

PARLIAMENT OF KENYA



NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – FOURTH SESSION- 2016

DEPARTMENTAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

**REPORT ON THE CONSIDERATION OF THE SENATE AMENDMENTS TO THE
NATURAL RESOURCES (CLASSES OF TRANSACTIONS SUBJECT TO
RATIFICATION) BILL (NATIONAL ASSEMBLY BILL NO. 54 OF 2015)**

**CLERK'S CHAMBERS
PARLIAMENT BUILDINGS,
NAIROBI**

JULY, 2016

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CHAIR'S FOREWORD

On behalf of the Departmental Committee on Environment and Natural Resources and pursuant to provisions of Standing Order 199 (6), it is my pleasant privilege and honor to present to this House the Report of the Committee on its consideration of the Senate amendments to the Natural Resources (Classes of Transaction Subject to Ratification) Bill (National Assembly Bill No. 54 of 2015).

The amendments were passed by the Senate on 13th July, 2016 and communicated to the National Assembly for consideration. The Assembly subsequently committed the amendments to the Committee pursuant to the provisions of Standing Order 41; it is on the basis of this that the Committee makes this Report.

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 and the staff, in the execution of its mandate. Let me take this opportunity to thank all Members for their patience, endurance and dedication to committee business, despite their other commitments and tight schedules, which enabled the Committee to complete this Report.

Hon. Amina Abdalla, CBS, M.P

COMMITTEE MANDATE

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

1. Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
2. Study the program and policy objectives of the Ministries and departments and the effectiveness of the implementation;
3. Study and review all legislation referred to it;
4. Study, access and analyze the relative success of the Ministries and Departments as measured by the results obtained as compared with its stated objectives;
5. 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;
6. 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
7. 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 Orders No. 216 (f) as follows:

~~climate change, environment management and conservation, forestry, water resource~~
management, wildlife, mining and natural resources, pollution and waste management.

MEMBERS OF THE COMMITTEE

Chairperson	Hon. Amina Abdalla, M.P, CBS
Vice Chairperson	Hon. Alexander. K. Kosgey, M.P.
Members	Hon. Alice Ng'ang'a, M.P.
	Hon. Samuel Ndiritu, M.P.
	Hon. Zuleikha Hassan Juma, M.P.
	Hon. Ejidius Njogu Barua, M.P.
	Hon. Jude Njomo, M.P.
	Hon. Moitalel Ole Kenta, M.P.
	Hon. Kathuri Murungi, M.P.
	Hon. Sunjeev Birdi, M.P.
	Hon. Jackson K. Rop, M.P.
	Hon. Abdi Noor Ali, M.P.
	Hon. Joyce Emanikor, M.P.
	Hon. Abdulaziz Farah, M.P.
	Hon. Ronald Tonui, M.P.
	Hon. (Dr.) Reginalda Wanyonyi, M.P.
	Hon. Gideon Mwiti, M.P.
	Hon. Hassan Dukicha, M.P.
	Hon. Chachu Ganya, M.P.
	Hon. Richard Makenga, M.P
	Hon. Charles Geni. Mongare, M.P.
	Hon. (Dr.) Wilber K. Ottichilo, M.P.
	Hon. Isaac Mwaura, M.P.
	Hon. George Ogalo, M.P.
	Hon. (Major) Muluvi Mutua, M.P.
	Hon. Mohamed, Diriye M.P.
	Hon. Peter Kinyua, MP.
	Hon. Shukra Hussein Gure, M.P
	Hon. Joyce Lay, M.P

SECRETARIAT

Ms. Tracy Chebet Koskei

Second Clerk Assistant

Mr. Hassan Arale

Third Clerk Assistant

Ms. Christine Odhiambo

Legal Counsel II

Mr. James Muguna

Research Officer III

SITTINGS

The Committee considered the Senate amendments in its Sitting held on Monday, 25th July, 2016. The Committee's decisions to accept and or reject the amendments were based on the Constitutional requirements and borrowed best practices in other jurisdictions with similar experiences.

COMMITTEE RECOMMENDATIONS

The Committee having considered the Senate amendments to the Natural Resources (Classes of Transaction Subject to Ratification) Bill (National Assembly Bill No. 54 of 2015) and recommends that the National Assembly:

1. **Rejects** the New Clause 9A proposed by the Senate
2. **Approves** the Senate amendments to The Schedule to delete-
 - a) the tenth row that provides for “Genetic material”; and
 - b) the eleventh row that provides for “Genetic resources”.

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 (Appendix II).

1.0 Introduction

The Natural Resources (Classes of Transactions subject to Ratification) Bill (National Assembly Bill No. 54 of 2015) was passed by the National Assembly on 9th March, 2016 and subsequently forwarded to the Senate for consideration pursuant to provisions of Article 110(4) of the Constitution and Standing Order 142. The Bill was reverted to the National Assembly by the Senate for concurrence on Wednesday, 20th July, 2016 through a message from the Speaker. The Speaker of the National Assembly directed the Committee to table its Report on the amendments for consideration by the House.

2.0 Consideration of the proposed Senate Amendments to the Natural Resources (Classes of Transaction Subject to Ratification) Bill (National Assembly Bill No. 54 of 2015)

The Committee considered the Senate amendments in its Sitting held on Monday, 25th July, 2016. The Committee's decision to accept and or reject the amendments was based on the Constitutional requirements and borrowed best practices in other jurisdictions with similar experiences.

New Clause 9A

THAT the Bill be amended by inserting the following new clause immediately after clause 9 —

Provides for Procedure for approval of an agreement by Parliament

9A. (1) The process of approval of an agreement shall commence in the National Assembly.

(2) The National Assembly shall consider an agreement within sixty days of its submission to the National Assembly and shall forward its resolution to the Senate for consideration.

(3) If both Houses —

- (a) approve the ratification of an agreement; or
- (b) do not approve the ratification of an agreement;

the Speaker of the National Assembly shall, within seven days of the decision, notify the relevant Cabinet Secretary.

(4) Where either the National Assembly or the Senate

votes to reject an agreement, the agreement shall be deemed to have been rejected by Parliament and the Speaker of the National Assembly shall, within seven days of the rejection, notify the relevant Cabinet Secretary.

5) If within sixty days of submission of an agreement to the National Assembly, the National Assembly has not forwarded its resolution on the agreement to the Senate under subsection (2), the National Assembly shall be deemed to have approved the agreement and the Senate shall commence its consideration of the agreement.

(6) Where the Senate considers an agreement under subsection (5), the Speaker of the Senate shall, within seven days of the decision, notify the relevant Cabinet Secretary.

The Committee rejected the proposed amendment.

Justification: the proposed amendment is in conflict with the provisions of clauses 8 and 10 of the Bill. Clause 8 allows both Houses of Parliament sixty days within which to conclude consideration of an agreement while the proposed new clause 9A allows the National Assembly to consider the agreement and forward its resolution to the Senate. The new clause 9A does not specify a particular period within which the Senate should conclude its consideration. This therefore creates conflicting timelines for consideration of the agreements by Parliament.

Further, clause 10 provides for mediation if one house fails to ratify a resolution, however in sub-clause (4) of the proposed new clause (9A) provides that where either House resolves not to ratify an agreement, the agreement shall be deemed to have been rejected by Parliament. This creates a conflict as to the process to be applied when the two Houses fail to agree on whether to ratify the agreement. Further, clause 8 of the Bill provides that the Parliament shall deal with such agreements in accordance with the laid down procedures, which are contained in the Constitution and Standing Orders.

The Schedule

That the Bill be amended in the Schedule by-

- a) Deleting the tenth row that provides for “Genetic material”; and
- b) Deleting the eleventh row that provides for “Genetic resources”.

The Committee agreed with the proposed amendment.

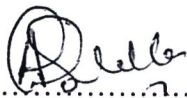
Justification: the amendment will give universities and research institutions more freedom to carry out research on genetics.

3.0 COMMITTEE RECOMMENDATIONS

Having considered the Senate amendments to the Natural Resources (Classes of Transaction Subject to Ratification) Bill (National Assembly Bill No. 54 of 2015), the Committee recommends that the National Assembly:

1. **Rejects** the New Clause 9A proposed by the Senate

2. **Approves** the Senate amendments to The Schedule to delete-
 - c) the tenth row that provides for “Genetic material”; and
 - d) the eleventh row that provides for “Genetic resources”.

SIGNED 

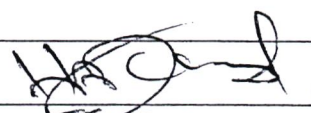

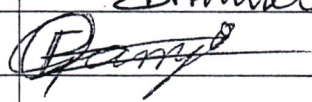
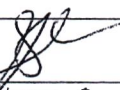
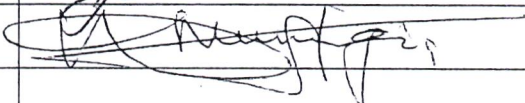
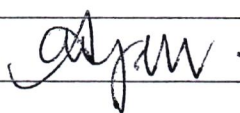
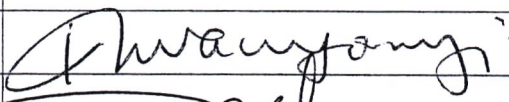
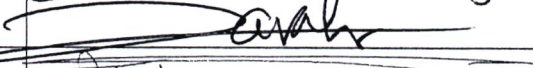
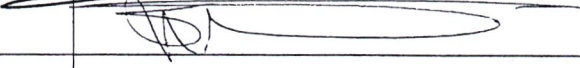
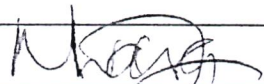
CHAIRPERSON

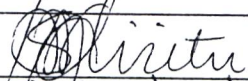
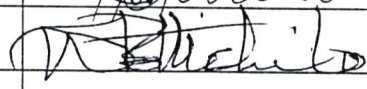


(HON. ABDALLA AMINA, CBS, M.P)

DATE..... 26 / JULY / 2016

**COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES
NATIONAL ASSEMBLY**

**ADOPTION LIST OF THE REPORT ON THE CONSIDERATION OF
SENATE AMENDMENTS TO THE NATURAL RESOURCES (CLASSES OF
TRANSACTIONS SUBJECT TO RATIFICATION) BILL (NATIONAL
ASSEMBLY BILL NO. 54 OF 2015) ON 26TH JULY, 2016 IN CPA ROOM**

	NAME	SIGNATURE
1	Hon. Abdalla, Amina, MP, CBS-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. Isaac Mwaura, 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. Richard Makenga, MP	
27	Hon. Zuleikha Hassan Juma, MP	
28	Hon. Jude Njomo, MP	
29	Hon. Joyce Lay, M.P	