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② Chanwa
Please deal
11/7/18

The Clerk of the Senate
Parliament Buildings
P.O. Box 41842 – 00100
NAIROBI
Email: csenate@parliament.go.ke



RE: PETITION TO PARLIAMENT CONCERNING DISRUPTION OF LOCAL TRADE BY GOVERNMENT ACTION AND SANCTIONS

I, the undersigned,

A Citizen of the Republic of Kenya, and a resident of Nairobi County;

DRAW the attention of the Senate to the following:

- ③ Ms. Nthaini
Kindly review and facilitate as appropriate
D. Chanwa
11/7/18
1. *I represent the interest of Fast Moving Consumer Products Wholesale and Retail Traders who are significant contributors to economic growth in the Country.*
 - 1.1 THAT Wholesale and Retail trade is identified in the Vision 2030 as one of the 6 key sectors that can deliver 10% economic growth in Kenya;
 - 1.2 THAT, the Kenya National Bureau of Statistics has reported that Wholesale and Retail Trade has been the 4th largest GDP producer in Kenya for the Last 4 years
 - 1.3 THAT, sugar is a major commodity that is sold in Kenya by Wholesale and Retail Traders;
 2. *Regulation of Trade, including fair trade practices, is a County function and therefore any issue that significantly affects local traders should concern the Senate*
 - 2.1 THAT, the Fourth Schedule of the Constitution of Kenya lists regulation of Trade, including unfair trade practices, as a County function;
 - 2.2 THAT, any action that significantly affects trade affects the operation of the County Government and persons within their jurisdictions;
 - 2.3 THAT, the Senate therefore has jurisdiction to consider National issues that significantly affect trade;

3. *The importation of duty free sugar allowed by Gazette Notice No. 4536 of 2017 was in contravention of the East African Community Customs Management Act 2004.*

- 3.1 THAT, the Cabinet Secretary for the National Treasury Published Gazette Notice No. 4536 that allowed importation of Duty Free Sugar under the Natural Disaster Management provisions of the East African Community Customs Management Act 2004 ;
- 3.2 THAT, Paragraph 20 of Schedule 5 of the East African Community Customs Management Act 2004 provides the exemption of duty due to Natural Disaster on the following terms:
- a) The exemption should define the quantities and period for the exemption;
 - b) The exemption should be granted to the Government, Government Agencies/Agent; Non-Governmental Organization; or Relief Agency;
 - c) The goods are to be used where the Natural Disaster occurred
- 3.3 THAT, all these provisions of the East African Community Customs Management Act 2004 were flouted and that the duty-free sugar was not imported as a Natural Disaster relief measure by the relevant persons but as a commodity by various business persons;
- 3.4 THAT, in any case Sugar is not a basic commodity that should be accorded priority in relief circumstances

4. *The import of Duty Free Sugar led to unfair trade practices in the market*

- 3.5 THAT, the Cabinet Secretary for the National Treasury did not consult with relevant stakeholders including Wholesale and Retail Traders on the state of available stocks before publishing the Gazette Notice.
- 3.6 THAT, the Duty Free Sugar was way cheaper than locally processed sugar and the sugar the Wholesale and Retail Traders had earlier imported and paid duty, thus Wholesale and Retail Traders were exposed to dead stock and significant losses.
- 3.7 THAT, the Duty Free Sugar window led to importation of industrial sugar by persons who were not manufacturers. This has led to panic in the country and harassment of Traders.

5. The purge by the acting Cabinet Secretary for the Ministry of Internal Security and Coordination of national Government is exposing Wholesale and Retail Traders to police harassment and paralyzing business

- 3.8 THAT Wholesale and Retail traders are being subjected to mass suspicion and unwarranted threats by police officers who claim that '*they are selling poison*'
- 3.9 THAT Wholesale and Retail Traders are being subjected to demands for testing and approval of both local and imported sugar that is in their possession, with no clearly defined process and no forthcoming results.
- 3.10 THAT, the vehicles and workers of Wholesale and Retail Traders are being subjected to arbitrary arrests on the pretext of faulting the provisions of the Food, Drugs and Chemical Substances Act and being coerced to surrender sugar in their possession to the law enforcement agencies.
- 3.11 THAT, the Kenya Bureau of Standards is being discredited by the law enforcement agencies therefore Wholesale and Retail Traders have no way of determining safety standards, and are at the mercy of rogue Police Officers who are demanding bribes
- 3.12 THAT the acting Cabinet Secretary for the Ministry of Internal Security and Coordination of national Government has not given any clear directives on which imported sugar or sugar factories should be avoided thus throwing the country into confusion.
6. THAT, I have made the best efforts to have these matters addressed by the relevant authorities all of which have failed to give a satisfactory response.
7. THAT, none of these issues raised in this Petition is pending in any court of Law, Constitutional or any other legal body.

WHEREFORE, your humble petitioner pray that the Senate-

1. Should refer this matter to the relevant committees and invite the relevant government agencies to respond to the issues raised and give clear directives ;

Petition to the Senate by OMBAKA VINCENT concerning unfair trade practice in Sugar Trade

2. Should recommend to the President the establishment of a Task Force to examine key issues on regulation of sugar importation including but not limited to

- a. Food safety
- b. Sugar for industrial use
- c. Sugar for direct human consumption
- d. Eligibility of sugar importers ;

Dated this 4th day of July 2018.

No	NAME	ADDRESS	I.D. No.	SIGNATURE
	OMBAKA VINCENT ombakav@wazoafrika.net	37835-00100 NAIROBI	25863665	