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*Paper laid
By Hon Amira Abdalla,
Chair of Committee, on
Thurs 1/10/15*



ELEVENTH PARLIAMENT – THIRD SESSION - 2015

DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

REPORT ON THE INVESTIGATION INTO WILDLIFE POACHING IN KENYA

The Clerk's Chambers
Directorate of Committee Services
National Assembly.

October, 2015

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ABBREVIATIONS

ASALs	arid and semi arid lands
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
DRSRS	Directorate of Resources Surveys and Remote Sensing
EMCA	Environmental Management and Coordination Act
ETIS	Elephant Trade Information System
EU	European Union
EWB	Elephants Without Borders
KREMU	Kenya Rangeland Monitoring Unit
KWS	Kenya Wildlife Service
MIKE	Monitoring the Illegal Killing of Elephants
PAASE	Pan- African Aerial Survey of Elephants
SRF	Systematic Reconnaissance Flights
TCM	Traditional Chinese Medicine
WWF	World Wide Fund

PREFACE

On behalf of the Departmental Committee on Environment and Natural Resources and pursuant to provisions of Standing Order 199, it is my pleasant privilege and honour to present the Report of the Committee to the House.

The inquiry was necessitated by the growing concern arising from the increased incidences of wildlife poaching and particularly elephant and rhino poaching. The United Nations recently pronounced itself on the poaching crisis calling upon member states to work together to curb poaching.

1.1 Committee Mandate

The Departmental Committee on Environment and Natural Resources is established under the National Assembly Standing Order No. 216(1). The functions and mandate of the Committee are contained under the National Assembly Standing Order, No. 216(5) as follows:-

- a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- b) Study the programme and policy objectives of the Ministries and departments and the effectiveness of the implementation;
- c) Study and review all legislation referred to it;
- d) Study, assess and analyze the relative success of the Ministries and Departments as measured by the results obtained as compared with its stated objectives;
- e) Investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
- f) Vet and report on all appointments where the constitution or any law requires the National Assembly to approve, except those under Standing Order 204; and
- g) Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

The Committee oversees matters related to climate change, environment management and conservation, forestry, water resource management, wildlife, mining and natural

resources, pollution and waste management as provided for in the Second Schedule of the National Assembly Standing Order No. 216(f).

1.2 Committee Membership

1. Hon. Amina Abdalla, M.P., **Chairperson**
2. Hon. A. K. Kosgey, M.P., **Vice Chairperson**
3. Hon. Alice Ng'ang'a, M.P.
4. Hon. Samuel Ndiritu, M.P.
5. Hon. Aisha Jumwa Karisa, M.P.
6. Hon. Ejidius Njogu Barua, M.P.
7. Hon. Jude Njomo, M.P.
8. Hon. Moitalel Ole Kenta, M.P.
9. Hon. Kathuri Murungi, M.P.
10. Hon. Sunjeev Birdi, M.P.
11. Hon. Jackson K. Rop, M.P.
12. Hon. Abdi Noor Ali, M.P.
13. Hon. Joyce Emanikor, M.P.
14. Hon. Abdulaziz Farah, M.P.
15. Hon. Ronald Tonui, M.P.
16. Hon. (Dr.) Reginalda Wanyonyi, M.P.
17. Hon. Gideon Mwiti, M.P.
18. Hon. Hassan Dukicha, M.P.
19. Hon. Zainab Chidzuga, M.P.
20. Hon. Chachu Ganya, M.P.
21. Hon. Opiyo Wandayi, M.P.
22. Hon. Charles G. Mongare, M.P.
23. Hon. (Dr.) Wilber K. Ottichilo, M.P.
24. Hon. Khatib Mwashetani, M.P.
25. Hon. George Ogalo, M.P.
26. Hon. (Major) Muluvi Mutua, M.P.
27. Hon. Mohamed, Diriye M.P.
28. Hon. Peter Kinyua, MP.
29. Hon. Shukra Hussein Gure, M.P.

1.3 Establishment of a sub committee

In the 71st sitting held on 7th October 2014, the Committee resolved to establish a sub-committee pursuant to Standing Order 183 to investigate and gather information on the

extent of the poaching menace. The following members were nominated to the sub-committee:-

1. Hon. (Dr.) Wilber K. Ottichilo - **Chairperson**
2. Hon. Moitalel Ole Kenta, M.P.
3. Hon. Mwashetani Khatib, M.P.
4. Hon. Chachu Francis Ganya, M.P.
5. Hon. Muluvi Marcus, M.P.
6. Hon. Oner George Ogalo, M.P.
7. Hon. Shukran Gure, M.P.
8. Hon. Emanikor Joyce, M.P.
9. Hon. Wandayi Opiyo, M.P.

Sub - committee terms of reference

The sub-committee was tasked with the responsibility of gathering information and investigating:-

- a) The Wildlife population trends in Kenya and empirical statistics on wildlife poaching with special emphasis on rhino and elephant populations with the aim of establishing the actual wildlife population;
- b) The factors that have led to the drastic decline in wildlife population and increase of the poaching of elephants and the rhinos;
- c) The capacity and capability of KWS and other relevant government agencies in dealing with the wildlife poaching menace;
- d) The levels of arrests and convictions of wildlife offenders and how long it takes for offenders to be convicted; and
- e) Measures and interventions required to tackle the menace of wildlife poaching and the general decline in wildlife populations countrywide.

1.4 Committee proceedings

The Committee invited various stakeholders among them the Ministry of Environment, Water and Natural Resources, the KWS, Department of Resource Surveys and Remote Sensing (DRSRS) the now defunct Taskforce on Wildlife Security, Representative of Group
Report of the Departmental Committee on Environment and Natural Resources

Ranches and Conservancies, Wildlife Direct, Save the Elephants, WWF (World Wide Fund) as well as individual stakeholders. The participants made verbal submissions and presented documents to the committee. The Committee also undertook extensive literature review on Wildlife population studies that have been conducted recently in Kenya and the Eastern Africa sub-region.

The records of the evidence adduced, verbal submissions made and other information analyzed was crystallized to arrive at the observations and recommendations the Committee has made in this report which is to be tabled in the House.

1.5 Committee observations

From the evidence received and written submissions provided to the inquiry the Committee made the following Observations:-

1. Importance of Wildlife resources to the Kenyan economy

The wildlife resource managed by KWS is the backbone of the tourism industry and accounts for 21% of foreign exchange earnings and 12% of the country's GDP in 2012. 70% of tourism earning is wildlife based and it is the second largest contributor to the country's economy. It is also a key pillar in achieving the goals of vision 2030. The contribution of the tourism industry also has a multiplier effect in other sectors of the economy such as the agriculture, horticulture, transport and communication.

2. Drastic decline in Wildlife populations in the Country

Based on the submission given by Dr. David Western, Directorate of Resource Survey and Remote Sensing (DRSRS) and from literature review (particularly on the paper by Dr. Ogutu) it is apparent that wildlife populations of different species have declined by between 30-90% during the period 1977 to date.

The wild life species that have significantly declined and are critically threatened include the elephants, rhinos, grevy zebras, roan and sable antelopes, hirolas, bongo, lions, cheetah among others. The main causes of the decline are habitat loss due to increasing human

settlements and developments, human-wildlife conflict, poaching, bush meat hunting, climate change, disease , for example rinderpest among others.

The Committee observed that more focus and attention has been given to the plight of the elephant and rhino at the expense of other wildlife species which are equally and critically threatened.

3. Wildlife Poaching trends

The Committee noted that Kenya has a total of 8,654 known wildlife species. A total of 107 species of Kenya Wildlife are threatened. Elephants and rhinos are the key flagship species facing major threats from poaching.

The years 2011, 2012 and 2013 witnessed the highest levels of poaching since the poaching crisis in the 1980's. Last year (2014) a total of 164 elephants and 35 rhinos were killed by poachers compared to 302 elephants and 59 rhinos in 2013. In 2015 there are indications that the figures might be lower. This promising trend is partially attributed to the implementation of the stringent wildlife conservation and management law passed in 2013.

The ensuing poaching menace was aggravated by the approval by the Convention on International trade in Endangered Species of Wild Fauna and Flora (CITES) of the one-off sale of elephant ivory by Southern African countries in 2007 and the sale of ivory stockpiles which continues to haunt wildlife security in Kenya and the region. It also increased demand of ivory and rhino horn in the Far East Countries especially China and Vietnam.

4. The threat of Wildlife and Bush meat trade

Although poaching of elephant and rhino has been given prominence by KWS and other wildlife stakeholders, the Committee noted that the Trade in wildlife bush meat was widespread and was going on unabated and had assumed a commercial scale where the meat was sold openly in markets such as Burma Market in Nairobi.

The Committee observed that this trade was a serious threat to game animals and unless urgent action is taken, it will lead to their further decline and eventual extinction.

5. Wildlife habitat decline

The Committee observed that wildlife habitat decline was a major threat to sustainable conservation of all wildlife heritage in Kenya. It was noted that due to wanton destruction of wildlife habitats, most wildlife species populations were declining very fast. Therefore unless this issue is addressed urgently through land use planning, creation of wildlife migration and routes and conservation of sensitive wildlife habitats, our rich wildlife heritage is destined to extinction over time.

6. Operationalizing the Wildlife Conservation and Management Act 2013.

The Ministry pointed out that the main challenge in implementing the Act has been the financial implications in effecting the Bill including compensation, benefit sharing, creation of awareness and public participation, logistics and preparation of guidelines to operationalise the Act. The KWS has over the years faced financial challenges which have had an impact on its operations and the effective execution of its mandate.

The Committee noted that lack of adequate funding needed to operationalise the requirements of the Act is a major impediment to wildlife conservation. There is significant increase in reported cases of human wildlife conflicts and claims for monetary compensation against the Service. Additionally, there are inconsistencies in the Wildlife Conservation and Management Act 2013 that hinder the successful prosecution of wildlife offenders.

7. Prosecution of wildlife crime cases

The Committee also observed that there was slow pace of implementation of the Wildlife Conservation and Management Act, 2013. The operationalization of the Act took longer than expected. Most of the established institutions and units were still to be activated and resourced. A total of 503 cases have been prosecuted with the highest number being the ones involving wildlife poaching totaling to 435 cases.

Ivory related cases are the highest prosecuted with 283 cases having been concluded while 197 were pending. Penalties imposed are in the form of fines or imprisonment. Although the Judiciary has started taking wildlife cases seriously, they are still reluctant to give long

custodial penalties. The cases against wildlife range from cases of illegal possession of ivory, rhino horns, bush meat and wildlife skin.

Out of 127 cases surveyed by Wildlife Direct, 56 were complete with 2 out of these getting custodial sentences while the rest were handed non-custodial sentences ranging from probation to community service.

8. The role of Local Communities in Sustainable Wildlife Conservation and Management

From all the submissions given, the Committee also observed that the role of local communities and large landowners in sustainable conservation of our wildlife heritage is crucial given that more than 70% of our wildlife populations are found or reside outside protected areas and are most vulnerable to poaching and responsible for the ever increasing human wildlife conflict.

9. Review of legislation on the protection of wildlife

In addition, the Committee noted that there was need for a broader approach to wildlife conservation and collaboration between different agencies. The Committee took note that in this regard, there was need to review several legislation to fill the gaps. These include:

- a. Proceeds of Crime and Anti-Money Laundering Act, 2009
- b. Prevention of Organized Crimes Act, 2010
- c. Anti-Corruption and Economic Crimes Act
- d. Environmental Management and Coordination Act, 1999
- e. Forest Act, 2005
- f. East Africa Community Customs management Act, 2004
- g. Penal Code (cap 63)
- h. Prevention of Cruelty to Animals Act (cap 360)
- i. The Evidence Act
- j. Criminal Procedure Code
- k. The Meat Control Act (cap 356)
- l. The Physical Planning Act

10. Additional threats to Wildlife conservation

The Committee noted that while wildlife crime is a major threat to wildlife, this has also been exacerbated by other factors such as climate change, human population growth, world's economic growth and diversification, rising demand for ivory and rhino horns in the illicit markets of East and South-East Asia.

11. Restructuring of KWS

The Committee noted that most of the stakeholders interviewed proposed the restructuring of the Kenya Wildlife Service. They argued that its current structure was not responsive to the changing and escalating threats to wildlife security. There is lack of proper definition of functions and roles.

The organization structure is wider at the top taking up most of the resources on personnel emoluments of the senior officers based in the Headquarters leaving little for the motivation of the field officers. The threat posed by commercial poaching and bushmeat poaching requires immediate attention. The thrust of the report demonstrates that the current ability of KWS to deal with this poaching is significantly wanting. In this regard, there has been an unfortunate decline in some key functions. Intelligence is a key weapon in responding to the poaching challenge. Allied to this is the inability of KWS to respond to problem animal control generally let alone responding in a timely manner.

In addition to the work environment in regard to work ethics, in-fighting, remuneration, welfare, promotions, transfers and training are seriously hindering KWS in carrying out its mission and have led to a serious decline in the quality of the Service over the last 5 years.

12. KWS effort in curbing poaching

Despite the glaring gaps in legislation and response by KWS and the government to the poaching crisis, the Committee noted that KWS has significantly enhanced the anti-poaching enforcement efforts to combat the poaching scourge and combat other wild security threats. Statistics indicate that there has been a drop in the number of poaching incidences, more criminals are being prosecuted and there is some progress in implementing the

provisions of the Wildlife Conservation and Management Act, 2013. Moreover, the Ministry has recruited more rangers to increase their numbers and help secure wildlife in the various parks and other protected areas.

13. Recommendations of the Task force on Wildlife Security

The Committee noted that the Task Force on Wildlife Security appointed by the Ministry in response to the escalating wildlife insecurity identified gaps that have led to an upsurge in poaching. The task force completed and submitted its report to the Ministry at the end of its term. The wide ranging recommendations of the report touch on most of the aspects identified by stakeholders in their submissions to the Committee.

14. Wildlife data on populations and distributions

The Committee noted that there was long-term intensive data collected by DRSRS, researchers and other wildlife stakeholders which is readily available but it is not utilized by KWS for planning and conservation of wildlife in the country. It was further noted that KWS was not willing to accept, coordinate and harmonize wildlife data collected by other stakeholders and was equally not willing to freely share its own data. As a consequence, there exists conflicting data on wildlife populations and poaching incidences.

1.6 Committee Recommendations

Based on evidence received and analysed, the Committee concludes that the country is faced with a national wildlife management crisis and makes the following recommendations to address the crisis:-

Review of legislation to enhance protection of wildlife

1. Parliament should fast-track the amendments of the Wildlife Conservation and Management Act, 2013 to enhance the penalties for offenders, remove inconsistencies and streamline the prosecution of the offenders. Parliament should also consider amendments to the following statutes to better support wildlife conservation:-

- (i) **Proceeds of Crime and Anti-Money Laundering Act, 2009** - Section 2 of the Act should be amended for authorised officers to include KWS officers who

now have the powers to investigate crimes under the Wildlife Conservation and Management Act 2013;

- (ii) **Prevention of Organized Crimes Act, 2010**- An amendment should be included to mean a group of two or more persons as opposed to a structured group of three or more persons because poaching groups are rarely structured and often consist of two persons;
- (iii) **Anti-Corruption and Economic Crimes Act** - should be amended to include poaching as an economic crime;
- (iv) **Forest Act, 2005** - Should be amended to include KWS officers as Authorised officers under the Act as they often investigate and charge persons who destroy wildlife habitats under the Forest Act;
- (v) **East Africa Community Customs management Act, 2004**-Should be amended to include a general penalty in terms of fines as courts have argued that prohibited goods such as wildlife and their trophies do not have a known value which they use to compute the monetary penalty given under the Act. The Act gives a fine equal to a percentage of the value of the goods.
- (vi) **Penal Code (cap 63)** - Should include an offence of stealing of government trophy from legal custody, that include stores, armouries, exhibit strong rooms. This should reflect a high penalty as in line with the penalties under the Wildlife Conservation and Management Act 2013;
- (vii) **Prevention of Cruelty to Animals Act (cap 360)**- penalties should be made higher to be reflective of penalties under the Wildlife Conservation and Management Act 2013, especially offences under sections 5 and 6 of the Act which relate to the use of poison and hunting tools
- (viii) **The Evidence Act** - should be amended to allow use of photographs taken by digital camera and to give rules of how such photographs can be admissible in court. The law should also remove the requirement that photographs should

be taken and/or processed by gazetted scene-of-crime officers. This is not possible in many cases since wildlife scenes are very remote and it might be impossible to get such an officer on the scene;

- (ix) **Criminal Procedure Code** - Section 389 A of the CPC should be amended to include the cost of disposal of forfeited goods to be borne by the accused person;
- (x) **The Meat Control Act (cap 356)** – the powers of KWS officers should be enhanced to enforce, investigate and prosecute offences related to game meat;
- (xi) **Expansion of the powers of KWS officers** - the powers of KWS officers should be enhanced to enforce, investigate and prosecute offences related to their mandate; and
- (xii) **The Physical Planning Act** should also be reviewed to address issues related to Human-wildlife conflict and land-use planning.

Operationalisation of the Wildlife Conservation and Management Act, 2013

2. The Committee noted that despite current financial constraints, there are existing structures in place that can be used to enforce the Act. KWS and other security agencies should strictly enforce the law and subject all wildlife crime suspects to the country's laws regardless of their nationalities and origin of the illegal wildlife products in their possession.
3. The Ministry of Environment and Natural Resources should take concrete steps including prompt compensation for the genuine cases of those detrimentally affected by the wildlife and develop strategic collaborative partnerships with the communities around the protected areas to manage human-wildlife conflicts.

Diplomatic Action

4. The Ministry of Foreign Affairs and International Trade should undertake immediate Diplomatic action to urge African and Asian governments to dramatically and

consistently improve their enforcement controls including massive education and awareness raising campaigns in Asian countries aimed at curbing the demand for ivory and rhino horn in the main consumer markets of China and Vietnam respectively.

Kenya Wildlife Service

5. The Kenya Wildlife Service (KWS) should be adequately and appropriately resourced. The Service should also be able to clearly disclose the Appropriation In Aid (AIA) it collects in its budget breakdown. There must be full disclosure of the resource generation, usage and need in the Service. This will enhance transparency and give an opportunity for additional funding.
6. The KWS should immediately formulate and implement management strategies and plans that will save wildlife species that are under threat from further decline. The Committee noted with a lot of concern that numerous wildlife species in the country are threatened but their plight is given little attention and action. These species include but are not limited to lion, grevy zebra, bongo, roan and sable antelopes, hirola, sitatunga, cheetah among others.
7. KWS should fast track the accreditation and operationalisation of the Wildlife Forensic lab. The full operationalisation will help in the identification of poached and pirated wildlife products through DNA matching and other science based identifications.
8. The Ministry of Environment and Natural Resources and KWS should engage all stakeholders, particularly DRSSRS in harmonising wildlife statistics and data which should be publically declared on a regular basis.
9. The KWS should release and publically declare the harmonised statistics of poached wildlife and status of prosecution of cases and arrests on a quarterly basis indicating reasons for the poaching/arrests/prosecutions and the immediate remedial action(s) to be taken by the Service.
10. The Service should Initiate a rehabilitation programme for animals at the orphanage and ensure that they are released to their natural habitats once they are fully able to adapt to the wild environment and survive. The Service should further take immediate action to bring the operation of orphanage into the acceptable conservation best practices,

impart proper trainings skills on the handlers and vets at the orphanage and closely monitor the reported high mortality rates at the orphanage

11. The Service should closely collaborate with the communities and enter into beneficial partnerships with them to strengthen the protection of the endangered species within the ecosystems. The Communities have the necessary indigenous knowledge and information to aid the protection of wildlife within their vicinity and report immediately on any poaching activities.
12. The Service should further engage other stakeholders such as the conservation civil society organizations and private conservancies and tap into their knowledge and resources. Such collaboration should be based on a workable consultative framework done in the best interest of conservation and protection of the country's wildlife heritage.
13. The Service should set standards to regulate individuals and institutional researchers and also ensure that they acquire the necessary permission from the National Council for Science and Technology (Nascoti) to conduct research in protected and non-protected areas. The research should only be allowed to be conducted when the desired outcome is mutually beneficial to the interest of the two parties. The Service should protect and conserve the Country's wildlife heritage.

Restructuring of KWS

14. The KWS Board of Trustees should institute an immediate reform aimed at restructuring the Service to be able to respond to the dynamic and escalating wildlife Security threats. The Current Management structure is far removed from an active engagement with the field officers and wildlife rangers on the ground. The reformed structure should reflect the standard organizational human resource needs.

National Audit of stockpiles

15. The Ministry of Environment and Natural Resources should within three months of the adoption of the report carry out a national audit of all stockpiles of wildlife trophies in the country and establish a national electronic database for these trophies. The Kenya

Wildlife Service should accumulate and store all trophies at the Headquarters and close all other storage facilities in any other part of the country.

Improve screening at boarder points, Airports and Seaports

16. The Ministry of Environment and Natural Resources in collaboration with other government agencies should urgently install screening machines at all points of exit and entry into the country especially the sea/lake ports, the International airports and Namanga, Malaba and Busia entry and exit points and screen all cargo leaving the country. The Kenya Wildlife Service Officers should be given unrestricted access to verify the contents of any container of interest entering and leaving the country.

Accountability of KWS to other security agencies

17. Kenya Wildlife Service authorized officers especially rangers found to provide any form of assistance to or collusion with poachers and other organized criminals should be investigated and prosecuted accordingly.

Separate provision of ancillary services

18. The Ministry of Environment and Natural Resources should separate the provision and management of ancillary services such as hotels, lodges, camps and other services in the protected areas from the primary mandate of KWS to manage, conserve and protect wildlife. These services and activities should be independent from the Service.

Regulate land use in dispersal corridors

19. Create easements of land used as dispersal corridor by elephants and purchase of or compensation to allow for dispersal corridors. An agreement should be reached with owners of such land around these corridors on mutually beneficial terms.

Implement the recommendations of the Task force on Wildlife Security

20. The Ministry of Environment and Natural Resources should implement the recommendations of The Task Force on wildlife security and integrate them in the short-term and long-term strategic conservation and financial planning processes.

1.7 Adoption of the report

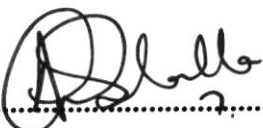
We the members of the Departmental Committee on Environment and Natural Resources have pursuant to Standing Order 199 adopted this Report and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity as per the attached adoption list.

1.8 Acknowledgment

The Committee would like to acknowledge the time and considerable effort that inquiry stakeholders invested in this investigation, through submissions, hearings and additional information. We express our thanks and gratitude to our colleagues for their open and thoughtful contributions to this inquiry. The Committee would like to express its gratitude to the Offices of the Speaker and the Clerk for their facilitation. Further, the Committee is indebted to the staff of Parliament for their commitment and dedication to duty that made the work of the Committee and the production of the report possible.

Honourable Speaker,

It is now my pleasant duty to table the Report of the Departmental Committee on Environment and Natural Resources, on the investigation into wildlife poaching in Kenya for debate and adoption by the House.

Signed: 

Date: 1/OCTOBER/2015

HON. AMINA ABDALLA, MP

CHAIRPERSON, DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

2.0 INTRODUCTION

2.1 Background

The recent surge of wildlife poaching in the country and especially on the rhinoceros and elephants is unrelenting. In spite the enactment of stringent wildlife management laws, specifically, the Wildlife Conservation and Management Act, 2013 which came into operation in January 2014, poaching has continued unabated.

The Committee was alarmed that poaching had continued unabated and was getting out of control and threatening to extinction Kenya's wildlife heritage, especially the rhinos and elephants.

In June 2014, poachers were responsible for the killing of the world's largest elephant named *Satao* in Tsavo and the trend has continued in various parks, game reserves and conservancies across the country targeting mainly elephant and rhino species. The rhino population in Nairobi National Park, which has the headquarters of KWS, has not been spared. The poaching menace is not limited to any specific area with the wildlife coming under intense threat within and outside the protected areas throughout the Country. The commercialisation and sale of bush meat has led to increased illegal wildlife hunting in Narok and Kajiado. The bush meat has found ready market in the Nairobi metropolitan area with Burma market being the major sale outlet.

The increasing cases of poaching in spite the enactment of the Wildlife Conservation and Management Act, 2013 influenced the Committee resolution to investigate wildlife poaching and the establishment of a sub-committee to undertake the inquiry and report to the main Committee.

2.2 Committee proceedings and hearings

The Committee invited various stakeholders among them the Ministry of Environment, Water and Natural resources, the KWS, Department of Resource Surveys and Remote Sensing (DRSRS) the now defunct Taskforce on Wildlife Security, Representatives of Group Ranches and Conservancies, Wildlife Direct, Save the Elephants, WWF (World Wide Fund) as

well as individual stakeholders. The participants made oral and or written submissions before the Committee. The Committee also undertook relevant literature review on poaching the menace.

2.3 Historical outline of Poaching of elephant and rhino

In the 1970's through to the early 1990's, the international community became increasingly concerned about the illegal poaching of African elephants (*Loxodonta africana*) and rhinos (*Rhinocerotidae*). Since the 1970's, the population of African elephants declined from 1.2 million to approximately 600,000 in the 1990s¹ primarily due to illegal poaching. As the population of large bull elephants decreased, poachers began to take aim at female elephants and adolescents. From 1979 to 1988, twice as many elephants were killed so as to feed the illegal market for ivory and because female and adolescent elephants were the targets, twice as many had to be killed for each ton of ivory².

During this period, rhino populations experienced an even more dramatic decline. In Africa, the population of black rhinos (*Diceros bicornis*) was reportedly 65,000 in 1960, but reduced to 6,000 by 1985. These increases in poaching activity paralleled the dramatic increases in the price of ivory and rhino horns. Rhinos have suffered a 90% population decline in the last 40 years.³

The recent surge in poaching of rhinos and elephants is supported by a study which appeared in the Proceedings of the National Academy of Sciences⁴.

1.4 Reasons for the increase in illegal poaching of elephants and rhinos

According to Monitoring the Illegal Killing of Elephants (MIKE), poverty and weak governance, together with demand for illegal ivory in consuming nations are the three key

¹ Bulte, E. H. and G. C. van Kooten. 1999. Economics of anti-poaching enforcement and the ivory trade ban. *American Journal of Agricultural Economics* 81: 453-466

² Chadwick, D. H. 1991. Elephants – Out of time, out of space. *National Geographic* 179(5).

³ Messer, Kent, *The Poacher's Dilemma: The Economics of Poaching and Enforcement*, Department of Agricultural, Resource, & Managerial Economics, Cornell University, Warren Hall, Ithaca, NY, Vol. 17 No. 3, 2000

⁴ George Wittemyer, Joseph M. Northrup, Julian Blanc, Iain Douglas-Hamilton, Patrick Omondi, and Kenneth P. Burnham, *Illegal killing for ivory drives global decline in African elephants*, *Proceedings of the National Academy of Sciences*, August 18, 2014, doi:10.1073/pnas.1403984111

factors which fuel poaching of elephants and rhinos in African countries. The use of rhino horn as a recreational drug or cancer treatment in Asia is based on myths, but has also escalated exponentially over the last few years. As a result, rhino in Africa and Asia are slaughtered in large numbers for their horns. With prices able to fetch more than cocaine or gold, the trade is attracting the attention of organized crime and terrorist Organisations, leading to an epidemic-proportion of illegal rhino horn trade between Africa and Asia⁵.

2.5 Supply and demand for ivory

Rhino horn consumer countries in Asia include Vietnam, China and Thailand. In these Asian countries rhino horn is a recreational drug and used by affluent people as a detoxifying beverage and body-rejuvenating tonic. In China, rhino horn is used in Traditional Chinese Medicine (TCM) to treat fever, pain, rheumatism, convulsions and other disorders. The value of horns on the black market has escalated dramatically to USD 60,000 per kg in 2012. Scientific studies have proved that rhino horn has no medicinal value. Rhino horn is comprised of keratin, the same material as human hair and fingernails and the hoofs and horns of many animals.

2.6 Criminal Offences associated with poaching

Apart from the negative effect that illegal hunting and poaching has on wildlife, it is also connected with other serious crimes. These include Criminal activities such as possession of illegal weapons, illegal export, illegal (international) trade, bribery and corruption, money laundering, and financing of criminal syndicates and terrorist activities/organisations.

2.7 Current poaching status of the elephant and rhino

According to a report released by CITES (CITES, IUCN, TRAFFIC International) in 2012, 15,000 elephants were illegally killed at 42 sites across 27 African countries participating in Monitoring the Illegal Killing of Elephants (MIKE), a programme of CITES, with funding from

⁵www.iucnredlist.org, The IUCN Red List of Threatened Species, IUCN 2012. IUCN Red List of Threatened Species [accessed 12 March 2015]

the European Union (EU)⁶. According to the MIKE analysis, this translates to an estimated 22,000 elephants illegally killed in the African continent in 2012, a slight reduction on the estimated 25,000 elephants poached in 2011. Data from the Elephant Trade Information System (ETIS) analyzed in the report indicates that illegal trade in ivory rose in 2011 to the highest levels in 16 years and persists at unacceptably elevated levels through 2012. The overall weight and number of large-scale ivory seizures (more than 500kg) in 2013 exceeds any previous year in the data.

Poaching remains a serious problem in many Africa countries. In the South a recently released government backed survey showed that Mozambique has lost half of its elephant population in 5 years from 20,000 to 10,300. It also remains a menace in South Africa, Tanzania, Chad, Cameroon among other countries in the continent.

In another study recently conducted in Samburu, Kenya by leading scientist which appeared in the proceedings of the National Academy of Sciences indicated that over 100,000 elephants have been poached between 2010 and 2012 across Africa. The study further stipulates that by the use of predictive model the overall **elephant population has reached the tipping point and was declining by 3% yearly**. The report termed the trend unsustainable and worrying⁷.

Pundits and Conservationist believe that the elephant population in Kenya has reached the tipping point and a clear national framework that has the backing of the international community is the only way to reverse the trend. They also cast doubts on the poaching statistics released by KWS as under- reported and concealment of the real crisis the nation's wildlife heritage was facing. Those in favour of this argument base their evidence on the incessant poaching of elephants almost on a daily basis, the change of poaching mechanism from riffles to poisoned arrow and the emergence of organized wildlife criminals in the sector coupled with weak organizational structure in the Service. They gave figures as high

⁶ UNEP, CITES, IUCN, TRAFFIC (2013). *Elephants in the Dust – The African Elephant Crisis. A Rapid Response Assessment*. United Nations Environment Programme, GRID-Arendal. www.grida.no

⁷ *ibid.*

as more than double the statistics of poaching the government publically released. Mr. Ian Hamilton, a well renown elephant expert and conservationist in his presentation to the committee called the situation a **'crisis'** falling short of calling it a **'disaster'**.

His Excellency the President in an effort to send a message to those involved in the illicit trade of wildlife products especially ivory set on fire 15 tonnes of elephant tusks on this year's World Wildlife Day declaring that elephant poachers will not have the last word in Kenya.

Despite this strong statement and other strong indication of action against organized criminals in the wild life sector the government seems to lack a clearly spelt out strategy to combat the menace. Ivory originating from Kenya has in the recent past been seized in international ports and airports for example Singapore and Thailand. The fact that this ivory and rhino horns and other illegally acquired wildlife products continue to find their way out of Kenyan ports undetected raises more questions than answers about the seriousness of those given the responsibility to protect the country's wildlife heritage.

In April 2015 more than three tons of elephant ivory destined for Laos was seized at a Thai port stashed in a container shipped from Kenya and in May 2015 a US \$6million shipment disguised as tea from Kenya and destined for Vietnam was seized while transiting through Singapore city. It is worthy to note that this particular shipment included 1,783 pieces of raw ivory tusks, 4 pieces of rhino horn and 22 teeth believed to be from African big cats as reported by the Singaporean authorities.

The current official statistic from KWS indicate that the years 2011, 2012 and 2013 witnessed the highest levels of poaching since a poaching crisis in the 1980's. Poaching declined last year with 164 elephants and 35 rhinos killed, down from 302 elephants and 59 rhinos killed in 2013 partially attributable to the stringent legislation with stiffer penalties enacted in the year 2013 to deter poaching and other wildlife crimes. About 35 elephants and 3 rhinos have already been poached this year,2015.

2.8 Current population status of wildlife species

Species/Year	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Buffalo	44152.8	37154.8	41429.9	54277.5	42202.2	46277.8	42537.0	42840.5	43943.1	42849.2	25282.0	41266.6	42762.6
Eland	13574.6	12339.6	12008.3	10255.5	9801.8	8933.9	9398.9	11653.9	9713.6	8220.1	9936.0	9986.3	7390.7
Elephant	19857.2	19861.8	20023.0	24560.5	20115.3	19115.3	18614.8	21866.5	18688.5	16711.4	22825.4	18380.0	18417.2
Giraffe	30891.3	31262.0	31146.2	30034.2	28016.2	25876.6	26148.8	25644.0	24875.5	24953.2	26112.7	27030.9	22242.1
Grants Gazelle	109616.6	113742.9	104897.6	105956.8	105616.9	83124.8	85418.0	82662.7	86710.7	75939.7	88762.8	75230.5	73374.4
Gerenuk	23963.6	21597.8	19316.7	19136.9	20490.7	17738.8	17323.3	16831.8	17613.5	15137.5	14726.7	14956.4	13449.1
Impala	78902.4	63965.4	64333.6	74663.8	49609.9	45460.6	44727.2	44843.1	27857.6	27663.1	26895.1	26553.4	20068.4
Kongoni	13552.0	13104.0	11653.9	13881.9	9497.2	8781.8	8848.5	8409.2	7274.8	6894.1	3793.6	7228.7	7448.8
Lesser Kudu	10255.1	7632.7	6483.5	6394.1	6281.5	5789.6	5585.4	5455.5	5188.1	4480.9	3795.9	4794.2	4680.4
Ostrich	21363.9	22988.7	23166.0	23526.3	23689.8	22179.7	21395.4	22129.0	25171.1	20706.8	20720.6	19811.9	19327.6
Ostrich	19401.1	18761.8	18128.3	16607.8	15608.6	15380.4	15099.1	14576.8	12937.9	13362.5	14036.1	12442.3	12633.4
Thomsons Gazelle	76471.7	58278.3	64030.2	71995.2	56267.4	48476.3	58814.9	34993.8	43067.7	52582.9	49420.5	51926.3	59742.4
Topi	31461.1	30251.1	35038.7	29128.7	24528.7	23626.1	31195.3	23408.1	18449.3	20120.0	19171.6	24812.5	17147.7
Waterbuck	4696.4	3372.2	2753.9	2637.5	2958.5	2204.1	2228.4	1639.5	2069.4	2105.3	1950.3	1336.8	1552.4

Apart from elephants and rhinos, other wildlife species have equally significantly declined in their numbers both in the protected and unprotected areas since the early 1970s to date. Long-term data provided by the Department of Resource Surveys and Remote Sensing (DRSRS) show that overall all wildlife species populations have declined in the country. The most affected and threatened are the carnivores, especially the lion, cheetah, leopard, wild dogs and hyena. Other species that are threatened with extinction include but not limited to the bongo, roan and sable antelope, hirola, gravy zebra and sitatunga.

Table 1 shows the wildlife population trends in the country since 1977/78 to date.

Warthog	12267.7	12221.5	10592.5	10964.4	10793.1	9010.1	8881.7	9991.3	10082.3	7355.8	9141.4	8372.1	8623.4
Wildebeest	71974.1	53583.0	74580.5	49907.3	227965.3	85343.6	61981.3	108740.4	286027.3	313688.7	229668.0	361559.5	219462.1
Zebra													
Burchells	127680.1	113209.7	138151.3	134621.6	135066.0	123935.4	123383.1	119650.4	126578.6	110359.8	99578.8	121676.7	128444.9
Zebra Grevy	3862.7	3082.4	2898.6	3092.9	5059.6	3158.2	3217.0	4106.8	3373.3	1165.8	3769.2	3786.7	3765.4

Species/Year	1977	1978	1980	1981	1982	1983	1985	1986	1987	1988	1989	1990
Buffalo	42025.3	89470.9	40336.6	44306.8	43274.1	49960.7	45908.3	34117.8	39857.7	38689.2	43203.1	42523.6
Eland	40924.4	57356.0	31540.5	23821.4	24892.0	28446.1	25550.9	23138.9	20488.4	22760.5	21695.2	28003.0
Elephant	52023.5	43042.8	30452.3	27122.7	24138.2	25309.1	19228.2	16312.0	19790.8	19758.0	17046.7	21803.0
Giraffe	72819.9	80144.1	63838.8	56940.3	57773.1	63189.5	50656.2	54344.4	47997.9	47642.0	45579.8	56506.3
Grants Gazelle	247648.0	320373.9	214164.9	188558.9	188462.4	191711.2	182033.6	173134.7	148135.5	141263.2	144261.6	178975.1
Gerenuk	49228.8	49521.6	40109.1	34824.7	37268.2	34804.5	25397.4	31971.8	32191.1	24031.0	26367.8	25754.7
Impala	166169.9	276648.3	100012.5	122689.4	127085.0	113562.1	118851.7	105309.8	110192.6	104303.3	109173.6	90991.9
Kongoni	43197.6	61781.2	38334.1	38531.7	35936.8	33661.0	30417.2	27285.1	25539.0	25854.8	27632.1	22578.9
Lesser Kudu	18349.7	19718.1	16291.8	14327.2	13368.9	12583.7	8492.1	11261.6	11228.4	9113.8	10990.8	13.1
Ostrich	31457.7	43466.3	32802.3	25052.5	29712.2	32167.7	21880.9	30714.3	30490.7	25591.5	24912.7	35582.3
Ostrich	65032.1	75327.9	55953.4	43113.3	50443.6	46182.4	41733.7	39207.7	33497.7	30729.2	29700.5	45679.8
Thomsons Gazelle	155153.5	264794.1	82700.9	108659.4	113560.4	102001.4	107087.5	87755.6	108605.5	82929.5	106016.5	79002.2
Topi	87553.0	142886.8	110992.3	84985.7	107382.0	127760.0	83987.5	88831.5	91784.6	92164.9	90533.6	69088.3
Waterbuck	17615.8	14841.1	13713.3	10166.7	10888.0	11323.3	12215.4	9554.7	19067.9	8735.7	6366.7	7004.9
Warthog	33348.4	36498.3	23305.0	24035.5	23624.0	25922.6	14441.3	21183.1	16897.4	15748.5	15053.5	19993.9
Wildebeest	203009.3	239112.7	1226775.0	108833.1	91364.6	95389.9	97523.2	146730.2	44714.2	84614.7	81639.4	488411.0
Zebra												
Burchells	137365.3	185943.5	170714.1	132124.6	141356.5	142781.7	150097.4	141862.7	141843.5	151681.8	144821.6	200045.7
Zebra Grevy	12269.4	9499.5	11614.2	8050.2	9631.7	8626.9	4958.0	6806.8	5316.5	4906.4	5543.1	4819.3

Species/Year	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Buffalo	44371.4	47216.5	37003.8	35288.9	39280.0	30508.3	28317.3	42967.5	43354.4	44098.8
Eland	22038.2	19707.3	18221.1	21833.9	16803.6	14650.5	15248.4	16029.9	15295.2	14988.8
Elephant	13564.7	22634.9	18618.4	21276.1	20159.4	19222.1	21980.8	20981.4	20703.9	20342.5
Giraffe	46336.9	45373.2	44376.0	41196.3	41420.0	35304.8	32519.9	36562.8	35503.0	33611.1
Grants Gazelle	148294.1	139766.7	145495.6	115907.9	134213.0	131992.3	99870.8	131541.9	121380.8	124438.1
Gerenuk	28444.5	27300.2	31776.8	24730.7	28110.9	22679.6	17903.6	22691.4	21850.9	21218.5
Impala	79502.7	91293.2	53986.9	96354.4	84984.3	74276.8	202310.5	95825.9	90493.4	89063.1
Kongoni	22912.8	22617.4	18342.8	21500.5	17847.8	15033.9	14275.8	16030.9	15590.8	13447.2
Lesser Kudu	10225.5	9351.8	11403.7	9419.4	9429.1	7773.2	7320.0	7910.5	7510.0	7249.0
Ostrich	30673.3	34183.5	32340.0	30312.9	27832.5	25552.9	17619.1	26879.9	25203.5	24083.1
Ostrich	29893.4	29215.5	31752.8	25071.2	27843.1	25769.6	14985.5	21349.9	21294.6	19656.1
Thomsons Gazelle	56015.0	59386.2	36016.8	74216.9	73512.9	54515.0	176613.8	86492.8	83056.8	79520.7
Topi	62921.3	62722.2	71029.3	54670.0	53616.7	50447.8	64940.0	48942.8	46840.5	44240.8
Waterbuck	7077.1	6363.4	5858.9	5278.4	5319.7	5773.4	4969.5	4125.6	4045.2	3863.7
Warthog	16230.6	17410.0	16197.7	13817.3	15537.3	12238.1	11914.5	12569.7	12308.9	11748.6
Wildebeest	194557.4	282132.5	177511.2	58215.0	71599.1	321508.9	118854.9	62129.2	70666.2	65418.8
Zebra										
Burchells	166745.5	181684.7	140597.0	161657.3	144083.1	160731.6	153326.7	148203.1	141116.2	139205.9
Zebra Grevy	4917.8	4663.5	5954.7	4682.0	3676.5	3628.3	1816.2	3333.1	3424.7	3175.6

Table 1: Population estimates 1977 – 2013(Source: DRSRS)

2.8.1 The main causes of this significant decline in wildlife populations

factors that have contributed to the significant decline of wildlife species:-

- a. Decline in wildlife habitats due to our ever increasing human population which has led to the conversion of former wildlife habitats into human settlements and agriculture. There have also been changes in habitats due to climate change.
- b. Increase in human –wildlife conflicts has led to quiet and systematic slaughter of wildlife from human settlements and farms.
- c. Increase in bush meat trade in the main wildlife areas for example Narok, Kajado and Taita Taveta.
- d. Increase in severe droughts and changes in the climatic conditions
- e. Frequent occurrence of wildlife epidemic diseases, for example, for lion and buffalo.

2.9 Role of the Ministry and Kenya Wildlife Service

The Ministry of Environment, Water and Natural Resources has a supervisory and oversight role over the Kenya Wildlife Service. The KWS under section 7 of the Wildlife Conservation and Management Act, sets out the role of the KWS which includes among others to conserve and manage national parks, wildlife conservation areas, and sanctuaries under its jurisdiction, to provide security for wildlife and visitors in national parks, wildlife conservation areas and sanctuaries as well as to undertake and conduct enforcement activities such as anti- poaching operations, wildlife protection, intelligence gathering, investigations and other enforcement activities for the effective carrying out of the provisions of the Act.

KWS is the sole lead agency with the primary mandate in the conservation management and protection of Kenya's Wildlife. Failure of the service to robustly execute its statutory mandate will be an indictment on the ability of the government to account for the tax-payers money allocated by Parliament for the conservation and protection of Kenya's wildlife heritage for the present and future generations.

2.10 Constitutional and Statutory framework for wildlife protection

Article 69 of the Constitution clearly sets out the obligations of the Government with regard to environmental protection. The constitutional provisions under article 69 emphasises public participation in the management of wildlife resources, equitable sharing of benefits accruing from wildlife resources by Kenyans, sustainable utilization of resources and recognition and encouragement of wildlife conservation and management as a form of land use on public, community and private land. The Wildlife Conservation and Management Act 2013 is the premier statute among others that addresses issues to deal with conservation, management and protection of wildlife in the country.

The Act comprehensively provides for the protection, conservation, sustainable use and management of wildlife in Kenya. The Act establishes the Kenya Wildlife Service (KWS) and further provides for a Wildlife Endowment Fund for purposes of developing wildlife conservation initiatives, managing and restoring protected areas and conservancies, protecting endangered species, habitats and ecosystems.

The Act provides for protected areas such as national parks, marine protected areas and wetlands which may be established by the Cabinet Secretary. Additionally, any person or community who owns land on which wildlife inhabits may individually or collectively establish a wildlife conservancy or sanctuary in accordance with the provisions of the Act and associations, communities and landowners may be registered as a recognized wildlife manager. Other pertinent provisions of the Act include those on human-wildlife conflict, licencing and regulation and offences and penalties, enforcement and compliance.

3.0 SUBMISSIONS BY THE STAKEHOLDERS TO THE COMMITTEE

3.1 Submissions by the Ministry of Environment and Natural resources

The Ministry of Environment and Natural Resources made submissions to the Committee on 2nd September 2014. The Ministry presented a report to the Committee detailing the historical perspective of wildlife conservation and the mandate of KWS, issues arising out of the Wildlife Security Task Force Report, wildlife poaching trends and current threats and the status of implementation of the Wildlife Conservation and Management Act, 2013. Finally, the Ministry addressed the question of whether there is justification for declaring poaching a national disaster.

3.1.1 Historical perspective of poaching

The Ministry traced the history of wildlife hunting to the 19th century when Europeans hunted wildlife indiscriminately. Wildlife populations declined and there was concern that hunting would lead to extinction of species. Consequently the colonial government took measures to control hunting through the East Africa Game regulations of 1900 in response to a Convention for the Preservation of Wild Animals, Birds and Fish in Africa. This was signed in London in 1900.

The Colonial Office in London was dissatisfied that game regulation on hunting were not addressing the issue of declining animal numbers. The official policy was to regard game reserves as sanctuaries in which shooting was carefully regulated. The Colonial government then formulated Game Ordinance (rules) and Amendment of 1904, 1905, 1906 and 1909. However, the additional rules and legislations and establishment of game reserves did not fully address the issue of wildlife conservation in Kenya. In 1933 an agreement for the protection of the fauna and Flora of Africa was signed in London setting the stage for the transformation of game reserves into national parks for the strict protections of wildlife. Conservation regulations were expanded to include birds through the Game Birds Protection Ordinance of 1933. The National Parks Ordinance of 1945 introduced a transformation in conservation policy from the protection through hunting legislation to preservation through policy. By the end of 1960 there were four national parks and six game

reserves. Currently, there are 27 national parks (22 terrestrial, 5 marine), 34 National reserves and 5 national sanctuaries.

3.1.2 Mandate of KWS

The Kenya Wildlife Service (KWS) was established by the Wildlife (Conservation and Management) Act, 1989 (now repealed and replaced by the Wildlife Conservation and Management Act, 2013). The overall mandate of KWS is to conserve and manage wildlife in Kenya. Wildlife is a national asset to be managed for the benefit of future generations and this places a lot of responsibility on KWS as the custodian of the national asset. KWS is also responsible to the management of critical water catchment areas such as Aberdare, Mt. Kenya, Mau, Chyulu and Mt. Elgon. The wildlife resource managed by KWS is the backbone of the tourism industry and accounts for 21% of foreign exchange earnings and 12% of the country's GDP in 2012. 70% of tourism earning is wildlife based and it is the second largest contributor to the country's economy. It is also a key pillar in achieving the goals of vision 2030. The contribution of the tourism industry also has a multiplier effect in other sectors of the economy such as the agriculture, horticulture, transport and communication.

3.1.3 The Wildlife Security Task Force Report

In response to the upsurge in the incidences of poaching, the Cabinet Secretary for Environment, Water and Natural Resources appointed an independent 15 person Task Force to examine the security threats to wildlife and their habitat and propose recommendations on how to deal with them. The report of the Task Force set out the poaching trends, institutional gaps that have allowed the upsurge in poaching and provided comprehensive wide-ranging recommendations⁸.

3.1.3.1 Status of implementation of the Wildlife

Kenya has a total of 8,654 known wildlife species. Out of these, a total of 107 species are threatened. Elephants and rhinos are the key flagship species facing major threats from poaching, however, the populations for elephants are stable.

⁸Task Force on Wildlife Security for the Ministry of Environment , Water and Natural resources, Lifting the Seige, Securing Kenya's Wildlife, June 2014

Poaching/hunting of elephants and competition for space due to changing land use patterns are the major factor that determine the numbers and distribution of elephants in Kenya. The largest areas of range for the savannah populations are the Tsavo ecosystem and its environs and the Laikipia-Samburu ecosystems and contiguous areas to the north. The forest dwelling population occur mainly in the Aberdare and Mt. Kenya, with small, isolated populations in coastal forests and western Kenya.

Due to rampant poaching in the 1970s and 1980s, there was a drastic decline of the elephant population from over 160,000 to 16,000 in 1989. There has been an elephant population growth to 35,538 in 2012. This is fourth largest in the World after Botswana, Zimbabwe and Tanzania.

Rampant poaching of rhinos in the 1970s and 1980s led to the drastic decline of the rhino population from 20,000 to 300 individual in 1989. As a result the rhinos were put in sanctuaries with the aim of conserving breeding. Kenya has the third largest rhino population in the world totalling 1,025 in 2012 after South Africa and Namibia. The Population of Black Rhinos has increased from 381 to 631 in 2013 while white rhinos have increased from 169 individuals in 2001 to 410 individuals in 2013. The Ministry further elaborated on the population estimates of other species of wildlife including lions (2000), cheetahs (1160), wild dog (845), bongo (150-wild, 68-captive), hirola (350), sable antelope (56), roan antelope (27), Grevy's zebra (2407), Lelwels Hartebeest (768), Rothchilds giraffe (410) and Masai giraffe (6,789).

3.1.3.2 Wildlife poaching trends

Wildlife crime has evolved over time and the situation is presenting increased challenges to wildlife conservation in the country. In the recent past wildlife crime has been exacerbated by climate change, human population pressure and dynamics in the global and political order. The growing affluence and economic growth in East and South –East Asia contributed to increased demand for rhino and ivory. The rising demand and price of ivory and rhino horn in the illicit market continues to drive poaching. The situation was aggravated by the approval by the Convention on International trade in Endangered Species of Wild Fauna and Flora (CITES) of the one-off sale of elephant ivory by Southern African countries in 2007 and

the sale of ivory stockpiles which continues to haunt wildlife security in Kenya and the region.

However, from MIKE figures, there has been a downward trend of both elephant and rhino figures since 2012. There is a downward trend in both elephant and rhino poaching since 2012. There is an increase in the number of elephants lost to poaching from 2010 to 2012 but thereafter a decline from January to August 2014. Poaching of rhinos appears to have escalated from 2009 onwards across the African rhino range.

3.1.4 Status of implementation of the Wildlife Conservation and Management Act, 2013

According to the Ministry, KWS embarked on developing a roadmap for operationalizing the Act upon its commencement on 10th January 2014. The implementation of the new Act needed the inputs of various stakeholders and Board of Trustees. Guidance was sought from the Attorney General on the position of KWS Board of Trustees. The implementation of the Act requires substantial amounts of resources to effect provisions touching on compensation; benefit sharing, creation of awareness and public participation, logistics and preparation of guidelines to operationalize the Act. The Ministry pointed out that KWS has over the years faced financial challenges which have had an impact on its operations and the effective implementation of the Act.

The Ministry pointed out the main challenge in implementing the Act has been the financial implications in effecting the Bill including compensation, benefit sharing, creation of awareness and public participation, logistics and preparation of guidelines to operationalise the Act. Some of the areas that need immediate attention include:

- i. Training and gazettelement of scene of crime officers, prosecutors and forensic experts
- ii. Formation of 8 KWS crime branches- A proposal has been done
- iii. Training and gazettelement of prosecutors;
- iv. Accreditation of KWS forensic lab
- v. Appointment of the County Conservation and Compensation Committee Chairpersons
- vi. Formation of County Conservation and Compensation Committees

- vii. Gazettement of regulations on compensation, incentives and benefit sharing
- viii. Establishment of the wildlife compensation scheme
- ix. Awareness and sensitisation on the Wildlife Conservation and Management Act, 2013

3.1.5 Should poaching be declared a national disaster?

On whether poaching should be declared a national disaster, the Ministry submitted that the term 'national disaster' refers to the detrimental effect of a particular phenomenon whether natural or not which affects the population of a nation negatively in terms of loss of human lives or massive harm or injury to a large section of the population. The declaration of HIV/AIDS as a national disaster in 1999 was necessitated by the fact that it has wiped out 25 million human lives worldwide since its discovery in 1981. HIV/AIDS had caused substantial loss of life and left a large number of orphans. A large number of Kenyans had also been affected directly or indirectly by HIV. The circumstance of HIV/AIDS being declared a national disaster was therefore caused by substantial loss of human life in Kenya.

Based on the foregoing, there is need to critically analyse the effect of such a declaration and its impact thereafter. A national disaster can only be declared if it is derived from a natural cause that a government is unable to control. There have been various situations that have gravely affected Kenyans, causing harm and loss of life, for example the Rift Valley fever outbreak in 1997/1998 and 2006/7, illicit brews, road carnage and insecurity but they have not been declared national disasters.

Poaching is not a natural phenomenon and declaration of it as a national disaster may be perceived as if the government has been unable to manage wildlife and control poaching.

3.1.6 Recommendations

- i. Poaching should not be declared a national disaster as this will be equivalent to declaring the protected areas insecure and this will result in a halt in all operations of wildlife tourism;
- ii. There is need to foster inter-agency collaboration and multi-sectoral approach in combating wildlife crime;
- iii. Government to secure wildlife corridors, dispersal areas and win more space for wildlife;

- iv. Parliament to expedite the proposed amendments to the Wildlife Conservation Act, 2013 to fast-track its implementation;
- v. There is need for Parliament to allocate more resources to support wild-life conservation

3.2 Submissions by KWS

KWS made their submissions to the Committee on 13th November 2014. They informed the committee on the Status of Wildlife, prosecution of Wildlife cases, challenges facing wildlife as well as initiatives taken to curb poaching.

3.2.1 Status of wildlife

There were stable numbers on the population of key wildlife species such as elephants and rhinos even though there are major threats from poaching activities.

On elephants, poaching/hunting and competition for space due to changing land use patterns largely determine their numbers and distribution. Their habitats mainly range around the Tsavo ecosystem and the Laikipia-Samburu ecosystem. Earlier rampant poaching reduced the species in numbers leading to the establishment of the Kenya Wildlife Services to stop the phenomenon, which in turn led to the growing numbers of the species once again. Poaching also led to the drastic decline of the rhino population in Kenya. Kenya has the 3rd largest population of rhinos after South Africa and Namibia.

A mixed picture of growth, stability and decline in some species population numbers has emerged particularly with the Sable antelope, Grevy's zebra, Roan antelope, the Lion and the Giraffe.

3.2.2 Prosecution of Wildlife Crime Cases

The KWS Prosecution Section provides a support service for both KWS and other law enforcement officers who enforce wildlife laws in the course of their duties and work in conjunction with the DPP and the National Police Service. It was established in July 2010 and commenced operations in October 2010 and is staffed by 3 prosecutors.

A total of 503 cases have been prosecuted and ivory related cases are the highest prosecuted to try and curb poaching. 283 cases have been concluded while 197 were

pending. Penalties imposed can come in the form of fines, imprisonment or acquittal. Although the Judiciary has started taking wildlife cases seriously, they are still reluctant to give custodial penalties. The cases against wildlife range from cases of ivory, rhino horns, bush meat and wildlife skin.

3.2.3 Challenges facing Wildlife

KWS identified several challenges which included:

- i. There are new challenges in wildlife security, particularly poaching, due to a rise in demand for wildlife products on the international market.
- ii. Climate change, human population and dynamics in the global economic and political order have also posed a challenge to wildlife. This is due to the growing affluence and economic growth in East and South-East Asia contributed by the demand for ivory and rhino.
- iii. The approval by Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) has posed a challenge to wildlife security in Kenya because it approves the one-off sale of elephant ivory stockpiles.
- iv. Most of the conservation efforts are labor intensive with rangers having to physically manage wildlife protected areas by aerial surveillance.

Monitoring Illegal Killings of Elephants (MIKE) program: This program helps in collecting the mortality data of elephants. This program is carried out by the KWS in collaboration with other relevant conservation partners. There are four registered MIKE sites and they include:

- i. The Tsavo, Meru and Samburu-Laikipia Mike sites. These sites follow the traditional elephant aerial census counting blocks.
- ii. Mount Elgon Mike site. This site is trans-boundary, shared by Uganda following the Mount Elgon ecosystem.

The establishment of this program has seen an increase in contacts and the number of poachers eliminated and recoveries made from 2007 to 2013 with a peak recorded in 2012.

3.2.4 Wildlife Conservation Threats

These include:

- i. Habitat loss and fragmentation

- ii. Poaching which is driven by rising prices of wildlife trophies in the illicit markets, emergence of highly skilled and organized poaching gangs, involvement of local and international cartels in illicit trophy trade, human settlements around rhino sanctuaries posing threats to rhino sanctuaries
- iii. Human-Wildlife conflict especially for endangered problem animals such as elephants, lions, among others.
- iv. Low genetic diversity which has a potential to lead to inbreeding and inbreeding depression affecting roan antelope, sable antelope and bongo antelope.

3.2.5 Recommendations

In order to tackle the issues on wildlife conservation threats, KWS has come up with the following recommendations:

3.2.5.1 Species Specific Conservation Action Plans

- i. Conservation and Management Strategy for the Black Rhino in Kenya-2012-2016
- ii. Conservation and Management Strategy for the Elephant in Kenya-2012-2021
- iii. CITES National Ivory Action Plan towards combating illegal ivory trade-2013-2015
- iv. National Strategy and Action plan for the Management of Invasive species in Kenya's protected Areas-2013-2018
- v. National Strategy for conservation of sea turtles-2011-2015

3.2.5.2 Anti-poaching Operations

KWS has undertaken several anti-poaching operations which include:

- i. Deployment of security personnel based wildlife movements, distribution and threats
- ii. Active security operations to hunt down poachers
- iii. Enhancement of surveillance and detection through use of scanners to detect wildlife contraband. This measure has been proven successful.
- iv. Collaboration with other agencies such as NIS, Police, Lusaka Agreement Task Force (a regional inter-governmental organization mandated to fight illicit trade in fauna and flora). Other engagements include County Governments, and cross border collaboration with Tanzania on wildlife security.

- v. Strengthening prosecution of wildlife crime offenders, including through the application of related legislations.
- vi. Undertaking of specialized operations to detect, deter, disrupt, and destroy any potential threat to wildlife security.
- vii. Building synergies between Government and private actors, for example training scouts from private sanctuaries at subsidized costs at KWS Law Enforcement Academy; joint security operations and making recommendations to Kenya Police for private rhino scouts to be accorded Kenya Police Reservist status.

3.2.5.3 Building Capacity for Intelligence and Investigation Units

There is an established intelligence and investigation network countrywide but needs to be strengthened in the following areas:

- i. Building capacity to analyze intelligence data and quickly provide necessary direction
- ii. Provision of storage and use of computerized intelligence information systems
- iii. Promote information sharing among the intelligence law enforcement officers within the country and region
- iv. Undertaking strategic operations targeting key culprits, dealers, poachers for arrest and prosecution
- v. Carrying out of security appraisals and reviews in poaching hot spots

3.2.5.4 Strengthening Ranger Force

The Government has supported recruitment of new rangers to boost KWS capacity to deal with criminal syndicates who threaten the country's wildlife resource. This workforce will enhance coverage and pre-empt any attacks in areas where teams are not present. This ranger force will go a long way in winning the communities to support conservation and KWS efforts.

3.2.5.5 Inter-Agencies Collaboration and Partnerships

There has been collaboration between KWS and other law enforcement agencies in the fight against poaching, however this needs to be enhanced.

- i. There's the establishment of the joint wildlife crime prosecution task force, aimed at ensuring successful and effective prosecutions of wildlife crime offenders.

- ii. There's support from the National Intelligence Service, the National Police Service, and the Directorate of Criminal Investigation in terms of surveillance on poachers and investigation of wildlife cases.
- iii. It has also enhanced partnerships with the Kenya Revenue Authority, Kenya Ports Authority, Kenya Airports Authority, INTERPOL, Lusaka Agreement Task and other law enforcement agencies in fight against illicit trafficking of wildlife trophies and ensuring that local and international laws on wildlife crimes are enforced.
- iv. There is also support from non-state actors including non-governmental organizations and communities living around protected areas.

3.2.5.6 Establishment of Wildlife Forensic Laboratory

It is based on DNA analysis that will enhance the investigation of wildlife crimes and lead to convictions of offenders. KWS is in the process of equipping the lab. So far the lab can, analyze bush meat samples for species identification, working with Veterinary Genetic Laboratory at University of Pretoria to genetically profile Kenyan rhinos to enhance prosecutions by linking confiscated rhino horns to specific poaching incidents and working with University of Washington, Seattle in analyzing samples of confiscated ivory for individual identification and origin.

3.2.5.7 Community Engagement

KWS is engaging communities around wildlife ranges to participate in wildlife conservation and assist in giving information which will lead to curbing wildlife crimes. This includes conservation education awareness programs, community enterprise development and human wildlife conflict resolutions. There has also been the creation of the Devolution and Community Service Division with a special focus on engagement with County Governments for streamlined engagement in wildlife conservation and management.

3.3 Summary of submissions made by the Wildlife Security Task Force

Due to the upsurge in poaching since 2008 there has been serious concern that Kenya's wildlife is severely threatened. In response to this concern, the Cabinet Secretary for Environment, Water and Natural Resources appointed an independent 15 person Task Force to examine the security threats to wildlife and their habitat and propose recommendations on how to deal with them. According to the Report prepared by the Taskforce on Wildlife

Security , *Lifting the Siege, Securing Kenya's Wildlife*, recent figures are alarming – 134 elephants and 24 rhinos were poached in 2011, 384 elephants and 29 rhinos were poached in 2012, and 289 elephants and 25 rhinos were poached in 2013. If not abated, this illegal off-take of Kenya's wildlife will not only undermine our heritage but also our well-being in environmental, social and economic terms.

3.3.1 Should Poaching be declared a National disaster?

It is the Task Force's view that Kenya has the ability to deal with the challenges facing its wildlife sector today. We are still far from reaching the tipping point. It is not beyond recovery. But some serious reforms are required if the current siege on Kenya's wildlife currently is to be reversed.

3.3.2 Recommendations

- i. The threat posed by commercial poaching and bushmeat poaching requires immediate attention. The thrust of the report demonstrates that the current ability of KWS to deal with this poaching is significantly wanting. Bushmeat Poaching is not, in reality, on KWS's radar thus the need for restructuring.
- ii. There has been an unfortunate decline in some key functions. Intelligence is a key weapon in responding to the poaching challenge. Allied to this is the inability of KWS to respond to problem animal control generally let alone responding in a timely manner. This function needs to be mainstreamed as part of the restructuring of KWS.
- iii. In addition the work environment in regard to work ethics, in-fighting, remuneration, welfare, promotions, transfers and training are seriously hindering KWS in carrying out its mission and have led to a serious decline in the quality of the Service over the last 5 years.
- iv. Wildlife crime consists of a chain of people involved in moving wildlife trophies from the field to the market place. The high prices currently enjoyed for rhino horn and ivory, has resulted in this chain including organized rings. It is thought to be critical that wildlife crime be recognized as a crime of national and international significance. All the security agencies should be involved.
- v. Dealing with the demand side of the commercial illegal trade should be given a priority. If the demand side can be reduced, then this reduces the pressure and

therefore the resources required in the effort needed to protect the species under the current considerable threat.

- vi. There is also need for urgent attention with regard to habitat, especially in regard to protected areas, conservancies, migratory corridors and dispersal areas and the pressure from encroachment and development are not urgent or critical. Addressing these issues will however take more time and will require inter-ministerial and inter-agency collaboration.
- vii. Underpinning the above is the need to implement land use planning at National level and County level as soon as possible. Indeed for Counties such as Lamu, the need is urgent. The Task Force would like to highlight the need to have the Hell's Gate National Park/ KenGen issues addressed and solved as a matter of immediate need. An element that emerged in particular in relation to Hell's Gate is the perception that projects and programmes highlighted in Vision 20/30 should not have to undergo the requirements of the Environment Management and Co-ordination Act.
- viii. Tourism growth based on our wildlife resources is also a major feature of Vision 20/30. There is therefore an urgent need to get the EMCA Bill, 2014 enacted and to get acceptance that the requirements of EMCA are to ensure we get sound development that does not have social and environmental detrimental consequences.
- ix. The strategy for conserving Kenya's wildlife heritage has been built on a protected area network. However what has gone unrecognized is that many species do not stay in the protected areas and undergo seasonal movement for foraging and breeding purposes. These periods spent outside of the protected areas occur on community land and in some instances private land, e.g. Laikipia. The importance of these areas for the long term viability of our wildlife resources is now being increasingly realized.
- x. The 2013 Wildlife Conservation and Management Act has also recognized that the strategy must now incorporate the facilitation of communities and private owners in the management and protection of wildlife. The Task Force report goes into some detail in what is required to make this a reality. But KWS does not enjoy good community relations, with several unfortunate consequences in terms of hampering security intelligence and operations. It is also important for the Ministry to produce

the regulations and guidelines in regard to benefit sharing and incentives as required under sections 73 and 76 of the Act.

- xi. KWS should work in collaboration with other agencies. In this regard, the Cabinet Secretary appoints a small team as soon as possible in the three areas of collaboration that have been highlighted.
- xii. The recent imposition of VAT on entry fees to the National Parks has overpriced them. For example a visitor to a National Park in Tanzania pays \$55 per day whereas a visitor to a Kenya National Park now pays \$90 per day. Comparison of visitor numbers for 2012, 2013 and the current part of 2014 clearly shows a decline with reduced park revenues. This decline works against the objectives of Vision 2030, which sees Tourism as a pillar of economic growth. This reduced revenue stream has a serious budgetary implication as it means that to maintain current levels of expenditure; KWS has to obtain a bigger percentage of funds from the Treasury. The consequence is that there is a real risk that there are less funds to support wildlife and habitat security efforts at a time when Kenya is facing an increase in such threats. This fiscal arrangement needs urgent review.

3.4 Submissions by Wildlife Direct

Submissions from Wildlife Direct were presented by Dr. Paula Kahumbu and Elizabeth Gitari on 23rd October 2014. Dr. Kahumbu emphasised national values under Article 10 of the Constitution, article 42 on the right to a clean and healthy environment and chapter 5 on land and environment.

Article 69 (2) further emphasises that every person has a duty to cooperate with state organs and other persons to protect and conserve the environment and ensure ecologically sustainable development and use of natural resources.

3.4.1 The past

Kenya is recognized as a one of the world's megadiverse countries with the world's highest diversity of antelopes as well as well as our tribes, cultures and languages. There have been different approaches to wildlife conservation by different regimes. The late President

Kenyatta recognized the social, spiritual and economic value of wildlife. However, there was rapid expansion of protected areas and formalisation of park boundaries under the Moi regime that still allowed wildlife to move freely between protected areas. However, under former President Kibaki's regime, politics over land threatened parks with the attempted degazettement of Amboseli.

Moreover, when parks were gazetted, there was limited knowledge of the needs of the extraordinary wildlife. There was no consideration for corridors and dispersal areas in land planning. With accelerated economic development during the Kibaki regime, wildlife fell off the radar as industry, infrastructure and agriculture expanded.

Dr. Kahumbu noted that Vision 2030 included environment under the social pillar and not as a foundational or fundamental to the future of economic growth in Kenya. The foundations of Vision 2030 are macro-economic structure and our values. In the face of drought and climate change, the environment should be a fundamental pillar.

3.4.2 The present

More than 80% of Kenyans depend on the natural environment for food, fuel, health, water and production. We are currently degrading the environment through deforestation, sand harvesting, pollution, overgrazing, infrastructure development and poaching. As a result this degradation turns drought to famines and our ability to respond to climate change is severely threatened.

3.4.3 Key facts on the wildlife situation in Kenya

The situation facing specific species of wildlife currently in Kenya is as follows:

- i. Wildlife across Kenyan rangeland has declined by 67% since 1977 (Ogutu and Owen-Smith, 2011);
- ii. 29-33% of all Kenya wildlife is in Narok (Ogutu and Owen-Smith, 2011)
- iii. We need to make a strong point to parliament that wildlife declines in Kenya are extreme and widespread, needs to be declared a national disaster and requires a very serious and urgent attention,"(Ogutu,2009)

- iv. Elephants and all large mammals have declines 15% in Samburu County and Tsavo ecosystem in the last 4years .115 elephant carcasses recorded in Mara in the last count.
- v. Elephant poaching rates exceeds population growth in a 4 MIKE sites (CITES). If the proportion in correct, approximately 6% country wide, then we are losing about 900 elephants in Kenya per year. However, official figures from KWS put the number at 204;
- vi. Rhino numbers for some conservation areas like Ol Pejeta are correct and verified independently. For all KWS parks there is no independent verification;
- vii. Over 37 years Kenya's vultures have declined an average of 86% inprotected areas and 82.5% in unprotected areas. Lammergeyers and Egyptian vultures are now critically endangered (Ogada, 2011);
- viii. Fewer than 500 Hirola remain in Kenya (Juliet King, 2013);
- ix. Only 56 sable antelope remain in Kenya (Omondi,2011);
- x. Fewer than 30 Roan antelope remain in Kenya (Omondi ,2011);
- xi. Fewer than 2,000 lions left in Kenya (Omondi,2011). 100 are killed per year in conflict;
- xii. 80% of Cheetahs are outside parks, and home range declined by 25% since 1980's .Fewer than 1,400 cheetah left. Road morality a major killer Mombasa road (13 in 10 years near Emali) and Samburu (9 in 2013) (Wystra, 2005);
- xiii. Maasai giraffe were more than 17,0000 in 2000 ,about 8,000 in 2013 (Dr.Fennessy, 2010)
- xiv. Reticulated Giraffe were 28000 in 2000 and are now less than 6,500 (Dr.Fennessy0
- xv. Only 450 Rothshcilds Giraffe remain in Kenya (Dr.Fennessy, 2010)
- xvi. Bushmeat is now recognized as a major threat to all antelopes.it is estimated that 800 kilograms of giraffe meat alone enters Burma market in Nairobi every year.
- xvii. Marine ecosystems are also in distress due to destructive fishing, for example, dredging in Diani and pollution. LAPSSSET is seen as the greatest threat along the coast, global warming, inshore species such as turtle and dugongs are badly affected by beaches, loss of sea grass beds ,over harvesting of aquarium fish, sea cucumbers and sea horses (Dr. Mungai and Obura, 2012);
- xviii. Insects, especially pollinators are under threat due to clearing of natural vegetation at forest edges and hedgerows, draining wetlands, murrum, sand harvesting and clearing forest, woodland, trees for charcoal, production reduces wild pollinator forage.

Unsustainable harvesting of wild bee colonies. Wild harvesting destroys the wild genetic variation and colonies especially for harvesting of honey;

- xix. The Grevy zebra endemic to Kenya population declined by 80% from 15000 to just 3000 between 1975 to 2008 (Earthwatch report 2008, IUCN redlist 2014);
- xx. Giant mastiff bat endemic to Kenya lives Suswa and breed in Chyulu declined to 8000 in 2011 from 20,00 in 2003;
- xxi. Golden-rumped sengi (elephant shrew) which is endemic to Kenya declined between 1990-1996 from 20,000 to 14,000 and threats have increased (Bauer 1996, IUCN Redlist 2014).

3.4.4 Court cases on wildlife crime

Wildlife Direct gathered information from 33 magistrates courts in Kenya and documented wildlife crimes incidences between 1st January, 2014 and 1st September, 2014, they analysed and documented 127 cases involving wildlife crime.

Most offenders were charges under the Wildlife Conservation and Management Act, 2013 and the Forestry Act (cap 375). None of the cases examined included charges under the Firearms Act (cap 114).

The survey revealed that before the enactment of the Wildlife Conservation and Management Act, 2013, about 37% of the offences were against Elephants and rhinos, whereas in the current period, about 32% of the cases reflect offences touching on elephants where offenders were charges with illegally killing /trading in ivory. Wildlife Direct noted that despite the cased of death of rhinos reported, the survey did not identify any cases involving the killing or trading of rhino horn.

The survey revealed the following:

- i. The majority of wildlife crime cases are prosecuted by police prosecutors. Out of 127 cases, only 5 were prosecuted by the DPPs prosecutors and 88 were prosecuted by police prosecutors;
- ii. Before the Wildlife Conservation and Management Act, 2013, 65% of offender pleaded guilty while in the current persons, only 24% do so which indicated that more

accused persons are aware of the implications of a guilty verdict and increased penalties in the Act;

- iii. On bail and bond, out of 191 accused persons, 102 were granted bail/bond and were able to raise it while 33 were denied either bail or bond;
- iv. Out of 127 cases, 56 of were complete with 2 out of these getting custodial sentences while the rest were handed non-custodial sentences ranging from probation to community service. Most of the cases are still ongoing especially those involving high level wildlife product traffickers such as Feisal Ali Mohamed (Case no. 1908/2014 Mombasa Law Courts);\
- v. From the 127 cases, only five involve high level traffickers, for example Feisal Ali Mohamed, Thika police officers in possession of Ivory, Chinese national arrested at JKIA with 10 kg of ivory. Therestare low level traffickers caught in possession of less than 10kgs;

3.4.5 Recommendations

- i. There is independent assessment of the status of wildlife in Kenya. Specifically, there is need for expert assessment on the following:
 - a. Rhino numbers by location;
 - b. Rhino deaths by location;
 - c. Elephant numbers by location;
 - d. Elephant deaths by location; and
 - e. Ivory seizures and storage by date and outcomes of trials.
- ii. There should be an independent examination of the wildlife security report commissioned by the Cabinet by a group of experts to identify urgent intervention. The report revealed major structural problems in KWS, additional work on the judicial chain and border posts and ports;
- iii. The National Task Force should put into action a plan in place to implement the priority actions identified in the report- particularly the reorganisation of KWS and the rethinking of how Kenya can best exploit the vast private expertise and resources in restoring wildlife;

- iv. Additionally, the National Task Force on Wildlife Security should develop a national strategy to combat International Wildlife Crime. The national strategy should have active engagement and support from the private sector; vibrant research, wildlife and nature based enterprises and livelihood and to have 20% land under conservation involving private investors and the community;
- v. Police need to undergo comprehensive training on the Wildlife Conservation and Management Act, 2013 as well as emerging best practices in the prosecution of wildlife crime;
- vi. There is need for coordination between KWS, Office of the DPP and Kenya Police prosecutors to ensure a coordinate approach in the prosecution of wildlife crime.

3.5 Submissions by Dr. David Western

Dr. David Western a former Director of KWS presented his submissions to the committee on 23 October 2014. He presented his paper *'The Status of Wildlife in Protected areas compared to Non-protected areas of Kenya'*⁹.

The report compares that trends of over 270 wildlife counts of Kenya's wildlife populations conducted over 30 years in National Parks and Reserves with adjacent ecosystems and country wide trends. There is need to look at the loss of wildlife not only from the point of view of wildlife crime and poaching but also ecological factors that have led to the depletion of rangeland and the decline in wildlife populations. There has been a sharp decline in wildlife population numbers in the last 30 years but there has also been a similar decline in livestock numbers. This can be attributed to the loss of habitat and water. Dr. Western, in his paper reveals that there have been highly significant declines in wildlife populations in three of the seven parks. These include Tsavo East and Tsavo West National Parks (combined) and Meru National Park. Nairobi National Park shows a negative but non-significant downward trend. Mara also shows a negative but insignificant decline.

However, an earlier study concluded that non-migratory wildlife in Mara National Reserve declined by 58% between 1977 and 1997, and that there was no significant difference in

⁹Western D, Russell S, Cuthill I (2009) The Status of Wildlife in Protected Areas Compared to Non-Protected Areas of Kenya. PLoS ONE 4(7): e6140. doi:10.1371/journal.pone.0006140

declines in and outside the reserve. Nakuru and Amboseli show non-significant increases. The five protected areas showing declines are Kenya's most populous wildlife preserves. Collectively, these parks account for 98% of wildlife covered by the protected areas. The largest parks show the steepest declines. Wildlife populations declined 63% in Tsavo East and West between 1977 and 1997 and 78% in Meru between 1977 and 2000. There are, furthermore, indications that wildlife populations in the smaller parks have declined in more recent years. The three largest protected areas, Tsavo (East and West), Meru and Maasai Mara, have the steepest wildlife losses. Poaching may account for a significant portion of the losses in Meru, but is unlikely to account for much of the losses in Tsavo or Mara. The total of all non-migratory wildlife species in the Maasai Mara ecosystem has declined by 58% in the last 20 years.

Poaching is a critical issue for particular species such as rhinos. Prices for black rhino horns are higher than that of elephants.

There should be community involvement in conservation. There should be ownership from the ground up. Communities hold information. It is noted that national parks with strong community involvements are doing much better than where there is no involvement.

3.5.1 Recommendations

- i. Apart from wildlife lost through poaching, we should look at the bigger picture with regard to what has happened to rangelands and the ecological factors therein;
- ii. Rangeland should be restored through land use planning and the involvement of NEMA;
- iii. Need for radical restructuring of KWS;
- iv. There is need to study why there is a difference in poaching in different areas;
- v. Communities should be involved in anti-poaching activities as well as conservation strategies for to address livestock decline;
- vi. There should be a centralised repository of information that documents the trends;
- vii. There is indeed a crisis with black rhinos and immediate protection is necessary.

3.6 Submissions by Mr. Nigel Hunter

Mr. Nigel Hunter presented his submissions to the committee on 23 October 2014. He was a member of the Task Force on Wildlife report and the former Executive Director of the East African Wildlife Society.

Wildlife is under serious siege. However there is no mechanism for pulling data together. It is hard to know who has the right figure when it comes to poaching. KWS figures are a minimum and the number of elephants killed in the last year is reported as 300.

KWS does not share the data that they obtain with stakeholders. KWS is important as an agency but there is room for improvement. They need a better handle on wildlife crime but it is also noted that they do not have enough equipment for patrol especially in tracking elephants which move around. Rhinos are easier to track since they have been placed in sanctuaries. There is also concern that former employees of KWS have become involved in poaching.

Community involvement is critical in curbing wildlife crime. However, there has been a lack of response from KWS where cases are reported. It is noted that human-wildlife conflict is also a problem in places such as Nanyuki.

Bushmeat is a serious issue but it is not on the radar of the authorities. Bush meat trade is rampant in Burma market and the police play a role in bush meat trafficking which calls for structural reforms in KWS.

3.6.1 Recommendations

- i. There should be a national committee to harmonise the data on wildlife statistics and wildlife crime;
- ii. The government should engage with the Chinese and Vietnamese governments where the demand for ivory is high to be more vigilant in prohibiting ivory trade;
- iii. KWS should be restructured on a county basis to better deal with wildlife crime;
- iv. There should be investigation into the bushmeat trade in Burma market ;
- v. The community should be involved in protecting wildlife. There should be liaison between the community and KWS;

- vi. There should intelligence collaboration among authorities to deal with wildlife crime.

3.7 Submissions by Directorate of Resources Surveys and Remote Sensing (DRSRS)

Submissions from the Directorate of resource Surveys and Remote Sensing (DRSRS) were presented to the Committee by the Director, Patrick W. Wargute on 30 October 2014. He was accompanied by Lucy Njino, the chief Geo-information Officer. The report presented to the Committee covered the population trends of wildlife from 1977-2013¹⁰.

3.7.1 The population trends of wildlife in the Kenya rangelands, 1977-2013

The Directorate of Resources Surveys and Remote Sensing (DRSRS) formerly known as KREMU (Kenya Rangeland Monitoring Unit) has been collecting data on wildlife population and distribution in the Kenya rangelands (Arid and Semi-Arid lands (ASALs) since 1977 with the aim of accessing and monitoring trend in space and time, and for planning, conservation and management of wildlife.

Over 90% of wildlife occurs in the rangelands which cover about 501112 km², representing 80% of the land surface of Kenya. Over 70% of the wildlife species and wildlife reserves and parks are found in these rangelands. Moreover, nearly 65% of the national terrestrial wildlife occurs in the rangelands outside the protected areas, thus only 35% use the parks and reserves in Kenya. The officially protected wildlife areas cover only 8% of the land area of Kenya.

The DRSRS has been gathering data on wildlife population and distribution in the Kenya rangelands using aerial sample surveys and employs Systematic Reconnaissance Flights (SRF). Aerial survey of wildlife and livestock has been used in East Africa since early 1960s and improved overtime and has been proved to be credible. The data is analyzed using GIS environment to generate population estimates and distribution maps. The data is analyzed using SAS packages and other modeling procedures.

The analysis indicates nearly all wildlife species have declines drastically between 1977 and 2013. Most species have declined by between 30-90% over the last 40 years. Some have

¹⁰Wargute, Patrick W. , The Population Trends of Wildlife in the Kenya Rangelands, 1977-2013, Directorate of Resource Surveys and Remote Sensing (DRSRS),30 October, 2014

remained relatively stable over the last few years in some counties such as Laikipia because of better environmental conditions and security provided in some conservancies. The populations of Grevy's Zebra and Hunter's hartebeest have declined drastically to critical levels that threaten their future population viability. These declines have also been recorded by other researchers.

The declines have been attributed to poaching for trophy and bush meat, competition with livestock for space, water and pasture, land use and cover changes, land fragmentation, infrastructural development, rapid human population growth, climate change and climate variability, infectious diseases and policy failures.

Several studies have noted the decline of wildlife species in specific areas; Maasai Mara, Tsavo East and West, Meru National Park and in some counties such as Kajiado County and Nairobi National Park.

3.7.2 Causes of Wildlife Decline

The causes of wildlife is attributed to two main factors: Anthropogenic activities (human-induced) and climatic change (natural factors). These are:-

- i. The human caused activity driven by increasing population growth rates and demands and pressures on the environment;
- ii. Climate change and climate variability, with increased frequency of droughts that cause animal mortality due to starvation resulting from reduced grazing and water resources;
- iii. Major policy, institutional and market failures due to weak implementation and management;
- iv. Poaching for wildlife trophies and bush meat;
- v. Competition for space, grazing and water resources with human and livestock has also contributed to decline in wildlife population particularly during droughts;
- vi. Diseases such as rinderpest have also contributed to decline in wildlife species decline.

3.7.3 Recommendations

- i. Involvement and participation of private stakeholders and local communities in the conservation and management of wildlife. This will require creation of awareness and sensitizing communities, community empowerment effective leadership and community capacity building to enable efficient operation of their own enterprise;
- ii. Develop appropriate land use policies and legislation including zoning to protect wildlife habitats; wildlife migratory routes/corridors and dispersal areas that have been blocked by human activities;
- iii. Stringent anti-poaching measures to curb poaching by imposing heavy fines and penalties and adequate rangers;
- iv. Rehabilitate degraded habitats as a result of human activities and eliminate change;
- v. To reduce human-wildlife conflicts communities should be compensated adequately for death and injuries to people and livestock and destruction of their property;
- vi. Review the listing of species whose numbers have severely reduced in the CITIES red data book and enhance their protection status.

3.8 Submissions by Save the Elephants

They made the following submissions:-

There was big poaching crisis in the 1970s and a specific Rhino crisis in the 1990s. The poaching menace the country was witnessing was not unique in Kenya and was shared by many other African Countries. The Level of cooperation with the Kenya Wildlife Service and other stakeholders in the sector have significantly reduced. **The Poaching scourge is justified to be a crisis but has not yet materialised to be called a national disaster.** There have been inconsistent release of wildlife data results, whether census or poaching statistics.

40% of the wildlife is outside the protected areas. There have been severe poaching episodes since the year 2010. It is a common knowledge the crucial science to support conservation efforts is predominantly in the private sector. It was encouraging to report that the figures were dropping in the year 2014

3.8.1 Summary of the Pan African Aerial Survey of Elephants Initiative

3.8.1.1 Dry season fixed-wing aerial survey of elephants and other large mammals in the Tsavo and Amboseli Ecosystems, Kenya

The Tsavo and Amboseli ecosystem aerial survey report by Elephants Without Borders (EWB) in collaboration with Kenya Wildlife Service (KWS) was carried out between 26th February and 15th March 2014.

The principle objective of this survey was to provide relatively accurate and precise estimates of the numbers of elephants and other large herbivores in Tsavo and Amboseli ecosystems, using a technique that could be executed within a reasonable time and at a reasonable cost.

Secondary objective included determination of the spatial distribution of elephants and large herbivores and estimation of the number and distribution of elephant carcasses.

The survey area covered 40,000 sq km and included Tsavo East and West and Amboseli National Parks and adjacent areas around these parks that are known to support elephants and wildlife.

3.8.1.2 The Pan-African Aerial Survey of Elephants (PAASE)

The Pan-African Aerial Survey of Elephants was conceptualized within the context of escalating elephant poaching, habitat fragmentation, loss of elephant range, increasing human-elephant conflict and the need for current data on population status of elephants.

The survey was implemented by experienced survey teams using well proven sample count and total count methodologies.

3.8.1.3 Objectives of the PAASE

The primary objective of the PAASE was to undertake and report, during 2014, on a scientifically rigorous aerial survey of African elephants. This would serve the following purposes:

1. Provide up-to-date information on the status of approximately 90% of Africa's elephant population to wildlife authorities and international bodies;

2. Provide a comprehensive assessment of the numbers, distribution and trends of elephant populations;
3. Enumerate elephant carcasses;
4. Evaluate the current impacts of human disturbance and model the future trajectory and viability of elephant populations;
5. Provide information on conservation threats, challenges and habitat condition; and
6. Engage and work in close collaboration with in-country biologists, NGOs and government agencies to enhance capacities to manage and conserve elephants.

3.8.1.4 Observations

Elephants were recorded as being in family groups or bull groups. Family groups were herds in which females and young were present, although the herd may have included elephant bulls.

Bull groups were classified as single bulls or herds which contained no females or juveniles.

The observers also recorded any elephant carcasses seen. They were classified using four age categories:-

- i. **Fresh Carcass:** Still had flesh, rounded appearance, vultures would be present and ground was still moist (likely to have died within the past month).
- ii. **Recent:** rot patch and skin still present. Skeleton not scattered (Likely to have died within the past year)
- iii. **Old:** clean bones; skin usually absent; vegetation regrown in rot patch (likely to have died more than 1 year ago)
- iv. **Very Old:** Bones scattered **and turning grey.** (likely to have died within the last 10 years)

3.8.1.5 Wildlife Estimates

The relatively high sample aerial survey over a large area yielded estimates of wildlife and established a sound basis for wildlife numbers. These data can now be used to evaluate the

efficacy of conservation activities and trends in wildlife populations with the ability to prioritize conservation projects against any severe variations in wildlife numbers.

3.8.1.6 Elephant Carcasses

Poor rural communities surrounding the Park looking to improve their living standards and a concomitant rise in the value of ivory, provide a powerful incentive for illegal elephant killing.

3.8.1.7 Wildlife Distribution

The Distribution of wildlife is likely to vary according to seasonal, climatic conditions, human disturbances, water availability in large pans and the movements of animals. This survey was conducted during the dry season.

3.8.1.8 Human Activities in the ecosystems

Poaching, encroaching human settlement, illegal grazing by domestic livestock, tree felling for fuel wood, overgrazing by cattle, drought, or expanding human populations and shortage of funds to train staff and purchase equipment threaten the integrity of Tsavo National Park.

4.0 COMMITTEE OBSERVATIONS

From the evidence received and written submissions provided to the inquiry the Committee made the following Observations:-

1. Importance of Wildlife resources to the Kenyan economy

The wildlife resource managed by KWS is the backbone of the tourism industry and accounts for 21% of foreign exchange earnings and 12% of the country's GDP in 2012. 70% of tourism earning is wildlife based and it is the second largest contributor to the country's economy. It is also a key pillar in achieving the goals of vision 2030. The contribution of the tourism industry also has a multiplier effect in other sectors of the economy such as the agriculture, horticulture, transport and communication.

2. Drastic decline in Wildlife populations in the Country

Based on the submission given by Dr. David Western, Directorate of Resource Survey and Remote Sensing (DRSRS) and from literature review (particularly on the paper by Dr. Ogutu) it is apparent that wildlife populations of different species have declined by between 30-90% during the period 1977 to date.

The wild life species that have significantly declined and are critically threatened include the elephants, rhinos, grevy zebras, roan and sable antelopes, hirolas, bongo, lions, cheetah among others. The main causes of the decline are habitat loss due to increasing human settlements and developments, human-wildlife conflict, poaching, bush meat hunting, climate change, disease , for example rinderpest among others.

The Committee observed that more focus and attention has been given to the plight of the elephant and rhino at the expense of other wildlife species which are equally and critically threatened.

3. Wildlife Poaching trends

The Committee noted that Kenya has a total of 8,654 known wildlife species. A total of 107 species of Kenya Wildlife are threatened. Elephants and rhinos are the key flagship species facing major threats from poaching.

The years 2011, 2012 and 2013 witnessed the highest levels of poaching since the poaching crisis in the 1980's. Last year (2014) a total of 164 elephants and 35 rhinos were killed by poachers compared to 302 elephants and 59 rhinos in 2013. In 2015 there are indications that the figures might be lower. This promising trend is partially attributed to the implementation of the stringent wildlife conservation and management law passed in 2013.

The ensuing poaching menace was aggravated by the approval by the Convention on International trade in Endangered Species of Wild Fauna and Flora (CITES) of the one-off sale of elephant ivory by Southern African countries in 2007 and the sale of ivory stockpiles which continues to haunt wildlife security in Kenya and the region. It also increased demand of ivory and rhino horn in the Far East Countries especially China and Vietnam.

4. The threat of Wildlife and Bush meat trade

Although poaching of elephant and rhino has been given prominence by KWS and other wildlife stakeholders, the Committee noted that the Trade in wildlife bush meat was widespread and was going on unabated and had assumed a commercial scale where the meat was sold openly in markets such as Burma Market in Nairobi.

The Committee observed that this trade was a serious threat to game animals and unless urgent action is taken, it will lead to their further decline and eventual extinction.

5. Wildlife habitat decline

The Committee observed that wildlife habitat decline was a major threat to sustainable conservation of all wildlife heritage in Kenya. It was noted that due to wanton destruction of wildlife habitats, most wildlife species populations were declining very fast. Therefore unless this issue is addressed urgently through land use planning, creation of wildlife migration and routes and conservation of sensitive wildlife habitats, our rich wildlife heritage is destined to extinction over time.

6. Operationalizing the Wildlife Conservation and Management Act 2013.

The Ministry pointed out that the main challenge in implementing the Act has been the financial implications in effecting the Bill including compensation, benefit sharing, creation

of awareness and public participation, logistics and preparation of guidelines to operationalise the Act. The KWS has over the years faced financial challenges which have had an impact on its operations and the effective execution of its mandate.

The Committee noted that lack of adequate funding needed to operationalise the requirements of the Act is a major impediment to wildlife conservation. There is significant increase in reported cases of human wildlife conflicts and claims for monetary compensation against the Service. Additionally, there are inconsistencies in the Wildlife Conservation and Management Act 2013 that hinder the successful prosecution of wildlife offenders.

7. Prosecution of wildlife crime cases

The Committee also observed that there was slow pace of implementation of the Wildlife Conservation and Management Act, 2013. The operationalization of the Act took longer than expected. Most of the established institutions and units were still to be activated and resourced. A total of 503 cases have been prosecuted with the highest number being the ones involving wildlife poaching totaling to 435 cases.

Ivory related cases are the highest prosecuted with 283 cases having been concluded while 197 were pending. Penalties imposed are in the form of fines or imprisonment. Although the Judiciary has started taking wildlife cases seriously, they are still reluctant to give long custodial penalties. The cases against wildlife range from cases of illegal possession of ivory, rhino horns, bush meat and wildlife skin.

Out of 127 cases surveyed by Wildlife Direct, 56 were complete with 2 out of these getting custodial sentences while the rest were handed non-custodial sentences ranging from probation to community service.

8. The role of Local Communities in Sustainable Wildlife Conservation and Management

From all the submissions given, the Committee also observed that the role of local communities and large landowners in sustainable conservation of our wildlife heritage is crucial given that more than 70% of our wildlife populations are found or reside outside

protected areas and are most vulnerable to poaching and responsible for the ever increasing human wildlife conflict.

9. Review of legislation on the protection of wildlife

In addition, the Committee noted that there was need for a broader approach to wildlife conservation and collaboration between different agencies. The Committee took note that in this regard, there was need to review several legislation to fill the gaps. These include:

- m. Proceeds of Crime and Anti-Money Laundering Act, 2009
- n. Prevention of Organized Crimes Act, 2010
- o. Anti-Corruption and Economic Crimes Act
- p. Environmental Management and Coordination Act, 1999
- q. Forest Act, 2005
- r. East Africa Community Customs management Act, 2004
- s. Penal Code (cap 63)
- t. Prevention of Cruelty to Animals Act (cap 360)
- u. The Evidence Act
- v. Criminal Procedure Code
- w. The Meat Control Act (cap 356)
- x. The Physical Planning Act

10. Additional threats to Wildlife conservation

The Committee noted that while wildlife crime is a major threat to wildlife, this has also been exacerbated by other factors such as climate change, human population growth, world's economic growth and diversification, rising demand for ivory and rhino horns in the illicit markets of East and South-East Asia.

11. Restructuring of KWS

The Committee noted that most of the stakeholders interviewed proposed the restructuring of the Kenya Wildlife Service. They argued that its current structure was not responsive to the changing and escalating threats to wildlife security. There is lack of proper definition of functions and roles.

The organization structure is wider at the top taking up most of the resources on personnel emoluments of the senior officers based in the Headquarters leaving little for the motivation of the field officers. The threat posed by commercial poaching and bushmeat poaching requires immediate attention. The thrust of the report demonstrates that the current ability of KWS to deal with this poaching is significantly wanting. In this regard, there has been an unfortunate decline in some key functions. Intelligence is a key weapon in responding to the poaching challenge. Allied to this is the inability of KWS to respond to problem animal control generally let alone responding in a timely manner.

In addition to the work environment in regard to work ethics, in-fighting, remuneration, welfare, promotions, transfers and training are seriously hindering KWS in carrying out its mission and have led to a serious decline in the quality of the Service over the last 5 years.

12. KWS effort in curbing poaching

Despite the glaring gaps in legislation and response by KWS and the government to the poaching crisis, the Committee noted that KWS has significantly enhanced the anti-poaching enforcement efforts to combat the poaching scourge and combat other wild security threats. Statistics indicate that there has been a drop in the number of poaching incidences, more criminals are being prosecuted and there is some progress in implementing the provisions of the Wildlife Conservation and Management Act, 2013. Moreover, the Ministry has recruited more rangers to increase their numbers and help secure wildlife in the various parks and other protected areas.

13. Recommendations of the Task force on Wildlife Security

The Committee noted that the Task Force on Wildlife Security appointed by the Ministry in response to the escalating wildlife insecurity identified gaps that have led to an upsurge in poaching. The task force completed and submitted its report to the Ministry at the end of its term. The wide ranging recommendations of the report touch on most of the aspects identified by stakeholders in their submissions to the Committee.

14. Wildlife data on populations and distributions

The Committee noted that there was long-term intensive data collected by DRSRS, researchers and other wildlife stakeholders which is readily available but it is not utilized by KWS for planning and conservation of wildlife in the country. It was further noted that KWS was not willing to accept, coordinate and harmonize wildlife data collected by other stakeholders and was equally not willing to freely share its own data. As a consequence, there exists conflicting data on wildlife populations and poaching incidences.

5.0 COMMITTEE RECOMMENDATIONS

Based on evidence received and analysed, the Committee concludes that the country is faced with a national wildlife management crisis and makes the following recommendations to address the crisis:-

Review of legislation to enhance protection of wildlife

1. Parliament should fast-track the amendments of the Wildlife Conservation and Management Act, 2013 to enhance the penalties for offenders, remove inconsistencies and streamline the prosecution of the offenders. Parliament should also consider amendments to the following statutes to better support wildlife conservation:-

- (i) **Proceeds of Crime and Anti-Money Laundering Act, 2009** - Section 2 of the Act should be amended for authorised officers to include KWS officers who now have the powers to investigate crimes under the Wildlife Conservation and Management Act 2013;
- (ii) **Prevention of Organized Crimes Act, 2010**- An amendment should be included to mean a group of two or more persons as opposed to a structured group of three or more persons because poaching groups are rarely structured and often consist of two persons;
- (iii) **Anti-Corruption and Economic Crimes Act** - should be amended to include poaching as an economic crime;
- (iv) **Forest Act, 2005** - Should be amended to include KWS officers as Authorised officers under the Act as they often investigate and charge persons who destroy wildlife habitats under the Forest Act;
- (v) **East Africa Community Customs management Act, 2004**-Should be amended to include a general penalty in terms of fines as courts have argued that prohibited goods such as wildlife and their trophies do not have a known value which they use to compute the monetary penalty given under the Act. The Act gives a fine equal to a percentage of the value of the goods.
- (vi) **Penal Code (cap 63)** - Should include an offence of stealing of government trophy from legal custody, that include stores, armouries, exhibit strong

rooms. This should reflect a high penalty as in line with the penalties under the Wildlife Conservation and Management Act 2013;

- (vi) **Prevention of Cruelty to Animals Act (cap 360)**- penalties should be made higher to be reflective of penalties under the Wildlife Conservation and Management Act 2013, especially offences under sections 5 and 6 of the Act which relate to the use of poison and hunting tools
- (vii) **The Evidence Act** - should be amended to allow use of photographs taken by digital camera and to give rules of how such photographs can be admissible in court. The law should also remove the requirement that photographs should be taken and/or processed by gazetted scene-of-crime officers. This is not possible in many case since wildlife scenes are very remote and it might be impossible to get such an officer on the scene;
- (viii) **Criminal Procedure Code** - Section 389 A of the CPC should be amended to include the cost of disposal of forfeited goods to be borne by the accused person;
- (ix) **The Meat Control Act (cap 356)** – the powers of KWS officers should be enhanced to enforce, investigate and prosecute offences related to game meat;
- (x) **Expansion of the powers of KWS officers** - the powers of KWS officers should be enhanced to enforce, investigate and prosecute offences related to their mandate; and
- (xi) **The Physical Planning Act** should also be reviewed to address issues related to Human- wildlife conflict and land-use planning.

Operationalisation of the Wildlife Conservation and Management Act, 2013

2. The Committee noted that despite current financial constraints, there are existing structures in place that can be used to enforce the Act. KWS and other security agencies should strictly enforce the law and subject all wildlife crime suspects to the country's

laws regardless of their nationalities and origin of the illegal wildlife products in their possession.

3. The Ministry of Environment and Natural Resources should take concrete steps including prompt compensation for the genuine cases of those detrimentally affected by the wildlife and develop strategic collaborative partnerships with the communities around the protected areas to manage human-wildlife conflicts.

Diplomatic Action

4. The Ministry of Foreign Affairs and International Trade should undertake immediate Diplomatic action to urge African and Asian governments to dramatically and consistently improve their enforcement controls including massive education and awareness raising campaigns in Asian countries aimed at curbing the demand for ivory and rhino horn in the main consumer markets of China and Vietnam respectively.

Kenya Wildlife Service

5. The Kenya Wildlife Service (KWS) should be adequately and appropriately resourced. The Service should also be able to clearly disclose the Appropriation In Aid (AIA) it collects in its budget breakdown. There must be full disclosure of the resource generation, usage and need in the Service. This will enhance transparency and give an opportunity for additional funding.
6. The KWS should immediately formulate and implement management strategies and plans that will save wildlife species that are under threat from further decline. The Committee noted with a lot of concern that numerous wildlife species in the country are threatened but their plight is given little attention and action. These species include but are not limited to lion, grevy zebra, bongo, roan and sable antelopes, hirola, sitatunga, cheetah among others.
7. KWS should fast track the accreditation and operationalisation of the Wildlife Forensic lab. The full operationalisation will help in the identification of poached and pirated wildlife products through DNA matching and other science based identifications.

8. The Ministry of Environment and Natural Resources and KWS should engage all stakeholders, particularly DRSRS in harmonising wildlife statistics and data which should be publically declared on a regular basis.
9. The KWS should release and publically declare the harmonised statistics of poached wildlife and status of prosecution of cases and arrests on a quarterly basis indicating reasons for the poaching/arrests/prosecutions and the immediate remedial action(s) to be taken by the Service.
10. The Service should Initiate a rehabilitation programme for animals at the orphanage and ensure that they are released to their natural habitats once they are fully able to adapt to the wild environment and survive. The Service should further take immediate action to bring the operation of orphanage into the acceptable conservation best practices, impart proper trainings skills on the handlers and vets at the orphanage and closely monitor the reported high mortality rates at the orphanage
11. The Service should closely collaborate with the communities and enter into beneficial partnerships with them to strengthen the protection of the endangered species within the ecosystems. The Communities have the necessary indigenous knowledge and information to aid the protection of wildlife within their vicinity and report immediately on any poaching activities.
12. The Service should further engage other stakeholders such as the conservation civil society organizations and private conservancies and tap into their knowledge and resources. Such collaboration should be based on a workable consultative framework done in the best interest of conservation and protection of the country's wildlife heritage.
13. The Service should set standards to regulate individuals and institutional researchers and also ensure that they acquire the necessary permission from the National Council for Science and Technology (Nascoti) to conduct research in protected and non-protected areas. The research should only be allowed to be conducted when the desired outcome is mutually beneficial to the interest of the two parties. The Service should protect and conserve the Country's wildlife heritage.

Restructuring of KWS

14. The KWS Board of Trustees should institute an immediate reform aimed at restructuring the Service to be able to respond to the dynamic and escalating wildlife Security threats. The Current Management structure is far removed from an active engagement with the field officers and wildlife rangers on the ground. The reformed structure should reflect the standard organizational human resource needs.

National Audit of stockpiles

15. The Ministry of Environment and Natural Resources should within three months of the adoption of the report carry out a national audit of all stockpiles of wildlife trophies in the country and establish a national electronic database for these trophies. The Kenya Wildlife Service should accumulate and store all trophies at the Headquarters and close all other storage facilities in any other part of the country.

Improve screening at boarder points, Airports and Seaports

16. The Ministry of Environment and Natural Resources in collaboration with other government agencies should urgently install screening machines at all points of exit and entry into the country especially the sea/lake ports, the International airports and Namanga, Malaba and Busia entry and exit points and screen all cargo leaving the country. The Kenya Wildlife Service Officers should be given unrestricted access to verify the contents of any container of interest entering and leaving the country.

Accountability of KWS to other security agencies

17. Kenya Wildlife Service authorized officers especially rangers found to provide any form of assistance to or collusion with poachers and other organized criminals should be investigated and prosecuted accordingly.

Separate provision of ancillary services

18. The Ministry of Environment and Natural Resources should separate the provision and management of ancillary services such as hotels, lodges, camps and other services in the

protected areas from the primary mandate of KWS to manage, conserve and protect wildlife. These services and activities should be independent from the Service.

Regulate land use in dispersal corridors

19. Create easements of land used as dispersal corridor by elephants and purchase of or compensation to allow for dispersal corridors. An agreement should be reached with owners of such land around these corridors on mutually beneficial terms.

Implement the recommendations of the Task force on Wildlife Security

20. The Ministry of Environment and Natural Resources should implement the recommendations of The Task Force on wildlife security and integrate them in the short-term and long-term strategic conservation and financial planning processes.



DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

ATTENDANCE SCHEDULE


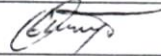
AGENDA: CONSIDERATION & ADOPTION OF THE REPORTS ON THE PROPOSED SAND HARVESTING IN DIANI, NATIONAL DROUGHT MANAGEMENT AUTHORITY BILL & LEAD POISONING AT THE UHURU OWINO VILLAGE IN MIKINDANI MOMBASA & POACINA REPORT.

DATE: 01/10/2015

TIME: 10.00 AM

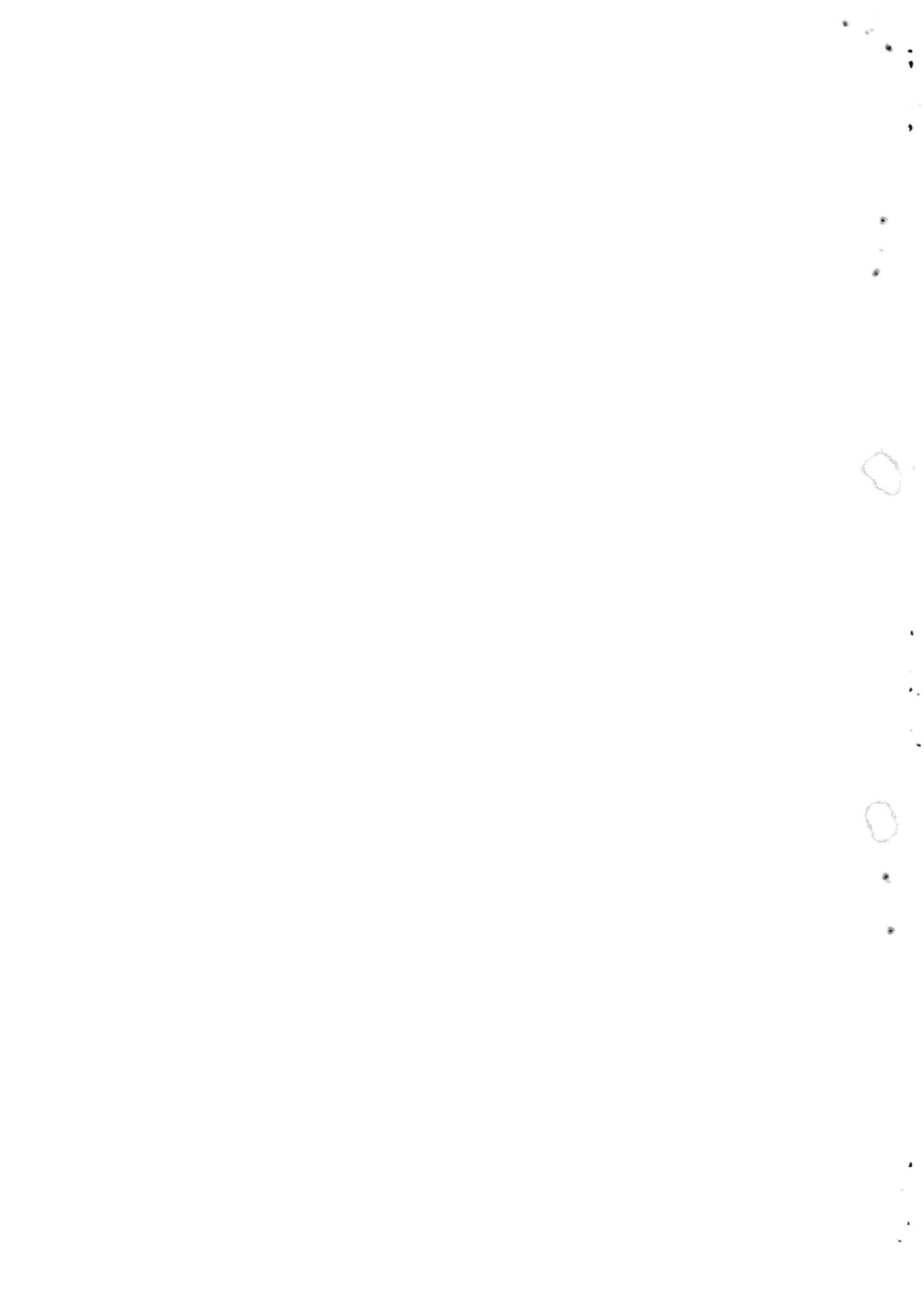
VENUE: C.P.A ROOM

	NAME	SIGNATURE
1	Hon. Abdalla, Amina, MP-CHAIRPERSON	
2	Hon. Alexander Kosgey, MP Vice Chairperson	
3	Hon. Dukicha, Hassan Abdi, MP	
4	Hon. Emanikor, Joyce Akai, MP	
5	Hon. Ganya, Francis Chachu, MP	
6	Hon. Geni, Charles Mongare, MP	
7	Hon. Gure, Shukra Hussein, MP	
8	Hon. Ole Kenta, Richard Moitalel, MP	
9	Hon. Mohamed, Diriye Abdullahi, MP	
10	Hon. Murungi, Kathuri, MP	
11	Hon. Ogalo, George Oner, MP	
12	Hon. Sunjeev Kour Birdi, MP	
13	Hon. Tonui, Ronald Kiprotich, MP	
14	Hon. Dr. Wanyonyi, Reginalda N, MP	
15	Hon. Farah, Abdulaziz Ali, MP	
16	Hon. Barua, Ejidius Njogu, MP	
17	Hon. Irea, Gideon Mwiti, MP	
18	Hon. Muluvi, Marcus Mutua, MP	
19	Hon. Mwashetani, Khatib, MP	

20	Hon. Ndiritu, Samuel Mathenge, MP	
21	Hon. Ottichilo, Wilber Khasilwa, MP	
22	Hon. Rop, Jackson Kipkorir, MP	
23	Hon. Abdinoor, Mohammed Ali, MP	
24	Hon. Ng'ang'a, Alice Wambui, MP	
25	Hon. Peter Kinyua, MP	
26	Hon. Wandayi, James Opiyo, MP	
27	Hon. Katana, Aisha Jumwa, MP	
28	Hon. Jude Njomo, MP	

NICHOLAS EMEJEN

FOR -CLERK OF THE NATIONAL ASSEMBLY



MINUTES OF THE 68TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY 1ST OCTOBER, 2015 AT 10.00AM C.P.A ROOM, MAIN PARLIAMENT BUILDINGS.

PRESENT

1. Hon. Abdalla Amina, M.P. – **Chairperson**
2. Hon. Kathuri Murungi, M.P.
3. Hon. Geni Charles Mong'are, M.P.
4. Hon. Tonui Ronald Kiprotich, M.P.
5. Hon. Rop Jackson Kipkorir, M.P.
6. Hon. Mohamed Diriye Abdullahi, M.P.
7. Hon. Ole Kenta Richard Moitalel, M.P.
8. Hon. Emanikor Joyce, M.P.
9. Hon. Dukicha Hassan Abdi, M.P.
10. Hon. Dr. Wanyonyi Reginalda N. M.P.
11. Hon. Ganya Francis Chachu, M.P.
12. Hon. Gure Shukra Hussein, M.P.
13. Hon. Peter Kinyua, M.P.
14. Hon. Mwashetani Khatib, M.P.
15. Hon. Farah Abdulaziz Ali, M.P.

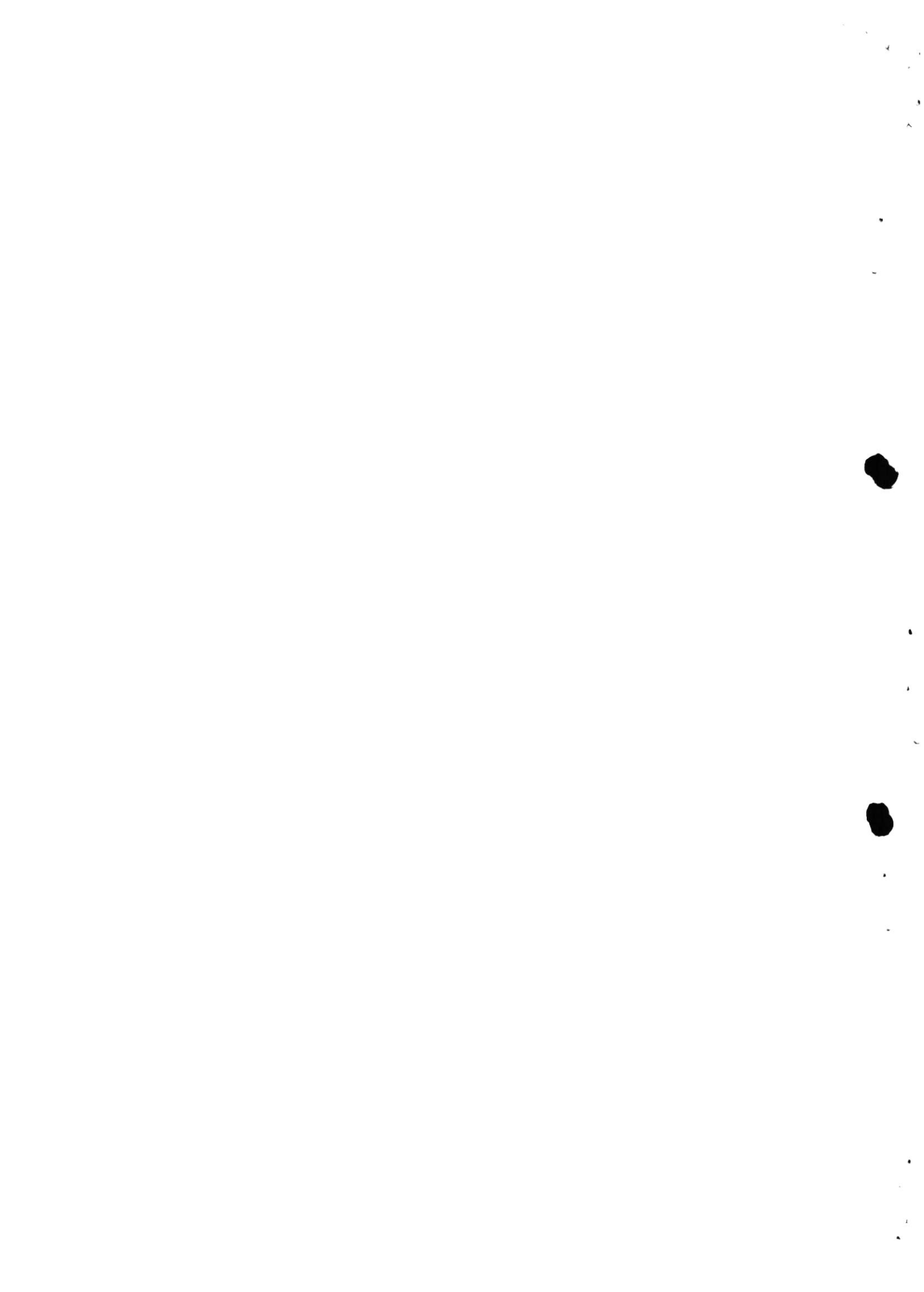
APOLOGIES

1. Hon. Alexander Kosgey, M.P. – **Vice Chairperson**
2. Hon. Muluvi Marcus Mutua, M.P.
3. Hon. Jude Njomo, M.P.
4. Hon. Ng'ang'a Alice Wambui, M.P.
5. Hon. Irea Gideon Mwiti, M.P.
6. Hon. Katana Aisha Jumwa, M.P.
7. Hon. Ottichilo Wilber Khasilwa, M.P.
8. Hon. Wandayi James Opiyo, M.P.
9. Hon. Barua Ejidius Njogu, M.P.
10. Hon. Sunjeev Kaur Birdi, M.P.
11. Hon. Abdinoor Mohammed Ali, M.P.
12. Hon. Ndiritu Samuel Mathenge, M.P.
13. Hon. Ogalo George Oner, M.P.

IN-ATTENDANCE

THE NATIONAL ASSEMBLY

1. Mr. Joshua Ondari - Clerk Assistant III
2. Ms. Lynette Otieno - Legal Counsel II



MIN. NO. DC/ENR/291/2015 - PRELIMINARIES

The Chair called the meeting to order at 10.25 am followed by a word of prayer.

MIN. NO. DC/ENR/292/2015 – CONSIDERATION AND ADOPTION OF THE PETITION REPORT REGARDING THE CONSTRUCTION OF A DAM A LONG SIO RIVER

The Committee considered the report and there being no other changes it was unanimously adopted.

MIN. NO. DC/ENR/293/2015 – CONSIDERATION AND ADOPTION OF THE REPORT ON THE SENATE AMENDMENTS TO THE NATIONAL DROUGHT MANAGEMENT AUTHORITY BILL

The Committee considered the report and there being no other changes it was unanimously adopted.

MIN. NO. DC/ENR/294/2015 – CONSIDERATION AND ADOPTION OF THE REPORT ON THE INVESTIGATION INTO WILDLIFE POACHING IN KENYA

The Committee considered the report and there being no other changes it was unanimously adopted.

MIN. NO. DC/ENR/295/2015 – CONSIDERATION AND ADOPTION OF THE REPORT ON LEAD POISONING AT THE UHURU OWINO VILLAGE IN MIKINDANI MOMBASA

The Committee considered the report and there being no other changes it was unanimously adopted.

MIN.NO. DC/ENR/296/2015 ADJOURNMENT

There being no other business the meeting was adjourned at Twelve O'clock.

SIGNED.....

(Chairperson)

DATE.....1/OCTOBER/2015

MINUTES OF THE 48TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES HELD ON TUESDAY 7TH JULY, 2015 AT 10.00AM C.P.A ROOM, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Hon. Abdalla Amina, M.P. – **Chairperson**
2. Hon. Alexander Kosgey, M.P. – **Vice Chairperson**
3. Hon. Geni Charles Mong'are, M.P.
4. Hon. Wandayi James Opiyo, M.P.
5. Hon. Ndiritu Samuel Mathenge, M.P.
6. Hon. Tonui Ronald Kiprotich, M.P.
7. Hon. Jude Njomo, M.P.
8. Hon. Peter Kinyua, M.P.
9. Hon. Ng'ang'a Alice Wambui, M.P.
10. Hon. Kathuri Murungi, M.P.
11. Hon. Muluvi Marcus Mutua, M.P.
12. Hon. Rop Jackson Kipkorir, M.P.
13. Hon. Dr. Wanyonyi Reginalda N. M.P.
14. Hon. Barua Ejidius Njogu, M.P.
15. Hon. Ogalo George Oner, M.P.
16. Hon. Mwashetani Khatib, M.P.

APOLOGIES

1. Hon. Ole Kenta Richard Moitalel, M.P.
2. Hon. Ottichilo Wilber Khasilwa, M.P.
3. Hon. Abdinoor Mohammed Ali, M.P.
4. Hon. Emanikor Joyce, M.P.
5. Hon. Farah Abdulaziz Ali, M.P.
6. Hon. Gure Shukra Hussein, M.P.
7. Hon. Ganya Francis Chachu, M.P.
8. Hon. Irea Gideon Mwiti, M.P.
9. Hon. Mohamed Diriye Abdullahi, M.P.
10. Hon. Katana Aisha Jumwa, M.P.
11. Hon. Dukicha Hassan Abdi, M.P.
12. Hon. Sunjeev Kaur Birdi, M.P.

(i) Tabling (Media)
(ii)

IN-ATTENDANCE – THE NATIONAL ASSEMBLY

1. Ms. Chebet Koskei - Clerk Assistant II
2. Mr. Joshua Ondari - Clerk Assistant III
3. Mr. Hassan Odhwa – Senior Researcher Officer
4. Ms. Lynette Otieno - Legal Counsel II

MIN.NO. DC/ENR/215/2015 - PRELIMINARIES

The Chair called the meeting to order at 10.25 am followed by a word of prayer.

MIN.NO. DC/ENR/216/2015 CONSIDERATION OF THE DRAFT REPORT ON POACHING

The Committee considered the draft report on poaching and came up with the following recommendations:-

(a) Review of legislation to enhance protection of wildlife

1. Parliament should fast-track the amendments of the Wildlife Conservation and Management Act, 2013 to enhance the penalties for offenders, remove inconsistencies and streamline the prosecution of the offenders.
2. Parliament should also consider amendments to the following statutes to better support of wildlife conservation: ???

(b) Operationalization of the Wildlife Conservation and Management Act, 2013

3. All law enforcement agencies should strictly enforce the law and subject all wildlife crime suspects to the full force of the country's laws regardless of their nationalities and origin of the illegal wildlife products allegedly in their possession.

The Committee noted that despite current financial constraints, there are existing structures in place that can be used to enforce the Act. KWS and other security agencies should strictly enforce the law and subject all wild life crime suspects to the country's laws regardless of their nationalities and origin of the illegal wildlife products in their possession. Additionally,

4. In accordance with the Act, KWS should take concrete steps including prompt compensation for the genuine cases to manage human-wildlife conflicts.
5. The Ministry should take concrete steps including prompt compensation for the genuine cases of those detrimentally affected by the wildlife and develop strategic collaborative partnerships with the communities around the protected areas to manage human-wildlife conflicts.

(c) Restructuring of KWS

6. The KWS Board should restructure the KWS service to be able to respond to the changing and escalating wildlife Security threats.

(d) National Audit of stockpiles

7. The Ministry of Environment and Natural Resources should carry out a national audit of all stockpiles of wildlife trophies in the various parts of the country.

(e) Improve screening at boarder points, airports and ports

8. The Ministry of Environment and Natural Resources in collaboration with other government agencies should urgently install screening machines at all points of entry and exit into the country especially the ports, the International airports and Namanga, Malaba and Busia entry and exit points and screen all cargo leaving the country.

MIN.NO. DC/ENR/217/2015 ANY OTHER BUSINESS

The Committee agreed that there is need to do an investigation report which will only focus on institutions which have been involved in the exportation of contrabands.

MIN.NO. DC/ENR/218/2015 ADJOURNMENT

There being no other business the meeting was adjourned at Twelve O'clock.

SIGNED.....



(Chairperson)

DATE.....

20/8/2015

PARLIAMENT
OF KENYA
LIBRARY

PARLIAMENT OF KENYA



Paper laid
By Hon. Amina Abdalla
Chairperson, (KwEL of
Natural Resources) on
Thursday, 23.04.2015
(Morning) *[Signature]*



KENYA NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – THIRD SESSION

THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

REPORT ON THE MESSAGE FROM THE SENATE ON THE ENVIRONMENTAL
MANAGEMENT AND CO-ORDINATION (AMENDMENT) BILL, 2014

CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

APRIL, 2015

1.0 PREFACE

The Departmental Committee on Environment and Natural Resources is established under Standing Order No. 216(1).

1.1 Mandate of the Committee

The functions and mandate of the Committee are:-

- a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- b) Study the programme and policy objectives of the Ministries and departments and the effectiveness of the implementation;
- c) Study and review all legislation referred to it;
- d) Study, assess and analyze the relative success of the Ministries and Departments as measured by the results obtained as compared with its stated objectives;
- e) Investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
- f) Vet and report on all appointments where the constitution or any law requires the National Assembly to approve, except those under Standing Order 204; and
- g) Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

The subject matter of the Departmental Committee on Environment and Natural Resources are stated in the Second Schedule of the National Assembly Standing Order as: climate change, environment management and conservation, forestry, water resource management, wildlife, mining and natural resources, pollution and waste management.

1.2 Committee Membership

The Committee comprises of the following Members:

Hon. Amina Abdallah, M.P., Chairperson	Hon. Kathuri Murungi, M.P.
Hon. Alex K. Kosgey, M.P., Vice Chairperson	Hon. Sunjeev Birdi, M.P.
Hon. Alice Ng'ang'a, M.P.	Hon. Jackson K. Rop, M.P.
Hon. Samuel Ndiritu, M.P.	Hon. Abdi Noor Ali, M.P.
Hon. Aisha Jumwa Karisa, M.P.	Hon. Joyce Emanikor, M.P.
Hon. Ejidius Njogu Barua, M.P.	Hon. Abdulaziz Farah, M.P.
Hon. Jude Njomo, M.P.	Hon. Ronald Tonui, M.P.
Hon. Moitalel Ole Kenta, M.P.	Hon. (Dr.) Reginalda Wanyonyi, M.P.
Hon. Chachu Ganya, M.P.	Hon. Gideon Mwiti, M.P.
Hon. Opiyo Wandayi, M.P.	Hon. (Major) Muluvi Mutua, M.P.
Hon. Charles G. Mongare, M.P.	Hon. Mohamed, Diriye M.P.
Hon. (Dr.) Wilber K. Ottichilo, M.P.	Hon. Peter Kinyua, MP.
Hon. Khatib Mwashetani, M.P.	Hon. Shukra Hussein Gure, M.P.
Hon. George Ogalo, M.P.	
Hon. Chachu Ganya, M.P.	

1.3 Message from the Senate

1.4 Acknowledgement

Mr. Speaker Sir,

The Committee wishes to register its appreciation to the Offices of the Speaker and the Clerk of the National Assembly for the support accorded to the Committee in the execution of its mandate.

I take this opportunity to thank all Members of the Committee for their patience, endurance and dedication to Committee business, despite their other commitments and tight schedules, which enabled the Committee to complete this Report.

On behalf of the Departmental Committee on Environment and Natural Resources, and

pursuant to Standing Order No. 227 (2) of the National Assembly, I now have the honor to present the Committee Report on the message from the Senate on the Environmental Management and Co-ordination (Amendment) Bill, 2014

Thank You,


SIGNED

CHAIRPERSON

(HON. AMINA ABDALLA, M.P)

DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

DATE *23/April 2015*

CONSIDERATION OF THE SENATE MESSAGE ON THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (AMENDMENT) BILL, 2014

2.0 INTRODUCTION

2.0.1 The Environmental Management and Coordination (Amendment) Bill, 2014 was committed to the Senate on 4th December, 2014. The Senate considered the Bill and proposed amendments that were communicated to the House on The Amendments from the Senate were considered by the Committee during its Sitting on 21st April, 2015.

3.0 AMENDMENTS BY THE SENATE

Clause 9

THAT clause 9 of the Bill be amended in paragraph (a), in the proposed new paragraph (ba), by inserting the words "and their utilization and conservation", immediately after the words in Kenya.

Clause 10

THAT clause 10 of the Bill be amended in paragraph (d), by deleting the proposed new subsection (1) (f) and substituting therefor the following new subsection—

(1)(f) one person nominated by the Council of County Governors.

Clause 12

THAT clause 12 of the Bill be amended in the marginal note of the proposed new section 14 by deleting the word "Board" appearing immediately after the words "of the" and substituting therefor the word "Director-General and Directors"

Clause 20

THAT clause 20 of the Bill be deleted and substituted therefor with the following clause—

The principal Act is amended in subsection (1) of section 31 –

- (a) by deleting the words "Public complaints Committee" wherever it appears and substituting therefor the words "National Environmental Complaints Committee";
- (b) by deleting the words "two members" appearing at the beginning of paragraph (f) and substituting therefor the words "one member"; and
- (c) by inserting the following new paragraph immediately after paragraph (f);

- (g) one person who has demonstrated competence in environmental matters, nominated by the Council of County Governors.

Clause 23

THAT clause 23 of the Bill be amended in the proposed new section 37 –

- (a) by deleting the word “three” appearing immediately after the words “shall, within”, in subsection (1), and substituting therefor the word “two”; and
- (b) by deleting the word “six” appearing immediately after the words “Plan every”, in subsection (5), and substituting therefor the word “three”.

Clause 25

THAT clause 25 of the Bill be amended in the proposed new section 40 –

- (a) by deleting subsection (1) and substituting therefor the following new subsection–
 - (1) Every County Environment Committee shall within one year of the commencement of this Act and every three years thereafter, prepare a county environment action plan in respect of the county for consideration and adoption by the County Assembly”; and
- (b) by deleting the word “Cabinet Secretary” appearing immediately after the words “subsection (1) to the”, in subsection (3), and substituting therefor the word “Authority”.

Clause 40

THAT clause 40 of the Bill be amended in the proposed new section 56A, by deleting the words “the Authority” appearing at the beginning of the proposed new section and substituting therefor the words “the Cabinet Secretary”.

4.0 COMMITTEE RECOMMENDATIONS ON THE SENATE AMMENDMENTS TO THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (AMENDMENT) BILL, 2014

The Committee considered the proposed amendments by the Senate and recommended as follows:-

1. Clause (9) in the proposed new paragraph (ba)

Proposed amendment to clause 9 agreed to.

Justification

The amendment provides for the audit of utilization and conservation of resources.

2. Clause (10)

Proposed amendment to clause 10 was rejected.

Justification

The Senate proposal deletes the provision for the Attorney General or his representative to sit on the Board of the Authority and instead provides for a person nominated by the Council of County Governors. The Committee was of the opinion that National Environment and Management Authority (NEMA) is a national body mandated to perform functions that are vested in the National Government in accordance with the Act and in line with the Fourth schedule to the Constitution. Therefore there is no policy or legal justification for a representative of the Council of Governors to sit on the Authority. Further the proposed amendment seeks to replace the Attorney General or his representative with the representative of the Council of Governors therefore inadvertently placing the role of the representative of the Council of Governors at the same level as the legal advisory role the Attorney General plays, which is not the case.

3. Clause (12)

Proposed amendment to clause 12 agreed to.

It seeks to amend the marginal note of the proposed new section 14 by deleting the word "Board" appearing immediately after the words "of the" and substituting therefor the word "director-General and Directors"

Justification

The marginal note is misleading as it refers to "Remuneration of the Board" however the clause actually deals with remuneration of the "Director-General and Directors".

4. Clause (20)

Proposed amendment to clause 20 (a) agreed to, however proposed amendment to clause 20 (b) and 20(c) rejected.

Justification

The Senate proposal seeks to reduce the members appointed by the Minister under section 31(1) (f) from two members to one member appointed by the Minister for their active role in environmental management.

The proposal further provides for one person nominated by the Council of County Governors. The National Environmental Complaints Committee is established to investigate allegations or complaints against any person or the National Environment and Management Authority in relation to the condition of the environment in Kenya. It is therefore a national body mandated to perform functions that are vested in the National Government in accordance with the Act and in line with the Fourth schedule to the Constitution. Consequently there is no policy or legal justification for a representative of the Council of Governors to sit on the National Environmental Complaints Committee.

5. Clause 23

Proposed amendment rejected.

The Senate proposal reduces the time within which the Authority shall formulate the National Environmental Action Plan from three years to two years within commencement of the Act. The proposal also reduces the time within which the action plan shall be reviewed from every six year to every three years.

Justification

Based on experience, having an annual state of the environment report is unrealistic; the longer the planning period the better the report. The national environmental action plan also needs to be fed by the county plans which if done every three years would not be feasible.

6. Clause 25

Proposed amendment rejected.

The Senate proposal reduces the time within which the County Environment Committee shall prepare the county environment action plan from "two years of the commencement of this Act and every five years thereafter" to "one year of the commencement of this Act and every three years thereafter".

The proposal further provides for the submission of the county environment action plan by the County Executive Committee for incorporation into the national environment action plan to the "Authority" as opposed to the Cabinet Secretary.

Justification

Having a county environment action plan within one year of the commencement of the Act is unrealistic, further based on experience the longer the planning period the better the report produced.

Further the Cabinet Secretary is the person responsible for reporting of the national environment action plan therefore it goes that the submission of the county environment action

plan should be to the Cabinet Secretary so that it can be incorporated into the national environment action plan.

7. Clause 40

Proposed amendment to clause 12 agreed to.

Justification

Regulation making and issuance of guidelines is a function of the Cabinet Secretary.

MINUTES OF THE 25TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES HELD ON TUESDAY 21ST APRIL, 2015 AT 10.00AM IN THE C. P. A. ROOM, MAIN PARLIAMENT BUILDINGS.

PRESENT

1. Hon. Abdalla Amina, M.P. – **Chairperson**
2. Hon. Rop Jackson Kipkorir, M.P.
3. Hon. Geni Charles Mong'are, M.P.
4. Hon. Ndiritu Samuel Mathenge, M.P.
5. Hon. Ole Kenta Richard Moitalel, M.P.
6. Hon. Kathuri Murungi, M.P.
7. Hon. Barua Ejidius Njogu, M.P.
8. Hon. Jude Njomo, M.P.
9. Hon. Wandayi James Opiyo, M.P.
10. Hon. Mwashetani Khatib, M.P.
11. Hon. Sunjeev Kour Birdi, M.P.
12. Hon. Dr. Wanyonyi Reginalda N. M.P.
13. Hon. Abdinoor Mohammed Ali, M.P.
14. Hon. Tonui Ronald Kiprotich, M.P.
15. Hon. Farah Abdulaziz Ali, M.P.

APOLOGIES

1. Hon. Alexander Kosgey, M.P. – **Vice Chairperson**
2. Hon. Gure Shukra Hussein, M.P.
3. Hon. Ganya Francis Chachu, M.P.
4. Hon. Peter Kinyua, M.P.
5. Hon. Emanikor Joyce, M.P.
6. Hon. Dukicha Hassan Abdi, M.P.
7. Hon. Mohamed Diriye Abdullahi, M.P.
8. Hon. Muluvi Marcus Mutua, M.P.
9. Hon. Ogalo George Oner, M.P.
10. Hon. Ottichilo Wilber Khasilwa, M.P.
11. Hon. Katana Aisha Jumwa, M.P.

ABSENT

1. Hon. Ng'ang'a Alice Wambui, M.P.
2. Hon. Irea Gideon Mwiti, M.P.

IN-ATTENDANCE – THE NATIONAL ASSEMBLY

1. Ms. Tracy Chebet Koskei - Clerk Assistant II
2. Mr. Joshua Ondari - Clerk Assistant III
3. Ms. Lynette Otieno - Legal Counsel II

MIN. NO. DC/ENR/110/2015 - PRELIMINARIES

The Chair called the meeting to order at 10.10 am followed by a word of prayer.

MIN.NO. DC/ENR/111/2015 -CONSIDERATION OF THE SENATE MESSAGE ON THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (AMENDMENT) BILL, 2014

The Committee considered the amendments proposed by the Senate and made the following recommendations:-

1. Clause (9) in the proposed new paragraph (ba)

Proposed amendment to clause 9 agreed to.

Justification

The amendment provides for the audit of utilization and conservation of resources.

2. Clause (10)

Proposed amendment to clause 10 was rejected.

Justification

The Senate proposal deletes the provision for the Attorney General or his representative to sit on the Board of the Authority and instead provides for a person nominated by the Council of County Governors. The Committee was of the opinion that National Environment and Management Authority (NEMA) is a national body mandated to perform functions that are vested in the National Government in accordance with the Act and in line with the Fourth schedule to the Constitution. Therefore there is no policy or legal justification for a representative of the Council of Governors to sit on the Authority. Further the proposed amendment seeks to replace the Attorney General or his representative with the representative of the Council of Governors therefore inadvertently placing the role of the representative of the Council of Governors at the same level as the legal advisory role the Attorney General plays, which is not the case.

3. Clause (12)

Proposed amendment to clause 12 agreed to.

It seeks to amend the marginal note of the proposed new section 14 by deleting the word "Board" appearing immediately after the words "of the" and substituting therefor the word "director-General and Directors"

Justification

The marginal note is misleading as it refers to "Remuneration of the Board" however the clause actually deals with remuneration of the "Director-General and Directors".

4. Clause (20)

Proposed amendment to clause 20 (a) agreed to, however (b) & (c) rejected.

Justification

The Senate proposal seeks to reduce the members appointed by the Minister under section 31(1) (f) from two members to one member appointed by the Minister for their active role in environmental management.

The proposal further provides for one person nominated by the Council of County Governors.

The National Environmental Complaints Committee is established to investigate allegations or complaints against any person or the National Environment and Management Authority in relation to the condition of the environment in Kenya. It is therefore a national body mandated to perform functions that are vested in the National Government in accordance with the Act and in line with the Fourth schedule to the Constitution. Consequently there is no policy or legal justification for a representative of the Council of Governors to sit on the National Environmental Complaints Committee.

5. Clause 23

Proposed amendment rejected.

The Senate proposal reduces the time within which the Authority shall formulate the National Environmental Action Plan from three years to two years within commencement of the Act.

The proposal also reduces the time within which the action plan shall be reviewed from every six year to every three years.

Justification

Based on experience, having an annual state of the environment report is unrealistic; the longer the planning period the better the report. The national environmental action plan also needs to be fed by the county plans which if done every three years would not be feasible.

6. Clause 25

Proposed amendment rejected.

The Senate proposal reduces the time within which the County Environment Committee shall prepare the county environment action plan from “two years of the commencement of this Act and every five years thereafter” to “one year of the commencement of this Act and every three years thereafter”.

The proposal further provides for the submission of the county environment action plan by the County Executive Committee for incorporation into the national environment action plan to the “Authority” as opposed to the Cabinet Secretary.

Justification

Having a county environment action plan within one year of the commencement of the Act is unrealistic, further based on experience the longer the planning period the better the report produced.

Further the Cabinet Secretary is the person responsible for reporting of the national environment action plan therefore it goes that the submission of the county environment action plan should be to the Cabinet Secretary so that it can be incorporated into the national environment action plan.

7. Clause 40

Proposed amendment to clause 12 agreed to.

Justification

Regulation making and issuance of guidelines is a function of the Cabinet Secretary.

MIN.NO. DC/ENR/112/2015 -ANY OTHER BUSINESS

The Committee enquired about the progress on foreign trips to be undertaken by the Committee and the Secretariat was asked to brief the Committee in the next meeting.

MIN.NO. DC/ENR/113/2015 ADJOURNMENT

There being no other business the meeting was adjourned at five minutes after eleven O'clock.

SIGNED.....

(Chairperson)

DATE.....



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – (SECOND SESSION)

THE SENATE

MESSAGES

MESSAGE TO THE NATIONAL ASSEMBLY

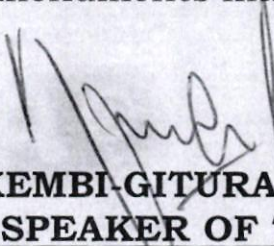
No. 007 of 2015

SUBJECT: APPROVAL OF THE PUBLIC SERVICE (VALUES AND PRINCIPLES) BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2014) AND THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 31 OF 2014) PURSUANT TO ARTICLE 110 (4) OF THE CONSTITUTION

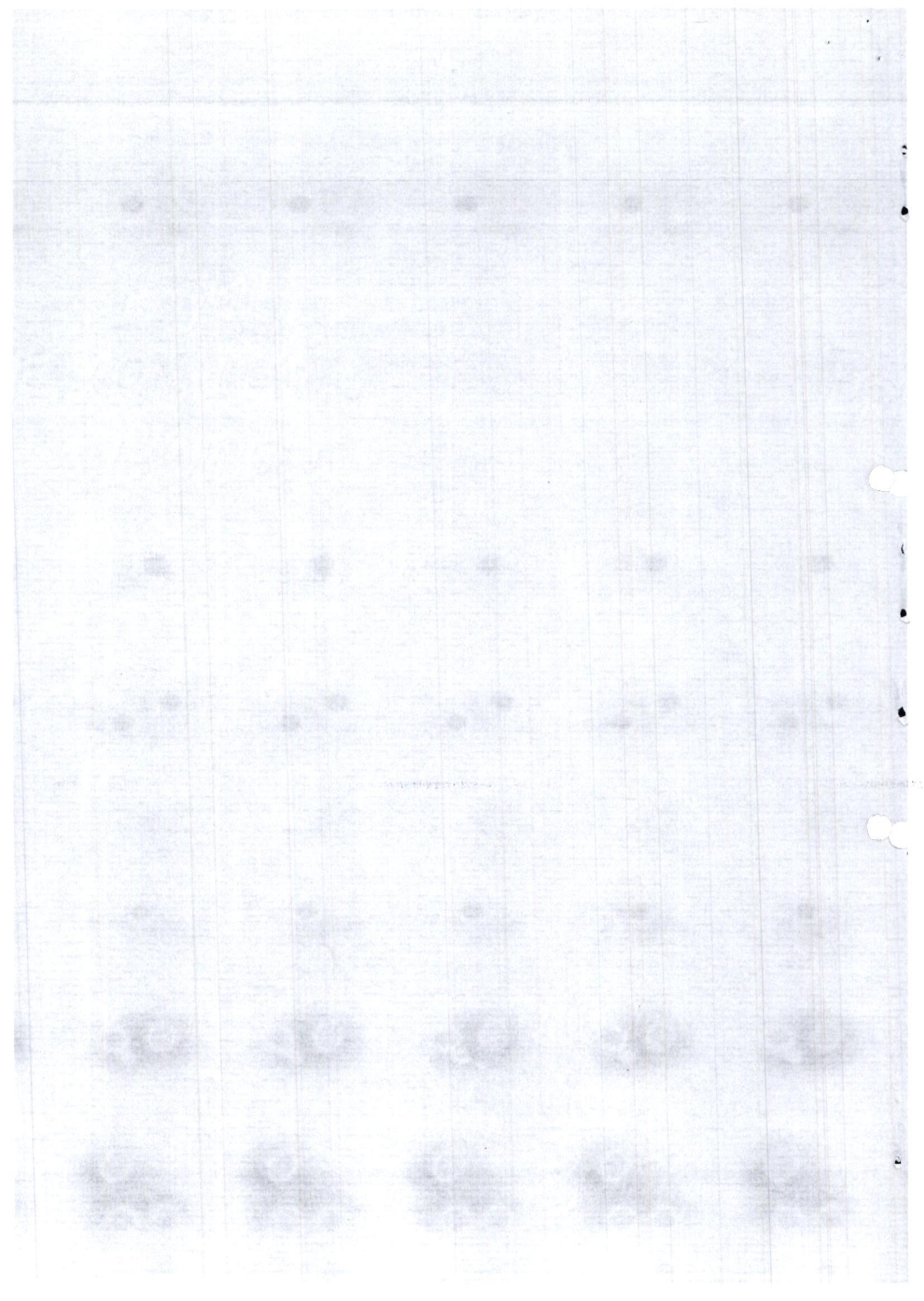
PURSUANT to Article 110 (4) of the Constitution and the provisions of Standing Orders 40 (1) and 149 of the Senate Standing Orders, I hereby convey the following Message from the Senate:-

THAT, the Public Service (Values and Principles) Bill (National Assembly Bill No. 29 of 2014) and the Environmental Management and Co-ordination (Amendment) Bill (National Assembly Bill No. 31 of 2014) as published in the Kenya Gazette Supplement Nos. 112 and 114 of 25th July, 2014, respectively and passed, with amendments, by the National Assembly on 4th December, 2014, were passed by the Senate on Wednesday, 1st April, 2015, **with amendments** and in the form attached hereto;

AND FURTHER THAT the Senate now seeks the concurrence of the National Assembly to the amendments made by the Senate.


SEN. KEMBI GITURA, MGH, MP
DEPUTY SPEAKER OF THE SENATE

13th April, 2015.



REPUBLIC OF KENYA



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Clerk's Chambers
The Senate
Parliament Buildings
P. O. Box 41842 -00100
Nairobi, Kenya

PARLIAMENT
OFFICE OF THE CLERK OF THE SENATE

REF: SEN/L&P/MSG.2015/ (07)

13th April, 2015

Mr. Justin N. Bundi, CBS,
Clerk of the National Assembly,
Parliament Buildings,
NAIROBI.

Dear *Jim*,

RE: APPROVAL OF THE PUBLIC SERVICE (VALUES AND PRINCIPLES) BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2014) AND THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 31 OF 2014) PURSUANT TO ARTICLE 110 (4) OF THE CONSTITUTION

The above matter refers.

Pursuant to Article 110 (4) of the Constitution and the provisions of Standing Orders 40 (2) and 149 of the Senate Standing Orders, I hereby forward to you a certified copy of the Public Service (Values and Principles) Bill (National Assembly Bill No. 29 of 2014) and the Environmental Management and Co-ordination (Amendment) Bill (National Assembly Bill No. 31 of 2014) passed by the Senate, **with amendments**, on Wednesday 1st April, 2015 together with a message requesting the concurrence of the National Assembly.

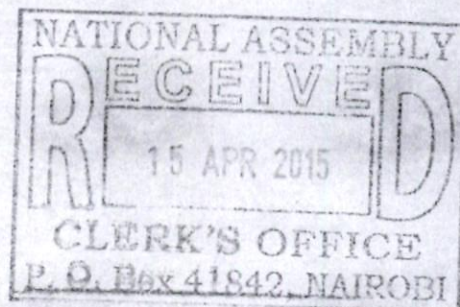
I also attach copies of the Votes and Proceedings, the Hansard and the Order Paper of the sitting of the day.

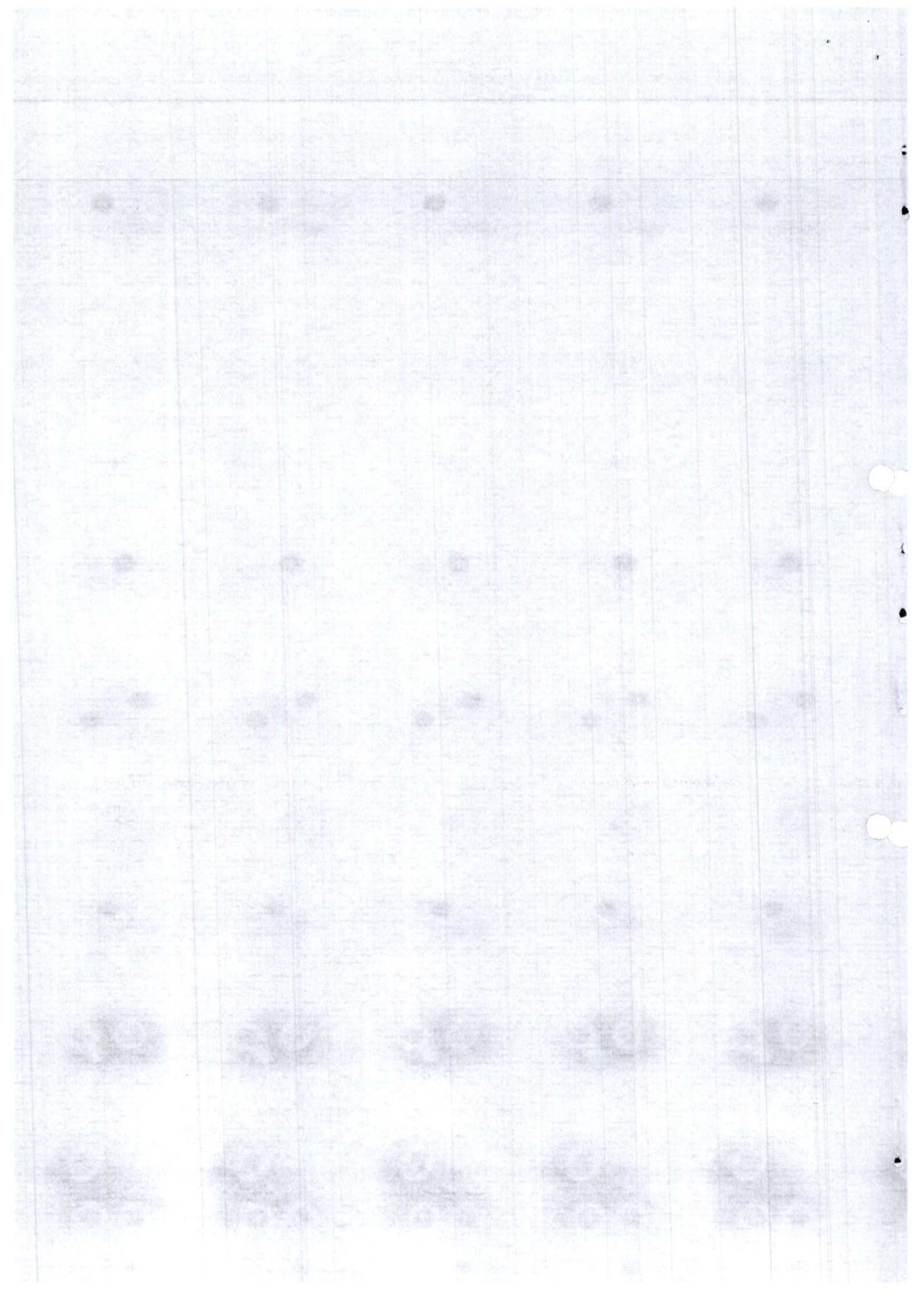
Yours

Faithfully

Mungu
C.W. MUNGA (MRS)
FOR: CLERK OF THE SENATE

Encls.





REPUBLIC OF KENYA



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PARLIAMENT
OFFICE OF THE CLERK OF THE SENATE

SENATE AMENDMENTS TO THE PUBLIC SERVICE (VALUES AND PRINCIPLES)
BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2014)

(Passed by the Senate on Wednesday, 1st April, 2015)

CLAUSE 7

THAT clause 7 of the Bill be amended by deleting sub-clause (6) and substituting therefor the following new sub-clause-

- (6) Every public institution shall -
- (a) develop standards for the responsive, prompt, effective, impartial and equitable provision of services;
 - (b) facilitate the introduction of modern and innovative procedures, technologies and systems for the delivery of its services;
 - (c) simplify its procedures and ease formalities related to access and delivery of its services;
 - (d) ensure the adaptability of public services to the needs of the public;
 - (e) ensure that its services are delivered closer to the users of the services; and
 - (f) develop mechanisms for monitoring and evaluating the effectiveness of public service delivery.

CLAUSE 8

THAT Clause 8 of the Bill be amended in sub-clause (2) by inserting the words "and accountability" at the end of the sub-clause.

CLAUSE 13

THAT clause 13 of the Bill be amended-

- (a) by inserting the following new sub-clauses immediately after sub-clause (3)-

(3A) If after three months a service Commission has not investigated and determined a complaint, the officer responsible for handling the complaint shall give the complainant satisfactory reasons, in writing, for non-compliance

(ii) (3B) Appropriate disciplinary action shall be taken against any officer who is found to have unreasonably delayed in handling a complaint made to the service Commission.

(b) by deleting sub-clause (4) and substituting therefor the following new clause-

(4) A person aggrieved by the decision of a service Commission may seek judicial redress.

CLAUSE 15

THAT clause 15 of the Bill be amended-

- (a) in sub-clause (1) by deleting the word "satisfactory" appearing immediately after the words 'a public officer to be' and substituting therefor the words "exemplary, outstanding or innovative"; and
- (b) in paragraph (b) of sub-clause (2) by deleting the word "satisfactory" appearing immediately after the words 'public officers who offer' and substituting therefor the words 'exemplary, outstanding or innovative'.

.....~~XXXXX~~.....

REPUBLIC OF KENYA



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PARLIAMENT OFFICE OF THE CLERK OF THE SENATE

SENATE AMENDMENTS TO THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 31 OF 2014)

(Passed by the Senate on Wednesday, 1st April, 2015)

CLAUSE 9

THAT clause 9 of the Bill be amended in paragraph (a), in the proposed new paragraph (ba), by inserting the words "and their utilization and conservation", immediately after the words "in Kenya".

CLAUSE 10

THAT clause 10 of the Bill be amended in paragraph (d), by deleting the proposed new subsection(1)(f) and substituting therefor the following new subsection-
(1)(f) one person nominated by the Council of Governors.

CLAUSE 12

THAT clause 12 of the Bill be amended in the marginal note of the proposed new section 14 by deleting the word "Board" appearing immediately after the words "of the" and substituting therefor the word "Director-General and Directors".

CLAUSE 20

THAT clause 20 of the Bill be deleted and substituted therefor with the following clause-

20. The principal Act is amended in subsection (1) of section 31-

- (a) by deleting the words "Public complaints Committee" wherever it appears and substituting therefor the words "National Environmental Complaints Committee";
- (b) by deleting the words "two members" appearing at the beginning of paragraph(f) and substituting therefor the words "one member"; and
- (c) by inserting the following new paragraph immediately after paragraph(f)
 - (g) one person who has demonstrated competence in environmental matters, nominated by the Council of Governors.

CLAUSE 23

THAT clause 23 of the Bill be amended in the proposed newsection 37-

- (a) by deleting the word "three" appearing immediately after the words "shall, within",in subsection (1), and substituting therefor the word "two"; and
- (b) by deleting the word "six" appearing immediately after the words "Plan every",in subsection (5), and substituting therefor the word "three".

CLAUSE 25

THAT clause 25 of the Bill be amended in the proposed new section 40-

- (a) by deleting subsection (1) and substituting therefor the following new subsection-
 - (1) Every County Environment Committee shall within one year of the commencement of this Act and every three years thereafter, prepare a county environment action plan in respect of the county for consideration and adoption by the County Assembly"; and
- (b) by deleting the word "Cabinet Secretary" appearing immediately after the words "subsection (1) to the",in subsection (3), and substituting therefor the word "Authority".

CLAUSE 40

THAT clause 40 of the Bill be amended in the proposed new section 56A, by deleting the words "the Authority" appearing at the beginning of the proposed new section and substituting therefor the words "the Cabinet Secretary".

.....XXXXX.....