

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY



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TWELFTH PARLIAMENT-SECOND SESSION

COMMITTEE ON IMPLEMENTATION

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REPORT BY THE SELECT COMMITTEE ON IMPLEMENTATION ON THE  
PETITION BY KENAFRIC INDUSTRIES LIMITED ON THE IMPLEMENTATION  
OF THE RECOMMENDATION PARAGRAPH 108 CONTAINED IN THE REPORT  
BY THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK  
& COOPERATIVES ON THE CRISIS FACING THE SUGAR INDUSTRY IN KENYA  
AS ADOPTED BY THE HOUSE ON 24<sup>TH</sup> FEBRUARY, 2016

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Directorate of Committee Services  
Clerk's Chambers,  
National Assembly,  
Parliament Buildings,  
Nairobi.

October 2018

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## ABBREVIATION AND ACRONYMS

CS	Cabinet Secretary
EAC	East Africa Community
FY	Financial Year
KSB	Kenya Sugar Board
PS	Principal Secretary
MP	Member of Parliament
SD	Sugar Directorate
S.O	Standing Order

## **CHAIRPERSON'S FOREWORD**

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

The Speaker issued a communication on 30th August 2018 (No. 046 of 2018) on reconsideration of a House resolution by the Committee of Implementation. In its report, the Departmental Committee on Agriculture, Livestock & Cooperatives reported that the Kenya Sugar Board had identified Kenafric Industries Limited as one of the manufacturers that repackage imported industrial sugar in locally manufactured branded sugar packages for sale as table sugar.

In its meeting held on 6th March 2015, the Committee on Agriculture, Livestock & Cooperatives resolved not receive submissions from Kenafric Industries Limited despite a request presented by the company's advocates to it and instead resolved that the company does seek redress after the finalization of the report if it felt aggrieved.

The Speaker after receiving a petition on 22<sup>nd</sup> August 2018 ruled it necessary to afford Kenafric Industries Limited, a chance to present its case for reconsideration and to offer the House an opportunity to remedy a procedural oversight. He, therefore, referred the matter to the Committee on Implementation which is currently seized of the Departmental Committee on Agriculture, Livestock & Cooperatives' Report on the *crisis facing the sugar industry in Kenya* which contains paragraph 108.

The Committee on Implementation invited Kenafric Industries Limited to present their submissions. The Committee was of the view that although the Speaker, National Assembly restricted the Committee to only receive submissions from Kenafric Industries Limited, it was necessary to undertake due diligence to also invite the Ministry of Agriculture & Irrigation and the Sugar Directorate in-order to ascertain the correct position as it considered submissions from Kenafric Industries Limited. It is worth noting that it was on the basis of the allegations on Kenafric Industries Limited from the then Kenya Sugar Board that the Departmental Committee on Agriculture, Livestock and Cooperatives based its findings and made recommendation 108 on page 50 of its Report. Thereafter, the Committee on receiving submissions on the matter made its observations and recommendations.

The Committee registers its appreciation to the Office of the Speaker and the Clerk of the National Assembly for necessary facilitation and support in the production of this 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**  
**Chairperson, Committee on Implementation**

## EXECUTIVE SUMMARY

The National Assembly on 24th February 2016 adopted the Report on the *crisis facing the sugar industry in Kenya* by the Departmental Committee on Agriculture, Livestock and Cooperatives. The Speaker of the National Assembly issued a communication on 30th August 2018 on reconsideration of a House resolution and directed the Select Committee on Implementation to receive submissions from Kenafric Industries Limited.

In its report, the Departmental Committee on Agriculture, Livestock & Cooperatives noted that the Kenya Sugar Board had identified Kenafric Industries Limited *as one of the manufacturers that repackage imported industrial sugar in locally manufactured branded sugar packages for sale as table sugar*. However, in its meeting held on 6th March 2015, the Departmental Committee on Agriculture, Livestock & Cooperatives resolved not receive submissions from Kenafric Industries Limited despite a request presented by the company's advocates and instead resolved that the Company does seek redress after the finalization of the report if it felt aggrieved.

The Speaker ruled it necessary to afford Kenafric Industries Limited, a chance to present its case for reconsideration as well as offer the House an opportunity to remedy a procedural oversight.

More importantly, the House cannot be seen to be establishing a precedent of or condoning the condemning of persons without affording them an opportunity to be heard. The right to a fair hearing, as one of the twin principles of Natural Justice is entrenched in Article 50 of the Constitution which precludes individuals from being penalized by decisions affecting their rights or legitimate expectations unless they have been given prior notice of the case, a fair opportunity to answer it, and the opportunity to present their own case.

The Committee on Implementation invited Kenafric Industries Limited and Cabinet Secretary (CS), Ministry of Agriculture and Irrigation on 18<sup>th</sup> September 2018 and 19<sup>th</sup> September 2018 respectively to adduce evidence and thereafter the Committee submits its report to the House within 30 days as directed by the Speaker.

The Committee observed that Kenafric Industries Limited was not afforded an opportunity by the Departmental Committee on Agriculture, Livestock & Cooperatives to present their submissions after it had been adversely mentioned in the Report of the Committee before tabling of its Report. The Company provided evidence that after the adoption of the Report on the "*crisis facing the sugar industry in Kenya*" on 24th February 2016, it applied and received import licenses from the Sugar Directorate for the years 2016 and 2017.

The Company has been regularly audited before and after 2015 by various Government agencies and has continuously obtained the requisite licenses and permits. The Sugar Directorate informed the Committee that they are unable to provide written documentation or evidence to substantiate the allegation from the then Kenya Sugar Board that Kenafric Industries Limited *is one of the manufacturers that repackage imported industrial sugar in locally manufactured branded sugar packages for sale as table sugar contained in the Report on the crisis facing the sugar Industry in Kenya*.

Even after presenting their allegations concerning Kenafric Industries Limited to the Departmental Committee on Agriculture, Livestock and Cooperatives and after the adoption of Report on *the crisis facing the sugar industry in Kenya* on 24th February, 2016, the then Kenya Sugar Board and the Sugar Directorate issued Kenafric Industries Limited with an import licence in the years 2016 and 2017.

The Sugar Directorate after receiving a copy of the Report as adopted by the House could have informed Parliament that the allegations made could not be substantiated by written proof. After the Report was adopted in February 2016, Sugar Directorate issued Kenafric Industries Ltd with import license for industrial sugar in 2016 and 2017.

The Committee recommends that

1. **THAT**, the House reconsiders its resolution made on 24<sup>th</sup> February 2016, which was arrived at following inaccurate information contained in recommendation 108 ( page 50) of the *Report by the Departmental Committee on Agriculture, Livestock & Cooperatives on the Crisis Facing the Sugar Industry in Kenya; and*
2. **THAT**, the House **expunges** the name “**Kenafric Industries Limited**” from its resolution of 24<sup>th</sup> February, 2016 as contained in recommendation 108 (page 50) of the *Report by the Departmental Committee on Agriculture, Livestock & Cooperatives on the Crisis Facing the Sugar Industry in Kenya.*

## **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**

<b>Chairperson</b>	The Hon. Moitalel Ole Kenta, MP
<b>ViceChairperson</b>	The Hon. Godfrey Osotsi, MP
	The Hon. Richard Onyonka, MP
	The Hon. Alois Lentoimaga, 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
	The Hon. Johnson Manyana Nacca, MP

### 1.3 COMMITTEE SECRETARIAT

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

## 1.0 INTRODUCTION

The Departmental Committee on Agriculture, Livestock & Cooperatives' Report on *the crisis facing the sugar industry in Kenya* was adopted on 24th February 2016 by the National Assembly. This is attached as **Appendix 1**.

The matter arose from a petition by Western Development Initiative Association on the imminent collapse of the sugar industry in Western Kenya of which the Committee also undertook to inquire into the issues raised in the petition on the status of the sugar industry in Kenya with a view to finding a lasting solution and making recommendations to salvage the industry and save the loss to be incurred by over six million sugarcane farmers across the country if the industry was to collapse.

The Departmental Committee on Agriculture, Livestock & Cooperatives after its deliberations recommended in paragraph 108 pg 50 that *relevant laws and regulations governing sugar imports and exports should be amended to provide for higher accountability and public health standards for re-packaged sugar and for stiffer penalties for offenders. The Government should cancel import licences for the following companies: - Kenafriic Industries, Czarnikow E. A. Ltd, Stuntwave Ltd, Mshale Commodities and Rising Star Commodities Ltd.*

The Sugar Directorate in its submissions on 6<sup>th</sup> July 2018 and the Ministry of Agriculture & Irrigation in its submissions on 26th July 2018 informed the Committee that they had implemented the aforementioned recommendation by not renewing the import licenses of the five companies as listed below and attached as **Appendix 2**

No.	Company	Remarks
1.	Kenafriic Industries Ltd	AFA has not renewed their 2017/18 import license
2.	Czarnikow EA Ltd	AFA has not renewed their import license since 2015
3.	Stuntwave Ltd	AFA has not renewed their 2017/18 import license
4.	Mshale Commodities Ltd	AFA has not renewed their 2017/18 import license
5.	Rising Star Commodities	AFA has not renewed their import license since 2015

As listed above, Kenafriic Industries Limited's licence was not renewed for the period 2017/18. It should be noted though that the recommendation had called for a cancellation of the import licence.

The law firm of Mogeni & Company Advocates on behalf of Kenafriic Industries Limited petitioned Parliament vide a letter dated 22nd August 2018 in relation to a resolution by the House with regard to the Report of the Departmental Committee on Agriculture, Livestock

and Cooperatives on “*The Crisis Facing the Sugar Industry in Kenya*” adopted in the 11th Parliament and in particular recommendation paragraph 108.

In their letter, M/s Mogeni and Company Advocates noted that the Petitioner, Kenafric Industries Limited was adversely mentioned in the Report which recommended the cancellation of their import licenses. The firm of Advocates further noted that during the hearings held by the Departmental Committee on Agriculture, Livestock and Cooperatives, their client was not afforded an opportunity to be heard despite its attempts to be so heard before the preparation and tabling of the Report of the Committee and that, consequent to the tabling and adoption of the Report, the Sugar Directorate of the Agriculture and Food Authority has since delayed the processing of the company import permit 2018/2019.

The Minutes attached to the Report “*The Crisis Facing the Sugar Industry in Kenya*” record that Kenafric Limited, who is the Petitioner in this matter, sought audience before the Departmental Committee on Agriculture, Livestock & Cooperatives, in writing, to respond to allegations made by the Kenya Sugar Board prior to the conclusion of the writing and tabling of the Report.

The minutes record that,

- “ ii. The Committee deliberated on the issue and resolved that it was not in a position to hear more witnesses since the report was long overdue; and that
- iii. If the complainant feels aggrieved, it could seek recourse after the report is tabled in the House.”

Owing to the delay in processing of their import permit, the Petitioner is presently in Court to seek legal redress arising from their alleged condemnation by the House without having been given an opportunity to present their case.

The Speakernoted the glaring omission highlighted by the Petitioner and the admission of the Departmental Committee itself that the Petitioner was not afforded an opportunity to rebut the allegations and ruled that the House revisits its resolution made when adopting the Report by the Departmental Committee on Agriculture, Livestock and Cooperatives. This entailed affording the Petitioner, Kenafric Industries Limited a chance to present its case for consideration by the House.

The Speakernoted that affording persons the right to present their case is in line with guiding principles of parliamentary practice as noted in the updated version of the “*Benchmarks for Democratic Legislatures* issued by the Commonwealth Parliamentary Association” of which Members of the National Assembly are members. As a safeguard against the abuse of the freedom of speech granted to the Legislature, Benchmark 1.4.4 states, “The Legislature shall have mechanisms for persons to respond to adverse references made to them in the course of the Legislature’s proceedings”.

The Departmental Committee on Agriculture, Livestock and Cooperatives was under an obligation to apply and be seen to have applied a standard, methodical, open and fair process.

The Speaker further ruled that as the concern raised does not constitute new evidence which therefore does not justify the reopening and reconsideration the entire subject matter of the Report, that the Committee on Implementation seizes of the matter and acts as an appellate forum for the Petitioner to present their prayers. The forum will examine the claims made by the Petitioners and also safeguard the authority of the House on matters for which it has inquired into and arrived at a resolution, before any other authority steps in. He directed that the Committee limits itself to-

1. only receiving submissions from the Petitioner, Kenafric Industries Limited on the resolution made by the House from the recommendation contained at paragraph 108 of page 50 of the Report;
2. considering the submissions from the Petitioner; and
3. Reporting its findings to the House within thirty (30) days.

The Speaker further directed that

- a) The Committee on Implementation must observe the rules of natural justice in this exercise.
- b) in the meantime, the implementation of the resolution 108 on the matter of Kenafric Industries Limited is suspended until such a time as the House makes a further resolution informed by the report of the Committee on Implementation.

The Communication of the Speaker on the reconsideration of House resolution by the Committee on Implementation No. 46 of 2018 is attached as **Appendix 3**.

It is worth noting that owing to the end of the term of the 11<sup>th</sup> Parliament, the Departmental Committee on Agriculture, Livestock & Cooperatives as was then constituted no longer exists.

Of further note is that, the Kenya Sugar Board as was then constituted and who presented the submissions on Kenafric Industries Limited and on which the Committee on Agriculture, Livestock & Cooperatives made its recommendations no longer exists and its mandate and functions have been taken up by the Sugar Directorate.

To achieve this end, the Committee on implementation invited Kenafric industries Limited on 18<sup>th</sup> September 2018 and the Ministry of Agriculture and Irrigation on 19<sup>th</sup> September 2018 to present their submissions on the matter. Thereafter, the Committee made its observations and recommendations as contained in the report.

## **2.0 EVIDENCE**

### **2.1 SUBMISSIONS FROM KENAFRIC INDUSTRIES LIMITED**

**The Chairman, Kenafric Industries Limited Mr Bharat Shah, accompanied by Mr Kirtan Shah, Group Managing Director; Mr Mikul Shah, Chief Executive Officer; Ms Lorna Solopian, Head of Legal; Mr Kelvin Mogeni, Advocate, M/S Mogeni & Co. Advocates and Mr Godfrey Kinyanjui, Associate at Mogeni and Company appeared before the Committee and submitted that:-**

Kenafric Industries Limited is engaged in the importation, manufacture and exportation of sugar confectionery products and distribution of the finished goods in Kenya and other parts of East and Central Africa and is a gazetted importer of sugar by the Council of Ministers of the East African Community.

Kenafric Industries Ltd has been a manufacturer of sugar products over a 30 year period and there is a strict regime which monitors the quantity of sugar and compares the same with the manufactured goods, both sold locally and for export.

The company uses Industrial sugar in its manufacturing process, a product that is not manufactured or available in the Kenyan market. KIBOS a recently constructed manufacturing plant which has the capacity to produce industrial refined sugar has yet to begin production.

Kenafric Industries Limited has been issued with annual licences for importation of industrial sugar as per the registration processing from the then Kenya Sugar Board which is now the Sugar Directorate.

The process of sugar imports is strictly monitored by various Government agencies from the Kenya Revenue Authority, Kenya Bureau of Standards, Sugar Directorate and the Inter-Ministerial Committee of the Council of Ministers of the East African Community and is gazetted. In addition and for manufacturing purposes, the Company imports industrial sugar quality -45 ICUMSA units with polarization 99.8 degrees while table brown sugar has ICUMSA units of 700-1600 with the polarization of 99.0 degrees.

On 17<sup>th</sup> July 2018, the Sugar Directorate of the Agriculture and Food Authority wrote to Kenafric Industries Limited indicating that recommendation 108 contained in the Report by the Departmental Committee on Agriculture, Livestock & Cooperatives on the crisis facing the sugar industry in Kenya occasioned the delay in renewing their annual registration by the Directorate.

On 19<sup>th</sup> July 2018, Kenafric Industries Limited being aggrieved by the said decision wrote to the Sugar Directorate lamenting the lack of due process, consultation and legal basis for said notice and the challenges implementation of recommendation 108 of the said Report would occasion to both the Company and the public as consumers. The Company lamented that it was condemned unheard contrary to the rule of natural justice.

In 2015 there was no invitation sent out by the National Assembly's Departmental Committee on Agriculture, Livestock and Cooperatives for a hearing before the conclusions and recommendations were made in its report. Kenafric Industries Limited did write to National Assembly's Committee on Agriculture, Livestock and Cooperatives to be accorded an opportunity to make its submissions but was not invited and instead the Departmental Committee indicated that it did not have time to receive submissions from the company.

From 2015, the Parliamentary report on the crisis facing the sugar industry in Kenya's recommendations were neither communicated to Kenafric Industries Limited nor were they implemented until the 2018 sugar fiasco came into light.

In light of the Sugar Directorate's delay in issuing Kenafric Industries Limited with the annual import license, the Company was of the view that the process was in disregard to its right to constitutional fair administrative process prompting it to petition to be heard before the House, a matter which was then referred to the Committee on Implementation. Kenafric Industries Limited is of the view that the Report contravenes the law and goes against various established High Court and Court of Appeal precedents.

The Report on *the crisis facing the sugar industry in Kenya* condemned Kenafric Industries Limited unheard and delays in issuance of its import license affects the manufacturing process as well as the livelihoods of over 2,500 employees. Unless implementation of the Report against Kenafric Industries Limited is immediately stopped, the recommendation is likely to undermine the proprietary rights and interests of the Company.

The activities of the Company have always been to manufacture by converting industrial sugar into confectionery. Kenafric Industries Limited does not deal in repackaging and selling of table sugar. The industrial refined sugar that Kenafric Industries Limited uses in its manufacturing process is not available locally and therefore its importation into the country does not affect the local manufactures of table sugar. The value addition in manufacturing confectionery is about 20-25% as opposed to repackaging sugar which is 5-7%. Repackaging of industrial sugar to table sugar won't make economic value as one would need to use three times more portions of industrial sugar to one portion of the table sugar. The company uses refined sugar of 45 ICUMSA, a special grading specification, for making of beverages, sweets and other confectioneries like ball gum, toffees and biscuits. The Company has never applied for a licence to supply table sugar.

The measures of verification undertaken by various agencies have confirmed that Kenafric Industries Limited has never been involved in any malpractices and all the quantities of sugar imported have properly been accounted for. The then KSB did conduct its own investigations and found that the Company complied with all regulations and subsequently issued it with licences. After the Report on *the crisis facing the sugar industry in Kenya* was adopted on 24th February 2016, Kenafric Industries Limited applied and was issued with importation licenses in 2016 and 2017.

Before approval of the annual import licence, the then Kenya Sugar Board now the Sugar Directorate, have been undertaking inspection tours of the facility from 2009 to 2018.

inspecting compliance with terms of previous licences and reconciling imported industrial sugar against the sales of manufactured goods which have tallied. The Report has been issued to the Council of Ministers of EAC in order to approve the importation quota of Kenafric Industries Limited in the subsequent years. Moreover, goods imported are inspected not only at the country of origin by PVOC agents but again at the port of entry into Kenya by full-time inspectors. Any excess imports are deducted from the Company import quota the following year.

The Sugar Directorate has conducted annual inspections of the factory premises of Kenafric Industries Limited and it has confirmed that the Company does not have the capacity and/or machinery to package sugar into locally manufactured brands. Further, the Sugar Directorate was involved in the preparation and approval of the Kenafric Industries Limited quota for sugar imports approved by the Council of Ministers of the East African Community which gazetted the Company on 14<sup>th</sup> July 2017 to import 20,000MT of sugar. The ordered consignment is currently lying at the Port of Mombasa with several costs including demurrages incurring.

The Gazette notice on May 2017 allowed the importation of unlimited duty-free table sugar and further extended the import window until December 2017. This caused their confectionery exports being denied access into Uganda and Tanzania under preferential rates of duty. The company lost business worth USD 15 million in addition to market share. Currently, Tanzania continues to deny preferential treatment of Kenafric Industries Limited goods due to the current sugar headlines. Opening up of the duty-free window gazette made it difficult for Kenyan manufactures using imported industrial sugar and affected the market heavily. The Gazette Notice should have specified importation of industrial or table sugar. The Company did not import table sugar during the duty-free import window in 2017.

The cancellation of the licence of Kenafric Industries Limited appears to have been done arbitrarily as the company has complied with all the relevant laws and has never imported table sugar and has been receiving its annual licences.

Kenafric Industries Limited prays that the National Assembly resolves to expunge the Company's name from the list contained in Recommendation 108 of the Report on *the crisis facing the sugar Industry in Kenya* as adopted by the House on 24th February 2016.

## **2.2 SUBMISSIONS FROM MINISTRY OF AGRICULTURE AND IRRIGATION**

The Committee was of the view that even though the Speaker restricted the Committee to only receive submissions from Kenafric Industries Limited, it was necessary to undertake due diligence to invite the Ministry of Agriculture & Irrigation and the Sugar Directorate in-order to ascertain the correct position as it considered submissions from Kenafric Industries Limited. Further, it was on the basis of the allegations made by the then Kenya Sugar Board that Kenafric Industries Limited *is one of the manufacturers that repackage imported industrial sugar in locally manufactured branded sugar packages for sale as table sugar* that the Departmental Committee on Agriculture, Livestock and Cooperatives made its recommendation on Kenafric Industries Limited.

**The Principal Secretary for Irrigation, Ministry of Agriculture & Irrigation, Prof. Fred Segor, accompanied by Mr Solomon Odera, Interim Head of Sugar Directorate; MsGrace Agili, Deputy Director and Mr Charles K. Tanui, Senior Economist-Irrigation appeared before the Committee and submitted that:-**

The National Assembly's Select Committee on Implementation invited the Interim Head of Sugar Directorate for a meeting which was held on 6<sup>th</sup> July 2018 to consider the implementation status of the recommendations contained in the Report on the *crisis facing the sugar industry in Kenya* as adopted by the House. From the deliberations, the Committee directed that the Sugar Directorate implements the Departmental Committee on Agriculture, Livestock & Cooperatives 'Report on the crisis facing the sugar industry with immediate effect.

Following the directive, the Sugar Directorate wrote to Kenafric Industries Limited on 17<sup>th</sup> July 2018 informing them that renewal of their registration of an import license for the financial year 2018/19 would be delayed.

While inquiring into the crisis facing the sugar industry in Kenya, the Departmental Committee on Agriculture, Livestock and Cooperatives recommended that the Government should cancel import license for Kenafric Industries Limited on account of repacking sugar as captured in paragraph 108 of the report. The report was adopted by the National Assembly on 24<sup>th</sup> February 2016.

Kenafric Industries Limited is duly registered by the Sugar Directorate as an importer of white refined sugar for industrial use. The company has consistently complied with all import requirements including but not limited to the strict importation of sugar quantities sufficient for their annual capacity requirement and prohibition of third-party trading of industrial sugar. In that regard, the Sugar Directorate renewed their registration for the years 2015/16, 2016/17 and 2017/18.

The Company submitted a request to renew its registration for the year 2018/19 and the subsequent issuance of an import license. However, the Sugar Directorate delayed in renewing the registration since it had to implement the Departmental Committee Report on the Crisis Facing the Sugar Industry in Kenya.

In view of the above, Kenafric Industries Limited instituted a Constitutional Petition No.262/2018 before Justice Mwita Chacha, challenging the Authority's decision not to issue them with a license. Kenafric Industries Limited cited that it was tantamount to an infringement of their proprietary rights. Kenafric Industries Limited also contend that this decision was made without according them a fair hearing. The matter was heard and the judge directed that he shall deliver judgement on 10<sup>th</sup> November 2018.

Kenafric Industries Limited through the law firm of Mogeni and Company Advocates petitioned the Honorable Speaker of the National Assembly vide a letter dated 22<sup>nd</sup> August 2018.

The firm noted that during the hearings held by the Departmental Committee on Agriculture, Livestock and Cooperatives, Kenafric Industries Limited was not afforded an opportunity to be heard despite attempts made before the preparation, tabling and adoption of the Report of the Committee. Consequent to the tabling and adoption of the Report, the Sugar Directorate has since delayed the processing of its import permit for 2018/2019.

In view of the above, and vide a letter by AFA to the Speaker dated 28<sup>th</sup> August 2018, the Speaker through Communication from the Chair No. 046 of 2018 suspended the resolution of the Committee to halt Kenafric Industries Ltd from importing sugar until such a time as the House makes further resolution informed by the report of the Committee on Implementation.

The Clerk of the National Assembly vide a letter dated 4<sup>th</sup> September 2018 advised the Sugar Directorate to implement the communication from the Speaker with regard to Kenafric Industries Ltd.

Consequently, the Directorate renewed the registration of Kenafric Industries Limited for the year 2018/19 as importers of white refined sugar for industrial use.

During Plenary, the Committee was further informed that:-

Kenafric Industries Limited has continued operating since March 2015 when the Report on *the crisis facing the Sugar Industry in Kenya* was tabled for adoption by the House.

The Sugar Directorate is unable to provide any written submission or evidence on the allegations made by the then Kenya Sugar Board that had identified Kenafric Industries Limited as one of the manufacturers that repackage imported industrial sugar in locally manufactured branded sugar packages for sale as table sugar.

Further, the Sugar Directorate is not able to provide evidence of communication from it to Kenafric Industries Limited informing it of the allegation and any action they intended to take until recently when they wrote to Kenafric Industries Limited vide letter dated 17<sup>th</sup> July 2018. The interim Head of Sugar Directorate has been in the office since October 2016 and until recently taken no action to implement the recommendation as resolved by the House although his office had received a copy of the Report.

The Committee noted that the Sugar Directorate took a short time to implement the communication from National Assembly contained in the letter dated on 4<sup>th</sup> September 2018 on the suspension of the recommendation 108 in regard to Kenafric Industries Limited but had taken an inordinately long time to implement the recommendation from the National Assembly since its adoption on 24<sup>th</sup> February 2016.

The Committee noted that the Ministry of Agriculture and Irrigation, through the Sugar Directorate, did not cancel the import license of Kenafric Industries Limited as per recommendation 108 despite the adoption of the Report on 24<sup>th</sup> February 2016 and subsequently renewed the import license for the years 2016 and 2017.

The Sugar Directorate has the requisite staff and capacity and an investigative and compliance department to review manufacturers using imported refined sugar to ensure compliance of the regulations before granting licenses. Sugar Directorate carries out an

inspection /capacity exercise annually by visiting the manufacturer to establish the industrial sugar requirements to ensure only what is needed is imported. Further, it confirms if what has been previously been imported was utilized within the year and if there is surplus, the same is deducted from the next import quota, an exercise that was carried out by Kenafric Industries Limited and Sugar Directorate.

Industrially refined sugar is generally more expensive than table sugar and from the point of view of the Sugar Directorate, it would not make economic sense for Kenafric Industries Limited to repackage it to be sold as table sugar.

The Sugar Directorate reported that at no time have it licensed Kenafric Industries Limited to import table sugar. Although the Sugar Directorate does not limit a manufacturer on the amount of refined industrial sugar it can import, the amount agreed on between Sugar Directorate and the manufacturer for its use is the one gazetted.

The Sugar Directorate confirmed that although a factory (KIBOS) for the manufacture of refined industrial has been constructed, it is not operational yet.

Kenafric Industries Limited has been complying with necessary legislation and regulations hence its license has been consistently issued on annual basis after satisfaction of necessary processes until the recent delay of issuance of 2018/2019 license. The Company imports in a structured manner on a quarterly basis and submits a report to the Sugar Directorate.

The Sugar Directorate did remove Kenafric Industries Limited from the *kentrade* system and had delayed the renewal of their import license from August 2018.

### 3.0 COMMITTEE OBSERVATIONS

The Committee after deliberations observed that

1. Kenafric Industries Limited was not afforded an opportunity by the Departmental Committee on Agriculture, Livestock & Cooperatives to present its submissions after it had been adversely mentioned in the Report of the Committee.
2. Kenafric Industries Limited through its lawyer M/S Mogeni & Co Advocates petitioned the Departmental Committee on Agriculture, Livestock & Cooperatives in 2015 to respond to allegations by Kenya Sugar Board who “*identified them as one of the manufacturers that repackage imported industrial sugar in locally manufactured branded sugar packages for sale as table sugar*”. The Departmental Committee on Agriculture, Livestock & Cooperatives relied on information from the Kenya Sugar Board to recommend the cancellation of Kenafric Industries Limited’s import license. The resolution of the House of 24<sup>th</sup> February 2016 was informed by inaccurate information contained in the Report by the Departmental Committee on Agriculture, Livestock and Cooperatives on the “*crisis facing the sugar industry in Kenya*” which led to recommendation 108 that *relevant laws and regulations governing sugar imports and exports should be amended to provide for higher accountability and public health standards for re-packaged sugar and for stiffer penalties for offenders. The Government should cancel import licences for the following companies: - Kenafric Industries, Czarnikow E. A. Ltd, Stuntwave Ltd, Mshale Commodities and Rising Star Commodities Ltd.*
3. Although Kenafric Industries Limited has sued the National Assembly, Attorney General and Sugar Directorate over recommendation 108 of the Report, the Speaker ruled that according Kenafric Industries Limited a forum to make its submissions did not violate the provisions of S.O 89 on *sub judice*.
4. Kenya Sugar Board did not identify the locally manufactured branded sugar packages that Kenafric Industries Limited is alleged to have repackaged industrial sugar into.
5. Kenafric Industries Limited provided evidence that after the adoption of the Report on the “*crisis facing the sugar industry in Kenya*” on 24th February 2016, it applied and received import licenses from Sugar Directorate for the years 2016 and 2017. The Company has been regularly audited before and after 2015 by various Government agencies and has continuously obtained the requisite licenses and permits.
6. The Sugar Directorate in their letter to Kenafric Industries Limited dated 17<sup>th</sup> July 2018, indicated that it had delayed renewal of Kenafric Industries Limited ’s import licence for FY 2018/2019 because they had to implement recommendation 108 contained in the Report on the “*crisis facing the sugar industry in Kenya*”.
7. The Sugar Directorate presented that they could not provide written documentation or evidence to substantiate the allegation from the then Kenya Sugar Board that Kenafric Industries Limited *is one of the manufacturers that repackage imported industrial sugar in locally manufactured branded sugar packages for sale as table sugar contained in the Report on the crisis facing the sugar Industry in Kenya.*

8. The Sugar Directorate after receiving a copy of the Report as adopted by the House could have informed the National Assembly that the allegations made could not be substantiated by written proof.
9. Even after presenting their allegations concerning Kenafriic Industries Limited to the Departmental Committee on Agriculture, Livestock and Cooperatives and after the adoption of Report on *the crisis facing the sugar industry in Kenya* on 24th February, 2016, the then Kenya Sugar Board and the Sugar Directorate issued Kenafriic Industries Limited with an import licence in the years 2016 and 2017.
10. The Ministry of Agriculture & Irrigation and the Sugar Directorate could have appealed to National Assembly if they were unable to implement the recommendations of the House as contained in the Report by the Departmental Committee on Agriculture, Livestock & Cooperatives on the *crisis facing the sugar industry in Kenya*.
11. The Sugar Directorate was inordinately slow to implement the recommendation 108 on Kenafriic Industries Ltd which they recently did by delaying the renewal of the Company import license of 2018/2019 FY, however it was quick to implement and grant the import license for FY 2018/2019 after receiving a letter from the Clerk of the National Assembly dated 4<sup>th</sup> September 2018 informing it of the Speaker's ruling on Kenafriic Industries Limited.
12. The Sugar Directorate did not cancel the import licenses of the companies as resolved by the National Assembly in recommendation 108 including Kenafriic Industries Limited once the Report was adopted on 24th February 2016.
13. Kenafriic Industries Limited has been gazetted to import industrial sugar in the East African Gazette before and after 2016 when the Report by the Departmental Committee on Agriculture, Livestock and Cooperatives on the crisis facing the sugar industry in the country was adopted.
14. The reconsideration of the House resolution under recommendation 108 on page 50 on the matter of Kenafriic Industries limited could potentially open the door for appeal from the other listed Companies under the same paragraph in the report by the Departmental Committee on Agriculture, Livestock and Cooperatives on the *crisis facing the sugar industry in the country*.

## 4.0 COMMITTEE RECOMMENDATIONS

The Committee after careful consideration recommends-

1. **THAT**, the House reconsiders its resolution made on 24<sup>th</sup> February 2016, which was arrived at following inaccurate information contained in recommendation 108 ( page 50) of the *Report by the Departmental Committee on Agriculture, Livestock & Cooperatives on the Crisis Facing the Sugar Industry in Kenya*; and
2. **THAT**, the House **expunges** the name "**Kenafic Industries Limited**" from its resolution of 24<sup>th</sup> February, 2016 as contained in recommendation 108 (page 50) of the *Report by the Departmental Committee on Agriculture, Livestock & Cooperatives on the Crisis Facing the Sugar Industry in Kenya*.

Signed



: Date

30/10/2018.

Hon. Moitalel Ole Kenta,  
Chairperson, Committee on Implementation

The National Assembly



12<sup>th</sup> Parliament-2<sup>nd</sup> Session-2018

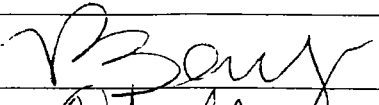
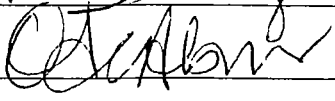

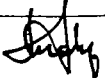
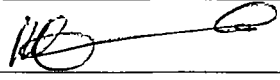
Committee on Implementation

ADOPTION LIST

**AGENDA:** ADOPTION OF REPORT ON THE PETITION BY KENAFRIC INDUSTRIES LIMITED

**VENUE:** 2<sup>nd</sup> Floor Boardroom, Protection House    **DATE:** Tuesday 25<sup>th</sup> September, 2018.

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	
9.	The Hon. Richard Onyonka, MP	
10.	The Hon. Johnson Naicca, MP	
11.	The Hon. George Theuri, MP	
12.	The Hon. Joseph Wathigo Manje, 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. Generali Nixon Korir, MP	
17.	The Hon. Owen Yaa Baya, MP	
18.	The Hon. Paul Abuor, MP	
19.	The Hon. Silvanus Osoro, MP	
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 58<sup>TH</sup> SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON TUESDAY 25<sup>TH</sup> SEPTEMBER, 2018, IN THE BOARDROOM ON 2<sup>ND</sup> 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. Onesmas Kimani Ngunjiri, MP
5. The Hon. Joseph Wathigo Manje, MP
6. The Hon. Johnson Many Naicca, MP
7. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
8. The Hon. Owen Yaa Baya, MP
9. The Hon. Michael Kingi, MP
10. The Hon. Charles Ngusya Nguna, MP
11. The Hon. Alois Musa Lentoimaga, MP
12. The Hon. Francis Munyua Waititu, MP
13. The Hon. Paul Odalo Mak'Ojuando Abuor, MP
14. The Hon. Joshua Mbithi Mwalyo, MP

**APOLOGIES**

1. The Hon. Nelson Koech, MP
2. The Hon. (Dr.) James Kipkosgei Murgor, MP
3. The Hon. Hassan Oda Hulufu, MP
4. The Hon. Richard Onyonka, MP
5. The Hon. Jared Okelo, MP

**ABSENT**

1. The Hon. Generali Nixon Kiprotich Korir, MP
2. The Hon. Silvanus Osoro, MP
3. The Hon. Maj. (Rtd) John Waluke Koyi, MP
4. The Hon. George Theuri, MP

**IN-ATTENDANCE**

**THE NATIONAL ASSEMBLY**

1. Ms. Rose Wanjohi - First Clerk Assistant
2. Mr. Abdirahman Gele Hassan - Clerk Assistant III
3. Mr. Eugene Apaa - Research Officer III
4. Mr. Joseph Okongo - Senior Media Relations Officer
5. Mr. Moses Kariuki - Sergeant-at-arms
6. Mr. Abdikani Ibrahim Kala - Audio Officer

**MIN. NO.COI/303/2018:**

**PRELIMINARIES**

The Chairperson called the meeting to order at twenty- two minutes past ten o'clock and said the Prayer. The Agenda of the meeting was adopted as proposed and seconded by Hon. Paul Abuor, MP and Hon. Simba Arati, MP, respectively.

**MIN. NO.COI/304/2018:**

**CONFIRMATION OF MINUTES**

The agenda item was deferred.

**MIN. NO.COI/305/2018:**

**CONSIDERATION AND  
ADOPTION OF THE REPORT ON  
THE PETITION BY KENAFRIC  
INDUSTRIES LIMITED AS PER  
THE SPEAKER'S  
COMMUNICATION OF 30<sup>TH</sup>  
AUGUST 2018**

The Committee was taken through the draft report on the petition by Kenafric Industries Limited on the implementation of the recommendation paragraph 108 contained in the Departmental Committee on Agriculture, Livestock & Cooperatives' Report on *the crisis facing the sugar industry in Kenya* as adopted by the House on 26<sup>th</sup> February, 2016.

**Committee Observations**

The Committee after deliberations observed that

1. Kenafric Industries Limited was not afforded an opportunity by the Departmental Committee on Agriculture, Livestock & Cooperatives to present its submissions after it had been adversely mentioned in the Report of the Committee.
2. Kenafric Industries Limited through its lawyer M/S Mogeni & Co Advocates petitioned the Departmental Committee on Agriculture, Livestock & Cooperatives in 2015 to respond to allegation by Kenya Sugar Board who "*identified them as one of the manufacturers that repackages imported industrial sugar in locally manufactured branded sugar packages for sale as table sugar*". The Departmental Committee on Agriculture, Livestock & Cooperatives relied on information from Kenya Sugar Board to recommend the cancellation of its import license.
3. Although Kenafric Industries Limited has sued the National Assembly, Attorney General and Sugar Directorate over recommendation 108 of the Report, the Speaker ruled that according Kenafric Industries Limited a forum to make its submissions did not violate the provisions of S.O 89 on *sub judice*.

4. Kenya Sugar Board did not identify the locally manufactured branded sugar packages that Kenafric Industries Limited is alleged to have repackaged industrial sugar into.
5. Kenafric Industries Limited provided evidence that after the adoption of the Report on the " *crisis facing the sugar industry in Kenya*" on 26<sup>th</sup> February 2016, it applied and received import licenses from Sugar Directorate for the years 2016 and 2017. The Company has been regularly audited before and after 2015 by various Government agencies and has continuously obtained the requisite licenses and permits.
6. The Sugar Directorate in their letter to Kenafric Industries Limited dated 17<sup>th</sup> July 2018, indicated that it had delayed renewal of Kenafric Industries Limited's import licence for FY 2018/2019 because they had to implement recommendation 108 contained in the Report on the "crisis facing the sugar industry in Kenya".
7. The Sugar Directorate presented that they could not provide written documentation or evidence to substantiate the allegation from the then Kenya Sugar Board that Kenafric Industries Limited *is one of the manufacturers that repackage imported industrial sugar in locally manufactured branded sugar packages for sale as table sugar contained in the Report on the crisis facing the sugar Industry in Kenya.*
8. The Sugar Directorate after receiving a copy of the Report as adopted by the House could have informed National Assembly that the allegations made could not be substantiated by written proof.
9. Even after presenting their allegations concerning Kenafric Industries Limited to the Departmental Committee on Agriculture, Livestock and Cooperatives and after the adoption of Report on the crisis facing the sugar industry in Kenya on 26th February, 2018, the then Kenya Sugar Board and the Sugar Directorate issued Kenafric Industries Limited with import licences in the years 2016 and 2017.
10. The Ministry of Agriculture & Irrigation and the Sugar Directorate could have appealed to National Assembly if it was unable to implement the recommendations of the House as contained in the Report by the Departmental Committee on Agriculture, Livestock & Cooperatives on the *crisis facing the sugar industry in Kenya.*
11. The Sugar Directorate was inordinately slow to implement recommendation 108 on Kenafric Industries Ltd which it recently did by delaying the renewal of the Company import license of 2018/2019 FY, however it was quick to implement and grant the import license for FY 2018/2019 after receiving a

letter from the Clerk of the National Assembly dated 4<sup>th</sup> September 2018 informing it of the Speaker's ruling on Kenafric Industries Limited.

12. The Sugar Directorate did not cancel the import licenses of the companies as resolved by the National Assembly in recommendation 108 including Kenafric Industries Limited once the Report was adopted on 26<sup>th</sup> February, 2016.
13. Kenafric Industries Limited has been gazetted to import industrial sugar in the East African Gazette before and after 26<sup>th</sup> February 2016 when the Report by the Departmental Committee on Agriculture, Livestock and Cooperatives on the *crisis facing the sugar industry in the country* was adopted.
14. The reconsideration of the House resolution under recommendation 108 on page 50 on the matter of Kenafric Industries limited could potentially open the door for appeal from the other listed Companies under the same paragraph in the report by the Departmental Committee on Agriculture, Livestock and Cooperatives on the *crisis facing the sugar industry in the country*.

#### **Committee Recommendations**

The Committee recommends that the National Assembly considers **rescinding and expunging** the name of Kenafric Industries Limited from the list of Companies whom it recommended their import license be cancelled as contained in Recommendation Paragraph 108 page 50 of the Report by the Departmental Committee on Agriculture, Livestock & Cooperatives on the crisis facing the sugar industry in Kenya.

The Committee unanimously adopted the Report by the select Committee on Implementation on the petition by Kenafric Industries Limited on the implementation of the recommendation paragraph 108 contained in the Departmental Committee on Agriculture, livestock & cooperatives on the crisis facing the sugar industry in Kenya as adopted by the house on 26th February, 2016 as proposed and seconded by Hon. Charles Nguna Ngusya, MP and Hon. Onesmas Ngunjiri, MP respectively.

MIN. NO. COI/306/2018:

ADJOURNMENT

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

Sign.....

  
(Chairperson)

Date.....

2/10/2018

**MINUTES OF THE 57<sup>TH</sup> SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON WEDNESDAY 19<sup>TH</sup> SEPTEMBER, 2018, IN THE COMMITTEE ROOM ON 5<sup>TH</sup> FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 12.00 PM.**

**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. Onesmas Kimani Ngunjiri, MP
5. The Hon. Joseph Wathigo Manje, MP
6. The Hon. Johnson Many Naicca, MP
7. The Hon. Nelson Koech, MP
8. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
9. The Hon. Owen Yaa Baya, MP
10. The Hon. Jared Okelo, MP
11. The Hon. Michael Kingi, MP
12. The Hon. Charles Ngusya Ngunu, MP
13. The Hon. Silvanus Osoro, MP

**APOLOGIES**

1. The Hon. Generali Nixon Kiprotich Korir, MP
2. The Hon. Alois Musa Lentoimaga, MP
3. The Hon. Francis Munyua Waititu, MP
4. The Hon. Paul Odalo Mak'Ojuando Abuor, MP
5. The Hon. Joshua Mbithi Mwalyo, MP
6. The Hon. Richard Onyonka, MP

**ABSENT**

1. The Hon. Maj. (Rtd) John Waluke Koyi, MP
2. The Hon. George Theuri, MP
3. The Hon. (Dr.) James Kipkosgei Murgor, MP
4. The Hon. Hassan Oda Hulufu, MP

**IN-ATTENDANCE**

**MINISTRY OF AGRICULTURE AND IRRIGATION**

1. Prof. Fred Segor - Principal Secretary for Irrigation
2. Mr Solomon Odera - Interim Head of Sugar Directorate
3. Ms. Grace Agili - Deputy Director
4. Mr Charles K. Tanui - Senior Economist- Irrigation

## **THE NATIONAL ASSEMBLY**

- |                              |   |                                |
|------------------------------|---|--------------------------------|
| 1. Ms Rose Wanjohi           | - | First Clerk Assistant          |
| 2. Mr Abdirahman Gele Hassan | - | Clerk Assistant III            |
| 3. Mr James Muguna           | - | Research Officer III           |
| 4. Mr Joseph Okongo          | - | Senior Media Relations Officer |
| 5. Mr Moses Kariuki          | - | Sergeant-at-arms               |
| 6. Ms. Jane Serem            | - | Audio Officer                  |

### **MIN. NO.COI/299/2018:**

### **PRELIMINARIES**

The Chairperson called the meeting to order at nineteen minutes past twelve o'clock and said the Prayer. The Agenda of the meeting was adopted as proposed and seconded by Hon. Owen Baya, MP and Hon Simba Arati, MP respectively. Introductions were made thereafter.

### **MIN. NO.COI/300/2018:**

### **CONFIRMATION OF MINUTES**

The agenda item was deferred.

### **MIN. NO.COI/301/2018:**

### **MEETING WITH THE MINISTRY OF AGRICULTURE, AND IRRIGATION**

The Principal Secretary for Irrigation, Ministry of Agriculture & Irrigation, Prof. Fred Segor, Mr. Solomon Odera, Interim Head of Sugar Directorate, Ms. Grace Agili, Deputy Director and Mr. Charles K. Tanui, Senior Economist- Irrigation appeared before the Committee and briefed them as follows:- That

The Parliamentary Select Committee on Implementation summoned the Interim Head of Sugar Directorate vide letter dated 28<sup>th</sup> June, 2018 to appear before it on 6<sup>th</sup> July 2018.

Resulting from the deliberations of 6<sup>th</sup> July, 2018, the Committee directed that the Sugar Directorate implements the Parliamentary Report with immediate effect.

Given the directive, the Directorate wrote to Kenafic Industries on 17<sup>th</sup> July, 2018 informing them that renewal of their registration of an import license for the financial year 2018/19 would be delayed.

Kenafic Industries Ltd (KIL) is one of the largest manufacturers regionally of Confectionery, Culinary, Biscuits and Snacks in East Africa.

The company has been at the forefront of investment into people and technology to bring the world class products to the region.

Regionally, the company is a major exporter covering around 6 regional markets from

its Kenyan manufacturing plant. It is also one of the largest employer and taxpayers in the country.

While inquiring into the Crisis Facing the Sugar Industry in Kenya, the Departmental Committee on Agriculture, Livestock and Co-operatives recommended that the Government should cancel import license for Kenafric Industries Limited on account of repacking sugar as captured in paragraph 108 of the report. The report was adopted by Parliament on 26<sup>th</sup> February 2016.

Kenafric Industries Limited is duly registered by the Sugar Directorate as an importer of white refined sugar for industrial use. The company has consistently complied with all import requirements including but not limited to the strict importation of sugar quantities sufficient for their annual capacity requirement and prohibition of third-party trading of industrial sugar. In that regard, the Directorate renewed their registration for the years 2015/16, 2016/17 and 2017/18.

The Company submitted a request to renew their registration for the year 2018/19 and the subsequent issuance of an import license. However, the Sugar Directorate delayed in renewing the registration since they had to implement the Committee Report on the Crisis Facing the Sugar Industry in Kenya.

In view of the above, the company instituted a Constitutional Petition No.262/2018 before Justice Mwita Chacha, challenging the Authority's decision not to issue them with a license. KIL cited that it was tantamount to an infringement of their proprietary rights. KIL also contend that this decision was made without according them a fair hearing. The matter was heard and the judge directed that he shall deliver his judgement on 10<sup>th</sup> November 2018.

Kenafric Industries Ltd through the law firm of Mogeni and Company Advocates petitioned the Honorable Speaker of the National Assembly vide a letter dated 22<sup>nd</sup> August 2018.

The firm noted that during the hearings held by the Departmental Committee on Agriculture and Livestock, KIL was not afforded an opportunity to be heard despite attempts made before the preparation, tabling and adoption of the Report of the Committee. Consequent to the tabling and adoption of the Report, the Sugar Directorate has since delayed the processing of their import permit for 2018/2019.

Nevertheless, the Speaker of National Assembly noted some glaring omissions as highlighted by the petitioner. He observed that the aggrieved party would best be served by rectification of the glaring omissions without prejudice to the fair determination of the proceedings in court.

In view of the above, and a letter by AFA to the Speaker dated 28<sup>th</sup> August 2018, the Speaker of the National Assembly through the Communication from the Chair No. 046 of 2018 suspended the resolution of the Committee to halt Kenafric Industries Ltd

from importing sugar until such a time as the House makes further resolution informed by the report of the Committee on Implementation.

The Clerk of the National Assembly vide a letter dated 4<sup>th</sup> September 2018 advised the Sugar Directorate to implement the communication from the Speaker with regard to Kenafric Industries Ltd.

Consequently, the Directorate renewed the registration of Kenafric Industries for the year 2018/19 as importers of white refined sugar for industrial use.

During Plenary, the Committee was further informed that:-

The KIL has been in operation since March 2015 when the Report on *the crisis facing the Sugar Industry in Kenya* was tabled for adoption by the House.

The Sugar Directorate is unable to provide any written submission or evidence on the allegations made by the then Kenya Sugar Board that had identified KIL as one of the manufacturers that repackage imported industrial sugar in locally manufactured branded sugar packages for sale as table sugar.

Further, the Sugar Directorate is not able to provide evidence of communication from it to KIL informing them of the allegation and any action they intended to take until recently when they wrote to KIL vide letter dated 17<sup>th</sup> July 2018. The interim Head of Sugar Directorate has been in the office since October 2016 and took no action to implement the recommendation as resolved by Parliament.

The Committee also noted that the Sugar Directorate took a short time to implement the communication from Parliament on 4<sup>th</sup> September 2018 on the suspension of the recommendation 108 in regard to KIL but had taken an inordinately long time to implement the recommendation from parliament since its adoption on 26<sup>th</sup> February 2016.

The Committee noted that the Ministry of Agriculture and Irrigation, through the Sugar Directorate, has not cancelled the license of Kenafric Industries Limited despite Parliamentary resolution adopted on 26<sup>th</sup> February 2018 and subsequently renewed the import license for 2016 and 2017.

The Sugar Directorate has the requisite staff and capacity and an investigative and compliance department to review the manufacturers using imported refined sugar to ensure compliance of the regulations before granting licenses. Sugar Directorate carries out an inspection /capacity exercise annually by visiting the manufacturer to establish the industrial sugar requirements to ensure only what is needed is imported. Further, they confirm if what has been previously been imported was utilized within the year and if there is surplus, the same is deducted from the next import quota, an exercise carried out by KIL and Sugar Directorate.

Industrially refined sugar is generally more expensive than table sugar and from the point of view of Sugar Directorate, it would not make economic sense for KIL to repackage it to be sold as table sugar.

The Sugar Directorate reported that at no time have they licensed KIL to import table sugar. Although the Sugar Directorate does not limit manufacturer on the amount of refined industrial sugar they can import, the amount agreed on between Sugar Directorate and the manufacturer for its use is the one gazette.

Although a factory (KIBOS) for the manufacture of refined industrial has been constructed, it is not operational yet.

KIL has been complying with necessary legislation and regulations hence its license has been consistently issued on annual basis after satisfaction of necessary processes until the recent delay of issuance of 2018/2019 license. The Company imports in a structured manner on a quarterly basis and submits a report.

The Sugar Directorate removed Kenafric from the *kentrade* system and had delayed the renewal of their import license from August 2018.

### **Committee Observations**

The Committee observed that

1. The Sugar Directorate had presented that they cannot provide written documentation to substantiate the allegation from the Kenya Sugar Board that Kenafric Industries Limited is one of the manufacturers that repackage imported industrial sugar in locally manufactured branded sugar packages for sale as table sugar contained in the Report on the crisis facing the sugar Industry in Kenya.
2. The Sugar Directorate after receiving a copy of the Report as adopted by the House could have informed Parliament that the allegations made could not be substantiated by written proof.
3. The Ministry of Agriculture & Irrigation and the Sugar Directorate could have appealed to parliament if they were unable to implement the recommendations of the House.
4. After the Report was adopted in February 2016, Sugar Directorate issued Kenafric Industries Ltd with import license for industrial sugar in 2016 and 2017.
5. Sugar Directorate was inordinately slow to implement the recommendation 108 on Kenafric Industries Ltd which they recently did by delaying the renewal of the Company import license of 2018/2019 FY, however they were quick to implement and grant the import license for FY 2018/2018 after receiving a letter from the Clerk of the National Assembly dated 4<sup>th</sup> September 2018 informing them of the Speaker's ruling on Kenafric Industries Limited.

6. The Sugar Directorate did not cancel the import license of the companies that Parliament recommended for cancellation in paragraph 108 including Kenafric Industries Limited once the Report was adopted in 2016.
7. Kenya Africa Industries has been gazette to import industrial sugar in the East African Gazette before and after 2016.
8. The reconsideration of the House resolution under paragraph 108 on the matter of Kenafric Industries limited could potentially open the door for appeal from the other listed Companies under the same paragraph in the report by the Departmental Committee on Agriculture, Livestock and Cooperatives on the crisis facing the sugar industry in the country.

MIN. NO.COI/302/2018:

ADJOURNMENT

There being no other business, the meeting was adjourned at thirty-five minutes past ten o'clock.

Sign.....



Date.....

2/10/2018.

(Chairperson)

**MINUTES OF THE 56<sup>TH</sup> SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON TUESDAY 18<sup>TH</sup> SEPTEMBER, 2018, IN THE COMMITTEE ROOM ON 5<sup>TH</sup> FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 9.30 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. (Dr.) Daniel Kamuren Tuitoek, MP
5. The Hon. Joshua Mbithi Mwalyo, MP
6. The Hon. Hassan Oda Hulufu, MP
7. The Hon. Charles Ngusya Nguna, MP
8. The Hon. Silvanus Osoro, MP
9. The Hon. Paul Odalo Mak'Ojuando Abuor, MP

**APOLOGIES**

1. The Hon. Generali Nixon Kiprotich Korir, MP
2. The Hon. Alois Musa Lentoimaga, MP
3. The Hon. Francis Munyua Waititu, MP
4. The Hon. Owen Yaa Baya, MP

**ABSENT**

1. The Hon. Maj. (Rtd) John Waluke Koyi, MP
2. The Hon. Onesmas Kimani Ngunjiri, MP
3. The Hon. Johnson Many Naicca, MP
4. The Hon. Richard Onyonka, MP
5. The Hon. George Theuri, MP
6. The Hon. (Dr) James Kipkosgei Murgor, MP
7. The Hon. Joseph Wathigo Manje, MP
8. The Hon. Jared Okelo, MP
9. The Hon. Nelson Koech, MP
10. The Hon. Michael Kingi, MP

**IN-ATTENDANCE**

**KENAFRIC INDUSTRIES LIMITED**

- |                         |   |                                      |
|-------------------------|---|--------------------------------------|
| 1. Mr Bhagat Shah       | - | Chairman                             |
| 2. Mr Kirtan Shah       | - | Group Managing Director              |
| 3. Mr Mikul Shah        | - | Chief Executive Officer              |
| 4. Ms Lorna Solopian    | - | Head of Legal                        |
| 5. Mr. Kelvin Mogeni    | - | Advocate, M/S Mogeni & Co. Advocates |
| 6. Mr Godfrey Kinyanjui | - | Associate at Mogeni and Co.          |

#### **THE NATIONAL ASSEMBLY**

- |                              |   |                                |
|------------------------------|---|--------------------------------|
| 1. Ms Rose Wanjohi           | - | First Clerk Assistant          |
| 2. Mr Abdirahman Gele Hassan | - | Clerk Assistant III            |
| 3. Ms Doreen Karani Nkatha   | - | Legal Counsel II               |
| 4. Mr Joseph Okongo          | - | Senior Media Relations Officer |
| 5. Ms. Zeinab Wario          | - | Serjeant-at-arms               |
| 6. Mr Moses Kariuki          | - | Serjeant-at-arms               |
| 7. Ms. Jane Serem            | - | Audio Officer                  |

#### **MIN. NO.COI/295/2018:**

#### **PRELIMINARIES**

The Chairperson called the meeting to order at thirty-three minutes past nine o'clock followed by a word of prayer by Hon. (Dr.) Daniel Kamuren Tuitoek, MP. The Agenda of the meeting was adopted as proposed and seconded by Hon. Godfrey Osotsi, MP, Vice Chairperson and Hon. Paul Abuor, MP, respectively. Introductions were made thereafter.

#### **MIN. NO.COI/296/2018:**

#### **CONFIRMATION OF MINUTES**

The agenda item was deferred.

#### **MIN. NO.COI/297/2018:**

#### **MEETING WITH KENAFRIC INDUSTRIES LIMITED**

The Chairman, Kenafric Industries Limited, Mr. Bhagat Shah, accompanied by Mr. Kirtan Shah, Group Managing Director, Mr. Mikul Shah, Chief Executive Officer, Ms. Lorna Solopian, Head of Legal, Mr. Kelvin Mogeni, Advocate, M/S Mogeni & Co. Advocates and Mr. Godfrey Kinyanjui, Associate at Mogeni and Company appeared before the Committee and briefed them as follows:-

Kenafric Industries Limited is engaged in the importation, manufacture and exportation of Sugar Confectionery products and distribution of the finished goods in Kenya and other parts of East and Central Africa and is a gazetted importer of sugar by the Council of Ministers of the East African Community.

Kenafric Industries Limited has been a manufacturer of sugar products over a 30 year period and there is a strict regime which monitors the quantity of sugar and compares the same with the manufactured goods, both sold locally and for export.

The company uses Industrial sugar in its manufacturing process, a product that is not manufactured or available in the Kenyan market.

Kenafric has since 2015 been issued yearly with a license for the importation of industrial sugar as per the registration processing from the then Kenya Sugar Board which is now the Sugar Directorate.

The process of sugar imports is strictly monitored by various agencies of the Government from the Kenya Revenue Authority, Kenya Bureau of Standards, Sugar

Directorate and the Inter-Ministerial Committee of the Council of Ministers of the East African Community and which is gazetted. In addition and for manufacturing purposes, they import industrial sugar quality -45 ICUMSA units with polarization 99.8 degrees while table brown sugar has ICUMSA units of 700-1600 with the polarization of 99.0 degrees.

On 17<sup>th</sup> July 2018, the Sugar Directorate of the Agriculture and Food Authority wrote to Kenafric Industries Limited a letter indicating that recommendation 108 contained in the Report by the Departmental Committee on Agriculture and Livestock regarding sugar crisis in the country occasioned the delay in renewing their annual registration by the Directorate.

On 19<sup>th</sup> July 2018, Kenafric Industries Limited being aggrieved by the said decision wrote to the Sugar Directorate complaining about the lack of due process, consultation and legal basis for said notice and the challenges the said Report would occasion to both the Company and the public as consumers.

In 2015 there was no invitation sent out by Parliament's Departmental Committee on Agriculture, Livestock and Cooperatives for a hearing before the conclusions and recommendations were made in the report. Kenafric Industries Limited wrote to Parliament's Committee on Agriculture, Livestock and Cooperatives but was not invited and instead the Committee indicated that they do not have time to hear the company.

From 2015, the parliamentary report on the crisis facing the sugar industry in Kenya, recommendation touching on Kenafric Industries Limited were neither communicated to nor were they implemented until the 2018 sugar fiasco came into light.

In light of the Sugar Directorate delay in issuing Kenafric Industries Limited with the annual import license, the Company felt that the process was in disregard to its right to constitutional fair administrative process prompting it to petition to be heard before the Committee on Implementation.

The activities of the Company have always been to manufacture and convert industrial sugar into confectionery. The value addition in manufacturing confectionery is about 20-25% as opposed to repackaging sugar which is 5-7%

Kenafric does not own sugar repackaging machinery nor is it interested in this line of business hence not a threat to the local market.

The report also condemns Kenafric Industries Limited unheard and stops the manufacturing and affects the livelihoods of over 2,500 employees.

The Report contravenes the law and goes against various established High Court and Court of Appeal precedents.

Unless implementation of the report against Kenafric Industries Limited is immediately stopped, the recommendation is likely to undermine the proprietary rights and interests of the Company.

The measures of verification undertaken by various agencies have confirmed that Kenafric Industries Limited has never been involved in any malpractices and all the quantities of sugar imported have properly been accounted for.

The then KSB did conduct its own investigations and found that the Company complied with all regulations and subsequently has issued it with licenses.

The Sugar Directorate has every year inspected the factory premises of Kenafric and it has confirmed that the Company does not have the capacity and/or machinery to package sugar into locally manufactured brands. Further, the Sugar Directorate was involved in the preparation and approval of the Kenafric Industries Limited quota for sugar imports approved by the Council of Ministers of the East African Community which has gazetted the Company to import 20,000MT of sugar. The ordered consignment is currently lying at the Port of Mombasa with several costs including demurrages incurring.

Kenafric Industries Limited does not deal in repackaging and selling of table sugar. The industrially refined sugar that Kenafric Industries uses in its manufacturing process is not available locally and therefore its importation into the Country does not affect the local manufactures of table sugar.

The Gazette notice on May 2017 allowed the importation of unlimited duty-free table sugar and further extended until December 2017. This caused their confectionery exports being denied access into Uganda and Tanzania under preferential rates of duty. The company lost business worth USD 15 million in addition to market share. Currently, Tanzania continues to deny preferential treatment due to the current sugar headlines. The Company did not import sugar during the duty-free import window in 2017.

The Company is regularly audited before and after 2015 by various government agencies and has continuously obtained the requisite licenses and permits.

The stakeholders requested the Committee to visit and experience Kenafric's manufacturing state of the art facilities and ascertain the actual situation/dealings of the company.

During plenary, Kenafric Industries further informed the Committee that:-

The company has been one of the highest taxpayers in the country some years back and exports 50% of its products to over 15 countries.

Before approval of the annual import license, the then Kenya Sugar Board and the Sugar Directorate have been undertaking inspection tour of the facility from 2009 to 2018, inspecting compliance with terms of previous licenses, reconciled imported sugar against the sales of manufactured goods which have tallied. The Report has been issued to the Council of Ministers of EAC in order to approve the importation quota of Kenafric Industries Limited in the subsequent years.

Moreover, goods imported are inspected not only at the country of origin by PVOC agents but again at the port of entry into Kenya by full-time inspectors. Any excess imports are deducted from the Company import quota the following year.

After the Report on the *crisis facing the sugar industry in Kenya* was adopted on 26<sup>th</sup> February 2018, Kenafric Industries Limited was applied and was issued with importation license in 2016 and 2017.

The cancellation of the licenses of Kenafric Industries Limited appears to have been done arbitrarily as the company has complied with all the relevant laws and has never imported table sugar and has been receiving its annual licenses.

The Company has never applied for a license to supply table sugar.

The company makes refined sugar using ICUMSA, a special grading specification, for making of beverages, sweets and other confectioneries like ball gum, toffees and biscuits.

Opening up of the duty-free window gazette made it difficult for Kenyan manufactures using imported industrial sugar and affected the market heavily. The Gazette notice should have specified importation of industrial or table sugar.

Repackaging of industrial sugar to table sugar won't make economic value as one would need to use three times more portions of industrial sugar to one portion of the table sugar.

KIBOS is a manufacturing plant which has the capacity to produced industrial refined sugar, however, it's not producing any yet.

Kenafric Industries Limited in its submissions provided the following documents;

1. A letter from Mogeni and Company advocates to the Clerk of the National Assembly requesting for an opportunity to respond before the Report by the Departmental Committee on Agriculture and Livestock on the crisis facing the sugar industry in the country was tabled before the House.
2. Annual import licence from AFFA

3. Took the members through the process of registration as a sugar importer which included verification visit and approvals and issuance of a license to import following clearance;
4. EAC Gazette notices
5. Inspection Audit and findings from KRA dated 25<sup>th</sup> July 2017
6. A letter from AFA dated 17<sup>th</sup> July 2018 informing Kenafric of the report by the Departmental Committee on Agriculture and Livestock on the crisis facing the sugar industry in the country.
7. A letter from Kenafric Industries Limited dated 19<sup>th</sup> July 2018 requesting the Sugar Directorate to have a meeting with them and release of their annual permits;
8. Tax Compliance Certificates from the Kenya Revenue Authority for the years 2015, 2016, 2017 up to 29<sup>th</sup> October 2018 indicating that Kenafric Industries Limited has filed tax returns and paid taxes due.
9. The Kenya Gazette Notice No. 4536 allowing for duty-free importation of sugar and milk powder from May 2017.

### **Conclusion**

The Company lamented that they were condemned unheard contrary to the rule of natural justice.

Kenafric Industries Limited prays that the National Assembly resolves to expunge the Company's name from the list contained in Recommendation 108 of the Report on the crisis facing the sugar Industry in Kenya as adopted by the House.

The Committee noted that although Kenafric Industries Limited has sued the National Assembly, Attorney General and Sugar Directorate over the recommendation 108 of the Report, the Speaker ruled that according Kenafric Industries Limited with a forum to make their submissions did not violate the provisions of S.O 89 on *sub judice*.

### **Committee Observations**

The Committee observed that

1. Kenafric Industries Limited through their lawyer M/S Mogeni & Co Advocates petitioned the DC on Agriculture, Livestock & Cooperatives in 2015 to respond to the allegation by Kenya Sugar Board who "identified them as one of the manufacturers that repackages imported industrial sugar in locally manufactured branded sugar packages for sale as table sugar".
2. Kenya Sugar Board did not identify the locally manufactured branded sugar packages that Kenafric is alleged to have repackaged into.
3. Kenafric Industries Limited was not afforded an opportunity by the Departmental Committee on Agriculture, Livestock & Cooperatives to present their submissions after they had been adversely mentioned in the Report of the Committee.

4. The Company provided evidence that after the adoption of the Report on the "crisis facing the sugar industry in Kenya" on 26<sup>th</sup> February 2016, it applied and received import license from Sugar Directorate for the year 2016 and 2017. The Company is regularly audited before and after 2015 by various government agencies and has continuously obtained the requisite licenses and permits
5. From the letter dated 17<sup>th</sup> July, 2018, the sugar Directorate indicated that they had not renewed Kenafric Industries limited import licence for 2018 because of the recommendation 108 contained in the Report on the "crisis facing the sugar industry in Kenya".

**MIN. NO.COI/298/2018:**

**ADJOURNMENT**

There being no other business, the meeting was adjourned at thirty-five minutes past ten o'clock.

Sign.....  ..... Date..... 2/10/2018 .  
(Chairperson)

# Appendix 1

KENYA NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT

(THIRD SESSION-2015)

REPORT OF THE  
DEPARTMENTAL COMMITTEE ON AGRICULTURE,  
LIVESTOCK AND CO-OPERATIVES

ON THE

THE CRISIS FACING THE SUGAR  
INDUSTRY IN KENYA

CLERKS CHAMBERS  
PARLIAMENT BUILDINGS,  
NAIROBI

MARCH, 2015

*[Handwritten signatures and initials]*

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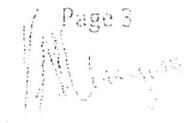
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## ACRONYMS

WEDIA	-	Western Development Initiative Association
DCALC	-	Departmental Committee on Agriculture, Livestock and Co-operatives
MSC	-	Mumias Sugar Company
NSC	-	Nzoia Sugar Company
BSC	-	Busia Sugar Company
BSM	-	Butali Sugar Mills
WKSF	-	West Kenya Sugar Factory
KRA	-	Kenya Revenue Authority
NIS	-	National Intelligence Service
IG	-	Inspector-General
DG	-	Director-General
CG	-	Commissioner-General
CS	-	Cabinet Secretary
NEMA	-	National Environment Management Authority
EMCA	-	Environmental Management and Coordination Act
KPA	-	Kenya Ports Authority
KSB	-	Kenya Sugar Board
KEBS	-	Kenya Bureau of Standards
COMESA	-	Common Market for Eastern and Southern Africa
KeRRA	-	Kenya Rural Roads Authority
IDB	-	Industrial Development Bank
RSCL	-	Rising Star Commodities Limited



DRC	-	Democratic Republic of Congo
EU	-	European Union
UK	-	United Kingdom
DPL	-	Dantes Peak Limited
GK	-	Government of Kenya
AFFA	-	Agriculture Fisheries and Food Authority
EACCMA	-	East African Community Customs Management Act
SDF	-	Sugar Development Fund
LATF	-	Local Authorities Trust Fund
CDF	-	Constituencies Development Fund
VAT	-	Value added Tax
NSE	-	Nairobi Stock Exchange
MT	-	Metric Tones
TCD	-	Tones Crushed Daily,
FCB	-	Fives Call Babcock
SCT	-	Single Customs Territory
KPMG	-	A merger leading audit firm between <i>Klynveld Main Goerdeler</i> And <i>Peat Marwick</i>
MW	-	Mega Walls
MSS	-	Mauritius Sugar Syndicate

## PREFACE

Mr. Speaker Sir,

01. Arising from a petition by Western Development Initiative Association on the imminent collapse of sugar industry in Western Kenya, the Committee while investigating into the issues raised in the petition, undertook to sample investigations into the status of sugar industry in Kenya with a view to finding a lasting solution and making recommendations to salvage the industry and save the loss to be incurred by over six million sugarcane farmers across the country if the industry was to collapse.
02. Terms of Reference for the Committee
  - (i) Investigate and inquire into the current state of the sugar industry in the country;
  - (ii) Investigate and inquire into the issue of cheap sugar imports and smuggling;
  - (iii) Investigate and inquire into the alleged exports by Mumias Sugar Company between 2006 and 2012;
  - (iv) Look into the glut in the sugar market, which has, among other causes, contributed to the current crisis in the industry; and
  - (v) Report on the findings of the Committee's inquiry.

## INTRODUCTION

03. The Departmental Committee on Agriculture, Livestock and Co-operatives is established pursuant to provisions of Standing Order 216 (5). Under the provisions of Standing Order 216 (5) the Committee is mandated to:-
  - (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 the Ministries and departments and the effectiveness of the implementation;*
  - (c) *study and review all legislation referred to it;*

- (iv) Fisheries development,
- (v) Co-operatives development, and
- (vi) Production and marketing

07 Under the above Ministries, the Committee covers the following subjects,

- (i) Agriculture policy;
- (ii) Veterinary policy
- (iii) Fisheries policy
- (iv) Cooperative societies

### Membership

08. The Committee comprises the following Members:-

- |     |  |   |               |
|-----|--|---|---------------|
| 1.  | The Hon. Adan Mohamed Nooru, M.P.        | - | Chairman      |
| 2.  | The Hon. Japhet M. Kareke Mbiuki, M.P.   | - | Vice Chairman |
| 3.  | The Hon. Kabando Wa Kabando, M.P.        |   |               |
| 4.  | The Hon. Raphael Letimalo, M.P.          |   |               |
| 5.  | The Hon. Patrick Wangamati, M.P.         |   |               |
| 6.  | The Hon. Francis Munyua Waititu, M.P.    |   |               |
| 7.  | The Hon. Mary Wambui Munene, M.P.        |   |               |
| 8.  | The Hon. Peter Njuguna Gitau, M.P.       |   |               |
| 9.  | The Hon. Mason Leshoomo, M.P.            |   |               |
| 10. | The Hon. Anthony Kimani Ichung'wah, M.P. |   |               |
| 11. | The Hon. Alfred Kiptoo Keter, M.P.       |   |               |
| 12. | The Hon. Ayub Savula Angatia, M.P.       |   |               |
| 13. | The Hon. Justice Kemer, M.P.             |   |               |
| 14. | The Hon. Philip I. R. Rouno, M.P.        |   |               |
| 15. | The Hon. Keter Ole Lemera, M.P.          |   |               |
| 16. | The Hon. Stas Inon, M.P.                 |   |               |
| 17. | The Hon. Benjamin Jomo Washali, M.P.     |   |               |
| 18. | The Hon. ... M.P.                        |   |               |

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26. The Hon. Florence Mwikali Mutua, M.P.
27. The Hon. Hezron Bollo Awiti, M.P.
28. The Hon. John Owour Kobado, M.P.
29. The Hon. Zuleikha Hassan Juma, M.P.

Mr. Speaker,

0.9 This Report was considered at length by the Committee in a retreat at Windsor Golf and Country Club in Nairobi in 6<sup>th</sup> and 7<sup>th</sup> March, 2015 and the resolution to adopt this Report was reached unanimously in a meeting attended by a majority of the Members of the Committee Members. It is our hope that this Report will guide and inform the House on the status of sugar industry.

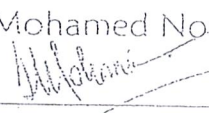


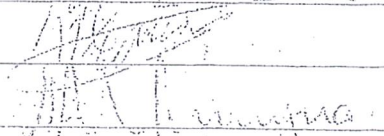
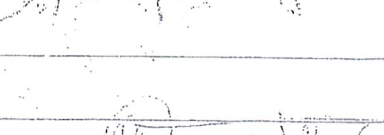
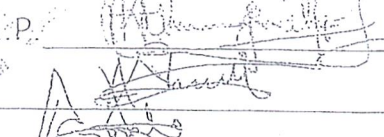

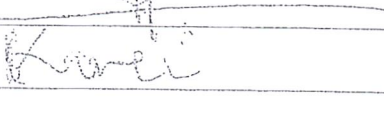
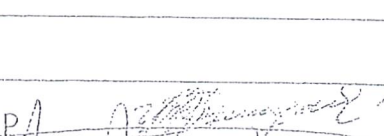
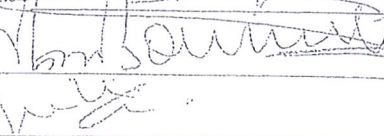
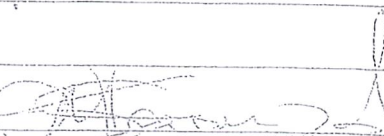
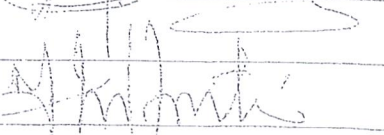
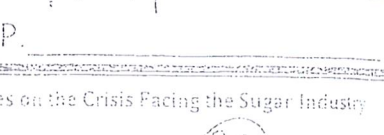


The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the support and services extended to the Members to enable the Committee complete this report smoothly.

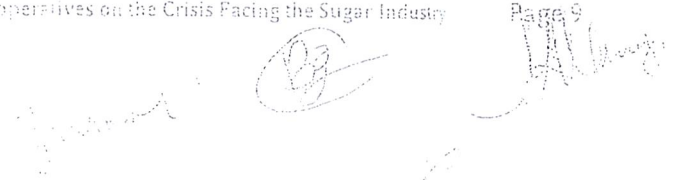
I am grateful for the Members of the Committee whose support enabled the Committee to accomplish this task. Special thanks to the secretariat for their support as always.

On behalf of the Committee I now have the honour and pleasure to present this Report to the House for consideration and adoption.

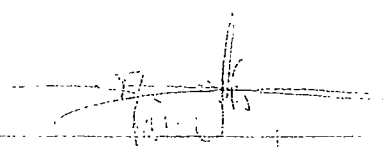
Thank You

We the undersigned

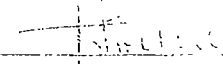
1. The Hon. Adan Mohamed Nooru, MBS, M.P.  
Chairman 
2. The Hon. Japhet M. Kareke Mbiuki, M.P. -Vice  
Chairman 
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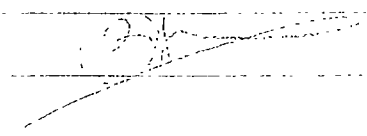
26 The Hon. Florence Mwikali Mutua, M.P.



27 The Hon. John Kobado, M.P.

28. The Hon. Hezron Bollo Awitti, M.P.

29 The Hon. Zuleikha Hassan Juma, M.P.



## CHAPTER 1

### 1.0 OVERVIEW OF THE SUGAR INDUSTRY IN KENYA

#### Historical Perspective

10. Sugar cane was first introduced in Kenya in 1902 with the first sugar factory being set up at Miwani near Kisumu in 1922. Later in 1927, another sugar factory was set up at Ramisi in the coast province, the area where the current Kwale International Sugar is located.
11. After independence, the Government of Kenya moved to expand sugar through investments in sugar cane growing schemes and establishment of more new sugar factories. These include Muhoroni Sugar Factory (MSF) in 1966, Chemelil Sugar Factory (CSF) in 1968, Mumias Sugar Company (MSC) in 1973, Nzoia Sugar Company (NSC) in 1978 and South Nyanza Sugar Company (SONY)-Awendo in 1979.

#### Cane Production, Quality and Supply

12. The total area under cane in the country presently is 203,730 Ha, comprising 189,390 Ha belonging to out-growers and 14,340 Ha Nucleus Estates (land owned/leased by mills to grow cane). There are 300,000 cane farmers, 4,500 of which are large scale.
13. The quality of cane as measured by pol % cane averages 12 compared 13.5% in the region. Pol % of cane dropped from a weighted average of 11.16 in 2012 to 11.08 in 2013, due to cane harvested below 13 months. However, there was an improvement in fibre % cane, from 17.18 to 17.01 during the period.
14. The average yield per Ha in Kenya is 60.5MT compared to the global average of 63MT. Columbia produces 115 MT per Ha. Total cane supplied for processing by mills in 2013 was 6,764,200 MT compared to 5,842,830 MT in 2012, representing a 15.77% increase.

*(Handwritten signatures and initials)*

## Mills Performance and Contribution to GDP

15. Today, Kenya has eleven (11) operational sugar mills in the country, 1 to be commissioned in Kwale (Kwale International Sugar Company) while 2 mills (Muhoroni and Miwani) are under receivership. The 11 sugar factories have an annual production capacity of about 600,000MT of sugar against the annual domestic requirements of 800,000MT, running a deficit of 200,000MT.
16. The estimated 200,000 metric tons shortfall is offset by sugar imports which has created a lot of instability in the local domestic market. Kenya has only managed to achieve significant production of the commodity in 1980 and 1981 to meet domestic demand.
18. The combined installed current crushing capacity of operational mills is about 29,990 MT of cane per day. The current capacity is sufficient to produce about 1 million tons of sugar per annum. This is not sufficient to meet the domestic consumption capacity of sugar. The target is to expand the daily capacity to approximately 50,000 MT per day in order to produce 1,350,000 MT to make Kenya a sugar surplus producer.
19. The sugar industry in Kenya supports directly or indirectly six million Kenyans, which represents about 16% of the entire national population. The sugar industry contributes about 7.5% of the country's Gross Domestic Product (GDP) and has a major impact on the economies of Western Kenya and Nyanza regions and, to a lesser extent, Rift Valley. The sugar sub-sector is expected to equally have a major impact on the economy of Coast region once the mill being built in Kwale becomes operational.
20. Sugar production increased from 503,210 MT in 2012 to 599,070 MT in 2013 as a result of increased cane supply and better recoveries. Recoveries improved from Tonnes Cane/Tonnes Sugar (TC/TS) of 11.61 in 2012 to 11.29 in 2013. The Factory Time Efficiency (FTE) improved from 76.65% in 2012 to 79.98% in 2013. The Overall Time Efficiency (OTE) also rose from 60.27% to 64.13%. *(Annex VI)*

## Sugarcane and Sugar Prices

21. Sugarcane prices dropped from an average of Ksh 3,755/MT at the beginning of 2013 to Ksh 3,476/MT at the end of the year. In 2013, ex-mill

sugar prices averaged Ksh 4,499 compared to Ksh 4,911 in 2012. Wholesale sugar prices ranged from Ksh 4,100 to Ksh 5,800 (mean Ksh 4,754) per 50-kg bag in 2013 compared to Ksh 4,200 to Ksh 7,800 (mean Ksh 5160) per 50-kg bag in 2012.

### Cost of Production

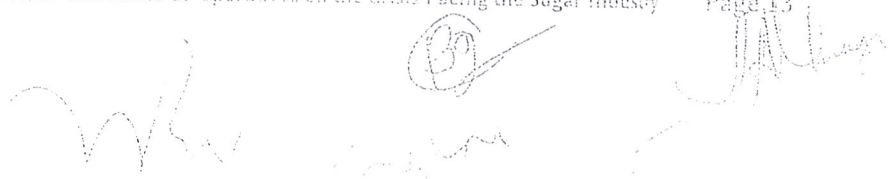
22. The average cost of producing one ton of cane in Kenya is USD 22.5 while that of the regions is as low as USD 13 per ton. The average cost of producing a ton of sugar in Kenya is USD 870 (or USD 700 exclusive of finance charges) compared to USD 350 in Malawi and USD 400 in Zambia, Swaziland and Egypt and in USD 450 in Sudan. The cost of production in Brazil is USD 300, up from USD 270 three years ago.

### National Sugar Consumption

23. The average annual consumption of sugar in Kenya, in the last six years (between 2008 and 2013), is approximately 787,320 metric tons. During that period local sugar production amounted to 3,173,850 MT while imports amounted to 1,277,020 MT. Kenya exported a total of 63,585MT during the period.

### Sugar Imports and exports

24. In 2013, a total of 237,640 metric tons of sugar were imported into the country, which compares closely with 238,590 MT imported in 2012. Out of the total imports, 44% constituted Brown/Mill White for direct consumption while the balance was refined white sugar meant for manufacturing. Imports from the COMESA region were 106,810 MT, which represents 45% of total imports. The EAC supplied only 4,820 MT, which represents 2% of total imports. The Average CIF Mombasa landed price for sugar in 2013 was Ksh. 63,675/MT, which is about Ksh 3,950 per 50-kg bag.
25. Between the years 2006 and 2012, Mumias Sugar Company is said to have exported unknown quantity of sugar to a number of countries in Africa among them Democratic Republic of Congo, Ethiopia, Rwanda, Southern Sudan, Uganda and in Europe exports were made to Italy and the UK. The



amount of sugar is unknown, due to the fact that records availed to the Committee by MSC and KRA vary in Tonnage (Annex II & III)

### COMESA Safeguards

26. Kenya has since 2002 been on COMESA safeguard to enable it take measures to improve competitiveness of its sugar industry.<sup>1</sup> The initial safeguard period of one year was extended by another year before a four-year extension was granted in 2004. This was followed by another three years extension in 2008 and two years in 2012. The latest extension of one year ends in February 2015. During this period, the allowable quota of sugar to be imported into Kenya has been raised from 340,000MT to 350,000MT and any additional imports above the quota will be subject to a 5% tariff.

### Privatization

27. All the 5 Government owned sugar factories are earmarked for privatization program. The Program received Cabinet approval in 2008 and debt writes offs has been approved by parliament as a precursor to Government divestiture. This aims at transforming the industry towards commercial orientation and injection of the required fresh capital from the private sector. However, the Parliamentary Departmental Committee on Finance, Planning and Trade passed a resolution on 9th January, 2013 "that the privatization of the public Sector Sugar Companies should be postponed until such a time when all legislation affecting the Agriculture Sector (sugar) and the County Governments have been put in place". In order to kick start the privatization process, the approval of the Parliamentary Committee on Finance, Planning and Trade is required.

### Divestiture

28. The Kenya Sugar Industry has the potential to generate up to 120 MW of electricity for export to the National grid without major investments. However, it is only Mumias Sugar Company that has divested into energy production and is currently generating 38MW out of which 26 MW is exported to the national grid. The rest of the factories generate electricity for their own use but do not export to the national grid.

## Farmers Problems

29. The problems facing cane farmers are acute and need a multitude of mitigation measures to institute a radical shift in respect of industry policy and legislative action to tame the trend of farming cane from collapse.
30. The scenario is two-pronged with the cane farmer, on one hand producing the raw material and on the other hand, the sugar millers who have tended to hold the view that sugar farming is a business on their part and not to the farmers. At the same time reforms in the sugar sub-sector have been very slow. This has given room for scrupulous businessmen/women engaging into imports and exports that ruin the local farmer at the end.
31. The problems of sugar sector reflect serious policy flaws and inadequacies in the relevant legislations governing the sugar sub-sector. It is a pointer of a selective implementation and lack of enforcement of the existing legislation, that is, the Sugar Act (2001).

Mr. Speaker, Sir,

32. Between the months of September 2013 and August 2014, the Committee collected and collated views from the Sugarcane Millers and other stakeholders deliberating on the issues raised in committee sittings both within and outside Parliament. The Committee also received memoranda from associations of Sugarcane farmers. Some of the Millers, interest parties and other stakeholders the Committee met include the industry regulator - Kenya Sugar Board (KSB), Mumias Sugar Company (MSC), Nzoia Sugar Company (NSC), West Kenya Sugar Factory (WKSF), Butali Sugar Mills (BSM), National Environment Management Authority (NEMA), the Inspector-General of Police, (IG) the Kenya Ports Authority (KPA), the Commissioner-General (CG) of the Kenya Revenue Authority (KRA), Kenya Bureau of Standards (KEBS), the Director General (DG) of the National Intelligence Service (NIS), former Managing Director (MD) Mumias Sugar Company, the Cabinet Secretary National Treasury, Cabinet Secretary for Agriculture, Livestock and Fisheries, and, Western Development Initiative Association (WEDIA).

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## CHAPTER 2

### 2.0 EVIDENCE AND SUBMISSIONS FROM SUGAR COMPANIES AND OTHER WITNESSES

#### 2.1 Submissions by Western Development Initiative Association (WEDIA)

33. Appearing before the Committee on 16th October, 2013, WEDIA made the following submissions: -

- (a) WEDIA was registered as an association in 2010 and that it represents development interests of sugarcane farmers and other sectors in Western Kenya;
- (b) It was among the first entities to raise the issue of cane poaching and was also at the fore-front in stopping the attempted disposal of land belonging to defunct Busia Sugar Company (BSC);
- (c) Sugarcane poaching started about the year 2000 after the establishment of Butali Sugar Mills in Kakamega County.
- (d) Sugar factories in Western Kenya, including Mumias Sugar Company, Nzoia Sugar Company and Butali Sugar Mills, have signed contracts with their cane farmers except West Kenya Sugar Factory;
- (e) To-date, West Kenya Sugar Factory does not have any single contracted sugarcane farmer but has since inception been buying cane from farmers contracted by other millers, hence promoting poaching;
- (f) West Kenya Sugar Factory does not have cane development programmes for farmers but harvests cane from farmers in Western Kenya. The factory has continued to buy cane from Busia Sugar Zone (contracted by Mumias Sugar Company), Nzoia Sugar Zone and Butali Sugar Mills farmers even when they (West Kenya) have no contracted farmers in those zones;
- (g) West Kenya has gone ahead to construct a refinery ridge at Lagden in Busia County where all the poached cane is collected for transportation to the factories in Kakamega County.

- (h) The presence of the weighbridge has led to disputes and conflicts among the surrounding local communities/millers and at one point a tractor transporting sugarcane for Nzoia Sugar Company was burnt and six tractors belonging to West Kenya impounded by Nzoia Sugar Company;
- (i) Kenya Sugar Board has allowed West Kenya to operate in Western Kenya despite the company failing to honour the licence issued to it to construct a factory in Kimilili area of Bungoma County way back in 2008;
- (j) Kenya Sugar Board gave West Kenya a two-year reprieve under questionable circumstances even after failing to construct a factory in Kimilili and continued harvesting cane from farmers contracted by other factories;
- (k) In some cases, cane is harvested by agents of West Kenya Sugar Factory without the consent of the owners.

## 2.2 Submissions by Management of Mumias Sugar Company (MSC)

34. Appearing before the Committee on 29<sup>th</sup> October, 2013 the then Managing Director of Mumias Sugar Company, Mr. Peter Kebati, submitted as follows;

- (a) MSC was established 40 years ago and is the largest sugar producer in Kenya and is currently an integrated factory with installed capacity of 270,000 MT sugar plant, 38MW Co-generation Plant, 22 million - litre Ethanol Distillery and 15 million - litre Water Bottling Plant;
- (b) The Company is listed on the Nairobi Stock Exchange and there are over 145,000 shareholders including Kenyan investors and the Government of Kenya which holds a 20% stake in the Company, pays approximately Kshs. 2.5 billion in taxes and remits Kshs. 500,000 million to the Sugar Development Fund (SDF) annually;

- (c) MSC supports a population of 2 million people directly and over 5 million indirectly and the Company has a workforce of 1,896 permanent employees and 40,000 seasonal and contracted workers;
- (d) The Company operates an Outgrowers Cane Development Scheme within Kakamega, Bungoma, Busia and Siaya counties and spends over Kshs 2.8 billion to provide services for land preparation, fertilizer/input supply, extension support, harvesting and transport to over 110,000 farmers;
- (e) MSC signs cane farming contracts with the farmers committing them to supply their cane to MSC to enable recovery of what the Company has invested in cane development expenses to contracted farmers;
- (f) MSC appreciates fair competition in the sector and wants emerging issues to be addressed as a policy intervention to restore sanity and fair practices in the industry;
- (g) There is no fair competition in the sugar sector and unless the emerging issues are addressed from both policy and legislative fronts, then the industry is headed for collapse as rightfully observed by the Petitioners. There is urgent need to restore sanity and the rule of law in the industry.

## 2.3 Submissions by Nzoia Sugar Company (NSC)

Appearing before the Committee on 27 November 2013, the Managing Director for Nzoia Sugar Company made the following submissions:

- (a) NSC was established in 1975 under the Company's Act Cap 486 of the Laws of Kenya with the Government as the majority shareholder owning 98% shares while Fives Call Babcock (FCB) and Industrial Development Bank owning the remaining;
- (b) NSC serves over 67,000 farmers in the larger Bungoma, Kakamega, Lugari, and Malava Districts;
- (c) NSC produces sugar and supports cane production through the provision of extension services to farmers through extensive Company Nucleus Estate covering 3600ha;
- (d) NSC provides cane development services including supply of fertilizers and provision of extension services to out-grower cane farmers contracted by it;
- (e) West Kenya was poaching cane from farmers contracted by Nzoia Sugar, Mumias Sugar and Butali Sugar factories;
- (f) There were individuals acting as cane poaching brokers based at various points within Bungoma and Busia Counties;
- (g) NSC sensitizes farmers on obligations of signed contracts with them and other millers and campaigns against cane poaching;
- (h) In 2008, NSC set an anti-poaching unit comprising of NSC and the Kenya Police Officers that used to monitor cane poaching and later in 2010 an *ad hoc* committee of the Board was set up to help manage cane poaching which was at an all time high;
- (i) NSC had instituted Court proceedings against West Kenya Sugar Factories (WKSF) in 2012 on the matter of cane poaching; and
- (j) NSC has not been able to pay farmers in good time due to low sales as a result of a depressed sugar market;
- (k) NSC has lobbied the government not to allow cheap sugar into the Country as it negatively affects sales, payment to farmers and other obligations.

## 2.4 Submissions from Butali Sugar Mills (BSM)

36 Appearing before the Committee on 5<sup>th</sup> November 2013, the Managing Director for BSM submitted as follows:-

(a) BSM was founded in 2010 by Sugarpower Consulting, which is a consultancy firm in engineering after securing a license to build a sugar mill from Kenya Sugar Board (KSB). The firm has branches in India, Syria, Mauritius, Kenya, Tanzania and Uganda was not aware of any poaching of cane and no legal action had been instituted against it in regard to cane poaching;

(b) Kenya Sugar Board should come up with regulations in respect contractual obligations on the parts of contracted farmers and respective millers;

(c) The creation of too many weighbridges had contributed to cane poaching;

(d) West Kenya Sugar Company pays farmers after seven days.

(e) BSC received funding from Kenya Sugar Board for construction of weigh bridges and cane development.

## (f) 2.5 Submissions by Kenya Sugar Board (KSB)

(g) Appearing before the Committee on 7<sup>th</sup> November, 2013 and 28<sup>th</sup> March 2014, the Kenya Sugar Board made the following submissions.

(h) KSB was established by an Act of Parliament, the Sugar Act of 2001, with the main function of regulating and facilitating growth of the sugar industry in the country. The Sugar Act 2001 is subject for repeal with the commencement of the Crops Act, 2013 and the implementation of the AFFA Act, 2013,

(i) KSB is charged with the role of developing regulations to guide the sugar sub sector and the issuance of licenses to processors of sugar and sugar by-products and management of the industry within the framework of the law, regulations, orders, and executive orders and sugar and sugar by-products.

(j) KSB also provides the institutionalisation of sugar cane and defines zones via which cane is grown.

(k) KSB also provides the institutionalisation of sugar cane and defines zones via which cane is grown.

- (k) KSB identified West Kenya Sugar Factory as the main sugarcane poacher in Western Kenya and had received complaints from neighbouring millers;
- (l) KSB identified Kenafric Industries as one of the manufacturers that repackage imported industrial sugar in locally manufactured branded sugar packages for sale as table sugar;
- (m) KSB issues licenses for importation and the role of verifying quality, quantities and values as specified in the KSB permit rests with KEBs and KRA before the consignments are released into the market;
- (n) That KSB issued the licence to import 10,000 MTs of sugar in 2012 to MSC and it was unprocedural for the Permit to have been used by a Third Party, Dantes Peak Ltd since the permit was non transferable; (Annex II)
- (o) While it was the resolution of the Ministries of Agriculture and Finance to allow millers to import sugar, there were no justifiable reasons for Mumias Sugar Company to import the 10,000 MTs from Kenana Sugar Company from Sudan in 2012;
- (p) KSB was tracking some 14 containers of imported sugar that had been traced to Nairobi, a consignment of sugar where no documents for its release could be traced in KRA and KPA yet KSB had not licenced its importations. Each container carries 21-25 tones totalling to 301,000 metric tons for the 14 containers which translates into 6020 (50kg) bags worth of Kshs. 24 million;
- (q) That KSB needs to be empowered with investigatory and prosecutorial powers independent of Kenya Police and KRA in terms of sugar imports and transit sugar;
- (r) If there was sugar from India being traded in the Kenyan market, KSB submitted that it had not licenced the importation of table sugar from India in the last five years; and
- (s) KSB has weak surveillance capacity and therefore it cannot effectively handle the issue of sugar smuggling through our porous borders; and KSB had been informed that Rising Star Commodities Ltd was repackaging imported sugar in its go-downs in Mombasa in Mumias Sugar Company branded bags and selling it as locally manufactured sugar.

## 2.6 Submission by West Kenya Sugar Factory (WKSF)

36 Appearing before the Committee on 5<sup>th</sup> November 2013, the Managing Director for West Kenya Sugar Factory submitted as follows:

(a) West Kenya Sugar Factory was the second largest Miller in Kenya and had grown from 500 Tons Crushed Daily (TCD) in 1979 to its current crushing capacity of 5000 TCD and employs 2000 workers apart from indirect employment to harvesters, loaders and transporters.

(b) Until 2005 when the Kenya Sugar Board licensed Butali Sugar Mill Limited in controversial circumstances, the then existing millers sourced cane from their clearly demarcated zones and each miller was able to invest in cane development within their respective zones;

(c) When Kenya Sugar Board licensed Butali Sugar Mill Limited and supported its commissioning in the name of free competition in a liberalized market, cane zones were hitherto respected;

(d) A miller who buys cane from a farmer in an area presumed to belong to another miller cannot be deemed as either stealing or poaching cane;

(e) The Cane farmer has the right to sell his or her cane to a miller of his or her choice as guaranteed by article 40 of the Constitution and the Sugar Act 2001, which specifies that the farmer is the owner of the cane on his farm;

(f) West Kenya Sugar denied it was engaged in cane poaching activities and had taken legal action against the Ministry of Agriculture and the Kenya Sugar Board and Butali Sugar Mills limited on the licensing of the miller and existing laws and regulations;

(g) The sugar industry in Western Kenya was threatened by the licensing of Butali Sugar Mills limited and the court was in favour of its closure in 2011. This was because the national sugar policy, promulgated in

2005, stipulated that the number of mills in the country should not exceed 10. The court found that the licensing of Butali Sugar Mills limited was in violation of the national sugar policy.

- (h) West Kenya Sugar Company pays farmers after seven days with competitive prices and it charges them a flat rate of Kshs.390 per ton irrespective of the distance with the option of the farmer using own transport; and
- (i) West Kenya Sugar Company operated with the involvement of local communities, the provincial and County administration and champions the rights of farmers as regards correct tonnage, better prices, prompt payments and efficient extension services.

2.7 Submission by the Former Managing Director MSC Dr. Evans Kidero

37. Appearing before the Committee on 19<sup>th</sup> May 2014, the Former Managing Director for Mumias Sugar Company made the following submissions:-

- (a) That between the years 2006 and 2012 MSC exported sugar to Ethiopia, Uganda, Sudan, Democratic Republic of Congo (DRC) and Rwanda and the EU especially Italy and United Kingdom;
- (b) That he did not have any documents to corroborate his submissions but that he believed the current management should furnish the Committee with the necessary documents available on the exports;
- (c) That during his tenure at MSC, the company was making good profits, paying farmers in good time and even the value of its shares at the Nairobi Stock Exchange was reasonable

2.8 Submission by the Director General – National Environment Management Authority (NEMA)

38. Appearing before the Committee on 7<sup>th</sup> November, 2013, the Director General for NEMA made the following submissions:

- (a) That National Environment Management Authority (NEMA), was established under the Environmental Management and Co-ordination Act No. 8 of 1999 (EMCA) as the principal instrument of

Government for the implementation of all policies relating to environment.

- (b) That the was mandated Authority to exercise general supervision and coordination over all matters relating to the environment and to be the principal instrument of the Government of Kenya in the implementation of all policies relating to the environment;
- (c) That the role of NEMA in the establishment of a weighbridge at Tangakona in Busia County was to coordinate the various environmental management activities undertaken by the lead agency, West Kenya Sugar Factory (WKSF);
- (d) That due diligence environmental assessment test was done on the land at Tangakona in Busia County and a report issued to West Kenya Sugar Factory to go ahead with the intended development on the said land;
- (e) That NEMA is not involved in the issuance of Permits or Licences for trade;
- (f) NEMA also establishes and reviews land use guidelines, examines land use patterns to determine their impact on the quality and quantity of natural resources and carries out surveys, which assist in the proper management and conservation of the environment

## 2.9 Submission by Commissioner General - Kenya Revenue Authority (KRA)

38. Appearing before the Committee on 24<sup>th</sup> April, 2014, the Commissioner General of KRA made the following submissions:

(a) KRA was established by an Act of Parliament, Chapter 469 of the Laws of Kenya, which became effective on 1<sup>st</sup> July 1995. It was aware of the presence of contraband sugar in the country, which had seriously affected the local industry.

(b) KRA was aware that the Sugar Company Limited (SCL) had a licence to import 10,000 MT of sugar in 2012 through a company called Dawa. However, the Dawa

that Mumias paid all the duty for the consignment which was cleared in 2013; (Annex IV)

- (c) The Commissioner-General admitted that KRA did not have the capacity to verify all containers of commodities imported but does random verification and scanning of the Cargo before release;
- (d) The Commissioner-General was aware Mumias Sugar Company exported sugar to various countries between 2006 and 2012 but was not in a position to confirm if the sugar had indeed left the country as that would require confirmation from border officers and counterparts in countries of destinations;
- (e) The Commissioner-General said if indeed the sugar never left the country then Mumias Sugar Company is duty bound to pay the equivalent of Value Added Tax (VAT) exempted;
- (f) KRA does not have infrastructure at all borders of our country especially in Eastern and North Eastern where smuggling is rampant but they have formed a joint team with the Kenya Police Service and the Kenya Sugar Board to address the issue of illegal sugar entering the Country unregulated and untaxed;
- (g) Sugar imports into Kenya is restricted under the 2<sup>nd</sup> Schedule Part B (1) of the East African Community Customs Management Act of 2004 where any import into Kenya must therefore first get approval from Kenya Sugar Board through a non-transferable Permit containing details of the importer, tonnage, origin of sugar and other relevant details, information which is used during clearance;
- (h) The revenue or duty collected and paid is determined by the type of sugar whether it is industrial or table sugar and also the origin of the sugar. Sugar from COMESA region are exempted from duty while non-COMESA sugar attracts 100% duty;
- (i) KRA has created special units to address non-compliance with KSB sugar import regulations and it was through such a unit that the case

of non-compliance of the Mumias Sugar Company sugar import of 10,000 MT of 2012 was detected leading to a delay in clearance

(j) In 2011 KRA noted increased importation of Industrial sugar from Egypt as a result of which joint investigations were conducted that revealed most of the said sugars were trans-shipments from Brazil. Thereafter, KRA in consultation with KSB implemented restrictions on Industrial Sugar imports from Egypt by imposing 10% duty as is the case with non-COMESA imports.

(k) KRA has made several sugar seizures leading to several court cases. One in point is that of Matt International who have since challenged KRA's decision to impose 10% duty on industrial sugar imported from Egypt (*the matter was still pending in Court*).

#### 2.10 Submissions by Kenya Ports Authority (KPA)

39. Appearing before the Committee on 28th March, 2014, Managing Director for Kenya Ports Authority informed the Committee that:

(a) KPA's mandate was to handle inbound and outbound cargo once they have been cleared by relevant authorities;

(b) KPA handled 40x20ft containers of sugar belonging to Mumias Sugar Company but imported through Dantes Peak Ltd,

(c) KPA waived a total of 15 million shillings in demurrage charges that accrued following delay of clearance the cargo after anomalies were detected by KRA and the interdictions of Mumias Sugar Company accepted;

(d) KPA works in collaboration with KRA and KSB in monitoring the flow of sugar through the port.

#### 2.11 Submissions by the Inspector General of Police (IG)

40. Appearing before the Committee on 29th March 2014, the Inspector General of Police made the following statement:

- (a) National Police Service was established by Act of Parliament and mandated to enforce the law which includes surveillance of all goods, including sugar, entering or being traded within but some borders are extensive, porous and some areas may not be manned;
- (b) The Kenya Police Service, Immigration Department, Kenya Revenue Authority, Kenya Ports Authority and Kenya Airports Authority work together in manning the borders and to ensure that the necessary taxes and duties are paid;
- (c) The Kenya Police escorts all the transit goods including sugar and ensure that KRA's main interest (tax) is paid and all other laws are adhered to;
- (d) The Kenya police has managed to arrest and prosecute suspects in sugar smuggling although often courts release the suspects, especially cases concerning sugar through Kisumu and Kenya's border with Somalia;
- (e) Legislation regulating the sugar industry is very weak and there is need for strengthening it;
- (f) The National Police Service does not protect criminals and is not aware of a ware-house in Mombasa that is protected by police where even Kenya Sugar Board personnel denied access to the premises but promised to investigate the matter following complaints from the Principal Secretary Department of Agriculture and report to this Committee;
- (g) The IG acknowledged that some police Officers had lost their lives while tackling contraband sugar which somehow abets insecurity terrorism in the country since all entries are not ascertained that it is sugar;
- (h) The IG acknowledged that the capacity in terms of resources is lacking at our borders and that there is need to develop a policy where a

particular Officer can serve at a station for only three years per station;

- (i) Officers are regularly appraised on the required documentation for importation of any goods in to the country, however the Service was dealing with isolated cases of integrity among the Officers as and when they arise,
- (j) The Kenya Police Service had signed agreement memorandum with Kenya Sugar Board and Kenya Revenue Authority to establish anti-smuggling unit to deal with cases of smuggling;
- (k) The Kenya Police Service has been underfunded for a long time but there is noted improvement in the allocation of resources to the Police Service;
- (l) Police Officers are routinely seconded to the Kenya Revenue Authority to oversee operational matters including revenue collection and compliance to statutory requirements; and
- (m) The various government agencies at the border points need to appreciate security as a cross-cutting issues and an important aspect of our national development.

## 2.12 Submissions by Kenya Bureau of Standards (KEBS)

41. Appearing before the Committee on 14<sup>th</sup> May, 2014 the Managing Director for Kenya Bureau of Standards submitted as follows:

- (a) Kenya Bureau of Standards (KEBS) was established in July 1974 under Cap 496 of the Laws of Kenya to offer several services including Standards development and harmonization, Testing, Measurement, Calibration, Enforcement of standards, Market inspection, Education and Training, International Standardization, Metrology and Conformity Assessment, Management Systems Certification and Product

- (b) KEBS analyses sugar imports coming into the country on request and notification of arrival of the same by Kenya Ports Authority and Kenya Revenue Authority;
- (c) Since 2012, seven consignments of sugar had been recommended for destruction by KEBS and other government agencies for non-conformance to quality specifications and KEBS is among the state agencies charged with destruction of goods that do not conform to the standards;
- (d) KEBS was aware of the impounding of a consignment of sugar that had been imported by Mumias Sugar Company although the IDF was reading Dantes Peak Limited;
- (e) KEBS was facing the challenge of determining the importers of industrial sugar meant for manufacturing but which was being repacked for domestic consumption against the regulations;
- (f) KEBS does not have up-to-date equipments and infrastructure for analysis of various commodities imported and exported. KEBS also lacks capacity for enforcement of standards and market surveillance and therefore cannot cope with demands like single window and 24 hour operations at the port of clearance or entry/exit.

### 2.13 Submissions by Management and Board of Directors for Mumias Sugar Company

42. Appearing before the Committee on 27<sup>th</sup> May, 12<sup>th</sup> June, 10<sup>th</sup> July and 17<sup>th</sup> July, 2014, the Board of Directors of Mumias Sugar Company submitted as follows:

- (a) The Board and management were aware that the Company exported sugar to several European and African countries between 2006 and 2012 and concerns that the sugar may not have left the country and that revenue in the form of VAT payable could have been lost;
- (b) The Board and management were also aware that certain information regarding the exports was missing from the Company's records and promised to institute forensic audit of all MSC exports in view of the

fact that some of the key managers had since left the Company and would report the findings to this Committee

- (c) The Company was in a crisis as a result of serious management short fallings and the company was unable to meet its obligations including payment to farmers.
- (d) The Company was on a restructuring process to address serious management bottlenecks and disciplinary measures had been taken against some managers following the findings of the forensic audit on sugar imports and other management shortfalls.
- (e) The Board and management were not involved in the decision to import the consignment of the 10,000 MT of sugar in 2012 and there was an on-going Board investigation on the same and undertook to submit the outcome of the investigations to the Committee within two months. The Board had asked KPMG to investigate into whose accounts money from the imports went. The final KPMG report would also shed light on exactly how much monetary loss MSC incurred through fraudulent activities.
- (f) The preliminary report of the Forensic Audit by KPMG on sugar imports by the Company could not be released to the Committee at that stage because there were certain transaction details that had not been captured in the report and the Board undertook to submit the report in two months when those aspects had been addressed:
- (g) The Board admitted that it was having challenges from neighbouring Companies that had taken advantage of delay in payments for sugarcane by MSC to poach cane from its contracted farmers
- (h) The Board admitted that there was massive corruption and lack of clear management direction in MSC in the past, to this effect some officers had been sent home pending investigation and
- (i) The Board also admitted that there were serious gaps in MSC to begin the process and also to recover the company's loss. The company did not have an Internal Control Department and had to create a new department to have a new department to be started.

2.14 Submissions by the Director General of the National Intelligence Services (NIS)

43. Appearing before the Committee on 10<sup>th</sup> July, 2014, the Director General of NIS made the following submissions: -

(a) That the function of NIS was to gather intelligence and compile reports on the same for action by the relevant authorities;

(b) That NIS has no prosecutorial powers;

(c) The sugar industry was crippled by among other issues, high cost of production and obsolete technology hence Kenya was a very lucrative market for the commodity and that has been a catalyst for sugar smuggling in the Country.

44. *The Committee expressed disappointment over the information presented by the Director General and informed him that Kenyans had very high expectations of his office. The DG expressed his appreciation of the Committee's need to deal with the sugar issue and requested that the Committee details out the information they required from him and he would respond within two weeks.*

45. *The Committee acceded to his request and outlined the required information as follows:-*

*(a) Provide information on illegal sugar importation, exportation and smuggling;*

*(b) Provide the name of the illegal importers and smugglers and their local partners within and outside government Institutions;*

*(c) Provide information in the custody of National Intelligence Service if any concerning smuggling of sugar into the Country through Kismayu and along Kenya's border with Somalia;*

*(d) The names of companies, traders, dealers, transporters and any other persons involved in the alleged sugar exports by Mumias Sugar Company to regional countries and in particular owners of*

*the trucks that ferried the sugar for export from Mumias Sugar Warehouses; and*

*(e) The circumstances under which sugar meant for industrial use ended up being used as table sugar and the persons involved in the repackaging of the sugar for domestic consumption*

A letter detailing the above was sent for action however this has not been done to date

#### 2.15 Submissions by the Cabinet Secretary, National Treasury

46. Appearing before the Committee on Friday 29<sup>th</sup> August, 2014, accompanied by a KRA official, the Cabinet Secretary made the following submissions regarding sugar Imports by Mumias Sugar Company:

- a) The CS confirmed that the import of sugar by MSC was done by a third party.
- b) In 2013, 10,000 metric tonnes of sugar was imported on behalf of MSC by a third party. The consignment took 46 days to be cleared by KPA due to clarification issues and attracted a penalty of 8.8 million payable to KRA and undisclosed amount of millions to KPA
- c) The Committee finally concluded that the permit transfer to a third party was done unprocedurally
- d) The KRA official clarified to the members that the import license issued to MSC cannot be used more than once as it shuts down when the system captures the consignment name and code.
- e) The CS confirmed that Mumias Sugar exports were done from 2006 to 2012 and that there were no exports done in the year 2013
- f) The CS assured the members of his commitment to brief them on the privatization of sugar sector and proposed for a joint meeting for the Committee on Agriculture and Finance

2.16 Submissions by the Cabinet Secretary Ministry of Agriculture, Livestock and Fisheries

47. Appearing before the Committee on Tuesday 9<sup>th</sup> September, 2014, the Cabinet Secretary made the following submissions on the status of the sugar sector in the country and other matters affecting the industry:

48. On the Status of the Sugar Sector in Kenya the Cabinet Secretary informed that:-

- (a) The sugar subsector plays a major role in the Kenyan economy and was a source of income for millions of citizens. The Country was producing about 600,000 MT of sugar against the annual domestic requirements of 800,000 MT, running a deficit of about 200,000 MT.
- (b) There were 11 operational sugar mills in the country, 1 additional new mill was to be commissioned in Kwale while 2 other mills (Muhoroni/Miwani) were under receivership.
- (c) The combined installed crushing capacity of operational mills was about 29,990 MT of cane per day. The current capacity was sufficient to produce about 1 million tonnes of sugar per annum. The target was to expand this capacity to approximately 50,000 MT in order to produce 1,350,000 MT to make Kenya a sugar surplus producer.
- (d) The sugar closing stocks held by the factories at the start of the year 2013/14 was at 27,392 MT up from 19,205 MT at the end of 2012/13. The stock level increased to a high of 42,845 MT in February, 2014 against optimal level of 9,000 MT.
- (e) The Ministry embarked on a strategy to decrease the sugar stock to an acceptable level of 8,478 MT, which was achieved by 20<sup>th</sup> August 2014.
- (f) The increased sugar stock was attributed to;
- (g) Sustained high sugar production;
- (h) Carrying forward huge stocks from the previous year;
- (i) Surplus balances in the world market and depressed prices; and
- (j) Increased presence of uncustomed sugar in the country attracted by our high cost of production.

- (k) The Kenya Sugar Industry has the potential to generate up to 120 MW of electricity for export to the National grid without major investments. However, it is only Mumias Sugar Company that is currently generating 38MW out of which 26 MW is exported to the National grid. The rest of the factories generate electricity for their own use but do not export to the national grid.
- (l) All 5 Government owned sugar factories are earmarked for privatization program. The Program received Cabinet approval in 2008 and debt writes off has been approved by parliament as a precursor to Government divestiture. This aims at;
  - (m) Transforming the industry towards commercial orientation, and
  - (n) Injection of the required fresh capital
- (o) The Parliamentary Departmental Committee on Finance, Planning and Trade passed a resolution on 9th January, 2013 "that the privatization of the public sector Sugar Companies should be postponed until such a time when all legislation affecting the Agriculture Sector (sugar) and the County Governments have been put in place". In order to kick start the privatization process, the Parliamentary Committee on Finance, Planning and Trade approval is required.

49 On the Challenges faced in the Industry the CS submitted as follows -

(a) Low productivity and high cost of sugar production

These had been caused by a number of factors that include the following, among others,

- Deteriorating soil fertility,
- Low adoption of high yielding sugar cane varieties
- Poor agricultural practices
- High cost of sugar cane production
- High input cost especially for fertilizers and pesticides.

- Low quality seed cane materials;
- Insufficient and unsustainable technical support to out-growers;
- Frequent cane shortages which lead to immature cane.
- The high and rising cost of inputs such as diesel, imported fertilizers and machinery;
- High harvesting and transport costs;
- Sugarcane is grown by small holder farmers under rain-fed conditions;
- Poor roads within the cane catchment areas;
- Lack of sufficient finance for Government owned sugar factories to rehabilitate the machineries;
- Length of cane harvesting and milling time; and
- Lack of capacity to utilize the by-products for ethanol and power generation.

(b) Illegal sugar imports

That the high presence of illegal imports earlier in the year saw the industry continue to experience stock piles and declining ex-factory prices of sugar. The Un-customed sugar imports were re-packaged into local bags to conceal identity and evade the surveillance network. In the period January to July 2014 the market had experienced declining sugar prices to a low of Kshs.3, 200 for a 50 kg bag against an average industry break-even of Kshs.3, 800 pushing down cane prices to lows of Kshs.3,000 per ton.

(c) Intra Regional Trade

That this was especially for net deficit sugar countries that exported substantial amounts of sugar to partner states with disregard and /or compromise or laxity in the enforcement of the Rules of Origin. Egypt for example, despite being a net importer, is a significant supplier of sugar to Kenya.

2.16.3 The CS gave the following recommendations on how to streamline the Sugar Industry

50. The Cabinet Secretary told the Committee that to mitigate these challenges, the following strategies were recommended and the Ministry had initiated a number of them with a view to streamlining the Kenyan sugar sector as follows:

(a) Cost Reduction and Increased Productivity Measures

Diversified product base

51. All new investments for setting up sugar factories must demonstrate a revenue stream beyond sugar when applying for registration. The existing mills will be required to provide a road map towards expanding their product base beyond sugar within the next 5 years. This will provide a transition from the single revenue stream which contributes heavily to the industry's un-competitiveness.

Bulk procurement of inputs and machinery

52. The cost of inputs will be reduced through bulk procurement of high spend items such as fertilizer and farm machinery (tractors); a process that has already been put in motion. This will be implemented within the next 2 months.

Modernization of factory technology

53. Fresh injection of capital for the poorly performing Government owned mills was urgent hence the recommendation for speedy exploitation of viable options that can see Ministry fast track the stalled Privatization of the 5 Public Sector owned sugar mills. This will contribute quite significantly to the long term revitalization of the industry by way of injection of much needed capital estimated at Kshs 58 billion to address the industry productivity challenge which may include Public Private Partnerships, auctions or private treaties with willing investors. This should be done by March, 2015.

Diminishing Land sizes

54. There is need to roll out of a land policy that introduces mandatory block farming to preserve economical land sizes that will enable the industry

benefit from economies of scale, planned cane development/harvesting and mechanization in the future. This should be done by December 2016

#### Payment System

55. The industry must shift from the payment system based on weight to one based on quality. Remuneration that rewards efficiency and penalizes inefficiency to be adopted by the entire industry by December 2016. The system will improve efficiency as it will remunerate based on quality

#### Development of a seed cane policy

56. This will guide the industry in the development and adoption of high yielding, early maturing and disease resistant certified seed cane of relevant varieties. This policy is targeted to be in place by June 2015.

#### Sugar production and consumption

57. In order to validate our statistics on the national sugar demand and supply, an independent study will be undertaken by 30th December 2014 to confirm the updated status based on changed fundamentals such as population and production growth.

#### Improvement/ Management of roads infrastructure

58. This will be done to encourage collaborative management of infrastructure in the sugar belt that will enhance the impact of the available pool of funds to the sugar value chain within the various agencies in the sugar belt.

#### (b) Intra Regional Trade and Rules of Origin

59. There is an urgent need for verification missions to deficit countries which have high export history to satisfy authenticity and the harmonization of regulatory/administrative processes within the trading blocks. A case should be put forward for the establishment of competent authorities in respective partner states for purposes of liaison on sugar matters. This specifically applies to Uganda and Rwanda who do not have regulatory bodies' specific to the sugar sector. Kenya and Tanzania have in place such authorities making collaboration and administration smoother. This should be done by 30th October 2014.

(c) Single Customs Territory

60. On the impact of the Single Customs Territory (SCT), a position paper seeking an amendment to exclude sugar based on its unique challenges will be submitted immediately.
61. In the meantime Agriculture, Fisheries and Food Authority (AFFA) will in collaboration with Kenya Revenue Authority station officers within the partner states and in Mombasa to ensure the sectors' interests are protected.

(d) Un-customed Sugar Imports

Ban on Sugar Auctions

62. It is recommended that instead of auctioning impounded un-customed sugar imports, it should be destroyed publicly and, to avoid conflict of interest Sugar Millers/Manufacturers should not be allowed to import sugar from now on given the Mumias and Chemelil experience. This should be implemented immediately.

Single Desk Marketing and Distribution of Sugar

63. Replacement of dedicated factory distribution networks with a Single Desk Marketing arrangement that will minimize costs of marketing and unfair trade practices particularly among the poorly performing state owned mills should be done. This will mitigate the duplication on high individual publicity and marketing budgets and also allow the Companies to focus on milling of sugar and related activities such as ethanol production and manufacturing of specialty value added products. This should be done with immediate effect.

Establishment of permanent inter-agency surveillance and enforcement unit.

64. The Gazettement of a permanent inter-agency surveillance and enforcement unit on sugar trade that reports directly to the Director General of AFFA made up of the Sugar Directorate, KFBS, Public Health, Kenya Revenue Authority and the Police. This should be done immediately.

## CHAPTER 3

### 3.0 FINDINGS OF THE COMMITTEE

Mr. Speaker,

65. The committee investigations which, included site visits to the various areas of interest to the Sub-Committee terms of reference came up with the following findings.

#### 3.1 Presence of Cheap and Unregulated Sugar in the Local Market

66. The Committee's investigations established that a huge quantity of sugar enters the Kenya market unregulated and untaxed. In the last six years, the country has consumed approximately 335,000 MT (*KSB statistics*) of sugar, either illegal or meant for industrial manufacturing. The sugar is re-packaged by unscrupulous business people in packages similar to those used by local millers which, is against regulations governing food products. Apart from such sugar not meeting the Kenya Bureau of Standards (KEBS) specifications for domestic consumption, the government loses in terms of taxes.

67. The illegal importation of sugar has led to the flooding of sugar in the local market which has caused market distortions resulting in unfair price competition to the disadvantage of local sugar millers and cane farmers. The unfair competition has led to low sales by the millers hence farmers cannot promptly be paid for their cane deliveries.

68. It is good to note that, despite Parliament in 2001 passing the Sugar Act number 10 of 2001 which outlined well the requirements for licensing of sugar millers and the functions of the Kenya Sugar Board, illegal and unregulated sugar imports still poses a major threat to the Sugar sector.

#### 3.2 INDUSTRY CHALLENGES

69. Mr. Speaker, the Sugar Sector in Kenya is faced with many challenges namely:

- (a) Poaching of sugarcane among sugar millers,
- (b) High cost of production
- (c) Field and factory inefficiencies.
- (d) Corruption and impunity,
- (e) Lack of capital to modernise and automate the mills.
- (f) Fast decreasing land sizes and loss of soil fertilities, and
- (g) Failure by the regulator to properly manage and regulate the sector.

#### Cane Poaching

70. Traditionally, the Kenyan cane growing model has operated on an out growers model whereby farmers are supported to grow cane on their farms and in turn they are expected to supply the cane to the millers who have provided cane development which include land preparation, supply of seed cane, supply of fertilizer, farmer extension services, harvesting and transport of the cane to the millers where the cost will be recovered.
71. In practice, development of own cane by millers, commonly known as Nucleus Estate as well as contracted farmers was a precondition for licensing of cane millers. This precondition is no longer adhered to, thereby creating the current wrangles in the cane zones as the new millers who have been licensed do not have enough cane to run their factory capacities. Further, these millers have encroached on contracted cane already established by existing millers.
72. Cane poaching has led to conflicts among surrounding local communities, milkers. One case in point is the incident in Langkone neighbourhood where factory-planting cane to Nzora Sugar Company was burnt down.

73. The genesis of cane poaching is attributed to weak regulations regarding licensing of new factories and failure to honour contractual agreements by both the millers and farmers.

#### High Cost of Production

74. Kenya is ranked among the countries with the highest cost of Sugar production in the world, which makes it an attractive destination for both legal and illegal imports. While the cost of production in the region is about USD 415 per metric tonne of sugar, the cost of production in Kenya is well in excess of USD 550 per MT. This high cost of production is attributed to the following;

- (a) Poor agronomic practices in the sugar growing zones;
- (b) High cost of inputs and old machinery at farm and factory levels;
- (c) Deteriorating soil fertility;
- (d) Use low-yielding sugarcane varieties;
- (e) Reliance on rain-fed farming;
- (f) Small and uneconomic land sizes;
- (g) Unsustainable technical support to out-growers;
- (h) Poor road infrastructure and high transport costs; and
- (i) Low by-product utilization.

#### Heavy Indebtedness

75. All public-owned mills are heavily indebted and lack the capital required to expand, modernise and automate the factories for the required efficiencies and economies of scale. At the moment, five public-owned mills are indebted to the tune of over Shs 100 billion with Mzoia Sugar Company

having a debt of Shs 37 billion. Miwani Sugar Company (in receivership) Ksh 28 billion. Muhoroni Sugar Company (in receivership) Ksh 27 billion, Chemelil Sugar Company Ksh 5 billion and South Nyanza Sugar Company Ksh 3 billion. The money is owed to the Government of Kenya, suppliers, banks, Kenya Sugar Board and farmers for cane deliveries.

#### Imprudent business decision, Corruption, Impunity and Fraud

76. The mills have engaged in a number of projects and programmes that have turned out to be either misadventures or ones with low rates of returns. Mumias Sugar Company's investment in ethanol and co-generation plants and Nzoia Sugar Company's purchase of trailers that could not be used on Kenyan roads are cases in point in which huge sums of money have been lost in the process.
77. Sugar sales and exports and imports in particular have turned out to be avenues through which monies are siphoned out of the companies. While the concept of distributorship in sugar sales has become a major case of corruption and impunity, the engagement of mills in regional sugar exports between 2006 and 2012 is suspect.

*For instance examining the KRA Report (Annex V) on the sugar exports by MSC there is glaring discrepancies on the volumes on actual exported sugar as provided in the Simba System entries and the summary of exports entries submitted to the Committee by MSC in the detailed submissions on company (Exporter) basis (Annex II & III).*

*Another case in point is where one Naxadi Mohamed (an Ethiopian national) who is a MSC distributor, was allowed export of 5,000MT of sugar to Ethiopia. The amount received from this*

*indicates that 5,882MT were exported by Nesredin Mohamed. There are no clear records to ascertain this. (Annex II& III)*

78. That notwithstanding, a total summary all exports by MSC for the period 2006 to 2012 are given as 52,284MT while the detailed itemised list to individual companies total to 30,204.37 MT. However figures from KRA indicated that MSC had export entries amounting 71,272.58MT (Annex V), Further, KRA confirmed that only 8,133 MT were exported as per entries in Simba System and therefore there is no evidence of exports of the remainder sugar volumes estimated at 63,139.58 MT which translates to Kshs. 2,886, 681,516.70 (Annex V),
79. Further, the registration certificates provided by MSC have varied information. For instance, Mid Africa Commodities and, Mega Laser are importer from South Sudan when the certificates indicate the firms are registered to operate in Kakamega and Malaba Border respectively (Annex II)
80. The Board of Directors of MSC instituted a forensic audit on the sugar exports and imports. This audit was undertaken by KPMG audit firm and the Committee received the "Draft Factual Finding Report" from KPMG on 19th December, 2014 (Annex VI).

#### Low Productivity

81. The total area under cane in the country presently is 203,730 Ha, comprising 189,390 Ha belonging to out-growers and 14,340 Ha Nucleus Estates (land owned/leased by mills to grow cane). There are 300,000 cane farmers. 4,500 of which are large scale.
82. The average yield per Ha in Kenya is 60.5MT compared to the global average of 63MT. For instance Columbia produces 115 MT per Ha. Total cane supplied for processing by mills in 2013 was 6,764,200 MT compared

to 5,342,830 MT in 2012, representing a 15.77% increase. However, Sugarcane yield in the industry has seen a steady decline in the last ten years hitting a low of 51 tonnes of cane per hectare per year. This decline is attributed mainly to:

- (a) high cost of fertilizer
- (b) application of inappropriate fertilizer combinations leading to acidic soils
- (c) use of inappropriate heavy machinery leading to destruction of cane stools and compromising the viability of the ratoon crops;
- (d) exhausted soils due to many years of sugarcane cultivation, and;
- (e) cane husbandry practices that do not support the newer cane varieties.

83. Harvesting techniques in concomitant with poor harvesting programmes, poor transport arrangements through spillage, heavy wear and tear on transportation units and fewer than optimal trips per day

84. At present, there are 11 working sugar mills in the country, four of which are Government-owned. The combined installed capacity of the operational mills is 29,990 Metric Tonnes of Cane per day (TCD), with an underutilized capacity of 60% due to technical, financial and management limitations. The sugar industry in Kenya supports directly or indirectly six million Kenyans, which represents about 16% of the entire national population. The sugar industry contributes about 7.5% of the country's Gross Domestic Product (GDP) and has a major impact on the economies of Western Kenya and Nyanza regions and, to a lesser extent, Rift Valley. The sugar sub sector is expected to equally have a major impact on the economy of Coast region once the mill being built in Kwana becomes operational.

85. The Factory Time Efficiency (FTE) in 2013 improved from 70.61% in the 2012 to 79.93% in 2013 while the Overall Time Efficiency (OTE) rose from 62.1% to 64.1%. The current sugar production level of 5.3 million tonnes is an industry standard of 92% for FTE and 81% for OTE respectively.

86. Sugar production increased from 503,210 MT in 2012 to 599,070 MT in 2013 as a result of increased cane supply and better recoveries. Recoveries improved from Tonnes Cane/Tonnes Sugar (TC/TS) of 11.61 in 2012 to 11.29 in 2013. (Annex VI)
87. During the investigations the Committee found that Mumias Sugar Company and Dantes Peak were involved in fraudulent activities where the latter used the Former's PIN and import licence when clearing imported sugar with both KRA and KPA
88. As regards the importation of 10000MT of sugar from Sudan by MSC, the committee found that Import Permit from KSB was issued to MSC which unprocedurally transferred to a third party (Dantes Peak Ltd). KRA admitted having noted the anomaly but still went ahead to release the consignment

FINAL REPORT



### 3.3 OBSERVATIONS

The Committee's observations are as follows:

#### Repackaging of contraband sugar

89. That, substantial amounts of illegal sugar imports is repackaged into local branded bags to conceal identity and evade the surveillance network. Industrial sugars have been found repackaged and end up on the market to compete with table sugar that has been subjected to full duty, hence evading taxation. (Annex KSB VII)

*It was established that Ms. Rising Star Commodities repackages imported sugar into bags with Mumpias brand details. The company denied officers from the then Kenya Sugar Board from entry into its warehouse for verification.*

#### Flouting sugar Import license conditions

90. Rising Star Commodities Ltd, a licensed sugar importer, brought in sugar beyond licensed quantities and needs to be further investigated too over claims that it denied Kenya Sugar Board entry into its go-downs for verification. The Committee also observed that in 2013/2014, KRA allowed into the country 15,140.40MT without permits from KSB. The companies involved are;

- (a) Hydrev (P) (3000MT)
- (b) Krish Commodities Ltd (1,140.40MT)
- (c) Reeswood Enterprises Ltd (4,000MT)
- (d) Shake Distributors Ltd (6,000MT) and
- (e) Siree Sai Industries Ltd (1000MT) (Annex IV)

#### Compromised consumer safety

91. Foreign sugar imported by Kenya is allowed back into the local market without KSB scrutiny, which is enabled for direct importation or re-exportation. This is so because Kenya Bureau of Standards registration

False declaration

92. In view of the fact that MSC made exports to the regional markets through various companies mentioned above, there is glaring disparities between records from MSC and the respective exporting companies. For example, Nesredin Mohamed of Addis Ababa wrote to MSC to purchase 5000MT for export and the records from MSC indicate a summary total of 5,882MT which still has a bigger variation from the detailed records submitted by MSC indicating a total of 117, 641MT having been traded by Nesredin Mohamed as exports to Ethiopia between 2006 and 2009. Records at MSC indicate a total summary of all exports by MSC for the period 2006 to 2012 as 52,284MT while the detailed itemised list to individual exporting companies total to 30,204.37MT which is a big variation from records held at the KRA indicating 70,431MT as exports of brown sugar by MSC the same period. *(Annex II (a) – (h), IV (a) & V (a))*
93. Although the KRA submitted that it did not have sufficient capacity and equipment to verify all incoming cargo, the Committee after its visit observed that there was lack of proper coordination between KSB, KRA, KEBS and KPA in handling and verifying imports creating loopholes for sugar being imported as other commodities such as rice and fertilizer.
94. That, a total summary all exports by MSC for the period 2006 to 2012 are given as 52,284MT while the detailed itemised list to individual companies total to 30,204.37 MT. However figures from KRA indicated that MSC had export entries amounting 70,610.76MT Annex V(b), Further, KRA confirmed that only 8,133 MT were exported as per entries in Simba System and therefore there is no evidence of exports of the reminder sugar volumes estimated at 62,477.76 MT Annex V (i). *Split them into two Mumias figures and KRA figures i and ii*
95. That, imported low grade rice was being repackaged into superior quality bags by Ms Rising Star Commodities Ltd which led to the Government losing revenue in terms of duty.

## Illegal points of entry

96. The Committee's investigations also found out that there is an illegal point of entry in Shimonzi area, which is being used to facilitate illegal entry of sugar with the knowledge of Customs officers and police
97. The then KSB had issued MSC licence to import sugar even at a time when there was a lot of un-harvested sugar cane in the local farms and plenty of sugar stocks in the local market.
98. The then KSB had been disbursing Sugar Development Levy Funds for cane development to Millers with no cane development schemes
99. That, as at the time of compiling this report, NIS had not provided any documents and/or reports despite several requests by the Committee in relation to all exports and imports of sugar between 2006-2012.
100. That, the Committee also observed that MSC exports and business dealings with the following companies were controversial -
  - 1) Czarnikow Sugar EA Limited.
  - 2) E D & F Man Sugar Ltd.
  - 3) Rising Star Commodities Ltd,
  - 4) Kambale Nzagale of (DRC),
  - 5) Osman Adan and Nesredin Mohamedo of (Ethiopia),
  - 6) S&G General Suppliers.
  - 7) Star General Suppliers and Mugabe Thomas of Rwanda.
  - 8) Mega Laser International.
  - 9) Manvion Samuel Deng.
  - 10) Mid Africa.
  - 11) Southern Sudan Multitend Co. Ltd.
  - 12) Kaponta Trading Co. Ltd.
  - 13) International Retail Services of Southern Sudan
  - 14) Area Merchants Co. Ltd
  - 15) Quick Sellers Uganda
  - 16) Kivira Company
  - 17) Kesside Trading Co. Ltd
  - 18) Trade Africa Ltd

19) Uchumi Commodities (Uganda) Ltd of Uganda.  
(Annex II a-h& VII)

101. In view of the fact that MSC made exports to the regional markets to the companies mentioned in 102 above, there is glaring disparities between records from MSC and the respective importing companies. For example, Nesredin Mohamed of Addis Ababa wrote to MSC to purchase 5000MT for export and the records from MSC indicate a summary total of 5,882MT which still has a bigger variation from the detailed records submitted by MSC indicating a total of 117, 641MT having been traded by Nesredin Mohamed as exports to Ethiopia between 2006 and 2009. Records at MSC indicate a total summary of all exports by MSC for the period 2006 to 2012 as 52,284MT while the detailed itemised list to individual exporting companies total to 30,204.37MT which is a big variation from records held at the KRA indicating 70,431MT as exports of brown sugar by MSC the same period. *(Annex II (a) – (h), IV (a) & V (a))*
102. The Committee observed that despite there being questionable dealings of MSC between 2006-2012, the then MSC Auditors Ms Delloite and Touché gave MSC a clean bill of health.
103. The Committee observed that, with regard to importation of 10000MT of sugar from Sudan by MSC, the Import Permit from KSB issued to MSC was unprocedurally transferred to a third party (Dantes Peak Ltd). Further, KRA admitted having noted the anomaly but still went ahead to release the consignment
104. That, KPMG has provided a disclaimer to its "Draft Factual Finding Report" as to the accuracy and completeness of the report, noting that any subsequent information may require the findings to be adjusted and qualified accordingly. However the Committee took cognizance of the report, which largely reflects the committee's findings.

## CHAPTER 4

### 4.0 RECOMMENDATIONS OF THE COMMITTEE

The Committee therefore recommends:

105. THAT, the government establishes a permanent inter-agency enforcement unit on sugar trade which should enhance capacity to verify, scrutinise and monitor cross-border trade and step up border patrols to eradicate sugar smuggling. The unit should draw membership from KPA, Public Health, AFFA, KEBS, the Kenya Police, KRA and any other relevant government agencies.
106. THAT, KRA officer(s) should be investigated and appropriate action taken for clearing sugar without permit from the sugar regulator. Equally any company that imported sugar without a permit from the regulator should be banned from import and export business.
107. THAT, the reinforcement of re-packaging regulations to ensure consumer safety and that KEBS be held responsible for failure to prevent abuse of its seal which is supposed to be a standard measure for safety of goods in the country but has consistently been abused.
108. THAT, relevant laws and regulations governing sugar imports and exports should be amended to provide for higher accountability and public health standards for re-packaged sugar and for stiffer penalties for offenders. The Government should cancel import licences for the following companies, Kenafric Industries, Czarnikow F A Ltd, Stuntwave Ltd, Mshale Commodities and Ring Sita Commodities Ltd.
109. THAT the government implements the sugar industry strategic agenda for increased competitiveness and reduction in consumer prices. There is need to lower production cost, improve extension services among others to reduce on the cost of production, the introduction of strategic sugar trade in country.

110. THAT, the National Government in collaboration with county government should provide mechanism for coordinated infrastructure development to avoid duplication of responsibilities by different bodies mandated to maintain roads.
111. THAT, the National Government should implement the National Land Policy to mitigate further land sub-division for improved productivity.
112. THAT, the fertilizer subsidy should be complemented by bulk procurement of other farm inputs and capacity utilization which should be done by the Sugar Directorate.
113. THAT, Investigations should be carried out on MSC and/or its agents, KRA and all importers and/or their agents who imported sugar from MSC in the period between 2006 - 2012 and appropriate action taken.
114. THAT, the KRA should be held responsible for the loss of VAT taxes amounting to Kshs 577 million for fictitious exports of sugar by MSC.
115. THAT, any officer from the Board and Management of MSC and KRA responsible for the fictitious exports of sugar between 2006-2012 be held responsible for abuse of procedures and abuse of office.
116. THAT, the National Government introduces landing certificates for all transit sugar as a confirmation of physical exit to stop any dumping into the local market;
117. THAT, the Government should consider offering tax breaks to encourage new investors into the sugar industry. Additionally, duty waiver for sugar industry farm inputs and farm machinery will go a long way towards reducing the high cost of sugar production.
118. THAT, KPMG having provided a disclaimer as to the accuracy of the Draft Factual Finding Report, Mumias Sugar Company avails with immediate effect the final KPMG report to the National Assembly.

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*(Handwritten signatures and initials)*

- 119. THAT , officers from MSC/KRA who abused import procedures with regard to Import Permit requirements in the Importation of 10,000MT of sugar in 2012 from Sudan be held to account for their misdeeds.
- 120. THAT, Deloitte and Touché be held responsible for misleading the government, other shareholders and public on the state of affairs in MSC during the period of their engagement as auditors.

MINUTES OF THE OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE,  
LIVESTOCK AND COOPERATIVES (FOR THE ADOPTION OF THE REPORT OF  
PUBLIC PETITION ON THE IMMINENT COLLAPSE OF THE SUGAR INDUSTRY IN  
WESTERN KENYA DUE TO RAMPANT SUGARCANE POACHING AND  
SMUGGLING OF CHEAP SUGAR IMPORTS) HELD ON FRIDAY 6<sup>TH</sup> MARCH, 2015  
AT WINDSOR GOLF HOTEL & COUNTRY CLUB, NAIROBI AT 9.00 A.M.

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Present

1. Hon. Adan M. Nooru, MBS, M.P - Chairman
2. Hon. Kareke Mbiuki, M.P - Vice Chairman
3. Hon. Mary Wambui, M.P
4. Hon. Phillip Rotino, M.P.
5. Hon. Daniel Maanzo, M.P
6. Hon. Alfred K. Keter, M.P
7. Hon. Maison Leshoomo, M.P
8. Hon. Paul Simba Arati, M.P
9. Hon. James Opiyo Wandayi, M.P
10. Hon. Patrick Wangamati, M.P
11. Hon. Raphael Letimalo, M.P
12. Hon. Silas Tiren, M.P
13. Hon. Justice Kemei, M.P
14. Hon. Korei Ole Lemein, M.P
15. Hon. (Dr.) Victor Munyaka, M.P
16. Hon. John B. Serut, M.P
17. Hon. Kabando Wa Kabando, M.P.
18. Hon. Waititu Munyua, M.P
19. Hon. Kimani Ichung'wah, M.P
20. Hon. Florence Mutua, M.P
21. Hon. Zuleikha Hassan Juma, M.P
22. Hon. Millie Odhiambo - Mabona, M.P
23. Hon. Benjamin Washiali, M.P
24. Hon. Ayub Savula Angatia, M.P.

Apologies

1. Hon. Fredrick Outa, M.P
2. Hon. Ferdinand Wanyonyi, M.P
3. Hon. Hezron Awiti Bollo, M.P
4. Hon. Peter N. Gitau, M.P
5. Hon. John Kobado, M.P

In Attendance National Assembly Secretariat

1. Ms. Florence Atenyo – Abonyo - Director, Committee Services
2. Mr. Oscar Namulanda Wesonga, - Senior Clerk Assistant
3. Mr. Benjamin Magut - First Clerk Assistant
4. Ms. Tracy Chebet Koskei - Second Clerk Assistant
5. Mr. Ahmad Adan Guliye - Third Clerk Assistant
6. Ms. Angeline Naserian - Third Clerk Assistant
7. Mr. David Ngeno - Research Officer
8. Ms. Mercy Wanyonyi - Legal Counsel
9. Mr. John Nganga - Audio officer
10. Mr. Onesmus Kiragu - Sergeant at Arms
11. Ms. Lydia Mwangi - Office Secretary
12. Mr. Stephen Omunzi - Office Assistant

MIN. 48/2015: PRELIMINARIES

- I. The meeting was called to order at 9.30 hours and prayers were said by Hon. Francis Waititu, M.P
- II. The Chairman thanked the members for turning up in large numbers for the report writing retreat and reiterated the significance and the importance of the day's agenda.
- III. The Committee resolved to start deliberating on the draft report of the petition before it proceeds to the draft report on the crisis facing the sugar industry.

MIN. 49/2015: COMMUNICATION FROM CHAIR

- I. The Committee was informed that M/S Kenafric through its Advocates Mogeni & Co. Advocates that their client had been allegedly mentioned adversely in a submission submitted to the Committee by Kenya Sugar Board and request that they be heard before the report is finalized.
- II. The Committee deliberated on the issue and resolved that it was not in position to hear more witnesses since the report was long overdue.
- III. If the complainant feels aggrieved, it could seek recourse after the report is tabled in the House.

MIN. 49/2015: ADOPTION OF THE REPORT OF PUBLIC PETITION ON THE IMMINENT COLLAPSE OF THE SUGAR INDUSTRY IN WESTERN KENYA DUE TO RAMPANT SUGARCANE POACHING AND SMUGGLING OF CHEAP SUGAR IMPORTS)

The Committee deliberated at length on the draft report and adopted it with the following recommendations.

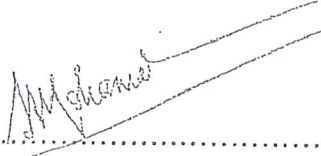
- I. THAT, the government establishes a permanent inter-agency enforcement unit on sugar trade which should enhance capacity to verify, scrutinise and monitor cross-border trade and step up border patrols to eradicate sugar smuggling. The unit should draw membership from KPA, Public Health, AFFA, KEBS, the Kenya Police, KRA and any other relevant government agencies.
- II. THAT, KRA officer(s) should be investigated and appropriate action taken for clearing sugar without permit from the sugar regulator. Equally any company that imported sugar without a permit from the regulator should be banned from import and export business.
- III. THAT, the reinforcement of re-packaging regulations to ensure consumer safety and that KEBS be held responsible for failure to prevent abuse of its seal which is supposed to be a standard measure for safety of goods in the country but has consistently been abused.
- IV. THAT, relevant laws and regulations governing sugar imports and exports should be amended to provide for higher accountability and public health standards for re-packaged sugar and for stiffer penalties for offenders. The Government should cancel import licences for the following companies: Kenafric Industries, Czarnikow E. A. Ltd, Stuntwave Ltd, Mshale Commodities and Rising Star Commodities Ltd.
- V. THAT, the Government implements the sugar industry strategic agenda for increased competitiveness and reduction in consumer prices. There is need to lower production cost, improve extension services among others to reduce and eventually eliminate the incentive to smuggle sugar into the country
- VI. THAT, the National Government in collaboration with county government should provide mechanism for coordinated infrastructure development to avoid duplication of responsibilities by different bodies mandated to maintain roads.
- VII. THAT, the National Government should implement the National Land Policy to mitigate further land sub-division for improved productivity.

- VIII. THAT, the fertilizer subsidy should be complemented by bulk procurement of other farm inputs and capacity utilization which should be done by the Sugar Directorate.
- IX. THAT, Investigations should be carried out on MSC and/or its agents, KRA and all importers and/or their agents who imported sugar from MSC in the period between 2006 - 2012 and appropriate action taken.
- X. THAT, the KRA should be held responsible for the loss of VAT taxes amounting to Kshs 577 million for fictitious exports of sugar by MSC.
- XI. THAT, any officer from the Board and Management of MSC and KRA responsible for the fictitious exports of sugar between 2006-2012 be held responsible for abuse of procedures and abuse of office.
- XII. THAT, the National Government introduces landing certificates for all transit sugar as a confirmation of physical exit to stop any dumping into the local market,
- XIII. THAT, the Government should consider offering tax breaks to encourage new investors into the sugar industry. Additionally, duty waiver for sugar industry farm inputs and farm machinery will go a long way towards reducing the high cost of sugar production.
- XIV. THAT, KPMG having provided a disclaimer as to the accuracy of the Draft Factual Finding Report, Mumias Sugar Company avails with immediate effect the final KPMG report to the National Assembly.
- XV. THAT , officers from MSC/KRA who abused import procedures with regard to Import Permit requirements in the importation of 10,000MT of sugar in 2012 from Sudan be held to account for their misdeeds.
- XVI. THAT, Deloitte and Touché be held responsible for misleading the government, other shareholders and public on the state of affairs in MSC during the period of their engagement as auditors.

MIN. 50/2015: ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at 1.45 P.M.

Signature .....



HON ADAN MOHAMEDNOORU, MBS, M.P.

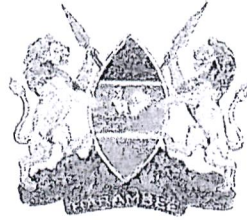
(Chairman)

Date.....

10<sup>th</sup> March 2015



# Appendix 2



**MINISTRY OF AGRICULTURE, LIVESTOCK, FISHERIES AND  
IRRIGATION**

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**RESPONSE ON THE STATUS OF THE IMPLEMENTATION OF THE  
RECOMMENDATIONS ON THE CRISIS IN THE SUGAR INDUSTRY  
IN THE COUNTRY**

**BY**

**HON. MWANGI KIUNJURI, EGH, MGH**

**CABINET SECRETARY**

---

**July, 2018**

Abbeville

## **BACKGROUND**

The Committee on the implementation is a select Committee of the House established under pursuant to Standing Order 209 of the National Assembly Standing Orders. It is mandated to scrutinize resolutions of the House (Including the adopted Committee reports), Petitions, Acts and the undertakings given by the executive and to examine whether such decisions and undertakings have been implemented and whether such implementation has taken place within the minimum time necessary. It is against that back drop that the Committee invited the Cabinet Secretary for a meeting to consider the implementation status of the recommendations contained in the report of the Departmental Committee on Agriculture on the crisis facing the sugar industry in Kenya as adopted on 26<sup>th</sup> February, 2016. Below are the recommendations of the Committee and the update on actions taken by various agencies;

## **RECOMMENDATIONS OF THE COMMITTEE AND ACTIONS TAKEN BY VARIOUS AGENCIES**

### **Recommendation**

**105** That, the government establishes a permanent inter-agency enforcement unit on sugar trade which should enhance capacity to verify, scrutinize and monitor cross-border trade and step up border patrols to eradicate sugar smuggling. The unit should draw Membership from KPA Public Health, AFFA, KEBS, the Kenya Police, KRA and other relevant government agencies.

**Action taken:** The Inter-agency Enforcement Unit has been put in place and is now operational. The members are drawn from Kenya Revenue Authority, Kenya Bureau of Standards and the Kenya Police Directorate Criminal investigations. Agriculture and Food Authority (AFA) was not in the unit. However, AFA has in the past collaborated with other agencies like National Police, KRA and KEBS on market surveillance operations.

### **Recommendation**

**106** That, KRA officer(s) should be investigated and appropriate action taken for clearing sugar without permits from the Sugar Regulator. Equally any company that imported sugar without a permit from the regulator should be banned from import and export business.

**Action taken by KRA/AFA** on the companies that imported sugar without permits the actions taken were as indicated below:

	<b>COMPANY</b>	<b>REMARKS</b>
1	Hydery "P" Ltd	AFA has not renewed their 2017/18 import license
2	Krish Commodities Ltd	AFA has not renewed their import license since 2017
3	Reeswood Enterprises	AFA has not renewed their 2017/18 import license
4	Shake Distributors Ltd	AFA has not renewed their import license since 2015
5	Shree Sai Industries Ltd	AFA has not renewed their 2017/18 import license

#### **Recommendation**

**107** That, the reinforcement of re-packaging regulations to ensure consumer safety and KEBS be held responsible for failure to prevent abuse of its seal which is supposed to be a standard measure for safety of goods in the country.

**Action taken by KEBS/AFA** Towards enforcement of repackaging regulations and to ensure customer safety:

- AFA together with KEBS jointly undertake regular market surveillance;
- The Sugar (Imports, Exports, and By-Products), 2018 Regulations have been developed and are awaiting gazettelement. These Regulations will further reinforce repackaging conditions.

#### **Recommendation**

**108** That, relevant laws and regulations governing sugar import and exports should be amended to provide for higher accountability and public health standards for repackaged sugar and for stiffer penalties for offenders. The Government should cancel import licences for the following companies: Kenafric Industries, Czarnikow E.A Ltd, Stuntwave Ltd, Mshale Commodities Ltd, and Rising Star Commodities Ltd.

**Action taken:-**

- The Crops Act, 2013 is in place
- The Sugar (Imports, Exports, and By-Products), 2018 Regulations have been developed and are awaiting gazettelement

Here below is the status of the licenses for the indicated firms:

	<b>COMPANY</b>	<b>REMARKS</b>
1	Kenafric Industries	AFA has not renewed their 2017/18 import license
2	Czarnikow EA Ltd	AFA has not renewed their import license since 2015
3	Stuntwave Ltd	AFA has not renewed their 2017/18 import license
4	Mshale Commodities Ltd	AFA has not renewed their 2017/18 import license
5	Rising Star Commodities	AFA has not renewed their import licence since 2015

**Recommendation**

**109** That, the Government implements the sugar industry strategic agenda for increased competitiveness and reduction in consumer prices. There is need to lower production costs, improve extension services among others to reduce and eventually eliminate the incentive to smuggle sugar into the country

**Action taken:**

- The Crops (Sugar) (General) Regulations, 2018 have been developed and are awaiting gazettelement
- The Sugar (Imports, Exports, and By-Products), 2018 Regulations have been developed and are awaiting gazettelement
- To reduce transport costs, improvement of roads and related infrastructure in the sugar belt has being undertaken through the EU Sugar Reforms Support Project
- Development and release of new cane varieties (Early maturing and high yielding) by KALRO – Sugar Research Institute (SRI) is ongoing with 21 varieties already released

- Installation of Cane Testing Units is ongoing & operationalization of quality cane payment system has commenced
- The fertilizer subsidy program is ongoing through the Ministry of Agriculture, Livestock, Fisheries and Irrigation
- Following removal of Sugar Development Levy (SDL), operations of KALRO-Sugar Research Institute (SRI) have been adversely affected thus impacting negatively on research in the sugar industry

### **Recommendation**

**110** That, the National Government in collaboration with the County Governments should provide a mechanism for coordinated infrastructure development to avoid duplication of responsibilities by different bodies mandated to maintain roads

### **Action taken:**

The roads and related infrastructure function have been clearly defined at both levels of government and where applicable with roads specifically assigned to either National or County Governments. Sugar Directorate no longer funds infrastructure development following the removal of the Sugar Development Levy. However, there has been considerable development of infrastructure in the Sugar growing areas through the EU Sugar Reforms Support Project.

### **Recommendation**

**111** That, the National Government should implement the National Land policy to mitigate further land sub-division for improved productivity

**Action was by the National Land Commission.**

### **Recommendation**

**112** That, the fertilizer subsidy should be complemented by bulk procurement of other farm inputs and capacity utilization which should be done by the Sugar Directorate

**Action taken by the MOALF&I:-**

- The ministry has been doing bulk procurement of the subsidy fertilizer for the benefit of the farmers since 2008/2009 FY

**Recommendation**

- 113** That, investigations should be carried out on Mumias Sugar Company (MSC) and/or its agents, KRA and all importers and/or agents who imported sugar from MSC in the period 2006-2012 and appropriate action taken.

**Action to be taken by the Relevant Agencies**

**Recommendation**

- 114** That, the KRA should be held responsible for the loss of VAT taxes amounting to Kshs. 577 Million for fictitious exports of sugar by MSC

**Action to be taken by KRA/MSC**

**Recommendation**

- 115** That, any officer from the Board and Management of MSC and KRA responsible for the fictitious exports of sugar between 2006-2012 be held responsible for abuse of procedures and abuse of office

**Action: KRA/MSC**

**Updated status is yet to be received from MSC**

**Recommendation**

- 116** That, the National Government introduces landing certificates for all transit sugar as a confirmation of physical exit to stop any dumping into the local market

**Action taken :** Consultation with KRA is ongoing on the implementation and impact of the Single Customs Territory (SCT).

## **Recommendation**

**117** That, the government should consider offering tax breaks to encourage new investors into the sugar industry. Additionally duty waiver for sugar industry farm inputs and farm machinery will go a long way towards reducing the high costs of production.

**Action taken by: National Treasury and MOALF&I**

## **Recommendation**

**118** That KPMG having provided a disclaimer as to the accuracy of the Draft Factual Finding Report, Mumias Sugar Company should avail with immediate effect the final KPMG report to the National Assembly

**Action to be by MSC**

Updated status is yet to be received from MSC

## **Recommendation**

**119** That officers from MSC/KRA who abused import procedures with regard to import permit requirements in the importation of 10,000 MT of sugar in 2012 from Sudan be held to account for their misdeeds

**Action: KRA/MS**

Updated status is yet to be received from MSC

## **Recommendation**

**120** That, Deloitte and Touche be held responsible for misleading the government, other shareholders and the public on the state of affairs in MSC during the period of their engagement as auditors

**Action: National Treasury and MSC**

Updated status is yet to be received from MSC

**THANK YOU!**

**TWELFTH PARLIAMENT- (SECOND SESSION)****THE NATIONAL ASSEMBLY  
COMMUNICATION FROM THE CHAIR**

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(No 046 of 2018)

**ON RECONSIDERATION OF A HOUSE RESOLUTION BY THE  
COMMITTEE ON IMPLEMENTATION**

---

**Honourable Members,**

I wish to bring to the attention of the House that my office has been petitioned by vide a letter dated 22<sup>nd</sup> August 2018 from the firm of Mogeni & Company Advocates on behalf of their client M/s. Kenafric Industries Limited in relation to a resolution by this House with regard to the Report of the Departmental Committee on Agriculture, Livestock and Cooperatives on *'The Crisis Facing the Sugar Industry in Kenya'* adopted in the 11<sup>th</sup> Parliament. In their letter, M/s Mogeni and Company note that the Petitioners, M/s. Kenafric Limited was adversely mentioned in the Report which recommended the cancellation of their import licenses. The firm of Advocates further notes that during the hearings held by the Departmental Committee on Agriculture, Livestock and Cooperatives, their client was not afforded an opportunity to be heard despite their attempts to be so heard before the preparation and tabling of the Report of the Committee and that, consequent to the tabling and adoption of the Report, the Sugar Directorate of the Agriculture and Food Authority has since delayed the processing of their import permit.

**Honourable Members,** as you are aware, Standing Order 209 establishes the Committee on Implementation which it mandates to scrutinize the resolutions of the House and examine whether or not they have been implemented and the extent to which legislation passed by the House has been operationalized.

Exhibits A

Indeed, and in the discharge of its mandate, the Committee on Implementation did invite the Sugar Directorate to update the House on the status of the implementation of the resolutions made in the last Parliament with regard to the crisis in the sugar sector. It is in the implementation of a resolution of this House that the Sugar Directorate has delayed the processing of import permits for companies adversely mentioned in the Report complained of.

**Honourable Members,** since the receipt of the letter, I have scrutinized the text of the Report tabled and adopted by the House and do confirm that the Minutes attached to the Report show that Kenafic Limited, who is the Petitioner in this matter, sought audience before the Committee, in writing, to respond to allegations made by the Kenya Sugar Board prior to the conclusion of the writing and tabling of the Report. The minutes record that, and I quote -

*"ii. The Committee deliberated on the issue and resolved that it was not in [a] position to hear more witnesses since the report was long overdue;*

*iii. If the complainant feels aggrieved, it could seek recourse after the report is tabled in the House."*

Owing to the delay in processing of their import permit, the Petitioner is presently in Court to seek legal redress arising from their alleged condemnation by the House without having been given an opportunity to present their case.

**Honourable Members,** the ongoing court case notwithstanding, I am of the considered view that turning a blind eye to the issues raised in the letter would not serve the best interests of the House. As a House of procedure guided by the Constitution and our Standing Orders, we cannot be seen as establishing a precedent of or condoning the condemning of persons without affording them an opportunity to be heard. The right to a fair hearing, as one of the twin principles of Natural Justice is entrenched in Article 50 of the Constitution which precludes individuals from being penalized by decisions affecting their rights or legitimate expectations unless they have been given prior notice of the case, a fair opportunity to answer it, and the opportunity to present their own case.

In addition to this, Article 47 of the Constitution provides for the right to fair administrative action which is expeditious, efficient, lawful, reasonable, and procedurally fair. Indeed, this House enacted the Fair Administrative Action Act of 2015 to operationalize Article 47 in order to further guide the conduct of administrative actions and other proceedings adversely affecting the rights of individuals.

Affording persons the right to present their case is in line with guiding principles of parliamentary practice as noted in the updated version of the Benchmarks for Democratic Legislatures issued by the Commonwealth Parliamentary Association of which Members of this House are members. As a safeguard against the abuse of the freedom of speech granted to the Legislature, Benchmark 1.4.4 states, and I quote

*"The Legislature shall have mechanisms for persons to respond to adverse references made to them in the course of the Legislature's proceedings."*

**Honourable Members**, in conducting hearings, preparing and tabling its Report and recommendations, the Departmental Committee on Agriculture, Livestock and Cooperatives was under an obligation **to apply and be seen to have applied** a standard, methodical, open and fair process (*emphasis*). It is only in applying such a process that the decisions of this House may stand the test of whichever challenge is made outside Parliament. Any compromise of such a process exposes the House to ridicule and reduces the confidence of the public in the procedures of the House and its role as a forum for the deliberation and resolution of issues of concern to the people. The House cannot on one hand pass the Fair Administrative Action Act, 2015 and on the other blatantly flout the basic requirement of according adversely mentioned persons the fundamental right to be heard.

**Honourable Members**, noting the glaring omission highlighted by the Petitioner and indeed on admission of the Committee itself that the Petitioner was not afforded an opportunity to rebut the allegations, it therefore behoves this House to revisit its resolution made when adopting the Report by the Departmental Committee on Agriculture, Livestock and Cooperatives. This will necessarily entail affording the Petitioner, M/s. Kenafric Industries Limited a chance to present its case for consideration by the House.

As the concern raised does not constitute new evidence, there exists no justification to reopen and reconsider the entire subject matter of the Report. The appropriate Committee therefore to undertake this exercise is the Committee on Implementation currently seized of the implementation of the resolutions made from the Report to act as an appellate forum for the Petitioners to present their prayers. Indeed, such forum will examine the claims made by the Petitioners and also safeguard the authority of the House on matters for which it has inquired into and arrived at a resolution, before any other authority steps in.

**Honourable Members,** I am fully cognizant of the provisions of Standing Order 89 on matters *subjudice or secret*. It is, however, my considered opinion that reference to this matter by the Committee on Implementation shall not in any way prejudice the fair determination of the ongoing Court proceedings. Both the House and the aggrieved party would be best served by the urgent rectification of this glaring omission. For the avoidance of doubt as to the nature of the exercise to be undertaken by the Committee on Implementation, I direct that the Committee is to limit itself to-

- (i) only receiving submissions from the Petitioner, M/s, Kenafric Industries Limited on the resolution made by the House from the recommendation contained at paragraph 108 of page 50 of the Report;
- (ii) considering the submissions from the Petitioner; and,
- (iii) reporting its findings to the House within thirty (30) days.

I need not add that the Committee must observe the rules of natural justice in this exercise. In the meantime, the implementation of the resolution on this matter stands **suspended** until such a time as the House makes a further resolution informed by the report of the Committee on Implementation.

The House is so guided.

**THE HON. JUSTIN B. MUTURI, E.G.H., MP**  
**SPEAKER OF THE NATIONAL ASSEMBLY**

Thursday, 30<sup>th</sup> August, 2018

**MEETING WITH THE SELECT COMMITTEE ON  
IMPLEMENTATION ON THE REPORT OF THE  
DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK  
ON THE CRISIS FACING THE SUGAR INDUSTRY IN KENYA**

**WRITTEN RESPONSES BY  
KENAFRIC INDUSTRIES LTD.**

1. KENAFRIC INDUSTRIES LTD. (Hereinafter "KenafriC") is limited liability Company incorporated in the Republic of Kenya engaged in the importation, manufacture and exportation of Sugar Confectionery products and distribution of the finished goods in Kenya and other parts of East and Central Africa and is a gazetted importer of sugar by the Council of Ministers of the East African Community (EAC) under the provisions of the East African Community Customs Management Act. **Copies of the Gazette Notices for 2012, 2013, 2014, 2015, 2016, 2017 and 2018 together with the Duty Remission Committee Report for the period are now shown marked "A".**
2. KenafriC has been a manufacturer of sugar products over a 30 year period and there is a strict regime which monitors the quantity of sugar (whether Industrial or otherwise) and compares the same with the manufactured goods, both sold locally and for export. The Company uses Industrial sugar (also known as white refined sugar) in its manufacturing process a product that is not manufactured or available in the Kenyan market.
3. KenafriC has since 2015 been receiving licence for importation of industrial sugar as per the registration processing from the Sugar Directorate. Attached are copies of the licences marked as "B" and the flow chart marked as "C". "The process of sugar inputs is strictly

monitored by various agencies of the Government from the Kenya Revenue Authority, Kenya Bureau of Standards, the Kenya Sugar Board (As it was then) and the Inter Ministerial Committee of the Council of Ministers of the East African Community which is Gazetted. In addition and for manufacturing purposes, we import industrial sugar of the following quality - 45 ICUMSA Units with Polarisation 99.8 degrees while table brown sugar has an ICUMSA Units of 700 - 1600 with polarisation of 99.0 degrees.

4. Kenafric Industries has always provided information on its sugar audits which tabulations match the input and the output. This accountability has legally allowed the Company to be a key player in the confectionery industry for over 20 years. Attached herein and marked as "D" are the KRA detailed audit reports for the years 2009- 2013 and 2013 - 2016 which shows that the sugar input and the confectionery product output tally .On 17<sup>th</sup> July, 2018, the Sugar Directorate of the Agriculture & Food Authority (Hereafter the "Sugar Directorate") wrote to Kenafric a letter of even date captioned "Re: Report of the Parliamentary Departmental Committee on Agriculture, Livestock and Co-operatives" stating "we wish to bring your attention the attached Report which has led to delays in renewing your annual registration by the Directorate." A copy of the said letter is marked "E".
5. On 19<sup>th</sup> July, 2018, Kenafric being aggrieved by the said decision wrote to the Sugar Directorate complaining about the lack of due process, consultation and legal basis for said notice and the challenges the said report would occasion to both the Company and the public as consumers. A copy of the Kenafric's letter dated 19/07/018 is marked "F".

6. The Report has made recommendation that:-

*"108. THAT, relevant laws and regulations governing sugar imports should be amended to provide for higher accountability and public health standards for repackaging sugar and for stiffer penalties for offenders. The Government should cancel import licences for the following Companies:- Kenafric Industries, Czarnikow EA Ltd., Stuntwave Ltd, Mshale Commodities and Rising Star Commodities Ltd." (Emphasis added)*

7. In 2015 there was no invitation sent out by Parliament's Departmental Committee on Agriculture for a hearing before the conclusions and recommendations were made in the report. When the Company became aware of the report, it wrote to Parliament's Committee to be heard. It was not invited the extract from the Parliament committee noted that they do not have time to hear the Company the minutes read in part "the committee deliberated on the issue and resolved that it was not in a position to hear more witnesses since the report was long overdue". A copy of the letter by our Lawyer's is marked "G" and the extract of the minutes is marked as "H".
8. From 2015 the Parliamentary report recommendations were neither communicated to us nor was it implemented until the 2018 sugar fiasco came into light.
9. The Sugar Directorate in its letter aforesaid stated that it is in the process of considering the Report and may commence the process of application of the proposals as it has already written to Kenafric indicating that the report has caused delay in Kenafric's application made for renewal of the

Company's annual licence. The company felt that the process was in disregard of the Company's right to constitutional fair administrative process prompting the Company to Petition this Honourable Committee to be allowed to participate in the Committee proceedings of Parliament before this Parliamentary Committee.

10. Though Parliament never summoned KenafriC in 2015 to appear before it to answer allegations made in the report on repackaging industrial sugar for use as table sugar. (show samples of sugar ) We now wish to show the Honourable members the activities of KenafriC and demonstrate why it was erroneously included in the report as the business of the Company has always been to manufacture and convert industrial sugar into confectionery. We put it to this Committee that the value addition in manufacturing confectionery is about 20-25% as opposed to repackaging sugar which is 5-7% (show samples of KenafriC products). clear and conducted in an ideal business like.
11. KenafriC does not own sugar repackaging machinery nor is it interested in this line of business.
12. KenafriC is concerned that the Report made adverse recommendations against it to the effect that:
  - (a) Recommended that the KenafriC's Licence to import industrial sugar be cancelled. Mandatorily obliged the Sugar Directorate not to consider any application by KenafriC for a licence;The effect of the recommendations would be:

- (a) Does not put into consideration the manufacturing make distinction on any operations of Kenafric;
- (b) Purports to condemn Kenafric unheard; and stop manufacturing and affect the livelihoods of over 2,500 employees;
- (c) The company exports 50% of its products to 14 countries thereby earning foreign exchange and helping to stabilise the Kenyan Shilling this is in addition to being one of the large tax payer in the country via PAYE, VAT, corporate tax among other taxes.
- (d) Risking sunk investment of over USD 100 million and planned investments for the year 2018/2019 of USD 15 million which goes against the Big 4 agenda.
- (e) Contravenes the law and goes against various established High Court and Court of Appeal precedents;

Unless implementation of the report as against Kenafric is immediately stopped is likely to undermine the proprietary rights and interests of Kenafric.

13. All these measures of verification have confirmed that the Petitioner has never been involved in any malpractices and all the quantities of sugar imported have properly been accounted for. The Kenya Sugar Board did conduct its own investigations and found that the Company complied with all regulations and subsequently has issued it with Licences. Attached herein and marked as "I" are tax compliance certificates for the years 2015 to 2018.

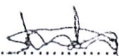
14. The Sugar Directorate has every year inspected the Factory premises of Kenafric and it has confirmed that the Company does not have the capacity and/or machinery to package sugar into locally manufactured brands like Munias, Sony or any other. Honourable Members, the Sugar Directorate was involved in the preparation and approval of its quota for sugar imports approved by the Council of Ministers of the East African Community which has gazetted Kenafric to import 20,000 MT of sugar and it has subsequently ordered a consignment of sugar which is currently lying at the Port of Mombasa where severe demurrages and other costs have escalated.

## CONCLUSION

- A. Kenafric does not deal in repackaging and selling of table sugar as we have demonstrated above.
- B. Gazette number 4536 of 12th May 2017 attached and marked "J" allowed the importation of unlimited duty free table sugar and further extended until December 2017. This caused our confectionery exports being denied access into Uganda and Tanzania under preferential rates of duty. Owing to this we have lost business worth USD 15 million in addition to market share as it stands, Tanzania continues to deny preferential treatment due to the current sugar headlines.
- C. Adverse mentioning of the Company's name since 2015 has affected the company's reputation in the eyes of both local and international stakeholders.

- D. The Constitution allows for Fair administrative process which was not followed in preparing of the 2015 report.
- E. As stated above, the company is regularly audited before and after 2015 by various government agencies and has continuously obtained the requisite licences and permits.
- F. We invite this Honourable Committee to visit and experience Kenafri's manufacturing state of the art facilities and clear the air once and for all on the allegations.
15. The information obtained by the Committee which was being implemented is incorrect and there is no avenue to have the correct information included in the Report. We had hoped the Sugar Directorate could have clarified the status of the operations of Kenafri before today.

DATED at Nairobi this ..... day of ..... 2018.



.....  
**MIKUL SHAH**  
**FOR: KENAFRI INDUSTRIES LTD.**

**DRAWN AND FILED BY:**

**Mogeni & Co.**

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**NAIROBI** Ref: CHR/7/2018/KM

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# EAST AFRICAN COMMUNITY GAZETTE

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1 Approved Uganda Manufacturers and quantities of Complete Knocked Down (CKDs) Motorcycles to be imported In 12 months	No. 22	13

Legal Notice No. EAC/15/2012.

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004

LEGAL NOTICE

IN EXERCISE of the powers conferred upon the Council of Ministers Section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following Manufacturers to import the specified quantities of industrial sugar at a duty rate of 10% under the Duty Remission Scheme

APPROVED KENYA MANUFACTURERS AND QUANTITIES OF SUGAR FOR INDUSTRIAL USE TO BE IMPORTED AT A DUTY RATE OF 10% IN 12 MONTHS

<i>No.</i>	<i>Gazetted user/firm</i>	<i>Tariff No.</i>	<i>Description</i>	<i>Quantity Metric Tonnes</i>	<i>Description of the finished products</i>
1.	Kenya Breweries Limited	1701.99.10	Sugar for Industrial Use	20 000	Alcoholic Beverages
2.	Kenafric Industries Limited	1701.99.10	Sugar for Industrial Use	10 000	Confectionery
3.	Kevian Kenya Limited	1701.99.10	Sugar for Industrial Use	4 500	Juices
4.	Dawa Limited	1701.99.10	Sugar for Industrial Use	98 865	Medicinal products

HON. MUSA C. SIRMA,  
*Chairperson, Council of Ministers.*

Arusha, Tanzania,  
April, 2012.

Legal Notice No. EAC/16/2012.

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004

LEGAL NOTICE

IN EXERCISE of the powers conferred upon the Council of Ministers Section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following Manufacturer to import the specified quantities of wheat at a duty rate of 0% under the Duty Remission Scheme

APPROVED KENYA MILLER AND QUANTITY OF WHEAT TO BE IMPORTED AT A DUTY RATE OF 10% IN 12 MONTHS

No.	Gazetted user/firm	Tariff No.	Description	Quantity in Metric Tonnes	Description of the finished products
1	Baraka Kenya Ltd	1001.90.20	Hard Wheat	1 500	Wheat flour
		1001.90.90	Other Wheat	6 500	Wheat flour

Arusha, Tanzania  
April, 2012.

HON. MUSA C. SIRMA  
Chairperson, Council of Ministers.

Legal Notice No. EAC/17/2012.

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004

LEGAL NOTICE

IN EXERCISE of the powers conferred upon the Council of Ministers Section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following Manufacturers to import the specified quantities of paper for manufacture of exercise books, textbooks, examination, papers and covers at a duty rate of 0% under the Duty Remission Scheme

**APPROVED KENYA MANUFACTURERS AND QUANTITIES OF PAPER FOR MANUFACTURE OF EXERCISE BOOKS, TEXTBOOKS, EXAMINATION, PAPERS AND COVERS TO BE IMPORTED AT A DUTY RATE OF 0% IN 12 MONTHS**

No.	Name of the Company	Tariff No.	Description	Quantity allocated in Metric Tonnes	Description of the finished products
1	Printing services Limited	4802.55.00	Wood free paper	1 200	Text Books
		4810.19.00	Coated Coverboard	80	Text Books
2	Vimit Converters Limited	4802.55.00	Wood free paper	1 000	Exercise Books
		4801.00.90	News Print	800	Exercise Books
		4802.57.00	Cover boards	260	Exercise Books
3	Auto Litho Limited	4810.13.00	Coverboard	10	Textbooks
4	Print well Industries limited	4802.55.00	Bond Paper in reels	4 000	Textbooks
		4802.58.00	Bond paper	800	Textbooks
		4802.13.00	Chip board	1 000	Packing Material
		4810.19.00	Art paper	800	Textbooks
		4810.13.00	Coverboard	1 000	Textbooks
		4802.57.00	Bond paper sheets	2 000	Textbooks
5	Kenafric Industries Limited	4801.00.90	Newsprint paper	3 840	Exercise Books
		4802.55.00	Wood free paper	1 120	Exercise Books
		4810.29.00	Cover board	100	Exercise Books
6	Franciscian kolbe press	4802.55.00	Bond Paper	355	Text books
		4810.13.00	Cover board	140	Text books
		4810.19.00	Art paper	190	Text books

7	Printwell papercraft Limited	4802.55.00	Woodfree paper	1 000	Book covers
		4802.58.00	Cover board	1 400	Book covers
8	Homeland General Merchant Limited	4801.00.90	Newsprint	300	Text and Exercise books
		4810.19.00	Art paper	50	Text and Exercise books
		4810.19.00	Manila	300	Text and Exercise books
		4802.55.00	Wood free paper	300	Text and Exercise books

Arusha, Tanzania  
April, 2012

HON. MUSA C. SIRMA,  
*Chairperson, Council of Ministers.*

Legal Notice No. EAC/18/2012.

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004

LEGAL NOTICE

IN EXERCISE of the powers conferred upon the Council of Ministers Section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following Manufacturers to import the specified quantities of Duplex board at a duty rate of 0% under the Duty Remission Scheme

APPROVED KENYA MANUFACTURES AND QUANTITIES OF DUPLEX BOARD TO BE IMPORTED AT A DUTY RATE OF 0% IN 12 MONTHS

<i>No.</i>	<i>Name of the Company</i>	<i>Tariff No.</i>	<i>Description</i>	<i>Quantity in metric tonnes</i>	<i>Description of the finished products</i>
1	Match Masters Limited	4810.92.00	Duplex Board	1,800	Safety Matches
2	Autolitho Limited	4810.92.00	Duplex Board	15	Text books
3	Homeland General Merchant Limited	4810.92.00	Duplex Board	100	Text books
4	Sintel Security Print Solutions Limited	4810.92.00	Duplex Board	75	Scratch cards

HON. MUSA C. SIRMA,  
*Chairperson, Council of Ministers.*

Arusha, Tanzania,  
April, 2012.

Legal Notice No: EAC/19/2012.

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004

## LEGAL NOTICE

IN EXERCISE of the powers conferred upon the Council of Ministers Section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following Manufacturers to import the specified quantities of goods for manufacture of goods for export at a duty rate of 0% under the Duty Remission Scheme

APPROVED KENYA MANUFACTURERS AND QUANTITIES OF SPECIFIED GOODS FOR MANUFACTURE OF  
GOODS FOR EXPORT TO BE IMPORTED AT DUTY RATE OF 0% IN 12 MONTHS

No.	Name of the Company	Tariff No.	Description	Quantity	Description of the finished products
1	Dawa Limited	1701.99.10	Sugar for Industrial Use	40,657kgs	Medicines
2	The Wrigley Company (EA) Limited	1701.99.10	Sugar for Industrial Use	3,300MT	Confectionary
3	Kenafric Industries Limited	1701.99.10	Sugar for Industrial Use	15,000MT	Confectionery
4	Kevian Kenya Limited	1701.99.10	Sugar for Industrial Use	500MT	Juices
5	Ellams Products Limited	4810.92.00	Duplex Board	500,000kgs	Voucher cards
6	Match masters Limited	4810.92.00	Duplex Board	1,800MT	Safety Matches
7	Sintel Security Print Solutions Limited	4810.92.00	Duplex Board	175,000kgs	Scratch cards
8	Auto Litho Limited	4810.92.00	Duplex board	1,900MT	Text books
9	Tetra Pak Limited	4810.92.00	Multiply Paperboard	436,976kgs	Packaging Material
10	Vimit Converters Limited	4802.55.00	Woodfree Paper	500MT	Exercise Books
		4801.00.90	Newsprint paper	200MT	Exercise Books
		4802.57.00	Coverboard	40MT	Exercise Books
11	Auto Litho Limited	4810.13.00	Cover Board	150MT	Text books
12	Printwell Industries Limited	4802.55.00	Bond paper reels	1,000MT	Textbooks
		4802.58.00	Bond paper	200MT	Textbooks
		4810.19.00	Art Paper	200MT	Textbooks
		4810.13.00	Coverboard	500MT	Textbooks
		4802.57.00	Bond paper sheets	500MT	Textbooks
13	Kenafric Industries Limited	4801.00.90	Newsprint	5,760MT	Exercise Books
		4802.55.00	Wood free paper	1,120MT	Exercise Books
		4810.29.00	Cover board	100MT	Exercise Books
14	Dunc packaging Limited	4804.19.90	Bleached Kraft	1,000MT	Paper bags
		4804.19.90	Supa Kraft	600MT	Paper bags
		4810.31.00	Kraft paper	500MT	Paper bags
15	Franciscian Kolbe Press	4802.55.00	Bond paper	10MT	Textbooks
		4810.13.00	Cover board	5MT	Textbooks
		4810.19.00	Art Paper	7MT	Textbooks

16	Tetra Pak Limited	4804.49.00	Bleached Paperboard	1,384,116kgs	Packaging Material
		4804.39.00	Kraftliner paperboard	209,203kgs	Packaging Material
17	Printwell Papercraft Limited	4802.55.00	Wood free Paper	930MT	Book covers
		4802.58.00	Cover board	1,302MT	Book covers
18	Dawa Limited	4821.90.00	Paper board	154kgs	Medicinal Products
19	Alpha Knits Limited	5207.90.00	Cotton Yarn dyed	5,654kgs	Kikoys
		5509.69.00	Acrylic yarn	559,540kgs	Dresses
		5402.33.00	Polycryster yarns	149,368kgs	Trousers
20	Everflora Limited	4819.10.00	Corrugated Cartons	120,000kgs	Fresh Cut Flowers
		4804.31.00	SFK Rolls	50,000kgs	Fresh Cut Flowers
21	Lanecb Plastics Industries Limited	3919.90.10	OPP Tape Jumbo Rolls	300,000kgs	Masking tape
		4811.41.90	Masking Tape Jumbo Rolls	90,000kgs	Masking tape
22	Eastern Produce Kenya Limited	4819.40.00	Tea Sacks	100,000bags	Tea
23	Patco Industries Limited	3302.10.00	Liquid Flavours	36,000kgs	Confectionery
		4819.10.00	Corrugated Cartons	150,000kgs	Confectionery
24	Tetra Pak Limited	3920.20.10	Metallised Film	30,460kgs	Packaging Material
		7607.20.10	Aluminium Foil	173,375kgs	Packaging Material
25	Kakuzi Limited	4819.10.00	Empty cartons	1,500,000pcs	Fresh Avocados
26	Ubbink East Africa Limited	7608.20.00	Solar Aluminium Frame	168,000kgs	Solar Panels
		7326.19.00	Solar Frame Corner Insert	5,600kgs	Solar Panels
		7007.19.00	Solar Structured Tempered Glass	525,000kgs	Solar Panels
		3905.19.00	Solar Ethylene Vinyl Acetate	12,100kgs	Solar Panels
		3920.10.10	Solar Dymat Backsheet	7,600kgs	Solar Panels
		7409.90.00	Solar Tabbing	1,226kgs	Solar Panels
		7409.90.00	Solar Ribbon	1,226kgs	Solar Panels
		8536.90.00	Solar Junction Box	14,000kgs	Solar Panels
		3920.10.10	Solar Isolation Underlayer EPE	325kgs	Solar Panels
		4823.20.00	Solar Adhesive Paper (tape)	100kgs	Solar Panels
27	Kenafic Industries Limited	1702.30.00	Glucose	8,000,000kgs	Confectionery
		4819.10.00	Cartons	585,000kgs	Confectionery
		4819.10.00	Boxes	220,000kgs	Confectionery
		3302.10.00	Assorted Flavours	40,000kgs	Confectionery
28	Dawa Limited	4819.10.00	Boxes	37kgs	Medicinal Products
		4901.10.00	Leaflets	113kgs	Medicinal Products
		3923.10.00	Articles for Conveyance	61,238kgs	Medicinal Products
29	Mjengo Limited	3920.20.90	BOPP Film	200,000kgs	Biscuits

30	James Finlay (K) Limited	3923.10.00	Drums	119,392kgs	Tea
		2101.20.00	Aroma for Reprocessing	372,068kgs	Tea
		2101.20.00	Instant Tea Powder	320,980kgs	Tea
		3923.10.00	Plastic Pails	5,900kgs	Tea
31	The Sotik Tea Company Limited	4819.30.00	Tea Packs	28,740kgs	Tea
32	Sotik Highlands Tea Estate Limited	4819.30.00	Tea Packs	48,600kgs	Tea
33	SC Johnson and son Kenya Limited	8309.90.90	Kiwi Shoe Polish Tins	27,069,224pcs	Shoe Polish
		1521.10.00	Carnauba Wax	37,500kgs	Shoe Polish
34	Bag and Envelope Converters Limited	7607.20.10	Unprinted Aluminium Foil	240,000kgs	Sack and bags
35	Bliss Flora Limited	4819.10.00	Empty cartons	60,000pcs	Fresh Cut Flowers
		4804.11.00	Single Facer Rolls	5,000kgs	Fresh Cut Flowers
36	Xpressions Flora Limited	4819.10.00	Empty Cartons	150,000pcs	Fresh Cut Flowers
		4804.11.00	SFK	80,000kgs	Fresh Cut Flowers
37	Nice Exporters Limited	4819.10.00	Corrugated cartons	160,000pcs	Avocados & Mangoes
38	Fair Farm Exporters Limited	4819.10.00	Corrugated cartons	160,000pcs	Avocados & Mangoes
39	Signet Fruit and Vegetable Exporters Limited	4819.10.00	Corrugated cartons	100,000pcs	Avocados, Mangoes and Frech Beans

The sale of the above finished products shall be subject to the following conditions:

1. The finished goods benefiting from duty remission shall primarily be for export outside EAC
2. In the event that such goods are sold in the customs territory (EAC), such goods shall attract duties, levies and other charges provided in the EAC Common External tariff
3. The sale of goods in the Customs territory (EAC) shall be subject to authorization by a competent authority and such sale shall be limited to 20 per centum of the annual production of the company(manufacturer)

HON. MUSA C. SIRMA,  
Chairperson, Council of Ministers.

Arusha, Tanzania,  
April, 2012.

Legal Notice No. EAC/20/2012.

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004

LEGAL NOTICE

IN EXERCISE of the powers conferred upon the Council of Ministers Section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following Manufacturers to import the specified quantities of completely knocked down (CKD) motor cycles at a duty rate of 10% under the Duty Remission Scheme.

APPROVED KENYA MANUFACTURERS AND QUANTITIES OF COMPLETELY KNOCKED DOWN (CKD) MOTOR CYCLES TO BE IMPORTED AT DUTY RATE OF 10% IN 12 MONTHS

<i>No.</i>	<i>Name of the Company</i>	<i>Tariff No.</i>	<i>Description</i>	<i>Quantity in Sets</i>	<i>Description of the finished products</i>
1	King Bird Kenya Limited	8711.20.00	Unassembled Kits for Motor Cycles	20,000sets	Motor Cycles
2	Kenya Vehicle Manufacturers Limited	8711.20.00	Unassembled Kits for Motor Cycles	4,000sets	Motor Cycles
3	Captain Motorcycles Manufacturing Company Limited	8711.20.00	Unassembled Kits for Motor Cycles	30,000sets	Motor Cycles
4	BMG Holdings Limited	8711.20.00	Unassembled Kits for Motor Cycles	12,000sets	Motor Cycles

HON. MUSA C. SIRMA,  
*Chairperson, Council of Ministers.*

Arusha, Tanzania,  
April, 2012.

Legal Notice No. EAC/21/2012.

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004

## LEGAL NOTICE

IN EXERCISE of the powers conferred upon the Council of Ministers Section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following Manufacturers to import the specified quantity of industrial sugar at a duty rate of 10% under the Duty Remission Scheme

## APPROVED UGANDA MANUFACTURERS AND QUANTITIES OF SUGAR FOR UNDUSTRIAL USE TO BE IMPORTED IN 12 MONTHS

<i>S/N</i>		<i>Tariff No.</i>	<i>Description</i>	<i>Additional Quantities in Metric Tone</i>	<i>Finished Products</i>
1.	Ahmed Raza foods ind. Ltd	1701.99.10	Sugar for Industrial Use	77	Confectionery products
2.	Anchor industries limited	1701.99.10	Sugar for Industrial Use	10.856	Sweets
3.	Bakers ltd	1701.99.10	Sugar for Industrial Use	18	Confectionery products
4.	Britania allied industries limited	1701.99.10	Sugar for Industrial Use	9346	Confectionery products. Soft drinks
5.	Britania products (U) ltd	1701.99.10	Sugar for Industrial Use	6614.250	Confectionery products
6.	Candika foods (U) ltd	1701.99.10	Sugar for Industrial Use	25	sweets
7.	Century bottling co. Ltd.	1701.99.10	Sugar for Industrial Use	16.668	Soft drinks
8.	Cream of Uganda limited	1701.99.10	Sugar for Industrial Use	25.1	Dairy Products
9.	Crown beverages limited	1701.99.10	Sugar for Industrial Use	6.934	Soft drinks
10.	Delight Uganda limited	1701.99.10	Sugar for Industrial Use	73	Soft beverages
11.	Derma international limited	1701.99.10	Sugar for Industrial Use	20	Beverages
12.	Dolphin foods and beverages Uganda	1701.99.10	Sugar for Industrial Use	21	Soft Beverages
13.	Ever brown bakery	1701.99.10	Sugar for Industrial Use	50	Confectionery products
14.	G.B.K Products (U) Ltd	1701.99.10	Sugar for Industrial Use	10	beverages
15.	Ganaan company limited	1701.99.10	Sugar for Industrial Use	120	Soft beverages
16.	Glennie industries limited	1701.99.10	Sugar for Industrial Use	10	Soft beverages
17.	Great seas	1701.99.10	Sugar for Industrial Use	20	Biscuit Manufacturing
18.	H.K. Industries limited	1701.99.10	Sugar for Industrial Use	25	Confectionery products
19.	Haria food packing (U) limited	1701.99.10	Sugar for Industrial Use	5	Confectionery products
20.	Hariss international ltd	1701.99.10	Sugar for Industrial Use	464	Confectionery products. Soft beverages
21.	Hot loaf bakery ltd	1701.99.10	Sugar for Industrial Use	412	Confectionery products
22.	House of Eden (U) limited	1701.99.10	Sugar for Industrial Use	1319	Soft drinks and water
23.	International bottling co. Ltd	1701.99.10	Sugar for Industrial Use	23	Beverages
24.	Jesa farm diary limited	1701.99.10	Sugar for Industrial Use	28.5	Dairy Products

25.	Joint medical store (upmb - uc	1701.99.10	Sugar for Industrial Use	20	Pharmaceuticals
26.	Kakira sugar works (1985) ltd	1701.99.10	Sugar for Industrial Use	597	sweets
27.	Kampala Pharmaceutical Industries	1701.99.10	Sugar for Industrial Use	78	Pharmaceuticals
28.	Katibisma ltd	1701.99.10	Sugar for Industrial Use	12.5	Soft beverages
29.	Kawempe sweets limited	1701.99.10	Sugar for Industrial Use	246	Confectionery products
30.	Kfd nutrition limited	1701.99.10	Sugar for Industrial Use	5	Confectionery products
31.	Kookee Industries	1701.99.10	Sugar for Industrial Use	145	Ice-Cream
32.	London Distillers Uganda ltd	1701.99.10	Sugar for Industrial Use	10	Alcoholic Beverages
33.	Mac dough foods (U) ltd	1701.99.10	Sugar for Industrial Use	24	Soft Beverages
34.	Marika africa sweets limited	1701.99.10	Sugar for Industrial Use	237.63	Confectionery products
35.	Mazima group ltd	1701.99.10	Sugar for Industrial Use	206	Confectionery products
36.	MBS fruit agencies	1701.99.10	Sugar for Industrial Use	50	Juice and Wines
37.	Meta plus	1701.99.10	Sugar for Industrial Use	243.1	Biscuit
38.	Meta plus (U) ltd	1701.99.10	Sugar for Industrial Use	243.1	Confectionery products
39.	Mukono bakery ltd	1701.99.10	Sugar for Industrial Use	100	Confectionery products
40.	Mukwano industries (U) ltd	1701.99.10	Sugar for Industrial Use	60	Soft beverages and water
41.	Mukwano sweets and confectionaries	1701.99.10	Sugar for Industrial Use	1682	Confectionery products
42.	Muzuri international (U) limited	1701.99.10	Sugar for Industrial Use	25	Confectionery products
43.	Nakasero soap works ltd	1701.99.10	Sugar for Industrial Use	259	sweets
44.	Nile breweries ltd	1701.99.10	Sugar for Industrial Use	983	Beer
45.	Ntake bakery & company ltd	1701.99.10	Sugar for Industrial Use	1500	Confectionery products
46.	Pan Afric commodities limited	1701.99.10	Sugar for Industrial Use	20	Confectionery products
47.	Premier distillers ltd	1701.99.10	Sugar for Industrial Use	30	Alcoholic Beverages
48.	Rainbow industries (U) Ltd.	1701.99.10	Sugar for Industrial Use	15	Ice Cream
49.	Rainbow industries (U) ltd	1701.99.10	Sugar for Industrial Use	17	Ice-cream
50.	Reco industries ltd	1701.99.10	Sugar for Industrial Use	800	Juices
51.	Rene Industries	1701.99.10	Sugar for Industrial Use	64	Pharmaceuticals
52.	Rihan industries ltd	1701.99.10	Sugar for Industrial Use	181	Confectionery products
53.	Sameer agriculture and livestock ltd	1701.99.10	Sugar for Industrial Use	78	Dairy Products
54.	Seven falls beverages limited	1701.99.10	Sugar for Industrial Use	127	Soft beverages
55.	Sunshine diaries ltd	1701.99.10	Sugar for Industrial Use	25	Dairy Products
56.	Terastar company limited	1701.99.10	Sugar for Industrial Use	20	Juices
57.	Tuwereza bakery	1701.99.10	Sugar for Industrial Use	210	Bakery products
58.	Uganda biscuits company limited	1701.99.10	Sugar for Industrial Use	43	Confectionery products
59.	Uganda breweries limited	1701.99.10	Sugar for Industrial Use	1217	Beer
60.	Uganda industrial research inst.	1701.99.10	Sugar for Industrial Use	2	Confectionery products

Legal Notice No. EAC/22/2012.

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004

LEGAL NOTICE

IN EXERCISE of the powers conferred upon the Council of Ministers Section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following Manufacturers to import the specified quantities of completely knocked down (CKD) motor cycles at a duty rate of 10% under the Duty Remission Scheme

APPROVED UGANDA MANUFACTURERS AND QUANTITIES OF COMPLETE KNOCKED DOWN (CKDS)  
MOTORCYCLES TO BE IMPORTED IN 12 MONTHS

S/N	Name of the Company	Tariff No.	Description	Quantity Approved in units	Description of the Finished Product
1	Simon Pure Company (U) Ltd	8711.10.00 8711.20.00 8711.30.00 8711.40.00 8711.90.00	Completely knocked down (CKD) motorcycles	1,500 sets	Motorcycles
2	Top Company (U) Limited	8711.10.00 8711.20.00 8711.30.00 8711.40.00 8711.90.00	Completely knocked down (CKD) motorcycles	1,500 sets	Motorcycles
3	Blue Africa Limited	8711.10.00 8711.20.00 8711.30.00 8711.40.00 8711.90.00	Completely knocked down (CKD) motorcycles	500 sets	Motorcycles
4	Dura Motors Ltd	8711.10.00 8711.20.00 8711.30.00 8711.40.00 8711.90.00	Completely knocked down (CKD) motorcycles	10,000 sets	Motorcycles
5	Jincheng International Motors Uganda Ltd	8711.10.00 8711.20.00 8711.30.00 8711.40.00 8711.90.00	Completely knocked down (CKD) motorcycles	3,000 sets	Motorcycles
6	Leader (U) Ltd	8711.10.00 8711.20.00 8711.30.00 8711.40.00 8711.90.00	Completely knocked down (CKD) motorcycles	8,000 sets	Motorcycles
7	Schima Group Limited	8711.10.00 8711.20.00 8711.30.00 8711.40.00 8711.90.00	Completely knocked down (CKD) motorcycles	500 sets	Motorcycles

HON. MUSA C. SIRMA  
Chairperson, Council of Ministers.



## EAST AFRICAN COMMUNITY

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Legal Notice No. EAC/24/2013.

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004

LEGAL NOTICE

IN EXERCISE of the powers conferred upon the Council of Ministers by section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following manufacturers to import the specified quantities of sugar for industrial use at a duty rate of 10% under the Duty Remission Scheme.

APPROVED KENYA MANUFACTURERS AND QUANTITIES OF SUGAR FOR INDUSTRIAL USE TO BE IMPORTED AT A DUTY RATE OF 10% IN TWELVE MONTHS:

<i>No.</i>	<i>Company</i>	<i>Tariff No.</i>	<i>Description</i>	<i>Quantity allocated in Metric Tonnes</i>	<i>Description of the finished products</i>
1	Highlands Mineral Water Co. Limited	1701.99.10	Sugar for Industrial Use	3,650	Cordials & ready to drink
2	Kenafic Industries Limited	1701.99.10	Sugar for Industrial Use	10,000	Confectionery
3	Tri Clover Industries (K) Limited	1701.99.10	Sugar for Industrial Use	150	Icing sugar, caster sugar, sauce, cordials & ketchup
4	Kevian Kenya Limited	1701.99.10	Sugar for Industrial Use	2860	juice

HON SHEM BAGEINE,  
Chairperson, Council of Ministers.

Arusha, Tanzania  
May, 2013.

Legal Notice No. EAC/25/2013.

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004

LEGAL NOTICE

IN EXERCISE of the powers conferred upon the Council of Ministers by section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following manufacturer to import the specified quantities of duplex boards at a duty rate of 0% under the Duty Remission Scheme.

APPROVED KENYA MANUFACTURERS AND QUANTITIES OF DUPLEX BOARDS TO BE IMPORTED AT A DUTY RATE OF 0% IN TWELVE MONTHS:

<i>No.</i>	<i>Name of the Company</i>	<i>Tariff No.</i>	<i>Description</i>	<i>Quantity allocated in Metric Tonnes</i>	<i>Description of the finished products</i>
1	Associated paper and stationery Limited	4810.92.00	Duplex Boards	50	Exercise books
2	Match Master Limited	4810.92.00	Duplex Boards	1,800	Safety matches

HON SHEM BAGEINE,  
*Chairperson, Council of Ministers.*

Arusha, Tanzania,  
May, 2013.

Legal Notice No. EAC/26/2013.

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004

LEGAL NOTICE

IN EXERCISE of the powers conferred upon the Council of Ministers by section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following manufacturers to import the specified quantities of paper for manufacture of text and exercise books at a duty rate of 0% under the Duty Remission Scheme.

APPROVED KENYA MANUFACTURERS AND QUANTITIES OF PAPER TO BE IMPORTED AT A DUTY RATE OF 0% IN TWELVE MONTHS:

No.	Name of the Company	Tariff No.	Description	Quantity allocated in Metric Tonnes	Description of the finished products
1	Twiga stationers & printers Limited	4802.55.00	Woodfree paper	12,000	Exercise Books
2	Printwell Industries Limited	4802.55.00	Bond paper in reels	2,000	Text books
		4802.58.00	Bond Paper	400	Text books
		4802.13.00	Chip board	500	Medical Packaging
		4810.19.00	Art paper	400	Text books
		4810.92.00	Cover boards	500	Text books
		4802.57.00	Bond paper sheets	1,000	Text books
3	Printwell Papercraft Limited	4802.55.00	Wood free paper	4,650	Text books
		4802.58.00	Cover boards	651	Text books
4	Colourprint Limited	4802.55.00	Bond paper in reels	1,000	Text books
		4802.29.00	Bond paper	1,000	Text books
		4810.13.00	Chipboard	1,000	Medical packaging
		4810.19.00	Cover board	1,000	Text books
		4802.57.00	Bond paper sheets	2,000	Text books
5	Francisian Kolbe Printing Press	4802.55.00	Bond paper	250	Text books
		4810.92.00	Cover board	130	Text books
		4810.19.00	Art paper	100	Text books
6	Associated Paper and Stationery Limited	4801.00.90	Newsprint	1,000	Exercise books
		4802.55.00	Wood free	700	Exercise books
7	Paper converters Limited	4802.55.00	Wood free	1,500	Text books
		4810.13.00	Cover board	200	Text books
		4801.00.90	Newsprint	600	Text books
8	Safari Stationers (K) Limited	4801.00.90	Newsprint	1,000	Exercise books
		4804.21.00	Cover paper	200	Exercise books
		4802.58.00	Manilla paper	100	Exercise books
		4802.55.00	Wood free	1,000	Exercise books
		4807.00.00	White lined chipboard	700	Exercise books

Arusha, Tanzania,  
May, 2013

HON SHEM BAGEINE,  
Chairperson, Council of Ministers.

Legal Notice No. EAC/27/2013.

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004

LEGAL NOTICE

IN EXERCISE of the powers conferred upon the Council of Ministers by section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following manufacturers to import the specified quantities of Completely Knocked Down (CKD) kits for motor cycles at a duty rate of 10% under the Duty Remission Scheme for twelve months.

APPROVED KENYA MANUFACTURERS AND QUANTITIES OF COMPLETELY KNOCKED DOWN KITS (CKD) FOR MOTORCYCLES TO BE IMPORTED AT A DUTY RATE OF 10% IN TWELVE MONTHS:

No.	Name of the Company	Tariff No.	Description	Quantity allocated in sets	Description of the finished products
1	BMG Holdings Limited	8711.20.00	Unassembled Kits for Motor Cycles	7,000	Motor Cycles
2	Soroya Motors Spares Limited	8711.20.00	Unassembled Kits for Motor Cycles	8,000	Motor Cycles
3	Alamadar Trading Company Limited	8711.20.00	Unassembled Kits for Motor Cycles	2,000	Motor Cycles
4	Sky Jet Kenya Limited	8711.20.00	Unassembled Kits for Motor Cycles	10,000	Motor Cycles
5	Tasha Enterprises (K) Limited	8711.20.00	Unassembled Kits for Motor Cycles	15,000	Motor Cycles

HON SHEM BAGEINE,  
Chairperson, Council of Ministers.

Arusha, Tanzania  
May, 2013.

Legal Notice No. EAC/28/2013.

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004

LEGAL NOTICE

IN EXERCISE of the powers conferred upon the Council of Ministers by section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following manufacturer to import the specified quantities of raw materials for the manufacture of leaf springs and assemblies at a duty rate of 0% under the Duty Remission Scheme for twelve months.

APPROVED KENYA MANUFACTURER AND QUANTITIES OF RAW MATERIALS FOR THE MANUFACTURE OF LEAF SPRINGS AND ASSEMBLIES TO BE IMPORTED AT A DUTY RATE OF 0% IN TWELVE MONTHS:

<i>No.</i>	<i>Gazetted user/firm</i>	<i>Tariff No.</i>	<i>Description</i>	<i>Quantity allocated in Metric Tonnes</i>	<i>Description of the finished products</i>
1	Auto Spring Manufacturers Limited	7228.30.00	Spring steel flat bar	1,300MT	Leaf springs & Assemblies
		7228.50.00	Cold drawn round & hexagon bars	60MT	Bolts, nuts & wheel studs springs pins

HON SHEM BAGEINE,  
Chairperson, Council of Ministers.

Arusha, Tanzania  
May, 2013.

Legal Notice No. EAC/29/2013.

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004

LEGAL NOTICE

IN EXERCISE of the powers conferred upon the Council of Ministers by section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following manufacturers to import the specified quantities of sugar for the manufacture of goods for export at a duty rate of 0% under the Duty Remission Scheme.

**APPROVED KENYA MANUFACTURERS AND QUANTITIES OF SUGAR FOR MANUFACTURE OF GOODS FOR EXPORT TO BE IMPORTED AT A DUTY RATE OF 0% IN TWELVE MONTHS:**

<i>No.</i>	<i>Gazetted user/firm</i>	<i>Tariff No.</i>	<i>Description</i>	<i>Quantity allocated in Metric Tonnes</i>	<i>Description of the finished products</i>
1	Highlands Mineral Water Co. Limited	1701.99.10	Sugar for Industrial Use	400	Cordials & ready to drink
2	Kenafic Industries Limited	1701.99.10	Sugar for Industrial Use	15,000	Confectionery
3	Kevian Kenya Limited	1701.99.10	Sugar for Industrial Use	640	Juice
4	Nestle Kenya Limited	1701.99.10	Sugar for Industrial Use	400	Milo cerealac

The sale of the above finished products shall be subject to the following condition:

In the event that such goods are sold in the Customs territory (EAC), such goods shall attract duties, levies and other charges provided in the EAC Common External Tariff.

HON SHEM BAGEINE,  
Chairperson, Council of Ministers.

Arusha, Tanzania  
May, 2013.

Legal Notice No. EAC/30/2013.

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004

LEGAL NOTICE

IN EXERCISE of the powers conferred upon the Council of Ministers by section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following manufacturers to import the specified quantities of duplex board for the manufacture of goods for export at a duty rate of 0% under the Duty Remission Scheme.

APPROVED KENYA MANUFACTURERS AND QUANTITIES OF DUPLEX BOARDS FOR MANUFACTURE OF GOODS FOR EXPORT TO BE IMPORTED AT A DUTY RATE OF 0% IN TWELVE MONTHS:

<i>No.</i>	<i>Name of the Company</i>	<i>Tariff No.</i>	<i>Description</i>	<i>Quantity allocated in Metric Tonnes</i>	<i>Description of the finished products</i>
1	Match Master Limited	4810.92.00	Duplex Boards	1,800	Safety matches
2	Printwell Papercraft Limited	4810.92.00	Duplex Boards	1,000	Cartons

The sale of the above finished products shall be subject to the following condition:

In the event that such goods are sold in the Customs territory (EAC), such goods shall attract duties, levies and other charges provided in the EAC Common External Tariff.

HON SHEM BAGEINE,  
Chairperson, Council of Ministers.

Arusha, Tanzania  
May, 2013

Legal Notice No. EAC/31/2013.

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004

LEGAL NOTICE

IN EXERCISE of the powers conferred upon the Council of Ministers by section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following manufacturers to import the specified quantities of paper for the manufacture of goods for export at a duty rate of 0% under the Duty Remission Scheme.

APPROVED KENYA MANUFACTURERS AND QUANTITIES OF GOODS FOR EXPORT TO BE IMPORTED AT A DUTY RATE OF 0% IN TWELVE MONTHS:

No.	Name of the Company	Tariff No.	Description	Quantity allocated in Metric Tonnes	Description of the finished products
1	Printwell Industries Limited	4802.55.00	Bond paper in reels	2,000	Text books
		4802.58.00	Bond Paper	400	Text books
		4802.13.00	Chip board	500	Medical Packaging
		4810.19.00	Art paper	400	Text books
		4810.92.00	Cover boards	500	Text books
		4802.57.00	Bond paper sheets	1,000	Text books
2	Printwell Papercraft Limited	4802.55.00	Wood free paper	4,650	Text books
		4802.58.00	Cover boards	651	Text books
3	Colourprint Limited	4802.55.00	Bond paper in reels	1,000	Text books
		4802.29.00	Bond paper	1,000	Text books
		4810.13.00	Chipboard	1,000	Medical packaging
		4810.19.00	Cover board	500	Text books
		4810.19.00	Art Paper	1,000	Calenders
		4802.57.00	Bond paper sheets	500	Text books
4	Francisian Kolbe Printing Press	4802.55.00	Bond paper	111	Text books
		4810.92.00	Cover board	20	Text books
		4810.19.00	Art paper	90	Text books

The sale of the above finished products shall be subject to the following condition:

In the event that such goods are sold in the Customs territory (EAC), such goods shall attract duties, levies and other charges provided in the EAC Common External Tariff.

HON SHEM BAGEINE,  
Chairperson, Council of Ministers.

Arusha, Tanzania,  
May, 2013.

Legal Notice No. EAC/32/2013.

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004

LEGAL NOTICE

IN EXERCISE of the powers conferred upon the Council of Ministers by section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following manufacturers to import the specified quantities of goods for the manufacture of goods for export at a duty rate of 0% under the Duty Remission Scheme.

**APPROVED KENYA MANUFACTURERS AND QUANTITIES OF GOODS FOR EXPORT TO BE IMPORTED AT A DUTY RATE OF 0% IN TWELVE MONTHS:**

No.	Name of the Company	Tariff No.	Description	Quantity allocated	Description of the finished products
1	Twiga Chemicals industries Limited	2309.90.00	Diculcium phosphate	109,500kgs	Animal supplement
		2309.90.00	Kimtrafos	40,000kgs	Animal supplement
		2309.90.00	Kalori	62,250kgs	Animal supplement
		3402.13.00	Nonylphenol NP8	100,000kgs	Wetting agent
		3402.13.00	Nonylphenol NP13	10,000kgs	Insecticide
		3402.90.00	Brenspec CA	6,000kgs	Insecticide
		3707.90.00	Solvents	60,000kgs	Insecticide
		3402.11.00	Iso-proyl alcohol	11,000kgs	Wetting agent
		7010.90.00	Amber glass bottles	110,000kgs	Packing acaricides
		3923.30.00	Pet/coex/fluorinated HDPE bottles	14,000kgs	Packaging
		3920.10.90	Packaging Sheets	20,000kgs	Packing insecticide
		3923.29.00	Packaging pouches	20,000kgs	Packing insecticide
		4821.90.00	Hologram stickers	300kgs	Stickers
		1404.90.00	Coconut shell powder	50,000kgs	Insecticide
		4819.10.00	Cartons	52,500kgs	Insecticides
7310.29.10	Aerosol cans	18,500kgs	Insecticide		
2	ASL Limited	4805.25.00	White top	150,000kgs	Cartons
		4804.39.00	Brown kraft	100,000kgs	Cartons
		4805.11.00	Fluting	100,000kgs	Cartons
		4804.41.00	Testliner	100,000kgs	Cartons
3	Nini Limited	3923.29.00	Flower Sleeves	42,000kgs	Flowers
4	James Finlay (K) Limited	3923.30.00	Aroma drums	60,000kgs	Tea
		2101.20.00	Aroma	200,000kgs	Tea
		2101.20.00	Instant tea powder	100,000kgs	Tea
		3923.10.00	Plastic pails	15,000kgs	Tea
5	James Finlay (Mombasa) Limited	4819.30.00	Paper sacks	282,800kgs	Tea
		3921.19.90	Packets	12,000kgs	Tea
		3921.19.90	Reels	18,000kgs	Tea
		4819.10.00	Cartons	70,000kgs	Tea

6	Kenafric Industries Limited	4811.60.90	Waxed wrapper	300,000kgs	Confectionery
7	Keitt exporters Limited	3923.90.90	Pun nets	15,000kgs	Vegetables
8	Sotik tea company Limited	4819.30.00	Tea packs	72,900kgs	Tea
9	Sotik Highlands Tea Estate Limited	4819.30.00	Tea packs	45,000kgs	Tea
10	Nice exporters Limited	4819.10.00	Corrugated boxes	31,500kgs	Avocados
11	Multi-plan investment Limited	4804.11.00	Kraftliner	230,000kgs	Cartons &SFK
		4805.24.00	Testliner	530,000kgs	Cartons &SFK
		4805.12.00	Fluting	1,730,000kgs	Cartons &SFK
		4804.39.00	White top kraftliner	830,000kgs	Cartons &SFK
12	Ol- Njorowa Limited	4819.10.00	Cartons	129,000kgs	Flowers
		4804.11.00	SFK	65,000kgs	Flowers
13	PJ Dave Flowers Limited	4819.10.00	Cartons	400,000kgs	Flowers
		4819.11.00	SFK paper	100,000kgs	Flowers
		3923.29.00	Sleeves	8,000kgs	Flowers
14	Kariki Limited	4819.10.00	Cartons	66,500kgs	Flowers
15	Dune Packaging Limited	4810.31.00	Kraft paper	300MT	Paper bags
		4804.19.90	PP bleached kraft	300MT	Paper bags
		4804.19.90	Supra kraft	400MT	Paper bags
16	Nestle Kenya Limited	0402.10.00	Full cream milk powder	851,204kgs	Milo cerelac
17	Kakuzi Limited	4819.10.00	Cartons	375,000kgs	Avocados
18	Desbro Engineering Limited	7305.90.00	Ss tubes and pipes	300,000kgs	Ss tanks & silos
		7222.30.00	Ss bars	50,000kgs	Ss tanks & silos
		7307.19.00	Ss pipes, tubes & solids	150,000kgs	Ss tanks & silos
		7307.23.00	Ss fittings- butterfly valves	25,000kgs	Ss tanks & silos
		7307.29.00	Ss fittings- non return valves	25,000kgs	Ss tanks & silos
		8481.80.00	Ss fittings- valves	10,000kgs	Ss tanks & silos
		8484.10.00	Ss fittings- gaskets & others	5,000kgs	Ss tanks & silos
		7307.22.00	Ss fittings- bends, teas, union etc	50,000kgs	Ss tanks & silos
		7220.90.00	Ss sheets	75,000kgs	Ss tanks & silos
19	Wilham Kenya Limited	3923.90.90	Pun nets	56,000kgs	Vegetables
20	Bigot Flowers (K) Limited	4819.10.00	Cartons	300,000kgs	Flowers
		4804.30.00	SFK	250,000kgs	Flowers
21	Patco Industries Limited	3302.10.00	Liquid flavors	20,000lgs	Candies and lollipop
22	General Printers Limited	4822.90.00	Paper cores	20MT	Packaging materials
		3506.99.00	Isocyanates	71MT	Packaging materials
		3506.91.00	Adhesive	80MT	Packaging materials
23	Dodhia Packaging Limited	4804.39.00	White top k. liner	1,500,000kgs	Cartons
24	Primarosa Flowers Limited	4819.10.00	Cartons	1,500,000kgs	Flowers
		4804.51.00	Kraft liner	400,000kgs	Flowers
		3919.90.90	Sleeves	5,000,000kgs	Flowers

25	Printwell Papercraft Limited	4804.11.00	Kraft liner	500MT	Cartons
		4805.24.00	Test liner	500MT	Cartons
26	Maridadi Flowers Limited	3923.29.00	Sleeves	72,000kgs	Flowers
27	Tropiflora Limited	4819.10.00	Cartons	90MT	Flowers
		3923.90.90	Sleeves	10.8MT	Flowers
28	Quickpack Limited	4804.11.00	Kraft liner	800,000kgs	Cartons
		4805.24.00	Testliner	300,000kgs	Cartons
		4805.11.00	Fluting medium	800,000kgs	Cartons
29	Karen Roses Limited	4819.10.00	Cartons	200,000kgs	Flowers
		4804.11.00	SFK	300,000kgs	Flowers
30	West Coast Oil (East Africa) Limited	1511.90.30	RBD palm olein	10,000MT	Cooking oil
31	Enkasiti Flowers Growers Limited	4819.10.00	Cartons	225,000kgs	Flowers
		3923.90.90	Sleeves	20,000kgs	Flowers
		5305.00.00	Cocopeat	500,000MT	Flowers
		4804.11.00	SFK	200,000kgs	Flowers
32	Zena Roses Limited	3923.90.90	Sleeves	26,100kgs	Flowers
		4819.10.00	Cartons	204,000kgs	Flowers
		4804.11.00	SFK	110,000kgs	Flowers
33	Van Rees B.V. Limited	4819.40.00	Tea paper sacks	179,228kgs	Tea
34	Sanpac Africa Limited	3920.10.10	BOPP	100,000kgs	Sleeves
35	Maisha Mabati Mills Limited	3810.10.00	Galva Flux	264MT	Galvanised and coloured sheets
36	Myner Exports Limited	4819.10.00	Cartons	85,000kgs	Fresh produce
		3923.90.90	Pun nets	15,000kgs	Fresh produce
37	Lolomarik Limited	4819.10.00	Cartons	180,000kgs	Flowers
38	Bobmill Industries Limited	3920.20.10	Unprinted Polythene film	150,000kgs	Flower sleeves

The sale of the above finished products shall be subject to the following condition:

In the event that such goods are sold in the Customs territory (EAC), such goods shall attract duties, levies and other charges provided in the EAC Common External Tariff.

HON SHEM BAGEINE,  
Chairperson, Council of Ministers.

Arusha, Tanzania,  
May, 2013.

Legal Notice No. EAC/33/2013.

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004

LEGAL NOTICE

IN EXERCISE of the powers conferred upon the Council of Ministers by section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following manufacturers to import the specified quantities of paper for manufacture of text and exercise books at a duty rate of 0% under the Duty Remission Scheme.

APPROVED TANZANIA MANUFACTURERS AND QUANTITIES OF PAPER TO BE IMPORTED AT A DUTY RATE OF 0% IN TWELVE MONTHS:

<i>S/N</i>	<i>Name of the Company</i>	<i>HS Codes</i>	<i>Description of Item</i>	<i>Quantity Allocated in Metric Tons</i>	<i>Finished Product</i>
1.	Tanzania Printing Services	4802.55.00	Woodfree Paper	1,000	Excise books & Text books
		4801.00.90	Newsprint	5,000	
		4802.56.00	Wood free Paper	400	
		4802.57.00	Wood free Paper	300	
		4802.58.00	Cover paper	300	
		4804.34.00	Cover paper	200	
		4804.59.00	Cover paper	200	
		4810.19.00	Cover paper	150	
		4810.99.00	Cover paper	400	
2.	Five Star Printers Limited	4802.55.00	Woodfree Paper	2,400	Excise books
		4801.00.90	Newsprint	1,800	
		4804.31.00	Cover paper	500	
		4804.59.00	Cover paper	300	
		4810.19.00	Cover paper	1,100	
3.	Euro Printing & Packaging Limited	4802.55.00	Woodfree paper	200	Excise books
		4801.00.90	News print	500	
		4804.19.90	Cover paper	60	
		4804.39.00	Cover paper	20	
		4810.19.00	Cover paper	20	
		4802.58.00	Cover paper	20	
		4804.39.00	Cover paper	100	
		4802.55.00	Wood free paper	50	
4.	Jamana Printers Limited	4802.55.00	Wood free paper	3,600	Excise books
		4802.57.00	Wood free paper	1,000	
		4810.13.00	Book cover	600	
		4810.19.00	Book cover	600	
		4801.00.90	News print	8,400	
		4804.19.90	Cover paper	500	
		4804.39.00	Cover paper	200	
		4804.59.00	Cover paper	120	
		4802.58.00	Cover paper	350	

5.	Jumbo Packaging Printing Industries Limited	4801.00.90	News print	3,000	Excise books	
		4804.39.00	Cover paper	600		
6.	Tanzania Printers Limited	4802.57.00	Wood free paper	2,250		
		4802.55.00	Wood free paper	750		
		4810.19.00	Wood free paper	525		
		4810.99.00	Cover paper	375		
7.	Colour Print Tanzania Limited	4802.55.00	Wood free paper	200		Text Books
		4802.57.00	Wood free paper	800		
		4810.19.00	Cover paper	400		
		4810.99.00	Cover paper	200		
8.	Afro Plus Industries Limited	4802.57.00	Wood Free Paper	360	Text Books	
		4802.55.00	Bond paper	60		
		4810.99.00	Cover book	30		
		4801.00.00	News print	30		
9.	Simba Paper Convertors	4801.00.90	News print	2,400	Text Books	
		4802.55.00	Wood free paper	250		
		4810.99.00	Cover paper	100		
		4804.59.00	Cover paper	400		
		4804.31.00	Cover paper	400		
10.	Yombe Printing Company Limited	4801.00.90	News print	600	Excise books	
		4802.55.00	Wood free paper	506		
		4804.59.00	Cover paper	182		
		4804.39.00	Cover paper	250		

HON SHEM BAGEINE  
Chairperson Council of Ministers

Arusha, Tanzania  
May, 2013

Legal Notice No. EAC/34/2013.

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004

LEGAL NOTICE

IN EXERCISE of the powers conferred upon the Council of Ministers by section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following manufacturer to import the specified quantities of duplex boards at a duty rate of 0% under the Duty Remission Scheme.

APPROVED TANZANIA MANUFACTURER AND QUANTITIES OF DUPLEX BOARDS TO BE IMPORTED AT A DUTY RATE OF 0% IN TWELVE MONTHS:

<i>S/N</i>	<i>Name of Company</i>	<i>HS Codes</i>	<i>Description of item</i>	<i>Quantity Allocated in kgs</i>	<i>Finished Product</i>
1.	Alfa Match Industries Limited	4810.92.00	Duplex Boards-Multiply	1,080,000 kgs	Match Boxes

HON SHEM BAGEINE,  
Chairperson, Council of Ministers.

Arusha, Tanzania  
May, 2013.

Legal Notice No. EAC/35/2013.

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004

## LEGAL NOTICE

IN EXERCISE of the powers conferred upon the Council of Ministers by section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following manufacturers to import the specified quantities of Completely Knocked Down (CKD) kits for motor cycles at a duty rate of 10% under the Duty Remission Scheme for twelve months.

## APPROVED TANZANIA MANUFACTURERS AND QUANTITIES OF COMPLETELY KNOCKED DOWNKITS (CKD) FOR MOTORCYCLES TO BE IMPORTED AT A DUTY RATE OF 10% IN TWELVE MONTHS

S/N	Name of Company	HS Codes	Description of item	Quantity Allocated (units)	Finished Product
1.	Kahama Import & Export Commercial Agency	8711.10.90	Completely Knocked down motor cycles(CKD)	10,000	Motorcycles
		8711.20.90			
		8711.30.90			
		8711.40.90			
		8711.50.90			
		8711.90.00			
2.	Kishan Enterprises Limited	8711.10.90	Completely Knocked down motor cycles(CKD)	7,200	Motorcycles
		8711.20.90			
		8711.30.90			
		8711.40.90			
		8711.50.90			
		8711.90.00			
3.	Kiboko Machinery	8711.10.90	Completely Knocked down motor cycles(CKD)	25,000	Motorcycles
		8711.20.90			
		8711.30.90			
		8711.40.90			
		8711.50.90			
		8711.90.00			

HON SHEM BAGEINE,  
Chairperson, Council of Ministers.

Arusha, Tanzania  
May, 2013.

Legal Notice No. EAC/36/2013.

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004

LEGAL NOTICE

IN EXERCISE of the powers conferred upon the Council of Ministers by section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following manufacturer to import the specified quantities of inputs used in assembly of transformers and switch gears at a duty rate of 0% under the Duty Remission Scheme for twelve months.

**APPROVED TANZANIA MANUFACTURER AND QUANTITIES OF INPUTS USED IN ASSEMBLY OF TRANSFORMERS AND SWITCH GEARS.**

**APPROVED COMPANY: Tanelec Limited**

<i>Item No</i>	<i>HS Codes</i>	<i>Description of item</i>	<i>Quantity Allocated in kg/u/m</i>	<i>Finished Product</i>
<b>Transformers</b>				
	35.05	Dextrins and other modified starches (for example, pregelatinised or esterified starches); glues based on starches, or on dextrins or other modified starches.		Transformers
0001	3905.20.00	Wood glue	10,000 kgs	
	32.14	Glaziers' putty, grafting putty, resin cements, caulking compounds and other mastics; painters' fillings; non-refractory surfacing preparations for façades, indoor walls, floors, ceilings or the like.		
0001	3214.90.00	Silicone sealant	6,000 kgs	
	39.19	Self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics, whether or not in rolls.		
0001	3919.90.90	Adhesive tapes for EPDM Sealant	70,000 m	
	40.08	Plates, sheets, strip, rods and profile shapes, of vulcanised rubber other than hard rubber.		
0001	4008.11.00	EPDM Sealant strips	70,000 m	
	85.44	Insulated (including enamelled or anodised) wire, cable (including co-axial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fibre cables, made up of individually sheathed fibres, whether or not assembled with electric conductors or fitted with connectors		
0001	8544.11.00	Winding wire of copper	600,000 kgs	
	74.09	Copper plates, sheets and strip, of a thickness exceeding 0.15 mm.		
0001	7409.11.00	Refined copper in coils	50,000kgs	
	76.06	Aluminum plates, sheets and strip, of a thickness exceeding 0.2 mm.		
0001	7606.11.00	Aluminium foil(sheet)	210,000 kgs	
	74.13	Stranded wire, cables, plaited bands and the like, of copper, not electrically insulated.		
0001	7413.00.90	Stranded wire	3,500 kgs	
	76.04	Aluminium bars, rods and profiles.		
0001	7604.10.00	Aluminium bars and profiles	15,000 kgs	
	32.08	Paints and varnishes (including enamels and lacquers) based on synthetic polymers or chemically modified natural polymers, dispersed or dissolved in a non-aqueous medium; solutions as defined in Note 4 to this Chapter.		
0001	3208.10.00	Powder Paint	60,000 kgs	

	45.03	Articles of natural cork	
0001	4503.90.00	Cork gasket	10,000 m
	48.04	Uncoated kraft paper and paperboard, in rolls or sheets, other than that of heading 48.02.48.03	
0001	4804.11.00	Diamond dotted paper	90,000 kgs
0002	4804.11.00	Press board	75,000 kgs
0003	4804.11.00	Press paper	65,000 kgs
0004	4804.11.00	Crepe tube	200,000 m
0005	4804.11.00	Strips	65,000 kgs
0007	4804.11.00	Duct spacing	15,000 kgs
0008	4804.11.00	Crepe pad	10,000 kgs
	48.23	Other paper, paperboard, cellulose wadding and webs of cellulose fibres, cut to size or shape, other articles of paper pulp, paperboard, cellulose wadding or webs of cellulose fibres	
0001	4823.70.90	Corrugated board	20,000 kgs
0002	4823.70.90	Duct Spacing	15,000 kgs
	44.13	Densified wood, in blocks, plate, strips or profile shapes	
	4413.00.00	Dehonit sheets	4,500 kgs
	85.46	Electrical insulators of any material	
0001	8546.20.00	Other	50,000 u
0002	8546.90.00	ceramic	50,000 u
	72.09	Flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, cold-rolled (cold-reduced), not clad, plated or coated.	
	7209.90.00	Cooling fins	6,000 u
	72.15	Other bars and rods of iron or non-alloy steel.	
0001	7215.90.00	Flat Steel	10,000 kgs
0002	7215.90.00	Round Steel	15,000 kgs
	72.16	Angles, shapes and sections of iron or non-alloy steel.	
0001	7216.50.50	Angle bar	7,000 kgs
0002	7216.50.00	U Section	5,000 kgs
	72.22	Other bars and rods of stainless steel; angles, shapes and sections of stainless steel.	
0001	7222.19.00	Non-magnetic plate	3,000 kgs
		Flat-rolled products of other alloy steel, of a width of 600 mm or more.	
0001	7225.11.00	Cold rolled grain oriented electrical steel	2,000,000 kgs
	73.18	Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter-pins, washers (including spring washers) and similar articles, of iron or steel.	
0001	7318.15.00	Bolt, screws, washers & nuts	1,200,000 u
	82.08	Knives and cutting blades, for machines or for mechanical appliances.	
0001	8208.10.00	For metal working	3,000 u
0002	8208.20.00	For wood working	3,000 u
0003	8208.90.00	other	3,000 u
	84.14	Air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters.	
0001	8414.90.00	Parts	3,000 u
0002	8414.10.00	Vacuum pumps	10,000 u
0003	8414.59.00	Other	5,000 u

	84.24	Mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines.		
0001	8424.90.00	parts	2,000 u	
	83.10	Sign-plates, name-plates, address-plates and similar plates, numbers, letters and other symbols, of base metal, excluding those of heading 94.05.		
0001	8310.00.00	Name plate	8,000 u	
0002	8310.00.00	Phase signs	25,000 u	
	84.81	Taps, cocks, valves and similar appliances for pipes, boiler shells, tanks, vats or the like, including pressure-reducing valves and thermostatically controlled valves.		
0001	8481.90.00	Parts	15,000 u	
	84.84	Gaskets and similar joints of metal sheeting combined with other material or of two or more layers of metal; sets or assortments of gaskets and similar joints, dissimilar in composition, put up in pouches, envelopes or similar packings; mechanical seals.		
0001	84.84.10.00	Gaskets and similar joints of metal sheeting combined with other material or of two or more layers of metal	7,000 kgs	
	48.11	Paper, paperboard, cellulose wadding and webs of cellulose fibres, coated, impregnated, covered, surface-coloured, surface-decorated or printed, in rolls or rectangular (including square) sheets, of any size, other than goods of the kind described in heading 48.03, 48.09 or 48.10.		
0001	4811.41.90	Electrical tape	2,000 kgs	
	84.21	Centrifuges, including centrifugal dryers; filtering or purifying machinery and apparatus, for liquids or gases.		
0001	8421.39.00	Other	2,000 kgs	
	39.26	Other articles of plastics and articles of other materials of headings 39.01 to 39.14		
0001	3926.90.90	Cable Ties	75,000	
	82.02	Hand saws, blades for saws of all kinds( including slitting, slotting or toothless saw blades)		
0001	8202.20.00	Band saw blades	150 kgs	
0002	8202.31.00	Circular saw blades-with working part of steel	150 kgs	
	82.04	Hand operated spanners and wrenches( including torque meter wrenches but not including tap wrenches); interchangeable spanner sockets, with or without handles		
0001	8204.11.00	Non-adjustable	50 kgs	
0002	8204.20.00	Interchangeable spanner sockets, with or without handles	75 kgs	
<b>SWITCHGEAR</b>				
	85.44	Insulated (including enameled or anodized) wire, cable (including co-axial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fibre cables, made up of individually sheathed fibres, whether or not assembled with electric conductors or fitted with connectors		Switch Gears

0001	8544.49.00	Other electric conductors for voltage exceeding 80v but not exceeding 1,000V	180,000 kgs
0002	8544.60.00	Other electric conductors for voltage exceeding 1,000V	70,000 kgs
	85.33	<b>Electrical resistors (including rheostats and potentiometers), other than heating resistors.</b>	
0001	8533.39.00	Other resistors	3,000 u
	85.36	Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits (for example, switches, relays, fuses, surge suppressors, plugs, sockets, lamp-holders and other connectors, junction boxes), for a voltage not exceeding 1,000 volts; connectors for optical fibres, optical fibre bundles or cables.	
0001	8536.10.00	Fuses	3,500 u
0002	8536.20.00	Automatic circuit breaker	35,000 u
0003	8536.30.00	Other apparatus for protecting electrical circuits	21,000 u
0004	8536.41.00	For a voltage not exceeding 60 v	600 u
0005	8536.69.00	Other switches	1,500,000 u
0006	8536.49.00	Other	3,000 u
0007	8536.90.00	Other apparatus	60,000 u
	85.37	<b>Boards, panels, consoles, desks, cabinets and other bases, equipped with two or more apparatus of heading 85.35 or 85.36, for electric control or the distribution of electricity, including those incorporating instruments or apparatus of Chapter 90, and numerical control apparatus, other than switching apparatus of heading 85.17.</b>	
0001	8537.10.00	For a voltage not exceeding 1,000v	18,000 u
	85.38	<b>Parts suitable for use solely or principally with the apparatus of heading 85.35, 85.36 or 85.37.</b>	
0001	8538.10.00	Boards, panels, consoles, desks, cabinets and other bases for the goods of heading 85.37, not equipped with their apparatus	75,000 u
0002	8538.90.00	Other	13,000 u
	85.32	<b>Electrical capacitors, fixed, variable or adjustable (pre-set).</b>	
0001	8532.10.00	Fixed capacitors designed for use in 50/60 Hz circuits and having a reactive power handling capacity of not less than 0.5 kva (power capacitors)	5,000 u
0002	8532.29.00	Other	2,000 u
	85.04	<b>Electrical transformers, static converters (for example, rectifiers) and inductors.</b>	
0001	8504.31.00	Having a power handling capacity not exceeding 1KVA	3,000 u
0002	8504.50.00	Other inductors	1,800 u
0003	8504.90.00	Parts	1,200 u
	85.16	<b>Electric instantaneous or storage water heaters and immersion heaters.</b>	
0001	8516.90.00	Parts	120,000 u
0002	8516.10.00	Electric instantaneous or storage water heaters and immersion heaters	400 u

	72.10	Flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, clad, plated or coated.	
0001	7210.61.00	Plated or coated with aluminium-zinc alloys	120,000/kgs
	73.18	Screws, bolts, nuts, coach screws, screw hooks, rivets, cotters, cotter-pins, washers (including spring washers) and similar articles, of iron or steel.	
0001	7318.14.00	Self-tapping screws	90,000 u
0002	7318.15.00	Other screws and bolts, whether or not with their nuts or washers	150,000 u
0003	7318.16.00	Nuts	225,000 u
0004	7318.21.00	Spring washers and other lock washers	900,000 u
0005	7318.23.00	rivets	45,000 u
	73.17.00.00	Nails, tacks, drawing pins, corrugated nails, staples (other than those of heading 83.05) and similar articles, of iron or steel, whether or not with heads of other material, but excluding such articles with heads of copper	140,000 u
	73.20	Springs and leaves for springs, of iron or steel	
	7320.90.00	Other	900,000 u
	9107.00.00	Wrist-watches, pocket-watches and other watches, including stop-watches, with case of precious metal or of metal clad with precious metal.	200 u
	8310.00.00	Sign-plates, name-plates, address-plates and similar plates, numbers, letters and other symbols, of base metal, excluding those of heading 94.05.	2,000 u
	76.06	Aluminium plates, sheets and strip, of a thickness exceeding 0.2 mm.	
0001	7606.11.00	Of aluminium, not alloyed	1,200,00 kgs
	32.08	Paints and varnishes (including enamels and lacquers) based on synthetic polymers or chemically modified natural polymers, dispersed or dissolved in a non-aqueous medium; solutions as defined in Note 4 to this Chapter.	
0001	3208.10.00	Based on polyesters	2,500 kgs
	83.01	Padlocks and locks	
0001	8301.10.90	Other	2,500 kgs
	68.05	Natural or artificial abrasive powder or grain, on base of textile material, of paper, of paperboard or other materials, whether or not cut to shape or sewn or otherwise made up.	
0001	6805.30.00	On a base of other materials	200 pcs

HON SHEM EAGEINE,  
Chairperson, Council of Ministers.

Arusha, Tanzania  
May, 2013.

1.6

ISSN 000211



# EAST AFRICAN COMMUNITY

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KENAFRIC INDUSTRIES LIMITED

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Legal Notice No. EAC/48/2014.

THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004

LEGAL NOTICE

IN EXERCISE of the powers conferred upon the Council of Ministers by section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following manufacturers to import the specified quantities of sugar for industrial use at a duty rate of 10% under the Duty Remission Scheme.

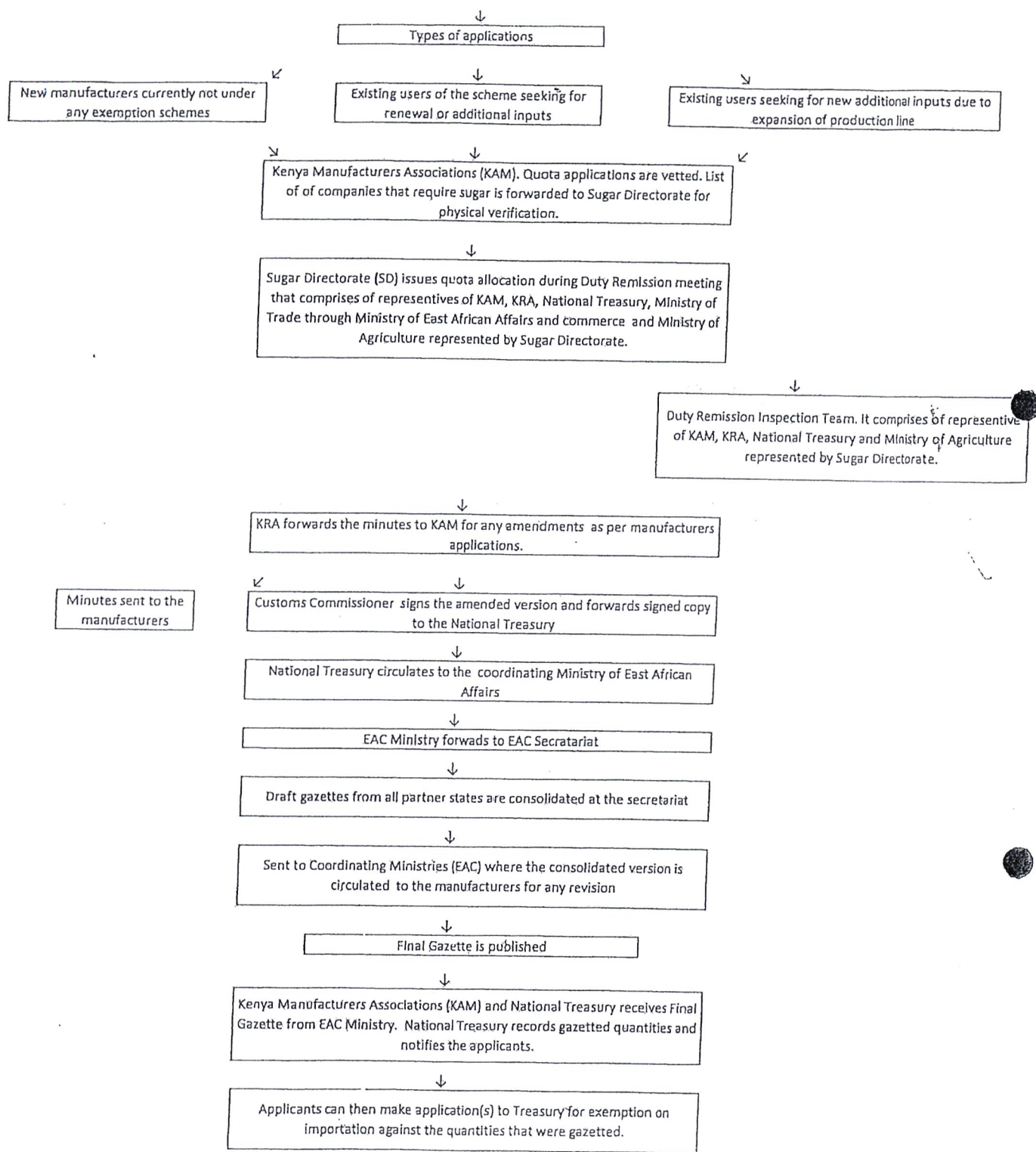
APPROVED KENYA MANUFACTURERS AND QUANTITIES OF SUGAR FOR INDUSTRIAL USE TO BE IMPORTED AT DUTY RATE OF 10% FOR TWELVE MONTHS

No.	Gazetted user/firm	Tariff No.	Description	Quantity allocated in metric Tonnes	Description of the finished products
1	Nairobi Bottlers Limited	1701.99.10	Sugar for industrial use	26,000	Soft drinks
2	Kenafic Industries Limited	1701.99.10	Sugar for industrial use	29,000	Powdered juice, icing sugar, food spices, sweets
3	Premier Food Industries Limited	1701.99.10	Sugar for industrial use	4,000	Syrup, juices, sauces, jams
4	Regal Pharmaceuticals Ltd	1701.99.10	Sugar for industrial use	300	Medicines
5	Trufoods Limited	1701.99.10	Sugar for industrial use	3,000	Juices, tomatoes paste/sauce/ketchup
6	Coastal Bottlers Limited	1701.99.10	Sugar for industrial use	6,500	Soft drinks
7	Equator Bottlers Limited	1701.99.10	Sugar for industrial use	6,000	Soft drinks
8	Mount Kenya Bottlers Limited	1701.99.10	Sugar for industrial use	4,200	Soft drinks
9	Del Monte Kenya Limited	1701.99.10	Sugar for industrial use	300	Processed pineapple products
10	Jetlak Foods Limited	1701.99.10	Sugar for industrial use	3,000	Juices
11	Dawa Limited	1701.99.10	Sugar for industrial use	208	Medicines
12	Kenya Breweries Limited	1701.99.10	Sugar for industrial use	20,000	Beer, non-alcoholic beverages
13	Milly Fruits Processors Limited	1701.99.10	Sugar for industrial use	500	Juices
14	Rift Valley Bottlers Limited	1701.99.10	Sugar for industrial use	5,000	Soft drinks
15	Kisii Bottlers Limited	1701.99.10	Sugar for industrial use	4,500	Soft drinks

HON PHYLLIS KANDIE,  
Chairperson, Council of Ministers.

Arusha, Tanzania  
July, 2014

QUOTA APPLICATION PROCEDURE



Documents attached are:-

1. Duly Filled Application form
2. Schedule of forecast for annual requirements of inputs
3. Schedule indicating present export markets and finished products to be manufactured for export against forecast annual requirements of inputs.
4. Valid tax compliance certificate
5. Tax pin certificate
6. Certificate of Incorporation and
7. If applicable Certificate of Change of Name
8. A detailed production plan processes for the company indicating standard formula for manufacturing, throughout the period and estimated wastes or losses incurred.



## EAST AFRICAN COMMUNITY

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THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004

LEGAL NOTICE

IN EXERCISE the powers conferred upon the Council of Ministers by section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following manufacturers to import the specified quantities of sugar for industrial use at a duty rate of 10% under the Duty Remission Scheme.

APPROVED KENYA MANUFACTURERS AND QUANTITIES OF SUGAR FOR INDUSTRIAL USE AT A DUTY RATE OF 10% FOR TWELVE MONTHS

No.	Gazetted user/firm	Tariff No.	Description	Quantity allocated In Tonnes	Finished products
1	SBC Kenya Ltd	1701.99.10	Sugar for industrial use	1,500	Soft Drinks
2	Del Monte Ltd	1701.99.10	Sugar for industrial use	300	Processed Pineapple
3	Regal Pharmaceuticals	1701.99.10	Sugar for industrial use	300	Human Medicines
4	Mzuri Sweets Ltd	1701.99.10	Sugar for industrial use	8,500	Sweets
5	Victoria Juices Company Ltd	1701.99.10	Sugar for industrial use	900	Juice
6	Jetlak Foods Ltd	1701.99.10	Sugar for industrial use	3,000	Juice
7	Mount Kenya Bottlers Ltd	1701.99.10	Sugar for industrial use	4,200	Soft Drinks
8	Kisii Bottlers Ltd	1701.99.10	Sugar for industrial use	4,500	Soft Drinks
9	Coastal bottlers Ltd	1701.99.10	Sugar for industrial use	6,500	Soft Drinks
10	Candy Kenya Ltd	1701.99.10	Sugar for industrial use	3,000	Sweets, Chewing Gums, Icing Sugar, Caste Sugar, Powdered Juices & Baking Powder
11	Kenafic Industries Ltd	1701.99.10	Sugar for industrial use	29,000	Chewing Gums, Hard Boiled Candies, Lollipop sweets, Toffees, Icing Sugar, Seasoning Powders & Chocolate
12	Dawa Ltd	1701.99.10	Sugar for industrial use	300	Dacof, Dapropfen, Oracef, Stopacid Tablets & Syrups
13	Glaxosmithkline Ltd	1701.99.10	Sugar for industrial use	1,500	Cosmetic, OTC, Food & Pharmaceutical
14	Rift Valley Bottlers Ltd	1701.99.10	Sugar for industrial use	5,000	Soft Drinks
15	Nairobi Bottlers Ltd	1701.99.10	Sugar for industrial use	26,000	Soft Drinks
16	Kenya Breweries Ltd	1701.99.10	Sugar for industrial use	20,000	Beer, ready to drink Alcoholic & non-alcoholic Beverages
17	Trufoods Ltd	1701.99.10	Sugar for industrial use	3,000	Jams Sauces Powders

HON. DR. HARRISON G. MWAKYEMBE (MP).  
Chairperson, Council of Ministers.



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● Approved Kenya Manufacturers and quantities of Glucose Syrup at a duty rate of 0% for twelve months.	No. 52 21
● Approved Kenya Manufacturer and quantities of paper for manufacture of text books and exercise books to be imported at a duty rate of 0% for the period of twelve months	No. 53 22
● Approved Kenya Manufacturer and quantities of Sanitary Pads to be imported at a duty rate of 0% for the period of twelve months	No. 54 24
● Approved Kenya Manufacturers and quantities of Raw Materials for Manufacture of goods for export at a duty rate of 0% for twelve months.	No. 55 25
● Approved Burundi Manufacturers and quantities of Sugar for Industrial Use at a duty rate of 10% for twelve months.	No. 56 29
● Approved Kenya Manufacturers and quantities of Wheat at a duty rate of 10% for twelve months	No. 57 30
● Approved Kenya Manufacturer and quantities of Completely Knocked Down Kits for Motor Cycles at a duty rate of 10% up to 30 <sup>th</sup> June, 2017	No. 58 32

Legal Notice No. EAC/51/2016.

**THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004**

**LEGAL NOTICE**

IN EXERCISE of the powers conferred upon the Council of Ministers by section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following manufacturers to import the specified quantities of sugar for industrial use at a duty rate of 10% under the Duty Remission Scheme.

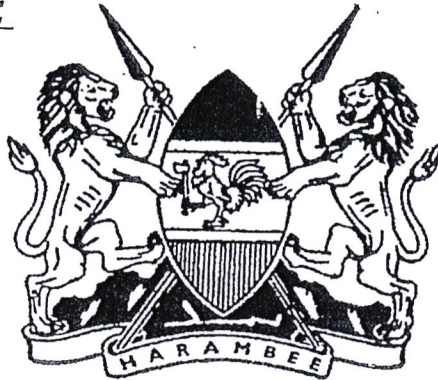
**APPROVED KENYA MANUFACTURERS AND QUANTITIES OF SUGAR FOR INDUSTRIAL USE AT A DUTY RATE OF 10% FOR TWELVE MONTHS.**

<i>No.</i>	<i>Name of Company</i>	<i>Tariff No.</i>	<i>Description</i>	<i>Quantity allocated in metric Tonnes</i>	<i>Description of the finished products</i>
1	Milly Fruit Processors Limited	1701.99.10	Sugar for industrial use	1,500	Juices & Fruit Drinks
2	Kisii Bottlers Limited	1701.99.10	Sugar for industrial use	4,500	Carbonated Soft drinks
3	Del Monte Kenya Limited	1701.99.10	Sugar for industrial use	160	Processed pineapple
4	Mt. Kenya Bottlers Limited	1701.99.10	Sugar for industrial use	4,200	Carbonated Soft drinks
5	Rift Valley Bottlers Limited	1701.99.10	Sugar for industrial use	5,000	Carbonated Soft drinks
6	SBC Kenya Limited	1701.99.10	Sugar for industrial use	1,500	Carbonated Soft drinks
7	Trufoods Limited	1701.99.10	Sugar for industrial use	3,000	Jams, sauces & powders
8	Coastal Bottlers Limited	1701.99.10	Sugar for industrial use	6,500	Carbonated Soft drinks
9	Nairobi Bottlers Limited	1701.99.10	Sugar for industrial use	26,000	Carbonated Soft drinks
10	Jetlak Foods Limited	1701.99.10	Sugar for industrial use	3,000	Juices
11	Kenya Sweets Limited	1701.99.10	Sugar for industrial use	7,790	Icing/caster sugar, sweets & cocoa products
12	Mzuri Sweets Limited	1701.99.10	Sugar for industrial use	10,000	Bubble; ball gum, lollipop & candy
13	Regal Pharmaceuticals Limited	1701.99.10	Sugar for industrial use	150	Medicine
14	Kenya Breweries Limited	1701.99.10	Sugar for industrial use	20,000	Beer, ready to drink alcoholic & non alcoholic beverages

15	Kenafriic Industries Limited	1701.99.10	Sugar for industrial use	20,000	Bubble/ ball gum, lollipop, candy seasoning, icing sugar, chocolate, & ready to drink/powdered juice
16	Candy Kenya Limited	1701.99.10	Sugar for industrial use	3,000	Bubble/ball gum, sweets, icing/caster sugar, chocolate, baking powder & powdered juice

HON. AMB. DR. AUGUSTINE MAHIGA (MP).  
*Chairperson, Council of Ministers.*

**SPECIAL ISSUE**



# THE KENYA GAZETTE

Published by Authority of the Republic of Kenya

(Registered as a Newspaper at the G.P.O.)

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NAIROBI, 12th May, 2017

Price Sh. 60

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GAZETTE NOTICE No. 4536

THE EAST AFRICAN COMMUNITY CUSTOMS MANAGEMENT  
ACT, 2004

IMPORTATION OF SUGAR AND MILK POWDER DUTY FREE

IT IS notified for the general information of the public that in accordance with section 114 (2) of the East African Community Customs Management Act, 2004, and as a consequence of the declaration by the President and Commander in Chief of the Kenya Defence Forces through Executive Order No. 1 of 2017 that the drought and famine in parts of Kenya is a national disaster, duty shall not be payable for the following items—

- (a) sugar imported by any person, with effect from the date of this Notice to the 31st August, 2017; and
- (b) nine thousand tonnes of milk powder imported by milk processors, with the authority of the Kenya Dairy Board, with effect from the date of this Notice to the 31st July, 2017.

Dated the 11th May, 2017.

HENRY ROTICH,  
*Cabinet Secretary for the National Treasury.*



# EAST AFRICAN COMMUNITY

## GAZETTE

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Legal Notice No. EAC/101/2017.

**THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004**

**LEGAL NOTICE**

IN EXERCISE of the powers conferred upon the Council of Ministers by section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following manufacturers to import the specified quantities of sugar for industrial use at a duty rate of 10% under the Duty Remission Scheme.

**APPROVED KENYA MANUFACTURER AND QUANTITIES OF SUGAR FOR INDUSTRIAL USE TO BE IMPORTED  
AT A DUTY RATE OF 10 % UNDER DUTY REMISSION SCHEME FOR TWELVE MONTHS**

<i>S/N</i>	<i>Company Name</i>	<i>Tariff No</i>	<i>Description</i>	<i>Quantity Allocated in Metric Tons (Mt)</i>	<i>Finished Product</i>
01.	GlaxoSmithKline Limited	1701.99.10	Sugar for industrial use.	1,000	Medicaments Health Drinks (Nutritionals & Food Supplements)
02.	Candy Kenya Ltd	1701.99.10	Sugar for industrial use.	4,500	Confectionery sweets Ball gums / Bubble gums, Chiclets, Chewing gums, Flavoured Powdered Juices/Drinks, Icing sugar, Caster sugar, Chocolates
03.	Kenya Breweries Limited	1701.99.10	White Refined Sugar	20,000	Beer, Ready to drink alcoholic beverages & non-alcoholic beverages
04.	Mount Kenya Bottlers Ltd.	1701.99.10	Sugar for Industrial use	6,000	Carbonated Soft Drinks & juices
05.	Rift Valley Bottlers Limited	1701.99.10	Sugar for Industrial use	5,490	Carbonated Soft Drinks & juices
06.	Del Monte Kenya Ltd.	1701.99.10	Sugar for industrial use	120	Processed Pineapple products
07.	Jetlak Foods Limited	1701.99.10	Industrial white sugar	3,000	Juices
08.	Nairobi Bottlers Limited	1701.99.10	Sugar for Industrial Use	26,000	Carbonated Soft Drinks & juices
9.	Kisii Bottlers Limited	1701.99.10	Sugar for Industrial Use	4,820	Carbonated Soft Drinks
10.	Regal Pharmaceuticals Ltd.	1701.99.10	Sugar for Industrial Use	300	Medicine (for humans)
11.	Trufoods Limited	1701.99.10	White Refined Sugar	3,000	Jam, Sauces, Powders
12.	The Wrigley Co.(EA) Ltd.	1701.99.10	White refined industrial Sugar	5,000	Assorted chewing gum
13.	Mzuri Sweets Limited	1701.99.10	White refined industrial Sugar	10,000	Bubble gum, Ball gum, Lollipop, Candy
14.	Coastal Bottlers Limited	1701.99.10	Sugar for Industrial Use	6,500	Carbonated Soft Drinks

S/N	Company Name	Tariff No	Description	Quantity Allocated In Metric Tons (Mt)	Finished Product
15.	Premier Food Industries Limited	1701.99.10	White Industrial Sugar	3,000	Sauces, squashes, syrups, jams, juices, canned products
16.	Kenafic Industries Limited	1701.99.10	White Refined Sugar	20,000	Chewing gum (Bubble gums, Ball gums & Chiclets), Hard boiled candies, Lollipop sweets, Toffees, Icing sugar, Powdered Juices, seasoning powders (cubes & mix), Ready to drink juices, biscuits
17.	Milly Fruits Processors Limited	1701.99.10	Sugar for industrial use	1,000	Juices
18.	SBC Kenya Ltd.	1701.99.10	Sugar for industrial use	1,500	Carbonated soft drinks
19.	Patco Industries Ltd.	1702.30.00	Liquid Glucose	3,500	Hard boiled candies, & lollipops, Bubble gum, and chewing gum, icing & caster sugar, toffees & powder Flavoured juice
20.	Kenya Sweets Limited	1701.99.10	Sugar for Industrial use	10,000	Boiled & milk sweets, Powdered tablets, Icing sugar, Castor sugar & Cocoa Products

RT. HON. DR. AL HAJI ALI KIRUNDA KIVEJINJA,  
Chairperson Council of Ministers.



## EAST AFRICAN COMMUNITY

# GAZETTE

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ARUSHA, 30th June, 2018

Price \$ 1.00

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Legal Notice No. EAC/72/2018.

**THE EAST AFRICAN COMMUNITY CUSTOMS  
MANAGEMENT ACT 2004**

**LEGAL NOTICE**

IN EXERCISE of the powers conferred upon the Council of Ministers by section 140 of the East African Community Customs Management Act 2004, the Council of Ministers has approved the following manufacturers to import the specified quantities of sugar for industrial use at a duty rate of 10% under the Duty Remission Scheme.

**APPROVED KENYA MANUFACTURERS AND QUANTITIES OF SUGAR FOR INDUSTRIAL USE TO BE IMPORTED AT A DUTY RATE OF 10% UNDER DUTY REMISSION SCHEME FOR TWELVE MONTHS**

<i>S/N</i>	<i>Company Name</i>	<i>Tariff No</i>	<i>Description</i>	<i>Quantity Allocated in Metric Tons (M)</i>	<i>Finished Product</i>
1.	Jetlak Foods Ltd	1701.99.10	Sugar for Industrial use	2,000	Juices
2.	Kenya Breweries Ltd	1701.99.10	Sugar for Industrial use	20,000	Beer, Ready to drink alcoholic beverages & non-alcoholic beverages.
3.	Kenya Sweets Ltd	1701.99.10	Sugar for Industrial use	10,000	Boiled & Milk sweets, powdered Tablets, icing sugar & cocoa products.
4.	Bidcoro Africa ltd	1701.99.10	Sugar for Industrial use	1,000	Fruit drinks
5.	Kenafriic industries Ltd	1701.99.10	Sugar for Industrial use	20,000	Chewing gums-bubble, ball gums & chicklets, hard boiled candies, lollipop sweets, toffees, icing sugar, powdered juices, seasoning powders, ready to drink juice & drinking chocolate powder.
6.	Mac's Pharmaceuticals Ltd	1701.99.10	Sugar for Industrial use	50	Medicine
7.	The Wrigley Company (E.A) Ltd	1701.99.10	Sugar for Industrial use	5,000	Chewing gum & bubble gums
8.	SBC Kenya Ltd	1701.99.10	Sugar for Industrial use	1,500	Carbonated soft drinks.
9.	Coastal Bottlers Ltd	1701.99.10	Sugar for Industrial use	6,500	Carbonated soft drinks & Juice
10.	Almasi Bottlers Ltd	1701.99.10	Sugar for Industrial use	16,500	Carbonated soft drinks & Juice
11.	Trufoods Ltd	1701.99.10	Sugar for Industrial use	3,000	Jams & marmalades, tomatoes sauces & ketchup, drinking cocoa & drinking chocolate, custard powder, icing sugar & canned vegetables
12.	Del Monte Kenya Ltd	1701.99.10	Sugar for Industrial use	130	Processed pineapple products
13.	Milly Fruits Processors Ltd	1701.99.10	Sugar for Industrial use	300	Juice & Fruit drinks
14.	Mzuri Sweets Ltd	1701.99.10	Sugar for Industrial use	15,000	Bubble / ball gums, lollipop & candy
15.	Candy Kenya Ltd	1701.99.10	Sugar for Industrial use	6,000	Confectionaries-sweets, ball / bubble gums, chewing gums, chicklets, flavored powdered juices/drinks, icing, caster sugar chocolates & wafers.

<i>SN</i>	<i>Company Name</i>	<i>Tariff No</i>	<i>Description</i>	<i>Quantity Allocated in Metric Tons (MT)</i>	<i>Finished Product</i>
16.	Equator Bottlers Ltd	1701.99.10	Sugar for Industrial use	10,000	Carbonated soft drinks
17.	Nairobi Bottlers Ltd	1701.99.10	Sugar for Industrial use	26,000	Carbonated soft drinks & Juice
18.	Premier Food Industries Ltd	1701.99.10	Sugar for Industrial use	3,000	Sauces, squashes, syrups, jams, juices, canned products.
19.	Rok Industries Ltd	1701.99.10	Sugar for Industrial use	700	Assorted candies and Sweets
20.	Proctor and Allan (EA) Ltd	1701.99.10	Sugar for Industrial use	100	Corn Soya Blend

This Notice shall come into force on the 1<sup>st</sup> day of July 2018.

RT. HON. DR. AL HAJI ALI KIRUNDA KIVEJINJA,  
Chairperson Council of Ministers.



AGRICULTURAL AUTHORITY SUGAR  
DIRECTORATE



ANNUAL IMPORT LICENCE

Document ASD001 - ANNUAL IMPORT LICENCE  
Document Type CER - Certificates  
Process ASD003 - APPLICATION FOR ANNUAL IMPORT LICENCE  
Application Reference No : MD2016000ASDASD0010000224559 Version No : 1  
Master Approval No Master Approval Version No

Approval Details

Step Code	OGA Code	Status	Examination	Premises Inspection
ASD002	ASD	Rejected	N	N
ASD002	ASD	Approved	Y	N
ASD002	ASD	Approved	Y	N
ASD002	ASD	Approved	Y	N

Application Status

Approval Status :AP - Approved Used Status : Application Date :20160112084606  
Expiry Date :20160630 Amended Date : Used Date :  
Issuance Date :20160112

Applicant Details

Name :KENAFRIC INDUSTRIES LIMITED Application Code :KID  
PIN :P000599737M Country :KENYA  
Address :39257 Email : obed@kenafricind.com  
Contact Person :OBEDMWAMBI

Consignee Details

Name :KENAFRIC INDUSTRIES LIMITED OGA Ref No :  
PIN :P000599737M Physical Country :KENYA  
Physical Address :392572 NAIROBI Postal Country :KENYA  
Postal Address :392572 NAIROBI Fax :8645111  
Telephone :07300000000 Sector of Activity :Manufacturing  
Email :catherine@kenafricind.com Warehouse Location :  
Warehouse Code :

Importer Details

Name :KENAFRIC INDUSTRIES LIMITED OGA Ref No :  
PIN :P000599737M Physical Country :KENYA  
Physical Address :392572 NAIROBI Postal Country :KENYA  
Postal Address :392572 NAIROBI Fax :8645111  
Telephone :07300000000 Sector of Activity :Manufacturing  
Email :catherine@kenafricind.com Warehouse Location :  
Warehouse Code :

### Exporter Details

Name :CZARNIKOW GROUP LTD

PIN :P000599737M

Physical Address :PATERNOSTER HOUSE 65 ST. PAULS  
CHURCHYARD LONDON EC4M 8AB

Postal Address :

Telephone :02079726600

Email :czarnikow@czarnikow.com

Warehouse Code :AFRICOFF TRADING CO LTD

OGA Ref No :

Physical Country :UNITED KINGDOM

Postal Country :UNITED KINGDOM

Fax :02079726699

Sector of Activity :Trade

Warehouse Location :MSA

### Consignor Details

Name :CZARNIKOW GROUP LTD

PIN :P000599737M

Physical Address :PATERNOSTER HOUSE 65 ST. PAULS  
CHURCHYARD LONDON EC4M 8AB

Postal Address :

Telephone :02079726600

Email :czarnikow@czarnikow.com

Warehouse Code :AFRICOFF TRADING CO LTD

OGA Ref No :

Physical Country :UNITED KINGDOM

Postal Country :UNITED KINGDOM

Fax :02079726699

Sector of Activity :Trade

Warehouse Location :MSA

### Values - Header Level

Foreign Currency Code :USD

Forex Rate :102.25

FOB FCY :11,492,388.75

Freight FCY :477,227.57

Insurance FCY :0.00

Other Charges FCY :0.00

CIF FCY :11,969,616.32

FOB NCY :1,175,063,421.76

Freight NCY :48,795,135.07

Insurance NCY :0.00

Other Charges NCY :0.00

CIF NCY :1,223,858,556.83

### Remarks

OGA Remarks :

1. ATTACH YOUR ANNUAL REG LETTER FOR 2016
2. APPROVED
3. Approved
4. Approved

### Conditions Of Approval

1. LICENSE VALID

### Purpose Of Import/Export

Manufacturing

### Terms and Conditions

## Item Details

### Item No :1

Item Description :WHITE  
REFINED SUGAR

Item HS Code :1701991000

HS Description :Sugar for  
industrial use

Quantity :22125

Unit Of Quantity :tonne (metric  
ton)

Supplementary - Quantity :0

Package Type :Bag

Package Quantity :442500

Foreign Currency Code :USD

Unit Price FCY :519.43

Total Price FCY :11,492,388.75

Unit Price NCY :53,110.21

Total Price NCY  
:1,175,063,421.69

Country Of Origin :SAUDI  
ARABIA

Item Net Weight :22125 tonne  
(metric ton)

Item Gross Weight :23000 tonne  
(metric ton)

Applicant Remarks :OK



AGRICULTURAL AUTHORITY SUGAR  
DIRECTORATE



ANNUAL IMPORT LICENCE

Document ASD001 - ANNUAL IMPORT LICENCE  
Document Type CER - Certificates  
Process ASD003 - APPLICATION FOR ANNUAL IMPORT LICENCE  
Application Reference No : MD2016000ASDASD0010000381155 Version No : 1  
Master Approval No Master Approval Version No

**Approval Details**

Step Code	OGA Code	Status	Examination	Premises Inspection
ASD002	ASD	Approved	Y	N
ASD002	ASD	Approved	Y	N
ASD002	ASD	Approved	Y	N

Application Status			
Approval Status :AP - Approved	Used Status :	Application Date :20160715085957	
Expiry Date :20170630	Amended Date :	Used Date :	
Issuance Date :20160719			

Applicant Details	
Name :KENAFRIC INDUSTRIES LTD	Application Code :KIA
PIN :P000599737M	Country :KENYA
Address :39527 00623 NAIROBI	Email : Hmwikali@kenafriind.com
Contact Person :HELLENMULI	

Consignee Details	
Name :KENAFRIC INDUSTRIES LIMITED	OGA RefNo :
PIN :P000599737M	Physical Country :KENYA
Physical Address :P.O BOX 392572 NAIROBI	Postal Country :KENYA
Postal Address :P.O. BOX 392572 NAIROBI	Fax :8645111
Telephone :07300000000	Sector of Activity :Manufacturing
Email :catherine@kenafriind.com	Warehouse Location :
Warehouse Code :	

Importer Details	
Name :KENAFRIC INDUSTRIES LIMITED	OGA RefNo :
PIN :P000599737M	Physical Country :KENYA
Physical Address :P.O BOX 392572 NAIROBI	Postal Country :KENYA
Postal Address :P.O. BOX 392572 NAIROBI	Fax :8645111
Telephone :07300000000	Sector of Activity :Manufacturing
Email :catherine@kenafriind.com	Warehouse Location :
Warehouse Code :	

## Exporter Details

Name :CZARNIKOW GROUP LTD

PIN :P000599737M

Physical Address :PATERNOSTER HOUSE 65 ST. PAULS  
CHURCHYARD LONDON EC4M 8AB

Postal Address :

Telephone :02079726600

Email :czarnikow@czarnikow.com

Warehouse Code :AFRICOFF TRADING CO LTD

OGA Ref No :

Physical Country :UNITED KINGDOM

Postal Country :UNITED KINGDOM

Fax :02079726699

Sector of Activity :Trade

Warehouse Location :MSA

## Consignor Details

Name :CZARNIKOW GROUP LTD

PIN :P000599737M

Physical Address :PATERNOSTER HOUSE 65 ST. PAULS  
CHURCHYARD LONDON EC4M 8AB

Postal Address :

Telephone :02079726600

Email :czarnikow@czarnikow.com

Warehouse Code :AFRICOFF TRADING CO LTD

OGA Ref No :

Physical Country :UNITED KINGDOM

Postal Country :UNITED KINGDOM

Fax :02079726699

Sector of Activity :Trade

Warehouse Location :MSA

## Values - Header Level

Foreign Currency Code :USD

Freight FCY :470,588.00

CIF FCY :10,728,788.00

Insurance NCY :0.00

Forex Rate :102.25

Insurance FCY :0.00

FOB NCY :1,048,871,201.22

Other Charges NCY :0.00

FOB FCY :10,258,200.00

Other Charges FCY :0.00

Freight NCY :48,116,258.29

CIF NCY :1,096,987,459.51

## Remarks

OGA Remarks :

1. License valid for 2016 17FY
2. Approved
3. app

## Conditions Of Approval

1. Approved

## Purpose Of Import/Export

Manufacturing

## Terms and Conditions

## Item Details

### Item No :1

Item Description :WHITE  
REFINED SUGAR

Item HS Code :1701991000

HS Description :Sugar for  
industrial use

Quantity :20000

Unit Of Quantity :tonne (metric  
ton)

Supplementary - Quantity :0

Package Type :Bag

Package Quantity :400000

Foreign Currency Code :USD

Unit Price FCY :512.91

Total Price FCY :10,258,200.00

Unit Price NCY :51,939.27

Total Price NCY  
:1,038,785,339.00

Country Of Origin :SAUDI  
ARABIA

Item Net Weight :20000 tonne  
(metric ton)

Item Gross Weight :21000 tonne  
(metric ton)

Applicant Remarks :OK



AGRICULTURAL AUTHORITY SUGAR  
DIRECTORATE



ANNUAL IMPORT LICENCE

Document ASD001 - ANNUAL IMPORT LICENCE  
Document Type CER - Certificates  
Process ASD003 - APPLICATION FOR ANNUAL IMPORT LICENCE  
Application Reference No : MD2015000ASDASD0010000027952 Version No : 1  
Master Approval No Master Approval Version No

**Approval Details**

Step Code	OGA Code	Status	Examination	Premises Inspection
ASD002	ASD	Approved	N	N
<b>Application Status</b> Approval Status :AP - Approved Used Status : Application Date :20150223151125 Expiry Date :20151231 Amended Date : Used Date : Issuance Date :20150223				
<b>Applicant Details</b> Name :KENAFRIC INDUSTRIES LTD PIN :P000599737M Application Code :KIA Address :39527 00623 NAIROBI Country :KENYA Contact Person :HELLENMULI Email : Hmwikali@kenafricind.com				
<b>Consignee Details</b> Name :KENAFRIC INDUSTRIES LIMITED PIN :P000599737M OGA Ref No : Physical Address :392572 NAIROBI Physical Country :KENYA Postal Address :392572 NAIROBI Postal Country :KENYA Telephone :8645000 Fax :8645000 Email :admin@kenafricind.com Sector of Activity : Warehouse Code : Warehouse Location :				
<b>Importer Details</b> Name :KENAFRIC INDUSTRIES LIMITED PIN :P000599737M OGA Ref No : Physical Address :392572 NAIROBI Physical Country :KENYA Postal Address :392572 NAIROBI Postal Country :KENYA Telephone :8645000 Fax : Email : Sector of Activity : Warehouse Code : Warehouse Location :				

### Exporter Details

Name :KENAFRIC INDUSTRIES LIMITED

PIN :P000599737M

Physical Address :392572 NAIROBI

Postal Address :392572 NAIROBI

Telephone :8645000

Email :admin@kenafriind.com

Warehouse Code :

OGA Ref No :

Physical Country :KENYA

Postal Country :KENYA

Fax :8645000

Sector of Activity :Manufacturing

Warehouse Location :

### Consignor Details

Name :KENAFRIC INDUSTRIES LIMITED

PIN :P000599737M

Physical Address :392572 NAIROBI

Postal Address :392572 NAIROBI

Telephone :8645000

Email :admin@kenafriind.com

Warehouse Code :

OGA Ref No :

Physical Country :KENYA

Postal Country :KENYA

Fax :8645000

Sector of Activity :Manufacturing

Warehouse Location :

### Values - Header Level

Foreign Currency Code :USD

Freight FCY :0.00

CIF FCY :80,000.00

Insurance NCY :0.00

Forex Rate :91.48

Insurance FCY :0.00

FOB NCY :7,318,264.00

Other Charges NCY :0.00

FOB FCY :80,000.00

Other Charges FCY :0.00

Freight NCY :0.00

CIF NCY :7,318,264.00

### Remarks

OGA Remarks :

1. APPLICATION APPROVED

### Conditions Of Approval

1. ALL DOCUMENTS ATTACHED

### Purpose Of Import/Export

Manufacturing

### Terms and Conditions

#### Item Details

##### Item No :1

Item Description :WHITE  
REFINED SUGAR

Item HS Code :1701991900

HS Description :Sugar for  
industrial use

Quantity :30000

Unit Of Quantity :Net Tonne

Supplementary - Quantity :0

Package Type :Bag

Package Quantity :50

Foreign Currency Code :USD

Unit Price FCY :2.67

Total Price FCY :80,000.00

Unit Price NCY :243.94

Total Price NCY :7,318,273.20

Country Of Origin :THAILAND

Item Net Weight :30000 Net  
Tonne

Item Gross Weight :31000 Net  
Tonne

Applicant Remarks :OK



AGRICULTURAL AUTHORITY SUGAR  
DIRECTORATE



ANNUAL IMPORT LICENCE

Document ASD001 - ANNUAL IMPORT LICENCE  
Document Type CER - Certificates  
Process ASD003 - APPLICATION FOR ANNUAL IMPORT LICENCE  
Application Reference No : MD2017000ASDASD0010000721648 Version No : 1  
Master Approval No Master Approval Version No

**Approval Details**

Step Code	OGA Code	Status	Examination	Premises Inspection
ASD002	ASD	Approved	N	N
ASD002	ASD	Approved	N	N

**Application Status**

Approval Status :AP - Approved Used Status : Application Date :20170710152437  
Expiry Date :20180711 Amended Date : Used Date :  
Issuance Date :20170711

**Applicant Details**

Name :KENAFRIC INDUSTRIES LTD  
PIN :P000599737M Application Code :KIA  
Address :39527 00623 NAIROBI Country :KENYA  
Contact Person :HELLENMULI Email : Hmwikali@kenafricind.com

**Consignee Details**

Name :KENAFRIC INDUSTRIES LIMITED  
PIN :P000599737M OGA RefNo :  
Physical Address :P.O BOX 39257 NAIROBI Physical Country :KENYA  
Postal Address :P.O BOX 39257 NAIROBI Postal Country :KENYA  
Telephone :0730 700 000 Fax :8645111  
Email :catherine@kenafricind.com Sector of Activity :Manufacturing  
Warehouse Code : Warehouse Location :

**Importer Details**

Name :KENAFRIC INDUSTRIES LIMITED  
PIN :P000599737M OGA RefNo :  
Physical Address :P.O BOX 39257 NAIROBI Physical Country :KENYA  
Postal Address :P.O BOX 39257 NAIROBI Postal Country :KENYA  
Telephone :0730 700 000 Fax :8645111  
Email :catherine@kenafricind.com Sector of Activity :Manufacturing  
Warehouse Code : Warehouse Location :

### Exporter Details

Name : CZARNIKOW GROUP LTD

PIN :

Physical Address : PATERNOSTER HOUSE 65 ST PAULS  
CHURCHYARD LONDON EC4M 8AB

Postal Address : PATERNOSTER HOUSE 65 ST PAULS  
CHURCHYARD LONDON EC4M 8AB

Telephone : 02079726600

Email : czarnikow@czarnikow.com

Warehouse Code :

OGA Ref No :

Physical Country : UNITED KINGDOM

Postal Country : UNITED KINGDOM

Fax : 02079726699

Sector of Activity : Trade

Warehouse Location :

### Consignor Details

Name : CZARNIKOW GROUP LTD

PIN : P000599737M

Physical Address : PATERNOSTER HOUSE 65 ST PAULS  
CHURCHYARD LONDON EC4M 8AB

Postal Address : PATERNOSTER HOUSE 65 ST PAULS  
CHURCHYARD LONDON EC4M 8AB

Telephone : 02079726600

Email : czarnikow@czarnikow.com

Warehouse Code :

OGA Ref No :

Physical Country : UNITED KINGDOM

Postal Country : UNITED KINGDOM

Fax : 02079726699

Sector of Activity : Trade

Warehouse Location :

### Values - Header Level

Foreign Currency Code : USD

Freight FCY : 470,588.00

CIF FCY : 10,728,788.00

Insurance NCY : 0.00

Forex Rate : 103.94

Insurance FCY : 0.00

FOB NCY : 1,066,208,585.04

Other Charges NCY : 0.00

FOB FCY : 10,258,200.00

Other Charges FCY : 0.00

Freight NCY : 48,911,599.07

CIF NCY : 1,115,120,184.11

### Remarks

OGA Remarks :

1. Checked
2. Verified

### Conditions Of Approval

1. Checked

### Purpose Of Import/Export

Manufacturing

### Terms and Conditions

## Item Details

### Item No :1

Item Description :WHITE  
REFINED SUGAR

Item HS Code :1701991000

HS Description :Sugar for  
industrial use

Quantity :20000

Unit Of Quantity :tonne (metric  
ton)

Supplementary - Quantity :0

Package Type :Bag

Package Quantity :400000

Foreign Currency Code :USD

Unit Price FCY :512.91

Total Price FCY :10,258,200.00

Unit Price NCY :53,310.43

Total Price NCY  
:1,066,208,585.00

Country Of Origin :INDIA

Item Net Weight :20000 tonne  
(metric ton)

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## THE CROPS ACT REGISTRATION AS A SUGAR IMPORTER

IMPORTER MAKES WRITTEN APPLICATION TO SUGAR DIRECTORATE FOR REGISTRATION



SUGAR DIRECTORATE PROVIDES APPLICATION FORMS PURSUANT TO CROPS ACT



APPLICANT ATTACHES PIN CERTIFICATE, BUSINESS PERMIT, CERTIFICATE OF INCORPORATION, DIRECTORS ID's, CERTIFICATE OF COMPLIANCE AND MEMORANDUM & ARTICLES OF ASSOCIATION TO APPLICATION.



SUGAR DIRECTORATE CARRIES OUT SITE / FACTORY VERIFICATION VISIT



APPROVAL ADVISED TO THE APPLICANT IN WRITING BY THE SUGAR DIRECTORATE



ACCEPTANCE BY THE IMPORTER TO BE MADE IN WRITING ALONG WITH REGISTRATION FEE OF KSH 100,000.



SUGAR DIRECTORATE NOTIFIES IMPORTER OF REGISTRATION IN WRITING



IMPORTER SUBMITS TO THE SUGAR DIRECTORATE SUPPLIERS PRO-FORMA INVOICE



SUGAR DIRECTORATE PROVIDES PRE-APPROVAL AUTHORITY (BY CONSIGNMENT)



SUPPLIER SHIPS TO IMPORTER



SUGAR DIRECTORATE ISSUES LICENSE TO IMPORT FOLLOWING CLEARANCE & VERIFICATION.



# KENYA REVENUE AUTHORITY

Our Ref: P000599737M

25<sup>th</sup> July, 2017

The Managing Director  
Kenafric Industries Limited,  
P.O. Box 39257 - 00623,  
Nairobi.

Attention: Mr. Kirten Shah



Dear Sir,

## RE: AUDIT FINDINGS

The above subject refers, following the audit that was undertaken on your company. Note that, the said audit was restricted to Corporate Tax, WHT, PAYE and VAT for the period 2013 – 2016. Set out below are the audit findings:-

### 1. Corporation Tax

#### 1.1 Investment Deduction

Your Company claimed Investment Deduction Allowance of Kshs 1,171,676,303 in 2013, Kshs 1,053,794,434 in 2014, Kshs 90,830,806 in 2015 and Kshs 59,433,542 in 2016 resulting from the capital expenditure you incurred in procuring, installing and commissioning plant and machinery. Further you incurred additional cost of Kshs 73,761,850 in the year 2013 for construction of a building in Biashara Street.

The purpose of our audit was to confirm the existence of the investment, validate its cost and to check whether it qualifies for Investment Deduction Allowance as per the requirement of paragraph 24 (1)(c) and 24 (1)(d) of the second schedule of Income Tax Act (ITA) for deduction against Taxable Income in line with Section 15(2)(b) of ITA.

On inspection, we observed that your Investments consisted of Plant & Machinery and Buildings. Plant & Machinery consisted of the machinery used for manufacturing Confectionery, foot wear and Stationery while the building was used for Commercial Purposes.

*Tulipe Ushuru Tujitegemee!*

Times Tower Building

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

Page 1 of 7



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Examinations of the records revealed that the Building, Plant & machinery costs were fully supported. Other than the Cost of the Building, your Investment Deduction Allowance on Machinery has been approved at 100% because it was established that your Investment is located in Ruaraka, Nairobi County in line with Paragraph 24 (1)(d) of the second schedule of Income Tax Act (ITA).

However, the Commercial Building located along Bashara Street has been disallowed from Investment Deduction Allowance and has been granted Commercial Building Allowance in line with Paragraph 6 of the Second Schedule of ITA.

Year	Item/Amount	Cost claimed for investment deduction	Approved claim for Investment deduction	Cost Not Approved	Cost Taken to Wear & Tear/ Commercial Building Allowance
2013	Machinery	1,171,676,303	1,171,676,303	-	-
	Building	73,761,850	-	73,761,850	73,761,850
2014	Machinery	1,053,794,434	1,053,794,434	-	-
2015	Machinery	90,830,806	90,830,806	-	-
2016	Machinery	59,433,542	59,433,542	-	-

The Commercial Building Allowance has been granted as shown below in the table; -

Year	Item/Amount	Cost claimed for investment deduction	Yearly Commercial Building Allowance Granted	Balance C/F
2013	Building	73,761,850	18,440,463	55,321,388
2014	Building	55,321,388	18,440,463	36,880,925
2015	Building	36,880,925	18,440,463	18,440,463
2016	Building	18,440,463	18,440,463	-

2014-2015

MAF GRP	Sugar Ratio	Actual Weight	Total sugar
BALLGUMS	72%	1,316,543	947,910.93
BUBBLEGUMS	60%	5,184,750	3,116,034.63
CHICKLET	76%	3,510,214	2,667,762.86
LOLLIPOPS	59%	9,189,999	5,662,232.24
WRAPPED CANDIES	58%	7,236,344	4,564,106.89
ICING SUGAR	99%	494,272	489,329.28
TOFFEES	48%	1,426,184	820,380.49
JUS	14%	825,809	115,613.30
MCHUZI MIX	12%	682,160	81,859.21
CHOCOLATE	44%	33,826	15,018.52
CURRY POWDER		12,552	-
Lollipop Center Mass	52%	303,884	158,019.68
<b>TOTALS</b>		<b>30,216,538</b>	<b>18,638,268</b>

2015-2016

MAF GRP	Sugar Ratio	Actual Weight	Total sugar
BALLGUMS	66%	1,200,382	792,251.94
BUBBLEGUMS	60%	5,069,078	3,041,446.82
CHICKLET	72%	3,191,678	2,294,816.23
LOLLIPOPS	55%	9,051,245	5,303,140.75
WRAPPED CANDIES	55%	6,071,988	3,606,760.78
ICING SUGAR	99%	497,834	492,855.65
TOFFEES	42%	1,408,415	703,030.51
JUS	14%	950,948	128,378.04
MCHUZI MIX	11%	567,287	62,401.62
CURRY POWDER		16,464	-
Lollipop Center Mass	47%	123,399	57,997.53
<b>TOTALS</b>		<b>28,148,718</b>	<b>16,483,080</b>

### 1.3 Corporation tax summary

The summary of Corporation taxes is as shown in the table below; -

TAX COMPUTATION		2013
	Taxable loss brought forward	-981,143,000
	<b>Taxable profit/(Loss) for the year declared</b>	<b>-643,738,000</b>
<b>ADD</b>	ID Disallowed	73,761,850
	<b>Total Income</b>	<b>-1,551,119,150</b>
<b>LESS</b>	Capital Allowances adjusted	18,440,463
	<b>Adjusted taxable profit/(Loss)</b>	<b>-1,569,559,613</b>

### 2. WHT

We noted that the you did not deduct withholding taxes on some of the payments made to contractors for supply and installation works done. Further you incurred incidental costs such as hotel accommodation on behalf of non-resident expatriates. These are deemed to be part of installation costs subject to withholding taxes. These have been brought to charge totalling to Kshs 1,988,514 as shown in the table below and detailed in the attached working sheet.

Tax Head	Amount	Principal tax	Interest and penalties	Total
WHT	-	1,324,695	663,817	1,988,514

### 3. VAT & PAYE

We found that you treated your VAT and PAYE correctly and as such we did not find any adjustments.

*I wish to advise that the audit findings as summarised above was limited to the documents examined and conclusion drawn from them and that KRA reserves the right for re-audit where new information becomes available. Further kindly note that the areas not audited will be open for any KRA enquiry to ensure compliance. The cooperation which you extended to our auditors during the audit is highly appreciated*

KENAFRIC INDUSTRIES LTD  
P000599737M

10/02/2017

WITHHOLDING TAX WORKINGS

DATE	INVOICE NO	SUPPLIER	DESCRIPTION	EURO	RATE	GROSSED UP KSH	AMOUNT KSH	WHT RATE	WITHHOLDIN G TAX	10% PENALTY	MONTHS	1% INTEREST	TOTAL WHT
08.01.2012	957	MEHTA ELECTRICAL LTD	ELECTRICAL INSTALLATION WORK				11,835,610	3%	355,068	35,507	50	177,534	568,109
01.03.2012		GREEN COOL	Labour & transport				265,000	5%	13,250	1,325	50	6,625	21,200
14.02.2012		GREEN COOL	Labour & transport				320,000	5%	16,000	1,600	50	8,000	25,600
01.03.2012		GREEN COOL	Labour & transport				155,000	5%	7,750	775	50	3,875	12,400
2013 62627-1		POWER TECHNICS	Install 4*400 pvc	3,864	114		440,496	3%	13,215	1,321	49	6,475	21,012
2013 62627-1		POWER TECHNICS	Install 630mm pvc	725	114		82,606	3%	2,478	248	49	1,214	3,940
2013 62627-1		POWER TECHNICS	Testing & commissioning	2,000	114		228,000	3%	6,840	684	49	3,352	10,876
2013 62627-1		POWER TECHNICS	Install 200amps 11kv	3,161	114		360,343	3%	10,810	1,081	49	5,297	17,188
2013 62627-1		POWER TECHNICS	Install 1600KVA	2,746	114		313,071	3%	9,392	939	49	4,602	14,934
2013 62627-1		POWER TECHNICS	Install 70mm	2,558	114		291,626	3%	8,749	875	49	4,287	13,911
2013		SCHINDLER LTD	LIFT INSTALLATION				1,015,002	3%	30,450	3,045	49	14,921	48,416
2013		MILENIUM MGT CONSULTANT	ENVIRONMENT ASSESSMENT				100,000	5%	5,000	500	49	2,450	7,950
04.01.2014	30644-31935	JACARANDA HOTEL	Chocolate plant			2,446,237		20%	489,247	48,925	37	181,022	719,194
31.01.2014	29219-29862	JACARANDA HOTEL	Chocolate plant			802,139		20%	160,428	16,043	37	59,358	235,829
07.05.2014		GREEN COOL	Supply & installation cold room				775,000	3%	23,250	2,325	33	7,673	33,248
30.06.2014	35681-36479	JACARANDA HOTEL	Chocolate plant			413,835		20%	82,767	8,277	32	26,485	117,529
13.03.2015	448	WATER ENGINEERING & PUMPING	Installation effluent treatment plant				900,000	3%	27,000	2,700	23	6,210	35,910
07.05.2015	461	WATER ENGINEERING & PUMPING	Installation effluent treatment plant				600,000	3%	18,000	1,800	21	3,780	23,580
25.06.2015	467	WATER ENGINEERING & PUMPING	Installation effluent treatment plant				600,000	3%	18,000	1,800	20	3,600	23,400
11.08.2015	476	WATER ENGINEERING & PUMPING	Commissioning effluent treatment				600,000	3%	18,000	1,800	18	3,240	23,040
06.11.2015	495	WATER ENGINEERING & PUMPING	Commissioning effluent treatment				300,000	3%	9,000	900	15	1,350	11,250
									1,324,695	132,469		531,350	1,988,514



# KENYA REVENUE AUTHORITY

ISO 9001:2008 CERTIFIED

12 January, 2015

Ref. P000599737M/TI/013/2014

THE MANAGING DIRECTOR,

KENAFRIC INDUSTRIES LTD,

P. O. BOX 39257-00623

NAIROBI

Dear Sir/Madam,

RE: KENAFRIC INDUSTRIES LTD: CONCLUSION OF AN INSPECTION AUDIT UNDER EAST AFRICAN COMMUNITY CUSTOMS MANAGEMENT (DUTY REMISSION) REGULATIONS, 2008 PARAGRAPH 14.

We refer to an audit which was conducted pursuant to the provisions of Paragraph 14, East African Community Customs Management (Duty Remission) Regulations, 2008, covering the period 2009 to 2013 and which commenced 23<sup>rd</sup> June, 2014 and ended on 31<sup>st</sup> December, 2014.

In the audit, the following documents were examined:

1. All controls for the period stated above.
2. All CB13 (including particular bonds and import entries)
3. All customs files (with import entries, Commercial invoices, Packing lists, Airway bills/Bills of lading, IUP forms and other supporting documents related to TREQ).
4. Import documents (purchase orders, contracts, invoices, debit notes etc)
5. Inventory/ stock records
6. Sales documents (sales orders, contracts, invoices, receipts, credit notes etc)
7. Bank statements, deposit slips, transfer slips, cheque counterfoils.
8. VAT Refund claims and supporting documents.
9. Purchases ledgers.
10. Records/evidence of payments to suppliers, customs, shippers, insurance, ports authority and any other parties involved in the importation/exportation of goods.

Please treat this as a clearance certificate for the auditee, there being no issues.

Yours faithfully

  
P. Mutwol,

For: Commissioner Customs Services Department.

*Tulipe Ushuru, Tujitegeme!*

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# AGRICULTURE AND FOOD AUTHORITY

## SUGAR DIRECTORATE

Sukari Plaza, Off Waiyaki Way,  
P.O. BOX 51500-00200, Nairobi

REF: AFA/SD/REC/45/VOL.1/26

17<sup>th</sup> July 2018

**Managing Director**  
Kenafric Industries Ltd  
P O Box 39257-00623  
**NAIROBI**

Dear Sir/Madam

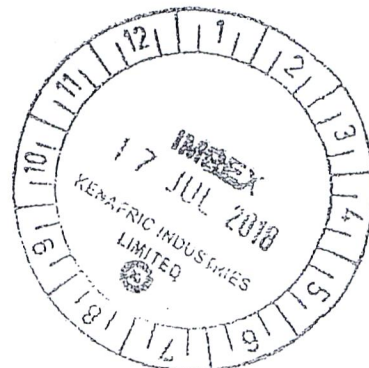
**RE: REPORT OF THE PARLIAMENTARY DEPARTMENTAL  
COMMITTEE ON AGRICULTURE, LIVESTOCK AND CO-  
OPERATIVES**

The above refers.

We wish to bring to your attention the attached report which has led to delays in renewing your annual registration by the Directorate.

Yours faithfully

  
**S. ODERA**  
**INTERIM HEAD SUGAR DIRECTORATE**



KENYA NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT

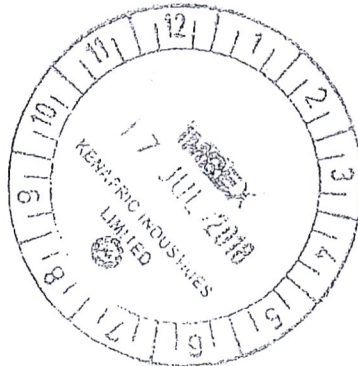
(THIRD SESSION-2015)

REPORT OF THE  
DEPARTMENTAL COMMITTEE ON AGRICULTURE,  
LIVESTOCK AND CO-OPERATIVES

ON THE

THE CRISIS FACING THE SUGAR  
INDUSTRY IN KENYA

CLERKS CHAMBERS  
PARLIAMENT BUILDINGS,  
NAIROBI



MARCH, 2015

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## CHAPTER 4

### 4.0 RECOMMENDATIONS OF THE COMMITTEE

The Committee therefore recommends:

105. THAT, the government establishes a permanent inter-agency enforcement unit on sugar trade which should enhance capacity to verify, scrutinise and monitor cross-border trade and step up border patrols to eradicate sugar smuggling. The unit should draw membership from KPA, Public Health, AFFA, KEBS, the Kenya Police, KRA and any other relevant government agencies.
106. THAT, KRA officer(s) should be investigated and appropriate action taken for clearing sugar without permit from the sugar regulator. Equally any company that imported sugar without a permit from the regulator should be banned from import and export bussines.
107. THAT, the reinforcement of re-packaging regulations to ensure consumer safety and that KEBS be held responsible for failure to prevent abuse of its seal which is supposed to be a standard measure for safety of goods in the country but has consistently been abused.
108. THAT, relevant laws and regulations governing sugar imports and exports should be amended to provide for higher accountability and public health standards for re-packaged sugar and for stiffer penalties for offenders. The Government should cancel import licences for the following companies: - Kenafric Industries, Czarnikow E. A. Ltd, Stuntwave Ltd, Mshale Commodities and Rising Star Commodities Ltd.
109. THAT, the government implements the sugar industry strategic agenda for increased competitiveness and reduction in consumer prices. There is need to lower production cost, improve extension services among others to reduce and eventually eliminate the incentive to smuggle sugar into the country

110. THAT, the National Government in collaboration with county government should provide mechanism for coordinated infrastructure development to avoid duplication of responsibilities by different bodies mandated to maintain roads.
111. THAT, the National Government should implement the National Land Policy to mitigate further land sub-division for improved productivity.
112. THAT, the fertilizer subsidy should be complemented by bulk procurement of other farm inputs and capacity utilization which should be done by the Sugar Directorate.
113. THAT, Investigations should be carried out on MSC and/or its agents, KRA and all importers and/or their agents who imported sugar from MSC in the period between 2006 - 2012 and appropriate action taken.
114. THAT, the KRA should be held responsible for the loss of VAT taxes amounting to Kshs 577 million for fictitious exports of sugar by MSC.
115. THAT, any officer from the Board and Management of MSC and KRA responsible for the fictitious exports of sugar between 2006-2012 be held responsible for abuse of procedures and abuse of office.
116. THAT, the National Government introduces landing certificates for all transit sugar as a confirmation of physical exit to stop any dumping into the local market,
117. THAT, the Government should consider offering tax breaks to encourage new investors into the sugar industry. Additionally, duty waiver for sugar industry farm inputs and farm machinery will go a long way towards reducing the high cost of sugar production.
118. THAT, KPMG having provided a disclaimer as to the accuracy of the Draft Factual Finding Report, Mumias Sugar Company avails with immediate effect the final KPMG report to the National Assembly.



# KENAFRIC INDUSTRIES LTD

" Acknowledgment Copy "

"URGENT"

KIL/SD/840/18

19<sup>th</sup> July, 2018

HEAD OF DIRECTORATE

TIME:.....

The Interim Head Sugar Directorate  
Sukari Plaza, Off Waiyaki Way  
P.O. Box 51500-00200  
NAIROBI.

*Kind Attn: Mr. Solomon Odera*

Dear Sir,

**RE: REPORT OF THE PARLIAMENTARY DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND CO-OPERATIVES**

The above 2015 Parliamentary Report and your letter dated 17<sup>th</sup> July 2018 and referenced AFA/SD/REC/45/VOL.1/26 refers.

We thank you for bringing to our attention the Report and we have reviewed its contents. The existence of the Report and the accusations against Kenafric Industries comes as a surprise to us. Our company has neither been informed of the allegations or recommendations in the report nor have we been requested to avail ourselves to the Parliamentary Committee for any hearing. This greatly goes against our right to be heard under the Fair Administration Action Act (FAAA) and the presumption of innocence until proven otherwise.

Kenafric Industries has continuously and fastidiously complied with all Regulations governing the importation and usage of refined sugar over the years and have been audited to this effect. Our recent application and approval to continue importing refined sugar through Legal Notice No. EAC/72/2018 dated 30<sup>th</sup> June 2018 is testament to our compliance.

The delay in processing our recent application greatly inconveniences the company as we are unable to release 33x20 ft containers of sugar which are accruing storage charges and demurrage at the port. Additionally, 33x20 FT containers are expected at the Mombasa Port soon while 17x20 ft containers are currently being loaded for shipment this week.

Kenafric Industries is the largest confectionery manufacturer in Kenya with huge investments and directly employs 1500 Kenyans and indirectly over 7,500 people.

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Therefore the delay in issuance of the permits could mean closure of the factory and have multiple of consequences in Supply Chain and most unfortunate of laying off employed staff.

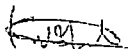
We therefore write requesting you to release our annual permit as we try to establish why Kenafic Industries Limited appeared in the said Report.

We also request to have a meeting at your earliest to discuss the same and provide any further clarifications.

Your intervention and urgency in resolving this case will be greatly appreciated.

Yours faithfully

For: **Kenafic Industries Limited**



**Kirtan. Shah**  
Group Managing Director

CC. Interim Director General  
Agriculture and Food Authority

/cn

5th floor,  
Agip House, Entrance B  
Haile Selassie Avenue  
P. O. Box 63513-00619  
Nairobi, Kenya



Tel: +254 020 2022886 7/8  
Cell: 0722 516 277  
Fax: +254 020 2022889  
Email: info@mogeni.co.ke  
web: www.mogeni.co.ke

**MOGENI & Co.**  
ADVOCATES  
COMMISSIONERS FOR OATH  
NOTARIES PUBLIC

Your Ref: COM/77/2014/KM

My Ref: 3<sup>rd</sup> March, 2015

The Clerk  
The National Assembly  
**NAIROBI**

**"BY HAND DELIVERY"**

Dear Sir,

***Re: Report of the Departmental Committee on Agriculture,  
Livestock and Co-operatives on the Crisis facing the  
Sugar Industry in Kenya***

We have been retained by M/S Kenafric Industries Ltd and beg to refer you to the aforesaid Report at pages 18. In the said report, there is submission by Kenya Sugar Board to the effect that

*"V. KSB identified Kenafric Industries as one of the Manufacturers that repackage imported Industrial Sugar in locally manufactured branded sugar for sale as table sugar."*

It is our client's right, that, they be heard on the allegations adversely made against them and pray that you do set a date for them to appear before the committee to shed light on the said allegations and controvert them as appropriate.

The said submissions by the Kenya Sugar Board are misleading and in investigations launched by them, they did find our client's operations did not include what is alleged.

It has also been noted that the Committee did not seek the views of the F & B Sector of the Kenya Association of Manufacturers (KAM) account for approximately 20% of the market.

Our client expects to be given an opportunity to respond before the report is tabled before the full house or cited upon.

Yours faithfully  
**FOR: MOGENI & CO.**

**KELVIN MOGENI**  
(kelvin@mogeni.co.ke)

mo.

cc Kenafric Industries Ltd.  
P.O. Box 39257-00623  
**NAIROBI**

78

MINUTES OF THE OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE,  
LIVESTOCK AND COOPERATIVES (FOR THE ADOPTION OF THE REPORT OF  
PUBLIC PETITION ON THE IMMINENT COLLAPSE OF THE SUGAR INDUSTRY IN  
WESTERN KENYA DUE TO RAMPANT SUGARCANE POACHING AND  
SMUGGLING OF CHEAP SUGAR IMPORTS) HELD ON FRIDAY 6<sup>TH</sup> MARCH, 2015  
AT WINDSOR GOLF HOTEL & COUNTRY CLUB, NAIROBI AT 9.00 A.M.

---

Present

1. Hon. Adan M. Nooru, MBS, M.P - Chairman
2. Hon. Kareke Mbiuki, M.P - Vice Chairman
3. Hon. Mary Wambui, M.P
4. Hon. Phillip Rotino, M.P.
5. Hon. Daniel Maanzo, M.P
6. Hon. Alfred K. Keter, M.P
7. Hon. Maison Leshoomo, M.P
8. Hon. Paul Simba Arati, M.P
9. Hon. James Opiyo Wandayi, M.P
10. Hon. Patrick Wangamati, M.P
11. Hon. Raphael Letimalo, M.P
12. Hon. Silas Tiren, M.P
13. Hon. Justice Kemei, M.P
14. Hon. Korei Ole Lemein, M.P
15. Hon. (Dr.) Victor Munyaka, M.P
16. Hon. John B. Serut, M.P
17. Hon. Kabando Wa Kabando, M.P.
18. Hon. Waititu Munyua, M.P
19. Hon. Kimani Ichung'wah, M.P
20. Hon. Florence Mutua, M.P
21. Hon. Zuleikha Hassan Juma, M.P
22. Hon. Millie Odhiambo:- Mabona, M.P
23. Hon. Benjamin Washiali, M.P
24. Hon. Ayub Savula Angatia, M.P.

Apologies

1. Hon. Fredrick Outa, M.P
2. Hon. Ferdinand Wanyonyi, M.P
3. Hon. Hezron Awiti Bollo, M.P
4. Hon. Peter N. Gitau, M.P
5. Hon. John Kobado, M.P

In Attendance National Assembly Secretariat

1. Ms. Florence Atenyo – Abonyo - Director, Committee Services
2. Mr. Oscar Namulanda Wesonga, - Senior Clerk Assistant
3. Mr. Benjamin Magut - First Clerk Assistant
4. Ms. Tracy Chebet Koskei - Second Clerk Assistant
5. Mr. Ahmad Adan Guliye - Third Clerk Assistant
6. Ms. Angeline Naserian - Third Clerk Assistant
7. Mr. David Ngeno - Research Officer
8. Ms. Mercy Wanyonyi - Legal Counsel
9. Mr. John Nganga - Audio officer
10. Mr. Onesmus Kiragu - Sergeant at Arms
11. Ms. Lydia Mwangi - Office Secretary
12. Mr. Stephen Omunzi - Office Assistant

MIN. 48/2015: PRELIMINARIES

- I. The meeting was called to order at 9.30 hours and prayers were said by Hon. Francis Waititu, M.P
- II. The Chairman thanked the members for turning up in large numbers for the report writing retreat and reiterated the significance and the importance of the day's agenda.
- III. The Committee resolved to start deliberating on the draft report of the petition before it proceeds to the draft report on the crisis facing the sugar industry.

MIN. 49/2015: COMMUNICATION FROM CHAIR

- I. The Committee was informed that M/S Kenafric through its Advocates Mogeni & Co. Advocates that their client had been allegedly mentioned adversely in a submission submitted to the Committee by Kenya Sugar Board and request that they be heard before the report is finalized.
- II. The Committee deliberated on the issue and resolved that it was not in position to hear more witnesses since the report was long overdue.
- III. If the complainant feels aggrieved, it could seek recourse after the report is tabled in the House.

MIN. 49/2015: ADOPTION OF THE REPORT OF PUBLIC PETITION ON THE IMMINENT COLLAPSE OF THE SUGAR INDUSTRY IN WESTERN KENYA DUE TO RAMPANT SUGARCANE POACHING AND SMUGGLING OF CHEAP SUGAR IMPORTS)

The Committee deliberated at length on the draft report and adopted it with the following recommendations.



KENYA REVENUE  
AUTHORITY

## Tax Compliance Certificate

For General Tax Questions  
Contact KRA Call Centre  
Tel: +254 (020) 4999 999  
Cell: +254(0711)099 999  
Email: callcentre@kra.go.ke

[www.kra.go.ke](http://www.kra.go.ke)

**Taxpayer PIN :** P000599737M

**Certificate Date:** 03/09/2014

**Name and Address :**

**Certificate Number:**

KENAFRIC INDUSTRIES LIMITED

KRALTO0172422014

336-187-362-368, KENAFRIC, NAIROBI, Nairobi North District,

PO Box:39257,

Postal Code:00623



**This is to confirm that KENAFRIC INDUSTRIES LIMITED,  
Personal Identification Number P000599737M  
has filed relevant tax returns and  
paid taxes due as provided by Law.**

**This Certificate will be valid for  
twelve (12) months up to 03/09/2015.**

**Caveat:** This certificate is issued on the basis of information available with the authority as at the certificate date mentioned above. The Authority reserves the right to withdraw the certificate if new evidence materially alters the tax compliance status of the recipient.

**Disclaimer :** This certificate is system Generated and therefore does not require signature. You may confirm validity of this certificate on the iTax Portal by using the TCC Checker.

NAIROBI, Gatundu District, BARINGO, P.O.BOX 4545, GPO LTO. Tel 789676676



KENYA REVENUE  
AUTHORITY

## Tax Compliance Certificate

For General Tax Questions  
Contact KRA Call Centre  
Tel: +254 (020) 4999 999  
Cell: +254(0711)099 999  
Email: callcentre@kra.go.ke

[www.kra.go.ke](http://www.kra.go.ke)

**Taxpayer PIN :** P000599737M

**Certificate Date:** 02/10/2015

**Name and Address :**

**Certificate Number:**

KENAFRIC INDUSTRIES LIMITED  
336-187-362-368, KENAFRIC, NAIROBI, Nairobi North District,  
PO Box:39257,  
Postal Code:00623

KRALTO2251292015



**This is to confirm that KENAFRIC INDUSTRIES LIMITED,  
Personal Identification Number P000599737M  
has filed relevant tax returns and  
paid taxes due as provided by Law.**

**This Certificate will be valid for  
twelve (12) months up to 02/10/2016.**

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82

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KENYA REVENUE  
AUTHORITY

## Tax Compliance Certificate

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Email: callcentre@kra.go.ke

[www.kra.go.ke](http://www.kra.go.ke)

Taxpayer PIN : P000599737M

Certificate Date: 17/10/2016

**Name and Address :**

**Certificate Number:**

KENAFRIC INDUSTRIES LIMITED

KRALTO5227272016

336-187-362-368, KENAFRIC, NAIROBI, Nairobi North District,  
PO Box:39257,  
Postal Code:00623



**This is to confirm that KENAFRIC INDUSTRIES LIMITED,  
Personal Identification Number P000599737M  
has filed relevant tax returns and  
paid taxes due as provided by Law.**

**This Certificate will be valid for  
twelve (12) months up to 16/10/2017.**

**Caveat:** This certificate is issued on the basis of information available with the authority as at the certificate date mentioned above. The Authority reserves the right to withdraw the certificate if new evidence materially alters the tax compliance status of the recipient.

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KENYA REVENUE  
AUTHORITY

[www.kra.go.ke](http://www.kra.go.ke)

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Cell: +254(0711)099 999  
Email: [callcentre@kra.go.ke](mailto:callcentre@kra.go.ke)

Taxpayer PIN : P000599737M

Name and Address :

KENAFRIC INDUSTRIES LIMITED  
336-187-362-368, KENAFRIC, NAIROBI, Nairobi North District,  
PO Box:39257,  
Postal Code:00623

Certificate Date: 17/10/2016

Certificate Number:

KRALTO5227272016



**This is to confirm that KENAFRIC INDUSTRIES LIMITED,  
Personal Identification Number P000599737M  
has filed relevant tax returns and  
paid taxes due as provided by Law.**

**This Certificate will be valid for  
twelve (12) months up to 16/10/2017.**

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NAIROBI, Gatundu District, BARINGO, P.O. BOX 4545, GPO LTO. Tel 789676676



KENYA REVENUE  
AUTHORITY

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Cell: +254(0711)099 999  
Email: callcentre@kra.go.ke

www.kra.go.ke

Taxpayer PIN : P000599737M

Name and Address :

KENAFRIC INDUSTRIES LIMITED  
336-187-362-368, KENAFRIC, NAIROBI, Nairobi North District,  
PO Box:39257,  
Postal Code:00623

Certificate Date: 30/10/2017

Certificate Number:

KRALTO8567572017



**This is to confirm that KENAFRIC INDUSTRIES LIMITED,  
Personal Identification Number P000599737M  
has filed relevant tax returns and  
paid taxes due as provided by Law.**

**This Certificate will be valid for  
twelve (12) months up to 29/10/2018.**

**Caveat:** This certificate is issued on the basis of information available with the authority as at the certificate date mentioned above. The Authority reserves the right to withdraw the certificate if new evidence materially alters the tax compliance status of the recipient.

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**SPECIAL ISSUE**



# THE KENYA GAZETTE

Published by Authority of the Republic of Kenya

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Vol. CXIX—No. 62

NAIROBI, 12th May, 2017

Price Sh. 60

GAZETTE NOTICE NO. 4536

THE EAST AFRICAN COMMUNITY CUSTOMS MANAGEMENT  
ACT, 2004

IMPORTATION OF SUGAR AND MILK POWDER DUTY FREE

IT IS notified for the general information of the public that in accordance with section 114 (2) of the East African Community Customs Management Act, 2004, and as a consequence of the declaration by the President and Commander in Chief of the Kenya Defence Forces through Executive Order No. 1 of 2017 that the drought and famine in parts of Kenya is a national disaster, duty shall not be payable for the following items—

- (a) sugar imported by any person, with effect from the date of this Notice to the 31st August, 2017; and
- (b) nine thousand tonnes of milk powder imported by milk processors, with the authority of the Kenya Dairy Board, with effect from the date of this Notice to the 31st July, 2017.

Dated the 11th May, 2017.

HENRY ROTICH,  
*Cabinet Secretary for the National Treasury.*



**MINISTRY OF AGRICULTURE, LIVESTOCK, FISHERIES  
AND IRRIGATION**

---

**RESPONSE TO THE SELECT COMMITTEE ON IMPLEMENTATION OF  
THE REPORT OF THE DEPARTMENTAL COMMITTEE ON  
AGRICULTURE AND LIVESTOCK WITH REGARD TO KENAFRIC  
INDUSTRIES LTD.**

**BY**

**HON. MWANGI KIUNJURI, EGH, MGH**

**CABINET SECRETARY**

---

**September , 2018**

# **AN APPRAISAL TO THE SELECT COMMITTEE ON IMPLEMENTATION OF THE REPORT OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK WITH REGARD TO KENAFRIC INDUSTRIES LTD.**

## **Background**

- Kenafric Industries Ltd (KIL) is one of the largest manufacturers regionally of Confectionery, Culinary, Biscuits and Snacks in East Africa.
- The company has been at the forefront of investment into people and technology to bring the world class products to the region.
- Regionally, the company is a major exporter covering around 6 regional markets from its Kenyan manufacturing plant. It is also one of the largest employer and tax payers in the country.
- While inquiring into the Crisis Facing the Sugar Industry in Kenya, the Departmental Committee on Agriculture Livestock and Co-operatives recommended that the Government should cancel import license for Kenafric Industries Limited on account of repacking sugar as captured in paragraph 108 of the report. The report was adopted by parliament on March 2015 (copy of the report attached)
- The Parliamentary Select Committee on Implementation summoned the Interim Head of Sugar Directorate vide letter dated 28<sup>th</sup> June, 2018 to appear before it on 6<sup>th</sup> July, 2018 (copy of letter attached).
- Resulting from the deliberations of 6<sup>th</sup> July, 2018, the Committee directed that the Sugar Directorate implements the Parliamentary Report with immediate effect.
- Given this directive, the Directorate wrote to Kenafric Industries on 17<sup>th</sup> July, 2018 (copy of letter attached), informing them that renewal of their Registration for the Financial year 2018/19 would be delayed.

## **Compliance Status of the KenAfric Industries Limited**

- Kenafric Industries Limited is duly registered by the Sugar Directorate as an importer of white refined sugar for industrial use.
- The company has consistently complied with all import requirements including but not limited to strict importation of sugar quantities sufficient for their annual capacity requirement and prohibition of third party trading of industrial sugar.
- In this regard the Directorate renewed their registration for the years 2015/16, 2016/17 and 2017/18.
- The Company submitted a request to renew their registration for the year 2018/19 and the subsequent issuance of an import license.
- However we delayed in renewing the registration since we had to implement the Committee Report on the Crisis Facing the Sugar Industry in Kenya
- In view of the above, the company instituted a Constitutional Petition No.262/2018 before Justice Mwita Chacha, challenging the Authority's decision not to issue them with a license.
- They cited that it was tantamount to an infringement of their proprietary rights.
- They also contend that this decision was made without according them a fair hearing.
- The matter was heard and the judge directed that he shall deliver his judgement on 10<sup>th</sup> November, 2018.

## **Communication from the Honourable Speaker**

- The KenAfric Industries Ltd through the firm of Mogeni and Company Advocates petitioned the Honorable Speaker of the National Assembly vide a letter dated 22<sup>nd</sup> August, 2018.
- The firm noted that during the hearings held by the Departmental Committee on Agriculture and Livestock, their client was not accorded an opportunity to be heard despite attempts made before the preparation, tabling and adoption of the Report of the Committee
- Consequent to the tabling and adoption of the Report, the Sugar Directorate has since delayed the processing of their import permit.
- Nevertheless, Honorable Speaker noted some glaring omissions as highlighted by the petitioner.

- He observed that the aggrieved party would best be served by rectification of the glaring omissions without prejudice to the fair determination of the proceedings in court.
- In view of the above, and a letter by AFA to the Speaker dated 28<sup>th</sup> August, 2018, the Speaker of the National assembly the Hon. Justin B. Muturi EGH., MP through the Communication from the Chair No. 046 of 2018 suspended the resolution of the Committee to halt Kenafric Industries Ltd from importing sugar until such a time as the House makes further resolution informed by the report of the Committee on Implementation.
- The Clerk of the National Assembly vide a letter dated 4<sup>th</sup> September, 2018 advised the Directorate to implement the communication from the Speaker with regard to Kenafric Industries Ltd.
- Consequently, the Directorate renewed the registration of Kenafric Industries for the year 2018/19 as importers of white refined sugar for industrial use.

**THANK YOU....**

## CHAPTER 4

### 4.0 RECOMMENDATIONS OF THE COMMITTEE

The Committee therefore recommends:

105. THAT the government establishes a permanent inter-agency enforcement unit on sugar trade which should enhance capacity to verify, scrutinise and monitor cross-border trade and step up border patrols to eradicate sugar smuggling. The unit should draw membership from KPA, Public Health, AFFA, KEBS, the Kenya Police, KRA and any other relevant government agencies.
106. THAT, KRA officer(s) should be investigated and appropriate action taken for clearing sugar without permit from the sugar regulator. Equally any company that imported sugar without a permit from the regulator should be banned from import and export business.
107. THAT, the reinforcement of re-packaging regulations to ensure consumer safety and that KEBS be held responsible for failure to prevent abuse of its seal which is supposed to be a standard measure for safety of goods in the country but has consistently been abused.
108. THAT, relevant laws and regulations governing sugar imports and exports should be amended to provide for higher accountability and public health standards for re-packaged sugar and for stiffer penalties for offenders. The Government should cancel import licences for the following companies: KenAfrica Industries, Czarnikow E. A. Ltd, Stuntwave Ltd, Mshale Commodities and Rising Star Commodities Ltd.
109. THAT, the government implements the sugar industry strategic agenda for increased competitiveness and reduction in consumer prices. There is need to lower production cost, improve extension services among others to reduce and eventually eliminate the incentive to smuggle sugar into the country.

REPUBLIC OF KENYA



Telegraphic Address:  
'Bunge', Nairobi  
Tel: +254 (0) 20 243674  
Fax: +254 (0) 20 243674  
E-mail: [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)  
When replying please quote

THE NATIONAL ASSEMBLY

Clerk's Chambers  
National Assembly  
Parliament Buildings  
P.O. Box 41842 - 00100  
NAIROBI, Kenya

REF: NAI/DC/SACX/H/2018(64)

28<sup>th</sup> June, 2018

Mr. Solomon Odara  
Interim Head, Sugar Directorate  
Safari Plaza, Upper Estate, off Mathari Way  
NAIROBI

Dear

RE: MEETING WITH THE COMMITTEE ON IMPLEMENTATION TO CONSIDER IMPLEMENTATION STATUS OF THE REPORTS ON THE PETITION AND ENQUIRY ON THE SUGAR CRISIS BY THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

Reference is made to your letter Ref.No. AFA/SD/HOSD/MOA/VOL.VII/153 dated 25<sup>th</sup> June, 2018 on the above subject matter.

The Committee in its deliberations has acceded to your request to postpone the meeting which was to consider the implementation status of the recommendations contained in the Report of the Departmental Committee on Agriculture and Livestock on the crisis facing the sugar industry in Kenya (copy attached) as adopted on 26<sup>th</sup> February, 2016.

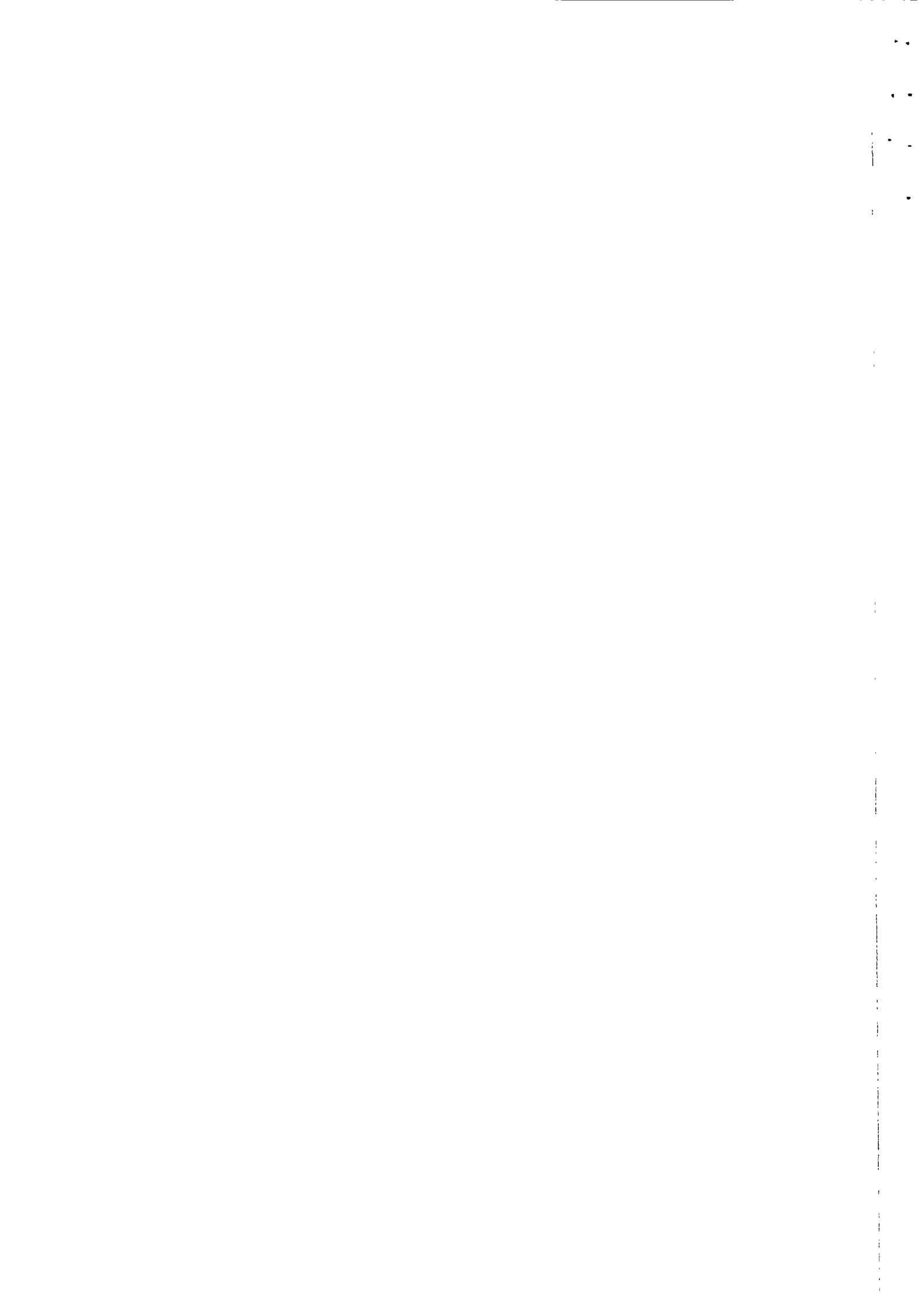
The Committee invites you to attend a meeting which will be held in the Committee Room on 2nd Floor, Continental House, Parliament Buildings on Friday, 6<sup>th</sup> July, 2018 at 12.00pm.

Written submissions for the meeting can be submitted at least two days prior to the meeting to the Office of the Clerk, National Assembly, First Floor, Main Parliament Buildings.

Yours

JEREMIAH NDOMBI  
FOR: CLERK OF THE NATIONAL ASSEMBLY

Copy to: Dr. Richard Lesiyampe, PhD., CBS  
Principal Secretary,  
Ministry of Agriculture and Irrigation,  
Kilimo House, Cathedral Road  
NAIROBI





# AGRICULTURE AND FOOD AUTHORITY

## SUGAR DIRECTORATE

Sukari Plaza, Off Waiyaki Way.  
P.O. Box 51500 NAIROBI - 00200.

REF: AFA/SD/REC/45/VOL.1/28

28<sup>th</sup> August, 2018

Hon. Justin Muturi  
Speaker  
National Assembly of Kenya  
Parliament Buildings  
NAIROBI

Dear Sir,

RE: KENAFRIC INDUSTRIES- REPORT OF THE PARLIAMENTARY  
DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK  
AND CO-OPERATIVES ON MARCH 2015

### BACKGROUND

KenafriC Industries Ltd (KIL) is one of the largest manufacturer regionally of Confectionery, Culinary, Biscuits and Snacks in East Africa.

The company is a major exporter in the region covering around 6 regional markets from its Kenyan manufacturing plant. It is also one of the largest employer and tax payers in the country. It employs over 2,500 directly and over 10,000 people indirectly.

KenafriC Industries Ltd intends to invest a further Kshs. 2 Billion in the next three years to grow and expand the manufacturing facilities as well as

product range in the process creating thousands more jobs directly and indirectly.

While inquiring into the Crisis Facing the Sugar Industry in Kenya, the Departmental Committee on Agriculture Livestock and Co-operatives recommended that the Government should cancel import license for Kenafric Industries Limited on account of repacking sugar as captured in paragraph 108 of the report. The report was adopted by parliament on March 2015 (copy of report attached).

The Parliamentary Select Committee on Implementation summoned the Interim Head of Sugar Directorate vide a letter dated 28<sup>TH</sup> June 2018 to appear before it on 6<sup>th</sup> July 2018 (copy of letter attached). Resulting from the deliberations of 6<sup>th</sup> July 2018, The Committee directed that the Sugar Directorate implements the Parliamentary report with immediate effect.

Given this directive, the Directorate wrote to Kenafric Industries on 17<sup>th</sup> July, 2018 (copy of letter attached), informing them that renewal of their Registration for the Financial Year 2018-19 would be delayed.

#### **COMPLIANCE STATUS OF KENAFRIC INDUSTRIES LIMITED**

Kenafric Industries limited is duly registered by the Sugar Directorate as an importer of white refined sugar for industrial use. The company has consistently complied with all import requirements including but not limited to strict importation of sugar quantities sufficient for their annual capacity requirement and prohibition of third party trading of industrial sugar. In this regard the Directorate renewed their registration for the years 2015/16, 2016/17 and 2017/18.

#### **REQUEST TO THE HONOURABLE SPEAKER**

The Company submitted their request to renew their registration for the year 2018/19 and the subsequent issuance of an import license. However we have delayed in renewing the registration since we had to implement the Committee Report.

In view of the above, the Company instituted a Constitutional Petition No. 262 of 2018 before Chacha Mwita J. challenging the Authority's decision not

issue them with a license and cited that it was tantamount to an infringement of the petitioner's proprietary rights. They also contend that this decision was made without according them a fair hearing. The matter was heard and the Judge directed that he shall deliver his Judgment on 10<sup>th</sup> November 2018.

The purpose of this letter is to update you on the matter and seek your further necessary guidance.

Yours

*Faithfully,*

  
**SOLOMON ODERA**  
**INTERIM HEAD, SUGAR DIRECTORATE**

Copy to: Interim Director General  
Agriculture and Food Authority

REPUBLIC OF KENYA

Telephone 2848000  
E-mail: clerk@parliament.go.ke  
Fax: 254-020-2243694



Kenya National Assembly  
Parliament Buildings  
P O Box 41842 - 00100  
NAIROBI, Kenya

THE NATIONAL ASSEMBLY

KNA/L&P/CORR/2018/VOL.II (068)

September 4, 2018

Mr. Solomon Odera  
Interim Head, Sugar Directorate  
Agriculture and Food Authority  
Sukari Plaza, Off Waiyaki Way  
NAIROBI

05 SEP 2018

Dear *Mr. Odera,*

*17-12-C*  
*see comply as*  
*directed.*

RE: REPORT OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES IN RELATION TO A RESOLUTION ON KENAFRIC INDUSTRIES LIMITED

Please refer to your letter Reference Number AFA/SD/REC/45/VOL.1/28 to the Speaker of the National Assembly, dated August 28, 2018 on the above-mentioned subject, and in which you sought further necessary guidance.

Enclosed, please find a self-explanatory "Communication from the Chair" issued by the Speaker of the National Assembly on August 30, 2018, which forms part of the proceedings of the House, and in which he suspended the implementation of the resolution on this matter until such a time as the House makes a further resolution informed by the report of the Committee on Implementation.

Yours

*[Signature]*  
*[Signature]*

MICHAEL R. SIALAI, EBS  
CLERK OF THE NATIONAL ASSEMBLY

Copy to: The Hon. Justin B. N. Muturi, EGH, MP  
Speaker of the National Assembly  
Parliament Buildings  
NAIROBI

Mr. Kelvin Mogeni  
Mogeni and Co. Advocates  
Mirage Tower 1  
Chiromo Road, Westlands  
NAIROBI

Encls.



Your G2B trading partner

## KENYA TRADE NETWORK AGENCY (KENTRADE)

*Simplifying Trade For Kenya's Competitiveness*

REF: KTNA/TRAD/8/8/(2)

August 29, 2018

**Mr. Solomon Odera**

Interim Head Sugar Directorate

P.O. Box 51500-00200

**NAIROBI**

Dear Sir,

### RE: REQUEST FOR CERTIFIED COPIES OF COMPANIES OPTED OUT BY THE DIRECTORATE

Your letter Ref: AFA/SD/REC/18/30 dated 29<sup>th</sup> August 2018 refers.

As requested, below is a table indicating the companies opted out of the Kenya TradeNet System by Sugar Directorate as on August 29, 2018.

Name	PIN	Date Opted Out
1. KENAFRIC INDUSTRIES LIMITED	P000599737M	07/26/2018 14:54:21
2. HYDERY (P) LIMITED	P000619085J	07/26/2018 14:55:16
3. SHREE SAI INDUSTRIES LTD	P051096118V	08/07/2018 07:21:42
4. AHMED SHEIKH DAHIR ENTERPRISES	P051100454J	11/17/2015 14:54:47
5. REESWOOD ENTERPRISES LIMITED	P051147596Z	07/26/2018 14:55:59
6. STUNTWAVE LIMITED	P051151246J	07/26/2018 14:54:42

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Email: [info@kentrade.go.ke](mailto:info@kentrade.go.ke)

OGA_CODE	EXIM_TIN	NAME	OPT_IN_O	LAST_UPDATE_DATE
ASD	P000599737M	KENAFRIC INDUSTRIES LIMITED	gadm059	07/26/2018 14:54:21
ASD	P000619085J	HYDERY (P) LIMITED	gadm059	07/26/2018 14:55:16
ASD	P051096118V	SHREE SAI INDUSTRIES LTD	gadm059	08/07/2018 07:21:42
ASD	P051100454J	AHMED SHEIKH DAHIR ENTERPRISES	gadm059	11/17/2015 14:54:47
ASD	P051147596Z	REESWOOD ENTERPRISES LIMITED	gadm059	07/26/2018 14:55:59
ASD	P051151246J	STUNTWAVE LIMITED	gadm059	07/26/2018 14:54:42
ASD	P051216534Y	MSHALE COMMODITIES LIMITED	gadm059	07/26/2018 14:55:00

KENYA TRADE NETWORK AGENCY  
P. O. Box 36943-00200  
NAIROBI, KENYA.