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THE SENATE

TWELFTH PARLIAMENT

FIFTH SESSION

COMMITTEE ON NATIONAL COHESION, EQUAL OPPORTUNITY  
AND REGIONAL INTEGRATION

REPORT ON ETHNIC DIVERSITY AND INCLUSIVITY AT THE KENYA  
MARITIME AUTHORITY(KMA) AND KENYA PORTS  
AUTHORITY(KPA)

cos  
Recommended for approval  
for tabling.

EG 16/11/2021

Rt. Hon' Speaker  
You may approve  
for tabling  
16/11/21

Approved  
17/11/2021

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

JULY, 2021

DC-EG  
Recommended forwarded  
for processing for approval  
16/11/2021

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## **ABBREVIATIONS**

EAC	East African Community
HELB	Higher Education Loans Board
HR	Human Resources
JKUAT	Jomo Kenyatta University of Science and Technology
KMA	Kenya Maritime Authority
KNHCR	Kenya National Commission on Human Rights
KPA	Kenya Ports Authority
MOU	Memorandum of Understanding
NCIA	National Cohesion and Integration Act,2008
NCIC	National Cohesion and Integration Commission
NCPWD	National Council for Persons Living with Disability
PS	Principal Secretary
PWD	Persons with Disability
STCW	Standards of Training, Certification and Watch-Keeping for Seafarers

## **PREFACE**

**Mr Speaker Sir,**

The Senate Standing Committee on National Cohesion, Equal Opportunity and Regional Integration was constituted during the First Session of the Twelfth Parliament pursuant to the provisions of Standing Order 218 of the Senate Standing Orders.

### **Mandate of the Committee**

The Committee is mandated under the Second Schedule of the Senate Standing Ordersto consider all matters relating to the pursuit of national and inter-community cohesion, the equalization of opportunities and improvement in the quality of life and status of all persons, regional integration, the East Africa Legislative Assembly and the Pan African Parliament.

### **Oversight**

In executing its mandate, the committee engages with the following Ministries and Institutions-

- (i) Ministry of Interior and Co-ordination of National Government State
- (ii) National Cohesion and Integration Commission (NCIC)
- (iii) The Ministry of Public Service and Gender
- (iv) Ministry of ICT, Innovation and Youth Affairs
- (v) The Kenya National Commission on Human Rights (KNCHR)
- (vi) The National Gender and Equality Commission
- (vii) National Council for Persons Living with Disability (NCPWD)
- (viii) Ministry of East African Community (EAC) and Regional Development

### **Membership of the Committee**

**The Committee is comprised of the following members:**

- |  |                  |
|--|------------------|
| 1. Sen. Naomi ShiyongaMasitsa, MP            | Chairperson      |
| 2. Sen. Christine ZawadiGona, MP             | Vice-Chairperson |
| 3. Sen. (Dr.) Christopher Andrew Lang’at, MP | Member           |

4. Sen. ImanFalhadaDekow, MP	Member
5. Sen. (Dr.) LelegweLtumbesi, MP	Member
6. Sen. Samson Cherarkey, MP	Member
7. Sen. Judith Pareno, MP	Member
8. Sen. Mercy Chebeni, MP	Member
9. Sen. (Dr.) Gertrude MusuruveInimah, MP	Member

In the exercise of this mandate and in fulfillment of the Constitutional role of the Senate as provided for under Article 96 of the Constitution, the Committee in its Annual Work Plan 2020/2021 committed to visit and hold consultative meetings with various Counties and Public Institutions to oversight on compliance with the Constitution and various other legislation in as far as ethnic diversity and inclusivity of staff is concerned.

The Committee invited the Cabinet Secretary, Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works, Mr. James Macharia, EGH to a meeting on Wednesday, 2<sup>nd</sup> December, 2020 to deliberate on the matter of ethnic diversity and inclusivity at the Kenya Maritime Authority (KMA). In the meeting, the Cabinet Secretary was accompanied by Ms. Nancy Karigithu, CBS, Principal Secretary, State Department of Shipping and Maritime among other representatives from the Ministry.

The meeting with the Ministry was necessitated following Statements sought on the floor of the House by Sen. Mohamed Faki, Senator for Mombasa and Sen. Anwar Loitiptip, Senator for Lamu. The Senators in their separate Statements sought to find out why available opportunities within the Blue Economy had not been availed to individuals especially the youth from the Coastal counties who according to them had been historically sidelined yet the Blue Economy and its institutions are majorly based at the Coast.

Following the meeting on Wednesday, 2<sup>nd</sup> December 2020, the Committee sought to undertake an inspection visit to the Kenya Maritime Authority (KMA) and the Kenya Ports Authority (KPA) headquarters in Mombasa County to further deliberate on the issues of ethnic diversity and inclusivity at the two institutions.

The Committee undertook a visit of the two Authorities in Mombasa County from 25<sup>th</sup> February to 27<sup>th</sup> February 2021. The Committee met with Ms. Nancy Karigithu, CBS, Principal Secretary, State Department of Shipping and Maritime and Mr. Robert Njue Managing Director, Kenya Maritime Authority among other representatives from the Authority at the Kenya Maritime Authority offices in Mombasa. During the inspection visit at the Kenya Ports Authority, the Committee did not meet with the Ag. Managing Director of the KPA and therefore resolved that he be invited to appear before the Committee at a later date.

The Kenya Ports Authority representatives appeared before the Committee on 1<sup>st</sup> April 2021. The delegation was led by Ag. Managing Director Eng.Rashid.K. Salim.

### **Delegation's composition**

The delegation of the visit to Mombasa County was comprised of the following members;

- |  |                  |
|--|------------------|
| 1. Sen. Naomi ShiyongaMasitsa, MP            | Chairperson      |
| 2. Sen. Christine ZawadiGona, MP             | Vice-Chairperson |
| 3. Sen. (Dr.) Christopher Andrew Lang'at, MP | Member           |
| 4. Sen. Judith Pareno, MP                    | Member           |

The Committee was also accompanied by Senators from the Coastal Counties namely:

- |                             |                   |
|-----------------------------|-------------------|
| 5. Sen. Mohamed Faki, MP    | Mombasa County    |
| 6. Sen. Anwar Loitiptip, MP | Lamu County       |
| 7. Sen.JumaWario, MP        | Tana River County |
| 8. Sen.Issa Boy, MP         | Kwale County      |
| 9. Sen.StewartMadzayo, MP   | Kilifi County     |

### **Acknowledgements**

The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the Senate for the facilitation and support extended to the Committee in the fulfillment of its mandate.

The Committee further appreciates the Kenya Maritime Authority and the Kenya Ports Authority for their submissions to the Committee.


The Committee also appreciates the Senators representing the Coastal Counties namely: Sen. Mohamed Faki MP, Sen. Anwar Loiptip MP, Sen. Juma Wario MP, Sen. Issa Boy MP and Sen. Stewart Madzayo MP for accompanying the Committee on the visit as well as Sen. Jones Mwaruma MP, who attended the online meeting with the Kenya Ports Authority on 1<sup>st</sup> April, 2021.

I also thank Members of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration for their participation in the visit.

**Mr. Speaker, Sir,**

It is my pleasant duty, pursuant to Standing Order 213 (6), to present the Report of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration on the Inspection visit to Kenya Maritime Authority and Kenya Ports Authority for adoption by the House.

Thank You,

Signed  .....

**CHAIRPERSON**

**(SEN. NAOMI SHIYONGA MASITSA, MP)**

**Date: .....3<sup>rd</sup> August, 2021.....**

## **EXECUTIVE SUMMARY**

This report documents an inspection visit by the Senate Standing Committee on National Cohesion, Equal Opportunity and Regional Integration to the Kenya Maritime Authority and the Kenya Ports Authority in Mombasa County from 25<sup>th</sup> February to 27<sup>th</sup> February 2021.

**Chapter one** of this report gives a background to the visit, which was as a result of a commitment by the Committee in its Annual Work Plan 2020/2021 to visit and hold consultative meetings with various Counties and Public Institutions to oversight on compliance with the Constitution and various other legislation in as far as ethnic diversity and inclusivity of staff is concerned.

The visit was also undertaken in fulfilment of the Constitutional role of the Senate under Article 96 of the Constitution and in exercise of the Committee's mandate as provided for under the Senate Standing Orders.

**Chapter two** documents the deliberations and submissions made during a meeting with the Kenya Maritime Authority represented by Ms. Nancy Karigithu, CBS, Principal Secretary, State Department of Shipping and Maritime and Mr. Robert Njue Managing Director, Kenya Maritime Authority among other representatives from the Authority.

During the inspection visit at the Kenya Ports Authority, the Committee did not meet with the Ag. Managing Director of the KPA and therefore resolved that he be invited to appear before the Committee at a later date.

The chapter also documents deliberations and submissions made by representatives from the Kenya Ports Authority when they appeared before the Committee on 1<sup>st</sup> April 2021. The leader of the delegation from KPA was the Ag. Managing Director Eng. Rashid.K. Salim.

**Chapter three** documents the observations and recommendations made by the committee as indicated below:

### **Observations:**



The Committee observed as follows:

**Ethnic Diversity and Inclusivity at the Kenya Maritime Authority (KMA)**

- 1) The KMA has 121 (One Hundred and Twenty-one) staff in total. Of the total staff complement:
  - i. The Ethnic Community with the highest representation are the Mijikenda who are 29 out of 121 or 23.9%. This is within the provided threshold of 33.3% as stipulated under Section 7 of the National Cohesion and Integration Act (NCIA), 2008 where all public establishments are required to seek to represent the diversity of the people of Kenya in the employment of staff. The Law requires that no public establishment shall have more than one third of its staff from the same ethnic community.
  - ii. KMA has employed persons from 15(fifteen) different ethnic communities representing 33(Thirty-Three) Counties out of 47(Forty-Seven) Counties in Kenya.
  - iii. The Youth (Age group 35years and below) are 43 (Forty-Three) out of 121 (One Hundred and Twenty-one) representing 35.5%.
  - iv. The total number of Women in the Authority is 28 (Twenty-Eight) out of 121 (One Hundred and Twenty-one) representing 23.1%. This is contrary to Article 27(8) which provides that not more than two thirds of the members of appointive or elective bodies shall be of the same gender. At the Authority the men who are the majority represent 76.9%.
  - v. Persons Living With Disabilities (PWDs) at the Authority are 4(Four) out of 121(One Hundred and Twenty-one) representing 3% of the entire staff complement. This is contrary to Article 54(2) which provides that the State shall ensure the progressive implementation of the principle that at least five percent of the members of the public in elective and appointive bodies are persons with disabilities.
  
- 2) The Blue Economy offers vast opportunities for the Kenyan youth since it is multi-faceted with 13 sectors, 15 sub-sectors and 87 different activities for example fisheries and sports fishing, aquaculture, Marine culture, tourism, ship building and repair, ship handling, marine cargo handling, maritime law, safety and security among others.  
In Kenya, different components of the Marine sector sit with different sector players in Government which includes 22 different State Departments and Ministries which impedes

the country being able to maximize its potential in the Blue Economy. This situation is further aggravated by the collapse of seafaring in the country during the late 90's due to non-compliance.

- 3) To qualify for jobs in the sector, youth have to be trained and hold certificates in line with the International Convention on Standards of Training, Certification and Watch-Keeping for Seafarers (STCW), 1978 as Amended in 1995. Qualifications must include mandatory minimum training on-board ocean-going ships, yet Kenya has no such ships.
- 4) The Government has a long term plan to purchase a training ship. However, with maintenance and operation costs being colossal, Memoranda of Understanding (MOUs) with shipping lines are being pursued in the short and medium term.
- 5) KMA has partnered with local institutions of higher learning like Jomo Kenyatta University of Science and Technology (JKUAT) to provide training for students at entry level positions. JKUAT has consequently partnered with a Korean Shipping Line. Additionally, KMA has entered into an MOU with the Higher Education Loans Board (HELB) to help youths access loans to complete maritime studies as well as an MOU with the Youth Fund to ensure recruited Youth have the funds to undertake the necessary preparations like visa, health checks and vaccines etc,
- 6) The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW Convention) as amended, provides that a good command of the English language is mandatory. Additionally, the requirement for Crews' Knowledge of English is enshrined in **Section 174 of the Merchant Shipping Act, 2009**.
- 7) Representatives from the Kenya Maritime Authority did not provide responses on whether the appointment process of Mr. Robert MutegiNjue who is the current Director-General of Kenya Maritime Authority (KMA) having being appointed on 15<sup>th</sup> October 2020 for a period of three years, was within the law. That is, whether he met the prerequisite qualifications for the position, how the shortlisting and interview process was done and also whether the appointment was done in line with all relevant laws on ethnic diversity and inclusivity.

### **Ethnic Diversity and Inclusivity at the Kenya Ports Authority (KPA)**

- 8) The Kenya Ports Authority(KPA) is one of the largest Government entities employing 6,470 (six thousand four hundred and seventy)employees.

- i. The Ethnic Community with the highest representation are the Mijikenda who are 2,274 (Two Thousand, Two Hundred and Seventy-Four) out of 6,470 or 35% slightly higher than the provided threshold of 33.3% as stipulated under Section 7 of the National Cohesion and Integration Act(NCIA), 2008 where all public establishments are required to seek to represent the diversity of the people of Kenya in the employment of staff. The Law requires that no public establishment shall have more than one third of its staff from the same ethnic community.
- ii. KPA has employed persons from 41(Forty-One) different ethnic backgrounds out of a possible 45 (Forty-Five) ethnic communities as per the 2019 census. Similarly, KPA has employed 21(Twenty-one) persons from other Non-Kenyan Nationalities and Ethnic Groups mostly persons from countries where KPA has presence and where the national laws of those territories require employment/engagement of their locals.
- iii. Of the total 6,470 (six thousand four hundred and seventy) employees, 5,077 are male representing 78.4% of the employees and 1,393 are female employees representing 21.5%. This is contrary to Article 27(8) which provides that not more than two thirds of the members of appointive or elective bodies shall be of the same gender. At the Authority the men who are the majority represent 78.4%.
- iv. PWDs at the Authority are 66(Sixty-Six) out of 6,470 (six thousand four hundred and seventy) representing 1.02% of the entire staff complement. This is contrary to Article 54(2) which provides that the State shall ensure the progressive implementation of the principle that at least five percent of the members of the public in elective and appointive bodies are persons with disabilities.
- v. There are 43(Forty-Three) senior management positions at KPA which are Grade HE1 and HE2. The Ethnic Community with the highest representation is the Luo who are 10 (Ten) followed by the Kikuyu who are 9(Nine) representing 23% and 20% respectively.
- vi. In the Senior Management level there are 35(Thirty-Five) Males representing 81% and 8(Eight) Females representing 19%. Also 65% of the senior managers are between the ages of 45 to 50 years and there are no youths that is, below 35 years

olds in the senior management positions. There are also no persons with disabilities in senior management positions.

- 9) About 100 to 150 staff retire annually from the Authority. KPA could however not provide evidence of the affirmative action measures they hope to take to ensure replacements are done in line with the Constitution and all other relevant laws. Additionally, by 2023, 900 people will have retired from the Authority. KPA did not provide information on skills transfer and mentorship programmes that are available especially to the youth in the organization.
- 10) There will be vacancies available at the Lamu Port, Kisumu Port and the Naivasha Dry land port once they are fully operational and launched.

#### **Recommendations:**

**The Committee recommends as follows:**

#### **On Ethnic Diversity and Inclusivity at the Kenya Maritime Authority(KMA)**

- 1) Kenya Maritime Authority shall undertake affirmative action measures to have more job opportunities available especially for the Youth, PWDs and Women as provided for in Article 27, 55(5),54(2),56. These Articles speak to fundamental rights of these special interest groups in their representation in the available job opportunities.
- 2) KMA should spearhead management and development of the Blue Economy by creating a platform for an integrated approach bringing together the many players at different levels, including but not limited to: Ministries, State Departments and Agencies (at both National and County levels), Parliament, the private sector as well as Development Partners, for support, cooperation, and collaboration in the Blue Economy.
- 3) The Government should consider amalgamating issues of the Blue Economy into one entity. The current situation where the Marine sector matters sit with different sector players in Government alone which includes 22 different State Departments and Ministries impedes the growth of the sector especially since the Government needs to rebuild Kenya's seafaring competitive advantage and reputation from scratch that was lost in the 90s due to non-compliance.

- 4) The Government through the KMA shall initiate the long term measures of purchasing a training ship which would be a key asset for training the youth. In the short and medium term, the Government should conclude on the necessary MOUs with the various international shipping lines to ensure students access the required skills at sea training.
- 5) The KMA should create awareness among the youth in the County on the broad spectrum of opportunities that exist in the Blue Economy and how they can access these opportunities as well as the available funding opportunities through for example HELB and the Youth Fund.
- 6) KMA should also partner with more institutions of higher learning in offering the necessary skills. The Authority should specifically target youths in the Coast Counties of Mombasa, Lamu, Kwale, Kilifi, Tana River and Taita Taveta.
- 7) KMA should create awareness on the necessary skills for the international job market. Additionally, KMA in collaboration with other relevant State and Non State actors should invest more in preparing young people for the job market. KMA should also continue to pursue more partnerships with shipping companies to establish crewing agencies and create employment and seaboard training opportunities for the youth.
- 8) KMA shall provide the Committee with all relevant documentation on the appointment process of the current Director General Mr. Robert Mutegi Njue.

#### On Ethnic Diversity and Inclusivity at the Kenya Ports Authority(KPA)

- 9) Kenya Ports Authority(KPA) shall undertake affirmative action measures to have more job opportunities available especially for the Youth, PWDs and Women as provided for in Article 27, 55(5),54(2),56 which speak to fundamental rights of these special interest groups in their representation in the available job opportunities. This should also be reflected in senior management positions where ethnic diversity and inclusivity is lacking.
- 10) KPA should embark on affirmative action measures to ensure once positions become available they are filled in line with the Constitution and all other relevant laws in so far as ethnic diversity and inclusivity is concerned. Additionally, KPA should ensure there is mentorship and skills transfer programmes especially for the youth in the organization in light of the intended mass retirements by 2023.

11) KPA should ensure that vacancies that will arise from the Lamu Port, Kisumu Port and Naivasha Dry Land Port are competitively filled and in line with the Constitution and all other relevant laws with priority given to the youth of the host Counties.

## 1.0 CHAPTER ONE

### 1.1 Introduction

The Senate Standing Committee on National Cohesion, Equal Opportunity and Regional Integration is established under Standing Order 218 of the Senate Standing Orders and is mandated to consider all matters relating to the pursuit of national and inter-community cohesion, the equalization of opportunities and improvement in the quality of life and status of all persons, regional integration, the East Africa Legislative Assembly and the Pan African Parliament.

In the exercise of this mandate and in fulfillment of the Constitutional role of the Senate as provided for under Article 96 of the Constitution, the Committee in its Annual Work Plan 2020/2021 committed to visit and hold consultative meetings with various Counties and Public Institutions to oversight on compliance with the Constitution and various other legislation in as far as ethnic diversity and inclusivity of staff is concerned.

The Committee invited the Cabinet Secretary, Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works, Mr. James Macharia, EGH to a meeting on Wednesday, 2<sup>nd</sup> December 2020 to deliberate on the matter of ethnic diversity and inclusivity at the Kenya Maritime Authority (KMA). In the meeting, the Cabinet Secretary was accompanied by Ms. Nancy Karigithu, CBS, Principal Secretary, State Department of Shipping and Maritime among other representatives from the Ministry.

The meeting with the Ministry was necessitated following Statements sought on the floor of the House by Sen. Mohamed Faki, Senator for Mombasa and Sen. Anwar Loitiptip, Senator for Lamu. The Senators in their separate Statements sought to find out why available opportunities

within the Blue Economy had not been availed to individuals especially the youth from the Coastal counties who according to them had been historically sidelined yet the Blue Economy and its institutions are majorly based at the Coast.

Following the meeting on Wednesday, 2<sup>nd</sup> December 2020, the Committee sought to undertake an inspection visit to the Kenya Maritime Authority(KMA) and the Kenya Ports Authority(KPA) headquarters in Mombasa County to further deliberate on the issues of ethnic diversity and inclusivity at the two Institutions.

To this end, the Committee decided to visit the two Authorities in Mombasa County from 25<sup>th</sup> February, to 27<sup>th</sup> February, 2021. The Committee met with representatives from the KMA. During the inspection visit at the Kenya Ports Authority, the Committee did not meet with the Ag. Managing Director of the KPA and therefore resolved that he be invited to appear before the Committee at a later date.

The Kenya Ports Authority representatives appeared before the Committee on 1<sup>st</sup> April 2021. The delegation was led by the Ag. Managing Director, Eng. Rashid. K. Salim.

## **1.2 Rationale of the Inspection visits to KMA and KPA**

The inspection visits to KMA and KPA was to inquire on the following matters related to ethnic diversity and inclusivity at the two authorities:

1. Current employment statistics of the youth and marginalized groups as constituted in the Kenya Maritime Authority and their corresponding skills.
2. The official Ministry position on the factors undermining the ability of the youth in the Coastal region to take up jobs available in the maritime sector and the steps the Ministry is taking to remedy this situation; and
3. Measures the Government has put in place to ensure that the youth from the Coastal region are given priority in filling these job opportunities in line with the principle of devolution.

### **1.3 Legislative Framework for Ethnic Diversity and Inclusivity**

**Articles 27 and 232(i)** of the Constitution provide for principles of equality and freedom from discrimination and in particular affords adequate equal opportunities for appointment, training and advancement at all levels of the Public Service for:

- i. Men and Women;
- ii. Members of all Ethnic Groups; and
- iii. Persons with Disabilities.

**Section 7(1) of the National Cohesion and Integration Act, 2008** stipulates that all public establishments shall seek to represent the diversity of the people of Kenya in the employment of staff. Therefore, ensuring diversity in employment by including various Kenyan communities in the county public service is not only a legal obligation but also a path to achieving national unity. Further, **Section 7(2)** stipulates that no public establishment shall have more than one third of its staff from the same ethnic community.

**Section 3(3) of the Employment Act, 2007** presupposes that both levels of government are under an obligation to promote equality in access to employment opportunities. Under Section 5, the Minister for Labour is particularly charged with the promotion of equality of opportunity in employment in order to eliminate discrimination.

**The Public Service Commission Act, 2017** further affirms that there shall be no discrimination in appointments and that there shall be representation of the face of Kenya in the public service and of Special Interest groups i.e. PWDs, Women and the Youth.

### **1.4 Ethnic and Diversity Audit: Kenya Maritime Authority**

**The Ethnic and Diversity Audit of Parastatals Report** was published by the National Cohesion and Integration Commission (NCIC). It was a product of the analysis of data submitted by Parastatals in Kenya between February 2015 to March 2016. Among the Parastatals that submitted their data were the **Kenya Maritime Authority and Kenya Ports Authority**.

#### **1) Kenya Maritime Authority**



The total number of employees at the Kenya Maritime Authority in 2016 were 84 (Eighty-Four). Of the 84 (Eighty-Four) staff, the ethnic community with the highest representation was the Mijikenda who were 21 or 25% of the total staff establishment. This was in line with the provided threshold of not more than 33% as provided for under Section 7(2) of NCIC Act No.12 of 2008. As at 2016, the number of ethnic communities employed at the Kenya Maritime Authority was 12 (twelve).

## **2) Kenya Ports Authority**

In 2016, the Kenya Ports Authority had 6,543 members of staff. The majority were drawn from the Mijikenda community who formed 41.6% of the entire staff establishment. KPA contravened section 7(2) of the NCIC Act No.12 of 2008, because its largest number of employees had surpassed the provided threshold of 33.3%.

It was therefore important for the Committee in its visit to the two Authorities to be appraised of the gains made since 2015 and efforts to comply with the Constitution and other relevant legislation in as far as ethnic diversity and inclusivity is concerned.

## 2.0 CHAPTER TWO

### 2.1 VISIT TO THE KENYA MARITIME AUTHORITY(KMA)

The Committee met with representatives from the Kenya Maritime Authority at the KMA offices in Mombasa on Friday, 26<sup>th</sup> February 2021.

The following were present during the meeting.

- |                             |  |
|-----------------------------|--|
| 1) Ms. Nancy Karigithu, CBS | Principal Secretary, State Department of Shipping and Maritime |
| 2) Mr. Robert Njue          | Director General, KMA  |
| 3) Adan Gedow Harakhe HSC   | Board Member, KMA  |
| 4) Henry Mwasaru            | KMA  |
| 5) Lucy Munuthu             | KMA  |
| 6) Hon. Amina Kale          | Member, County Assembly of Lamu                                |
| 7) Mohamed Hassan           | Fast Action Movement   |
| 8) Harriet Muganda          | Fast Action Movement   |
| 9) Francis Almond           | Fast Action Movement   |

#### 2.1.1 Submissions by the Kenya Maritime Authority

The delegation from the KMA led by the Principal Secretary, made the following submission:

- 1) The PS began by affirming that KMA is an equal opportunity employer open to all Kenyans and that KMA's recruitment policies take cognizance of the principles enshrined in the following Laws and Government Policy documents.
  - i. The Kenya Constitution, 2010
  - ii. Kenya Maritime Authority Act
  - iii. Public Services (Values and Principles) Act
  - iv. Public Service Commission Act, 2017
  - v. The Authority Human Resource Policies and Procedures Manual
- 2) The KMA has **121 (One Hundred and Twenty-one) staff in total.**

3) **Staff Distribution Per County:**

The Counties with the highest and lowest representations are as below:

No.	Counties with the Highest Representation	Number(Out of 121 staff)	%
1.	Kilifi	14	11.5%
2.	Kwale	12	9.9%
3.	TaitaTaveta	8	6.6%
4.	Mombasa	8	6.6%
5.	Homabay	8	6.6%

*Figure 1: Staff distribution per County*

Some of the Counties with the least representation include: **Bomet, Busia, Kajiado, Kiambu, Makueni, Nakuru, Transzoia, Turkana and UasinGishu** with one person each.

4) **Ethnic Composition of staff at KMA**

Ethnic Communities with the highest representation include

No.	Ethnic Communities with the Highest Representation	Number of officers in the organization (Out of 121 staff)	%
1.	Mijikenda	29	23.9%
2.	Luo	22	18.2%
3.	Luhya, Kamba	11 Each	9.09% Each
4.	Kalenjin	9	7.4%
5.	Kisii, Taita	8 Each	6,6%

*Figure 2: Ethnic composition of staff*

Ethnic Communities with the least representation are **Teso, Maasai, Turkana** who are **1** each.

5) **Age Distribution of staff at KMA**

No.	Age Bracket	Number of officers in the organization (Out of 121 staff)	%
1.	35 years and below	43	35.5%
2.	36 to 45 years	54	44.6%
3.	46 years and above	24	19.8%

*Figure 3: Age Distribution of staff at KMA*

- 6) Of the total 121 staff, 28 (Twenty-Eight) are Women representing 23.1% and 93(Ninety-Three) are Men representing 76.8%.
- 7) There are 4(Four) PWDs currently employed at the Authority.

**Measures aimed at ensuring the Youths get opportunities in the Maritime Sector:**

- 8) On measures that the Government has put in place to ensure that the youths especially from the Coastal Region are given priority in these opportunities, the PS submitted that the Ministry has embarked on finding alternative solutions on how to finance training of youth noting that majority of youth come from poor families that cannot afford maritime training which is equally expensive. Other initiatives being implemented include:
- i. Raising awareness of employment opportunities.
  - ii. Launch of the Bandari Maritime Academy
  - iii. Partnerships with shipping companies to establish crewing agencies and create employment and seaboard training opportunities for the youth.
  - iv. Entering an MOU with Higher Education Loans Board (HELB) to help youths access loans to complete maritime studies. An MOU with the Youth Fund to ensure recruited Youth have the funds to undertake the necessary preparations like visa, health checks and vaccines etc.
- 9) Majority of the youth have theoretical training either at Degree, Diploma or certificate Level with no sea time experience. To help them move to the next level the Government has a long

term plan to purchase a training ship. However, with maintenance and operations costs being colossal the MOU's with shipping lines are being pursued in the short and medium term.

- 10) The Ministry has also been pursuing **Memoranda of Understanding** with other countries to ensure that Kenyan youth access training which is critical for operations at sea.
- 11) The Ministry is also pursuing mutual recognition of Kenyan maritime certificates to ensure the youth can access jobs on ships registered in as many countries as possible.
- 12) The Ministry has also over the years been running programmes to expand maritime training institutions particularly the universities and colleges, and to sensitize the youths and inform them the industry's requirements for the existing job opportunities in the market.

### **Positioning Kenya as a maritime labour supply nation**

- 13) The Ministry is determined that by positioning Kenya as a maritime labour-supply nation, the country would be able to create jobs for the youth bulge we are currently confronted with.

A number of challenges, however, lay in the path towards the attainment of this aspiration these include:

- a) Because shipping is an international activity crossing national and ocean boundaries, commitment to safety permeates all deep-sea shipping operations. The international community has therefore developed a series of regulations and minimum standards of governing the industry. The International Maritime Organization (IMO) as the specialized United Nations Agency that oversees the Maritime sector, has been granted the lead responsibility to apply & enforce these uniform regulations. The IMO works closely with the International labour Organization to regulate the sector.
- b) The collapse of seafaring in this country during the late 90's due to noncompliance led Kenya to lose her competitive advantage and reputation, which now has to be rebuilt from scratch.
- c) To qualify for jobs in the sector, Youth have to be trained and hold certificates in line with the International Convention on Standards of Training, Certification and Watch-Keeping for Seafarers (STCW), 1978 as Amended in 1995. Qualifications must include mandatory minimum training on-board ocean-going ships, yet Kenya has no such ships.

- d) To ensure international recognition and attain skills for job placement, every trainee must comply with these minimum requirements, failing which the ship employing him/her may be detained for being non-compliant with existing regulations.
- 14) The foregoing challenges informed key decisions by the Ministry: -
- a) The revival of a national fleet to enable the youth access on-board sea time training facilities; and
  - b) Hiving off Bandari College from being a department of KPA and its launch as a stand-alone Maritime Academy, so as to provide the required training and certification.
  - c) This plan is expected to create upward of ten thousand (10,000) jobs in the medium term, to re-position Mombasa as the trans-shipment hub on the eastern seaboard of Africa, and also as the pre-eminent logistics and transportation hub on the African continent.
- 15) Careers at sea are international in nature and the Ministry grants equal access to available opportunities to all Kenyans by taking all measures to advertise the jobs by print media platforms. The actual employment of persons by the 6 shipping companies is dependent on their minimum qualifications to perform the jobs.

### **Harnessing opportunities in Blue Economy:**

The Blue Economy:

- 16) **Under the Blue Economy<sup>1</sup>** concept, the maritime industry is multi-faceted, with **13 sectors, 15 sub-sectors and 87 different activities**. Examples of Blue Economy activities include fisheries and sports fishing, aquaculture, mariculture, tourism, ship building and repair, ship handling, marine cargo handling, maritime law, safety and security among others.
- 17) The full-blown Blue Economy will only be realized through the full exploitation of all the productive sectors and their forward and backward linkages. This Ministry is charged with overseeing ports and logistics which include maritime transport as well as maritime education and training (which is shared with Ministry of Education). In addition, different components of the Marine sector sit with different sector players. In Government alone this includes **22 different State Departments and Ministries**.

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<sup>1</sup>Blue Economy is the sustainable use of ocean resources for economic growth, improved livelihoods and jobs and ocean eco system health. <https://www.worldbank.org/en/news/infographic/2017/06/06/blue-economy>  
 Accessed 6th April 2021

18) The Ministry is guided by and takes cognizance of global trends and statistics in availing job opportunities in the Maritime sector. 80% - 90% of global trade is seaborne and handled by ports worldwide. As a result of the substantial growth in the industry, the International Chamber of Shipping has predicted that unless seafarer training levels increase, this sector growth could generate a serious shortage of seafarers needed to meet demand by the year 2025.

### **English as a prerequisite in the Maritime Sector**

19) Shipping being international in nature, sufficient knowledge of the English language is required as a minimum international standard under IMO regulations.

This is necessitated because:

- i. A ship can fly the flag of country A, be under a captain from country B, and have a crew complement from at least 7 to 8 different nationalities. Since crews onboard are multi-national and multi-lingual, the importance of sharing a common language cannot be underestimated due to the operational and safety issues.
- ii. English has over time come to be considered as the common language while at sea in order to prevent ambiguity and confusion. Ship to ship communication; ship to shore communication as well as internal communications onboard the ship by the crew ship are done using the English language.
- iii. Studies have also shown that most common causes of maritime accidents and over 50% of incidents at sea are due to some form of miscommunication. Thus, it is an International IMO requirement to equip seafarers with sufficient knowledge on how to effectively communicate while at sea. Under the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW Convention) as amended, a good command of the English language is mandatory, in particular for:
  - a) All officers in charge of a watch (navigational or engineering) must have a good command of spoken and written English; and
  - b) Senior officers with functions at a managerial level must also speak and write English;

- c) Ratings forming part of a navigational watch are required to be able to comply with helm orders issued in English;
- d) Crew members assisting passengers during emergency situations must be able to communicate safety-related issues in English or in the language spoken by the passengers and other personnel on board.

20) This requirement is further emphasized by the Maritime Labour Convention, 2006 which provides that seafarers shall not work on board unless they are trained and certified as competent or otherwise qualified. The requirement for Crews' Knowledge of English is enshrined in section 174 of the Merchant Shipping Act, 2009.

Following various questions from the Senators during the plenary session, the PS made the following additional submissions:

- 21) The PS Nancy Karigithu emphatically distanced herself from sentiments reported in the mainstream media that were supposedly attributed to her. The media reported that the PS supposedly said that the reason the youth from the Coast Region cannot gain employment in the international maritime sector is because they cannot speak in English. The PS denied the allegations and produced evidence of an apology from a Newspaper outlet, confirming that they had misquoted her remarks. The PS further explained the need for proper command of both written and spoken English in the Maritime sector.
- 22) The PS provided evidence of 9(nine) persons recently recruited in Kenya for an International Shipping Line. The PS reiterated that the role of KMA is create awareness on the available opportunities in the international shipping line industry, to prepare the interviewees by providing all necessary material and platforms for them to be able to perform their optimum best. However, KMA has no input on who gets selected for the jobs ultimately.



## 4.2 MEETING WITH REPRESENTATIVES FROM KENYA PORTS AUTHORITY (KPA)

During the visit to Mombasa on 26<sup>th</sup> February 2012, the meeting with representatives from KPA did not take place due to the unavailability of the Acting Managing Director Eng. Rashid Salim who was away on official duty. Therefore, the Committee invited KPA representatives to a meeting on 1<sup>st</sup> April 2021.

The purpose of the meeting was to consider the compliance of the Kenya Ports Authority with constitutional provisions on representation of ethnic diversity in its staffing and in particular inquire on the following -

1. Current employment statistics of the youth at the Kenya Ports Authority and their corresponding qualifications;
2. Status of the official Ministry position on the factors undermining the ability of the youth in the Coastal region to take up jobs available in the maritime and port sector and the steps the Ministry is taking to remedy this situation; and
3. Measures the Government has put in place to ensure that the youth from the Coastal region are given priority in filling job opportunities in line with the principle of devolution.

Senators present at the meeting were:

- |  |                  |
|--|------------------|
| 1. Sen. Naomi Shiyonga Masitsa, MP           | Chairperson      |
| 2. Sen. Christine Zawadi Gona, MP            | Vice-Chairperson |
| 3. Sen. (Dr.) Christopher Andrew Lang'at, MP | Member           |
| 4. Sen. (Dr.) Lelegwe Ltumbesi, MP           | Member           |
| 5. Sen. Samson Cherarkey, MP                 | Member           |
| 6. Sen. Judith Pareno, MP                    | Member           |
| 7. Sen. Mercy Chebeni, MP                    | Member           |
| 8. Sen. (Dr.) Gertrude Musuruve Inimah, MP   | Member           |

Senators from the Coast Counties present at the meeting were:

- |                          |                |
|--------------------------|----------------|
| 9. Sen. Mohamed Faki, MP | Mombasa County |
|--------------------------|----------------|

10. Sen.Issa Boy, MP

Kwale County

11. Sen.JohnesMwaruma, MP

TaitaTaveta County

Representatives from KPA present at the meeting included:

- 1) Eng. Rashid.K. Salim                      Ag. Managing Director KPA and Head of Delegation
- 2) Mr.DanielOgutu                            General Manager, Human Resources(HR)& Administration
- 3) Ms.ElsieBikondo                         Principal HR Officer
- 4) Ms.IreneMbogho                         Principal HR Officer

### 2.2.1 Submissions by representatives from KPA

The Ag. Managing Director Eng.Rashid.K.Salim submitted that Ports remain one of the most labour intensive sectors worldwide. In the past, the ports required able bodied men to undertake manual, heavy-duty jobs. This view epitomizes the current situation at the Port of Mombasa where out of a **total of six thousand four hundred and seventy (6,470) employees, 5,077 are male employees and 1,393 are female employees.**

#### 1) Ethnic Representation

- i. **Six thousand four hundred and seventy (6,470) employees** are currently employed at the Port.

The **top five ethnic communities** with the highest representation include:

No.	Ethnic Group	2020/2021 (to date) 6,470 Employees	
		Count	%
1.	Mijikenda	2,274	35%
2.	Luo	733	11.3%
3.	Luhya	502	7.7%
4.	Taita	496	7.6%
5	Kamba	479	7.4%

Figure 4: Ethnic Communities with the highest representation at KPA

ii. Ethnic communities with the **least representation** are:

No.	Ethnic Group	2020/2021 (to date) 6,470 Employees	
		Count	%
1.	Samburu	7	0.105%
2.	Suba	6	0.09%
3.	Kenyan Asian	5	0.07%
4.	Kuria	4	0.06%
5	Galana,Tharaka,Rendile	1 each	0.01% each

Figure 4: Ethnic Communities with the least representation at KPA

Some of the ethnic communities with **no representation** include: Turkana, Njemps, Ichamus, Gabra, Makonde among others.

iii. **Other Nationalities/Ethnic Groups** in the Authority:

No.	Other Nationalities/Ethnic Group	2020/2021(to date) 6,470 Employees	
		Count	%
1.	Baluchi	6	0.09%
2.	Mnyasa	5	0.07%
3.	Ugandan	3	0.07%
4.	Tanzanian	1	0.01%
5.	Nyamwezi	2	0.03%
6.	Rwandese	1	0.01%
7.	Mtagana	1	0.01%
	<b>TOTAL</b>	<b>21</b>	

Figure 5: Other Nationalities at KPA

KPA has presence in Uganda, Rwanda and Burundi where the national laws of those territories require employment/engagement of their locals. The nationalities or ethnic groups above are therefore not part of what is officially recognized as tribes in Kenya.

## 2) Gender Representation in the Authority

No.	Gender	2020/2021(to date) 6,470 Employees	
		Count	%
1.	Male	5,077	78.4%
2.	Female	1,393	21.5%
	<b>TOTAL</b>	<b>6,470</b>	

Figure 6: Gender representation at KPA

## 3) Persons with Disability Representation in KPA

Year	Male	Female	Total	%
2018/2019 Total no. of employees 6,757	55	13	68	1.0%
2019/2020 Total no. of employees 6,655	89	13	102	1.5%
2020/2021(to date) Total no. of employees 6,470	55	11	66	1.02%

Figure 6: PWDs at KPA

4) **Employee Age Profile in the Authority**

No.	Age Bracket	No. of Staff	%
1.	19-24	47	0.72%
2.	25-29	339	5.2%
3.	30-34	462	7.1%
4.	35-39	757	11.7%
5.	40-44	1,121	17.3%
6.	45-49	1,484	22.9%
7.	50-54	1,220	18.8%
8.	55-59	1,016	15.7%
9.	60 plus	24	0.37%

Figure 7: Age Profile at KPA

An analysis of the age profile of all the 6,470 staff in the Authority indicates that majority of the staff (22.9%) are between the ages of 45 and 49 while 6 staff who would be considered youth (those between the ages of 19 and 34) make up 13.1% of the total staff population.

5) **Ethnic Diversity and Representation of 43 (Forty-Three) Senior Management (Grade HE 1 and HE 2)**

No.	Parameters	Representation	Total	% (Out of a total of 43)
1.	Ethnic Diversity	<ul style="list-style-type: none"> <li>i. Luo</li> <li>ii. Kikuyu</li> <li>iii. Mijikenda</li> <li>iv. Kisii</li> <li>v. Kalenjin</li> <li>vi. Kamba</li> <li>vii. Luhya</li> </ul>	<ul style="list-style-type: none"> <li>10</li> <li>9</li> <li>7</li> <li>4</li> <li>3</li> <li>2</li> <li>2</li> </ul>	<ul style="list-style-type: none"> <li>23%</li> <li>20%</li> <li>16%</li> <li>9%</li> <li>6.9%</li> <li>4%</li> <li>4%</li> </ul>

		viii. Taita	2	4%
		ix. Embu	1	2%
		x. Kenyan Arab	1	2%
		xi. Somali	1	2%
		xii. Teso	1	2%
2.	Gender	i. Male	35	81%
		ii. Female	8	19%
3.	Age	i. 18 to 35	0	0
		ii. 35 to 45	5	11%
		iii. 45 to 55	28	65%
		iv. 55 to 65	9	20%
		v. Above 65	1	2%

*Fig 8: Ethnic Diversity and Representation of Senior Management at KPA*

From the above analysis, there are 43(Forty-Three) senior management positions at KPA which are Grade HE1 and HE2. The Ethnic Community with the highest representation is the Luo who are 10 (Ten) followed by the Kikuyu who are 9(Nine) representing 23% and 20% respectively.

In the Senior Management level there are 35(Thirty-Five) Males representing 81% and 8(Eight) Females representing 19%. Also 65% of the senior managers are between the ages of 45 to 50 years and there are no youths that is below 35years old in the senior management positions.

There are no persons with disabilities in senior management positions.

- 6) The Ag. Managing Director Eng. Rashid K. Salim together with Mr. Daniel Ogutu, General Manager HR and Administration, in response to various questions from the Senators made the following additional submissions:
  - i. The Ag. Managing Director, a Marine Engineer by profession with many years of experience, asserted that he had been acting in the capacity of Managing Director for one year and his term was almost coming to an end. The Board was currently recruiting a substantive Managing Director and that he did not apply for the position due to personal

reasons. Further, that he had been working with KPA for over 30 years and would be retiring in September of 2021.

- ii. The KPA HR Manual was currently under review and had been forwarded to the line Ministry for review.
- iii. The history of the KPA was that initially work at the Port was labour intensive hence the high number of staff who are Male as compared to Females. However, this has changed and more women are currently employed at KPA.
- iv. The reason why those between the age group 40-59 are the majority in the Authority can be attributed to the fact that the Government froze employment of new staff in the recent past. It is therefore expected that by 2023, 900 employees would be retiring.
- v. On the issue of whether there had been any recruitment done for the Lamu Port, Mr. Daniel Ogutu confirmed that there had been none. However, there had been an attempt to recruit 100 people at the entry level cadre.

The advertisements and interviews were done within Lamu County. Shortlisting was done, but there had been no recruitment since Lamu Port is not yet operational and the number of slots available will depend on the needed capacity at the Port once it is fully operational. The list of those interviewed is available. Currently Lamu Port has 4(four) Engineers from KPA on site to support the Contractor. The Lamu Jetty has had KPA staff stationed there for many years.

- vi. On staffing levels for the Kisumu Port and Naivasha Dry Port Mr. Daniel Ogutu submitted that in Naivasha, there has been no recruitment and there are about 60(sixty) staff seconded from KPA Mombasa and Nairobi who are mostly machine operators. There were also about 40 (fourty) staff awarded short term contracts.

Kisumu Port had been revamped but is not yet operational and no recruitment had been done for the Kisumu Port. The staff available at the Kisumu Port were 6(Six), who are mostly senior staff

- vii. Further, Mr. Ogutu confirmed that there were advertisements done by KPA in 2019 through the audit firm Deloitte. The positions were for mostly senior staff levels from the positions of Directors upwards. There were 53 positions. It is from these interviews that the current HR and Administration General Manager, Mr. Daniel Ogutu was recruited.

- viii. The Ag. Managing Director however noted that members of the Bandari Choir were absorbed into the organization and given one year contracts following a directive by the Head of Public Service, Mr. Joseph Kinyua. Additionally, about 35(thirty-five) to 45(forty-five) staff at the Bandari Maritime Academy had been promoted following many years of stagnation.
- ix. Mr. Ogutu reiterated that there were no pending unpaid overtime due to staff at the Port. However, he confirmed that the system had now been tightened to seal loopholes and prevent abuse and lost resources for the Company hence the outcry by some of the staff.
- x. KPA has been highly affected by the Covid 19 pandemic since 2020 both in its operations and infection rate among employees. From an infection rate of 7(seven) between January and February 2021 to a high of 76(Seventy-Six) reported cases in March 2021.

To mitigate this, the Authority established a multi-disciplinary Covid Committee. The authority has allowed much where possible staff to work in shifts and from home through the use of ICT. The Authority is now on a sensitization mission to get as many of its staff vaccinated as possible especially the frontline workers.

- xi. KPA has over the years re- engaged staff that had been incapacitated in the line of duty. Tied to this, the Authority representatives sought for more time to look into the details of the staff who had mental health issues that had been dismissed from their jobs by the Authority.



## 3.0 CHAPTER THREE

### 3.1 OBSERVATIONS AND RECOMMENDATIONS

#### 3.1.1 Observations

The committee made the following observations following the meetings with Kenya Maritime Authority and Kenya Ports Authority.

#### **Ethnic Diversity and Inclusivity at the Kenya Maritime Authority (KMA)**

- 1) The KMA has 121 (One Hundred and Twenty-one) staff in total. Of the total staff complement:
  - i. The Ethnic Community with the highest representation are the Mijikenda who are 29 out of 121 or 23.9%. This is within the provided threshold of 33.3% as stipulated under Section 7 of the National Cohesion and Integration Act (NCIA), 2008 where all public establishments are required to seek to represent the diversity of the people of Kenya in the employment of staff. The Law requires that no public establishment shall have more than one third of its staff from the same ethnic community.
  - ii. KMA has employed persons from 15(fifteen) different ethnic communities representing 33(Thirty-Three) Counties out of 47(Forty-Seven) Counties in Kenya.
  - iii. The Youth (Age group 35years and below) are 43 (Forty-Three) out of 121 (One Hundred and Twenty-one) representing 35.5%.
  - iv. The total number of Women in the Authority is 28 (Twenty-Eight) out of 121 (One Hundred and Twenty-one) representing 23.1%. This is contrary to Article 27(8) which provides that not more than two thirds of the members of appointive or elective bodies

shall be of the same gender. At the Authority the men who are the majority represent 76.9%.

- v. Persons Living With Disabilities (PWDs) at the Authority are 4(Four) out of 121(One Hundred and Twenty-one) representing 3% of the entire staff complement. This is contrary to Article 54(2) which provides that the State shall ensure the progressive implementation of the principle that at least five percent of the members of the public in elective and appointive bodies are persons with disabilities.
  
- 2) The Blue Economy offers vast opportunities for the Kenyan youth since it is multi-faceted with 13 sectors, 15 sub-sectors and 87 different activities for example fisheries and sports fishing, aquaculture, Marine culture, tourism, ship building and repair, ship handling, marine cargo handling, maritime law, safety and security among others.  
In Kenya, different components of the Marine sector sit with different sector players in Government which includes 22 different State Departments and Ministries which impedes the country being able to maximize its potential in the Blue Economy. This situation is further aggravated by the collapse of seafaring in the country during the late 90's due to non-compliance.
- 3) To qualify for jobs in the sector, youth have to be trained and hold certificates in line with the International Convention on Standards of Training, Certification and Watch-Keeping for Seafarers (STCW), 1978 as Amended in 1995. Qualifications must include mandatory minimum training on-board ocean-going ships, yet Kenya has no such ships.
- 4) The Government has a long term plan to purchase a training ship. However, with maintenance and operation costs being colossal, Memoranda of Understanding (MOUs) with shipping lines are being pursued in the short and medium term.
- 5) KMA has partnered with local institutions of higher learning like Jomo Kenyatta University of Science and Technology (JKUAT) to provide training for students at entry level positions. JKUAT has consequently partnered with a Korean Shipping Line. Additionally, KMA has entered into an MOU with the Higher Education Loans Board (HELB) to help youths access loans to complete maritime studies as well as an MOU with the Youth Fund to ensure recruited Youth have the funds to undertake the necessary preparations like visa, health checks and vaccines etc,

- 6) The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW Convention) as amended, provides that a good command of the English language is mandatory. Additionally, the requirement for Crews' Knowledge of English is enshrined in **Section 174 of the Merchant Shipping Act, 2009**.
- 7) Representatives from the Kenya Maritime Authority did not provide responses on whether the appointment process of Mr. Robert Mutegi Njue who is the current Director-General of Kenya Maritime Authority (KMA) having been appointed on 15<sup>th</sup> October 2020 for a period of three years was within the law. That is whether he met the prerequisite qualifications for the position, how the shortlisting and interview process was done and also whether the appointment was done in line with all relevant laws on ethnic diversity and inclusivity.

#### Ethnic Diversity and Inclusivity at the Kenya Ports Authority (KPA)

- 8) The Kenya Ports Authority (KPA) is one of the largest Government entities employing 6,470 (six thousand four hundred and seventy) employees.
  - i. The Ethnic Community with the highest representation are the Mijikenda who are 2,274 (Two Thousand, Two Hundred and Seventy-Four) out of 6,470 or 35% slightly higher than the provided threshold of 33.3% as stipulated under Section 7 of the National Cohesion and Integration Act (NCIA), 2008 where all public establishments are required to seek to represent the diversity of the people of Kenya in the employment of staff. The Law requires that no public establishment shall have more than one third of its staff from the same ethnic community.
  - ii. KPA has employed persons from 41 (Forty-One) different ethnic backgrounds out of a possible 45 (Forty-Five) ethnic communities as per the 2019 census. Similarly, KPA has employed 21 (Twenty-one) persons from other Non-Kenyan Nationalities and Ethnic Groups mostly persons from countries where KPA has presence and where the national laws of those territories require employment/engagement of their locals.
  - iii. Of the total 6,470 (six thousand four hundred and seventy) employees, 5,077 are male representing 78.4% of the employees and 1,393 are female employees representing 21.5%. This is contrary to Article 27(8) which provides that not more than two thirds of

- the members of appointive or elective bodies shall be of the same gender. At the Authority the men who are the majority represent 78.4%.
- iv. PWDs at the Authority are 66(Sixty-Six) out of 6,470 (six thousand four hundred and seventy) representing 1.02% of the entire staff complement. This is contrary to Article 54(2) which provides that the State shall ensure the progressive implementation of the principle that at least five percent of the members of the public in elective and appointive bodies are persons with disabilities.
  - v. There are 43(Forty-Three) senior management positions at KPA which are Grade HE1 and HE2. The Ethnic Community with the highest representation is the Luo who are 10 (Ten) followed by the Kikuyu who are 9(Nine) representing 23% and 20% respectively.
  - vi. In the Senior Management level there are 35(Thirty-Five) Males representing 81% and 8(Eight) Females representing 19%. Also 65% of the senior managers are between the ages of 45 to 50 years and there are no youths that is, below 35years olds in the senior management positions. There are also no persons with disabilities in senior management positions.
- 9) About 100 to 150 staff retire annually from the Authority. KPA could however not provide evidence of the affirmative action measures they hope to take to ensure replacements are done in line with the Constitution and all other relevant laws. Additionally, by 2023, 900 people will have retired from the Authority. KPA did not provide information on skills transfer and mentorship programmes that are available especially to the youth in the organization.
- 10) There will be vacancies available at the Lamu Port, Kisumu Port and the Naivasha Dry land port once they are fully operational and launched.

### **3.1.2 Recommendations**

The Committee recommends as follows:

## **Ethnic Diversity and Inclusivity at the Kenya Maritime Authority(KMA)**

- 1) Kenya Maritime Authority shall undertake affirmative action measures to have more job opportunities available especially for the Youth, PWDs and Women as provided for in Article 27, 55(5),54(2),56. These Articles speak to fundamental rights of these special interest groups in their representation in the available job opportunities.
- 2) KMA should spearhead management and development of the Blue Economy by creating a platform for an integrated approach bringing together the many players at different levels, including but not limited to: Ministries, State Departments and Agencies (at both National and County levels), Parliament, the private sector as well as Development Partners, for support, cooperation, and collaboration in the Blue Economy.
- 3) The Government should consider amalgamating issues of the Blue Economy into one entity. The current situation where the Marine sector matters sit with different sector players in Government alone which includes 22 different State Departments and Ministries impedes the growth of the sector especially since the Government needs to rebuild Kenya's seafaring competitive advantage and reputation from scratch that was lost in the 90s due to non-compliance.
- 4) The Government through the KMA shall initiate the long term measures of purchasing a training ship which would be a key asset for training the youth. In the short and medium term, the Government should conclude on the necessary MOUs with the various international shipping lines to ensure students access the required skills at sea training.
- 5) The KMA should create awareness among the youth in the County on the broad spectrum of opportunities that exist in the Blue Economy and how they can access these opportunities as well as the available funding opportunities through for example HELB and the Youth Fund.
- 6) KMA should also partner with more institutions of higher learning in offering the necessary skills. The Authority should specifically target youths in the Coast Counties of Mombasa, Lamu, Kwale, Kilifi, Tana River and TaitaTaveta.
- 7) KMA should create awareness on the necessary skills for the international job market. Additionally, KMA in collaboration with other relevant State and Non State actors should invest more in preparing young people for the job market. KMA should also continue to

pursue more partnerships with shipping companies to establish crewing agencies and create employment and seaboard training opportunities for the youth.

- 8) KMA shall provide the Committee with all relevant documentation on the appointment process of the current Director General Mr. Robert MutegiNjue.

#### Ethnic Diversity and Inclusivity at the Kenya Ports Authority(KPA)

- 9) Kenya Ports Authority(KPA) shall undertake affirmative action measurers to have more job opportunities available especially for the Youth, PWDs and Women as provided for in Article 27, 55(5),54(2),56 which speak to fundamental rights of these special interest groups in their representation in the available job opportunities. This should also be reflected in senior management positions where ethnic diversity and inclusivity is lacking.
- 10) KPA should embark on affirmative action measures to ensure once positions become available they are filled in line with the Constitution and all other relevant laws in so far as ethnic diversity and inclusivity is concerned. Additionally, KPA should ensure there is mentorship and skills transfer programmes especially for the youth in the organization in light of the intended mass retirements by 2023.
- 11) KPA should ensure that vacancies that will arise from the Lamu Port, Kisumu Port and Naivasha Dry Land Port are competitively filled and in line with the Constitution and all other relevant laws with priority given to the youth of the host Counties.

## **ANNEXTURE**

1. Submissions from Kenya Maritime Authority
2. Submissions from Kenya Ports Authority
3. Minutes
4. Adoption List



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

**The Clerk of the Senate/Secretary**  
Parliament Buildings  
**NAIROBI**

**INVITATION FOR A MEETING WITH THE SENATE STANDING  
COMMITTEE ON NATIONAL COHESION, EQUAL OPPORTUNITY AND  
REGIONAL INTEGRATION**

Reference is made to your letter Ref: **SEN/NCEORI/CORR/2020/(24)** dated 25<sup>th</sup> November, 2020 on the above matter. At its meeting held on 25<sup>th</sup> November 2020, the committee requested for information on the following issues:

- 1. The current employment statistics of youth and marginalized groups as constituted in Kenya Maritime Authority and corresponding skills.**
- 2. The Status of official Ministry Position on factors undermining the ability of the youth in the Coastal Regional to take up jobs available in the Maritime Sector and the steps the ministry is taking to remedy the situation**
- 3. Measures that the Government has put in place to ensure that the youths from the Coastal Region are given priority in these opportunities in line with the principle of devolution.**

**RESPONSE**

- 1. In response to the query on the current employment statistics of youth and marginalized groups as constituted in Kenya Maritime Authority and corresponding skills, allow me to begin by stating that Articles 27 and 232 (i) of the Constitution provide principles for equality and freedom from discrimination and in particular affords adequate and equal opportunities for appointment, training and advancement at all levels of the public service for:**
  - (i) men and women;**
  - (ii) members of all ethnic groups; and**
  - (iii) persons with disabilities.**



Having adopted and incorporated the foregoing principles in its human resources policies and procedures, the Kenya Maritime Authority is an equal opportunity employer open to all Kenyans. The Authority's recruitment policies also take cognizance of the principles enshrined in the following laws and Government policy documents:

- i. The Kenya Constitution, 2010;
- ii. Kenya Maritime Authority Act;
- iii. Kenya Public Service (Values and Principles) Act;
- iv. the Public Service Commission Act, 2017;
- v. The Authority's Human Resource Policies and Procedures Manuals;

The Kenya Maritime Authority employs the following marginalized groups: women, youth, persons with disabilities, and minorities. The staff distribution by county for the entire staff complement including youth and marginalized groups in the KMA is listed in the table below:

**Table 1: Staff Distribution per County**

<b>S/NO.</b>	<b>COUNTY</b>	<b>NUMBER</b>
1	Kilifi	14
2	Kwale	12
3	Lamu	4
4	Mombasa	8
5	Taita Taveta	8
6	Baringo	5
7	Bomet	1
8	Bungoma	4
9	Busia	1
10	Elgeyo Marakwet	2
11	Embu	3
13	Homabay	8
14	Kajiado	1
15	Kakamega	4
16	Kericho	2
17	Kiambu	1
18	Kisii	3
19	Kisumu	7
20	Kitui	2
21	Machakos	6
22	Makueni	1
23	Meru	2

24	Migori	3
25	Nakuru	1
26	Nandi	2
27	Nyamira	4
28	Nyeri	2
29	Siaya	3
30	Trans-Nzoia	1
31	Turkana	1
32	Uasi-Gishu	1
33	Vihiga	4
<b>Total</b>		<b>121</b>

The staff distribution by ethnicity at KMA is as indicated in the table below:

**Table 2: Ethnic Composition of Staff in KMA**

S/No.	Name of Ethnic Community	Number of officers in the Organization
1.	Mijikenda	29
2.	Taita	8
3.	Bajuni	5
4.	Swahili - Shirazi	2
<b>Others</b>		
1.	Luo	22
2.	Luhya	11
3.	Kamba	11
4.	Kalenjin	9
5.	Kisii	8
6.	Kikuyu	7
7.	Meru	2
8.	Embu	3
9.	Teso	1
10.	Masai	1
11.	Turkana	1
<b>Total</b>		<b>121</b>

The staff distribution by age at KMA is as indicated in the table below:

**Table 3: Age Distribution of Staff at KMA**

S/No.	Age Bracket	Number
1.	35 Years and Below	43
2.	36 to 45 years	54
3.	46 years and above	24

The marginalized groups that are employed at KMA, as defined by clause 27 (4) of Constitution, are as follows:

- 1) Persons with Disabilities - 4
  - 2) Youth classified as staff between the age 18 to 35 of both gender - 35
  - 3) Women between the age of 36 to 60 - 28
2. In response to the request to provide information on the status of official Ministry position on factors undermining the ability of the youth in the Coastal Regional to take up jobs available in the Maritime Sector, allow me to begin with the following context and background:

#### **CONTEXT & BACKGROUND**

My Ministry has been engaged in creating job opportunities for Kenyan youths in line with the aspirations of the Big 4 Agenda and Vision 2030.

Under the Blue Economy (BE) concept, the maritime industry is multi-faceted, with 13 sectors, 15 sub-sectors and 87 different activities. Examples of Blue Economy activities include fisheries and sports fishing, aquaculture, mariculture, tourism, ship building and repair, ship handling, marine cargo handling, maritime law, safety and security, marine salvage, diving, international shipping, maritime transport, energy (oil and gas), marine wind-power, bio-prospecting, offshore mining, marine bio-technology, aqua-business, cargo consolidation, freight forwarding, marine insurance, naval architecture, bathymetric surveys, bunker supplies, fresh water supplies, port agencies, waste disposal, ships agents, port services – among others. The full-blown Blue Economy will only be realized through the full exploitation of all the productive sectors and their forward and backward linkages.

This Ministry is charged with overseeing ports and logistics which include maritime transport as well as maritime education and training (which is shared with Ministry of Education). In addition, different components of the Marine sector sit with different sector players. In Government alone this includes 22 different State Departments and Ministries.

Given the wide array and complex nature of the sector, the management and development of the Blue Economy requires an integrated approach as well

as the support, cooperation, and collaboration of many players at different levels, including but not limited to: Ministries, State Departments and Agencies (at both National and County levels) Parliament, the private sector as well as Development Partners.

Article 10 on national values on cooperation between National and County Governments; Article 232 on values and principles of Public Service, and the Fourth Schedule on the distribution of functions between National and County governments, are also relevant.

Based on the foregoing, **"jobs available in the maritime sector"** would cover the wide array of sub-sectors comprising the Blue Economy.

### **Jobs in Ports and Maritime Transport**

The Ministry is guided by and takes cognizance of global trends and statistics in availing job opportunities in the Maritime sector. 80% - 90% of global trade is seaborne and handled by ports worldwide. As a result of the substantial growth in the industry, the International Chamber of Shipping has predicted that unless seafarer training levels increase, this sector growth could generate a serious shortage of seafarers needed to meet demand by the year 2025. In this context, my Ministry determined that by positioning Kenya as a maritime labour-supply nation we would be able to create jobs for the youth bulge we are currently confronted with.

A number of challenges, however, lay in the path towards the attainment of this lofty aspiration:

1. Because shipping is an international activity crossing national and ocean boundaries, commitment to safety permeates all deep-sea shipping operations. The international community has therefore developed a series of regulations and minimum standards of governing the industry. The International Maritime Organization (IMO) as the specialized United Nations Agency that oversees the Maritime sector, has been granted the lead responsibility to apply & enforce these uniform regulations. The IMO works closely with the International Labour Organization to regulate the sector;
2. The collapse of seafaring in this country during the late 90's due to non-compliance led Kenya to lose her competitive advantage and reputation, which now has to be rebuilt from scratch;

3. To qualify for jobs in the sector, Youth have to be trained and hold certificates in line with the International Convention on Standards of Training, Certification and Watch-Keeping for Seafarers (STCW), 1978 as Amended in 1995. Qualifications must include mandatory minimum training on-board ocean-going ships, yet Kenya has no such ships.
4. To ensure international recognition and attain for job placement, every trainee must comply with these minimum requirements, failing which the ship employing him/her may be detained for being non-compliant with existing regulations.

The foregoing challenges informed two key decisions by my Ministry: -

- a) The revival of a national fleet to enable the youth access on-board sea time training facilities; and
- b) Hiving off Bandari College from being a department of KPA and its launch as a stand-alone Maritime Academy, so as to provide the required training and certification.

This plan is expected to create upward of ten thousand (10,000) jobs in the medium term, to re-position Mombasa as the trans-shipment hub on the eastern seaboard of Africa, and also as the pre-eminent logistics and transportation hub on the African continent.

## **DEVOLUTION**

Article 175 of the Constitution provides that county governments established under the 2010 Constitution shall reflect the following principles:

- (a) the operations of county governments shall be guided by democratic principles and the separation of powers;
- (b) County Governments shall have reliable sources of revenue to enable them to govern and deliver services effectively; and
- (c) No more than two-thirds of the members of representative bodies in each County Government shall be of the same gender.

Careers at sea are international in nature and the Ministry grants equal access to available opportunities to all Kenyans by taking all measures to advertise the jobs by print media platforms. The actual employment of persons by the

shipping companies is dependent on their minimum qualifications to perform the jobs.

## **ENGLISH LANGUAGE REQUIREMENT**

Shipping being international in nature, sufficient knowledge of the English language is required as a minimum international standard under IMO regulations.

A ship can fly the flag of country A, be under a captain from country B, and have a crew complement from at least 7 to 8 different nationalities. Since crews onboard are multi-national and multi-lingual, the importance of sharing a common language cannot be underestimated due to the operational and safety issues. English has over time come to be considered as the common language while at sea in order to prevent ambiguity and confusion. Ship to ship communication; ship to shore communication as well as internal communications onboard the ship by the crew ship are done using the English language.

Studies have also shown that most common causes of maritime accidents and over 50% of incidents at sea are due to some form of miscommunication. Thus, it is an International IMO requirement to equip seafarers with sufficient knowledge on how to effectively communicate while at sea.

Under the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW Convention) as amended, a good command of the English language is mandatory, in particular for:

- All officers in charge of a watch (navigational or engineering) must have a good command of spoken and written English; and
- Senior officers with functions at a managerial level must also speak and write English;
- Ratings forming part of a navigational watch are required to be able to comply with helm orders issued in English;
- Crew members assisting passengers during emergency situations must be able to communicate safety-related issues in English or in the language spoken by the passengers and other personnel on board

This requirement is further emphasized by the Maritime Labour Convention, 2006 which provides that seafarers shall not work on board unless they are trained and certified as competent or otherwise qualified.

The requirement for Crews' Knowledge of English is enshrined in section 174 of the Merchant Shipping Act, 2009, which provides that:

**(1) "Where, in the opinion of the Director-General or proper officer, the crew of a ship to which this section applies consists of or includes persons who may not understand orders given to them in the course of their duty because of their insufficient knowledge of English, and the absence of adequate arrangements for transmitting the orders in a language of which they have sufficient knowledge, then**

**(a) if the Director-General or proper officer has informed the master of that opinion, the ship shall not go to sea; and**

**(b) if the ship is in Kenya, it may be detained.**

**(2) Where a ship goes to sea or attempts to go to sea in contravention of this section, the owner or master thereof commits an offence and shall be liable, upon conviction, to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment."**

**3.** In response to the request on the measures that the Government has put in place to ensure that the youths from the Coastal Region are given priority in these opportunities in line with the Principle of Devolution, allow me to begin by stating that the Principles of devolution as enshrined in Article 175. of the Constitution provides the following principles—

- a) County Governments shall be governed on the basis of democratic principles and the separation of powers;
- b) County Governments shall have reliable sources of revenue to enable them to govern and deliver services effectively; and
- c) no more than two-thirds of the members of representative bodies in each County Government shall be of the same gender:

The Ministry has put mechanisms in place to address the challenges stated in question 2 above. One of these is to find alternative solutions on how to

finance training of youth noting that majority of youth come from poor families that cannot afford maritime training which is equally expensive. Other initiatives being implemented include:

- Raising awareness of employment opportunities.
- Launch of the Bandari Maritime Academy
- Partnerships with shipping companies to establish crewing agencies and create employment and seaboard training opportunities for the youth.
- Enter an MOU with Higher Education Loans Board (HELP) to help youths access loans to complete maritime studies. An MOU with the Youth Fund to ensure recruited Youth have the funds to undertake the necessary preparations like visa, health checks and vaccines etc.

Majority of our youths have theoretical training either at Degree, Diploma or certificate Level with no sea time experience. To help them move to the next level the Government has a long term plan to purchase a training ship. However, with maintenance and operations costs being colossal the MOU's with shipping lines are being pursued in the short and medium term.

The Ministry has also been pursuing Memorandum of Understanding with other countries to ensure that Kenyan youth access training which is critical for operations at sea. The Ministry is also pursuing Mutual recognition of Kenyan maritime certificates to ensure the youth can access jobs on ships registered in as many countries as possible.

The Ministry has also over the years been running programmes to expand maritime training institutions particularly the universities and colleges, and to sensitize the youths and inform them the industry's requirements for the existing job opportunities in the market.



James W. Macharia, EGH.  
**CABINET SECRETARY**

Date:.....1/12/2020.....



## **BRIEF REPORT ON THE AUTHORITY'S POSITION ON THE THEMATIC AREAS OF DIVERSITY MANAGEMENT**

### **1.0 BACKGROUND**

Ports remain one of the most labour intensive sectors worldwide. In the past, the ports required able bodied men to undertake manual, heavy-duty jobs. This view epitomizes the current situation at the Port of Mombasa where out of a total of six thousand four hundred and seventy (6,470) employees, 5,077 are male employees and 1,393 are female employees.

### **2.0 ANALYSIS**

The values and principles of public service include affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of men and women, the members of all ethnic groups, and persons with disabilities.

Management has not only made progress in terms of ensuring that minority and marginalized groups gain employment in the Authority but strives to ensure fair and equitable representation of the diverse Kenyan ethnic communities and groups including minorities and marginalized groups.

Table 1 below highlights the current ethnic representation in the Authority.

### **3.0 ETHNIC REPRESENTATION AT KENYA PORTS AUTHORITY**

**Table 1: Ethnic representation at Kenya Ports Authority**

No.	Ethnic Group	2020/2021 (to date) 6,470 Employees	
		Count	%
1	Mijikenda	2,274	35%
2	Luhya	502	7.7%
3	Kalenjin	389	6.0%
4	Luo	733	11.3%
5	Kamba	479	7.4%
6	Taita	496	7.6%

7	Taveta	23	<b>0.35%</b>
8	Kikuyu	471	<b>7.2%</b>
9	Teso	12	<b>0.1%</b>
10	Samburu	7	<b>0.105%</b>
11	Kisii	220	<b>3.4%</b>
12	Nubi	12	<b>0.1%</b>
13	Suba	6	<b>0.09%</b>
14	Kuria	4	<b>0.06%</b>
15	Embu	30	<b>0.46%</b>
16	Pokomo	107	<b>1.65%</b>
17	Meru	72	<b>1.11%</b>
18	Kenyan Arab	82	<b>1.26%</b>
19	Swahili	355	<b>5.48%</b>
20	Kenyan Asian	5	<b>0.07%</b>
21	Gala	1	<b>0.01%</b>
22	Rendile	1	<b>0.01%</b>
23	Kenyan Somali	70	<b>1.08%</b>
24	Maasai	34	<b>0.52%</b>
25	Borana	44	<b>0.68%</b>
26	Orma	19	<b>0.29%</b>
27	Tharaka	1	<b>0.01%</b>
28	Turkana	-	
29	Ichamus	-	
30	Njemps	-	
31	Dasenach	-	
32	Gabra	-	
33	Gosha	-	
34	Burji	-	
35	Konso	-	
36	Sakuye	-	
37	Waat	-	
38	Galjeel	-	
39	Isaak	-	
40	Leysan	-	
41	Makonde	-	
	<b>TOTAL</b>	<b>6,449</b>	

The figures above indicate that the ethnicity group with the most representation at Kenya Ports Authority are the Mijikenda community who form (35%) of the entire staff population. This could be attributed to the Authority's location in the region and the historic context.

**Table 2: Other Nationalities/Ethnic Groups in the Authority**

No.	Other Nationalities/Ethnic Groups	2020/2021	
		Count	%
1	Baluchi	6	0.09%
2	Mnyasa	5	0.07%
3	Ugandan	5	0.07%
4	Tanzanian	1	0.01%
5	Nyamwezi	2	0.03%
6	Rwandese	1	0.01%
7	Mtagana	1	0.01%
	<b>TOTAL</b>	<b>21</b>	

KPA has presence in Uganda, Rwanda and Burundi where the national laws of those territories require employment/engagement of their locals. It is therefore important to note that the groupings in Table 2 are not part of what is officially recognized as tribes in Kenya.

#### **4.0 GENDER ANALYSIS**

**Table 3: Gender Representation in the Authority**

No.	Gender	2020/2021 (current) 6,470 Employees	
		Count	%
1	<b>Male</b>	5,077	<b>78.4%</b>
2	<b>Female</b>	1,393	<b>21.5%</b>
	<b>TOTAL</b>	<b>6,470</b>	

We recognise that the Authority has made great efforts to enact the gender provisions contained in the Constitution of Kenya 2010, and wish to point out that the current staff composition in the Authority in terms of gender balance is the result of recent recruitment trends in the Authority.

It is also imperative to point out that the recruitment trends of the gender composition of the Authority staff to meet the 30% gender quota is being implemented progressively.

We note that recruitment in the Authority and indeed anywhere else is influenced by several factors, some of which the Authority might have no control over, such as candidate response.

## **5.0 PERSONS WITH DISABILITY REPRESENTATION IN KPA**

The Authority encourages an inclusive workforce in terms of age, color, whether from minority and marginalized communities, disability, ethnicity, gender, language, race, religion, socio-economic status and other characteristics that make its human resource unique.

To this end Management has made deliberate efforts in taking affirmative action measures to ensure representation of persons with disabilities in its recruitment and selection process as illustrated in Table 4 below.

**Table 4: PWDs Representation in the Authority**

<b>Year</b>	<b>Male</b>	<b>Female</b>	<b>Total</b>	<b>%</b>
<b>2018/2019 Total no. of employees 6,757</b>	55	13	<b>68</b>	<b>1.0%</b>
<b>2019/2020 Total no. of employees 6,655</b>	89	13	<b>102</b>	<b>1.5%</b>
<b>2020/2021 (to date) Total no. of employees 6,470</b>	55	11	<b>66</b>	<b>1.02%</b>

The numbers indicated reflect the PWD staff whose disability status was re-assessed and eligibility for registration as persons with disability established

by the National Council for Persons with Disabilities. Several staff in this category are also currently following up on the renewal of their certificates with the Council.

In a bid to eliminate discrimination in employment policies and practice, the Authority has continued to encourage people living with disability to apply for vacant positions by stating in the staffing advertisements that Kenya Ports Authority is an Equal Opportunity Employer.

It is also imperative to point out that the recruitment trends of the PWD composition of the Authority staff to meet the 5% quota is being implemented progressively.

## 6.0 EMPLOYEE AGE PROFILE IN THE AUTHORITY

The current staff population in the Authority is **6,470**. This comprises of **2,093** management staff and **4,377** unionisable staff who fall within the age brackets indicated here below: -

**Table 5: Age Profile of KPA Staff**

AGE BRACKET	NUMBER OF STAFF	%
19-24	47	0.72%
25-29	339	5.2%
30-34	462	7.1%
35-39	757	11.7%
40-44	1,121	17.3%
45-49	1,484	22.9%
50-54	1,220	18.8%
55-59	1,016	15.7%
60+	24	0.37%
<b>TOTAL</b>	<b>6,470</b>	

### 6.1 Age analysis at the Authority

An analysis of the age profile of all the 6,470 staff in the Authority indicates that majority of the staff (22.9%) are between the ages of 45 and 49 while

staff who would be considered youth (those between the ages of 19 and 34) make up 13.1% of the total staff population.

Indeed, the statistics require that Management be proactive and strategic to curtail the likelihood of critical staff shortages especially in the management cadre with the advent of time and make deliberate plans to pursue a replacement program that will hedge the Authority against a possible skills lacuna. In that regard, the Authority is in the process of putting in place a succession management plan.

The corresponding qualifications of the youth in the age bracket of 18 – 35 years are attached as **Appendix 1**. A report of students who have also been placed on internship and industrial attachment programs in KPA is attached as **Appendix 2**.

## **7.0 CONCLUSION**

The Authority endeavors to comply with the employment regulations relating to gender, marginalized groups, disability mainstreaming as provided for in the labour statutes and the Constitution of Kenya 2010. Towards this end, Management will continue to lay emphasis on all its staffing advertisements that the Kenya Ports Authority is an Equal Opportunity Employer in a bid to eliminate discrimination in employment policies and practice.

In addition, the Authority has also made concerted efforts in developing various policies e.g. Recruitment and Promotion, Gender Mainstreaming, Disability Mainstreaming and Training policy that seek to promote equity and address diversity challenges and developing affirmative action measures to ensure progressive realization of representation of PWD's by at least 1% every year towards attainment of the 5% constitutional requirement.

**Rashid K. Salim IEng IMarEng**  
**Ag. MANAGING DIRECTOR**

No.	Check No	Name	Grade	Designation	Ethnicity
1	562674	Edward Kamau	HE1	General Manager Corporate S	Kikuyu
2	560867	Joseph Kibwana	HE1	Chairman	Mijikenda
3	563013	Addraya Dena	HE1	General Manager Board & Leg	Mijikenda
4	90589	Sudi Mwasinago	HE1	General Manager- ICD(Kisumu	Mijikenda
5	88248	Rashid Salim	HE1	General Manager Engineering	Kenyan Arab
6	560643	Patrick Nyoike	HE1	General Manager Finance	Kikuyu
7	564144	Daniel Ogutu	HE1	General Manager Human Reso	Luo
8	90007	Abdullahi Samata	HE1	GM Lamu Port Project	Kenyan Somali
9	564145	Vincent Eseyepet	HE1	General Manager Infrastructu	Teso
10	90945	William Rutto	HE1	General Manager Operations	Kalenjin
11	90543	Paul Bor	HE2	Manager Conventional Cargo	Kalenjin
12	90588	Peter Masinde	HE2	Head of Inland Container Dep	Luhya
13	88964	Javan Wanga	HE2	Head of Inland Water Ways	Luhya
14	561195	Kennedy Nyaga	HE2	Head of Projects Developmen	Embu
15	90116	Bildad Kisero	HE2	Head of Administration	Luo
16	90604	Evelyn Mwamure	HE2	Manager TOS & Operations Pr	Mijikenda
17	562640	Gome Lenga	HE2	Head of Medical Services	Mijikenda
18	90601	Stephen Toya	HE2	Head of Marine Engineering	Mijikenda
19	564204	Mary Wangai	HE2	Head of Human Resources	Kikuyu
20	88999	John Nyamosi	HE2	Head of Management Account	Kisii
21	90676	Benard Osero	HE2	Head of Corporate Affairs	Kisii
22	562672	Michael Sangoro	HE2	Head of Contracts & Conveyar	Luo
23	90120	Moses Muthama	HE2	Harbour Master	Kamba
24	562670	Miriam Mwakund	HE2	Head of Marketing	Taita
25	561556	Edward Wahome	HE2	Head of Information & Comm	Kikuyu
26	563125	Caroline Kodo	HE2	Pension Administrator	Mijikenda
27	90781	Mariam Khamis	HE2	Head of ICT (ICD Nairobi)	Kikuyu
28	90896	Julius Tai	HE2	Head of Container Terminal E	Kalenjin
29	560943	Cosmas Makori	HE2	Head of Procurement & Suppl	Kisii
30	563012	Turasha Kinyanjui	HE2	Head of Litigation & Disputes	Kikuyu
31	564214	Lilian Mwangi	HE2	Head of Internal Audit & Risk	Kikuyu
32	90827	Catherine Wangar	HE2	Head of Employee Relations	Kikuyu
33	90244	Symon Wahome	HE2	Coordinator SGR Break Bulk C	Kikuyu
34	564212	David Mchembere	HE2	Head of Ethics & Integrity	Luo
35	90572	Fredrick Oyugi	HE2	Head SGR Reconciliation(ICDN	Luo
36	88199	Edward Opiyo	HE2	Principal Operations Officer	Luo
37	90102	Michael Omondi	HE2	Principal Administration Office	Luo
38	90709	Julius Martin	HE2	Principal Safety Officer	Taita
39	559597	Geoffrey Kavate	HE2	Head of Financial Accounting	Kamba
40	90417	Felix Ong'wen	HE2	Head of Conventional Cargo E	Luo
41	90091	Mathew Amuti	HE2	Port Electrical Engineer	Luo
42	90018	Daniel Amadi	HE2	Head of Lamu Port Developme	Luo
43	9702269	Yobesh Oyaro	HE2	Head of Strategy (Kisumu Port	Kisii

Disability	Age	Gender	County Name
Not disabled	51	Male	Kajiado
Not disabled	74	Male	Kilifi
Not disabled	50	Female	Kwale
Not disabled	51	Male	Kwale
Not disabled	59	Male	Mombasa
Not disabled	46	Male	Nyandarua
Not disabled	52	Male	Siaya
Not disabled	57	Male	Wajir
Not disabled	46	Male	Busia
Not disabled	52	Male	Baringo
Not disabled	51	Male	Bomet
Not disabled	51	Male	Bungoma
Not disabled	58	Male	Busia
Not disabled	41	Male	Embu
Not disabled	56	Male	Homa Bay
Not disabled	50	Female	Kilifi
Not disabled	50	Male	Kilifi
Not disabled	51	Male	Kilifi
Not disabled	47	Female	Kirinyaga
Not disabled	54	Male	Kisii
Not disabled	57	Male	Kisii
Not disabled	46	Male	Kisumu
Not disabled	52	Male	Machakos
Not disabled	43	Female	Mombasa
Not disabled	46	Male	Mombasa
Not disabled	45	Female	Nairobi
Not disabled	49	Female	Nairobi
Not disabled	48	Male	Nandi
Not disabled	47	Male	Nyamira
Not disabled	48	Male	Nyandarua
Not disabled	40	Female	Nyeri
Not disabled	48	Female	Nyeri
Not disabled	54	Male	Nyeri
Not disabled	40	Male	Siaya
Not disabled	50	Male	Siaya
Not disabled	59	Male	Siaya
Not disabled	59	Male	Siaya
Not disabled	53	Male	Taita-Taveta
Not disabled	48	Male	Kitui
Not disabled	53	Male	Kisumu
Not disabled	54	Male	Kisumu
Not disabled	56	Male	Homa Bay
Not disabled	59	Male	Kisii



**MINUTES OF THE SEVENTY-SEVEN SITTING OF THE STANDING COMMITTEE ON NATIONAL COHESION, EQUAL OPPORTUNITY AND REGIONAL INTEGRATION HELD ON MONDAY, 14<sup>TH</sup> JUNE, 2021 IN THE LAKE NAIVASHA RESORT, NAIVASHA, NAKURU COUNTY AT 10.00 AM.**

**PRESENT**

- |  |                      |
|--|----------------------|
| 1. Sen. Naomi Shiyonga Masitsa, MP         | - Chairperson        |
| 2. Sen. Christine Zawadi Gona, MP          | - Vice - Chairperson |
| 3. Sen. (Dr.) Christopher Lang'at, MP      | - Member             |
| 4. Sen. Judith Pareno, MP                  | - Member             |
| 5. Sen. (Dr.) Gertrude Musuruve Inimah, MP | - Member             |
| 6. Sen. Iman Falhada Dekow, MP             | - Member             |
| 7. Sen. Mercy Chebeni, MP                  | - Member             |
| 8. Sen. (Dr.) Lelegwe Ltumbesi, MP         | - MEMBER             |

**ABSENT WITH APOLOGY**

1. Sen. Samson Cherarkey, MP

**IN ATTENDANCE**

**SECRETARIAT**

- |                          |                               |
|--------------------------|-------------------------------|
| 1. Ms. Veronicah Kibati  | - Principal Clerk Assistant 1 |
| 2. Mr. Ibrahim Ali Leruk | - Senior Clerk Assistant      |
| 3. Ms. Beatrice Kapei    | - Legal Counsel               |
| 4. Ms. Regina Munyao     | - Legal Counsel               |
| 5. Ms. Anne Kigoro       | - Research Officer            |
| 6. Ms. Millicent Ratemo  | - Audio Services              |
| 7. Ms. Julia Gachoki     | - Sergeant-at-Arms            |

**MIN. NO. 377/2021**

**PRELIMINARIES**

The Chairperson called the meeting to order at 12.00 p.m. followed by a word of prayer.

**MIN. NO. 378/2021**

**ADOPTION OF THE AGENDA**

Members adopted the agenda of the meeting after being proposed by Sen. Iman Falhada Dekow, MP and seconded by Sen. Judith Pareno, MP as follows -

1. Prayers.
2. Adoption of the Agenda.
3. **Consideration of Committee Work Plan for the period from May to August 2021.**
4. **Consideration of the Draft Report of the Kenya Maritime Authority and the Kenya Ports Authority;**
5. Any Other Business & Adjournment.

**MIN.NO. 379/2021:**

**CONSIDERATION OF COMMITTEE WORK  
PLAN FOR THE PERIOD FROM MAY TO  
AUGUST 2021**

The Committee adopted its draft work plan for the period from May to August 2021 with amendments.

**MIN.NO. 380/2021:**

**CONSIDERATION OF THE DRAFT REPORT  
OF THE KENYA MARITIME AUTHORITY AND  
THE KENYA PORTS AUTHORITY**

The Committee adopted the report for tabling by consensus.

**MIN.NO. 281/2021**

**A.O.B. AND ADJOURNMENT**

There being no other business, the meeting was adjourned at 1:33 p.m.



**SIGNED:...**

**(CHAIRPERSON)**

**DATE:.....14/June/2021.....**

**MINUTES OF THE SIXTY SEVENTH SITTING OF THE STANDING COMMITTEE ON NATIONAL COHESION, EQUAL OPPORTUNITY AND REGIONAL INTEGRATION HELD ON THURSDAY, 1<sup>ST</sup> APRIL, 2021 ON THE ZOOM ONLINE PLATFORM AT 12.00PM.**

**PRESENT**

1. Sen. Naomi ShiyongaMasitsa, MP - Chairperson
2. Sen. Christine ZawadiGona, MP - Vice – Chairperson
3. Sen. (Dr.) LelegweLtumbesi, MP
4. Sen. Judith Pareno, MP
5. Sen. Mercy Chebeni, MP
6. Sen. (Dr.) Gertrude MusuruveInimah, MP
7. Sen. ImanFalhadaDekow, MP
8. Sen. (Dr.) Christopher Lang’at, MP
9. Sen. Samson Cherarkey, MP

**IN ATTENDANCE**  
**(KPA)**

1. Mr. Rashid Salim
2. Mr. Daniel Ogutu
3. Ms. Irene Mbogo
4. Ms. Elsie Bikindo

**KENYA PORTS AUTHORITY**

- Ag. Managing Director
- Director Human Resource
- Deputy Director HR
- Human Resource Manager

**IN ATTENDANCE**

1. Ms. VeronicahKibati
2. Mr. Ibrahim Ali Leruk
3. Ms. Lucianne Limo
4. Ms. Regina Munyao
5. Ms. Anne Kigoro
6. Ms. Millicent Ratemo

**SENATE**

- Principal Clerk Assistant
- Senior Clerk Assistant
- Media Officer
- Legal Counsel
- Research Officer
- Audio Services

**MIN. NO. 335/2021**

The Chairperson called the meeting to order at 12.15 p.m. followed by a word of prayer.

**PRELIMINARIES**

**MIN. NO. 336/2021**

**ADOPTION OF THE AGENDA**

Members adopted the agenda of the meeting after being proposed by Sen. (Dr.) Gertrude MusuruveInimah, MP, and seconded by. Sen. Christine ZawadiGona, MP as follows-

**Prayers;**

1. Adoption of the Agenda;
2. **Meeting with the Ag. Managing Director Kenya Ports Authority on issues of Inclusivity and Ethnic Representation in its Staffing; and**
3. Any Other Business & Adjournment.

**MIN.NO. 337/2021:**

**AG. MANAGING DIRECTOR KENYA PORTS  
AUTHORITY ON ISSUES OF INCLUSIVITY  
AND ETHNIC REPRESENTATION IN ITS  
STAFFING**

The Ag. Managing Director Kenya Ports Authority made the following submission –

- (a) That, the Kenya Ports Authority, remains as one of the most labour intensive sectors worldwide and required able-bodied men to undertake manual, heavy-duty jobs in the past;
- (b) That, the Port of Mombasa currently has total of six thousand four hundred and seventy(6,470) employees, 5,077 are male employees and 1,393 are female employees;
- (c) That the principles of public service, which include affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of men and women, the members of all ethnic groups, and persons with disabilities;
- (d) He informed the Committee that the Management had not only made progress in terms of ensuring that minority and marginalized groups gain employment in the Authority but strives to ensure fair and equitable representation of the diverse Kenyan ethnic communities and groups including minorities and marginalized groups;
- (e) That, based on the ethnicity group figures, Mijikenda community constitutes the largest group with (35%) of the entire staff population, which is attributed to the Authority's location in the region and the historic context;
- (f) That, Kenya Ports Authority, has presence in Uganda, Rwanda and Burundi and the national laws of those territories require employment/engagement of their locals. It is therefore important to note that these groupings are foreigners and not part of what is officially recognized as tribes in Kenya;
- (g) He informed the Committee that, the Authority has made great efforts to enact the gender provisions contained in the Constitution of Kenya 2010, and pointed out the recruitment trends of the gender composition of the Authority staff to meet the 30% gender quota is being implemented progressively;
- (h) The Ag. MD also explained that the Authority strategies in implementing an inclusive workforce in terms of age, color, whether from minority and

marginalized communities, disability, ethnicity, gender, language, race, religion, socio-economic status and other characteristics that make its human resource unique. He also stated the Management efforts in taking affirmative action measures to ensure representation of persons with disabilities in its recruitment and selection process;

- (i) In his submission he appraised the Committee on the current staff population in the Authority which stands at 6,470, comprising a total of **2,093** management staff and **4,377** unionisable staff who fall within the age brackets. He further updated the Committee on the analysis of the age profile of all the 6,470 staff in the Authority indicating that, majority of the staff (22.9%) are between the age bracket of 45 and 49 while staff who would be considered youth (those between the ages of 19 and (34) make up 13.1% of the total staff population;
- (j) He enlightened the Committee on the Authority endeavors to comply with the employment regulations relating to gender, marginalized groups, disability mainstreaming as provided for in the labour statutes and the Constitution of Kenya 2010;
- (k) He further notified the Committee that the Management initiative to lay emphasis on all its staffing advertisements that the Kenya Ports Authority is an Equal Opportunity Employer in a bid to eliminate discrimination in employment policies and practice;
- (l) Lastly the Ag. MD explained the concerted efforts the Authority has undertaken in developing various policies e.g. Recruitment and Promotion, Gender Mainstreaming, Disability Mainstreaming and Training policy that seek to promote equity and address diversity challenges and developing affirmative action measures to ensure progressive realization of representation of PWD's by at least 1% every year towards attainment of the 5% constitutional requirement.

The Ag. MD presented the following tables-

1. Table 1 on ethnic representation at the Kenya Port Authority;
2. Table 2 on other nationalities and ethnic groups in the Authority;
3. Table 3 on gender representations in the Authority;
4. Table 4 on PWD's representations in the Authority;
5. Table 5 on age profiles of KPA Staffs;
6. Table 6 on a report of student placed under internship;
7. An excel sheet on Kenya Port's Authority Staff list at 29<sup>th</sup> March, 2021; and
8. An excel sheet on qualification categories for youth.

### **Deliberations by the Committee**

- (a) The Committee noted with concern the matter of gender parity in the Authority and directed efforts to be made to remedy the employment in conformity with the 30% gender parity as required by law;
- (b) The Committee observed the absence of the Authority's Human Resource Manual during the deliberation and requested the Authority to submit for further scrutiny;
- (c) The Committee noted that, the Youth in the Authority are only saturated in the category of lowers cadre staffer and the need to promote and absorbed them in the managerial position;
- (d) The Committee observed the unexplained employment status of Lamu Port and the Dry Port of Naivasha while they are up and running and directed the Authority to submit the status report on the employment at the two ports and in addition to the newly revamped Kisumu Port;
- (e) The Committee also raised matter of overtime by the staffers and justification for the huge expenses incurred on the overtime expenditure;
- (f) The Committee noted that, the statistics based on the ethnicity and age groups in employment was satisfactory and requested the Authority to provide a employment data per counties elaborating the disables and marginalized groups;
- (g) The Committee raised concern on non-absorption of youth at the coastal area and directed the Authority to provide a detailed report of KPA youths and their corresponding qualifications;
- (h) The Committee noted with concern that two staffers were un-procedurally sacked and forced into retirement. The Committee observed that, an Officer retired on the grounds of mental health ought to be given light duties to his retirement and the victim's redress in the courts raises concern on the matter. The Committee directed the Authority to furnish all correspondences related to the two cases reported; and
- (i) The Committee noted the lack of proper procedures in the promotion and dismissal of staffers and consideration of the PWD's in the managerial and medium cadre positions in the Authority. The Committee directed the Authority to offer solutions to empower youth, marginalized groups and special interest groups in their job opportunities.

### **Recommendations**

The Committee resolved as follows-

1. That, the Authority should seek ways of correcting the skewed employment to conform with the 30% gender parity as required by law;

2. That, the Authority should submit the Human Resource Manual for further scrutiny on matters of employment, promotions and dismissal;
3. That, the Authority should promote and absorb youth, marginalized groups and special interest groups in the managerial and medium cadre positions;
4. That, the Authority should provide the status report on employment at the two ports of Lamu Port and the Dry Port of Naivasha and in addition to the newly revamped Kisumu Port;
5. That, the Authority should provide employment data per county elaborating the percentage of the disabled and marginalized groups and a detailed report of KPA youths and their corresponding qualifications;
6. That, the Authority should furnish all correspondences related to the two cases reported on un-procedural dismissal and retirement of the two staffers; and
7. That the Authority should consider strategies to empower youth, marginalized groups and special interest groups in their job opportunities.

**MIN.NO. 338/2021**

**A.O.B. AND ADJOURNMENT**

There being no other business, the meeting was adjourned at 1:32 p.m.

SIGNED: .....






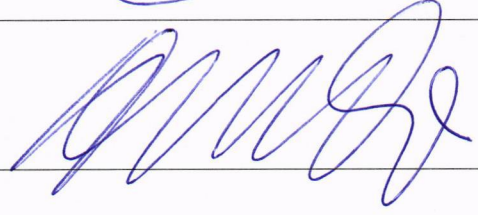

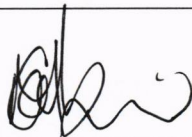
**(CHAIRPERSON)**

DATE:.....8<sup>th</sup> April, 2021

## ANNEX 1: ADOPTION LIST

### ADOPTION OF THE REPORT ON ETHNIC DIVERSITY AND INCLUSIVITY AT THE KENYA MARITIME AUTHORITY (KMA) AND KENYA PORTS AUTHORITY (KPA)

We, the undersigned Members of the Senate Standing Committee on National Cohesion, Equal Opportunity and Regional Integration, do hereby append our signatures to adopt the Report -

1.	<b>Sen. Naomi Shiyonga Masitsa, M.P. -</b>	Chairperson	
2.	<b>Sen. Christine Zawadi Gona, M.P.</b>	- Vice-Chairperson	
3.	<b>Sen. (Dr.) Christopher Andrew Lang'at, M.P.</b>	Member	
4.	<b>Sen. Judith Pareno, M.P.</b>	Member	
5.	<b>Sen. (Dr.) Lelegwe Ltumbesi, M.P.</b>	Member	
6.	<b>Sen. Samson Cherarkey, MP.</b>	- Member	
7.	<b>Sen. (Dr.) Gertrude Musuruve Inimah, M.P.</b>	Member	
8.	<b>Sen. Mercy Chebeni, M.P.</b>	- Member	
9.	<b>Sen. Iman Falhada Dekow, M.P.</b>	- Member	