

Approved for tabling

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22/6/16*



REPUBLIC OF KENYA



*Paper Laid by
Hon. Kareke Mtshuki
on Wednesday
22nd June 2016
Afternoon*



NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – FOURTH SESSION – 2016

DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES

REPORT ON THE RATIFICATION OF THE EAST AFRICA COMMUNITY (EAC) PROTOCOL ON SANITARY AND PHYTOSANITARY (SPS) MEASURES.

DIRECTORATE OF COMMITTEE SERVICES,
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

JUNE , 2016

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1.0 CHAIR'S FOREWORD

The East Africa Community Protocol on Sanitary and Phytosanitary (SPS) measures was committed to the Departmental Committee on Agriculture, Livestock and Co-operatives on March 1st 2016, in accordance with to section 8 of the Treaty Making and Ratification Act, 2012, for consideration and report to the House. Once ratified, the Protocol shall become part of our Kenyan laws as provided for in Article 2(6) of the Constitution which provides that “any treaty or convention ratified by Kenya shall form part of the Law of Kenya under this Constitution”.

The Committee held meetings with the Ministry of Agriculture, Livestock and Fisheries and officials from Kenya Plant Health Inspectorate Services (KEPHIS) as key stakeholders which are the implementing agency of the Protocol.

The East African Community treaty article 108 provides for cooperation in the control of plants and animal diseases and article 38 of the Protocol on the Establishment of the East African Customs Union requires Partner States to take cognizance of cooperation in sanitary and phytosanitary measures in order to facilitate trade within the community and other trading partners. It was noted that harmonization of sanitary and phytosanitary measures will improve the human, animal and plant life or health situation in all the Partner States. This will inevitably ensure the national development of the agricultural sector and increase quality production to ensure food security and safety and free trade in agricultural products within the community and other trading partners.

The EAC SPS Protocol was assented by the five (5) Heads of State of EAC Partner States (“The Summit”) in 2012 and was expected to be ratified by 30th June 2014. However, this was not achieved and a new deadline has been set for 30th June 2016.

The Committee wishes to thank the Speaker and the Clerk of the National Assembly for the logistical and technical support they accorded the committee during the process.

On behalf of the Committee, it is my pleasant duty to table in the House the Report of the Departmental Committee on Agriculture, Livestock and Co-operatives on its consideration of the report on the ratification of the East Africa Community Protocol on the Sanitary and Phytosanitary (SPS) measures for consideration and ratification by the House Pursuant to Section 8(4) of the Treaty Making and Ratification Act, 2012 and Standing Order 199.

Hon. Adan Mohamed Noor, MBS, CBS, M.P

2.0 EXECUTIVE SUMMARY

Sanitary and Phytosanitary (SPS) matters are governed by the Agreement on the Application of Sanitary and Phytosanitary Measures of the World Trade Organization (WTO). Under the WTO-SPS agreement three international standard setting bodies namely CODEX-*Codex Alimentarius Commission* (food safety), OIE- *Office International des Epizooties* (animal health), IPPC- International Plant Protection Convention are responsible setting the basic rules for food safety and animal and plant health standards.

The key principles in the WTO-SPS Agreements are harmonization, equivalence, and appropriate level of protection, risk assessment, regional conditions and transparency.

The WTO SPS Agreement has set out basic rights and obligations for members. These include the right for members to i) protect themselves from the risks posed by the entry of pests and diseases, while minimizing any negative effects of SPS measures on trade, and ii) to protect human, animal or plant life or health by applying measures to manage the risks associated with imports.

Thus the WTO SPS Agreement while recognizing international standard setting bodies in determining the basic rules for food safety and animal and plant health standards, allows countries to set their own rules. However these rules and regulations must be science based and only applied to the extent necessary to protect human, animal or plant life or health.

With achievement of East African Customs union, it was necessary to have an instrument/framework to domesticate the WTO SPS Agreement and also operationalize the various articles of the EAC treaty.

The EAC SPS Protocol was assented by the five (5) heads of state of EAC partner states during the summit in 2012. It was expected to be ratified by 30th June 2014, however, this was not achieved and a new deadline has been set for 30th June 2016.

Ratification of the EAC SPS Protocol is expected to trigger other actions including drafting of the EAC SPS Bill (to facilitate operationalization of the protocol) for consideration by the EALA and drafting of regulations based on the EAC SPS Bill covering Plant Health, Animal Health and Food Safety. These regulations will be a tool the competent authorities in the EAC Partner States will apply to achieve harmonization.

3.0 MANDATE OF THE COMMITTEE

The Committee is established in accordance with the provisions of Standing Order (S.O) 216, with the following terms of reference: -

- i. To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- ii. To study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
- iii. To study and review all legislation referred to it;
- iv. To study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
- v. To 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 or a Minister;
- vi. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments); and
- vii. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

The Committee is mandated to consider the following subjects: -

- i. Agricultural services
- ii. Livestock services
- iii. Fisheries
- iv. Cooperatives

2.1 OVERSIGHT

In executing its mandate, the Committee oversees the following Government Departments and agencies, namely:-

- i. The State department of Agriculture
- ii. The State Department of livestock
- iii. The State Department for fisheries
- iv. The State Department of Cooperatives

4.0 MEMBERS OF THE COMMITTEE

Chairperson	The Hon. Adan M. Nooru, MBS, CBS, MP
Vice Chairperson	The Hon. Kareke Mbiuki, M.P
Members	The Hon. Daniel Maanzo, MBS, The Hon. Silas Tiren, M.P The Hon. Maison Leshoomo, M.P The Hon. Mary Wambui, M.P The Hon. (Dr.) Victor Munyaka, M.P The Hon. Korei Ole Lemein, M.P The Hon. John B. Serut, M.P The Hon. Peter N. Gitau, M.P The Hon. Florence Mutua, M.P The Hon. John Kobado, M.P The Hon. Benjamin Washiali, M.P The Hon. Patrick Wangamati, M.P The Hon. Andrew AnyangaToboso, M.P The Hon. Raphael Letimalo, M.P The Hon. Ayub Savula Angatia, M.P. The Hon. Waititu Munyua, M.P The Hon. Kimani Ichung'wah, M.P The Hon. Ferdinand Wanyonyi, M.P The Hon. Kabando Wa Kabando, M.P The Hon. Justice Kemei, M.P The Hon. Benjamin Andayi, M.P The Hon. Millie Odhiambo - Mabona, M.P The Hon. Jude Njomo, M.P The Hon. Fredrick Outa, M.P The Hon. Aisha Jumwa, M.P The Hon. Alfred Kiptoo Keter, M.P The Hon. Paul Simba Arati, M.

5.0 COMMITTEE SECRETARIAT

First Clerk Assistant	Mr. Benjamin Magut
Third Clerk Assistant	Mr. Ahmad Guliye
Third Clerk Assistant	Ms. Naserian Lotuai
Research & Policy Analyst	Mr. David Ngeno
Legal Counsel	Ms. Brigita Mati
Fiscal Analyst	Ms. Lucy Makara

6.0 LIST OF RECOMMENDATIONS

The Committee recommends that the House:

Approves the ratification of the East Africa Community Protocol on Sanitary and Phytosanitary (SPS) measures.

7.0 Introduction

The East African Community treaty article 108 provides for cooperation in the control of plants and animal diseases and article 38 of the Protocol on the Establishment of the East African Customs Union requires Partner States to take cognizance of cooperation in sanitary and phytosanitary measures in order to facilitate trade within the community and other trading partners.

It was noted that harmonization of sanitary and phytosanitary measures will improve the human, animal and plant life or health situation in all the Partner States. This will inevitably ensure the national development of the agricultural sector and increase quality production to ensure food security and safety and free trade in agricultural products within the community and other trading partners.

Thus the process of harmonization of SPS measures was initiated in 2000 and the EAC SPS Protocol developed between 2009 and 2011 through several sessions of technical and legal consultations at both the EAC Partner States and Community level.

The objectives of the Protocol include:

1. Promotion of trade in agricultural commodities within the community and between the community and other trading partners.
2. Harmonization, equivalence, regionalization, transparency and risk assessment for SPS measures.
3. Cooperation and coordination of SPS measures and activities at national and community level based on common understanding and application.
4. Enhancement of SPS status through science based approach in the community.
5. Sharing of information and expertise related to SPS measures.

7.1 Outline of the SPS Protocol

The EAC Protocol contains seventeen (17) Articles that cover the following;

Article 1

This deals with interpretation of words and phrases as used in the statutes. This is important as the subject matter of this Protocol is scientific. This article is important in the sense that it puts the subject matter into contexts. There are also phrases and words which are aligned to the East African community. Some of the words and phrases defined in this protocol include;

Contamination, *Any Chemical, or biological agent, foreign agent or substance intentionally added to food which compromises it*

Infected Zone, *Is defined as an area which after it is subjected to international substance, the absence of a disease has not been demonstrated*

Food Safety means assurance that food will not cause harm to the consumer when prepared and taken according to the intended use.

Living Modified Organism, *living organisms that possess a novel combination of genetic materials.*

Modern Biotechnology, *This deals with several means of developing plants and animal organisms through technology*

Article 2

This part deals with the objectives of the protocol. The first objective is promotion of trade within the community, community and her partners. Implementation of harmonization, regionalization, transparency

Article 3

This is concerned with the Scope of the Statute. The Scope is to look at in two folds; In terms of the subject matter and in terms of the Economic block covered. This protocol is exclusively for member's states which are, The Republic of Burundi, The Republic of Kenya, The United Republic of Tanzania and the Republic of Tanzania. This may be contrasted with the WTO SPS protocol that has an application worldwide.

The other element of scope relates to the subject matter. It directly deals with animal health, plant health, and food safety, strengthening cooperation and coordination in matter of sanitary and phytosanitary measures. Harmonize documents of procedure and all that relates to sanitary and phytosanitary measures. This article seeks to bring to one fold all that connects East Africa with regards to the subject matter

Article 4

This deals with plant health. It proposes harmony in matters of inspection, certification of plants and plant products. This article also encourages member states to standardize research development and use of plant and plant products. The aspects of Biotechnology, and biological control agents.

The import of this provision is that there should be an agreed standard of testing for all the member States. In addition, there should be an agreement as to what extent they allow for Bio technology to be used with regards to plant and plant products

Article 5

This deals with animal health. It proposes that member States harmonize animal welfare measures, have a transparent system that will deal with reporting of animal diseases, infection zones, management of animal quarantine and a common registration and certification of animals and animal products to promote trade.

Article 6

This is on food safety. It also calls upon member to harmonize the procedures of food inspection, safety of food movement, the import requirement of food,

Article 7

This article calls for competent authorities to be created by the member. This may be so because matters of plant health are very sensitive in nature.

Article 8

This deals with the Boarder post control. The Article ensures that food and agricultural products are moved easily from one Member State to another. This also includes, joint inspections. The protocol proposes building capacity.

Article 9

Provides for sharing of information and experts. The protocol proposes that the member States should share information and experts

Article 10

This deal with the partner states to undertake a jointly technical assistance to build capacity. This enhances compliance with the sanitary and phytosanitary measures.

Article 11

This article calls for the partner states to harmonize their policies, laws and programmes to facilitate effective achievements of the objectives of this protocol. The council should issue directives for the purpose of implementing the article which brings effectiveness.

Article 12

The article calls for the Council to establish and confer powers and authority upon such institutions as the council may deem necessary to implement the provisions of this protocol.

Article 13

This deals with the Council which from time to time is required to issue directives, make regulations and make decisions that may be necessary in effective implementation of the protocol.

Article 14

This article clearly stipulates that any dispute arising between two or more partner states from the interpretation or application of the protocol shall be settled in accordance with the provisions of the treaty.

Article 15-17

These are the operational articles of the statutes. They provide for amendment of the protocol, entry into force and depository and ratification.

7.2 Submission by Dr. Esther Kimani, Acting Chief Executive Officer, Kenya Health Plant Inspectorate Services (KEPHIS)

The Ministry of Agriculture, Livestock and Fisheries and the Kenya Health Plant Inspectorate Services (KEPHIS), submitted the following;

1. Sanitary and Phytosanitary (SPS) matters are governed by the Agreement on the Application of Sanitary and Phytosanitary Measures of the World Trade Organization (WTO). Under the WTO-SPS agreement three international standard setting bodies namely CODEX, OIE, IPPC are responsible setting the basic rules for food safety and animal and plant health standards.
2. The key principles in the WTO SPS Agreements are harmonization, equivalence, and appropriate level of protection, risk assessment, regional conditions and transparency.
3. The WTO-SPS Agreement has set out basic rights and obligations for members. These include the right for members to i) protect themselves from the risks posed by the entry of pests and diseases, while minimizing any negative effects of SPS measures on trade, and ii) to protect human, animal or plant life or health by applying measures to manage the risks associated with imports.
4. The WTO SPS Agreement while recognizing international standard setting bodies in determining the basic rules for food safety and animal and plant health standards, allows countries to set their own rules. However these rules and regulations must be science based and only applied to the extent necessary to protect human, animal or plant life or health.
5. The harmonization of sanitary and phytosanitary measures will improve the human, animal and plant life or health situation in all the Partner States.
6. The status of ratification of the protocol among the EAC Partner States is as follows:
Ratified; Uganda and Rwanda have ratified and deposited the ratified protocol with the EAC Secretariat as per existing ratification procedures (Articles 16 & 17 of the Treaty);

Advanced Stage of Ratification; Burundi and Tanzania are reported to have finalized the consultations and therefore expected to deposit the protocol instruments soon with the Secretariat; and

Kenya is in the process of ratification.

7. There is a revised deadline to have the Protocol ratified by the all the member States by June, 30th 2016.

8.0 FINDINGS

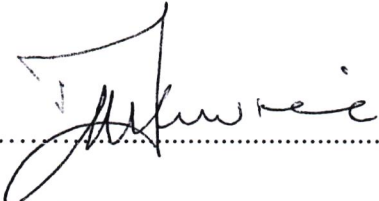
The Committee observed the following from the evidence adduced in the meeting:

- The East African Community Protocol on SPS measures is adopted pursuant to Chapter 18 of the East African treaty. This is done with a view to domesticate the Protocol on SPS done under the WTO treaty.
- The Protocol envisages the community member States to foster unity and cooperation.
- The Protocol provides for cooperation in controlling animal and plant diseases.
- The Protocol seeks to harmonize and foster cooperation and promote trade in matters of plant health, animal health and food safety, information and technical assistance, policy law regulations and dispute resolutions among the member States.
- Other member States have already ratified or are at advanced stages of ratification.

9.0 RECOMMENDATIONS

The Committee recommends that the House:

Approves the ratification of the East Africa Community Protocol on Sanitary and Phytosanitary (SPS) measures as it is in Kenya's national interest.

Signed..........Date.....21/06/2016.....

Hon. Adan Mohamed Nooru, MBS, CBC, M.P

Chairperson

Departmental Committee on Agriculture, livestock and Cooperatives

ADOPTION OF THE REPORT

Adoption of the Report on the Ratification of the East Africa Community (EAC) Protocol on Sanitary and Phytosanitary (SPS) Measures.

1. The Hon. Adan Mohamed Nooru, CBS, M.P. -**Chairman**.....
2. The Hon. Japhet M. Kareke Mbiuki, M.P. **Vice-Chairman**.....
3. The Hon. Kabando Wa Kabando, M.P.
4. The Hon. Raphael Letimalo, M.P.
5. The Hon. Mary Wambui Munene, M.P.
6. The Hon. Francis Munyua Waititu, M.P.
7. The Hon. Peter Njuguna Gitau, M.P.
8. The Hon. Maison Leshoomo, M.P.
9. The Hon. Anthony Kimani Ichung'wah, M.P.
10. The Hon. Alfred Kiptoo Keter, M.P.
11. The Hon. Ayub Savula Angatia, M.P.
12. The Hon. Justice Kemei, M.P.
13. The Hon. Benjamin Andayi, M.P.
14. The Hon. Korei Ole Lemein, M.P.
15. The Hon. Silas Tiren, M.P.
16. The Hon. Benjamin Jomo Washiali, M.P.
17. The Hon. (Dr.) Victor Kioko Munyaka, M.P.
18. The Hon. John Bomett Serut, M.P.
19. The Hon. Millie Odhiambo, M.P.
20. The Hon. Fredrick Outa, M.P.
21. The Hon. Maanzo, Daniel Kitonga, M.P.
22. The Hon. Jude Njomo, M.P.
23. The Hon. Patrick Wangamiti, M.P.
24. The Hon. Ferdinand Kevin Wanyonyi, M.P.
25. The Hon. Paul Simba Arati, M.P.
26. The Hon. Florence Mwikali Mutua, M.P.
27. The Hon. John Kobado, M.P.




28. The Hon. Hezron Bollo Awitti, M.P.
29. The Hon. Aisha Jumwa , M.P.



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**EAST AFRICAN COMMUNITY PROTOCOL
ON SANITARY AND PHYTOSANITARY (SPS)
MEASURES**

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ARRANGEMENT OF ARTICLES

PREAMBLE

Article 1 Interpretation

Article 2 Objectives

Article 3 Scope of Cooperation

Article 4 Plant Health

Article 5 Animal Health

Article 6 Food Safety

Article 7 Competent Authorities

Article 8 Border Posts Control

Article 9 Sharing of Information and Expertise

Article 10 Technical Assistance

Article 11 Harmonisation of Policies, Law and Regulations

Article 12 Institutional Arrangement

Article 13 Regulations, Directives and Decisions

Article 14 Dispute Settlement

Article 15 Amendment of the Protocol

Article 15 Entry into Force

Article 16 Depository and Ratification



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PURSUANT TO THE PROVISIONS OF CHAPTER XVIII OF THE TREATY FOR THE ESTABLISHMENT OF THE EAST AFRICAN COMMUNITY, THE PROVISIONS OF THE PROTOCOL ON SANITARY AND PHYTOSANITARY MEASURES ARE HEREBY SET FORTH:

PREAMBLE

WHEREAS the Republic of Burundi, the Republic of Kenya, the Republic of Rwanda, The United Republic of Tanzania and the Republic of Uganda are parties to the Treaty for the Establishment of the East African Community (hereinafter referred to as "the Partner States");

RECOGNIZING that under the provisions of Article 151 of the Treaty, the Partner States undertook to conclude such Protocols as may be necessary in each area of co-operation, which shall spell out the objectives and scope of, and institutional mechanisms for, co-operation and integration;

RECALLING that Articles 105 to 110 of Chapter 18 of the Treaty provide for Partner States to cooperate in agriculture and food security;

CONSCIOUS that Article 108 of the Treaty provides for cooperation in the control of plant and animal diseases and Article 38 of the Protocol on the Establishment of the East African Community Customs Union requires the Partner States to take cognisance of cooperation in sanitary and phytosanitary measures in order to facilitate trade within the community and other trading partners;

NOTING that the harmonisation of sanitary and phytosanitary measures will improve the human, animal and plant life or health situation in all the Partner States and will ensure the rational development of the agricultural sector, and increase quality production to ensure food security and safety and free trade in agricultural products within the Community and other trading partners;

ACKNOWLEDGING the important contribution of international standards, guidelines and recommendations as well as harmonisation of sanitary and phytosanitary measures in the Community;



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HEREBY AGREE AS FOLLOWS:

Article 1

Interpretation

In this Protocol, except where the context otherwise requires,

“animal” includes mammals, birds, bees, aquatic animals and wild fauna;

“area of low pest prevalence” means an area, as identified by the competent authority, in which a specific pest occurs at low levels and which is subject to effective surveillance, control or eradication measures;

“biological control agent” means a natural enemy, antagonist or competitor, or other organism, used for pest control;

“border post” means any official point of entry or exit, and includes an airport, or any port, railway station or road check-point open to regional and international trade of commodities, where import food and agricultural commodities inspections can be performed;

“Community” means the East African Community established by Article 2 of the Treaty;

“competent authority” means a government institution with the mandate to regulate and enforce sanitary and phytosanitary measures;

“contaminant” means any biological or chemical agent, foreign matter or other substance not intentionally added to food, which may compromise food safety;

“Council” means the Council of Ministers established by Article 9 of the Treaty;

“infected zone” means a zone in which the absence of the disease under consideration has not been demonstrated by the requirements specified in international standards;

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“international standards, guidelines and recommendations” means-

- (a) for food safety, the standards, guidelines and recommendations established by the Codex Alimentarius Commission relating to biological, chemical or physical hazards including food additives, veterinary drug and pesticide residues, heavy metals, methods of analysis and sampling, and codes and guidelines of hygienic practice;
- (b) for animal health and zoonoses, the standards, guidelines and recommendations developed under the auspices of the World Organisation for Animal Health;
- (c) for plant health, the international standards, guidelines and recommendations developed under the auspices of the Secretariat of the International Plant Protection Convention in cooperation with regional organizations operating within the framework of the International Plant Protection Convention; and
- (d) for other matters not covered under paragraphs (a) to (c), appropriate standards, guidelines and recommendations promulgated by other relevant international organizations open for membership to all the Partner States, as may be identified by the Committee;

“establishment” means the premises where animals are kept;

“food” means any substance whether processed, semi processed or raw, which is intended for human consumption and includes drinks, chewing gum and any substance which has been used in manufacture, preparation or treatment of food but does not include cosmetics or tobacco or substances used only as drugs;

“food safety” means assurance that food will not cause harm to the consumer when prepared and eaten according to its intended use;

“living modified organisms” means any living organism that possesses a novel combination of genetic material obtained through the use of modern biotechnology;

“modern biotechnology” means the application of-

- (a) in vitro nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA) and direct injection of nucleic acid into cells or organelles; or



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(b) fusion of cells beyond the taxonomic family, that overcome natural physiological reproductive or recombination barriers and that are not techniques used in traditional breeding and selection;

“pest” means any specie, strain or biotype of plants, animals or pathogenic agents injurious to plants, or plant products, animal or animal products;

“pest free area means” an area in which a specific pest does not occur as demonstrated by scientific evidence and in which, where appropriate, this condition is being officially maintained;

“plant” means living plants and parts thereof including seeds and germplasm;

“plant product” means un-manufactured material of plant origin including grain, and those manufactured products that by their nature or that of their processing, may create a risk for the introduction and spread of pests;

“plant quarantine facility” means an official station for holding plants or plant products in quarantine;

“risk assessment” means the evaluation of the likelihood of entry, establishment or spread of a pest or disease within the territory of an importing Partner State according to the sanitary or phytosanitary measures which might be applied, and of the associated potential biological and economic consequences; or the evaluation of the potential for adverse effects on human or animal health arising from the presence of additives, contaminants, toxins or disease-causing organisms in food, beverages or feedstuffs;

“sanitary and phytosanitary measure” means any measure applied-

- (a) to protect animal or plant life or health within the territory of a Partner State from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms;
- (b) to protect human or animal life or health within the territory of a Partner State from risks arising from biological, chemical and physical substances including additives, contaminants, toxins or disease-causing organisms;

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(c) to protect human life or health within the territory of a Partner State from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests; or

(d) to prevent or limit other damage within the territory of a Partner State from the entry, establishment or spread of pests;

“Secretariat” means the Secretariat of the East African Community established by Article 9 of the Treaty;

“Secretary General” means the Secretary General of the Community provided for under Article 67 of the Treaty;

“surveillance” means an official process which collects and records data on pest occurrence or absence by survey, monitoring or other procedures;

“quarantine station” means a facility under the control of a veterinary authority, where an animal or group of animals is maintained in isolation, with no direct or indirect contact with other animals, in order to undergo observation for a specified length of time and, if appropriate, testing and treatment

“technical assistance” means provision of technologies, research and infrastructure, advice, credits, donations and grants, training and equipment;

“traceability of animals” means the ability to follow an animal or a group of animals during all stages of its life; and

“Treaty” means the Treaty for the establishment of the East African Community.

Article 2

Objectives

The objectives of this Protocol are to-

- (a) promote trade in food and agricultural commodities within the Community and between the Community and other trading partners;

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- (b) promote within the Community, the implementation of the principles of harmonisation, equivalence, regionalisation, transparency and risk assessment in the Agreement on the Application of Sanitary and Phytosanitary Measures;
- (c) strengthen cooperation and coordination of sanitary and phytosanitary measures and activities at national and regional level, based on common understanding and application within the Community; and
- (d) enhance the sanitary and phytosanitary status through science based approach in the Community.

Article 3

Scope of Cooperation

1. This Protocol shall apply in the Partner States cooperation in the adoption of sanitary and phytosanitary measures.
2. For the purposes of paragraph 1, the Partner States shall cooperate in the harmonisation of plant health, animal health and food safety measures.

Article 4

Plant Health

1. The Partner States undertake to cooperate in matters of plant health.
2. For purposes of paragraph 1, the Partner States shall -
 - (a) harmonise the inspection and certification procedures of plant and plant products;
 - (b) regulate the importation, research, development and use of living modified organisms and products of modern biotechnology and biological control agents;
 - (c) provide a framework for the management of pests;

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- (d) ensure the safe movement of plants and plant products;
- (e) build systems for surveillance, pest listing, pest risk analysis, pest reporting, and designation of pest free areas and areas of low pest prevalence;
- (f) provide appropriate facilities and strengthening capacity for undertaking phytosanitary measures;
- (g) harmonise import and export documents and procedures;
- (h) harmonise and enforce plant quarantine measures;
- (i) develop a framework for the design and management of plant quarantine facilities; and
- (j) harmonise the registration, identification and traceability of plants and plant products and agro-inputs.

Article 5

Animal Health

1. The Partner States undertake to cooperate in matters of animal health.
2. For purposes of paragraph 1, the Partner States shall -
 - (a) provide notification of the existence of animal diseases through prompt and transparent sharing of information on trade-sensitive diseases as well as identification of infected zones;
 - (b) harmonise the inspection, certification and approval of establishments, hatcheries, breeding centres, abattoirs, dairies, animal products, and feedstuff;
 - (c) develop a framework for the design and management of animal quarantine stations;
 - (d) standardize sanitary documents including import permits and veterinary certificates;
 - (e) harmonise systems for registration, identification and traceability of animals and animal products;
 - (f) harmonise control of veterinary drugs; and

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(g) harmonise animal welfare measures.

Article 6


Food Safety

1. The Partner States undertake to cooperate in matters of food safety.
2. For purposes of paragraph 1, the Partner States shall -
 - (a) harmonise food inspection, certification and approval procedures;
 - (b) harmonise safety requirements for food derived from genetically modified organisms;
 - (c) provide guidelines for the safe movement of food;
 - (d) harmonise surveillance systems for food-borne hazards in the Community;
 - (e) harmonise the import requirements for food ;
 - (f) notify food-borne hazards through prompt and transparent sharing of information;
 - (g) harmonise and strengthen food traceability systems; and
 - (h) determine the tolerance levels for additives, contaminants, toxins and disease causing organisms in food.

Article 7

Competent Authorities

The Partner States shall designate competent authorities for the purpose of this Protocol.

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Article 8

Border Posts Control

The Partner States undertake to facilitate the smooth movement of food and agricultural commodities by-

- (a) identifying and declaring the border posts that permit movement of food and agricultural commodities across the region;
- (b) conducting joint inspection and clearance of food and agricultural commodities; and
- (c) developing the infrastructure and building capacity in border posts.

Article 9

Sharing of Information and Expertise

The Partner States undertake to cooperate in the sharing of information and expertise related to sanitary and phytosanitary measures through the establishment and maintenance of a regional information management system including-

- (a) a list of contact points for plant health, animal health and food safety;
- (b) a portal on sanitary and phytosanitary measures; and
- (c) any other relevant information.

Article 10

Technical Assistance

The Partner States undertake to jointly seek technical assistance to build capacity for compliance with sanitary and phytosanitary measures.



REPUBLIC OF KENYA

Article 11 Harmonization of Policies, Laws and Regulations

1. The Partner States undertake to harmonise their policies, laws and programmes to facilitate the achievement of the objectives of this Protocol.
2. The Council shall issue directives for purposes of implementing this Article.

Article 12 Institutional Arrangements

The Council shall establish and confer powers and authority upon such institutions as the Council may deem necessary to implement the provisions of this Protocol.

Article 13 Regulations, Directives and Decisions

The Council shall from time to time make regulations, issue directives and make decisions as may be necessary for the effective implementation of this Protocol.

Article 14 Dispute Settlement

Any dispute between two or more Partner States arising from interpretation or application of this Protocol shall be settled in accordance with the provisions of the Treaty.

Article 15 Amendment of the Protocol

This Protocol may be amended by the Partner States in accordance with the provisions of Article 150 of the Treaty.

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REPUBLIC OF KENYA

Article 16
Entry into Force

This Protocol shall enter into force upon ratification and deposit of instruments of ratification with the Secretary General by all the Partner States.

Article 17
Depository and Ratification

1. This Protocol and all instruments of ratification shall be deposited with the Secretary General who shall transmit certified true copies of the Protocol and instruments of ratification to all the Partner States.
2. The Secretary General shall register this Protocol with all regional and international organizations responsible for the implementation of sanitary and phytosanitary measures.

IN WITNESS WHEREOF, WE, the undersigned have appended our signatures hereto

DONE AT Arusha, TANZANIA this 12th day of JULY in the year 2013

For and on behalf of the Republic of Kenya	For and on behalf of the Republic of Rwanda	For and on behalf of the Republic of Burundi	For and on behalf of the United Republic of Tanzania	For and on behalf of the Republic of Uganda
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Felix K. Koki

Eg. C.K. CHIZA

 12-07-2013
 Kwamirama Bygiti
 MBE/AT-MAAIF

MINUTES OF THE 36TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVE (Adoption of the Report on the Ratification of the EAC Protocol on Sanitary and Phytosanitary measures and Consideration of referred Bills)HELD ON TUESDAY 21STJUNE 2016, AT 2ND FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDINGS AT 10:30 A.M.

Present

- | | |
|-----------------------------------|-------------------------|
| 1. Hon. KarekeMbiuki, M.P | Vice Chairperson |
| 2. Hon. Justice Kemei, M.P | |
| 3. Hon. Kabando Wa Kabando, M.P | |
| 4. Hon. Daniel Maanzo, EBS, M.P | |
| 5. Hon. Mary Wambui, M.P | |
| 6. Hon. (Dr.) Victor Munyaka, M.P | |
| 7. Hon. Jude Njomo, M.P | |
| 8. Hon. John B. Serut, M.P | |
| 9. Hon. Korei Ole Lemein, M.P | |
| 10. Hon. Maison Leshoomo, M.P | |
| 11. Hon. Peter N. Gitau, M.P | |
| 12. Hon. Ferdinand Wanyonyi, M.P | |
| 13. Hon. Benjamin Andayi, M.P | |
| 14. Hon. Raphael Letimalo, M.P | |
| 15. Hon. Patrick Wangamati, M.P | |

Apologies

- | | |
|---------------------------------------|--------------------|
| 1. Hon. Adan M. Nooru, MBS, M.P | Chairperson |
| 2. Hon. Alfred K. Keter, M.P | |
| 3. Hon. Kimani Ichung'wah, M.P | |
| 4. Hon. Benjamin Washiali, M.P | |
| 5. Hon. Silas Tiren, M.P | |
| 6. Hon. John Kobado, M.P | |
| 7. Hon. Fredrick Outa, M.P | |
| 8. Hon. Francis Waititu Munyua, M.P | |
| 9. Hon. Millie Odhiambo - Mabona, M.P | |
| 10. Hon. Ayub Savula Angatia, M.P | |
| 11. Hon. Paul Simba Arati, M.P | |

12. Hon. Hezron Awiti Bollo, M.P

13. Hon. Aisha Jumwa, M.P

14. Hon. Florence Mutua, M.P

In Attendance:

Kenya National Assembly Secretariat

1. Mr. Benjamin Magut - First Clerk Assistant
2. Mr. Ahmad Guliye - Third Clerk Assistant
3. Ms. Angeline Naserian - Third Clerk Assistant
4. Ms. Rahab Chepkilim - Audio Officer
5. Mr. Brigita Mati - Legal Counsel
- 6.

Min. 146/2016: Preliminaries

- I. The meeting was called to order at 10.45 a.m. and prayers were said by Hon. Justice Kemei, M.P.
- II. The agenda of the meeting was adopted as stipulated in the notice of meeting.

Min. 147/2016: Adoption of the Report on the Ratification of the East Africa Community (EAC) Protocol on Sanitary and Phytosanitary (SPS) measures

The Committee adopted the report on the ratification of the East Africa Community (EAC) Protocol on Sanitary and Phytosanitary (SPS) measures with the recommendation that the House approves the ratification of the East Africa Community (EAC) Protocol on Sanitary and Phytosanitary (SPS) measures.

Min. 148/2016: Consideration of the Statute Law (Miscellaneous Amendment) Bill (Senate Bill No.6 of 2014) Amendment to the Pyrethrum Act No. 22 of 2013

The Legal Counsel presented the brief to the Committee with regard to the Statute Law (Miscellaneous Amendment) Bill (Senate Bill No.6 of 2014) Amendment to The Pyrethrum Act No. 22 of 2013;

- I. The Statute Law (Miscellaneous Amendments) Bill (Senate Bill No.6 of 2014) is a Bill passed by Senate seeking to amend various laws among them the Pyrethrum Act No.22 of 2013.
- II. The Pyrethrum Act provides for the establishment of the Pyrethrum Regulatory Authority of Kenya as a body corporate, defines its functions, powers and internal organization and provides for the control of growing and processing of and transactions in pyrethrum. The Act also establishes the Pyrethrum Development Fund.

- III. The Statute Law (Miscellaneous Amendments) Bill seeks to amend section 6(2) of Pyrethrum Act by changing the appointing authority of the five members of the Board of management of the Authority described in section six from the Cabinet Secretary to the Council of Governors.
- IV. The Pyrethrum Board of Kenya is a state corporation under the State Corporation Act (Cap.446). Therefore the function of appointing members of the board is a ministerial or executive function granted to the Cabinet Secretary.

Min. 149/2016: Consideration of the Potato Produce and Marketing Bill, 2014

The Legal Counsel adduced the following before the Committee with regard to the Potato Produce and Marketing Bill, 2014;

- I. The Bill establishes a National Potato Council that will be responsible for formulating and implementing policies aimed at improving potato farming in the country.
- II. The proposed new National Potato Council has fifteen members excluding the ex-officio members contrary to the guidelines set for creating new state corporations. The proposed number for the members of the Council should be nine members.
- III. Transitional clauses have not been provided for, to show that the present potato council shall be merged with the proposed new potato council. Without the stated provisions, it suggests that there shall be two potato councils which will carry out the same functions and may pose conflicts between the two bodies.
- IV. The functions of AFFA Authority are similar to the proposed functions of the new proposed National Potato Council.

Min. 150/2016: Consideration of the Legislative Proposal on the Livestock, and Livestock Products Marketing Bill, 2016

Hon. Abdinoor Mohamed Ali, M.P, the sponsor of the Legislative Proposal informed the Committee of the following;

- I. The primary objective of this Bill is to streamline livestock farming by providing a legal structure and framework that will help improve the industry.
- II. Livestock marketing entities are in duplicate and this creates uncertainties and inconsistencies hence poor service delivery.
- III. *Clause 3(1)* of the Bill provides for the creation of a Board to be known as the Livestock and Livestock Products Marketing Board.

Committee Observation

- I. The Committee observed that the AFFA Act, 2013 and the Pyrethrum Act, 2013 were signed at the same day while the Pyrethrum Act has been collapsed under the AFFA Act.
- II. The Committee noted that the functions of the Potato Council are the duplications of the roles performed by AFFA.
- III. The Committee appreciated the Legislative Proposal to come up with the Livestock, and Livestock Products Marketing Bill, 2016 as it caters for the interest of the interest of the Livestock Industry.
- IV. The Committee however noted that there is a government sponsored Livestock Bill that is currently at the AG's chambers.
- V. The Committee resolved to invite the Cabinet Secretary, Ministry of Agriculture, Livestock and Fisheries together with the Attorney General to the appraise the Committee on the status of Statute Law (Miscellaneous Amendment) Bill (Senate Bill No.6 of 2014) Amendment to the Pyrethrum Act No. 22 of 2013, the Potato Produce and Marketing Bill, 2014 and the Livestock Bill.

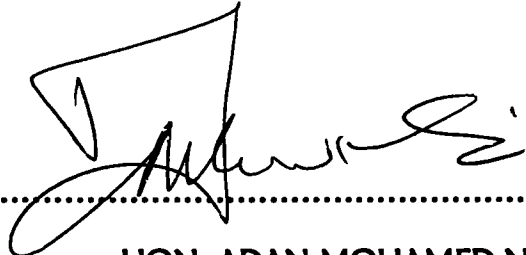
Min. 151/2016: Any Other Business (A.O.B)

- I. Members raised their concerns on the maize that is stored at the National Cereals and Produce Board godowns across the country while it is not being sold to the millers.
- II. The Committee resolved to undertake an inspection visit to selected godowns across the country to ascertain the concerns that the maize at the go downs rotting.

Min. 152/2016: Adjournment

There being no other business to discuss, the meeting was adjourned at 12.38 p.m.

Signature



HON. ADAN MOHAMED NOORU, MBS, CBS, M.P.
(Chairperson)

Date..... 22 Feb 2016

MINUTES OF THE 35TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVE (Meeting with Officials from KEPHIS and Department of Veterinary Services on the Ratification of the EAC Protocol on Sanitary and Phytosanitary measures)HELD ON THURSDAY 16TH JUNE 2016, AT COMMITTEE ROOM 9 MAIN PARLIAMENT 10:30 A.M.

Present

- | | |
|--|-------------------------|
| 1. Hon. Kareke Mbiuki, M.P | Vice Chairperson |
| 2. Hon. Benjamin Washiali, M.P | |
| 3. Hon. Silas Tiren, M.P | |
| 4. Hon. Justice Kemei, M.P | |
| 5. Hon. John Kobado, M.P | |
| 6. Hon. Kabando Wa Kabando, M.P | |
| 7. Hon. Daniel Maanzo, EBS, M.P | |
| 8. Hon. Mary Wambui, M.P | |
| 9. Hon. (Dr.) Victor Munyaka, M.P | |
| 10. Hon. Fredrick Outa, M.P | |
| 11. Hon. Francis Waititu Munyua, M.P | |
| 12. Hon. Millie Odhiambo - Mabona, M.P | |
| 13. Hon. Ayub Savula Angatia, M.P | |
| 14. Hon. Paul Simba Arati, M.P | |
| 15. Hon. Jude Njomo, M.P | |
| 16. Hon. Maison Leshoomo, M.P | |
| 17. Hon. Peter N. Gitau, M.P | |
| 18. Hon. Ferdinand Wanyonyi, M.P | |
| 19. Hon. Benjamin Andayi, M.P | |

Apologies

- | | |
|------------------------------------|--------------------|
| 1. Hon. Adan M. Nooru, MBS, M.P | Chairperson |
| 2. Hon. Alfred K. Keter, M.P | |
| 3. Hon. Kimani Ichung'wah, M.P | |
| 4. Hon. Raphael Letimalo, M.P | |
| 5. Hon. Andrew Anyanga Toboso, M.P | |
| 6. Hon. Patrick Wangamati, M.P | |
| 7. Hon. Aisha Jumwa, M.P | |
| 8. Hon. Korei Ole Lemein, M.P | |
| 9. Hon. Florence Mutua, M.P | |
| 10. Hon. John B. Serut, M.P | |

In Attendance:

Kenya National Assembly Secretariat

- | | |
|--------------------------|-------------------------|
| 1. Ms. Angeline Naserian | -Third Clerk Assistant |
| 2. Mr. Ahmad Guliye | - Third Clerk Assistant |
| 3. Mr. Elijah Ichwara | - Audio Officer |
| 4. Mr. Brigita Mati | - Legal Counsel |

Kephis and Department of Veterinary Services

- | | |
|-------------------------|---|
| 1. Dr. Kimathi Mantiru | -Assistant Director Veterinary Services |
| 2. Ms. Phyllis Gathaiga | -Assistant Coordinator KEPHIS |
| 3. Mr. Simeon Kogo | -General Manager KEPHIS |
| 4. Mr. Philip Njoroge | -Coordinator Trade KEPHIS |

Min. 143/2016: Preliminaries.

- I. The meeting was called to order at 10:40am and agenda was adopted as stipulated in the notice of the agenda, prayers was said by Hon. Silas Tiren ,M.P

Min 144/2016: Presentation by KEPHIS and Department of Veterinary Services.

Mr. Philip Njoroge, Trade Coordinator, Kenya Plant Health Inspectorate Services (KEPHIS) adduced the following before the Committee;

- I. The protocol addresses the application of food safety, animal and plant health regulations.
- II. The Sanitary and Phytosanitary measures intends to:
 - a) Protect human and animal life form risks arising from additives and contaminants and disease causing organism.
 - b) Protect human or plant life from pests' diseases.
 - c) Protect animal or plant life from disease causing organism
 - d) Prevent or limit other damage to a Country from the entry, establishment or Spread of pests.
- III. The protocol was initiated in 2006 with harmonization standards by competent SPS authorities in EAC.
- IV. The protocol was developed between 2009 to 2011 and ratified by the Cabinet in 2014.
- V. The benefits of ratification to Kenya incudes:
 - a) A guarantee better food safety measure, plant protection and animal health to promote safe trade amongst parties.
 - b) Enhanced mitigation of risks arising from pests, diseases and food safety concerns.
 - c) Improved competitiveness in the external markets.

- d) Improvement of coordination institutional frameworks for enforcement of sanitary and phytosanitary measures.

The objectives of the protocol are to:

- a) Promote trade in agricultural commodities within the community and between other trading partners.
- b) Harmonize, equivalence, regionalize transparency and risk management.
- c) Cooperation and coordination of Sanitary and Phytosanitary measures and activities at national and regional levels based on common understanding.

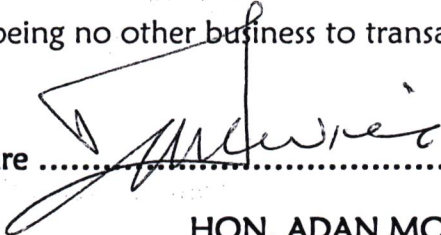
Committee Observation

Members appreciated the concerns that the Protocol will address once ratified and gave an undertaking that they will fast track the process of the ratification in the House so that Kenya will not be left behind by community member states.

Min. 145/2016: Adjournment

There being no other business to transact, the meeting was adjourned at 12:45p.m

Signature



HON. ADAN MOHAMED NOORU, MBS, CBS, M.P.

(Chairperson)

Date.....

