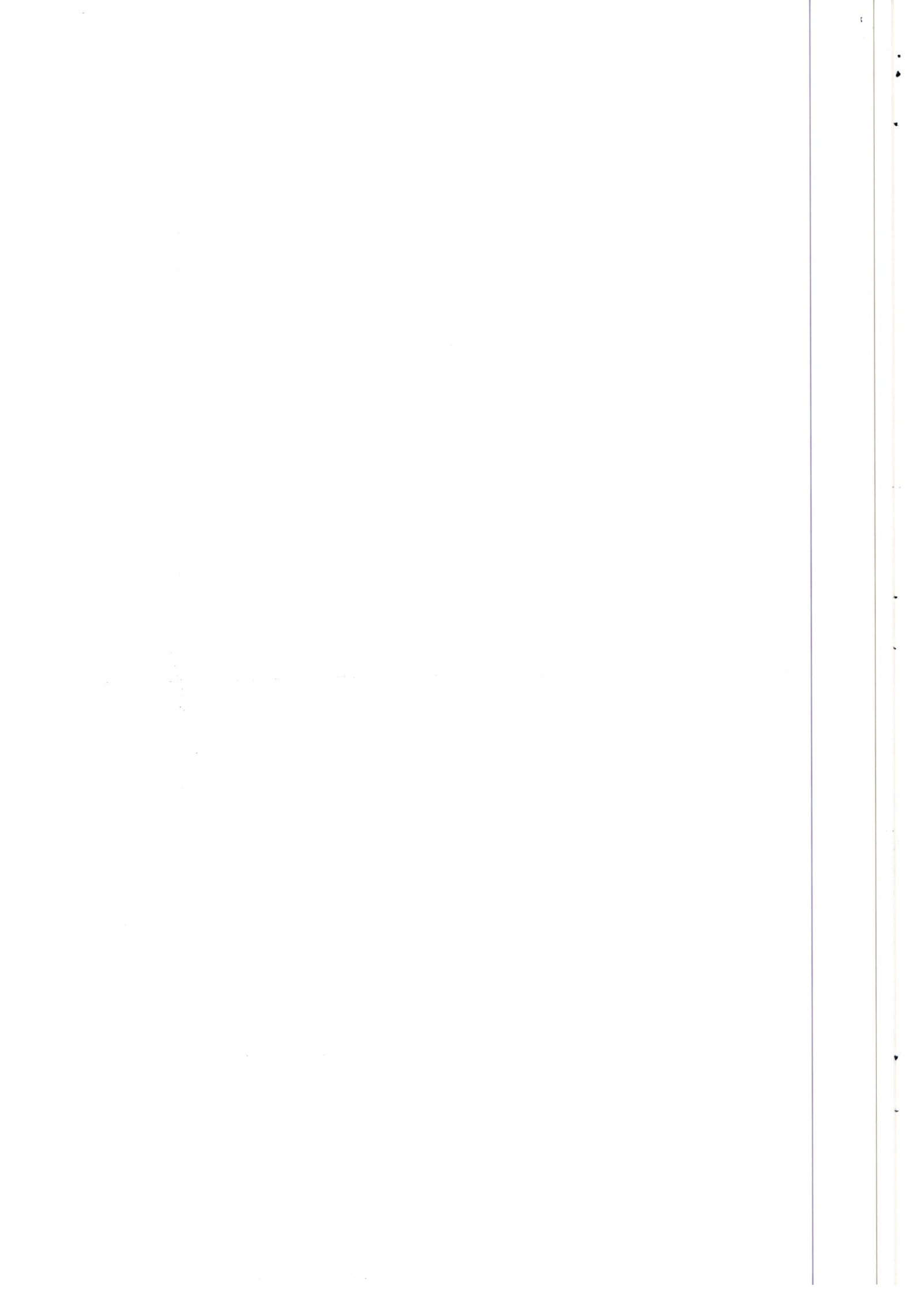
The Ministry noted the Resolution for provision of service lanes on urban roads and highways. Instructions have been issued to the Road Authorities to incorporate them in all future road designs and construction.

8) Resolution on the National Transport Safety Authority

The Ministry has implemented the National Transport and Safety Authority Act No. 33 of 2012. It established the Authority which is functional as a Government Lead Agency on matters related to Road Safety.

9) Resolution on Sessional Paper No. 3 of 2017 on Government guarantee in support of restructuring Kenya Airways

The Government guarantee was implemented by the National Treasury in support of restructuring of Kenya Airways.



REPUBLIC OF KENYA



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

Telegraphic address: "Personnel", Nairobi
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Fax: 243620
When Replying Please quote

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NAIROBI

① D/Committees

Ref: No. DPSM/HRM/14/2/2/Vol III

10th April, 2018

The Clerk of the National Assembly
Clerk's Chambers
Parliament Buildings
P.O. Box 41842-00100
NAIROBI

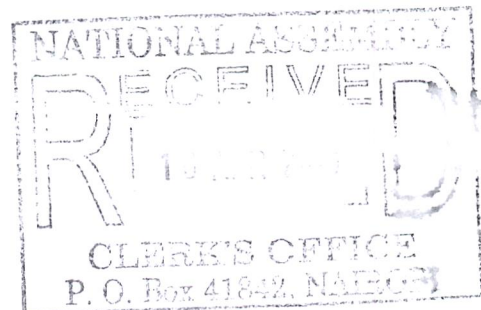
② R. WANJAU
Pls deep
FA u/4/18

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

This has reference to your letter Ref. No. NA/COI/2018/(20) dated 19th March, 2018 on the above subject.

Attached herewith, please find submissions on the House resolutions indicated in your letter under reference.

Lillian Mbogo-Omollo
f Lillian Mbogo-Omollo, CBS
PRINCIPAL SECRETARY





ACT	ASSENT DATE	COMMENCEMENT DATE	IMPLEMENTING BODY	PROVISIONS
Public Service Commission Act, No. 10 of 2017.	7 th April 2017	26 th April 2017	Public service commission	<p>The status of implementation of the Public Service Commission Act, 2017 is as follows:</p> <p>Upon assent and publication of the Public Service Commission Act, the Commission immediately adopted and ensured that all the provisions are adhered to in the daily operations. A Circular was also issued to all State Agencies to implement the provisions of the Act. The process of drafting the Public Service Commission Regulations commenced in May, 2015. The Draft Regulations were approved by the Commission to facilitate public participation in July, 2017 and has so far undergone three (3) public participation processes as follows:</p> <ol style="list-style-type: none"> i. Receipt of written memoranda from stakeholders in September and October, 2017; ii. Held a stakeholder validation workshop for Ministries, State Departments and Agencies on 7th and 8th February, 2018; and iii. Held a stakeholder validation workshop for State Corporations and Public Universities on 27th March, 2018.

ACT	ASSENT DATE	COMMENCEMENT DATE	IMPLEMENTING BODY	PROVISIONS
The Public Service (Values and Principles) Act, No. 1A of 2014	14 th May 2014	4 th June 2015	<ul style="list-style-type: none"> -Constitutional Commissions - Independent Offices - County Public Service Board -County Assembly Service Board 	<p>The Public Service Commission has implemented the Public Service Values and Principles Act, 2014 since its commencement in 2015 through:</p> <ul style="list-style-type: none"> i. Issuance of the Diversity Management Policy to the Service; ii. Development and Implementation of the Framework for Implementation of Values and Principles, 2015; iii. Review, issuance and dissemination of the Public Officer Code of Conduct and Ethics;
				<p>The Public Service Commission will hold another validation workshop for Cabinet Secretaries, Chief Administrative Secretaries and Principal Secretaries in April, 2018.</p> <p>The Commission will later input all stakeholder views, approve the draft regulations and forward the same to the Attorney General for approval by the relevant Parliamentary Committee and for publication in the Gazette.</p>

ACT	ASSENT DATE	COMMENCEMENT DATE	IMPLEMENTING BODY	PROVISIONS
				<ul style="list-style-type: none"> iv. Undertaking of promotional activities such as conferences, seminars, workshops and training; v. Development of Ethics Curriculum in liaison with the Kenya School of Government; vi. Inclusion of Ethic quotas in the recruitment and selection process; and vii. Undertaking of compliance evaluation on values and principles since 2012; and submission of annual compliance reports to the President and Parliament.
Public Service, Superannuation Scheme Act, No 8 of 2012	9 th May 2012	By notice	<ul style="list-style-type: none"> -Public Service Superannuation Scheme -CS finance 	<p>The Public Service Superannuation Scheme Act 2012, established a Contributory Public Service Superannuation Scheme for providing retirement benefits to persons in the public service.</p> <p>The commencement date of the Public Service Superannuation Scheme Act, 2012, shall be gazetted by the Cabinet Secretary for the National Treasury as per the provisions of the Act.</p>

ACT	ASSENT DATE	COMMENCEMENT DATE	IMPLEMENTING BODY	PROVISIONS
				<p>In July, 2014, the National Treasury budgeted for Ksh. 9.5 billion for the roll-out of the Public Service Superannuation Scheme. In 2014, an amendment to the Act was proposed.</p> <p>The amendment was in line with a recommendation of the International Monetary Fund (IMF) technical assistance which proposed the deletion of a clause on 'Recognition Bond' in the Act. The proposal was to safeguard the Government against current pension actuarial liability for existing employees amounting to Ksh. 991 billion. The 'Recognition Bond' would have been recognized as an immediate public debt which would have further increased the existing public debt.</p> <p>The amendment to the Public Service Superannuation Scheme Act was included in the Finance Act No. 14 of 2015.</p> <p>The Chairperson of the Board of Trustees has been appointed by the Cabinet Secretary for the National Treasury.</p> <p>The Board of Trustees has not been fully constituted.</p>

ACT	ASSENT DATE	COMMENCEMENT DATE	IMPLEMENTING BODY	PROVISIONS
				The Board, when constituted will appoint the Custodian of the Fund, Administrator of the Fund and the Fund Manager.

RESOLUTION	DATE ADOPTED	IMPLEMENTATION STATUS
Petition for reinstatement into the public service and payment of Mr. Raphael Kitivi ID NO. 3543931/ Force NO. P/N 209190	22.10.2015	Mr. Raphael Kitivi's not found in the Civil Service Complement as his Civil Service Personal Number was not provided.
Report on the alleged irregularities on the Rolling out of the Civil Servants Out-patient Medical Insurance Scheme, Vol. I & II	22.06.2012	<p>The Government in fulfillment of its obligation under the Employment Act, 2007 and the Constitution of Kenya 2010 and to ensure access to quality healthcare introduced a Comprehensive Medical Insurance Cover for its employees with effect from 1st January, 2012. The Scheme covered Civil Servants and Members of the Disciplined Services and their eligible dependants. The following measures have been taken to implement the recommendations of the Report;</p> <p>i. A Standing Committee consisting of representatives from the Ministry of Public Service, National Hospital Insurance Fund, Ministry of Health, Public Service Commission, Union of Kenya Civil Servants and the Insurance Regulatory Authority was constituted to oversee the smooth implementation of the Medical Insurance Scheme for Civil Servants and Disciplined Services as per the recommendation of the Report;</p>

		<ul style="list-style-type: none"> ii. Members of the Scheme under capitation are accorded an opportunity to select or change out-patient medical facilities on quarterly basis as per the recommendation of the Report; iii. The processing of last expense benefit claims for deceased principal members has been decentralized to NHIF branches countrywide as per the Report; iv. The Ministry of Public Service, Youth and Gender Affairs in consultation with the National Hospital Insurance Fund and other stakeholders undertake Monitoring and Evaluation of the scheme biannually; v. The Ministry of Public Service, Youth and Gender Affairs in consultation with the National Hospital Insurance Fund and other stakeholders conduct sensitization on the benefits under the Scheme; and vi. The Ministry of Public Service, Youth and Gender Affairs and other stakeholders including the Ministry of Health, Public Service Commission, Insurance Regulatory Authority and the Union of Civil Servants negotiate the Medical Scheme benefits package with NHIF on annual basis.
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REPUBLIC OF KENYA

THE NATIONAL TREASURY & MINISTRY OF PLANNING

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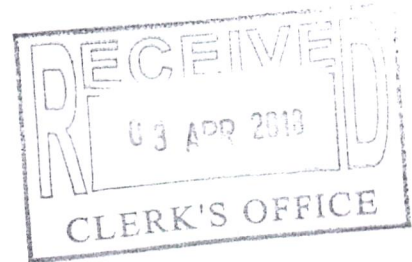
REF: AG.18/01.VOL.14/(74)

Date: 29th March 2018

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

Dear

Mr. Sialai



RE: INFORMATION ON IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS BY COMMITTEE OF IMPLEMENTATION.

Reference is made to your letter Ref. No. NA/COI/2018/(17) dated 19th March, 2018 on the above subject matter.

The National Treasury hereby transmits the following report to National Assembly regarding Bills, Committee Reports, House Resolutions and undertakings by the National Treasury to apprise the Committee on their implementation and challenges faced as follows:

NO.	RESOLUTION	DATE ADOPTED	ACTION TAKEN	REFERENCE
1.	Public Accounts Committee Report of Accounts and Funds of Government FY 2010/2011	04-03-2015	Treasury Memorandum submitted to National Assembly	Letter No. AG.18/01.Vol.14/(47) of 17 th June 2016
2.	Public Accounts Committee Report of Accounts and Funds of Government FY 2011/2012	04-03-2015	Treasury Memorandum submitted to National Assembly	Letter No. AG.18/01.Vol.14/(47) of 17 th June 2016

3.	Public Accounts Committee Report of Accounts and Funds of Government FY 2012/2013	04-03-2015	Treasury Memorandum submitted to National Assembly	Letter No. AG.18/01.Vol.14/(47) of 17 th June 2016
4.	Public Accounts Committee Report of Accounts on National Government Accounts FY 2013/2014	18-08-2016	Treasury Memorandum submitted to National Assembly	Letter No. AG.18/01.Vol.14/(59) of 12 th February 2018
5.	Public Procurement and Asset Disposal Act, 2015	07.01.2016	Implementation of the Act through:- -implementation of the law combined with the old Regulations and procedures -Development of Regulations for the Act, which will be tabled in the National Assembly in due course -Capacity building of procuring entities	Legal Notice

ACT	COMMENCEMENT DATE	PROVISIONS	STATUS
Value Added Tax (Amendment) Act, No 7 of 2014	29 th May, 2014	The Act Provided for numerous changes to the Act and included more exempt supplies such as sugarcane, unprocessed plant species <i>camellia sinesis</i> under part 1 section A of the Act and excluded some items as well such as aeroplanes, aircrafts etc.	The Act is being implemented
Value Added Tax (Amendment) Act, No 24 of 2016	24 th August, 2014	Provided for the transportation of sugarcane from farms to milling factories as an item not subject to tax	Transportation of Sugarcane is not subject to VAT
The Excise Duty Act, No 23 of 2015	1 st December, 2015	It provides for the charge, assessment and collection of excise duty to make administrative provisions	The Act is being implemented
The Tax Procedures Act, No 29 of 2015	19 th January, 2016	The Act harmonizes the procedural rules for the administration of tax laws in Kenya	The Act is being implemented
The Miscellaneous Fees and Levies Act, No 29 of 2015	21 st September, 2016	The Act provides for all fees and levies charged by the KRA	The Act is being implemented
Tax Appeals Tribunal Act, No 40 of 2013	1 st April, 2015	The Act was passed in order to provide for a dispute resolution mechanism that would manage and administer tax appeals	The Tribunal was formed and Tax appeal cases are being handled by the Tribunal

PETITION	DATE ADOPTED	STATUS
Petition on VAT levied on Tips and gratuity in the hospitality industry	20 th March, 2014	Service charge paid in lieu of tips is not subject to VAT provided that the service charge does not exceed 10% of the price of the service and is distributed to the employees of the hotel.
Waiver of Taxes levied on new materials used in production of sanitary towels	13 th October, 2016	The VAT Act was amended in 2016 to exempt sanitary towels and materials for making sanitary towels from VAT
Proceeds of Crime and Anti-money Laundering (Amendment) Act, No. 3 of 2017	March 24, 2017	<p>The Act was assented to on March 3, 2017 and commenced on March 24, 2017. The following actions have been taken/are being taken to implement the amendments contained in the Act:-</p> <p>(i) Arising from the approval of the National Assembly of the appointment of the Director General of the Financial Reporting Centre (FRC), the Cabinet Secretary for the National Treasury, has in consultation with the Anti-Money Laundering Advisory Board, appointed the Director General and set out his terms and conditions of service.</p> <p>(ii) The Centre has developed internal</p>

		<p>guidelines to govern monetary penalties and administrative regimes with respect to non-compliance with the provisions of the Act by reporting institutions;</p> <p>(iii) The Asset Recovery Agency has embarked on the recruitment exercise for its own staff which is pegged on adequate funding to be provided for in FY2018/208.</p>
Banking (Amendment) Act, 2016	September 14, 2016	<p>The amendment commenced on September 14, 2016.</p> <p>After commencement of the Act, the banking industry experienced slow growth in credit especially to the Micro, Small and Medium Enterprises (MSMEs). It also saw the deposit accounts reclassified by banks to non-interest earning accounts. The amendment also affected the use of CBR as a monetary policy tool.</p> <p>In this regard, various efforts are being explored to address the effects being experienced following implementation of the Act.</p>
Kenya Deposit Insurance Act, No. 10 of 2012	July 1, 2014	<p>KDIC has been established.</p> <p>Due to deficiency in the KDI Act 2012, an amendment was enacted in 2013 which provided for definition of systemic risk, lesser cost rule as well as problem institutions.</p> <p>Kenya Deposit Insurance Regulations, 2015 have also been issued under Legal Notice No. 166 of August 21,</p>

		<p>2015 Further amendment have also been effected through the Finance Act 2017 to strengthen KDIC</p>
<p>The Capital Markets (Amendment) Act, 2011</p>	<p>December 16, 2011</p>	<p>Section 2 of the Capital Markets Act was amended to redefine securities to include derivatives and also key personnel for purposes of fit and proper vetting of those managing licensed entities More importantly Section 11 was amended to expand the principle objectives of the Authority to recognize the need to improve access to securities beyond traditional stocks. This provided investors with opportunity to access a broad spectrum of securities products. The amendments also recognized Self-Regulatory Organizations (SROs) such as exchanges. This enabled the Authority to delegate specific powers to an SRO subject to the oversight of the Authority In addition, the amendments introduced a hybrid bond market where publicly offered bonds can be traded either on the exchange or Over The Counter (OTC). This was meant to increase bond activity in both the primary and secondary bond markets. The objectives of the above amendments were meant to address long standing issues that curtailed the growth of the capital markets sector in Kenya. This was also part of the foundation for the Capital</p>

		<p>Markets Master Plan (2014-2023) to make Kenya the heart of capital markets activity in Africa.</p> <p>The implementation of the Master Plan is ongoing and various milestones have been achieved such as the demutualization and self-listing of the Nairobi Securities Exchange (NSE) and the introduction of a derivatives market.</p>
<p>The Central Depositories (Amendment) Act, No. 38 of 2011</p>	<p>December 16, 2011</p>	<p>The Capital Markets Authority also introduced amendments to the Central Depositories Act to strengthen supervision of central depositories and significantly reduce systemic risk.</p> <p>These included the strengthening of the Authority's powers of supervision, investigation and intervention in respect of central depositories.</p> <p>Further, the CD Act was amended to introduce a robust system to reduce the risk and damage associated with settlement default on securities transactions in addition to providing for insolvency set-off in respect of the obligations between settlement participants. A guarantee fund was introduced and also provisions to have insurance policies in place.</p> <p>The primary objective of these amendments was to align Kenyan clearing and settlement process with international best practice and significantly reduce the risks</p>

		<p>associated with large scale investment in listed securities by both local and foreign investors.</p> <p>These provisions have led to the modernization of then clearing and settlement including automation.</p>
The Unclaimed Financial Assets Act, 2011	December 16, 2011	<p>Current Unclaimed Assets Fund value KShs 36.30B (For both received and reported but not received assets)</p> <ul style="list-style-type: none"> • Cash received at CBK Trust Fund A/c KShs 10.70B • Shares reported but not received - 447 million units valued at KShs 25.50B • FCYs reported but not received KShs 0.074B • 8.15 million units of Unit Trusts reported but not received valued at KShs 0.015B • 1,047 safe deposit boxes reported but not received. <p>Staff compliment of 35 employees UFAA Regulations now Gazette 1,152 claims paid since Gazettement of regulations.</p>
The Competition Act (Amendment) 2016		<p>New amendments to provide for buyer power were introduced to regulate abuse of dominance by big buyers such as large retail outlets.</p> <p>Rules that define thresholds for mergers that do not require notification to the Competition Authority have been developed. Upon completion of the public</p>

		participation process , the approval of the Cabinet Secretary will be sought in accordance with section 42 of the Competition Act.
Insurance (Amendment) Act No. 22 of 2017	July 7, 2017	The implementation of the act is going on well
Insurance (Amendment) Act No. 1 of 2014	On publication	The implementation of the act is going on well
The National Payment System Act, 2011	March 24, 2014	The implementation of the act is going on well

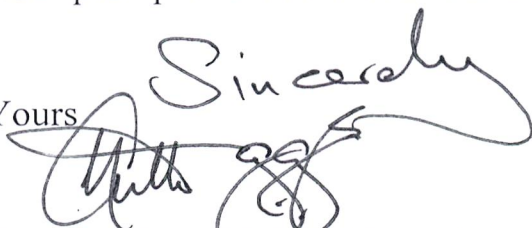
With regard to the resolutions made by the Public Investment Committee on State Corporations, the National Treasury requires more time to get the reports / actions taken from the relevant State Corporations on the status of implementation and challenges being faced in the implementation of Bills, House Resolutions and Committee Reports.

Accordingly, the National Treasury seeks the indulgency of the Committee to revert in due course on the remaining issues.

The purpose of this letter therefore is to request you to bring to the attention of the committee of this report and seek the indulgency of the Committee to allow the National Treasury to submit the remaining information in due course.

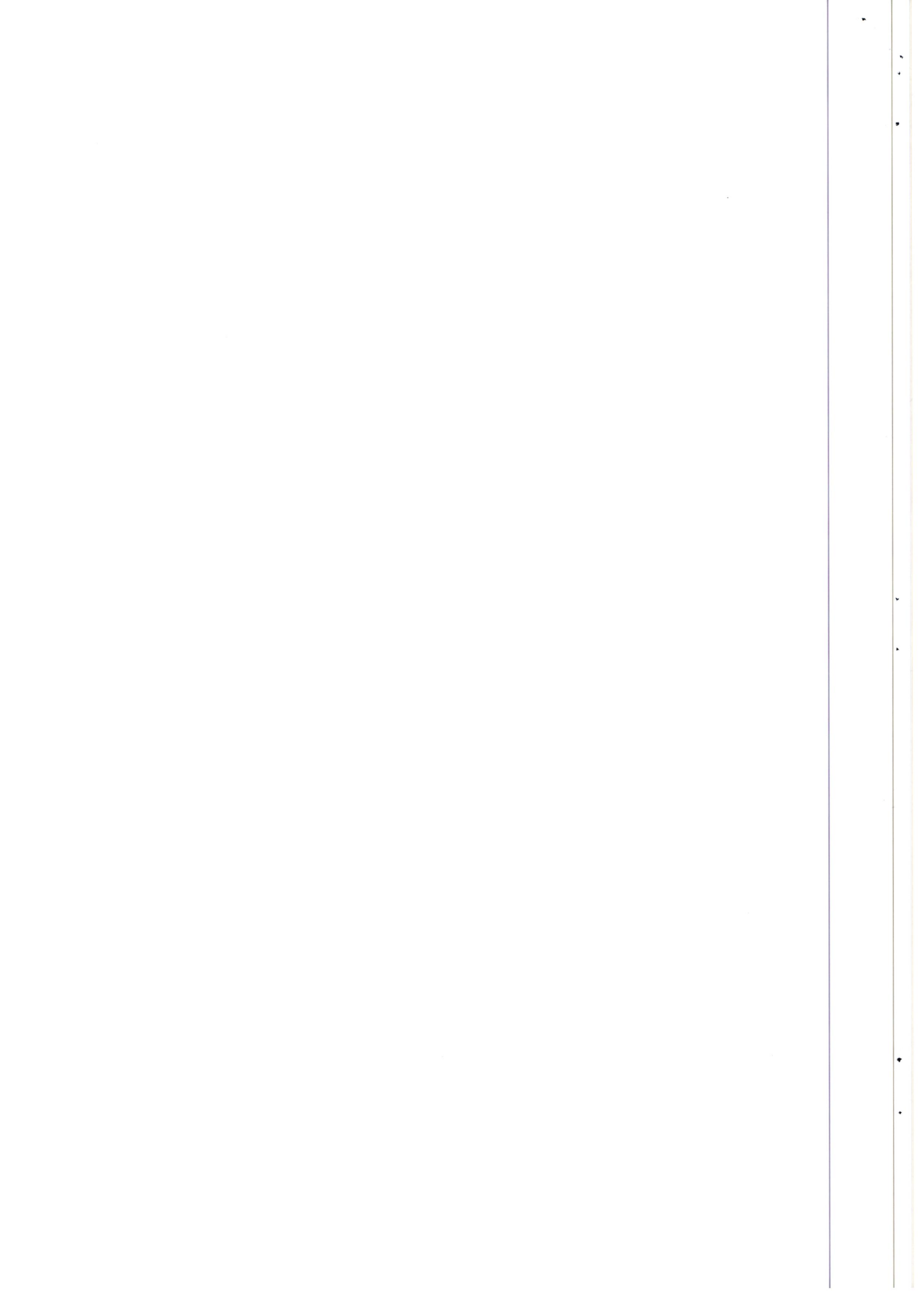
Your prompt attention and action to this matter will be highly appreciated.

Yours

Sincerely


DR. KAMAU THUGGE, CBS
PRINCIPAL SECRETARY / THE NATIONAL TREASURY

Copy to: Henry Rotich, EGH
 Cabinet Secretary
 National Treasury and Ministry of Planning
NAIROBI



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REPUBLIC OF KENYA
MINISTRY OF EAST AFRICAN COMMUNITY AND NORTHERN
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OFFICE OF THE PRINCIPAL SECRETARY

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② R. WANJOKI
pls deal
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10/4/18

ADM.1/CONF/13/VOL.III/33

5th April, 2018

Mr. Michael Sialai, EBS
Clerk
Kenya National Assembly
Parliament Building
NAIROBI

① D/Committee

Dear

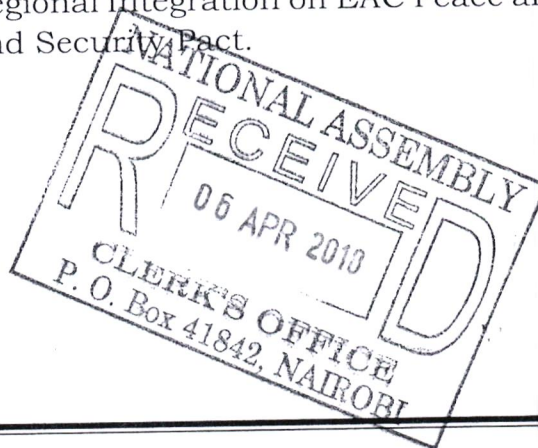
IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS

In reference to your letter Ref. NA/COI/2018/(20) of 19th March, 2018, attached please find Status Report on:

1. Petition on delayed payment of benefits of the former employees of the defunct East African Community;
2. Protocol for the establishment of the EAC Monetary Union; and
3. Report of the Committee on Regional Integration on EAC Peace and Security Protocol and Mutual Peace and Security Pact.

Yours Sincerely

**DR. SUSAN J. KOECH
PRINCIPAL SECRETARY**



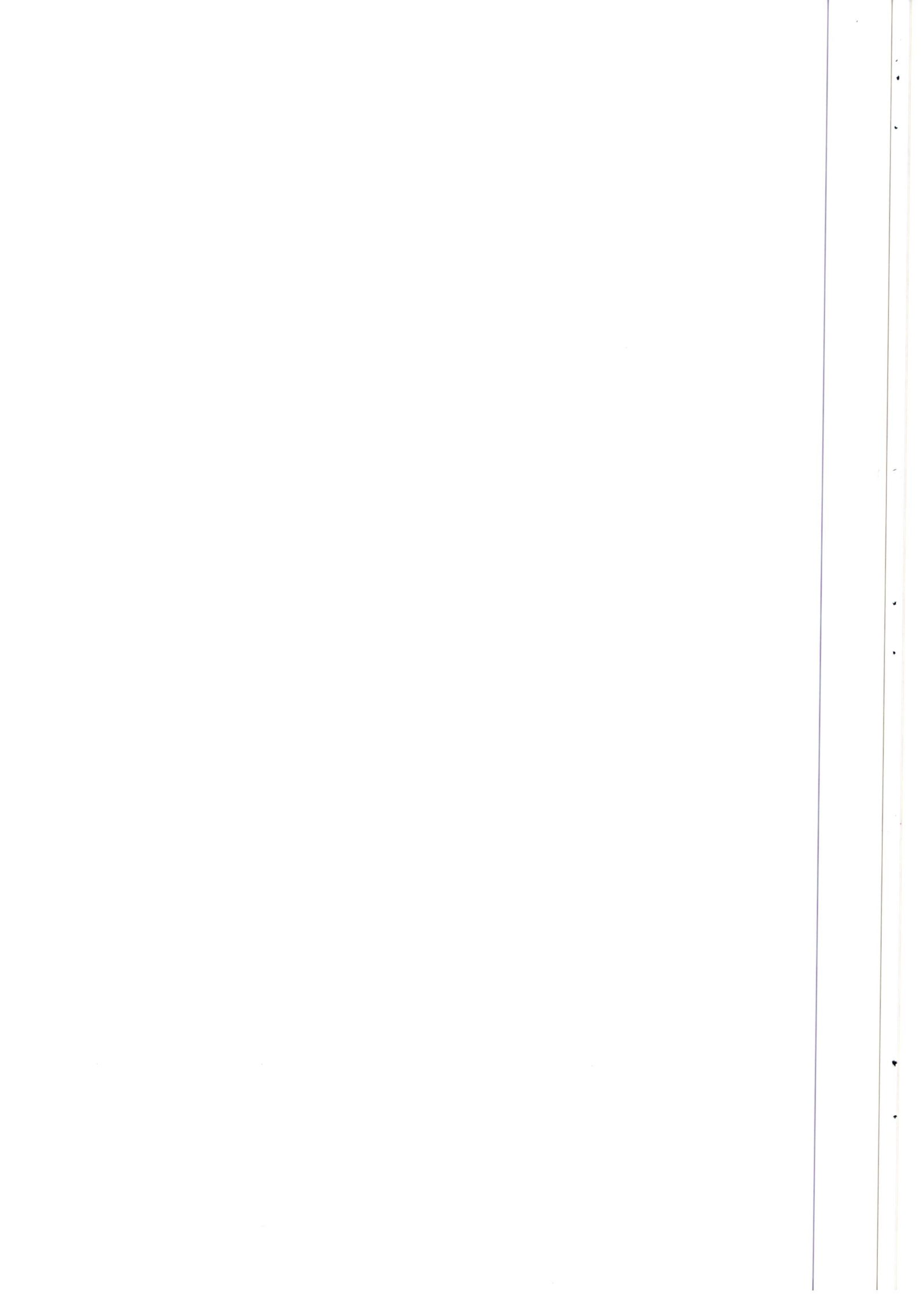
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ISO9001:2001

Vision:
Deepen and widen East African Integration for Sustainable Development and improved livelihoods of all
Kenyans







REPUBLIC OF KENYA

MINISTRY OF EAST AFRICAN COMMUNITY AND NORTHERN CORRIDOR DEVELOPMENT

IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS

1. THE PETITION ON DELAYED PAYMENT OF BENEFITS TO THE FORMER EMPLOYEES OF THE DEFUNCT EAST AFRICAN COMMUNITY

1.0 Background

Following the dissolution of the EAC, the Partner States negotiated a Mediation Agreement for the division of assets and liabilities, which was signed on 14th May, 1984. The former employees of the defunct EAC from Kenya were concerned that some of the terminal benefits envisaged under the Agreement were not taken into consideration in the computation of their retirement benefits. This led to agitation by the employees and the formation of associations with a view of petitioning the Government of Kenya and Parliament to address the grievances.

1.1 Court Cases

Sometime in 1997, a group of former EAC employees from Kenya filed a suit **HCCC No. 1879 of 1997, Samuel Amugune and 4 others vs. The Attorney General**, seeking for payment of pensions. The case was dismissed and ruled in favour of the Kenyan Government with the Court holding that the government had complied with the terms of the Mediation Agreement.

The Court in its decision delivered on 8th October, 2004 held that the Government had provided the former EAC Kenya employees with two options in accordance with the Mediation Agreement; for those employees who decided to retire by the division date, the Government agreed to pay them their terminal dues while for those who opted to be absorbed into the Kenya Civil Service then the

Government agreed to make provision for the pension rights in line with the Pensions Act, cap 189. Their pension was secured by their inclusion in Section 2 of the Pensions Act, Cap 189 wherein service to the Community would be considered in computing pensions payable to public servants.

This was followed by another suit by a group of former EAC Kenya employees at the East African Court of Justice, **Ref. No. 2 of 2010 Emmanuel Mwakisha Mjawasi and 748 others vs. Attorney General**. The regional court dismissed the appeal filed by the former Kenyan EAC employees on the grounds that the jurisdiction for interrogating the merits (or demerits) of their grievances did not lie with the regional court on account of the non-retrospective application of the new EAC Treaty of 2000. The Court stated that the jurisdiction properly lies with the national courts in as much as the, Mediation Agreement of 1984 effectively and definitively moved the management of the assets and liabilities of the defunct Community from the remit of the East African Community, to the realm of the various National States.

1.2 Joint Task Force, 2010 Recommendations

Despite the various judgments against the former EAC employees, they continued to petition the Government for payment of benefits which they claimed were provided for in the Mediation Agreement, 1984. To address this matter, the Government in October 2010, through the then Deputy Prime Minister and Minister of Finance directed that a Joint Taskforce of Government and former EAC employees be constituted for purposes of inquiring into the claims and providing recommendations to guide the way forward.

Among the key findings of the Task Force was that upon the collapse of the Community, the Government offered the former employees the option of either retiring and being paid benefits immediately or joining the Kenyan Civil Service on continuous service till retirement. The majority of officers were absorbed into Government and paid pension upon retirement based on their cumulative service to the Community and the Kenyan Civil Service and that each of the EAC Institutions maintained a Provident fund.

The Task Force further observed that Provident Fund refunds continued to be paid to the relevant beneficiaries.

The Task Force however recommended that the former EAC Kenya employees be paid a token of appreciation and compensation for the suffering, inhuman treatment, disruption of career expectations and any other disturbances caused. In particular, the Task Force proposed that a total of Kshs. 14 billion be considered for payment to the eligible former EAC Kenya employees. However, the Treasury recommended that an ex-gratia payment of Kshs. 150,000.00 to each of the eligible former EAC employees when the Task Force presented its report.

1.3 Hon. Attorney General's Legal Opinion

The National Treasury sought legal opinion from the Attorney General on this matter on 4th June, 2012, and the Hon. Attorney General in his response observed as follows:

- The former EAC employees had their matter settled in Court. The Judge in the case dismissed the prayers made by the former EAC Kenya employees. Upon referring the matter to the East African Court of Justice, the matter was again struck out by the Court.
- The Government had no obligation whatsoever to settle any claims for pension or other benefits made by the former EAC Kenya employees unless compelled by law to do so.
- There is no legal framework within which the Government could make any payments to the former EAC Kenya employees and that any former gratia compensatory payments to the former EAC Kenya employees was purely discretionary and dependent upon the formulation of a policy by the Government or upon enactment of legislation by parliament.

On the basis of the above legal opinion and advise from the Attorney General, it was not possible for the National Treasury to prepare a Cabinet Memorandum for approval of payments to the former EAC Kenya employees.

1.4 Ministry of EAC Position

The Ministry of EAC has previously appeared before the Joint Committees on Finance, Planning and Trade and Regional Integration on various dates when requested to submit on the former EAC Kenya employees issue. The Ministry therefore reiterates its submissions and position presented to Parliament on this issue; that it is guided by its mandate which is to co-ordinate EAC affairs, projects and programs on regional integration in Kenya. Consequently, with regard to the petition by the former defunct EAC Kenya employees to be paid benefits, the Ministry of EAC participated in the fact-finding Task Force constituted by National Treasury in 2010 and has provided the National Treasury, Office of the Attorney General and Department of Justice and Parliament with the relevant information regarding the issue.

In this regard, the Ministry of EAC & Northern Corridor stands guided by the legal advice and recommendations of the Hon. Attorney General on the matter in compliance with the judgments of the Courts on the issue. The Ministry also stands guided on recommendations by the National Treasury as the petition relates to a financial obligation upon the Government; it would therefore be the relevant government organ to expound on financial matters involving the Government.

2. EAST AFRICAN COMMUNITY PROTOCOL FOR THE ESTABLISHMENT OF THE MONETARY UNION

2.1 Introduction

The Treaty for the Establishment of the East African Community in Article 5 (1) set the objectives of the Community and states that “*the objectives of the Community shall be to develop policies and programmes aimed at widening and deepening cooperation among the Partner States in political, economic, social and cultural fields, research and technology, defence, security and legal and judicial affairs, for their mutual benefit.*” Further to Article 5 (1), the Partner States undertake to establish among themselves a Customs Union, a Common Market, a Monetary Union and, ultimately, a Political Federation in order to strengthen and regulate, among others, the industrial, commercial and infrastructural sectors (Article 5(2)).

The monetary union is necessary for the Community’s integration agenda for various reasons. These include, among others, the need for the following:

- Convergence of macroeconomic policies which are critical ingredients for regional integration;
- Alignment of tariffs, inflation rates, exchange rates, debt to GDP ratio which could disrupt economic integration if misaligned;
- Reduced cost of doing business in the region;
- Reduction of exchange rate spreads, volatility and exchange rate commissions in the Partner States; and
- Improvement of policy credibility, e.g. through supra-national central banks.

2.2 Establishment of the Monetary Union

Establishment of the East Africa Monetary Union ((EAMU) is provided under Article 82 of the Treaty. In order to achieve the objectives of the Community the Partner States undertake to cooperate in monetary and fiscal matters in accordance with approved macro-economic policy harmonisation programmes and convergence framework in order to establish monetary stability

aimed at facilitating economic integration efforts and the attainment of sustainable economic development of the Community. (Article 82). The Partner States commit to:

- Cooperate in monetary and financial matters and maintain the convertibility of their currencies as a basis for the establishment of the Monetary Union;
- Harmonise their macro-economic policies especially in exchange rate policy, interest rate policy, monetary and fiscal policies; and
- Remove obstacles to the free movement of goods, services and capital within the Community.

2.3 Protocol on the Establishment of the East African Community Monetary Union

The Protocol on the establishment of the East African Community Monetary Union was adopted and signed by the Summit of EAC Heads on 30th November 2013 in Kampala, Uganda. The Protocol lays groundwork for a monetary union within 10 years and allows the EAC Partner States to progressively converge their currencies into a single currency. It provides for a wide scope of co-operation in the monetary and financial sectors among the Partner States. The Monetary Union forms the third stage of East African Community integration after the customs union and common market.

Objectives of the Protocol

The objectives of the Protocol shall be to promote and maintain monetary and financial stability aimed at facilitating economic integration to attain sustainable growth and development of the Community. (Article. 3).

Scope of Cooperation in the Monetary union

The Partner States commits to cooperate in monetary and financial matters as follows:

- Harmonise and coordinate their fiscal policies;
- Formulate and implement a single monetary policy and a single exchange rate policy;

- Develop and integrate their financial, payment and settlement systems;
- Adopt common principles and rules for the regulation and prudential supervision of the financial system;
- Integrate their financial management systems;
- Harmonise their financial accounting and reporting principles;
- Adopt common policies and standards on statistics; and
- Adopt a single currency.

Pre-requisites for a Monetary Union:

The EAMU Protocol under Article 5 sets the pre-conditions for well functioning of a monetary union. These include:

- (a) Market integration :Properly functioning customs union and common market;
- (b) Harmonise and coordinate policies: fiscal, monetary and exchange rate policies;
- (c) Adopt common principles and rules for payments and settlements;
- (d) Harmonise payments and settlements systems;
- (e) Harmonise policies and laws relating to the production, analysis and dissemination of statistical information;
- (f) Introduce bands and gradually fix bilateral exchange rates to facilitate the conversion of the currencies of the Partner States to the East African currency unit;
- (g) Integrate the financial systems and adopt common principles and rules for the supervision of the financial system;
- (h) Each Partner States to:
 - Phase out outstanding central bank lending to government entities; and
 - attain macro-economic convergence criteria and maintain the criteria for at least three consecutive years: growth rates of GDP, inflation rates, exposure to external shocks, public finance, Balance of Payments, interest rates and exchange rates:
 - Maintain a ceiling on headline inflation of 8%;
 - A ceiling on fiscal deficit, excluding grants, of 3% of GDP;

- A ceiling on gross public debt of 50% of GDP in net Present Value terms; and
 - a reserve cover of 4.5 months of imports.
- (i) Develop a medium-term convergence programme to facilitate the attainment of the agreed macro-economic convergence criteria.

The Council to develop measures to regularly monitor, assess and enforce adherence to the macro-economic convergence and foster fiscal discipline in the Partner States.

2.4 The Single Currency

The Protocol under Article 18 provides for, among others, the adoption of a single currency by the EAC Partner States:

- The Partner States undertake to adopt a single currency;
- The single currency to be adopted by at least three Partner States that meet the pre-requisites for a monetary union (Article 5) and the macro-economic convergence criteria set out under Article 6 of the Protocol.;
- The Summit on the advice of the Council will pronounce the date on which the single currency shall become the legal tender of the single currency area.

2.5 Institutional Mechanism

The Institutions to support establishment of the EAC Monetary Union are provided for under Articles 20 and 21 of the Protocol. The Institutions are:

- (a) The East African Central Bank;
- (b) East African Monetary Institute;
- (c) East African Statistics Bureau;
- (d) East African Financial Services Commission;
- (e) East African Surveillance, Compliance and Enforcement Commission; and
- (f) Any other institution necessary for the proper functioning of the Monetary Union.

The East African Monetary Institute is to be established under the Transitional Provision (Article 23) and shall be responsible for the preparatory work for the Monetary Union.

2.6 Progress in Implementation of the Monetary Union

(a) Ratification of the Protocol

- All the EAC Partner States have ratified the protocol and deposited the instruments of ratification with the EAC Secretary General.
- The Protocol became effective in 2015 upon deposit of instruments of ratification by all EAC Partner States.
- According to the Road Map on the implementation of the Protocol, a single currency is expected to be introduced in 2024 after at least three (3) Partner States have achieved the prerequisites for the establishment of the monetary union.

(b) Establishment of the Institutions to Support EAC Monetary Union

The 15th Ordinary Summit also directed that the four institutions to support the East African Community Monetary Union be established.

(i) The East African Monetary Institute Bill 2017

- The East African Monetary Institute Bill 2017 and the East African Community Statistics Bureau Bill, 2017 were negotiated, drafted and subsequently submitted to the Sectoral Council on Legal and Judicial Affairs (SCLJA) for legal input. They were adopted by the 35th Meeting of the Council of Ministers held in April 2017 in Arusha, Tanzania. The two Bills were subsequently submitted to East African Legislative Assembly (EALA) for enactment. However, the 3rd EALA Session ended before the two Bills had been passed.

- During the 4th EALA Session in its Second Meeting in Kampala, the Bills were introduced and read for the 1st time; the EAC Statistics Bureau Bill, 2017 and the EAC Monetary Institute Bill, 2017.
- The East African Monetary Institute Bill 2017 provides the legal frame work for the establishment of East African Monetary Institute (EAMI). The establishment of the East African Monetary Institute (EAMI) is provided for in Article 23 of the Protocol on the Establishment of the East African Monetary Union. The EAMI shall be a transitional institution responsible for preparatory work for the realization of the Monetary Union. According to the Road Map on the Establishment of the East African Monetary Union, EAMI was expected to be in place by 2015. This therefore means the establishment of EAMI is behind schedule by at least two years.

Objective of the Institute as Provided for in the Bill:

- The objective of the Institute shall be to undertake the preparatory work for the realisation of the Monetary Union prior to the establishment of the East African Central Bank.

Functions of the Institute as Provided for in the Bill:

The functions of the Institute shall be to:

- (a) undertake coordination and harmonisation;
- (b) monetary and exchange rate policies;
- (c) the legal framework for the regulation and prudential supervision of banking systems;
- (d) payment and settlement systems of the Partner States;
- (e) enhance cooperation between the National Central Banks with a view to establishing the necessary conditions for the realisation of the Monetary Union;
- (f) develop common monetary and exchange rate policy frameworks for the attainment of a single currency;

- (g) foster coordination of fiscal and monetary policies of the Partner States;
- (h) develop the analytical, research and statistical frameworks necessary for the East African Central Bank to perform its functions;
- (i) develop the instruments necessary for the conduct of the single monetary and exchange rate policy in the Monetary Union;
- (j) develop a framework for regulation and prudential supervision of the banking systems within the Monetary Union;
- (k) contribute to the development of an effective legal and institutional framework, common macro-prudential policy instruments and crisis management measures in order to promote and maintain financial stability within the Monetary Union;
- (l) enhance the smooth functioning of the payments and settlement systems infrastructure;
- (m) coordinate the development of the legal and institutional framework for the establishment of the East African Central Bank;
- (n) take all necessary measures for the design and production of the banknotes and coins denominated in the single currency;
- (o) develop the general framework for issuing and processing banknotes and coins in the single currency area;
- (p) develop a roadmap for the changeover to the single currency;
- (q) liaise with other institutions and the organs of the Community, and Partner States for purposes of realising the objectives of this Act; and
- (r) any other function relating to the Monetary Union determined by the Council.

(ii) **The East African Statistics Bureau Bill, 2017**

The East African Statistics Bureau Bill, 2017 provides the legal frame work for the establishment of East African Statistics Bureau

which shall be the authority responsible for community statistics. The establishment of the Bureau is provided for in Article 21(c) of the Protocol on the Establishment of the East African Monetary Union.

Objective of the Bureau as provided in the Bill:

- The objective of the Bureau shall be to coordinate, harmonize and regulate the development, production, and dissemination of Community Statistics and contribute to the attainment and proper functioning of the Monetary Union.

Functions of the Bureau as Provided in the Bill:

The functions of the Bureau shall be to:

- (a) Develop, produce and disseminate Community statistics;
- (b) collect statistical data and information from national statistical systems through national statistics offices for development, production, and dissemination of Community statistics;
- (c) Ensure adherence of the Partner States to impartiality, reliability, and independence in the production of community statistics;
- (d) ensure adoption of common methodologies in the compilation and dissemination of statistical data;
- (e) develop methodological standards for the production and dissemination of Community statistics in accordance with internationally accepted standards;
- (f) certify the quality and comparability of statistical data submitted by the Partner States to the Bureau for production of Community statistics;
- (g) Develop a framework to ensure the compliance of the Partner States with methodological standards developed by the Bureau and with the statistical principles;
- (h) make recommendations to the Council on directives decisions, and regulations related to execution of its mandate under this Act;
- (i) provide technical support to Partner States, other community institutions and any country which has applied

- for membership to the Community in relation to the production of Community statistics;
- (j) maintain a database of Community statistics;
 - (k) enhance coordination and cooperation among other community institutions on issues related to statistics; and
 - (l) ensure adoption and implementation of the East African Statistical Framework by the Community Statistical System.

Why the National Assembly Should Support the Bills

- (i) The establishment of the two institutions (whose legal framework is provided by the two bills) was approved by the Summit of the EAC Heads of State on 30th November, 2013, the highest policy making organ of the Community. Kenya was represented by His Excellency the President;
- (ii) The establishment of the two institutions is provided for in the Protocol on the Establishment of the East African Community Monetary Union Protocol which Kenya is a signatory to;
- (iii) Kenya was adequately represented during the preparation and negotiations of the two Bills right from the level of experts, Sectoral Councils (Finance and Economic Affairs and Legal and Judicial Affairs) and the Council of Ministers. Kenya was involved in the decision making and approval process involving the two bills at all these levels; and
- (iv) It is the global practice in all monetary unions to establish such institutions to support the proper functioning of the monetary union.

(c) **Monetary and Fiscal Policy Harmonisation**

Article 84: Macro-economic Co-ordination within the Community:

Monetary and Fiscal Policy Harmonization is provided for in Article 83 of the Treaty. This article provides for removal of exchange rate restrictions on imports and exports, maintenance of market determined exchange rate, monetary stability, liberalization of financial sector/ deregulation of interest rate and harmonization of tax policies. Most of these provisions have been or are being addressed through the East African Community Monetary Union Protocol. Article 84 on Macro-economic co-ordination within the Community has been addressed again through the Monetary Union Protocol and particularly through the agreed macro-economic convergence criteria.

Macro-Economic Convergence Criteria is provided for in article 6 of East African Monetary Union Protocol. The Macroeconomic convergence shall be assessed on the following performance convergence criteria:

- (a) a ceiling on headline inflation of 8%;
- (b) a ceiling on fiscal deficit, including grants of 3% of Gross Domestic Product;
- (c) a ceiling on gross public debt of 50% of Gross Domestic Product in Net Present Value terms; and
- (d) a reserve cover of 4.5 months of imports.

The indicators to be used in the measurement of the variables agreed in the convergence criteria were not technically defined. It was important to have them defined so that we have the same understanding of measurements in the Community.

Progress on Convergence Criteria/what has been done:

- i) The Technical definitions of the Convergence criteria were finalized and approved by the Sectoral Council on Finance and Economic Affairs and currently being used as reference in the

ongoing harmonization of statistics in EAC. However, in terms of practice reserves are still being measured differently in partner states.

- ii) Partner States were trained on how to develop Medium Term Convergence Programs (MTCPs) and a template was provided for that purpose;
- iii) Partner States (except for Burundi) have finalized their respective MTCPs which were considered and adopted in the meeting of the Sectoral Council on Finance and Economic Affairs held on scheduled for **2nd - 7th May 2016** in Arusha, Tanzania. The MTCPs provide a plan on how a Partner State will achieve the targets set out in the convergence criteria in order to adhere to 2021 deadline.
- iv) Fiscal Transparency Evaluations have been undertaken in Kenya, Tanzania and Uganda. Rwanda FTE planned for 2017/2018 while that of Burundi is yet to be planned.
- v) Kenya, Tanzania and Uganda prepared and presented their Fiscal Risk Statements (FRSs) to the SCFEA. Kenya and Uganda also include FRS in budget documentation
- vi) Kenya and Uganda have anchored regional fiscal surveillance in their PFM laws though at different levels. PFM Act Kenya has fiscal rules on debt and deficit, while Uganda's Fiscal Responsibility Charter has fiscal rules consistent with EAMU convergence criteria.

(d) **Harmonization of Statistics within the Context of Monetary Union**

The Monetary Union Protocol provides for harmonization of statistics. This will ensure that the statistics are consistent and comparable.

(i) Harmonization of Government Finance Statistics within the Context of Monetary Union

The Monetary Union Protocol provides for harmonization of finance statistics. One of the objectives is to ensure that budget and

expenditure coverage is increased from central government to general government.

Progress:

- a) All partner states have established Technical Working Group spearheading migration from central to general government;
- b) Preliminary general government datasets in Kenya and Tanzania have been developed. Kenya published the data set in the Economic Survey 2015;
- c) Draft EAC Government finance and debt statics guidelines have been prepared. Four draft chapters of the EAC Guidelines for compilation of Government Finance and Public Debt statistics have been developed. They cover sector delineation, classification and treatment of entities dedicated to social protection, recording of revenue, and treatment and recording of grants had been developed.

(i) ***Harmonization of National Account Statistics***

The harmonization of national account statistics is ongoing and is expected to be completed by 2021 according to the Action Plan prepared by the Technical Working Group dealing with this matter.

(ii) ***Harmonization of Debt and Financial and Monetary Statistics***

Work is going on in these areas. So far action plans have been prepared and their implementation is ongoing.

3 Benefits and Costs of Monetary Union to Kenya

Benefits:

- (i) Kenya being the country that dominates intra-EAC trade is likely to benefit most from reduction in transaction costs;
- (ii) Upon introduction of a single currency intra-EAC trade will increase significantly as has been experienced in other Regional Economic Communities and as espoused in

empirical studies in this area. Kenya is likely to take a large proportion of the benefits arising from this;

- (iii) If Kenya bids to host the East African Central Bank (ECB) and the bid is successful, hosting ECB will complement the ongoing initiative of making Nairobi the Financial Hub of East Africa;
- (iv) Macro-economic convergence criteria particularly those relating to fiscal matters are likely to bring out some level of fiscal discipline in the country especially if they are brought into consideration whenever fiscal matters are being discussed. This will benefit the Kenya by entrenching fiscal discipline; and
- (v) Currency volatility with respect to EAC currencies will be eliminated and this will instil confidence and certainty on the part of the business community.

Costs:

- (i) Kenya will lose its monetary and exchange rate instruments which are critical in management of economic shocks. These instruments will be ceded to the East African Central Bank. In case of shock Kenya will only have fiscal policy instrument (which is also constrained through agreed targets) to deal with the shocks.
- (ii) It is at this stage of integration where the fault lines in the integration start emerging; questions of equitable sharing of benefits become more pronounced. This means given the level of GDP of Tanzania and Kenya, these two countries may have to bear a high burden of funding the Community with Kenya taking the lion share. This may take the form of high contribution of funds to address development imbalances; and
- (iii) The East African Monetary Union Protocol envisages the establishment of five institutions to support the monetary union: East African Statistics Bureau; East African Financial services commission; East African Monetary

Institute; East African Surveillance, Compliance and Enforcement Commission and East African Central bank. These institutions are very necessary for the proper functioning of the monetary and yet they will be very expensive to run. Again, Kenya and other Partner States will have to shoulder the burden of running them.

Gains for Kenya

Despite huge costs that are likely to come with the establishment of monetary union, overall the benefits of single currency are likely to exceed the costs. However, this will depend very much on whether the Customs Union and Common Market will have been fully implemented.

4 Challenges

- (i) The process of establishing institutions has been quite slow. To date the statute to establish East African Monetary Institute is yet to be finalized and yet this institution according to the road map was expected to be operational by 2015; it is already more than a year behind schedule and hence some of the tasks it was to spearhead are suffering;
- (ii) Establishment of a sound surveillance, compliance and enforcement framework is complex and requires a lot of resources to operationalize;
- (iii) Attainment and maintenance of macroeconomic convergence targets is not easy since it requires ceding of some level of sovereignty in some aspects such ability to raise debt beyond agreed ceiling;
- (iv) Creation of a mechanism of resilience against external shocks including a stabilisation facility is going to be very expensive. In the EU case, funds to address structural imbalance take at least 0.5% of EU GDP;
- (v) Production of reliable statistics is an expensive endeavour and requires mobilization of resources from Partner States and Development Partners; and
- (vi) Monetary Union is a very critical integration stage that requires a lot of political will and solidarity. Partner states are therefore expected to exhibit a lot of political good will by

preparing to cede sovereignty in areas identified by the Protocol. Some of the areas they need to cede sovereignty include monetary and exchange rate and fiscal policies through adherence to performance convergence criteria.

5 Recommendations

- i. fast track the finalisation of bills to establish various institutions to support monetary union; and
 - ii. fast-track the harmonisation of statistics which are critical for monitoring convergence.
-

3. EAC PEACE AND SECURITY PROTOCOL AND MUTUAL PEACE AND SECURITY PACT

3.1 EAC Peace and Security Protocol

The East African Community (EAC) Peace and Security Protocol was signed on 15th February 2013. Parliament approved ratification of the Protocol by a resolution passed on 6th October 2015.

The instrument of ratification of the protocol was signed by the Cabinet Secretary Ministry of Foreign Affairs on 23rd March, 2017 and deposited with the EAC Secretary General.

Challenges Faced by the Ministry in Implementation of the EAC Peace and Security Protocol

The United Republic of Tanzania and the Republic of Burundi have not ratified the protocol and this has delayed implementation of the Protocol at regional level.

3.2 The Mutual Peace and Security Pact

The Mutual Peace and Security Pact between the Republics of Kenya, Rwanda and Uganda was signed on 20th February 2014 in Kampala, Uganda during the 4th Northern Corridor Integration Projects Summit. Parliament approved ratification of the Pact by a resolution passed on 6th October 2015. The instrument of ratification of the pact was signed by the Cabinet Secretary Ministry of Foreign Affairs on 7th October, 2015.

The purpose of the Pact was to establish a framework for combating crimes towards collective peace and security among Partner States.

Implementation of the Pact

The responsibility for the implementation of the Pact is vested on the Cabinet Secretary responsible for, internal security, disaster management, refugee affairs, immigration affairs, prisons, probation and after care services, peace building and conflict management, children affairs, registrar of motor vehicles marine

services and any other area of cooperation that may be agreed by consensus of the Partner States to be included in the Northern Corridor Integration Projects

Progress

- An implementation framework for the Mutual Peace and Security Pact has been developed;
- A Joint Intelligence Centre has been established in Nairobi; and
- A conflict and dispute resolution and genocide resolution mechanisms has been developed.

Challenges

The changing political dynamics in the region leading to infrequent meetings of the Summit of the Northern Corridor Integration Projects and consequently a slowed implementation of agreed projects and programmes.



REPUBLIC OF KENYA



MINISTRY OF AGRICULTURE & IRRIGATION
State Department of Crops Development
Office of the Principal Secretary

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P.O. Box 30028-00100
NAIROBI

4th April 2018

Ref: MOA/ADM/1/27/3Vol.VII(25)

① D/Committee

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

② R. WANJOH
pls deaf
FA
16/4/18

Dear **CNA,**

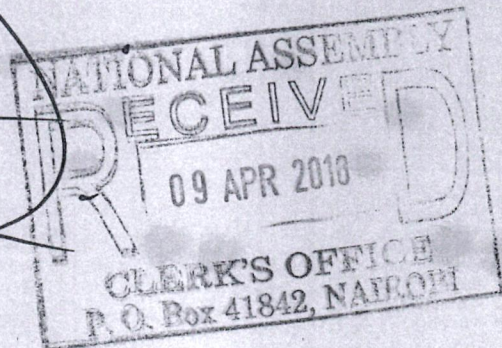
INFORMATION ON IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS BY COMMITTEE ON IMPLEMENTATION

This is in response to your letter **Ref: NA/COI/2018/(16)** dated **19th March 2018** on the above subject.

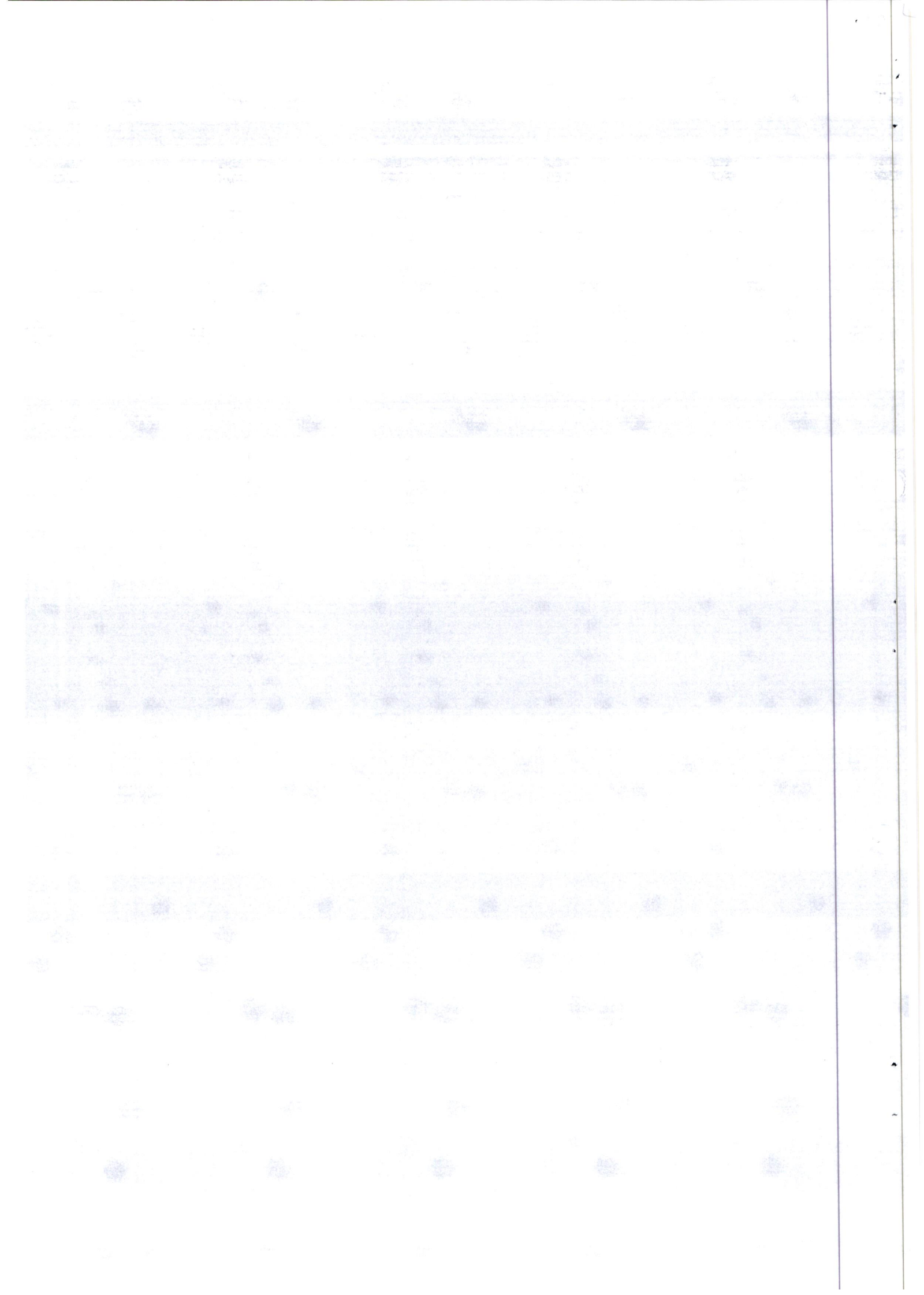
Attached please find a report on the requested information.

Yours

Dr. Richard L. Lesiyampe, CBS
PRINCIPAL SECRETARY



Copy to: Cabinet Secretary
Principal Secretary/Research
Principal Secretary/Livestock
Principal Secretary/Fisheries





MINISTRY OF AGRICULTURE AND IRRIGATION

**INFORMATION ON THE IMPLEMENTATION STATUS OF THE HOUSE
RESOLUTIONS, ADOPTED REPORTS AND ACTS BY THE COMMITTEE ON
IMPLEMENTATION**

BY

MR. MWANGI KIUNJURI, EGH, MGH

CABINET SECRETARY

April, 2018

INFORMATION ON THE IMPLEMENTATION STATUS OF THE HOUSE RESOLUTIONS, ADOPTED REPORTS AND ACTS BY THE COMMITTEE ON IMPLEMENTATION

RESOLUTIONS

1. Establishment of a Fund for Fishermen to give them grants which among others will assist them to buy fishing gear - date Adopted 23.05.2013

- The Fisheries Management and Development Act, 2016 established the Fish Levy Trust Fund whose objective was to provide supplementary funding of activities geared towards management, development and capacity building, awards and urgent mitigation to ensure sustainability of the fisheries resource.
- Two fish persons from fresh waters and marine waters and two person nominated by the traders exporters association and fish processors are among the members of the Board of Trustees.
- A selection panel recruiting the Board of Directors of the Fish Levy Trust Fund did not find a suitable candidate and recommended re-advertisement on 2/8/2017. Data of applicants received and the Cabinet Secretary is to appoint one (1) Trustee.

2. The election of the Chairperson of the Agricultural Society of Kenya – adopted on 28.10.2015

- On 10th April, 2015 Hon. Justice A. Mrima was elected the National Chairperson of ASK, but he resigned shortly citing exigency of work as a judge of the high court of Kenya.
- Eventually, Mrs. Annabel Kiriinya was elected the National Chairperson of ASK on 27th February, 2016. Her term ends on 31st December, 2019. (**Evidence Attached**).

3. Petition on the alleged change of the management model at the KTDA - date adopted - 09.03.2016

- KTDA (MS) Ltd is registered as a Management Agent by Agriculture and Food Authority-Tea Directorate.

- The functions of the Management Agent is to offer professional management services in production, processing, financial and marketing services to the Smallholder tea sector.
- A total of 60 tea factory companies (owned by smallholder tea growers) have signed a Management Agreement with KTDA (MS) Ltd. so far, making KTDA (MS) Ltd. the largest tea Management Company in the world.
- Arising from studies done on the smallholder subsector by Competition Authority of Kenya (CAK), Tea Industry Task Force Report of 2016 and FAO Value Chain Study of 2016; several changes have been recommended on the Management model to address shortcomings in Governance and Marketing.
- The KTDA MS Ltd Management model is regularly reviewed so as to improve on service delivery and efficiency in line with the company objectives and emerging challenges/opportunities in the operating and global environment.

4. Petition on the establishment of the strategic reserves for long life powdered milk – date adopted 08.05.2016

- The Strategic Food Reserve Oversight Board incorporated powder milk as one of the commodities in the reserves in 2016/17 financial year.
- New KCC that is the agent of the Oversight Board in the management and storage of the milk was provided with Ksh. 700 million to procure milk from farmers and process to powder.
- To date, New KCC has procured 51,576 x 25 Kg bags of powder milk worth Ksh. 700 million and is stored in their Eldoret facility.

5. Resolution to create Coastal and Inland Training Institutions to build capacity of fishing communities - date adopted 21.07.2016

- In line with the Big Four agenda the Ministry is working closely with the following;
 - i. Bandari College to transform into a National Maritime Centre of excellence for training low and mid-level personnel, able to be deployed anywhere in the Kenya Fishery waters;
 - ii. Upgrading of freshwater center of excellence at Sagana and Aquaculture Research and Training Centre and Kiganjo trout farm for the cold water fisheries;
 - iii. Ramogi Institute of Agriculture Technology (RIAT), Kenya Wildlife Training Institute and Moi University to harmonize and mainstream curriculum for fisheries training in line with the one developed together with Technical and

Vocation Training Authority (TVETA) and accepted by the Kenya Institute of Education.

- The ministry has also initiated the establishment of a fisheries crime law enforcement academy in collaboration with the University of Nairobi and Nelson Mandela Metropolitan University

6. Resolution that cane millers provide for mandatory payment to cane farmers within 14 days upon delivery- date adopted 12.10.2017

- AFA together with relevant stakeholders has established the Sugarcane Pricing Committee (SPC) with members drawn from the growers, millers National/County Governments and the Sugar Research institute.
- The Key mandate of the Committee is management of the Sugarcane Pricing mechanism and reviewing of the Sugarcane Pricing formula
- The committee meets bi-monthly to determine the minimum price paid by millers
- Private millers pay farmers within seven (7) days after cane delivery whereas government owned millers take between thirty (30) days and one year

7. Resolution to establish a Livestock Insurance Fund – date adopted 2016

- The Kenya livestock insurance program (KLIP) is being implemented by the Government of Kenya, through the state department of livestock (SDL), in partnership with World Bank and ILRI.
- It was started in 2015, covering Wajir and Turkana Counties.
- The program was scaled up in 2016 to cover six Counties of Isiolo, Marsabit, Mandera and Tana-River, Wajir and Turkana.
- In 2017, the program expanded to cover eight Counties, including Garissa and Samburu.
- This year 2018, KLIP will be rolled out to cover the rest of the 14 ASAL counties which are frequently affected by severe droughts. These Counties include West Pokot, Laikipia, Lamu, Narok, Kajiado, and Baringo.

8. The petition regarding the privatization of Kenya Cooperative Creameries - date adopted 22.10.2014

- This institution is under the Ministry of “**Industrialization and Cooperatives**”

9. A Petition on the lifting of the Ban for the sale and export of the raw macadamia - date adopted 02.08.2016

- The petition was declined as it was against the spirit of job creation through value addition and industrialization.
- Macadamia nuts employs about 1,500 people directly and 5,000 indirectly.
- The subsector has registered local 26 processors who are buying macadamia nuts from farmers at prices between Ks. 160-180 per kilogram

10. Petition on lifting of the ban on consumption of foods derived from GMOs and issuance of permit to conduct field trials of Bt. Maize- date adopted 15.06.2017

Lifting of the Ban

The Regulatory Team of the Water Efficient Maize for Africa (WEMA) project contributed towards lifting of the ban (Tasked KALRO to reach out to the Presidency through the Ministry of Agriculture and Council of Governors to make a case for advancement of Biotech research in Kenya)

Progress with lifting of the import ban

- The ban has not yet been lifted but KALRO and other stakeholders were engaging in discussions to ensure research continues alongside advocating for lifting of the ban.
- This included a group called, "**Women in Science**" which submitted a memorandum to the President on lifting of the ban, a Cabinet Memo to discuss the ban signed by the Ministries of Public Health, Agriculture and environment was resubmitted and has been awaiting discussion by Cabinet.

The Court case on the ban

A meeting was organized by National Biosafety Authority, (NBA) for; Chairman, CEOs and legal officers of institutions namely; KALRO, KEPHIS, NEMA, AATF, NBA and Biosafety Appeals Board on the 15th of June 2017 to discuss areas of conflicts in their laws in relation to GMOs.

National Performance Trials on MON810 (Bt. Maize)

- Six sites of Kenya Agricultural and Livestock Research Organization stations, (Kakamega, Alupe, Kibos, Embu, Mwea and Thika) identified and Environmental Impact Assessment project report submitted to National Environment

Management Authority and copied to National Biosafety Authority (NBA) and Kenya Plant Health Inspectorate Service (KEPHIS).

- Sites are yet to be inspected for suitability and approved by Kenya Plant Health Inspectorate Service (KEPHIS) / National Biosafety Authority (NBA)
- Plant Import Permit (PIP) is yet to be issued by Kenya Plant Health Inspectorate Service (KEPHIS) to enable National Performance Trials on Bt maize to take place.

Challenge

There has been a very long delay in the implementation of these activities due to the administrative reasons associated with the ban on GMO importations since 2012.

ADOPTED REPORTS

1. **Report of the departmental committee on Agriculture, Livestock and Cooperatives on the inquiry into the allegations of the Mismanagement of the Harambee Sacco Society Ltd – date adopted 4.10.2010**
 - This institution is under the Ministry of “**Industrialization and Cooperatives**”
2. **Adoption of the report on the challenges facing the Sugar sector in the country – date adopted 17.05. 2011**
 - Major challenges in the sugar sector being addressed are low productivity, high cost of sugar production, illegal sugar imports and corporate governance in mills
 - These are being addressed through privatization of government owned mills, improving governance issues, increasing funding for cane development and plant rehabilitation as well as efficient boarder points surveillance.
3. **Report on the privatization of the state owned factories - date adopted 27.11.2014**
 - Stakeholder engagements are being done by the Privatization Commission to fast track implementation of the report.
 - This is a mandate of the Privatization Commission.
4. **The report of the Departmental committee on Agriculture, Livestock and Cooperatives on Crisis facing the Sugar Industry Date adopted 24.02.2016.**

- Major challenges in the sugar sector being addressed are low productivity, high cost of sugar production, illegal sugar imports and corporate governance in mills
- These are being addressed through privatization of government owned mills, improving governance issues, increasing funding for cane development and plant rehabilitation as well as efficient boarder points surveillance.

ACTS

1. The Fisheries Development and Management (FMDA) Act No. 35 of 2016

Implementation Status (FMDA) 2016

- The Fisheries Management and Development Act (FMDA), 2016 is an Act of Parliament "*to provide for the management and development of fisheries and other aquatic resources to enhance the livelihood of communities dependent on fishing*"
- The Act has created the following institutions;
 - i. The Kenya Fisheries Service (KeFS);**
 - ii. Kenya Fish Marketing Authority (KFMA);**
 - iii. Fish Levy Trust Fund (FLTF) ; and**
 - iv. Kenya Fisheries Advisory Council (KFAC).**
- The Act empowers the Cabinet Secretary, Ministry of Agriculture, Livestock and Fisheries to appoint Board of Directors for KeFS (section 11(1)-(6)) and FMA (sections 201(1)-(6)) and a Trustee for fish levy trust (section 28 (5)).
- On 20th January,2017 the Cabinet Secretary responsible for fisheries appointed an Inter-agency Selection Panel to assist the Cabinet Secretary in the recruitment process for the above mentioned Boards of Directors and Trustee;
- The operations of the Inter-agency Selection Panel were guided by the Terms of Reference developed beforehand by the Secretariat to the selection panel drawn from the State Department for Fisheries and Blue Economy;
- Upon its establishment and as guided by the TOR, the selection panel developed a work plan to guide its activities. The panel was able to advertise, conduct interviews from 25th April to 3rd May 2017 and gave recommendations to the Cabinet Secretary on 9th June 2017. Detailed reports by the selection panel in for KeFS, KFMA and FLTF.

i. Kenya Fisheries Service (KeFS)

The FMDA Act 2016 requires that the Cabinet Secretary, responsible for fisheries appoints 5 members, who are not public officers, to the Board of Directors (section 11 (1c)).

Upon scrutiny of the recommendations of the select panel, the Cabinet Secretary picked the following three (3) members for KeFS board:

1. Mohamed Alawi
2. Mathias W. Wafula
3. Jamal Omar Awadh

The Cabinet Secretary instructed the panel in fulfillment of the constitutional requirement for gender parity, age, regional and ethnic balance, to re-advertise for the remaining two positions which were done on 2nd /8/2017.

Data capturing for the applicants has been done, and short listing is scheduled for April 2018.

ii. Fish Marketing Authority (FMA)

The Cabinet Secretary is required by law to appoint 2 Board members and duly appointed the two as given below;-

1. Lucy Alelo
2. Okumu Makogola

Letters have been drafted awaiting dispatch to Principal Secretaries in the Ministries of Finance, Trade and Industry and Planning as required by law.

The Cabinet Secretary also wrote to other board members as prescribed by the law:

- a) The Council of Governors chairperson to nominate one person. Action: No response has been received. The Selection Panel to follow up for response.
- b) Registered national fisheries associations to nominated two persons: Wavuvi Association of Kenya and Aquaculture Association of Kenya were contacted and they nominated:
 - Hamid Mohammed Omar and
 - Domiciano Laikuru Maingi respectively

A gazette notice has been prepared for the Cabinet Secretary to gazette the nominees.

iii. Fish Levy Trust Fund

- The Cabinet Secretary is obligated by law to appoint 1 trustee. The selection panel did not however find a suitable candidate and recommended re-advertisement which was done on 2/8/2017. Data for applicants has been received and short listing is scheduled for April 2018.

iv. The Fisheries Advisory Council

- The law prescribes membership to the council. Letters to the members for the Cabinet Secretary, concurrence, signature and dispatch.
 - i. A letter to the Cabinet Secretary for Ministry of Education requesting for advise on which University has the required competency for membership to the Council has also been drafted for Cabinet Secretary signature.
 - ii. The Interim Secretariat offering secretariat services to the Fisheries Advisory Council drawn from SDF&BE is in place.

2. Fertilizer and Animal Foodstuffs (Amendment) Act No. 20 of 2015

- The Fertilizer and Animal Foodstuffs Act, Cap 345 was amended through the Fertilizer and Animal Foodstuffs (Amendment) Act, 2015.
- The principal purpose of establishing the Fertilizer and Animal Foodstuffs Board of Kenya is to mitigate existing weak quality control measures in fertilizers and animal feeds industries within the country.
- The Fertilizer and Animal Foodstuffs (Amendment) Act, 2015 was assented to on 8th October, 2015 with a commencement date of 26th October, 2015.
- In order to establish and operationalize the board as provided for in the amended Act, the Ministry in November 2017, nominated officers from the three State Departments of Agriculture and the Treasury to a taskforce to lay the foundation and define the road map towards full realization of the Board.
- The task force held its first workshop at the Dairy Training Institute (DTI) from 28th January to 2nd February 2018 and unbundled the board functions.

3. Kenya Plant Health Inspectorate Service Act, No.54 of 2012

- The KEPHIS Act was assented to on 31st December 2012 and is being implemented
- The Act established KEPHIS, which undertakes the following functions:
 - (a) regulate matters relating to plant protection, seeds and plant varieties;
 - (b) administer and enforce sanitary and phytosanitary measures;

- (c) support the administration and enforcement of food safety measures;
- (d) establish service laboratories to monitor the quality and levels of toxic residues in agro-inputs, irrigation water, plants, soils and produce;
- (e) be the principal advisor to the Government on issues relating to seeds and planting material;
- (f) implement plant variety protection in Kenya, administer plant breeders' rights and maintain the Plant Breeders' Rights Register;
- (g) undertake plant variety testing and description, seed certification and plant quarantine control;
- (h) undertake inspection and grading of plants and plant produce at the ports of entry and exit;
- (i) in consultation with other relevant agencies, develop and implement standards for seed and plant materials;
- (j) implement and enforce national biosafety regulations on the introduction and use of genetically or living modified species of plants, insects and micro-organisms, plant products and other related species;
- (k) regulate import and export of plants and plant materials;

These activities are implemented through the following laws:

- (a) The Plant Protection Act, (Cap. 324);
- (b) The Seeds and Plant Varieties Act, (Cap. 326)
- (c) The Agricultural Produce (Export) Act (Cap. 319)
- (d) The Suppression of Noxious Weeds Act, (Cap. 325)

Implementation Challenges

- The Agricultural Produce (Export) Act (Cap. 319) was repealed by the Crops Act (Second Schedule) and is in operation only by a gazette notice that suspended implementation of the repeal provision in the Crops Act.
- The Suppression of Noxious Weeds Act, (Cap. 325) was repealed by the AFA Act of 2013 and its provisions included in the AFA Act. According to the AFA Act, implementation of these provisions is by the County governments yet suppression of noxious weeds is a national mandate especially regarding imports and exports.
- There are areas of conflict between the KEPHIS Act No 54 of 2012 and the Mwongozo Code of *Governance* for State Corporations as follows:
 - i. 8 (1)(e) "...the managing director, who shall be secretary". This clause needs to be reviewed to reflect this function is for Corporation Secretary.

- ii. 8 (1)(d)(iii) "...one who shall have knowledge and experience in matters relating to the seed sector". No Director has knowledge and experience in this area.
- iii. 8 (1)(d)(iv) "...four who shall have knowledge and experience in matters relating to the functions of the Service". The Board lacks two directors who resigned in 2016 & 2017.
- iv. 10 (4) "...The managing director shall hold office for a term not exceeding three years, on such terms and conditions as may be specified in the instrument of appointment, and shall be eligible for re-appointment for one further term. This clause contradicts Mwongozo that specifies the CEO must be appointed for 4 year renewable term.
- v. Limit to Board appointment - the Ministry of Agriculture and Irrigation representative is in his third 3yr-term.
- vi. Requirement for Attorney General in all Boards. The Board as constituted from KEPHIS Act does not have a requirement for a representative of the Attorney General; as per Mwongozo it is recommended that KEPHIS Act is amended to take into consideration this requirement.
- vii. The Suppression of Noxious Weeds Act, (Cap. 325) has wrongfully been put under County government execution this is due to the fact that clauses linked to this Act were all put inside Crops Act. It is recommended that this issue is reviewed as it may create confusion in Board actions.

4. Agriculture and Food Authority Act, No 13 of 2013 & Crops Act, No 16 of 2013

- The Act has been implemented by merging 8 former Boards (Coconut Development Authority, Kenya Sugar Board, Tea Board of Kenya, Coffee Board of Kenya, Horticultural Crops Development Authority, Pyrethrum Board of Kenya, Cotton Development Authority and Sisal Board of Kenya), they are now Directorates under Agriculture and Food Authority (AFA).
- AFA has drafted sector specific regulations and forwarded to the Ministry of Agriculture and Irrigation for gazettelement.
- The regulations are to enable AFA to implement the Agriculture and Food Authority Act, No 13 of 2013 and Crops Act, No 16 of 2013 effectively

5. Crops Act No. 16 of 2013

In furtherance of the provisions of Section 40 of the Crops Act, the following regulations were drafted in 2014.

- a) The Horticulture Crops Regulations;
 - b) The Coffee Industry Rules, Coffee Forms Rules and Nairobi Coffee Exchange Regulations;
 - c) The Tea Industry Regulations;
 - d) The Oils and Nuts Crops Regulations.
 - e) Fibre Crops Regulations;
 - f) The Sugar General Regulations, Sugar Import Export & by Products Regulations, the Sugar (Imposition of Levy) order;
 - g) The Pyrethrum Industry Regulations;
 - h) Commodities Fund Regulations and
 - i) Crops Arbitration Tribunal Regulations.
- The regulations were thereafter forwarded to the Kenya Law Reform commission for review before being forwarded to the office of the Attorney General for their review.
 - The AG advised that there was need for further consultations to be conducted between the Ministry, AFA and the County Governments. This is on-going.

6. The Veterinary Surgeons and paraprofessionals Act, 2011

- The Veterinary Surgeons and paraprofessionals Act, 2011 was accented by the president on 16th September 2011 with a starting date of 2nd December 2011.
- On 12/10/2011, the Kenya Association of Livestock Technicians (KALT) petitioned the high court of Kenya at Nairobi Milimani Courts concerning the constitutionality of some of the provisions in the Act through Petition No.195 of 2011 where the Attorney General, Minister of Livestock Development, Minister of Forestry and Wildlife and Minister of Fisheries Development were named as respondents. The judgment in the case was delivered on 7/12/2002/ and Judge D.S. Majanja dismissed the petitioner's case.
- The regulations to operationalize the Act were gazetted on 14/03/2013 vide Kenya Gazette Supplement No. 46 (Legislative Supplementary No. 15, Legal notice no.48 in effect paving the way for implementation of the Act which is still on-going).

7. The Animal Technicians Act, 2010

Act was withdrawn (Cabinet decision) as explained below;

- The Animal Technicians Act, 2010, dealing with Para-professionals was presented to parliament sponsored by a private member.
- The Cabinet discussed the bill on 27/04/2010 and directed the attorney general to withdraw the bill, consolidate it with the Veterinary Surgeons and Veterinary Para-professionals bill 2009 and present it to Parliament as one.
- The reference is a Cabinet memo Ref. no. OP.CAB.58/4A of 28/04/2010 signed by Ambassador Francis K. Muthaura, EGH, Permanent Secretary, Secretary to the Cabinet and Head of Public Service.



THE AGRICULTURAL SOCIETY OF KENYA



Jamhuri Park P.O. Box 30176-00100 G.P.O. Nairobi Telephone: 0704-583850 0736-345333 Wireless (020) 8070808/9
Email: info@ask.co.ke Website: www.ask.co.ke

REF: NA/COI/2018/(16)

27th March, 2018

**The Principal Secretary
State Department of Agricultural Research
Ministry of Agriculture and Irrigation
Kilimo House
NAIROBI**

ATT: Grace Agili,
Cell phone +254722765806
E-mail graceagili@gmail.com

Dear *Bwana PS,*

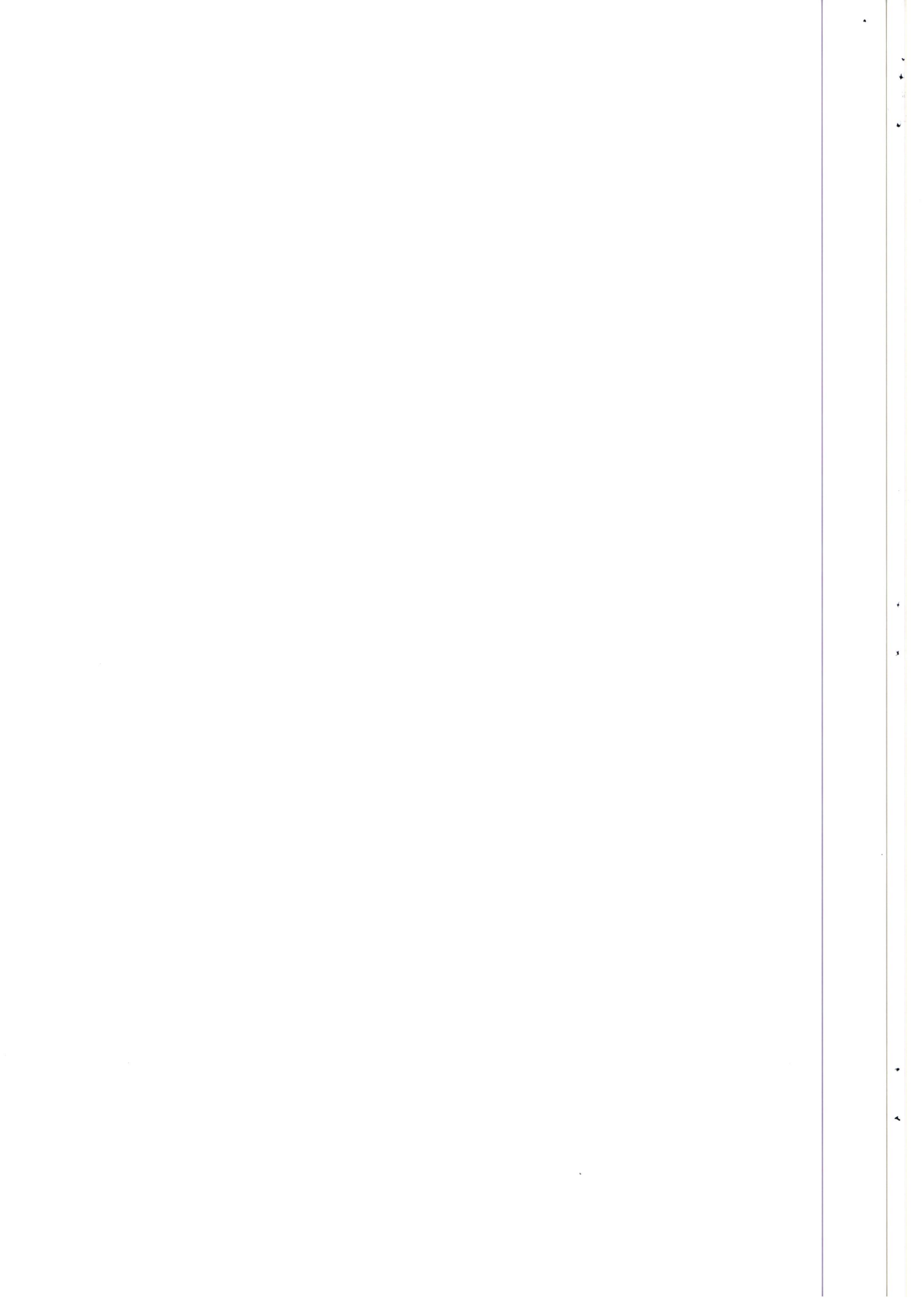
**REF: ASK ELECTIONS OF A SUBSTANTIVE NATIONAL CHAIRMAN –
REQUEST FOR INFORMATION ON STATUS.**

SOCIETY ANNUAL GENERAL MEETING (AGM) – 10th APRIL 2015

The Society held and concluded its AGM as per the Society's Constitution on 10th April 2015. The Hon. Justice Anthony Mrema was elected Chairman of the Society.

RESIGNATION OF NATIONAL CHAIRMAN

Within the month of April 2015, Hon. Justice A. Mrema, citing exigency of work as Judge of the High Court of Kenya, resigned as National Chairman of the Society and one of the Deputy National Chairmen (Mrs. Annabel Kiriinya) was appointed acting National Chairman under Article 24 of the Constitution of the Society.



CONSTITUTION AND RULES OF THE SOCIETY

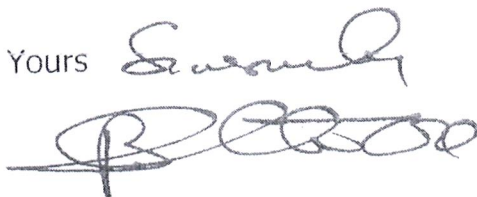
Articles 53 the Society's Constitution provide for the Rules for the carrying out of the purposes and provisions of the Constitution. The Society's Mid Term election Rules were invoked to elect a substantive National Chairman of the Society.

ELECTION OF SUBSTANTIVE NATIONAL CHAIRMAN – MID TERM ELECTION RULES

In line with the Mid Term election Rules of the Society, the Society held its elections to elect a substantive National Chairman of the Society. These were held on 27th February 2016. Mrs. Annabel Kiriinya (previously Deputy National Chairman and acting National Chairman) was elected National Chairman of the Society.

Her term as National Chairman runs to the Annual General Meeting of the Financial Year ending 31st December 2019.

Yours



BATRAM MUTHOKA
CHIEF EXECUTIVE OFFICER

Copy To:

Mrs. Annabel Kiriinya
National Chairman
Agricultural Society of Kenya
Jamhuri Park
NAIROBI





THE PRESIDENCY

MINISTRY OF INTERIOR AND CO-ORDINATION OF NATIONAL GOVERNMENT

State Department for Correctional Services

Telephone: +254-20-2228411
Email: ps@coordination.go.ke
Info@coordination.go.ke
Website: www.coordination.go.ke
When Replying please quote

① P/Committee
8/4/4

② R. Wanjohi
pls deaf
RA
05/4/18

Teleposta Towers, 28th Flr.
Wing C – Entrance
Kenyatta Avenue Str.
P.O. BOX 30478 – 00100
NAIROBI.

Our Ref: SDC/ADM/1/58/ (41)

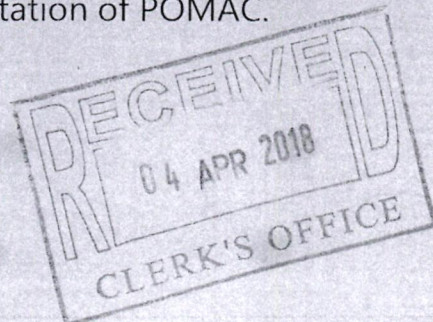
3rd April, 2018

Clerk of the National Assembly
National Assembly
Clerk's Chambers
Parliament Building
P. O. Box 41842, 00100
NAIROBI

REQUEST FOR INFORMATION ON IMPLEMENTATION STATUS OF HOUSE RESOLUTIONS BY COMMITTEE ON IMPLEMENTATION

We refer to your letter Ref: NA/COI/2018/ (15) dated 19th March, 2018 on the above subject.

The State Department for Correctional Services which is the implementing body of the Power of Mercy hereby submits the report on the status and challenges that the Ministry has experienced in the implementation of POMAC.



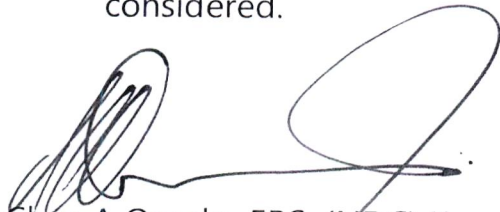
As a member of the Power of Mercy Committee (POMAC), the Kenya Prisons Service facilitates the committee's entry into penal institutions in order to interview inmates on whose behalf petitions have been made. Kenya Prisons also submits requisite documentation to the committee through members of staff who have been gazetted as pardon officers.

To ensure that POMAC operates efficiently, we liaise with the committee's secretariat in identifying penal institutions where inmates who qualify to petition for the power of mercy are held.

We wish to report that in the year 2016, His Excellency the President of the Republic of Kenya released One Hundred and two (102) long term prisoners. However, the Ministry has faced the following challenges in the implementation of its undertakings under the Power of Mercy:

1. The Kenya Prisons Service is a co-opted member of the Power of Mercy Committee, meaning that committee meetings can be held without the direct participation of the department.
2. Inmates who are qualified to petition for mercy on account of the period spent in prison are at times disqualified due to the delay in the determination of their appeals.
3. Prison officers gazetted as pardon officers and stationed in our penal institutions should ideally be members of the secretariat, which is not the case.
4. Lack of continuous capacity building for all prison officers engaged in the POMAC process.
5. Delays in getting feedback from the committee after inmates' petitions have been forwarded to POMAC for deliberations.
6. The POMAC visits to penal institutions are not consistent; for instance, the committee last visited Kamiti maximum Prison to interview inmates one year ago.

7. Inmates serving long sentences and who are terminally ill have not been considered.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Clare A Omolo, EBS, (MDC) K

FOR: PRINCIPAL SECRETARY





D/Cutter

14/4/18

**MINISTRY OF DEFENCE
OFFICE OF THE CABINET SECRETARY**

Telegraphic Address: "DEFENCE"
Fax No: 020-2726321
Telephone: 020-2721100
Email: cabinet-secretary@mod.go.ke

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

When replying please quote **MOD.17/08**

11th April, 2018

Mr. Michael Sialai, EBS

Clerk of the Kenya National Assembly,
Parliament Buildings,
P.O Box 41824-00100,
NAIROBI.

*2. Rose Wang'ani
for consultation to
the committee
13/4/18*

Dear *Mr. Sialai,*

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

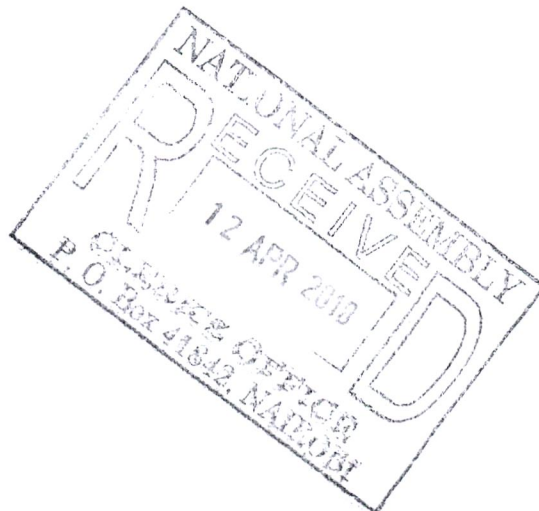
Ref: National Assembly's letter NA.COI/2018(15) dated 19th March, 2018.

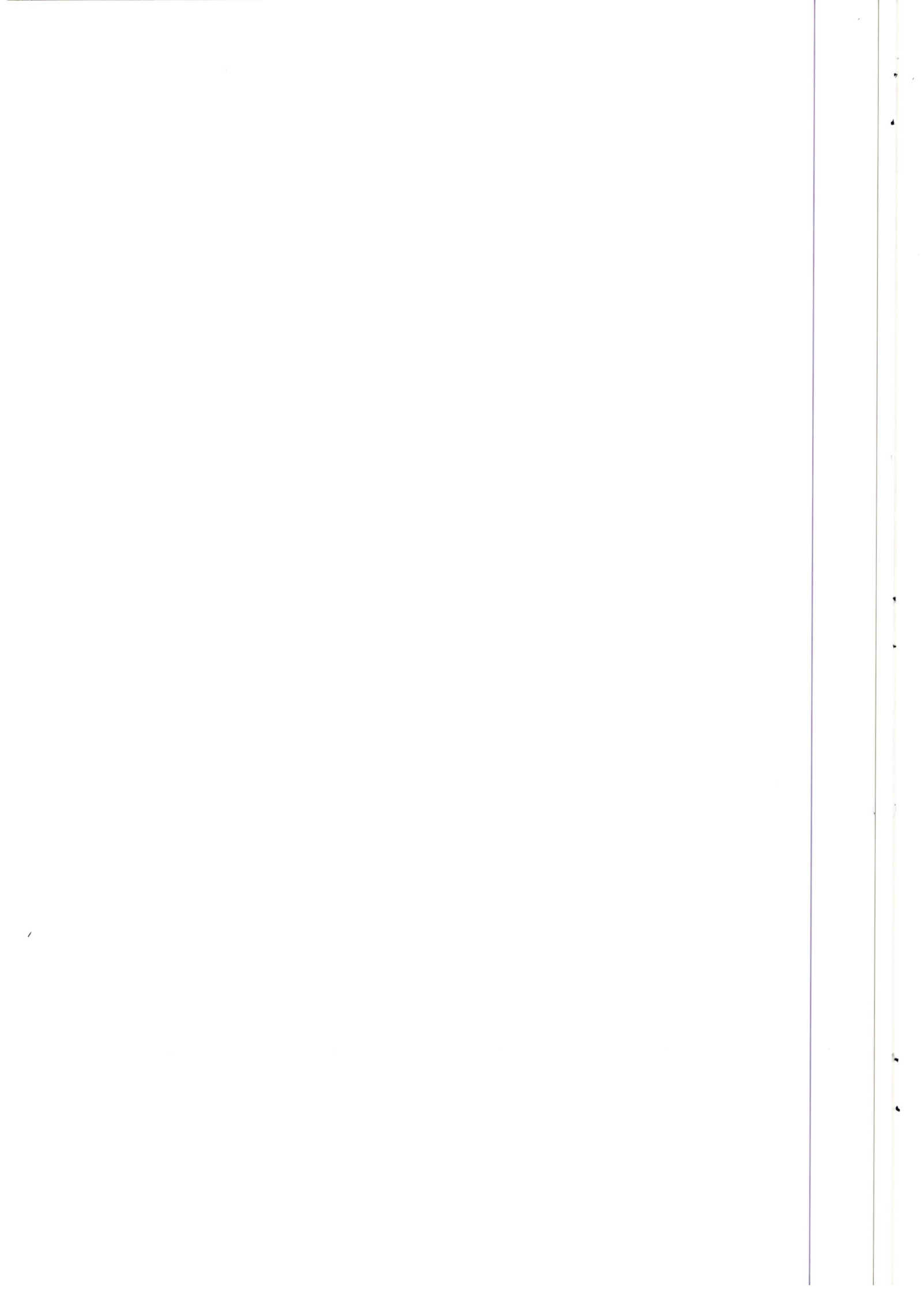
Forwarded herewith please find a matrix providing the status of the implementation of the National Assembly's statutes and resolution as requested.

Yours *sincerely*


**Amb. Raychelle Omamo, SC
CABINET SECRETARY**

Attach:





IMPLEMENTATION STATUS OF ACTS AND RESOLUTIONS BY THE NATIONAL ASSEMBLY

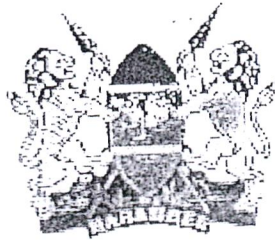
S. No.	Instrument	Provisions	Implementation Status
1.	Kenya Defence Forces Act, No. 25 of 2012	Act provides for the functions, organization and administration of the Kenya Defence Forces pursuant to Articles 232 and 239(6) of the Constitution, gives effect to Article 241 and other relevant Articles of the Constitution, provides for disciplinary matters.	<p>a. The following regulations have been promulgated by the Defence Council:</p> <ul style="list-style-type: none"> (1) The Kenya Defence Forces (Commissioning of Officers) Regulations, 2017 (2) The Kenya Defence Forces (Active Service Punishment) Regulations, 2017 (3) The Kenya Defence Forces (Internal Grievance Mechanism) Rules, 2017 (4) The Kenya Defence Forces (Retired Officers and Service Members) Regulations, 2017 (5) The Kenya Defence Forces (Constabulary) Regulations, 2017 (6) The Kenya Defence Forces (Missing Persons) Regulations, 2017 (7) The Kenya Defence Forces (Board of Inquiry) Regulations, 2017 (8) The Kenya Defence Forces (General) Regulations, 2017 (9) The Kenya Defence Forces (Execution of Sentence of Death) Regulations, 2017 (10) The Kenya Defence Forces (Imprisonment) Regulations, 2017 (11) The Kenya Defence Forces Rules of Procedure, 2017 <p>b. Courts Martial are being convened and proceeded with in accordance with the Act.</p> <p>c. Operations in support of the National Police Service are being conducted in accordance with sections 33, 34 and 35 of the Act.</p>

			<p>d. Disciplinary proceedings within the KDF are being undertaken in accordance with Parts VI – VIII of the Act.</p> <p>e. Multilateral and Bilateral Defence Co-operation agreements ratified in accordance with section 37 and Part XVIII of the Kenya Defence Forces Act.</p> <p>f. Policy & Strategy Department established in the Ministry to articulate the functions set out in section 10 of the Act.</p>
2.	Prohibition of Anti-Personnel Mine, 2015	Provides for prohibition of use, stockpiling, production and transfer of anti-personnel mines and their destruction. It domesticates the Ottawa Convention.	<p>a. The KDF no longer holds within its inventory antipersonnel mines except a small inventory for training within the Engineers Brigade and within HPSS.</p> <p>b. The Ministry sends a yearly declaration to United Nations Office for Disarmament Affairs as required by Article 7 of the Convention.</p>
3.	Kenya Defence Forces Amendment Act No. 4 of 2016	Amendment corrected typos and omissions in the Act.	Amendments brought into force vide Legal Notice No. 23 of 10 March 2017
4.	Kenya Regiment (Territorial Force) (Repeal) Act, No. 40 of 2016	The Act repeals the Kenya (Territorial Force) Act and the subsidiary legislation made thereunder.	The Territorial Force had already been disbanded by the Government prior to the repeal of the Act.
5.	Report on continued occupation of Migingo and Ugingo Islands in Lake Victoria by Uganda security forces	The report endorsed the usage of diplomacy to resolve the question of ownership of Migingo and Ugingo Islands. The Committee rejected the use of military force to resolve the dispute.	<p>a. No KDF personnel has been deployed to the Islands.</p> <p>b. The verification of the boundary in accordance with documents prepared by the Colonial Government is being handled by the International Boundaries Office within the Ministry of Interior and Co-ordination of National Government.</p>

Approved for tabling

REPUBLIC OF KENYA

NA
16/03/16



ELEVENTH PARLIAMENT - FOURTH SESSION - 2016

THE NATIONAL ASSEMBLY

REPORT OF
THE DEPARTMENTAL COMMITTEE ON DEFENCE AND FOREIGN RELATIONS
ON
THE PETITION REGARDING CONTINUED OCCUPATION OF MINGO AND
UGINGO ISLANDS IN LAKE VICTORIA

Directorate of Committee Services,
Clerk's Chambers,
Parliament Buildings,
NAIROBI.

MARCH, 2016

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- Committee minutes
- Petition

1.0 Preface

Mr. Speaker Sir,

On behalf of the Departmental Committee on Defence and Foreign Relations and pursuant to provisions of Standing Order 216(1) it is my pleasant privilege and honour to present to this House the Report of the Committee the Petition regarding the continued occupation of Mjigingo and Ujigango Islands in Lake Victoria. The petition was tabled before this House pursuant to Standing Order No. 225 (2)(b) through the Clerk, on behalf of Dr. Dan Aila, Director of Africa Human Rights Bureau, on Thursday, 6th March, 2014

1.1 Mandate of the Committee

The Committee is established pursuant to the provisions of Standing Order No. 216, and is mandated to, among others;

- a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments,
- b) study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation,
- c) study and review all legislation referred to it;
- d) study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives,
- e) investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House or a Minister;
- f) vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204

- (Committee on Appointments); and
- e) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

Standing Order 227 provides that: (1) Every Petition presented or reported pursuant to this Part, shall stand committed to the relevant Departmental Committee. (2) Whenever a Petition is committed to a Departmental Committee, the Committee shall, in not more than sixty calendar days from the time of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the table of the House and no debate on or in relation to the report shall be allowed, but the Speaker may, in exceptional circumstances, allow comments or observations in relation to the Petitions for not more than twenty Minutes. (3) The Clerk shall, within fifteen days of the decision of the House, in writing, notify the petitioner of the decision of the House on the petition.

1.3 Committee Membership

The Committee comprises the following Members:

1. The Hon. Nding'u Gathechi, M.P. (Chairperson)
2. The Hon. Elias Bera Salla, M.P. – (Vice Chairperson)
3. The Hon. Jakoyo Mufwa, B.Ch. M.P.
4. The Hon. Kaloo Ole Matilo, M.P.
5. The Hon. Christianus Wamalwa, M.P.
6. The Hon. Al Dido Raso, M.P.
7. The Hon. David Pkosing, M.P.
8. The Hon. Adan Keynan, M.P.
9. The Hon. Wasila Wamung'ny, M.P.
10. The Hon. Nyiva Mwendwa, M.P.
11. The Hon. Berrins Nyaga, M.P.
12. The Hon. Goad' Rai, M.P.
13. The Hon. Joel Onyancha, M.P.

14. The Hon. Joseph Kiina, M.P.
15. The Hon. Yusuf Hassan, M.P.
16. The Hon. Abass Mohammed, M.P.
17. The Hon. Richard Ouyonka, M.P.
18. The Hon. Lekutor Jaseel, M.P.
19. The Hon. John Lodega Nakura, M.P.
20. The Hon. Annah Nyokabi Gathucka, M.P.
21. The Hon. David Wamala, M.P.
22. The Hon. Elisha Busiemsi, M.P.
23. The Hon. Ibrahim Sane, M.P.
24. The Hon. Dennitah Ghaf, M.P.
25. The Hon. Elijah Momeni, M.P.
26. The Hon. Roselinda Soipaa, M.P.
27. The Hon. Joyce Wanjaka Lay, M.P.
28. The Hon. Joseph Gilari, M.P.

1.4 Commitment and Consideration of the Petition

Pursuant to Standing Order 227 (1), the petition was referred to the Departmental Committee on Thursday, 6th March, 2014 for consideration and preparation of a report within 60 days. The Committee considered the petition pursuant to the provisions of Standing Order 227 (1) and (2).

The Committee proceeded with the consideration of the petition by holding meetings to set up terms of reference and scheduling meetings.

In considering the petition, the Committee invited and held meetings with the petitioner, Dr. Dan Alila, Director, Africa Human Rights Bureau. The meetings were aimed at responding to issues raised by the petitioner.

1.5 Committee Observation

Having held meetings and considered the submissions presented on the Petition, the Committee observed that:

1. Uganda's actions – hoisting its flag, collecting rent, deploying military police and taxing the inhabitants' amounts to acts of aggression in international law, is a challenge to the East African Community therefore there is need to mediate and resolve the conflict peacefully since international law cherishes peaceful means of conflict resolution.
2. The two countries benefit from Migingo fishing activities, thus the two countries cannot afford to engage in a military conflict since Uganda is Kenya's major trading partner in the World. What remains now is for the joint border survey to be completed so as to resolve the matter conclusively.
3. During the Kenya-Uganda ministerial meeting held in Nairobi in 2011, it was resolved, that the survey team would produce a report and come up with practical modalities to conclude the survey and demarcation of the boundary.
4. Resolutions have been made such as joint policing of Migingo Island, joint regular meetings between administrators of Nyalike Sub-county and Bugiri District in Uganda they have not been fully realized.
5. There was need for the two countries to engage in a disarmament initiative to curb terrorism and perennial cattle rustling across the border.
6. There should be joint intelligence gathering systems between the two countries as the delegations had pressed for.

1.6 Response to the prayers in the petition

The petitioner had prayed that the National Assembly through the Committee,

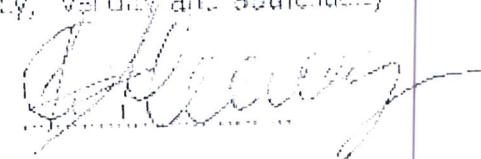

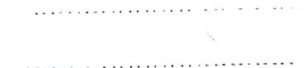
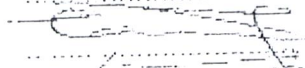

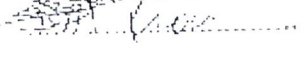
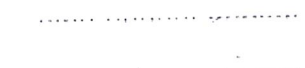


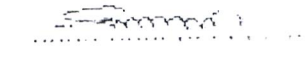




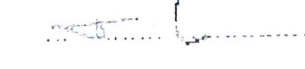

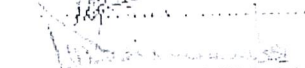






- i) Investigates the issue raised in the petition and affirms that the contested Migingo and Ugingo Islands and the surrounding waters are part of the Kenyan territory;
- ii) Approves the establishment of a permanent Naval Base at Ugingo to protect Kenyan citizens living and working on the two islands; and,
- iii) Considers compensating the victims affected by the alleged occupation.
- iv) In view of Article 238 (1) as read with article 238 2 (a) of the Constitution, Parliament Approves military actions against Uganda security forces occupying Migingo and Ugingo island in Lake Victoria, Migori County.

In response to the above prayers, the Committee recommends that:

1. Diplomacy is the best option that Kenya can take because it benefits a lot from Uganda in terms of trade and commerce, transportation, education opportunities and employment among others. Kenya and Uganda also collaborate on both regional security and global political issues. The two countries therefore need each other and issues that strain relations between them can be resolved diplomatically.
2. The real ownership of Migingo Island to be determined by a joint survey based on the colonial maps since all African states respect colonial borders which the Organization of African Unity had embedded in its charter and which the African Union has provided for in Article 4(c) of its Constitutive Act.
3. Migingo Island is an inland boundary area that does not require the presence and the Navy. Naval bases are established to guard the international waters where big international businesses are done within the oceans and therefore Migingo is better handled in a diplomatic way as mentioned in 1 above.
4. The Committee does not agree with the Positioner to Invoke Article 238 (1) as read with article 238 (2) (a) of the Constitution of Kenya for Parliament to approve military actions against Uganda security forces occupying Migingo and Ugingo Island in Lake Victoria, Migori County.

1.7 Adoption of the Report

We the members of the Departmental Committee on Defence and Foreign Relations have, pursuant to Standing Order 199, adopted this Report on the Petition Regarding the Continued Occupation of Mgingo and Ugingo Islands in Lake Victoria and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity today(day and date) :

1. The Hon. Ndung'u Getheng, M.P. – (Chairperson) 
2. The Hon. Elias Bare Soti, M.P. – (Vice Chairperson) 
3. The Hon. Jakoyo Madiwa, EGH, M.P. 
4. The Hon. Karoo Ode Mbatia, M.P. 
5. The Hon. Christantus Wameliwa, M.P. 
6. The Hon. Ali Dido Rasso, M.P. 
7. The Hon. David Pkosing, M.P. 
8. The Hon. Adan Koyhan, M.P. 
9. The Hon. Wafula Wamunyanyi, M.P. 
10. The Hon. Nyiva Mwendwa, M.P. 
11. The Hon. Beatrice Nyaga, M.P. 
12. The Hon. Gonzi Rai, M.P. 
13. The Hon. Joe Onyango, M.P. 
14. The Hon. Joseph Kiuna, M.P. 
15. The Hon. Yusuf Hassan, M.P. 
16. The Hon. Abass Mohammed, M.P. 
17. The Hon. Richard Oryonka, M.P. 
18. The Hon. Lekuton Joseph, M.P. 
19. The Hon. John Lodepe Nakera, M.P. 
20. The Hon. Anthon Nyokari Gathicha, M.P. 
21. The Hon. David Wafu'a, M.P. 
22. The Hon. Eisha Busierai, M.P. 
23. The Hon. Ibrahim Sane, M.P. 


24. The Hon. Dennitah Ghati, M.P.

25. The Hon. Elijah Memusi, M.P.

26. The Hon. Rosolinda Scipan, M.P.

27. The Hon. Joyce Wanjaiah Lay, M.P.

28. The Hon. Joseph Gilari, M.P.


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1.8 Acknowledgment

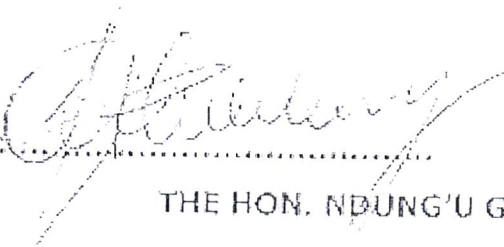
The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate.

I take this opportunity to thank all the Members of the Committee for their patience, sacrifice, endurance and hard work during the long sitting hours under tight schedules which enabled us to complete the tasks within the stipulated period.


The Committee wishes to record its appreciation for the services rendered by the staff of the National Assembly attached to the Committee. Their efforts made the work of the Committee and the production of this Report possible.

Finally, it is now my pleasant duty, on behalf of the Departmental Committee on Defence and Foreign Relations, to present this report to the House pursuant to the provisions of Standing Order 227 (2).

SIGNED:



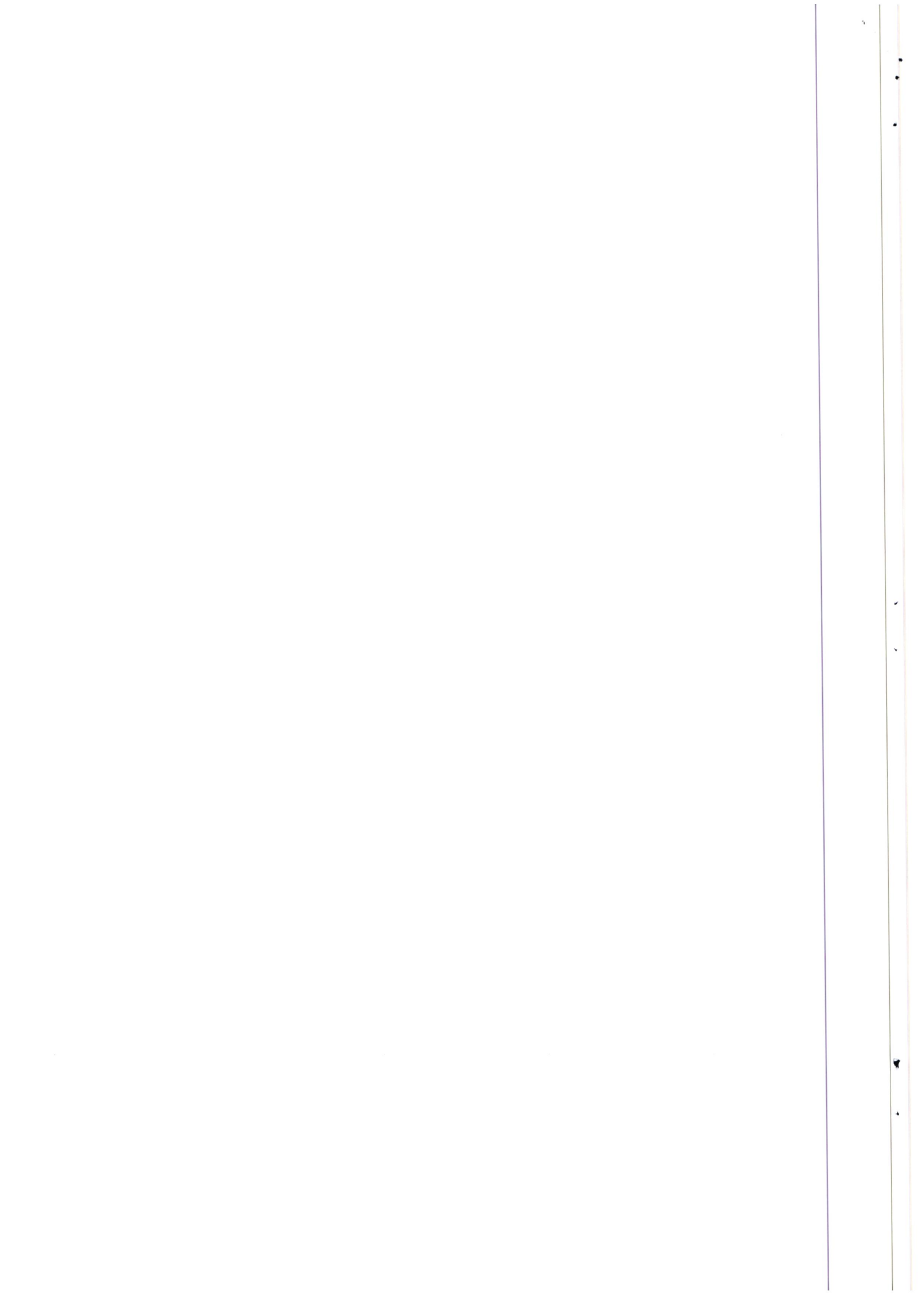
DATE:



THE HON. NDUNG'U GETHENJI, M.P.

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON DEFENCE AND FOREIGN RELATIONS





REPUBLIC OF KENYA

OFFICE OF THE ATTORNEY-GENERAL
&
DEPARTMENT OF JUSTICE

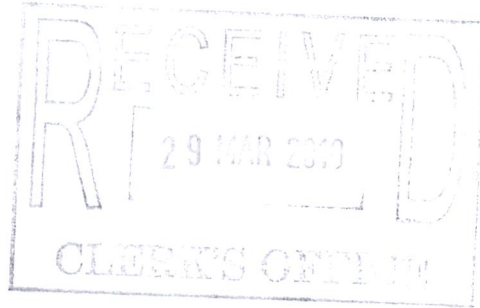
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03/04/18

Our Ref: AG/CONF/6/B/18/1/TY

29th March 2018

Your Ref: NA/COI/2018/(21)

Mr. Micheal R. Sialai EBS
Clerk of the National Assembly
Clerk's Chambers
Parliament Buildings
NAIROBI



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

We refer to your letter dated **19th March, 2018** and attach copy of the document appraising you of the implementation status of the Laws that are implemented by the Office of the Attorney-General and Department of Justice.

KENNEDY OGETO EBS
SOLICITOR GENERAL

Attached*

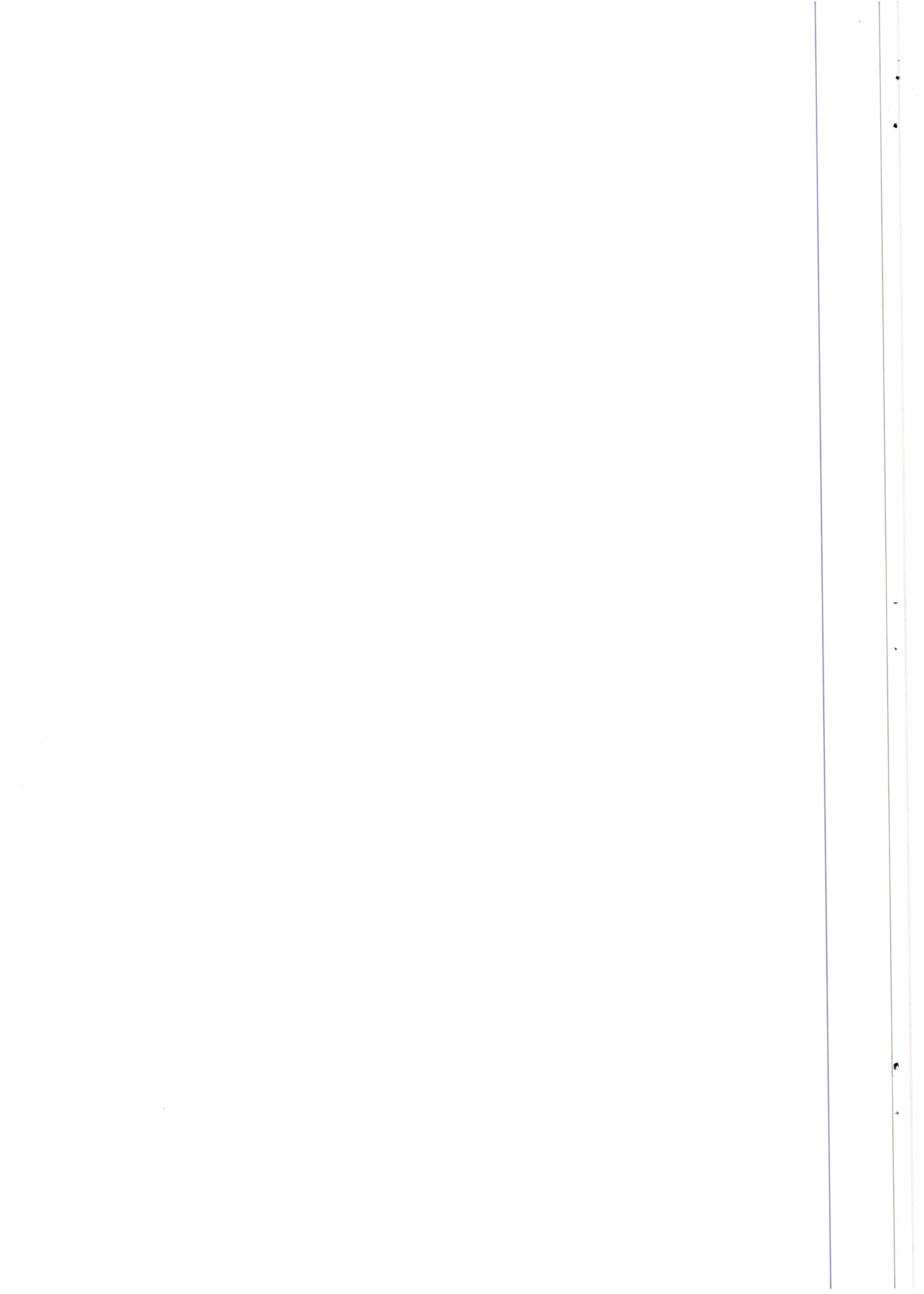
② R. WANJOI
pls deep
FA
04/4/18

SHERIA HOUSE, HARAMBEE AVENUE
P.O. Box 40112-00100, NAIROBI, KENYA. TEL: +254 20 2227461/2251355/07119445555/0732529995
E-MAIL: info.statelawoffice@kenya.go.ke WEBSITE: www.attorney-general.go.ke

DEPARTMENT OF JUSTICE
CO-OPERATIVE BANK HOUSE, HAILLE SELLASIE AVENUE P.O. Box 56057-00200, Nairobi-Kenya TEL: Nairobi 2224029/ 2240337
E-MAIL: legal@justice.go.ke WEBSITE: www.justice.go.ke

ISO 9001:2008 Certified





IMPLEMENTATION STATUS REPORT OF HOUSE RESOLUTIONS BY THE COMMITTEE ON IMPLEMENTATION

ACT	ASSENT DATE	COMMENCEMENT DATE	IMPLEMENTING BODY	PROVISIONS	STATUS
Companies (Amendment) Act, No. 28 of 2018	21st July 2017	16th August 2017	Attorney General	The amendments to the Act include new definitions and other amendments.	
The legal aid act, No. 6 of 2016	22nd April 2016	10th May 2016	Attorney General National legal aid service	-the act gives effect to articles 19(2), 48, 50(2)(g) (h) of the constitution to facilitate access to justice and social justice; establish the national legal aid service; to provide for legal aid, and for the funding of legal aid. -established a fund to assist in legal aid.	The Act is in operation
The Witness Protection (Amendment	23 rd December 2016	13 th January 2017	Witness Protection Agency	The amendments to the Act amended the definitions of some terms,	

) Act, 2016			Attorney General	the application of the Act, funds of the Agency
The companies act, No. 17 of 2015	11th September 2015	-15th September 2015- section 1 -6th November 2015 parts 1 to 14, 23,31,32,38,40,42, 1st sch, 2nd sch and 6th sch -15th June 2016- other parts	Attorney General	The act was an over-hall of the old companies act, cap 486 in order to facilitate commerce, industry and other socio-economic activities by enabling one or more natural persons to incorporate as entities with perpetual succession, with or without limited liability and to provide for the regulation of those entities in the public interest, and in particular in the interest of their members and creditors.
The insolvency act, No. 16 of 2015	11th September 2015	Date of commencement: I,II,III, first schedule and second schedule: 30th November, 2015 Parts II,VI,VII, VIII,IX,X,XI,XII, third schedule and fourth schedule:	Attorney General	The act was enacted simultaneously with the companies act to ration of a framework for the efficient benefitable administration of the estates of insolvent natural persons and unincorporated entities comprising natural
				The Act has been implemented and all incorporations are being done under the new Act which made it more affordable and efficient to register and regulate businesses online.

		18th January, 2016 Part XIII: 4th March 2016 Section 720: 27th June 2016		persons, and the assets of insolvent companies and other body corporates, that maintains a fair balance between the interests of those persons, entities, companies and bodies and those of their creditors and also insolvent natural persons and unincorporated entities.	
Kenya School of Law Act, No. 26 OF 2012	21st September 2012	15th January 2013	Attorney General	The act was made to provide for the establishment, powers and functions of the Kenya School of Law.	The Act is operational but there are a few challenges with regard to the regulations made thereunder as follows: 1. There is no clarity on the admission of foreigners who have undertaken their studies in Kenyan universities. 2. Criteria for admission for students who have undertaken a different education system from 8-4-4.
The business registration service act,	11th September 2015	6th November 2015	Attorney General Board of	The act establish the business registration service to ensure effective	The Act has been implemented and formation of Companies and businesses and any changes thereof

No. 15 of 2015				directors of the business registration service	administration of the laws relating to the incorporation, registration, operation and management of companies, partnerships, and firms	are being done online hence more efficiency.
The marriage act, No. 4 of 2014	29th April 2014	20th May 2014	Attorney General	It was enacted to amend and consolidate the various laws relating to marriage and divorce.	The Act is operational and the five systems of marriages have been implemented. However, the judiciary has not enacted rules to guide the court process on the implementation of the Act and is still relying on the matrimonial rules as per the Matrimonial Act now repealed.	
National centre for international arbitration, No. 26 of 2013	14th January 2013	25th January 2013	Attorney General -Nairobi centre for international arbitration	It was enacted to provide for the establishment of a regional centre for international commercial arbitration and the arbitral court and to provide for mechanisms for alternative dispute resolution.	The Act is operational and a number of arbitration cases that have already been dealt with. However, there is a challenge on the constitution of the Board of Directors as it currently has 12 members as opposed to 9 as recommend by the M'wongozo code.	
The mutual legal assistance act, 2011	11th November 2011	2nd December 2011	Attorney General	-the act is for mutual legal assistance in criminal matters to be given and received by Kenya in investigations,	Following the enactment of the Act, the government has affirmed its commitment in the strengthening of legal and judicial systems; a Memorandum of Understanding	

				prosecutions and judicial proceedings -AG best placed to advise the committee on the operation of that law	between the Swiss Federal Council and the Republic of Kenya on Mutual Legal Assistance was signed after the commencement of the Act
Kenya law reform commission, Act No. 19 of 2013	14th January 2013	25th January 2013	Attorney General	The act provides for the functions, powers, management, and administration of the Kenya law reform commission	The Act is operational but there is need to broaden the stakeholder representation in the Commission to include: i) A lecturer in a Public University in Kenya; and ii) A member appointed by the Cabinet Secretary upon recommendation by the Council of Governors.
Limited Liability Partnership, 2011	11th November 2011	16th March 2012	Attorney General/ Registrar of companies	This act is operational and makes provisions for the establishment of limited liability partnerships -AG may inform the committee on whether the structures required to be put in place to enable the implementation of the act have been so put in place.	The Act is operational and several Limited Liability Partnerships have already been registered.
The victim protection act, No. 17 of 2014	14th September 2014	3rd October 2014	Attorney General	The law was passed to give effect to article 50(9) of the constitution; to provide for the protection	

Leadership and integrity act, No. 19 of 2012	27th August 2012		EACC Attorney General	of victims of crime and abuse of power, and to provide them with better information and support services, to provide reparation and compensation to victims; to provide special protection for vulnerable victims	
The Witness Protection (Amendment) Act, 2010	12 th May 2010	27 th August 2012	Attorney General Witness protection Agency	This act was passed to effectuate and establish procedures and mechanisms for the effective administration of chapter six of the constitution The Agency was established vide those amendments to facilitate the establishment and maintenance of a witness protection programme, among other functions. Victims compensation fund was also to be established under the Act Agency can report to the Committee on its work,	The Act is in force. Any appointment to a position in the Public office, requires clearance from the EACC.





① 0/Committees
8/4/18
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REPUBLIC OF KENYA
MINISTRY OF INFORMATION, COMMUNICATIONS AND TECHNOLOGY
State Department of Broadcasting and Telecommunications
Office of the Principal Secretary

Telephone: 020 4920000
Telegram:
Fax:315147
When replying please quote
Ref. MICT/CONF/18/01

Teleposta Towers
P.O. Box 30025-00100
NAIROBI
Kenya

② R. WANJAU
pls deal
FA
05/4/18

26th March, 2018

Mr. Michael R. Sialai
Clerk
National Assembly
Parliament Building
NAIROBI

Dear *Michael Sialai*

RE: IMPLEMENTATION STATUS OF NATIONAL ASSEMBLY RESOLUTIONS

Reference is made to your letter Ref. No. NA/COI/2018/(21) dated 19th March, 2018 on the above subject matter.

Please find attached detailed status report for the Ministry of Information, Communications & Technology (ICT) for your information and necessary action.

Yours *Sincerely*

SAMMY ITEMERE, CBS
PRINCIPAL SECRETARY

Encs

Copy to: Mr. Joe Mucheru, EGH
Cabinet Secretary
Ministry of Information, Communications and Technology
NAIROBI

Eng. Victor Kyalo, CBS
Principal Secretary/ICT & Innovation
Ministry of information, Communications and Technology
NAIROBI





REPUBLIC OF KENYA

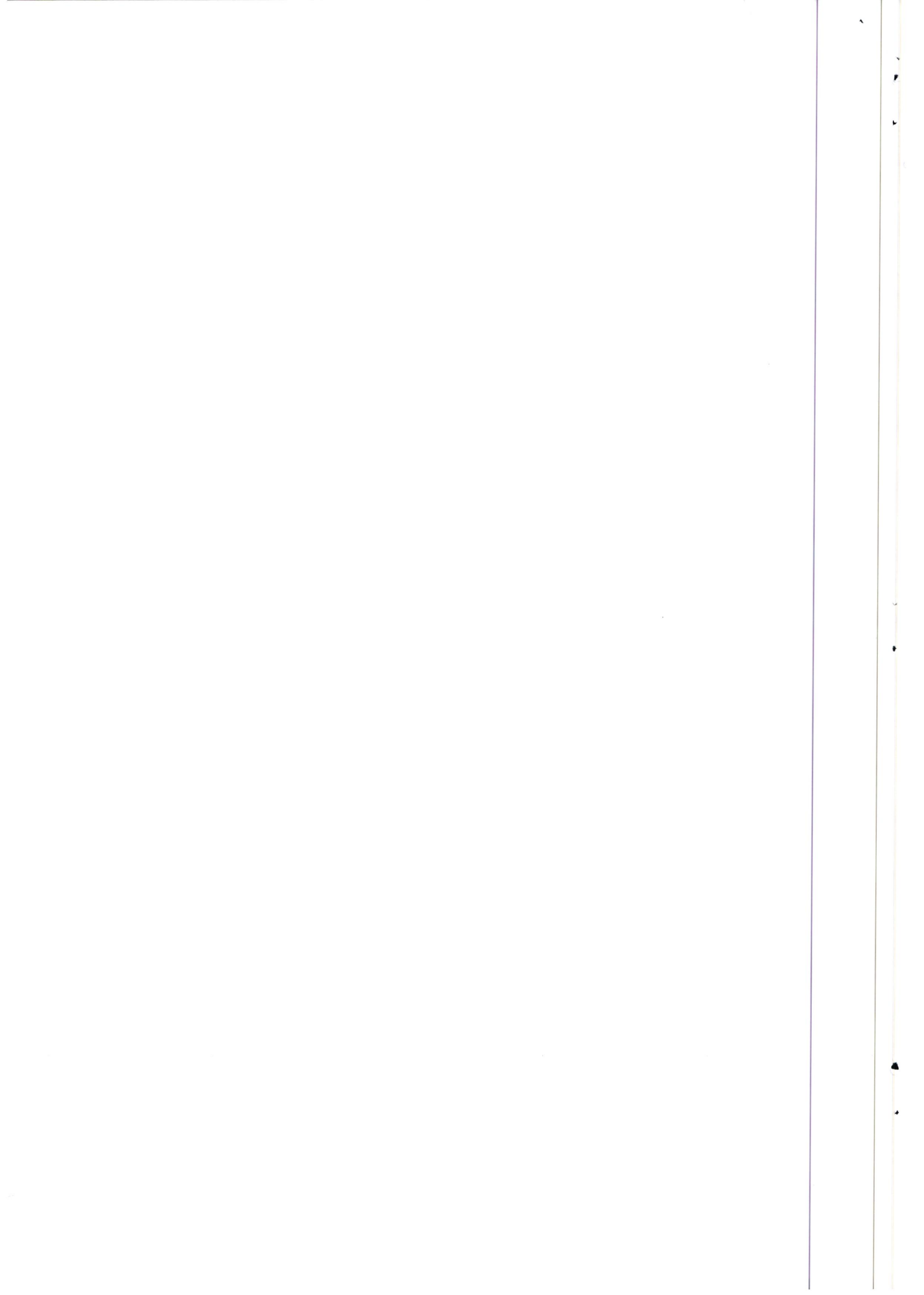
MINISTRY OF INFORMATION, COMMUNICATIONS AND TECHNOLOGY

IMPLEMENTATION STATUS OF NATIONAL ASSEMBLY RESOLUTIONS

S/n	Act	Date Assented	Commencement Date	Implementation Status	Challenges
1	Publication of Electoral Opinion Polls Act, No. 39 of 2012	15 th June, 2012	22 nd November, 2012	Pending	Lack of clarity on institution responsible for implementation.
2	The Kenya Information Communication (Amendment) Act, No 41A of 2013	11th December 2013	2nd January 2014	The implementation of the Kenya Information Communication Amendment Act (KICA) 2013 has actualized a framework for the realization of the right to freedom of information and the media as provided for under article 34 of the Constitution 2010. Through the Act, Communication Commission of Kenya was transformed to Communication Authority of Kenya (CA) as an independent body that is free of Government, political or any other commercial interests' controls to regulate the ICT sector.	<ul style="list-style-type: none"> Inadequate allocation of funds for Tribunal start-up and operational costs e.g. staffing, office space, etc. Transition from the Ministry of ICT to Judiciary Overlap of the mandate of Complaints Commission at the Media Council and the Communication and Multimedia Appeals Tribunal Slow implementation of projects under the Universal Service Fund due to insecurity in selected sub locations in Northern Kenya and along the Coastal strip Pending Court case for delayed for two years

S/n	Act	Date Assented	Commencement Date	Implementation Status	Challenges
3	The Media Council Act, 2013 (No. 46 of 2013)	24th December 2013	10th January 2014	<p>SIM-Cards Registration regime is under Implementation</p> <p>The Communications and Multimedia Appeals Tribunal (CAMAT) was established operationalized in 2017 as an overarching disputes settlement mechanism between parties in the entire communications and multimedia industry.</p> <p>The Universal Service Advisory Council was established and operationalized in 2014 to advise Communications Authority and provide strategic policy guidance for the administration and implementation of the Universal Service Fund;</p> <p>The Ministry established and operationalized the Media Council to promote the freedom and independence of the media; Set media standards and ensure compliance with those standards as set out in Article 34(5) of the Constitution.</p> <p>The Ministry also established and established the Complaints Commission in 2017 to;</p>	<p>the operationalization of Media Council, Complaints Commission and Communications and Multimedia Appeals Tribunal</p> <ul style="list-style-type: none"> Inadequate funding of the Media Council and the Complaints Commission operations

S/n	Act	Date Assented	Commencement Date	Implementation Status	Challenges
				<ul style="list-style-type: none"> • Mediate or adjudicate in disputes between the government and the media and between the public and the media and intra media on ethical issues; • Ensure the adherence to high standards of journalism as provided for in the code of conduct for the practice of journalism in Kenya ; and • Achieve impartial, speedy and cost effective settlements of complaints against journalists and media enterprises, without fear or favour. 	



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Fax: +254 20 2240066/341935/344333
Email: communication@mfa.go.ke
Website: www.mfa.go.ke
When replying please quote Ref. No. and date



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

OD/Cuttler
11/24/18
11th April, 2018

MINISTRY OF FOREIGN AFFAIRS

Ref. No. MFA. REL. 13/41 A. VOL. 43

The Clerk,
National Assembly
Clerks Chambers
Parliament Buildings
P.O Box 41842-00100
NAIROBI



REQUEST FOR INFORMATION ON IMPLEMENTATION STATUS OF HOUSE RESOLUTION BY COMMITTEE ON IMPLEMENTATION

We acknowledge receipt of your letter Ref: NA/COI/2018/(20) dated 19th March, 2018 on the above subject matter.

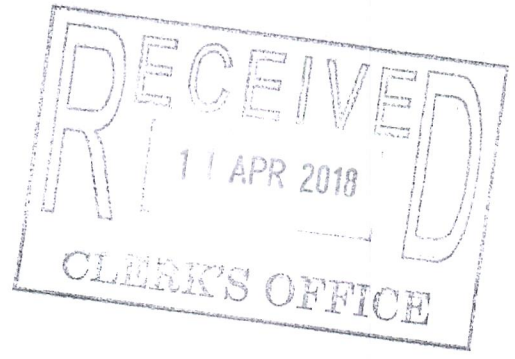
Enclosed herein kindly find the below listed progress reports for your information;

- 1) Report on the continued occupation of Migingo and Ugingo islands in lake Victoria by Uganda security forces.
- 2) Report on the implementation of the treaty making and ratification Act, 2012 (revised 2014) by the office of the registrar of Treaties.

Yours *Sunt,*

AMB. MACHARIA KAMAU, MBS.
PRINCIPAL SECRETARY

② ROSE W.
pls deaf
FA
12/4/18



*Encls;

REPORT TO THE NATIONAL ASSEMBLY ON CONTINUED OCCUPATION OF MIGINGO AND UGINGO ISLAND BY UGANDAN SECURITY FORCES BY LEGAL DEPARTMENT MINISTRY OF FOREIGN AFFAIRS & INTERNATIONAL TRADE

INTRODUCTION

The Ministry of Foreign Affairs wishes to report on the status of dispute between Kenya and Uganda on Migingo and Ugingo Island. Migingo Island is a rock that measures 2000sq metres or 0.49 acres in the vicinity of the international boundary hence the foreign policy dimension.

The continuous occupation of Migingo and Ugingo Island by the Uganda security forces remains a challenge between the two countries. Talks on resolving the Migingo dispute have stalled awaiting the finalization of the joint boundary survey along lake Victoria.

BACKGROUND

For historical reasons, the three EAC countries share Lake Victoria as follows : Kenya 6%,Uganda 43% and Tanzania 51%.Initially,the lake was shared half-half between Germany(TZ) and the British (Kenya and Uganda) in accordance with The Law of the Sea of Internal Waters. The Germans lost the war, the British redistributed the lake in their own interest including the naming the lake after their Queen Victoria.

Thus, within the British Protectorate, the British through *Kenya Colony and Protectorate Order in Council,1926* allocated the Islands to themselves in Kenya for their own leisure and play since they were resident in Kenya Highlands: and most of the water to Uganda since Kenya had plenty of water at the coast in the Indian Ocean, an observation already acknowledged by President Museveni on 11 May 2009. In those early, the British fondly referred to Kenya as the Officer's Mess, while Uganda referred to as the NCO'S Mess.

But this lake sharing formula had two problems not foreseen by the British. How could they deny the lake communities, who are culturally embedded and even economically dependent upon the lake for their livelihood? Kenya's six percent of the Lake had restricted the Luo community to the shores of Lake Victoria. Luo's are largely a fishing community whose livelihoods and culture depends upon the lake.

The British replicated this mistake elsewhere around the continent, including between Tanzania and Malawi on Lake Tanganyika, which is still haunting the two countries to date: and the Nile Waters, which were given to Egypt 1929 and to Sudan in 1959: to the exclusion of the upstream eight(7+1) countries.

And on the other hand, how can the British give all the open waters to Uganda without suitable landing sites for patrols? How is Uganda to secure their territorial waters? Uganda strongly believes a threat (security, terrorism, economic smuggling) on the lake is likely to

emanate from this Kenyan approach: not the Tanzanian and not the Rwandan approaches. President Museveni himself plied this route during his rebel days.

Thus although Uganda enjoys 43% of the lake, it has no suitable landing sites to anchor during the patrols of these vast and open waters of Lake Victoria, especially for this Kenyan approach. Hence Migingo Island is the only suitable island that can act as a base, where Uganda can deploy to conduct patrols and surveillance on the Kenyan approach.

THE DISPUTE

Uganda has disputed the island as being Kenyan territory since 2004. The late President Jomo Kenyatta had guided on this earlier, "that we shall not give away an inch of Kenya's territory, even our stones".

Since the dispute started in 2004, several meetings have been held with an aim to attain amicable settlement;

- a. On 13th 2009 in Kampala;
- b. On 11th May 2009 in Nairobi and
- c. From 25th- 26th July 2011 in Nairobi.
- d. From 14th -17th March, 2016 in Eldoret.

The meeting held in Nairobi between 25th – 26th July was Co- Chaired by late Hon. George Saitoti and Hon. Sam Kutesa where it was agreed on immediate resumption of joint Kenya - Uganda Survey exercise on Lake Victoria and operationalisation of joint police deployment along with other agencies such as KRA, immigration and others on the Island among other resolutions.

The Joint technical survey established to determine the location of Migingo island in relation to the Kenya -Uganda International Boundary and later to complete demarcation of the entire border in accordance with the UN and AU requirements before 2017. To this end the joint technical team of surveyors from Kenya and Uganda had held several technical meetings that culminated into the commencement of the joint survey of the common boundary in Lake Victoria on the 3rd June 2009 at Busia.

The survey activities carried out included; planning, reconnaissance, monumentation and extension of controls to the border islands. Courtesy calls to districts and authorities neighbouring the lake were also organised to brief the local leaders. also to sensitization of the public was conducted to create awareness on the Kenya – Uganda Boundary Survey in Lake Victoria in order to reduce anxiety.

Despite good progress initially, the exercise could not be completed due to divergent views on technical issues between the two-delegation in relation to demarcation thus, the emplacement of boundary pillars did not commence.

CONTENTIOUS ISSUES

The contentious issues:

- a. Determination of the westernmost points of the islands as described in the 1926 Order in Council and construction of the boundary pillars on the Kenyan Island,
- b. Identification of pyramid Island,
- c. Identification of mouth of Sio River (the mouth of river had shifted) and
- d. The attempt to implement the Nairobi 11th May, 2009 Joint Communique which resulted in two or more boundary lines.
- e. President Museveni directs Special Forces Command(SFC) to provide security to major water bodies in Uganda in February 2017

RESULTS OF THE JOINT SURVEY

During the initial Busia Joint Survey of 11th May 2007 to 9th July 2009 a detailed survey was commenced but during the process, the Uganda delegation pulled out midway to go for further consultation before completion of exercise. However, the Kenyan delegation soldered on to completion.

Thus, the location of the disputed Migingo Island was determined in relation to the Ilemba and pyramid island as described in 1926 Order in Council. Migingo Island was found to be 510 metres inside Kenya from the Kenya- Uganda International Boundary (by the Kenya delegation).

The Joint Technical Committee on the survey of the border completed its report in March, 2014, in Entebbe Uganda which recommended that the establishment of the most westerly points of Pyramid, Ilemba, Kiringiti and the southerly, westerly and northerly points of Sumba Island be determined after the hydrographic surveys through the production of boundary maps.

Kenya factored the budget for surveying and mapping of the marine boundary along Lake Victoria in the FY 2014/2015 Budget, however, Uganda did not hence delaying the process.

The Joint Technical Committee Report has not been presented to the Joint Ministerial Committee for consideration and direction. Meanwhile, Uganda in a Note Verbal RST 34/184/01 dated 6th June, 2016, has requested for permission to carry out aerial surveys along the Kenya/Uganda international boundaries.

PROVINCIAL ADMINISTRATION DEVELOPMENTS

The Nairobi Ministerial meeting of 25-26 July 2011 had directed the two police chiefs (IGP's) to operationalise joint policing of the island. Indeed, the two police chiefs met in Kampala on 23rd August 2011 and implemented the ministerial directive. The focus of the police joint patrol on the island then was for law and order and security to all occupants of the island, their nationality notwithstanding.

On the assumption of these initial joint patrol duties, a practical administrative difficulty arose on the Kenyan part. District administration was not represented on the ground as there was no local chief for Migingo and its environs, hence the police could not operate alone. District administration is central within the Kenyan organic security structures and apparatus and for other administrative functions.

Thus Migingo location (Migingo island and its environs) had to be created in August 2011 and the chief was installed on 15th March 2012 along with other officers such as immigration, revenue collection, beach and Fisheries organisation, all in accordance with the spirit of the Nairobi Ministerial communique of 25- 26 July 2011.

THE PRESIDENTIAL DIRECTIVE

On 13th February 2017, while addressing the media, the late ASP Felix Kaweesi by then the Uganda Police Spokesperson, announced that President Yoweri Kaguta Museveni had directed Special Forces Command(SFC) Unit of the Uganda People's Defence Forces(UPDF) to take charge of providing security to major water bodies in the country. The Marine Police would henceforth be in support of SFC. Kaweesi was echoing the president's words during his speech on UPDF Day, 6th Feb 17- popularly referred to as *Tarehe Sita* while at Apach town , near Lira.

Which are Uganda's major water bodies? These include Lake Victoria, Lake Albert, Lake Kyoga, Lake Edward, Lake George and River Nile. Some of these water bodies have underlying controversial and emotive international, regional and bilateral issues.

The Nile Waters is a bone of contention for ten regional countries. Lake Albert has had incursions over fishing from eastern DRC residents and border oil dispute between the two countries. For Migingo Island, the international border line with Kenya has remained unresolved, despite border demarcation and a joint committee appointed to arbitrate the issue.

The presidential directive of 26TH February 2017 means the deployment of the SFC and the withdrawal of the marine police previously deployed in Uganda national major waters. Thus, more than 100 Police Marines deployed in the Uganda national major waters. Thus, more than 100 Police Marines deployed at Migingo Island have been recalled and henceforth a detachment of Marine Brigade (Marine Bde is a component of SFC) have replaced them .

The withdrawal of the Marine police, especially from Migingo was allegedly informed by the allegations of corruption, involvement in illegal activities, extortion of money from fisherman

to allow use of sub-standard fish gear and the complaints arising from their unprofessional manner of handling conflict emanating from the shared waters

Thus, herein lies the problem: that the most suitable Island for Ugandan patrols on the lake, which is Migingo does not belong to Uganda. As far as Uganda is concerned, the rest is water and unsuitable islands.

CURRENT STATUS OF KENYA POLICE

In the face of the presidential directive, what is now the status of the Kenya Police in the circumstances, which can no longer operate jointly with the Uganda military? The Police Chiefs in their Kampala Meeting of 23 August 2011 had agreed on joint police operations, and not the military. This is no longer tenable and even for the provincial administration, in the face of the military deployment on the lake by Uganda.

There is now a Ugandan Captain in-charge of SFC deployment versus a Kenyan Police Sergeant. One is tempted to recall that Uganda never quite forgave Kenya for introducing provincial administration (the Chief of Migingo) in the equation on 15 March 2012 without consultation with Uganda.

EAC RESTRICTION ON MILITARISATION OF LAKE VICTORIA

EAC previously jointly agreed not to militarise Lake Victoria. It would be disastrous if military competition is to be brought to the fresh water lake. Besides, EAC countries have a pact on mutual defence matters. Ordinarily, Kenya would be expected to respond by deploying its military of equal or more strength, capacity and capability. This would lead to an undesirable situation of military competition on the lake and ultimately to a security dilemma per excellence.

The deployment of SFC to man Migingo Island in this sense could be a disguised deliberate move by Ugandan Government to control fishing activities within Migingo Island and its surrounding waters. Restrictions of Kenyan fishermen within the confines of the perceived Kenyan maritime border and increased surveillance in Lake Victoria. Uganda has always accused Kenya of overfishing capacity within Lake Victoria beyond its 6% portion of the lake and encroachment by Kenyan Fishermen into Ugandan waters.

MINISTRY'S EFFORTS

The Ministry of Foreign Affairs and International Trade has been seized of this matter at various levels and escalated it to the HOS level during the official visit of H.E. President Yoweri Museveni on 21st March, 2016. The matter was discussed by the National Security Advisory Committee following the disruption of Registration of Voters Exercise by IEBC officials and was also subject of discussions during the Joint Border Commissioners' meeting between 14th -

17th March, 2016. The meeting urged both countries to expedite the necessary processes for the completion of the demarcation of the common border including the marine boundary.

A report of the joint technical committee (JTC) on the survey of part of the marine boundary in 2009 was completed in March 2014, it is yet to be submitted to the Joint Ministerial Committee for further guidance. The demarcation of the remaining boundary has not been implemented to date due to budgetary constraints on the Ugandan side. It appears that Uganda is reluctant to release funds as the status quo favours them.

CONCLUSION

Talks on resolving the Migingo dispute have stalled awaiting the finalization of the joint boundary survey along lake Victoria. The 11th Kenya -Uganda Joint Border Commissioners meeting held in Eldoret between the 14th -17th march, 2016 was the last meeting. Going forward an urgent Kenya – Uganda Joint Border Commissioners meeting should be scheduled to discuss the way forward on the border issue.

Lake Victoria Should not be militarized at all costs, there is need for Kenyan Government to censure the actions of the Ugandan Governments for dishonouring the existing Police Agreement on 23rd August in Kampala on the Joint Police security management of Migingo Island by both countries thus Migingo Island should return to Joint Police Security Management as soon as possible.

Issues touching on International boundaries including Migingo are at present being handled by the Kenya International Boundaries Office (KIBO) as the lead agency where the Ministry of Foreign Affairs sits as a member.

In as much as colonial historical mistake of geography continues to haunt both of us to date, the relationship between Kenya and Uganda remains cordial. The issue on Migingo should be resolved immediately since it continues to impact the security of Kenya. The future lies in integration, where security and resources will be shared in a sustainable manner within the context of the East African Integration. We should therefore exploit the current political good will between our presidents to good ends.

**REPORT TO THE NATIONAL ASSEMBLY ON THE IMPLEMENTATION OF
THE TREATIES MAKING AND RATIFICATION ACT, 2012 (REVISED 2014)
BY THE OFFICE OF THE REGISTRAR OF TREATIES, MINISTRY OF
FOREIGN AFFAIRS & INTERNATIONAL TRADE**

A. INTRODUCTION

The Ministry of Foreign Affairs established the Office of the Registrar of Treaties in September 2015 pursuant to the Treaty Making and Ratification Act, 2012 (Rev 2014). The Act gives effect to Article 2 (6) of the Constitution of Kenya, 2010 which provides that any treaty or convention ratified by Kenya shall form part of the laws of Kenya.

B. FUNCTIONS OF THE REGISTRAR OF TREATIES

The functions of the Registrar of Treaties are derived from the Treaty Making and Ratification Act, 2012 (Rev 2014) as outlined below:

Section 13 (2) provides; The Registry of treaties shall—

- (a) be the depository of all treaties to which Kenya is a party;
- (b) contain a record of all treaties in such manner as may be prescribed;
- (c) contain the status of all treaties pending ratification or domestication and the timelines for such ratification or domestication;

Additionally, **Section 14 (4)** of the Act provides that the Registrar shall—

- (a) maintain a record of—
 - (i) the treaties to which Kenya is a signatory;
 - (iv) Kenya's reports to any treaty body;
 - (v) the recommendations and concluding observations from any treaty body on Kenya's reports;
- (b) monitor the implementation of the treaties ratified by Kenya;
- (c) inform lead State departments to observe and uphold the obligations of the respective lead state department under the respective treaties;

- (d) advise any citizen of Kenya on the rights and obligations of Kenya under a treaty;
- (e) maintain a website of the treaties to which Kenya is a signatory;
- (f) keep copies of the published reports of proceedings of the negotiations that led to the adoption of the treaties ratified by Kenya;
- (g) facilitate public access to treaties which Kenya has ratified;
- (h) respond to public inquiries on any treaty ratified by Kenya; and
- (i) perform such other functions as may be prescribed by the Cabinet Secretary.

C. ACHIEVEMENTS OF THE OFFICE OF THE REGISTRAR OF TREATIES

1. Compilation of H.E. the President's annual report to the National Assembly on Kenya's fulfilment of international obligations in compliance with Article 132 (1) (c) (iii) of the Constitution. Assembly of the first two volumes of this report was coordinated by the Head/Office of the Registrar of treaties in 2014 and 2015 respectively who was then Head/Legal and Host Country Affairs Directorate, Ministry of Foreign Affairs. Subsequently, after establishment of the Office of the Registrar of Treaties, the three successive volumes of the report to date have been prepared by the said office. In March 2018, the Office finalized compiling H.E. the President's fifth (V) report to the National Assembly on Kenya's fulfilment of international obligations. The report is to be presented to the National Assembly during the State of the Nation Address, as has been the case with previous ones.
2. Compilation of the Cabinet Secretary's annual report to the National Assembly on treaties ratified by Kenya and which may in any way bind Kenya to specific actions in compliance with Section 15 (1) of the Treaty Making and Ratification Act, 2012 (Rev. 2014). The second volume of this report will be out this year. This report is not for debate but is laid before the National Assembly for guidance.
3. To implement Section 13 (2) (b) of the TMRA 2012 (Rev. 2014) the Ministry on 23rd June, 2017 launched the *Registrar of treaty Database and Web Link*.

4. The database and web link are accessible through the Ministry's website. The site is active, unrestricted and the public can retrieve information from there using internet enabled devices. This has greatly facilitated and enhanced public accessibility to information on multilateral treaties ratified by Kenya thereby improving awareness on the subject. The web link will be regularly updated to ensure that information provided is current, accurate and reliable. The first update is currently ongoing. In the sub region, the web link will indeed promote regional cooperation and integration by sharing information on Kenya's international obligations.
5. The Ministry is considering whether to include Kenya's bilateral agreements on the web platform. In making the decision, due regard must be had to our national security.
6. The Ministry through the Office of the Registrar of Treaties is also in the process of compiling a Treaties Directory Booklet to operationalize Section 13 (2) (b) of the Act. This directory will comprise a meticulous list of the treaties that Kenya has signed, ratified and acceded to, arranged in an alphabetical or thematic order. Due to the large number of treaties that Kenya is party to, the directory shall be divided into Volumes. The First Volume will cover years between (1945 -1989). Subsequent volumes will be divided into decades, i.e. Second Volume from (1990-1999), Third Volume (2000-2009) and the Fourth Volume (2010-2019). It will serve as a great complement to the information available online, and aid the public that is not able to readily access internet, but also be handy in situations of disruption of internet connectivity.
7. Retrieving information from the various Ministries has been challenging due to overall poor record management. Visits to relevant Depositories to obtain missing data (instruments of ratification etc) to establish a permanent record (memory) of all of Kenya's treaties for our future generations to understand the thinking of Government in the making of treaties are underway. This external engagement is very essential but it is a vast exercise that needs substantial resources.

8. Further, the exercise is crucial in terms of borrowing best practices in various aspects globally, for the further development of the treaty depositary. For instance, separate from the website database, the Ministry has a Treaty Register which is the national official listing or record of treaties that Kenya has signed, ratified and acceded to. Currently, the national treaty record/register is a hand written black hard cover book. (*See attached image of the current Treaty Register*). An immediate upgrade is desperately needed, hence the depositary visits intended to develop a digital and modern physical register which will be serialized, indexed properly, and include all bilateral agreements.

▪ **Public Awareness**

9. Section 15 (3) of the Treaty Making and Ratification Act states that the Cabinet Secretary shall, through publication in at least two newspapers of nationwide circulation, notify the public of every treaty, which may in any way bind, or to which Kenya is a party. The Ministry has fulfilled this requirement and attached is a copy of a public notice published in one of the leading newspapers on Tuesday 20th March, 2018 (*See attached newspaper publication*). A draft of the second notice is ready for processing.

10. Section 15 (3) of the Act provides that the relevant State Department in respect of each treaty shall take measures to inform and create awareness to the public about the effects and benefits of the treaty. Modalities of creating public awareness of the benefits of our stock of treaties have been summarized in a concept paper to the Principal Secretary. Essentially, subject matter Ministries, Counties and other stakeholders must be involved. However, to undertake effective public awareness creation calls for a substantial amount of resources and partnership. For instance, the Ministry of Environment under the leadership of Cabinet Secretary for Environment and Forestry has launched a strategic campaign to increase forest cover to

10% by the year 2022. Since Kenya is party to various conventions that obligate Kenya to increase her forest cover, MFA&IT should collaborate with CS Tobiko in the initiative.

11. There are many instances in which the Ministry through the Office has responded to public and enquiries from institutions relating to treaties.

D. RECOMMENDATIONS

▪ **Sealing the gaps in the Treaty Making and Ratification Act, 2012**
[Revised 2014]

12. It is important to recognize gaps in the Treaty Making and Ratification Act to ensure its effective implementation. To this effect, we would like to make a few recommendations namely:

- A procedure for signing treaties should be included in the Act.
- Regulations for implementation of the Act. This can be done through the formation of a working group with members from other Ministries and other State Departments to come up with the regulations. The working group could include representatives from the legislative arm of the Government.
- The Act does not propose a mechanism for monitoring implementation of Kenya's international obligations. Exchange views on the subject.
- Allocation of more funds. The Office of the Registrar of Treaties is financially constrained. Its current budget is merely Ksh. 26 Million whereas the office needs a much larger amount to effectively execute its mandate.