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REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – FOURTH SESSION

THE SENATE

STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES

REPORT ON THE NUTS AND OIL CROPS BILL, 2023 (SENATE BILLS NO. 47
OF 2023)



Rt. Hon. Speaker

You may approve for tabling

J. M. Nyegenye, C.B.S.,

Clerk of the senate/secretary, PSC

Date: 27/05/25

Clerk's Chambers,
Parliament Buildings,
NAIROBI.

MAY, 2025

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TABLED BY	May. Leader
COMMITTEE	
CLERK AT THE TABLE	Abigail

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LIST OF ABBREVIATIONS/ACRONYMS

AFA	-	Agriculture and Food Authority
COG	-	Council of Governors
MoALD	-	Ministry of Agriculture and Livestock Development
CEC	-	County Executive Committee

PREFACE

ESTABLISHMENT AND MANDATE OF THE COMMITTEE

The Standing Committee on Agriculture, Livestock and Fisheries is established under standing order 228(3) of the Senate Standing Orders and is mandated to consider all matters relating to agriculture, irrigation, livestock, fisheries development and veterinary services.

In undertaking its mandate, the Committee oversees the following State Departments:

1. Ministry of Agriculture and Livestock Development;
 - i. The State Department for Crops Development and;
 - ii. The State Department for Livestock Development
2. Ministry of Sanitation, Water and Irrigation
 - i. The State Department for Irrigation
3. Ministry of Mining and Blue Economy and Fisheries
 - i. The State Department for Blue Economy and Fisheries

The Committee also oversees the following State Agencies among others-

- a. Agriculture and Food Authority (AFA);
- b. Agricultural Finance Corporation (AFC);
- c. Agricultural Development Corporation (ADC);
- d. Kenya Seed Company (KSC);
- e. Kenya Plant Health Inspectorate Services (KEPHIS);
- f. Kenya Agricultural and Livestock Research Organization (KALRO);
- g. Kenya Veterinary Vaccine Production Board (KVVPB);
- h. Kenya Veterinary Board (KVB);
- i. Kenya Meat Commission (KMC);
- j. Kenya Dairy Board (KDB);
- k. Kenya Leather Development Council (KLDC);
- l. Kenya Fisheries Service (KFS);
- m. Kenya Fish Marketing Authority (KFMA);
- n. Kenya Marine and Fisheries Research Institute (KEMFRI);
- o. Kenya Fishing Industries Corporation; and
- p. National Irrigation Board (NIB).

The Committee also works closely with the Council of Governors (CoG) and the County Assemblies Forum (CAF) and non-state actors including among others-

- a. Kenya Private Sector Alliance (KEPSA);
- b. Agricultural Council of Kenya (AgCK)
- c. Food and Agriculture Organization (FAO);
- d. Kenya National Farmers' Federation (KENAFF);
- e. Centre for Agriculture and Bioscience International (CABI); and
- f. Agricultural Industry Forum (AIF).

MEMBERSHIP OF THE COMMITTEE

The Committee is comprised of the following Members-

- | | | |
|--|---|-------------------------|
| 1) Sen. David Wafula Wakoli, MP | - | Chairperson |
| 2) Sen. Alexander Munyi Mundigi, MP | - | Vice-Chairperson |
| 3) Sen. Moses Otieno Kajwang', CBS, MP | - | Member |
| 4) Sen. Wahome Wamatinga, MP | - | Member |
| 5) Sen. Mwenda Gataya Mo Fire, CBS, MP | - | Member |
| 6) Sen. (Prof.) Tom Ojienda, SC, MP | - | Member |
| 7) Sen. Catherine Mumma, MP | - | Member |
| 8) Sen. Abbas Sheikh, CBS, MP | - | Member |
| 9) Sen. Hezena Lemaletian, MP | - | Member |

CHAIRPERSON'S FOREWORD

Mr. Speaker Sir,

The Nuts and Oil Crops Bill, 2023 (Senate Bills No. 47 of 2023) seeks to provide for the production, processing, marketing and distribution of Kenyan Nuts and Oil Crops and their products; establish the Nuts and Oil Crop Board; provide a framework for the nuts and oil crops farming development and for connected purposes

Mr. Speaker Sir,

The Nuts and Oil Crops Bill, 2023 (Senate Bills No. 47 of 2023) was published on 11th March, 2023 and read for the first time in the Senate on Wednesday, 14th February, 2024 and thereafter, the Bill stood committed to the Standing Committee on Agriculture, Livestock and Fisheries for consideration.

In compliance with the provisions of Article 118 of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Committee proceeded to undertake public participation on the Bill. In this regard, the Committee published an advertisement in the Daily Nation and Standard newspapers on Friday, 16th February, 2024, inviting members of the public to submit written memoranda to the Committee on the Bill. Additionally, the Committee sent invitations to key stakeholders inviting them to submit their comments on the Bill.

In total, the Committee received written submissions from seven (7) stakeholders namely- The Nut Processors Association of Kenya (NUTPAK), The Council of Governors (COG), Ministry of Agriculture and Livestock Development (MoALD), the Law Society of Kenya (LSK), The Village Nut Company Limited, Pangwe farmers and stakeholders in Kwale County, Mpeketoni farmers and stakeholders in Lamu County, and Mukowe farmers and stakeholders in Kwale County.

Mr. Speaker Sir,

The Committee thereafter proceeded to consider extensively the provisions of the Bill and the submissions received thereon. Based on its deliberations, the Committee has made various observations which are set out in Chapter Three of this Report. Notably, the final

recommendation by the Committee is that the Senate proceeds to consider and pass the Nuts and Oils Crops Amendment Bill, 2023 (Senate Bills no. 47 of 2023).

Summary of Committee Observations

1. The Bill seeks to amend the Crops Act, 2013, to restructure the regulation and management of nuts and oil crops, currently under the mandate of the Agriculture and Food Authority (AFA), by establishing a dedicated Nuts and Oil Crops Development Board. The Committee observed that the inclusion of nuts and oil crops within the AFA framework has not significantly advanced the sector.
2. Nuts and oil crops are essential contributors to Kenya's economy, accounting for 1.2% of the national Gross Domestic Product (GDP) and 4.5% of the Agricultural GDP. The sub-sector plays a key role in job creation, income generation, foreign exchange earnings, and has significant potential for food and nutrition security as well as manufacturing. Despite this potential, the acreage and productivity of most nuts and oil crops remain low, leading to a heavy reliance on imported edible oil. Establishing a dedicated board will foster better coordination and sustainable value chain management.
3. There was a decline in the productivity and global competitiveness of Kenya's nuts and oil crops sector over the years. Factors such as inconsistent quality standards, inadequate market access, and limited investment in processing have hampered growth. The Bill is therefore an important intervention to revitalize the industry by establishing a coherent and robust regulatory framework.
4. Agriculture being a devolved function, the Bill outlines the roles of county governments in managing the nuts and oil crops sector, ensuring a decentralized approach to development. Counties are tasked with implementing national policies, maintaining stakeholder registers, enforcing good governance, and supporting agricultural productivity through planting, replanting, and extension services. Additionally, counties will promote farmer cooperatives, provide training, enhance value addition, monitor pest and disease outbreaks, and encourage product diversification. This ensures counties play a key role in driving the sector's growth and sustainability.
5. Enhanced collaboration and stakeholder engagement are crucial for the success of the proposed board. It emphasized the importance of actively engaging with various stakeholders, including farmers, processors, and county governments.

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Strengthening collaboration and fostering inclusivity will ensure that the unique challenges across different regions are effectively addressed, leading to holistic sector development.

Summary of Committee Recommendations

The Committee having considered the Nuts and Oil Crops Bill, 2023 (Senate Bills No. 47 of 2023) and the submissions received thereon, recommends that the House approves the Bill together with the proposed amendments.

Mr. Speaker Sir,

May I take this opportunity to commend the Members of the Committee for their devotion and commitment to duty, which made the consideration of the Bill successful.

I also wish to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to the Committee in undertaking this important assignment. Lastly, I wish to thank the stakeholders who appeared before the Committee to present their comments on the Bill.

Mr. Speaker Sir,

It is now my pleasant duty, pursuant to standing order 148 (1), to present the Report of the Standing Committee on Agriculture, Livestock and Fisheries on the Nuts and Oils Crops Bill, 2023 (Senate Bills No. 47 of 2023).

Signed.....

Date.....22nd May, 2025

**SEN. SEN. DAVID WAFULA WAKOLI, MP,
CHAIRPERSON,
STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND
FISHERIES.**

ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES ON THE NUTS AND OIL CROPS BILL. 2023 (SENATE BILLS NO. 47 OF 2023)

We, the undersigned Members of the Senate Standing Committee on Agriculture, Livestock, and Fisheries, do hereby append our signatures to adopt this Report –

	Name	Designation	Signature
1.	Sen. David Wafula Wakoli, MP	Chairperson	
2.	Sen. Alexander Munyi Mundigi, MP	Vice-Chairperson	_____
3.	Sen. Moses Otieno Kajwang', CBS, MP	Member	_____
4.	Sen. Wahome Wamatinga, MP	Member	
5.	Sen. Mwenda Gataya Mo Fire, CBS, MP	Member	
6.	Sen. (Prof.) Tom Ojienda, SC, MP	Member	_____
7.	Sen. Catherine Muma, MP	Member	
8.	Sen. Abass Sheikh, CBS, MP	Member	
9.	Sen. Hezena Lemaletian, MP	Member	_____

CHAPTER ONE

1.1 BACKGROUND

The Nuts and Oils Crops Bill, 2023 (Senate Bills No. 47 of 2023) was published on 11th March, 2023 and read for the first time in the Senate on Wednesday, 14th February, 2024 and thereafter the Bill stood committed to the Standing Committee on Agriculture, Livestock and Fisheries for consideration (*Appendix 4*).

Nuts and Oils Crops Bill, 2023, (Senate Bills No. 47 of 2023) is a Bill for an Act of Parliament to make provision for the production, processing, marketing and distribution of Kenyan nuts and oil crops and their products. The Bill seeks to establish the Nuts and Oil Crop Development Board with the aim of saving the nuts and oil crops industry by revamping the policy and institutional framework within which the industry operates.

The nuts and oil crops industry is a significant agricultural industry in Kenya. There is therefore a genuine need for a strong and robust policy and institutional foundation to support and guide the multitude of activities, operations, and interactions within the industry so that the growth of the industry results in a strengthened agricultural economy for the country.

Governmental issues, regulatory challenges, national and international economic realities, and scientific reliability are some of the pressing concerns that need to be addressed by the institution responsible for the nuts and oil crops industry.

The highlight of this Bill is the revamping of the nuts and oil crops farming in order to make it a profitable, sustainable and development-oriented activity. It proposes to provide an avenue for appreciating the medicinal, aesthetic, touristic and artistic value of various nuts and oil crops by encouraging value addition in the processing of nuts and its products. The Bill therefore establishes the Nuts and Oil Crops Development Board. It further provides for research and development to cultivate a culture of scientific excellence and professionalism in nuts and oil crops farming and industrial development.

1.2 OBJECT OF THE BILL

The principal object of the Bill is to provide for the production, processing, marketing and distribution of Kenyan Nuts and Oil Crops and their products; establish the Nuts and Oil

Crop Board; provide a framework for the nuts and oil crops farming development and for connected purposes.

1.3 OVERVIEW OF THE BILL

The Bill contains the following—

1. **Clause 4** establishes the Nuts and Oil Crops Development Board, a body corporate with perpetual succession and a common seal.
2. **Clause 5** of the management of the Board shall vest in a Board made up as follows—
 - (a) a non-executive chairperson appointed by the President by notice in the *Gazette*;
 - (b) the Principal Secretary responsible for agriculture;
 - (c) the Principal Secretary responsible for trade and investments;
 - (d) five persons representing nuts and oil crops farmers nominated by the farmers' co-operative with the largest membership in the respective counties;
 - (e) two persons nominated by the Council of County Governors; and
 - (f) the chief executive officer who shall be an ex-officio member of the Board.
3. The Cabinet Secretary shall, taking into account the principle that not more than two-thirds of the members should be of one gender, appoint the members under subsection (1)(d) and (e) by notice in the *Gazette*.
4. **Clause 6** provides for qualifications of appointment as a member of the board if that person—
 - (a) is a citizen of Kenya;
 - (b) holds a degree from a recognized University in Kenya; and
 - (c) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.
5. **Clause 7** of the proposal provides that the Board members shall serve for a term of three years renewable for one further term.
6. **Clause 9** outlines the functions of the board which are to—

- (a) regulate and promote the development of the nuts and oil crop industry;
- (b) make recommendations to the Cabinet Secretary, and oversee the implementation of strategies, plans and policy relating to the nut and oil crop sector;
- (c) promote the diversification of nuts and oil crop products and by-products;
- (d) promote the marketing of nuts and oil crops products and by-products in both local and foreign markets and preserve the competitiveness and reliability of the country as a producer and supplier of nuts and oil crop products by establishing national acceptable standards acceptable in the international markets;
- (e) establish linkages with local and international research institutions to conduct scientific research and investigations in all areas pertaining to the development of the nuts and oil crop industry;
- (f) collect, collate and disseminate information on the nut and oil crop industry including the appropriate technology and practices to ensure maximisation of yields by farmers;
- (g) regulate the marketing and the exportation of nuts and oil crop products and by-products to conform to the quality or food standards recognized in the international market;
- (h) put in place a framework for the capacity building and interaction of various players in the nuts and oil crops industry;
- (i) develop and enforce the nuts and oil crop industry standards and industry code of practice in collaboration with the Kenya Bureau of Standards; and
- (j) co-ordinate capacity building training for players in the nuts and oil crop value chain.

7. **Clauses 13-15** provides for the office of the Chief Executive officer of the Board. Clause 13 establishes the office of the chief executive officer who shall be competitively recruited and appointed by the Board on such terms and conditions as the Board shall determine.

For a person to be qualified for appointment as the chief executive officer, that person—

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in Kenya in law, agriculture or finance;
- (c) has at least five years' experience in public administration or senior management; and

- (d) meets the requirements of leadership and integrity set out in chapter six of the Constitution.

8. **PART III – Role of county governments** - On the role of the County Government, the proposal provides that a county government shall—

- (a) implement the National Government policy relating to the nuts and oil crop sector;
- (b) maintain an up-to-date register of nuts and oil crop growers, nursery operators and cooperatives or other associations in that county;
- (c) implement national and county legislation on nuts and oil crop industry code of practice, policies and guidelines on corporate governance in the growers' institutions;
- (d) facilitate the production of nuts and oil crop in the respective county by implementing and expanding the planting and replanting program of nuts and oil crop trees in strategic areas identified as having the most potential and the rehabilitation and fertilization of existing nuts and oil crops trees;
- (e) offer extension services on nuts and oil crop production and primary processing;
- (f) encourage and promote the organization of nuts and oil crop farmers' co-operatives, associations, and organizations and provide them with credit and financing schemes;
- (g) provide training, extension service programs and disseminate information to nuts and oil crop farmers, farm workers and processors relative to production technology, market systems, farm workers, entrepreneurial and other technical skills and values, attitude formation and socio-economic development strategies;
- (h) collaborate with relevant institutions so as to promote access to credit and other financial services;
- (i) formulate and adopt a general program of development geared towards increased farm productivity, through planting or replanting of suitable seedling varieties, rehabilitation and fertilization of the nuts and oil crop, integrated nuts-based farming systems and product processing;
- (j) inspect nurseries and value addition industries located within their respective counties;
- (k) in collaboration with law enforcement agencies, enhance security in nuts and oil crop growing areas; and

- (l) monitor and report incidences of pests and disease outbreaks to the Board and take action in collaboration with the Board and other relevant government agencies
- 9. **Clause 22** empowers the counties that produce nuts and oil crops to enact county specific legislation to regulate the industry.

10. **PART IV – Regulatory provisions**

- 11. **Clause 23-** registration: The proposal provides that any person or entity shall not carry out the business of a nuts and oil crop grower, nursery operator, cooperative society or association unless such person is registered by the respective county government in which the business is to be undertaken- the proposal goes ahead to give details on how the registration is done.
- 12. **Clause 24-** licensing of processors: This proposal states that no person shall engage in the processing of nuts and oil crops and their products unless such person has applied for, and obtained, a licence in accordance with this Act. The proposal goes ahead to give more details on licensing is done.
- 13. **Clause 25-** refusal to grant license: The legislative proposal provides that the county executive committee member may refuse to grant a licence where the application does not comply with the requirements imposed under this Act or prescribed under the respective county legislation. In case of refusal, the CEC member is required to give reasons for such refusal.
- 14. **Clause 26-** revocation of license: The county executive committee member may revoke a licence under this Act if the licensee — and in doing this, the CEC must give reasons for the same.
 - (a) fails to meet any condition imposed by this Act or county legislation; or
 - (b) surrenders the licence together with a notice setting out a request that the licence be revoked
- 15. **Clause 28-Appeal:** An applicant who is aggrieved by the decision of the county executive committee member not to issue a licence under this Act may appeal to the county executive committee against the decision within thirty days of the receipt of the decision.

16. (2) An applicant who is aggrieved by the decision of the county executive committee under subsection (1) may appeal to the High Court against the decision within fourteen days of receipt of the decision.

17. **PART V – Financial provisions**

18. **Clause 29**-The funds of the Board, this clause states that, the funds shall consist of—

- (a) monies appropriated by Parliament for the purposes of the Board;
- (b) such monies or assets as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act or any other written law;
- (c) monies received in respect of the levies and fees; and
- (d) donations, grants, loans or gifts made to the Board and approved by the Cabinet Secretary for finance.

19. **Clauses 30-33** of the proposal gives details on the annual estimates, accounts, annual reports and publications and financial year of the board.

20. **PART VI - Miscellaneous provisions**

21. In this part, the legislative proposal provides for: Incentives under **clause 34** to be given to persons working in the nuts and oil crops industry by the CS responsible for finance from time to time and this is to be done vide a gazette notice.

22. **Clause 36** on Penalties, the proposal states that a person who commits an offence under this Act for which no penalty is provided is liable, on conviction, to a fine of not less than twenty thousand shillings or to imprisonment for a term not exceeding six months, or to both.

23. **Clause 37** on regulations, on this, the proposal the Cabinet Secretary may, in consultation with the Board and the Council of County Governors, make regulations generally for the effective carrying out the provisions of this Act. Without prejudice to the generality of subsection (1), the regulations may provide for —

- (a) conditions for registration;
- (b) forms to be used in the application for registration, and related activities;
- (c) the process of application for registration and related activities; and

(d) the regulation of contracts between growers, processors and other players in the nut industry.

24. **Clause 38-** Amendments to the Crops Act: The first schedule to the Crops Act be amended by deleting all the nuts and oil crops to be regulated by this proposal.

CHAPTER TWO

2.1 OVERVIEW OF PUBLIC PARTICIPATION ON THE BILL

2.1.1 INTRODUCTION

25. The Committee pursuant to the provisions of Article 118 of the Constitution and standing order 145 (5) of the Senate Standing Orders, proceeded to undertake public participation on the Bill. In this regard, the Committee published an advertisement in the *Daily Nation* and *Standard* newspapers on Tuesday, 20th February, 2024 inviting members of the public to submit written memoranda on the Bill. The advertisement was also posted on the Parliament website and social media platforms. A copy of the advertisement is attached as *Appendix 4*.
26. Additionally, the Committee sent invitations to key stakeholders inviting them to submit their comments on the Bill.
27. In total, the Committee received written submissions from seven (7) stakeholders namely: The Nut Processors Association of Kenya (NUTPAK), The Council of Governors (COG), Ministry of Agriculture and Livestock Development (MOALD), The Village Nut Company Limited, Law Society of Kenya (LSK), Pangwe farmers and stakeholders in Kwale County, Mpektoni farmers and stakeholders in Lamu County, Mukowe farmers and stakeholders in Kwale County and Embu County CEC. While the detailed submissions by the stakeholder, organized clause-by-clause, is set out in a matrix attached as *Appendix 5*.

2.2 SUBMISSIONS FROM STAKEHOLDERS AND COMMITTEE RESOLUTIONS.

The Committee considered the received submissions from stakeholders as follows-

- 28. Long title:** The **Ministry of Agriculture** proposes that the short title be amended and insert "Development" before the word "Board". To align with the title of the Bill.

Committee Recommendation – The Committee accepted the proposal.

29. Interpretation Clause:

- i. **Ministry of Agriculture** proposed that the Nuts and Oil crops- Amend by deleting the definition and substituting thereof with ‘nuts and oil crops means any of the crops listed under the second schedule and includes such other crops as the Cabinet Secretary on the advice of the Board may declare to be a scheduled crop by notice in the gazette’. Since the crops are many, it may not be possible to capture all of them in a definition and therefore the need to introduce the second schedule where all of them will be listed.

Committee Recommendation - The Committee partially accepted the proposal. The Committee agreed to redraft the definition and move the list of crops to the Schedule. However, the provision granting the Cabinet Secretary the power to amend the Schedule is a substantive clause and should not be included in the definition—it should be provided for separately in the Bill..

- ii. **Law Society of Kenya** – This definition should be reworked to ensure that the word that is being defined is not used in its interpretation. This will ensure that the definition is concise especially because section 21(c) authorizes the county governments to licence nut and oil processors. The Bill should also define the term “processing” since section 25 (1) states that processing of nuts and oil crops shall not be done without a licence. Section 26(5) further creates an offence where processing is done without a licence and a hefty fine of KES one million or imprisonment for a term not exceeding two years or both. The magnitude of this penalty warrants definition of the word “processing”. The term “Processor” has been defined to mean “a person who does the processing of nuts and oil crops.

Committee Recommendation – The Committee accepted the proposal.

- iii. **Lamu farmers** proposed the inclusion of cotton seed since they are nuts.

Committee Recommendation — The Committee accepted the proposal since they are oil seeds.

30. Clause 3 on Objects of the Bill:

31. Ministry of Agriculture amends it by deleting the word 'industry' and substituting it with the word 'subsector'. The nuts and oils crops comprise several industries

Committee Recommendation – The Committee accepted the proposal.

32. Amend by substituting the word “tree” with “produce”. This is because we produce the produce not all nuts and oil crops are trees.

Committee Recommendation - The Committee accepted the proposal.

33. Amend by substituting the word “better” with “improved” since the technical language used is improved varieties and not better.

Committee Recommendation - The Committee accepted the proposal.

34. Amend by inserting a new object to read “Regulate the Nuts and Oil Crops Sub Sector” to ensure harmony and a level playing ground in the sub-sector.

Committee Recommendation - The Committee accepted the proposal since it’s the main aim of the Act.

35. Clause 3(a) on objects of the Bill be amended by Nature Kenya to include the term “sustainable” to promote a more environmentally conscious approach, hence to read: “*3 (a) promote a globally competitive and sustainable nuts and oil crops industry*”.

Committee Recommendation - The Committee rejected the proposal. While the intention is noted, the term 'sustainable' is considered subjective and may introduce ambiguity in interpretation.

36. Clause 4 on Establishment of the Nuts and Oil Crops Development Board:

Clause 4 (3) on Headquarters be amended by the Ministry of Agriculture and Livestock Development by substituting the term “Kilifi” with “Nairobi” since the production of nuts and oil crops spreads across the country and Nairobi is the most central.

Committee Recommendation - The Committee accepted the proposal with **clarification** that the board may establish branches anywhere in Kenya.

37. **Mpeketoni, Hindi, Mokoye farmers proposed** that the headquarters be located in Lamu.

Committee Recommendation - The Committee declined the proposal. The Board may establish branches anywhere in Kenya. While the contribution of Lamu farmers is appreciated, Nairobi offers a more central and accessible location for coordinating national operations.

38. **Clause 5(1)** be amended by the Ministry of Agriculture by deleting the clause and inserting “The Board shall consist of” to align with the marginal notes.

Committee Recommendation - The Committee accepted the proposal since it’s a drafting error.

39. **Mpeketoni farmers proposed** that the representatives of the farmers in the Board should be appointed by farmers representatives. To elect persons who are involved in nuts farming.

Committee Recommendation - The Committee declined the proposal. The appointment of board members is guided by Mwongozo guidelines and the appointment as currently drafted ensures transparency, accountability, and merit-based selection.

40. **Clause 5(d)** – Mpeketoni farmers proposed the reduction of the requirement of ten years’ experience to five. To accommodate youth who might lack the long experience but are qualified.

Committee Recommendation - The Committee accepted the amendment.

41. **Clause 5(d) (i)** - Hindi/ Mokoye farmers proposed that it should be specified that the farmers to be nominated are nut and oil farmers.

Committee Recommendation - The Committee declined the amendment. The introductory clause of 5(d) already specifies that.

42. Hindi/ Mokoye farmers proposed that the farmers representatives should be increased to four.

Committee Recommendation- The Committee declined the proposal since increasing the number of farmer representatives would affect the balance of stakeholder representation and may result in an overly large board, contrary to the Mwongozo guidelines on board composition and governance.

43. Clause 5(3)

- i. Hindi/Mokoye farmers proposed that the Bill should provide for the youth and PWDs.

Committee Recommendation- The Committee declined the proposal. The principle of age already encompasses the representation of youth, and the current provisions ensure adequate representation through gender parity, regional, ethnic, and subsector balance.

- ii. Law Society of Kenya proposed that the PS Treasury be included in the Membership of the Board because the body created would have an impact on the exchequer. The costs of running the Board would have to be approved by the National Treasury. This is because the composition of the Board does not include representation from the PS Treasury.

Committee Recommendation - The Committee accepted the proposal.

- iii. Nature Kenya proposed to add clause 5(1) (g) and (h) to read: "*Clause 5 (1) (g), the Principal Secretary responsible for environment and climate change or a representative nominated by the Principal Secretary in writing.*

(h), a representative of a national civil society organization active in environmental conservation and, climate change issues".

This is to revise the composition of the board to include representation from the environment and climate change sector to advocate for environmental interests.

Committee Recommendation - The Committee declined this proposal. The mandate of the Board is focused on the development and regulation of the nuts and oil crops sector. While environmental considerations are important, representation from the environment and climate change sector falls outside the core mandate of the Board.

44. Clause 6 – Law Society of Kenya proposed that the qualifications for Board members and the Chairperson should be separated. Therefore, there is need to include in the bill a specific subsection providing for the qualifications of the

Chairperson to read: 6(1) No person shall be qualified for appointment as the Chairperson of the Board under subsection 5 (1)(a) unless such person—

(a) holds a degree from a university recognized in Kenya; and

(b) has at least ten years' experience in matters relating to management of a public or private institution, 5 of which shall be in senior leadership and management. This is based on the fact that the Chairperson plays a crucial leadership role in guiding the activities of the Board and management including influencing the direction of policies and strategies. The Section generally provides for the qualification of members of the board.

Committee Recommendation - The Committee partially accepted the proposal. The Committee resolved to amend the clause to apply the proposed qualifications specifically to the Chairperson. This is because the current composition of the Board under clause 5(1) includes Principal Secretaries who serve by virtue of their office, farmers and a processor who are required to have at least five years' experience in the nuts and oil crops industry, and a nominee from the Council of Governors. These categories already have their own eligibility criteria. The Chief Executive Officer's qualifications are also addressed in a separate clause. Therefore, it is appropriate to provide distinct qualifications for the Chairperson, given the unique leadership and oversight role they are expected to play.

45. Clause 6(b) on Qualification for appointment – Hindi/Mokoye farmers proposed:

- i. Remove the requirement of a degree for farmers representatives.

Committee Recommendation - The Committee accepted the proposal.

- ii. Amend by deleting the word 'Researcher' and Replace 'Five persons' with 'Four persons'. Researchers may be brought on board administratively on a need basis.

Committee Recommendation - The Committee accepted the proposal.

- iii. Amend to insert National Treasury to the membership. To align with the Mwongozo and the State Corporation Act.

Committee Recommendation - The Committee accepted the proposal.

- iv. Amend by deleting the word 'processor' and substituting thereof with 'dealer'. Other actors need to be represented on the board.

Committee Recommendation- The Committee declined the proposal. The position of 'processor' ensures representation from a critical segment involved in adding value to nuts and oil crops. The term 'dealer' is not used or defined in the Bill, and substituting it could compromise the clarity and intent of board representation.

- 46. Clause 5(1)(d) on composition of the Board Hindi/Mokoye** farmers proposed that it should be amended to provide for a nomination process by the farmers' or dealers' umbrella associations. To provide for transparency and fairness in the nomination of the board.

Committee Recommendation - The appointment of board members is guided by Mwongozo guide and the appointment as currently drafted ensures transparency, accountability, and merit-based selection.

- 47. Clause 5(d) -Council of Governors** proposed Amend clause 5(1)(d) and (e) to read as follows:

(1) The management of the Board shall vest in a board consisting of—

(d) four persons with ten years' experience in the nuts and oil industry appointed by the cabinet secretary in consultation with the Council of County Governors, of whom—

- (i) two shall be farmers;
- (ii) one shall be a processor; and
- (iii) one shall be a researcher

(e) two persons nominated by the Council of County Governors;

To align to the provisions of Articles 6(2) and 189 of the Constitution which requires the two levels of government discharge their functions in a consultative manner. We opine that the nomination and subsequent appointment of farmers and processors representatives should be done in consultation with the Council of Governors. We further opine that the County Governments should be represented by two persons to ensure effective representation.

Committee Recommendation- The Committee rejected the proposal. The appointment of board members is guided by Mwongozo guide and the appointment as currently drafted is sufficient.

48. Clause 7 on Term Appointment-

- i. **Ministry of Agriculture and livestock Development** proposed to amend by deleting '6' and replacing with '5'. To provide consistency in the numbering.

Committee Recommendation - The Committee accepted the proposal.

49. Clause 9 on functions of the Board –

- i. MoALD proposed an amendment by inserting a new function to read 'carry out such other functions as may be assigned to it by this act or any other written law while respecting the roles of the two levels of government'. The provision caters to any omitted or unforeseeable emerging functions that may support the Board in achieving its mandate.

Committee Recommendation- The Committee accepted the proposal subject to redrafting. The provision will be rephrased while preserving the intention of accommodating any additional functions assigned under this Act or any other written law.

- ii. The Council of Governors proposed to amend clauses 9(b) and (j) to read as follows —
The Board shall—

(b) make recommendations to the Cabinet Secretary and County Executive Committee Members on the national strategies, plans and policy relating to the nut and oil crop sector;

(g) regulate the import and export of nuts and oil crop products and by-products to conform to the quality or food standards recognized in the international market;

(j) Provide capacity building and technical assistance to the County Governments in the nuts and oil crops value chain.

ii. Delete clauses 9(a) (c)(h) and (k) in their entirety.

This is to align to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the agriculture and trade development and regulation of agriculture and trade excluding international trade are functions fully devolved to County Governments.

Further to align with the functions of National Government in nuts and oil crops which are; agricultural policy, institutions of research, international trade and capacity building and technical assistance to the counties.

Committee Recommendation- The committee declined the proposal to delete clauses 9(a), (c), and (h). These functions are essential to the mandate of the Board at the national level and do not infringe on the constitutional roles of county governments.

The committee accepted the deletion of clause 9(k) as it relates to a function that falls under the mandate of county governments.

iii. **Nature Kenya** proposed to amend Clause 9 (a) to add the term "sustainable" and add a section (1) to promote the avoidance of ecologically sensitive areas, to read: *"9 (a) regulate and promote the sustainable development of the nuts and oil crop industry". "9 (1) guide investors and farmers to avoid and protect all ecologically sensitive areas"*.

Committee Recommendation- While the intention is noted, the term 'sustainable' is considered subjective and may introduce ambiguity in interpretation.

50. Clause 10 on powers of the board the Ministry of Agriculture proposed to

a) amend by deleting the sub-section and inserting 'Open such bank accounts for its funds as may be necessary'. To give the Board a leeway to open various bank accounts as may be necessary.

Committee Recommendation- The Committee declined the proposal. Allowing the Board to open multiple accounts without express limitations could weaken financial oversight and accountability.

- b) Amend to include a general power that 'Undertake any activity necessary for the fulfilment of any of its functions'. To give leeway to the Board to exercise power as the need may arise.

Committee Recommendation – The Committee declined the proposal. The proposed inclusion of a general power to "undertake any activity necessary for the fulfilment of any of its functions" was rejected. The Committee determined that this is overly broad and could grant the Board excessive discretion. A similar provision already exists under the functions clause, which allows the Board to carry out additional functions as assigned by this Act or any other written law, ensuring that the Board's powers remain clearly defined

51. Clause 12 on remuneration of the members of the Board the MoALD proposed to amend by deleting the clause and inserting the following 'The remuneration payable to members of the Board shall be determined by the Salaries and Remuneration Commission'. The constitution mandates SRC to determine remunerations and other allowances in the public sector.

Committee Recommendation– The committee declined the proposal. The proposed clause does not take away SRC's mandate.

52. Clause 13 on Chief Executive Officer

(a) MoALD proposed

- i. Amend to provide for the requirement is a minimum of a bachelor's degree. The qualification of a Chief Executive Officer is managerial.

Committee Recommendation – The Committee declined the proposal. The proposed clause already mandates that the CEO holds a degree in law, agriculture, or finance from a recognized university.

- ii. Amend to provide for a term of three years to align with the *Mwongozo*.

Committee Recommendation – The Committee accepted the proposal.

(b) Law Society of Kenya proposed that Section 17 of the Bill on liability of Board members, officers and employees should include the following subsections; (1)

Liability shall not attach to the Board or to any of its members, officers, agents or staff for loss or damage incurred as a result of an act or omission done in good faith and without negligence in the performance or exercise or the intended performance or exercise of any duty or power imposed by or conferred under this Act. (2) Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any act which is done or purported to be done by him or her under the direction of the Board, shall, if the court holds that such act was done in good faith, be paid out of the funds of the Board, if such expenses are not recovered by the person in such suit or prosecution.

(3) The provisions of subsection (1) shall not relieve the Board of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.

The Section provides for labialization of Board members and staff but does not sufficiently cover any person to whom a suit or prosecution is brought against in respect of any act which is done or purported to be done by him or her in good faith and without negligence.

Committee Recommendation – The Committee accepted the proposal.

- (c) **Clause 17 - Law Society of Kenya** - proposed Section 17 of the Bill on liability of Board members, officers and employees should include the following subsections; (1) Liability shall not attach to the Board or to any of its members, officers, agents or staff for loss or damage incurred as a result of an act or omission done in good faith and without negligence in the performance or exercise or the intended performance or exercise of any duty or power imposed by or conferred under this Act. (2) Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any act which is done or purported to be done by him or her under the direction of the Board, shall, if the court holds that such act was done in good faith, be paid out of the funds of the Board, if such expenses are not recovered by the person in such suit or prosecution. (3) The provisions of subsection (1) shall not relieve the Board of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of any power conferred

by this Act or any other written law or by the failure, wholly or partially, of any works.

The Section provides for liability of Board members and staff but does not sufficiently cover any person to whom a suit or prosecution is brought against in respect of any act which is done or purported to be done by him or her in good faith and without negligence.

Committee Recommendation – The Committee accepted the proposal.

53. **Clause 19 – Law Society of Kenya** – section relates to who has powers to sign documents on behalf of the Board. The section is administrative in nature and should not be legislated. They recommend that the section be deleted. This will allow the Board to set its own regulations on these matters with regard to applicable laws and policies. Further a proposal that in the absence of the CEO, then the Board shall authorize another to sign would reduce the work of the Board to administrative issues that would interfere with its ability to give oversight to the management.

Committee Recommendation - The Committee accepted the proposal.

54. **Clause 21 - Role of County Governments** - Council of County Governors - Amend the clauses 21(b), (c) and (i) to read as follows: 21. A county government shall—
(b) maintain an up-to-date register of nuts and oil crop growers, nursery operators, warehouses, processors, cooperatives and other associations in that county;
(c) licence nuts and oil processors;
(i) collaborate with relevant institutions so as to promote access to farm inputs, affordable credit and other financial services.

Add the following functions clause immediately after clause 21(l) to read as follows:

- (m) promote the diversification of nuts and oil crop products and by-products,
- (n) Put in place a framework for the capacity building and interaction of famers and various players in the nuts and oil crops industry.

55. To incorporate the warehouses which store nuts and oil crops and provide for further functions of the County Governments in line with the Fourth Schedule to the Constitution.

Committee Recommendation – The Committee partially accepted the proposal. The Committee accepted the amendments to clauses 21(b) and 21(i). Clause 21(c) was rejected as licensing processors is the board's function. Clause 21(m) was accepted with the amendment to add "at the county level," recognizing the importance of local-level product diversification. Clause 21(n) was rejected as capacity building is primarily a national government responsibility.

56. **Clause 21 (c) Role of the County Governments** – Ministry of Agriculture - Amend by deleting the clause. The processing of nuts and oil crops is for the international market and entails the importation of raw material.

Committee Recommendation – The Committee accepted the proposal.

57. **Hindi/ Mokoye farmers** – Provide for-
- i. Extension services
 - ii. Provision of farm inputs and credit
 - iii. Aggregation centres

Committee Recommendation– The Committee declined the proposal. These functions are already provided for under the roles of County Governments as outlined in the Act, and therefore, additional provisions are unnecessary.

58. Amend to provide for the counties to provide a framework for the establishment. The establishment of such facilities can also be done by value chain actors and private sectors.

Committee Recommendation – The Committee declined the proposal. The establishment of such facilities is already provided for under the roles of County Governments in the Act.

59. **Nature Kenya** - Therefore, amend 21 (e) to recognize application of net gain feasibility models in determining strategic sites, by adding the term "suitable", and specifying sites that should not be used, to read: *"21 (e) Facilitate the production of nuts and oil crop in the respective county by implementing and expanding the planting and replanting program of nuts and oil crops in strategic areas identified as having the most suitable potential, avoiding natural forests, seasonal wetlands*

and other critical biodiversity habitats, and the rehabilitation and fertilization of existing nuts and oil crops".

Commercial cultivation of some nuts and oil crops will have negative impacts to biodiversity and communities. The bill needs to promote a balanced development approach where sites identified as most potential for cultivation are evaluated using net gain feasibility models to establish impacts on valued ecological components within that ecosystem. If not feasible, the projects should be stopped at selection stage.

Committee Recommendation– The Committee declined the proposal. The proposal to amend Clause 21(e) is rejected on the basis that environmental safeguards and impact assessments are already governed by existing laws such as EMCA and the EIA Regulations.

60. **Clause 22 - County-specific legislation.** Ministry of Agriculture – Amend to delete the entire clause. The Constitution provides for the enactment of county legislation. The clause is likely to create double legislation which will lead to conflicts and confusion between the two levels of government. National legislation is done in consultation with the county governments.

Committee Recommendation– The Committee accepted the proposal. The Constitution already provides a framework for counties to enact laws.

61. **Council of County Governors** - Amend clause 22(1)(e) to read as follows: 22(1) (e) the grounds for the rejection of an application or cancellation of a licence issued under this Act and mechanisms for Appeal. No justification provided.

Committee Recommendation– The committee declined the proposal. The Committee accepted the deletion of clause 22, as the Constitution already provides a framework for counties to enact their own laws.

62. **Law Society of Kenya** - proposed that since the mother Bill has already been developed, counties should only create regulations relating to production, processing, distribution and marketing of nuts and oil crops that align with the current Bill. This will also minimize contradictions like Section 22 “1” a” referring to the counties developing legislation on the criteria for registration and appeal which have later been addressed in Part IV of the Bill on regulatory provisions. This

section provides for development of county specific legislation where a county engages in production, processing, distribution and marketing of nuts and oil crops.

Committee Recommendation- The committee declined the proposal. The Committee accepted the deletion of clause 22, as the Constitution already provides a framework for counties to enact their own laws.

63. Clause 23 Regulation of nuts and oil Crops - Ministry of Agriculture

Delete the entire clause. The provisions are not regulatory and are provided for under clause 21.

Committee Recommendation – The Committee accepted the resolution.

64. Nature Kenya - Therefore, amend to add 23 (1) to add the above view, to read: "*23 (1) (h) Enhancing conservation, protection and management of all ecologically sensitive areas.* Expand the regulatory framework to encompass climate change adaptation, halting of biodiversity loss, and pollution prevention in addition to the other listed economic objectives as this will enhance contribution to the global efforts against the triple planetary crisis. The need for climate smart production cannot be overemphasized.

Committee Recommendation– The committee declined the proposal. The committee agreed to delete Clause 23 since it is not a regulatory clause.

65. Clause 24 on registration – Law Society of Kenya - proposed that a nuts and oil crop grower be defined to ensure that there is certainty as to who falls under that classification for the purpose of determining who qualifies for exemptions under the same section. The section makes reference to a nuts and oil crop grower yet the entire document does not define who a nuts and oil crop grower.

Committee Recommendation - The committee accepted the proposal to define a nuts and oil crop grower as a person who cultivates nuts and oil crop in Kenya excluding a person who cultivates nuts and oil crops for subsistence.

66. Mpeketoni farmers - Amend to regulate the crop and not the farmers.

Committee Recommendation - The committee declined the proposal. Registration of farmers is essential for effective planning, regulation, and traceability across the

value chain. It also facilitates targeted support for farmers through access to inputs, extension services, and market linkages.

67. Hindi/ Mukowe farmers - Registration is a burden to farmers.

Committee Recommendation– The Committee declined the proposal. Registration enables structured support and planning for the sector. It is not intended to burden farmers but to ensure they benefit from government programs, extension services, and market access. Non-registration does not criminalize the farmer but may limit access to such benefits.

68. Clause 25 on Licensing of processors - Ministry of Agriculture - Amend the clause by deleting CECM where it appears and replacing it with Board. Licensing of processors should be done by the board because it is intended for the external market and processors utilize imported raw material.

Committee Recommendation - The committee accepted the proposal Nature Kenya - "25 (2) (c), *Environmental Impact Assessment or Environmental and Social Impact Assessment license as per the EMCA regulations*". Require Environmental Impact Assessment or Environmental and Social Impact Assessment approvals for processors to ensure compliance with environmental regulations as per Environment Management and Coordination Act (EMCA) regulations among documents submitted to the County Executive Committee Member in application for licensing.

Committee Recommendation– The Committee declined the proposal. Compliance with EMCA regulations is already a mandatory legal requirement for activities with potential environmental impact. Including it in the Bill is therefore redundant, as all relevant actors are already obligated to obtain the necessary approvals under existing law.

69. Mpeketoni Farmers:

- i. Licensing should be done by AFA or the Board. County government is ineffective.

Committee Recommendation – Proposal accepted for licensing to be done by the Board.

- ii. Amend to protect cottage industries. To protect small scale processors.

Committee Recommendation – Proposal accepted.

70. **Clause 25(2)** - Ministry of Agriculture - Amend the sub-clause by deleting county legislation and replacing it with the regulations under this Act. Licensing will be done under this act and not through county legislation.

Committee Recommendation – Proposal accepted.

71. Amend clause 25 to include the marketing agents, exporters, and importers. They are important actors in the value chain and need to be regulated.

Committee Recommendation – Proposal accepted.

72. **Clauses 26,27,28,29** - Ministry of Agriculture. Amend by deleting the word ‘county executive committee member’ wherever it appears and replacing it with the words ‘The Board’. Licensing of the players should be done by the board because it is intended for the international markets and processors utilize imported raw material.

Committee Recommendation – Proposal accepted.

73. **Clause 29** on Appeals - Council of County Governors - Amend to read as follows:
29. (1) An applicant who is aggrieved by the decision of the county executive committee member not to issue a licence under this Act may appeal to the County Crops Dispute Resolution Committee against the decision within fourteen days of receipt of the decision.

(2) A party aggrieved by the decision of the Dispute Resolution Committee may appeal to the High Court within fourteen days of receipt of the decision. To provide of Alternative means of Dispute Resolution through the formation of county dispute resolution committees before a party can approach the High Court.

Committee Recommendation – Proposal declined the proposal. While the Bill initially provided for licensing at the county level, the Committee resolved to assign this function to the Board. As such, the proposed county dispute resolution mechanism is no longer applicable. The Committee, however, acknowledged the need to include a dispute resolution mechanism under the Board before court proceedings.

74. **Clause 35** – Ministry of Agriculture - Amend by deleting the words 'cotton industry' and replacing them with the words 'sub-sector'. The use of the cotton industry is not relevant to the nuts and oil crops sub-sector.

Committee Recommendation – Proposal accepted.

75. **Mpeketoni farmers** - Provide for a stabilization fund to support farmers.

Committee Recommendation – Proposal declined the proposal. The Committee noted that the Bill already provides for county governments to support farmers through access to affordable credit facilities and also provides for tax incentives.

76. **Mpeketoni farmers** - Provide for incentives to assist farmers.

Committee Recommendation – Proposal declined the proposal. The committee noted that it is provided for under Clause 35.

77. **Clause 37 on penalties – Ministry of Agriculture** - Amend to provide for a fine not exceeding five hundred thousand shillings or imprisonment for a period not exceeding one year, or both. The law should provide for a maximum fine and penalty. The Kes. 20,000 provided for is low and may not deter malpractices.

Committee Recommendation – Proposal accepted.

78. Regulations;

- (a) Procedure for licensing of marketing agents, transporters, processors, exporters, and importers;
- (b) To provide for forms fees to be paid for anything to be done under this Act;
- (c) Mechanisms for conflict resolution;
- (d) To provide for the submission of returns and reports by the holders of licenses and permits under this Act;
- (e) Standards and the manner of grading of the nuts and oil crops
- (f) Rules for ensuring food safety including handling, transportation, processing, and market standards of nuts and oil crops produce and products;
- (g) Periods for which licenses and registration certificates shall be issued;
- (h) Regulation of standard industry agreements;
- (i) Regulation on competitive pricing and market access; and
- (j) Regulation on fees and levies.

To ensure adequate provisions for regulations.

Committee Recommendation – Proposal accepted.

79. **Council of County Governors** - Amend by introducing a new sub-clause 38(2)(e) immediately after 38(2)(d) to read as follows: 38(2)(e). Establishment of the County Crops Dispute Resolution Committee. No justification provided.

Committee Recommendation – Proposal declined the proposal. While the Bill initially provided for licensing at the county level, the Committee resolved to assign this function to the Board. As such, the proposed county dispute resolution mechanism is no longer applicable.

80. **PART VI-Miscellaneous Provisions** - Ministry of Agriculture - Introduce a new clause to give the CS powers to impose a levy on the nuts and oil crops produce and products. It is important to have the levy for the sustenance, development, provision, and general benefit of the nuts and oil crops sub-sector.

Committee Recommendation – Proposal declined the proposal. Levies will create financial burden to farmers.

81. **Clause 44 - Previous authorization** - Ministry of Agriculture - Amend by deleting the word ‘Authority’ and substituting it with the word ‘Board’. To provide clarity and consistency.

Committee Recommendation – Proposal accepted.

82. **Clause 45 on Staff** - Ministry of Agriculture:

- i. Amend by inserting the following words after the words staff of the board; ‘on the same or better terms. To provide adequate safeguards for the staff welfare.

Committee Recommendation – Proposal accepted.

- ii. Amend by inserting a sub-clause ‘If a person does not intend to become a member of staff of the Board, the person shall, within a period of 30 days

from the appointed day give notice in writing to the Board.’ Fairness in staff who might opt not to join the Nuts and Oil Crops Development Board.

Committee Recommendation – Proposal accepted.

- iii. Amend by inserting a sub-clause ‘Any other member of staff within the Agriculture and Food Authority may upon consideration and appointment by the Board become a member of staff of the Board after the commencement of this Act.’ Fairness in staff who might want to opt in and join the Nuts and Oil Crops Development Board.

Committee Recommendation– Proposal declined the proposal. Transitional staffing arrangements are already addressed under the Act. The current clause already provides for the transfer of staff in the nuts and oil sector from AFA to the new Board. Transitional staffing arrangements are adequately addressed. Other AFA staff may apply competitively when vacancies are advertised, in line with public service procedures.

- iv. Amend to insert a sub-clause ‘The staff pensions fund of Kenya Coconut Development Authority Pension Scheme shall on the appointed day vest in the Board’. To manage the staff pension funds.

Committee Recommendation – Proposal declined the proposal. Pension matters are governed by existing laws and regulations under the Retirement Benefits Authority. The vesting and management of pension funds must comply with these legal frameworks and cannot be determined through this legislation.

CHAPTER THREE

1.3 COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

3.1.1 COMMITTEE OBSERVATIONS

The Committee observed that:

83. The Bill seeks to amend the Crops Act, 2013, to restructure the regulation and management of nuts and oil crops, currently under the mandate of the Agriculture and Food Authority (AFA), by establishing a dedicated Nuts and Oil Crops Development Board. The Committee observed that the inclusion of nuts and oil crops within the AFA framework has not significantly advanced the sector.
84. Nuts and oil crops are essential contributors to Kenya's economy, accounting for 1.2% of the national Gross Domestic Product (GDP) and 4.5% of the Agricultural GDP. The sub-sector plays a key role in job creation, income generation, foreign exchange earnings, and has significant potential for food and nutrition security as well as manufacturing. Despite this potential, the acreage and productivity of most nuts and oil crops remain low, leading to a heavy reliance on imported edible oil. Establishing a dedicated board will foster better coordination and sustainable value chain management.
85. There was a decline in the productivity and global competitiveness of Kenya's nuts and oil crops sector over the years. Factors such as inconsistent quality standards, inadequate market access, and limited investment in processing have hampered growth. The Bill is therefore an important intervention to revitalize the industry by establishing a coherent and robust regulatory framework.
86. Agriculture being a devolved function, the Bill outlines the roles of county governments in managing the nuts and oil crops sector, ensuring a decentralized approach to development. Counties are tasked with implementing national policies, maintaining stakeholder registers, enforcing good governance, and supporting agricultural productivity through planting, replanting, and extension services. Additionally, counties will promote farmer cooperatives, provide training, enhance value addition, monitor pest and disease outbreaks, and encourage product diversification. This ensures counties play a key role in driving the sector's growth and sustainability.

87. Enhanced collaboration and stakeholder engagement are crucial for the success of the proposed board. It emphasized the importance of actively engaging with various stakeholders, including farmers, processors, and county governments. Strengthening collaboration and fostering inclusivity will ensure that the unique challenges across different regions are effectively addressed, leading to holistic sector development.

3.1.2 COMMITTEE RECOMMENDATIONS

88. The Committee having considered the Nuts and Oil Crops Bill, 2023 (Senate Bills No. 47 of 2023) and the submissions received thereon, recommends that the House approves the Bill together with the proposed amendments.

LIST OF APPENDICES

Appendix I	Committee Stage Amendments to the Bill
Appendix II	Minutes of the Standing Committee on Agriculture, Livestock and Fisheries
Appendix III	The Nuts and Oils Amendment Bill, 2023
Appendix IV	Advertisement published in the <i>Daily Nation</i> and <i>Standard</i> newspapers
Appendix V	Matrix of the submissions received by the Committee on each clause of the Bill and on general matters relating to the Bill
Appendix VI	Copies of stakeholder submissions on the Bill

APPENDIX 1:

**COMMITTEE STAGE AMENDMENTS TO
THE BILL**

22nd May, 2025

The Clerk of the Senate

Parliament Buildings

NAIROBI

**RE: COMMITTEE STAGE AMENDMENTS TO THE NUTS AND OIL
CROPS DEVELOPMENT BILL, 2023 (SENATE BILLS NO. 47 OF 2023)**

NOTICE is given that Sen. David Wafula Wakoli, MP, Chairperson to the Standing Committee on Agriculture, Livestock and Fisheries, intends to move the following amendments to the Nuts and Oil Crops Development Bill, 2023 (Senate Bill No. 47 of 2023), at the Committee Stage—

CLAUSE 3

THAT Bill be amended by deleting clause 3 and substituting therefor the following new clause —

3. The object of this Act is to —

- (a) regulate the nuts and oil crops subsector;
- (b) promote a globally competitive nuts and oil crops subsector;
- (c) increase production and processing of safe and healthy nuts and oil crops produce and products;
- (d) promote value addition to the nuts and oil crops produce and their products;
- (e) generate higher income for the nuts and oil crops farmers and traders by introducing improved varieties of the nuts and oil crops produce with higher yield;
- (f) provide continuous and sustained research and extension services for the development of the nuts and oil crops subsector;
- (g) facilitate the introduction of modern nuts and oil crops farming techniques and general modernization of their subsector; and

- (h) implement effective marketing strategies.

CLAUSE 4

THAT clause 4 of the Bill be amended —

- (i) in subclause (3) deleting the word “Kilifi” appearing immediately after the words “shall be in” and substituting therefor the word “Nairobi”; and
- (ii) by inserting the following new subclause immediately after subclause (3)—

(3A) The Board may establish such other offices in Kenya as it may consider necessary for the discharge of its functions under this Act.

CLAUSE 5

THAT clause 5 of the Bill be amended —

- (a) in subclause (1) by deleting the introductory clause and substituting therefor the following new introductory clause —

(1) The Board shall consist of—

- (b) by inserting the following new paragraph immediately after paragraph (c)—

(ca) the Principal Secretary responsible for finance or a representative nominated by the Principal Secretary in writing;

- (c) in subclause (1) by deleting paragraph (d) and substituting therefor the following new paragraph—

(d) three persons with five years’ experience in the nuts and oil subsector appointed by the cabinet secretary, of whom—

- (i) one shall be a farmer representing the nuts subsector;
- (ii) one shall be a farmer representing the oil crops subsector; and
- (iii) one shall be a processor.;

- (d) by deleting paragraph (e) and substituting therefor the following new paragraph—

- (c) one person with five years' experience in the nuts and oil crops subsector, nominated by the Council of Governors;
- (e) in subclause (2) by inserting the words "as a member of the Board" appearing in the introductory clause immediately after the words "for appointment".
- (f) by deleting subclause (3) and substituting therefor the following new subclause—

(3) In making appointments under subsection (1)(d), the Cabinet Secretary shall ensure that not more than two-thirds of the appointees are of the same gender, and shall give due consideration to diversity in age, regional and ethnic background.

CLAUSE 6

THAT clause 6 of the Bill be amended—

- (a) in the marginal note by deleting the word "member" appearing immediately after the word "appointment as a" and substituting therefor the word "chairperson";
- (b) in the introductory clause by deleting the word "member of the Board" appearing immediately after the words "appointment as a" and substituting therefor the word "chairperson";
- (c) in paragraph (b) by deleting the word "and" appearing immediately after the words "in Kenya;"; and
- (d) by inserting the following new paragraph immediately after paragraph (b)—

(ba) has knowledge and experience of at least ten years in matters relating to agriculture; and.

CLAUSE 7

THAT clause 7 of the Bill be amended by deleting the words "section 6" and substituting therefor the words "section 5".

CLAUSE 9

THAT clause 9 of the Bill be amended—

- (a) in paragraph (a) by deleting the words “crop industry” appearing immediately after the words “nuts and oil ” and substituting therefor the word “crops subsector”;
- (b) by deleting paragraph (b) and substituting therefor the following new paragraph—
 - (b) make recommendations to the Cabinet Secretary and county executive committee members on the national strategies, plans and policies relating to the nut and oil crop subsector;
- (c) in paragraph (e) by deleting the words “crop industry” appearing immediately after the words “nuts and oil” and substituting therefor the word “crops subsector”;
- (d) in paragraph (f) by deleting the words “crop industry” appearing immediately after the words “nut and oil” and substituting therefor the word “crops subsector”.
- (e) In paragraph (g) by deleting the words “marketing and the exportation” appearing immediately after the words “regulate the” and substituting therefor the words “import and export”;
- (f) in paragraph (h) by deleting the word “industry” appearing immediately after the words “nuts and oil crops” and substituting therefor the word “subsector”;
- (g) in paragraph (i) by—
 - (i) deleting the words “crop industry” appearing immediately after the words “nuts and oil” and substituting therefor the word “crops subsector”; and
 - (ii) deleting the word “and” appearing immediately after the words “Kenya Bureau of Standards;”

(h) in paragraph (j) by deleting the word “coordinate” appearing at the beginning of the paragraph and substituting therefor the word “facilitate”.

(i) by deleting paragraph (k) and substituting therefor the following new paragraph—

(k) support counties in the development of mechanisms for farmer assistance including access to farm inputs and affordable credit facilities; and

(j) by inserting the following new paragraph immediately after paragraph (k)—

(ka) carry out such other functions as may be assigned by the Cabinet Secretary or conferred under any other law.

CLAUSE 10

THAT clause 10 of the Bill be amended in subclause (2) by deleting the word “industry” appearing immediately after the words “nuts and oil crops” and substituting therefor the word “subsector”.

CLAUSE 13

THAT clause 13 of the Bill be amended in subclause (3) by deleting the word “five” appearing immediately after the words “a term of” and substituting therefor the word “three”.

CLAUSE 17

THAT the Bill be amended by deleting clause 17 and substituting therefor the following new clause—

17. (1) Liability shall not attach to the Board or to any of its members, officers, agents or staff for loss or damage incurred as a result of an act or omission done in good faith and without negligence in the performance or exercise or the intended performance or exercise of any duty or power imposed by or conferred under this Act.

(2) Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any act which is done or purported to be done by him or her under the direction of the Board, shall, if the court holds that such act was done in good faith, be paid out of the funds of the Board, if such expenses are not recovered by the person in such suit or prosecution.

(3) The provisions of subsection (1) shall not relieve the Board of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.

CLAUSE 19

THAT the Bill be amended by deleting clause 19.

CLAUSE 20

THAT clause 20 of the Bill be amended—

- (i) in subclause (1) by deleting the words “Schedule” appearing immediately after the words “accordance with the” and substituting therefor the words “First Schedule”
- (ii) in subclause (2) by deleting the words “Schedule” appearing immediately after the words “provided in the” and substituting therefor the words “First Schedule”.

CLAUSE 21

THAT clause 21 of the Bill be amended—

- (a) in paragraph (b) by inserting the word “warehouses,” immediately after the words “nursery operators,”;
- (b) by deleting paragraph (c);

(c) in paragraph (d) by deleting the word “crop industry” appearing immediately after the words “nuts and oil” and substituting therefor the word “crops subsector”;

(d) in paragraph (i) by inserting the words “farm inputs, affordable” immediately after the words “promote access to”; and

(e) by inserting a new paragraph immediately after paragraph (k)—

(ka) promote the diversification of nuts and oil crop products and by-products at the county level;

CLAUSE 22

THAT the Bill be amended by deleting clause 22.

CLAUSE 23

THAT the Bill be amended by deleting clause 23.

CLAUSE 25

THAT clause 25 be amended—

(a) in the marginal note by deleting the words “of processors”;

(b) in subclause (1) by inserting the words “marketing, export or import” immediately after the words “in the processing,”;

(c) by inserting the following new subclause immediately after subclause (1)—

(1A) Despite subclause (1), the Board shall establish a simplified and affordable licensing framework for small-scale processors of nuts and oil crops intended for domestic markets.

(d) by deleting subclause (2) and substituting therefor the following new subclause—

(2) A person who intends to process nuts and oil crop products shall submit an application to the Board in the prescribed form together with—

- (a) such documents and information as the Board may prescribe;
- and
- (b) the prescribed fees.

(c) in subclause (3) by—

- (a) deleting the words “A county executive committee member” appearing in the introductory clause and substituting therefor the words “The Board”; and
- (b) deleting the words “county executive committee member” appearing immediately after the words “conditions as the” in paragraph (b) and substituting therefor the word “Board”.

(f) in subclause (4) by deleting the words “by the respective county executive committee member,” appearing after the words “the applicant”.

(g) in subclause (5) by —

- (a) deleting the words “county executive committee member” appearing immediately after the words “Where the” and substituting therefor the word “Board”; and
- (b) deleting the words “county executive committee member” appearing immediately after the words “grant a licence, the” and substituting therefor the word “Board”;

(h) by inserting the following new subclause immediately after subclause (5)—

(5A) In this section, a small-scale processor means a person or enterprise engaged in the processing of nuts and oil crops using limited capital investment and basic or semi-mechanized equipment, whose annual

processing capacity does not exceed the threshold prescribed by the Board and whose operations are primarily intended to serve domestic markets.

CLAUSE 26

THAT clause 26 of the Bill be amended—

(a) in subclause (1) by —

- (a) deleting the words “A county executive committee member” appearing at the beginning of the subclause and substituting therefor the word “The Board”; and
- (b) deleting the words “county executive committee member” appearing immediately after the words “manner as the” and substituting therefor the word “Board”.

(b) in subclause (2)—

- (a) by deleting the words “county executive committee member” appearing in the introductory clause and substituting therefor the word “Board”;
- (b) by deleting the words “county executive committee member” appearing immediately after the words “lodged with the” in paragraph (c) and substituting therefor the word “Board”.

(c) in subclause (3) by —

- (a) deleting the words “The county executive committee member” appearing at the beginning of the subclause and substituting therefor the words “The Board”;
- (b) deleting the words “county executive committee member” appearing immediately after the words “such conditions as the” and substituting therefor the word “Board”.

CLAUSE 27

THAT clause 27 of the Bill be amended—

(a) in subclause (1)—

(a) by deleting the words “The county executive committee member” appearing at the beginning of the subclause and substituting therefor the word “The Board”; and

(b) by deleting the words “or county legislation” appearing immediately after the words ‘this Act’ in paragraph (a).

(b) in subclause (2) by deleting the introductory clause and substituting therefore the following new introductory clause—

(2) The Board shall not revoke the licence under subsection (1)(a) unless the Board—

CLAUSE 28

THAT clause 28 of the Bill be amended—

(a) in subclause (2) by —

(a) deleting the words “The county executive committee member” appearing at the beginning of the subclause and substituting therefor the words “The Board”; and

(b) deleting the words “committee member” appearing immediately after the words ‘period as the’ and substituting therefor the word ‘Board’.

(b) in subclause (3) by deleting the words ‘county executive committee member’ appearing immediately after the words ‘such notice, the’ and substituting therefor the word ‘Board’;

(c) in subclause (4) by deleting the words ‘county executive committee member’ appearing immediately after the words ‘cancelled by the’ and substituting therefor the word ‘Board’.

CLAUSE 29

THAT the Bill be amended by deleting clause 29 and substituting therefor the following new clause—

29.(1) An applicant who is aggrieved by the decision of the Board not to issue a licence under this Act may, within fourteen (14) days from the date of receiving the decision, submit a written appeal to the Board for review.

(2) The Board shall consider the appeal and provide a response within fourteen days of receiving the appeal and may—

(a) uphold its original decision;

(b) reverse its decision and issue the licence; or

(c) take any other action that is deemed appropriate for the implementation of this Act.

(3) If the applicant is still aggrieved by the Board's decision after the review, the applicant may, within fourteen days of receiving the decision on the appeal to the Board file an appeal to the High Court.

CLAUSE 35

THAT clause 35 of the Bill be amended by—

(a) deleting the word “industry” appearing after the words “nuts and oil crops” and substituting therefor the word “subsector”; and

(b) deleting the words “cotton industry” appearing immediately after the words ‘development of the’ and substituting therefor the words “nuts and oil crops subsector.”.

CLAUSE 37

THAT clause 37 of the Bill be amended in subclause (1) by—

- (a) deleting the words ‘of not less than twenty thousand shillings’ appearing immediately after the words ‘to a fine’ and substituting therefor the words ‘not exceeding five hundred thousand shillings’; and
- (b) deleting the words ‘six months, or to’ appearing immediately after the words ‘not exceeding’ and substituting therefor the words ‘one year or’.

CLAUSE 38

THAT clause 38 of the Bill be amended by deleting subclause (2) and substituting therefor the following new subclause—

- (2) Without prejudice to the generality of subsection (1), the regulations may provide for —
 - (a) conditions for registration;
 - (b) forms to be used in the application for registration, and related activities;
 - (c) the process of application for registration and related activities; and
 - (d) the regulation of contracts between growers, processors and other players in the nut and oils subsector industry;
 - (e) the procedure for licensing and regulation of marketing agents, transporters, processors, exporters, and importers;
 - (f) the forms and fees payable in respect of any matter required to be done under this Act;
 - (g) mechanisms for dispute resolution within the nuts and oil crops subsector;

- (h) the standards and procedures for the grading and classification of nuts and oil crops and their products;
- (i) food safety requirements, including standards for handling, transportation, processing, and marketing of nuts and oil crops produce, and products; and
- (j) the duration and renewal periods for licences and registration certificates issued under this Act.

CLAUSE 44

THAT clause 44 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “made by the” and substituting therefor the word ‘Board’.

NEW CLAUSE

CLAUSE 35A

THAT the Bill be amended by inserting the following new clause immediately after clause 35—

35A. Declaration of nuts and oil crops.

- (1) The crops specified in the Second Schedule are nuts and oil crops for purposes of this Act.
- (2) The Cabinet Secretary may, by notice in the *Gazette*, declare any other crop to be a nuts and oil crop for purposes of this Act.

SCHEDULE

THAT the Bill be amended by renumbering the existing Schedule as the First Schedule.

NEW SCHEDULE

THAT the Bill be amended by inserting the following new schedule immediately after the First Schedule—

SECOND SCHEDULE
(s. 2)
NUTS AND OIL CROPS

1. Coconut
2. Cashew nut
3. Macadamia nut
4. Ground nuts
5. Castor beans
6. Sunflower
7. Oil seed jojoba
8. Shied safflower
9. Sesame
10. Linseed
11. Oil Palm
12. Bambara nut
13. Cotton seed

CLAUSE 2

THAT clause 2 of the Bill be amended by—

- (a) deleting the definition of the word ‘nuts and oil crops’ and substituting therefor the following new definition—

“nuts and oil crops” mean the crops set out in the Second Schedule to this Act;

- (b) deleting the definition of the word ‘processor’ and substituting therefor the following new definition—

“processor” means a person who transforms nuts and oil crops produce or products into various end-use products; and

- (c) inserting the following new definitions in their proper alphabetical sequence—

“grower” means a person, whether small-scale or large-scale, who cultivates nuts and oil crops for commercial purposes, and excludes those who grow nuts and oil crops solely for subsistence;

“processing” means the alteration, extraction, refinement or transformation of nuts or oil crops from their raw state into a usable or marketable form, and includes shelling, drying, crushing, pressing, refining, fortifying, packaging or any other activity that enhances the value or shelf-life of nuts or oil crops.

LONG TITLE

THAT the long title of the Bill be amended by inserting the word “Development” immediately after the words “establish the Nuts and Oil Crops”.

Dated 22/5/2025 2025.



David Wafula Wakoli,
Chairperson,

Standing Committee on Agriculture, Livestock and Fisheries.

APPENDIX II:

**MINUTES OF THE STANDING
COMMITTEE ON AGRICULTURE,
LIVESTOCK AND FISHERIES**



**MINUTES OF THE ONE HUNDRED AND SIXTY THIRD MEETING OF THE
SENATE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND
FISHERIES, HELD ON THURSDAY, 8TH MAY, 2025, AT 10.00 A.M. IN
COMMITTEE ROOM 5, MAIN PARLIAMENT BUILDINGS**

PRESENT

1. Sen. David Wafula Wakoli, MP	-	Chairperson
2. Sen. Alexander Munyi Mundigi, MP	-	Vice-Chairperson
3. Sen. Wahome Wamatinga, MP	-	Member
4. Sen. Mwenda Gataya (Mo Fire), CBS, MP	-	Member
5. Sen. Sheikh Mohamed Abbas, CBS, MP	-	Member
6. Sen. Catherine Muma, MP	-	Member

ABSENT WITH APOLOGIES

1. Sen. Moses Kajwang', CBS, MP	-	Member
2. Sen. Hezena Lemaletian, MP	-	Member
3. Sen. (Prof.) Tom Ojienda, SC MP	-	Member

SECRETARIAT

1. Mr. Peter Mulesi	-	Clerk Assistant I
2. Ms. Caroline Njue	-	Clerk Assistant II
3. Ms. Faith Cherutoh	-	Legal Counsel II
4. Ms. Winnie Atieno	-	Audio Officer
5. Mr. Hillary Cheruiyot	-	Research Officer III
6. Mr. Solomon Alubala	-	Fiscal Analyst III
7. Ms. Sarah Rukwaro	-	SAA
8. Mr. Paul Katuta	-	SAA

MIN/SEN/SCA/1072/2025 -

PRELIMINARIES

The meeting was called to order at 10:30 a.m. followed by a word of prayer and introductions.

MIN/SEN/SCA/1073/2025 -

ADOPTION OF THE AGENDA

The agenda was adopted after being proposed by Sen. Wahome Wamatinga, MP and seconded by Sen. Mwenda Gataya Mo Fire, MP as follows –

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of:
 - i. Minutes of the One Hundred and Fifty Seventh sitting held on Wednesday, 26th March, 2025 at 9:00 a.m.; and
 - ii. Minutes of the One Hundred and Fifty Eighth sitting held on Wednesday, 26th March, 2025 at 2:00 p.m.
 - iii. Minutes of the One Hundred and Fifty Ninth sitting held on Tuesday, 8th April, 2025 at 10:00 a.m.;
 - iv. Minutes of the One Hundred and Sixtieth sitting held on Thursday, 10th April, 2025 at 10:00 a.m.;
 - v. Minutes of the One Hundred and Sixty Second sitting held on Tuesday, 6th May, 2025 at 10:00 a.m.; and
 - vi. Minutes of the One Hundred and Sixty Third sitting held on Thursday, 8th May, 2025 at 10:00 a.m.
4. Matters arising;
5. Consideration of the Stakeholder Submissions on the Nuts and Oil Crops Bill, 2023 (Senate Bills No. 47 of 2023) (*Committee Paper No. 128*).
6. Any Other Business; and
7. Date of the Next Meeting and Adjournment.

MIN/SEN/SCA/1074/2025 -

CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTING

The Minutes of the One Hundred and Sixty First sitting held on Tuesday, 6th May, 2025 at 10:00 a.m. were confirmed as a true record of the proceedings after being proposed by Sen. Mwenda Gataya Mo Fire, CBS, MP and seconded by Sen. Wahome Wamatinga, MP.

MIN/SEN/SCA/1075/2025 -

MATTES ARISING FROM THE PREVIOUS MINUTES

There were no matters arising.

MIN/SEN/SCA/1076/2025 -

ADOPTION OF THE DRAFT REPORT ON THE NUTS AND OIL CROPS BILL, 2023 (SENATE BILLS NO. 47 OF 2023) (COMMITTEE PAPER NO. 127)

The draft report on the Nuts and Oil Crops Bill, 2023 (Senate Bills No. 47 of 2023) was considered and adopted by the Committee after being proposed by Sen. Mwenda Gataya Mo Fire, MP and seconded by Sen. Wahome Wamatinga, MP.

MIN/SEN/SCA/1077/2025 - ANY OTHER BUSINESS

1. The Committee was informed that the brief on the irrigation schemes in Turkana would be ready by the end of the week.
2. The secretariat was tasked to investigate on the leasing of sugar companies.
3. The Committee resolved that the Senators in the mediation Committee on the ✓ Food and Feed Control Coordination Bill, 2024 (National Assembly Bills No. 21 of 2024) would be briefed on the clauses under contention on Tuesday, 13th May, 2025 at 1:30 p.m.
4. The Committee was reminded of the scheduled CONE to Kisumu and Bungoma Counties from 8th to 12th May, 2025.
5. Invite the Cabinet Secretary, Principal Secretary and the privatization Commission to deliberate on the issues affecting the sugar industry.

MIN/SEN/SCA/1078/2025 - ADJOURNMENT

There being no other business, the meeting adjourned at 11.20 a.m. The next meeting would be communicated by notice.

SIGNED:



DATE: 20/5/25

**SEN. DAVID WAFULA WAKOLI, MP
(CHAIRPERSON)**



**MINUTES OF THE ONE HUNDRED AND SIXTY SECOND MEETING OF
THE SENATE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK
AND FISHERIES, HELD ON TUESDAY, 6TH MAY, 2025, AT 10.00 A.M. IN
COMMITTEE ROOM 5, MAIN PARLIAMENT BUILDINGS**

PRESENT

- | | | |
|-------------------------------------|---|-------------------------|
| 1. Sen. David Wafula Wakoli, MP | - | Chairperson |
| 2. Sen. Alexander Munyi Mundigi, MP | - | Vice-Chairperson |
| 3. Sen. (Prof.) Tom Ojienda, SC MP | - | Member |

ABSENT WITH APOLOGIES

- | | | |
|--|---|---------------|
| 1. Sen. Wahome Wamatinga, MP | - | Member |
| 2. Sen. Mwenda Gataya (Mo Fire), CBS, MP | - | Member |
| 3. Sen. Sheikh Mohamed Abbas, CBS, MP | - | Member |
| 4. Sen. Catherine Muma, MP | - | Member |
| 5. Sen. Moses Kajwang', CBS, MP | - | Member |
| 6. Sen. Hezena Lemaletian, MP | - | Member |

SECRETARIAT

- | | | |
|--------------------------|---|---------------------------|
| 1. Mr. Peter Mulesi | - | Clerk Assistant I |
| 2. Ms. Caroline Njue | - | Clerk Assistant II |
| 3. Ms. Faith Cherutoh | - | Legal Counsel II |
| 4. Ms. Winnie Atieno | - | Audio Officer |
| 5. Mr. Hillary Cheruiyot | - | Research Officer |
| 6. Mr. Solomon Alubala | - | Fiscal Analyst |
| 7. Ms. Sarah Rukwaro | - | SAA |
| 8. Mr. Paul Katuta | - | SAA |

MIN/SEN/SCA/1065/2025 -

PRELIMINARIES

The meeting was called to order at 10:30 a.m. followed by a word of prayer and introductions.

MIN/SEN/SCA/1066/2025 -

ADOPTION OF THE AGENDA

The agenda was adopted after being proposed by Sen. Alexander Mundigi, MP and seconded by Sen. Alexander Mundigi, MP as follows –

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of:
 - i. Minutes of the One Hundred and Fifty Seventh sitting held on Wednesday, 26th March, 2025 at 9:00 a.m.; and
 - ii. Minutes of the One Hundred and Fifty Eighth sitting held on Wednesday, 26th March, 2025 at 2:00 p.m.
 - iii. Minutes of the One Hundred and Fifty Ninth sitting held on Tuesday, 8th April, 2025 at 10:00 a.m.;
 - iv. Minutes of the One Hundred and Sixtieth sitting held on Thursday, 10th April, 2025 at 10:00 p.m.; and
 - v. Minutes of the One Hundred and Sixty First sitting held on Thursday, 17th May, 2025.
4. Matters arising;
5. Consideration of the Stakeholder Submissions on the Nuts and Oil Crops Bill, 2023 (Senate Bills No. 47 of 2023) (*Committee Paper No. 126*).
6. Any Other Business; and
7. Date of the Next Meeting and Adjournment.

MIN/SEN/SCA/1067/2025 -

CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTING

The Minutes of the One Hundred and Sixtieth sitting held on Thursday, 10th April, 2025 at 2:00 p.m. were confirmed as a true record of the proceedings after being proposed by Sen. Alexander Mundigi, MP and seconded by Sen. (Prof.) Tom Ojienda, SC, MP.

MIN/SEN/SCA/1068/2025 -

MATTES ARISING FROM THE PREVIOUS MINUTES

There were no matters arising.

MIN/SEN/SCA/1069/2025 -

ADOPTION OF AMENDMENTS TO THE NUTS AND OIL CROPS BILL, 2023 (SENATE BILLS NO. 47 OF 2023) (COMMITTEE PAPER NO. 126)

The amendments to the Nuts and Oil Crops Bill, 2023 (Senate Bills No. 47 of 2023) were considered and adopted by the Committee after being proposed by Sen. (Prof.) Tom Ojienda, SC, MP and seconded by Sen. Alexander Mundigi, MP.


MIN/SEN/SCA/1070/2025 -

ANY OTHER BUSINESS

1. Members raised concerns on the Committee only dealing with the legislative role of business (Bills) during Committee meetings and not focusing on the oversight role.
2. The secretariat was tasked to look into the issues affecting the agricultural sector in Counties and invite the Governors to come explain to the Committee.
3. The Committee was informed of the scheduled CONE to Kisumu and Bungoma Counties from 8th to 12th May, 2025.

MIN/SEN/SCA/1071/2025 - ADJOURNMENT

There being no other business, the meeting adjourned at 11.30 a.m. The next meeting would be communicated by notice.

SIGNED:  DATE: 20/05/2025
SEN. DAVID WAFULA WAKOLI, MP
(CHAIRPERSON)



MINUTES OF THE ONE HUNDRED AND SIXTY FIRST MEETING OF THE SENATE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES, HELD ON THURSDAY, 17TH APRIL, 2025, AT 10.00 A.M. IN COMMITTEE ROOM 5, MAIN PARLIAMENT BUILDINGS

PRESENT

- | | | |
|--|---|--------------------|
| 1. Sen. David Wafula Wakoli, MP | - | Chairperson |
| 2. Sen. Wahome Wamatinga, MP | - | Member |
| 3. Sen. Mwenda Gataya (Mo Fire), CBS, MP | - | Member |

ABSENT WITH APOLOGIES

- | | | |
|---------------------------------------|---|-------------------------|
| 1. Sen. Alexander Munyi Mundigi, MP | - | Vice-Chairperson |
| 2. Sen. (Prof.) Tom Ojienda, SC MP | - | Member |
| 3. Sen. Sheikh Mohamed Abbas, CBS, MP | - | Member |
| 4. Sen. Catherine Muma, MP | - | Member |
| 5. Sen. Moses Kajwang', CBS, MP | - | Member |
| 6. Sen. Hezena Lemaletian, MP | - | Member |

SECRETARIAT

- | | | |
|-----------------------|---|-------------------------|
| 1. Mr. Peter Mulesi | - | Clerk Assistant I |
| 2. Ms. Caroline Njue | - | Clerk Assistant II |
| 3. Ms. Faith Cherutoh | - | Legal Counsel II |
| 4. Ms. Winnie Atieno | - | Audio Officer |
| 5. Ms. Sarah Rukwaro | - | SAA |
| 6. Mr. Paul Katuta | - | SAA |
| 7. Ms. Juliet Masinde | - | Media Relations Officer |

MIN/SEN/SCA/1058/2025 -

PRELIMINARIES

The meeting was called to order at 10:21a.m. followed by a word of prayer and introductions.

MIN/SEN/SCA/1059/2025 -

ADOPTION OF THE AGENDA

The agenda was adopted after being proposed by Sen. Wahome Wamatinga, MP and seconded by Sen. Mwenda Gataya Mo Fire, CBS, MP as follows –

1. Prayer;

2. Adoption of the Agenda;
3. Confirmation of:
 - i. Minutes of the One Hundred and Fifty Seventh sitting held on Wednesday, 26th March, 2025 at 9:00 a.m.; and
 - ii. Minutes of the One Hundred and Fifty Eighth sitting held on Wednesday, 26th March, 2025 at 2:00 p.m.
 - iii. Minutes of the One Hundred and Fifty Ninth sitting held on Tuesday, 8th April, 2025 at 10:00 a.m.; and
 - iv. Minutes of the One Hundred and Sixtieth sitting held on Thursday, 10th April, 2025 at 2:00 p.m.
4. Matters arising;
5. Consideration of the Stakeholder Submissions on the Nuts and Oil Crops Bill, 2023 (Senate Bills No. 47 of 2023) (*Committee Paper No. 124*).
6. Any Other Business; and
7. Date of the Next Meeting and Adjournment.

MIN/SEN/SCA/1060/2025 - CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTING

The Confirmation of minutes was deferred to the next sitting.

MIN/SEN/SCA/1061/2025 - MATTER ARISING FROM THE PREVIOUS MINUTES

There were no matters arising.

MIN/SEN/SCA/1062/2025 - THE STAKEHOLDER SUBMISSIONS ON THE NUTS AND OIL CROPS BILL, 2023 (SENATE BILLS NO. 47 OF 2023) (COMMITTEE PAPER NO. 124)

The legal counsel took the committee through the stakeholder submissions (matrix) on the Nuts and Oil crops Bill (Senate Bills No. 47 of 2023) as follows:

1. **Clause 5(d)** – Mpeketoni farmers proposed the reduction of the requirement of ten years' experience to five. To accommodate youth who might lack the long experience but are qualified.

Committee Resolution - The Committee accepted the amendment.

2. **Clause 5(d) (i)** - Hindi/ Mokoye farmers proposed that it should be specified that the farmers to be nominated are nut and oil farmers.

Committee Resolution - The committee declined the amendment. The introductory clause of 5(d) already specifies that.

Hindi/ Mokoye farmers proposed that the farmers representatives should be increased to four.

Committee Resolution - The Committee declined the proposal since increasing the number of farmer representatives would affect the balance of stakeholder representation and may result in an overly large board, contrary to the Mwongozo guidelines on board composition and governance.

3. **Clause 5(3)**

- i. Hindi/Mokoye farmers proposed that the Bill should provide for the youth and PWDs.

Committee resolution - The Committee declined the proposal. The principle of age already encompasses the representation of youth, and the current provisions ensure adequate representation through gender parity, regional, ethnic, and subsector balance.

- ii. Law Society of Kenya proposed that the PS Treasury be included in the Membership of the Board because the body created would have an impact on the exchequer. The costs of running the Board would have to be approved by the National Treasury. This is because the composition of the Board does not include representation from the PS Treasury.

Committee Resolution - The Committee accepted the proposal.

4. Nature Kenya proposed to add clause 5(1) (g) and (h) to read:

"Clause 5 (1) (g), the Principal Secretary responsible for environment and climate change or a representative nominated by the Principal Secretary in writing.

(h), a representative of a national civil society organization active in environmental conservation and, climate change issues".

This is to revise the composition of the board to include representation from the environment and climate change sector to advocate for environmental interests.

Committee resolution - The Committee declined this proposal. The mandate of the Board is focused on the development and regulation of the nuts and oil crops sector. While environmental considerations are important, representation from the environment and climate change sector falls outside the core mandate of the Board.

5. **Clause 6 – Law Society of Kenya** proposed that the qualifications for Board members and the Chairperson should be separated. Therefore, there is need to include in the bill a specific subsection providing for the qualifications of the Chairperson to read: 6(1) No person shall be qualified for appointment as the Chairperson of the Board under subsection 5 (1)(a) unless such person— (a) holds a degree from a university recognized in Kenya; and

(b) has at least ten years' experience in matters relating to management of a public or private institution, 5 of which shall be in senior leadership and management. This is based on the fact that the Chairperson plays a crucial leadership role in guiding the activities of the Board and management including influencing the direction of policies and strategies.

The Section generally provides for the qualification of members of the board.

Committee resolution - The Committee partially accepted the proposal. The committee resolved to amend the clause to apply the proposed qualifications specifically to the Chairperson. This is because the current composition of the Board under clause 5(1) includes Principal Secretaries who serve by virtue of their office, farmers and a processor who are required to have at least five years' experience in the nuts and oil crops industry, and a nominee from the Council of Governors. These categories already have their own eligibility criteria. The Chief Executive Officer's qualifications are also addressed in a separate clause. Therefore, it is appropriate to provide distinct qualifications for the Chairperson, given the unique leadership and oversight role they are expected to play.

6. Clause 6(b) on Qualification for appointment – Hindi/Mokoye farmers proposed:

- i. Remove the requirement of a degree for farmers representatives.

Committee resolution - The Committee accepted the proposal.

- ii. Amend by deleting the word 'Researcher' and Replace 'Five persons' with 'Four persons'. Researchers may be brought on board administratively on a need basis.

Committee resolutions - The committee accepted the proposal.

- iii. Amend to insert National Treasury to the membership. To align with the Mwongozo and the State Corporation Act.

Committee resolutions - The committee accepted the proposal.

- iv. Amend by deleting the word 'processor' and substituting thereof with 'dealer'. Other actors need to be represented on the board.

Committee resolutions - The committee declined the proposal. The position of 'processor' ensures representation from a critical segment involved in adding value to nuts and oil crops. The term 'dealer' is not used or defined in the Bill, and substituting it could compromise the clarity and intent of board representation.

7. **Clause 5(1)(d) on composition of the Board Hindi/Mokoye** farmers proposed that it should be amended to provide for a nomination process by the farmers' or dealers' umbrella associations. To provide for transparency and fairness in the nomination of the board.

Committee resolutions - The appointment of board members is guided by Mwongozo guide and the appointment as currently drafted ensures transparency, accountability, and merit-based selection.

8. Clause 5(d) -Council of Governors proposed Amend clause 5(1)(d) and (e) to read as follows:

5. (1) The management of the Board shall vest in a board consisting of—

(d) four persons with ten years' experience in the nuts and oil industry appointed by the cabinet secretary in consultation with the Council of County Governors, of whom—

(i) two shall be farmers;

(ii) one shall be a processor; and

(iii) one shall be a researcher

(e) two persons nominated by the Council of County Governors;

To align to the provisions of Articles 6(2) and 189 of the Constitution which requires the two levels of government discharge their functions in a consultative manner. We opine that the nomination and subsequent appointment of farmers and processors representatives should be done in consultation with the Council of Governors. We further opine that the County Governments should be represented by two persons to ensure effective representation.

Committee resolution - The Committee rejected the proposal. The appointment of board members is guided by Mwongozo guide and the appointment as currently drafted is sufficient.

9. **Clause 7 on Term Appointment-**

- i. **Ministry of Agriculture and livestock Development** proposed to amend by deleting '6' and replacing with '5'. To provide consistency in the numbering.

Committee resolution - The Committee accepted the proposal.

10. **Clause 9 on functions of the Board –**

- i. MoALD proposed an amendment by inserting a new function to read 'carry out such other functions as may be assigned to it by this act or any other written law while respecting the roles of the two levels of government'. The provision caters to any omitted or unforeseeable emerging functions that may support the Board in achieving its mandate.

Committee resolution - The Committee accepted the proposal subject to redrafting. The provision will be rephrased while preserving the intention of accommodating any additional functions assigned under this Act or any other written law.

- ii. The Council of Governors proposed to amend clauses 9(b) and (j) to read as follows —

The Board shall—

(b) make recommendations to the Cabinet Secretary and County Executive Committee Members on the national strategies, plans and policy relating to the nut and oil crop sector;

(g) regulate the import and export of nuts and oil crop products and by-products to conform to the quality or food standards recognized in the international market;

(j) Provide capacity building and technical assistance to the County Governments in the nuts and oil crops value chain.

- ii. Delete clauses 9(a) (c)(h) and (k) in their entirety.

This is to align to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the agriculture and trade development and regulation of agriculture and trade excluding international trade are functions fully devolved to County Governments.

Further to align with the functions of National Government in nuts and oil crops which are; agricultural policy, institutions of research, international trade and capacity building and technical assistance to the counties.

Committee resolutions - The committee declined the proposal to delete clauses 9(a), (c), and (h). These functions are essential to the mandate of the Board at the national level and do not infringe on the constitutional roles of county governments.

The committee accepted the deletion of clause 9(k) as it relates to a function that falls under the mandate of county governments.

- iii. **Nature Kenya** proposed to amend Clause 9 (a) to add the term "sustainable" and add a section (1) to promote the avoidance of ecologically sensitive areas, to read: *"9 (a) regulate and promote the sustainable development of the nuts and oil crop industry". "9 (1) guide investors and farmers to avoid and protect all ecologically sensitive areas"*.

Committee resolution - While the intention is noted, the term 'sustainable' is considered subjective and may introduce ambiguity in interpretation.

11. Clause 10 on powers of the board the Ministry of Agriculture proposed to

- a) amend by deleting the sub-section and inserting 'Open such bank accounts for its funds as may be necessary'. To give the Board a leeway to open various bank accounts as may be necessary.

Committee resolution – The Committee declined the proposal. Allowing the Board to open multiple accounts without express limitations could weaken financial oversight and accountability.

- b) Amend to include a general power that 'Undertake any activity necessary for the fulfillment of any of its functions'. To give leeway to the Board to exercise power as the need may arise.

Committee resolution – The Committee declined the proposal. The proposed inclusion of a general power to "undertake any activity necessary for the fulfillment of any of its functions" was rejected. The Committee determined that this is overly broad and could grant the Board excessive discretion. A similar provision already exists under the functions clause, which allows the Board to carry out additional functions as assigned by this Act or any other written law, ensuring that the Board's powers remain clearly defined

12. Clause 12 on remuneration of the members of the Board the MoALD proposed to amend by deleting the clause and inserting the following 'The remuneration payable to members of the Board shall be determined by the Salaries and Remuneration Commission'. The constitution mandates SRC to determine remunerations and other allowances in the public sector.

Committee resolution – The committee declined the proposal. The proposed clause does not take away SRC's mandate.

13. Clause 13 on Chief Executive Officer

a) MoALD proposed

- i. Amend to provide for the requirement is a minimum of a bachelor's degree. The qualification of a Chief Executive Officer is managerial.

Committee resolution – The Committee declined the proposal. The proposed clause already mandates that the CEO holds a degree in law, agriculture, or finance from a recognized university.

- ii. Amend to provide for a term of three years to align with the *Mwongozo*.

Committee resolution – The Committee accepted the proposal.

b) **Law Society of Kenya proposed that** Section 17 of the Bill on liability of Board members, officers and employees should include the following subsections; (1) Liability shall not attach to the Board or to any of its members, officers, agents or staff for loss or damage incurred as a result of an act or omission done in good faith and without negligence in the performance or exercise or the intended performance or exercise of any duty or power imposed by or conferred under this Act. (2) Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any act which is done or purported to be done by him or her under the direction of the Board, shall, if the court holds that such act was done in good faith, be paid out of the funds of the Board, if such expenses are not recovered by the person in such suit or prosecution.

(3) The provisions of subsection (1) shall not relieve the Board of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.

The Section provides for liability of Board members and staff but does not sufficiently cover any person to whom a suit or prosecution is brought against in respect of any act which is done or purported to be done by him or her in good faith and without negligence.

Committee resolution – The Committee accepted the proposal.

MIN/SEN/SCA/1063/2025 - ANY OTHER BUSINESS


1. The Committee was informed that the Food and Feed Safety Control Bill, 2024 form the National Assembly is due for mediation. The committee was also informed of the membership of the mediation. Committee as follows-
 - a) Sen. David Wakoli, MP
 - b) Sen. Alexander Mundigi, MP
 - c) Sen. Peris Tobiko, CBS, MP
 - d) Sen. Allan Chesang, CBS, MP
 - e) Sen. Daniel Maanzo, MP
 - f) Sen, Beatrice Akinyi Ogolla, MP
 - g) Sen. Beth Syengo, MP
2. The Committee was informed that the Liaison Committee had allocated some money from the Supplementary II to the foreign budget for Committees. The Committee was also informed that the allocation would only be enough for three Senators and it was resolved that only Sen. Wahome Wamatinga, MP, Sen. David

Wakoli, MP and Sen. Alexander Mundigi, MP would travel since they attend meetings consistently.

3. The Committee was informed that the Senator for Turkana had requested the Committee through the chairperson to do an inquiry on the irrigation schemes in the county. The secretariat was requested to prepare a brief on the irrigation schemes so as to guide the Committee during the inquiry.

MIN/SEN/SCA/1064/2025 - ADJOURNMENT

There being no other business, the meeting adjourned at 11.30 a.m. The next meeting would be communicated by notice.

SIGNED:  DATE: 20/5/2025
SEN. DAVID WAFULA WAKOLI, MP
(CHAIRPERSON)



**MINUTES OF THE ONE HUNDRED AND SIXTIETH MEETING OF THE
SENATE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND
FISHERIES, HELD ON THURSDAY, 10TH APRIL, 2025, AT 10.00 A.M. IN
COMMITTEE ROOM 5, MAIN PARLIAMENT BUILDINGS**

PRESENT

- | | | |
|--|---|-------------------------|
| 1. Sen. David Wafula Wakoli, MP | - | Chairperson |
| 2. Sen. Alexander Munyi Mundigi, MP | - | Vice-Chairperson |
| 3. Sen. Wahome Wamatinga, MP | - | Member |
| 4. Sen. (Prof.) Tom Ojienda, SC MP | - | Member |
| 5. Sen. Mwenda Gataya (Mo Fire), CBS, MP | - | Member |

ABSENT WITH APOLOGIES

- | | | |
|---------------------------------------|---|--------|
| 1. Sen. Sheikh Mohamed Abbas, CBS, MP | - | Member |
| 2. Sen. Catherine Muma, MP | - | Member |
| 3. Sen. Moses Kajwang', CBS, MP | - | Member |
| 4. Sen. Hezena Lemaletian, MP | - | Member |

SECRETARIAT

- | | | |
|-----------------------|---|-------------------------------|
| 1. Mr. Peter Mulesi | - | Clerk Assistant I |
| 2. Ms. Caroline Njue | - | Clerk Assistant II |
| 3. Ms. Regina Munyao | - | Legal Counsel I |
| 4. Ms. Faith Cherutoh | - | Legal Counsel II |
| 5. Ms. Winnie Atieno | - | Audio Officer |
| 6. Ms. Sarah Rukwaro | - | SAA |
| 7. Mr. Paul Katuta | - | SAA |
| 8. Mr. Chris Muriithi | - | Form 4 Student, Alliance Boys |
| 9. Mr. Tarel Jones | - | Form 3 Student, Alliance Boys |
| 10. Mr. Ian Kiprotich | - | Form 3 Student, Starehe Boys |

MIN/SEN/SCA/1050/2025 -

PRELIMINARIES

The meeting was called to order at 10:28 a.m. followed by a word of prayer and introductions.

MIN/SEN/SCA/1051/2025 -

ADOPTION OF THE AGENDA

The agenda was adopted after being proposed by Sen. Tom Ojienda, MP and seconded by Sen. Alexander Mundigi, MP as follows –

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of:
 - i. Minutes of the One Hundred and Fifty Third sitting held on Monday, 24th March, 2025 at 10:00 a.m.;
 - ii. Minutes of the One Hundred and Fifty Fourth sitting held on Monday, 24th March, 2025 at 2:00 p.m.;
 - iii. Minutes of the One Hundred and Fifty Fifth sitting held on Tuesday, 25th March, 2025 at 8:00 a.m.;
 - iv. Minutes of the One Hundred and Fifty Sixth sitting held on Tuesday, 25th March, 2025 at 2:00 p.m.;
 - v. Minutes of the One Hundred and Fifty Seventh sitting held on Wednesday, 25th March, 2025 at 9:00 a.m.; and
 - vi. Minutes of the One Hundred and Fifty Seventh sitting held on Wednesday, 25th March, 2025 at 2:00 p.m.
4. Matters arising;
5. Consideration of:
 - i. The Report on the National Assembly amendments to the Coffee Bill, 2023 (Senate Bills No. 10 of 2023) (Committee Paper No. 125); and
 - ii. The Stakeholder Submissions on the Nuts and Oil Crops Bill, 2023 (Senate Bills No. 47 of 2023) (*Committee Paper No. 124*).
6. Any Other Business; and
7. Date of the Next Meeting and Adjournment.

MIN/SEN/SCA/1052/2025 -

**CONFIRMATION OF THE MINUTES OF THE
PREVIOUS SITTING**

The Minutes of the One Hundred and Fifty Third sitting held on Monday, 24th March, 2025 at 10:00 a.m. were confirmed as a true record of the proceedings having been proposed by Sen. Tom Ojienda, SC, MP and seconded by Sen. Alexander Mundigi, MP.

The Minutes of the One Hundred and Fifty Fourth sitting held on Monday, 24th March, 2025 at 2:00 p.m. were confirmed as a true record of the proceedings having been proposed by Sen. Alexander Mundigi, MP and seconded by Sen. Tom Ojienda, SC, MP.

The Minutes of the One Hundred and Fifty Fifth sitting held on Tuesday, 25th March, 2025 at 8:00 a.m. were confirmed as a true record of the proceedings having been proposed by Sen. Alexander Mundigi, MP and seconded by and seconded by Sen. Tom Ojienda, SC, MP.

The Minutes of the One Hundred and Fifty Sixth sitting held on Tuesday, 25th March, 2025 at 2:00 p.m. were confirmed as a true record of the proceedings having been proposed by Sen. Alexander Mundigi, MP and seconded by Sen. Tom Ojienda, SC, MP.

MIN/SEN/SCA/1053/2025 -

MATTES ARISING FROM THE PREVIOUS MINUTES

There were no matters arising.

MIN/SEN/SCA/1054/2025 -

THE REPORT ON THE NATIONAL ASSEMBLY AMENDMENTS TO THE COFFEE BILL, 2023 (SENATE BILLS NO. 10 OF 2023) (COMMITTEE PAPER NO. 125)

The Legal Officer took the members through the report on the National Assembly amendments to the Coffee Bill, 2023 (Senate Bills No. 10 of 2023). The report was adopted having been proposed by Sen. Tom Ojienda, SC, MP and seconded by Sen. Wahome Wamtinga, MP.

MIN/SEN/SCA/1055/2025 -

THE STAKEHOLDER SUBMISSIONS ON THE NUTS AND OIL CROPS BILL, 2023 (SENATE BILLS NO. 47 OF 2023) (COMMITTEE PAPER NO. 124)

The legal counsel took the committee through the stakeholder submissions (matrix) on the Nuts and Oil crops Bill (Senate Bills No. 47 of 2023) as follows:

1. **Clause 1 on the short title** – The Ministry of Agriculture proposed that the clause be amended to insert the word “Development” before the word “Board” so as to align with the title of the Bill.

Committee Resolution

The Committee accepted the amendment.

2. **Clause 2 on definitions** – the Ministry of Agriculture proposed that the definition of nuts and Oil Crops be amended by deleting the definition and substituting thereof with “nuts and oil crops means any of the crops listed on the second schedule and includes such other crops as the CS on the advise of the board may declare to be a scheduled crop by notice in the gazette”. This is

because the crops are many, it may not be possible to capture all of them in a definition and therefore the need to introduce the second schedule where all of them will be listed.

Committee Resolution

The Committee partially accepted the definition. Definition will say crops as listed on the second schedule.

- a) Amend by inserting a new interpretation. “Dealer includes a person engaged in either collecting, transporting, storing, distributing, or buying and selling nuts and oil crops produce products or by-products and includes marketing agents, processors, exporters and importers. This is because these value chain actors play a vital role in development of the nuts and oil crops sub-sector.

Committee recommendations

The Committee declined the proposal since the word dealer is not used anywhere in the Bill.

- b) **The Law Society of Kenya** proposed an amendment to define the word “processing”. This is because the term has been defined to mean “a person who does the processing of nuts and oil crops”.

Committee recommendations

The Committee accepted the proposal to include the word processor and processing in the definition.

- c) **Lamu farmers** proposed the inclusion of cotton seed since they are nuts.

Committee recommendations

The Committee accepted the proposal since they are oil seeds.

- 3. **Clause 3 on the Objects of the Bill**, the Ministry of Agriculture and Livestock Development proposed that the clause be amended by deleting the word “industry” and substituting it with the word “subsector”. This is because the nuts and oil crops comprised several industries.

Committee recommendations

The Committee accepted the proposal.

- a) Amend by substituting the word “tree” with “produce”. This is because we produce the produce not all nuts and oil crops are trees.

Committee recommendations

The Committee accepted the proposal.

- b) Amend by substituting the word “better” with “improved” since the technical language used is improved varieties and not better.

Committee recommendations

The Committee accepted the proposal.

- c) Amend by inserting a new object to read “Regulate the Nuts and Oil Crops Sub Sector” to ensure harmony and a level playing ground in the sub-sector.

Committee recommendations

The Committee accepted the proposal since it’s the main aim of the Act.

- d) **Clause 3(a) on objects of the Bill be amended** by Nature Kenya to include the term “sustainable” to promote a more environmentally conscious approach, hence to read: “3 (a) *promote a globally competitive and sustainable nuts and oil crops industry*”.

Committee recommendations

The Committee accepted the proposal.

4. **Clause 4 (3) on Headquarters** be amended by the Ministry of Agriculture and Livestock Development by substituting the term “Kilifi” with “Nairobi” since the production of nuts and oil crops spreads across the country and Nairobi is the most central.

Committee recommendations

The Committee accepted the proposal.

- a) **Mpeketoni, Hindi, Mokoye farmers proposed** that the headquarters be located in Lamu.

Committee recommendations

The Committee declined the proposal. The Board may establish branches anywhere in Kenya.

5. Clause 5(1) be amended by the Ministry of Agriculture by deleting the clause and inserting "The Board shall consist of" to align with the marginal notes.

Committee recommendations

The Committee accepted the proposal since it's a drafting error.

- a) **Mpektoni farmers proposed** that the representatives of the farmers in the Board should be appointed by farmers representatives.

Committee recommendations

The Committee declined the proposal.

MIN/SEN/SCA/1056/2025 - ANY OTHER BUSINESS

1. The secretariat was advised to look into the issues that affect the Counties that the Committee will visit during the public participation on the Livestock Protection and Sustainability Bill, 2023 (Senate Bills No. 32 of 2023). This is to enable the Committee to pick up on the issues and interrogate them.
2. The Committee noted that Bills are not the only business that should be handled by the Committee and that the Committee should focus on oversight too.
3. Concern was raised on the composition of the Committee membership and noted that some members were not taking the committee seriously.

MIN/SEN/SCA/1057/2025 - ADJOURNMENT

There being no other business, the meeting adjourned at 11.30 a.m. The next meeting would be communicated by notice.

SIGNED:

SEN. DAVID WAFULA WAKOLI, MP
(CHAIRPERSON)

DATE:

8/5/2025



**MINUTES OF THE HUNDRED AND THIRTY SECOND (132ND) SITTING OF
THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND
FISHERIES HELD ON THURSDAY, 14TH NOVEMBER, 2024 IN COMMITTEE
ROOM 2, BUNGE TOWER) AT 10:00 A.M.**

PRESENT

- | | | |
|-------------------------------------|---|------------------|
| 1. Sen. James Kamau Murango, MP | - | Chairperson |
| 2. Sen. Alexander Munyi Mundigi, MP | - | Vice-Chairperson |
| 3. Sen. Daniel Kitonga Maanzo, MP | - | Member |
| 4. Sen. Enoch Kiio Wambua, CBS, MP | - | Member |
| 5. Sen. David Wafula Wakoli, MP | - | Member |
| 6. Sen. Beth Kalunda Syengo, MP | - | Member |
| 7. Sen. Wahome Wamatinga, MP | - | Member |

ABSENT WITH APOLOGIES

- | | | |
|-------------------------------------|---|--------|
| 1. Sen. Allan Kiprotich Chesang, MP | - | Member |
| 2. Sen. Moses Kajwang, MP | - | Member |

SECRETARIAT

- | | | |
|--------------------------|---|-------------------------|
| 1. Ms. Gloria Wawira | - | Clerk Assistant I |
| 2. Ms. Caroline Njue | - | Clerk Assistant II |
| 3. Ms. Regina Munyao | - | Legal Counsel I |
| 4. Ms. Belinda Ogolla | - | Research Officer III |
| 5. Ms. Hillary Cheruiyot | - | Research Officer III |
| 6. Ms. Rose Ometere | - | Audio Officer |
| 7. Ms. Juliet Masinde | - | Media Relations Officer |
| 8. Mr. Benard Sika | - | SAA |

MIN/SEN/SCA/884/2024-

PRELIMINARIES

The Chairperson called the meeting to order at 10:15 a.m. followed by a word of prayer and introductions.

MIN/SEN/SCA/885/2024-

ADOPTION OF THE AGENDA

The agenda was adopted after being proposed by Sen. Wahome Wamatinga, MP and seconded by Sen. Alexander Mundigi, MP as follows –

1. Prayer;
2. Adoption of the Agenda;
3. **Confirmation of:**
 - a) Minutes of the 128th sitting held on Saturday, 26th October, 2024;
 - b) Minutes of the 129th sitting held on Monday, 28th October, 2024;
4. Matters arising;
5. *Consideration of the stakeholder submissions on the Nuts and Oil Crops Bill, 2023 (Senate Bills No. 47 of 2023);*
6. Any Other Business; and
7. Date of the Next Meeting and Adjournment.

MIN/SEN/SCA/886/2024-

CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

The Minutes of the Hundred and Twenty Eighth (128th) sitting held on Saturday, 26th October, 2024 at 10:00 a.m. were confirmed as a true record having been proposed by Sen. James Murango, MP and seconded by Sen. David Wakoli, MP.

The Minutes of the Hundred and Twenty Ninth (129th) sitting held on Monday, 28th October, 2024 at 10:00 a.m. were confirmed as a true record having been proposed by Sen. James Murango, MP and seconded by Sen. David Wakoli, MP.

MIN/SEN/SCA/887/2024-

MATTERS ARISING

There were no matters arising.

MIN/SEN/SCA/888/2024-

**CONSIDERATION OF THE STAKEHOLDER
SUBMISSIONS ON THE NUTS AND OIL CROPS
BILL, 2023 (SENATE BILLS NO. 47 OF 2023)**

The Committee deferred the consideration of the stakeholder submissions on the Nuts and Oil Crops Bill, 2023 (Senate Bills No. 47 of 2023) since the Legal Counsel responsible suddenly fell ill. The consideration of the Bill was pushed to Thursday, 21st November, 2024.

MIN/SEN/SCA/889/2024-

ANY OTHER BUSINESS

1. The Committee was informed of the upcoming retreat with the Ministry of Agriculture and Livestock Development from Thursday, 14th November, 2024 to Monday, 18th November, 2024. The chairperson urged members to attend the retreat;
2. The Research officer Mr. Hillary Cheruiyot was tasked with preparing a research brief on all the parastatals the Committee will meet with in Mombasa to apprise members on some of the projects they have or have not done/completed and the budgets allocated to the parastatals.
3. The Committee resolved to go to Arusha Tanzania for its foreign travel.
4. The secretariat was asked to invite the Ministry of Arid and Semi-Arid Lands and Regional Development to the retreat in Naivasha on 21st to 25th November, 2024; and
5. The Committee did not accede to the invitation from the Kenya Institute of Planners to attend the 18th Annual Planners convention 2024 since the House will be in session that week.

MIN/SEN/SCA/890/2024-

**DATE OF NEXT MEETING AND
ADJOURNMENT**

The meeting was adjourned at 11:00 a.m. and the next meeting will be by notice.

SIGNED: ...



.....DATE: ...28/11/24.....

SEN. JAMES KAMAU MURANGO, MP
(CHAIRPERSON)



**MINUTES OF THE NINETY-SECOND (92ND) SITTING OF THE SENATE
STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND
FISHERIES, HELD ON THURSDAY, 21ST MARCH, 2024 AT THE FIRST
FLOOR BOARDROOM, RED CROSS BUILDING 10:00 A.M.**

PRESENT

- | | | |
|-------------------------------------|---|------------------|
| 1. Sen. James Kamau Murango, MP | - | Chairperson |
| 2. Sen. Alexander Munyi Mundigi, MP | - | Vice-Chairperson |
| 3. Sen. Daniel Kitonga Maanzo, MP | - | Member |
| 4. Sen. David Wafula Wakoli, MP | - | Member |
| 5. Sen. Beth Kalunda Syengo, MP | - | Member |

ABSENT WITH APOLOGIES

- | | | |
|-------------------------------------|---|--------|
| 1. Sen. Enoch Kiio Wambua, CBS, MP | - | Member |
| 2. Sen. Wahome Wamatinga, MP | - | Member |
| 3. Sen. Allan Kiprotich Chesang, MP | - | Member |
| 4. Sen. Moses Kajwang, MP | - | Member |

SECRETARIAT

- | | | |
|--------------------------|---|-------------------------|
| 1. Ms. Gloria Wawira | - | Clerk Assistant I |
| 2. Ms. Caroline Njue | - | Clerk Assistant II |
| 3. Ms. Regina Munyao | - | Legal Counsel II |
| 4. Mr. Hillary Cheruiyot | - | Research Officer III |
| 5. Ms. Violet Nalianya | - | Media Relations Officer |
| 6. Ms. Pamela Kimwatan | - | Protocol Officer |
| 7. Ms. Rose Ometere | - | Audio Officer |
| 8. Ms. Farhiya Ali | - | Sergeant-at- Arms |

MIN/SEN/SCA/626/2024-

PRAYER AND INTRODUCTIONS

The Chairperson called the meeting to order at 10.00 a.m. followed by a word of prayer and introductions.

MIN/SEN/SCA/627/2024-

ADOPTION OF THE AGENDA

The agenda was adopted after being proposed by Sen. Daniel Kitonga Maanzo, MP seconded by Sen. Beth Syengo, MP and MP as follows-

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of:
 - i. Minutes of the 83rd sitting held on Friday, 1st March, 2024;
 - ii. Minutes of the 84th sitting held on Saturday, 2nd March, 2024;
 - iii. Minutes of the 85th sitting held on Sunday, 3rd March, 2024;
 - iv. Minutes of the 86th sitting held on Thursday, 7th March, 2024;
 - v. Minutes of the 87th sitting held on Monday, 11th March, 2024; and
4. Matters arising;
5. Meeting with stakeholders Ministry of Agriculture, COG, LSK, KEPSA, and KNCCI On the Nuts and Oil Crops Development Bill, 2023 (Senate Bills No. 47 of 2023)
6. Any Other Business; and
7. Date of the Next Meeting and Adjournment.

MIN/SEN/SCA/628/2024-

CONFIRMATION OF MINUTES

The confirmation of minutes was deferred to the next meeting.

MIN/SEN/SCA/629/2024-

MATTER ARISING

The agenda on matters arising was deferred to the next meeting.

MIN/SEN/SCA/630/2024-

**MEETING WITH STAKEHOLDERS ON
THE NUTS AND OIL CROPS
DEVELOPMENT BILL, 2023 (SENATE
BILLS NO. 47 OF 2023)**

The invited stakeholders were late in attending the meeting the Committee resolved that they submit written memoranda for the consideration of the Committee.

MIN/SEN/SCA/631/2024-

ANY OTHER BUSINESS

Members deliberated on matters that were pending on the Sugar Bill, 2022 and resolved as follows-

- i. On the delineation of sugar catchment areas, the delineated catchment areas remain as outlined in the first schedule

- ii. In the case of the breakdown of factories and overproduction of cane by outgrowers, the Bill introduces a provision that allows millers to enter into an agreement where the affected miller whose machinery has broken down may enter an agreement to have cane processed by another miller or out-growers may supply cane to miller outside of their catchment area subject to the approval of the board.
- iii. Introduce a provision to allow a commercial grower to seek the approval of the board to deliver cane outside of their designated catchment area.
- iv. Members reiterated that the catchment areas are for purposes of delivery of cane and election of representatives.
- v. The Committee table its report on its consideration of the Sugar Bill, 2022 on Tuesday, 26th March 202.
- vi. The Committee retreats to conclude and adopt its report on the Sugar Bill, 2022

MIN/SEN/SCA/632/2024-

DATE OF NEXT MEETING AND
ADJOURNMENT

The meeting adjourned at 10:20 a.m. and the next meeting will be by notice.

SIGNED: DATE: 26/3/24

SEN. JAMES KAMAU MURANGO, MP
(CHAIRPERSON)



**MINUTES OF THE EIGHTY-SECOND SITTING OF THE SENATE
STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND
FISHERIES, HELD ON THURSDAY 29TH FEBRUARY, 2024 AT FIRST
FLOOR BOARDROOM, REDCROSS BUILDING AT 10.00 AM**

PRESENT

- | | | |
|-------------------------------------|---|------------------|
| 1. Sen. Alexander Munyi Mundigi, MP | - | Vice-Chairperson |
| 2. Sen. Wahome Wamatinga, MP | - | Member |
| 3. Sen. Beth Kalunda Syengo, MP | - | Member |
| 4. Sen. David Wafula Wakoli, MP | - | Member |

ABSENT WITH APOLOGIES

- | | | |
|-------------------------------------|---|-------------|
| 1. Sen. James Kamau Murango, MP | - | Chairperson |
| 2. Sen. Enoch Kiio Wambua, CBS, MP | - | Member |
| 3. Sen. Allan Kiprotich Chesang, MP | - | Member |
| 4. Sen. Daniel Kitonga Maanzao, MP | - | Member |
| 5. Sen. Moses Kajwang, MP | - | Member |

SECRETARIAT

- | | | |
|--------------------------|---|-------------------------|
| 1. Ms. Gloria Wawira | - | Clerk Assistant |
| 2. Ms. Caroline Njue | - | Clerk Assistant |
| 3. Mr. Reinhardt Choge | - | Clerk Assistant |
| 4. Mr. Malcolm Mguji | - | Legal Counsel |
| 5. Mr. Hillary Cheruiyot | - | Research Officer |
| 6. Ms. Violet Nalinya | - | Media Relations Officer |
| 7. Ms. Rose Ometere | - | Audio Officer |
| 8. Ms. Sarah Rukwaro | - | Sergeant-at-Arms |

MIN/SEN/SCA/560/2024-**PRAYER**

The Chairperson called the meeting to order at 10.06 a.m. followed by a word of prayer.

MIN/SEN/SCA/561/2024-**ADOPTION OF THE AGENDA**

The agenda was adopted after being proposed by Sen. Wahome Wamatinga, MP and seconded by Sen. Beth Kalunda Syengo, MP as follows-

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of minutes of the 81st Sitting held on Tuesday, 27th February, 2024.
4. Matters arising;
5. *Stakeholder engagement on the Nuts and Oil Crops Bill, 2023 (Senate Bills No. 47 of 2023) (Committee Paper 70)*
6. Any Other Business; and
7. Date of the Next Meeting and Adjournment.

MIN/SEN/SCA/562/2024-**CONFIRMATION OF MINUTES**

The Confirmation of Minutes of the Eighty First (81st) sitting held on Tuesday, 27th December, 2023 were confirmed as a true record having been proposed by Sen. Beth Kalunda Syengo, and seconded by Sen. Wahome Wamatinga, MP

MIN/SEN/SCA/563/2024-**MATTERS ARISING**

There were no matter arising from the Minutes of the Eighty First (81st) sitting.

MIN/SEN/SCA/564/2024-**STAKEHOLDER ENGAGEMENT ON
THE NUTS AND OIL CROPS BILL, 2023
(SENATE BILLS NO. 47 OF 2023)**

The Committee was informed that the invited stakeholders, that is the (Ministry of Agriculture and Livestock Development, COG, Agriculture and Food Authority, and KALRO) had communicated their unavailability to attend the meeting.

Committee Observations

The Committee took exception that the invited stakeholders did not honour the Committee's invitation to appear before it.

Committee Resolutions

The Committee resolved to re-invite the stakeholders for the public participation engagement on the Nuts and Oil Crops Bill, 2023 (Senate Bills No. 47 of 2023).

MIN/SEN/SCA/564/2024-

ANY OTHER BUSINESS

The Committee considered the Report of the Committee on the Budget Policy Statement and adopted it having been proposed Sen. Beth Kalunda Syengo, MP, and seconded by Sen. David Wafula Wakoli, MP.

The Committee noted with concern that its resolutions may not be implemented by the relevant Ministry and County Governments.

The Committee resolved to meet with the Council of Governors Committee on Agriculture to deliberate on the Counties' budget appropriation to the agriculture sector.

MIN/SEN/SCA/565/2024-

**DATE OF NEXT MEETING AND
ADJOURNMENT**

The meeting adjourned at 10:40 a.m. and the next meeting will be by notice.

SIGNED:..... **DATE:**07/03/2024.....

SEN. JAMES KAMAU MURANGO, MP
(CHAIRPERSON)

APPENDIX IV:

**ADVERTISEMENT PUBLISHED IN THE
DAILY NATION AND *STANDARD*
NEWSPAPERS**

REPUBLIC OF KENYA



THIRTEENTH PARLIAMENT | THIRD SESSION

THE SENATE

INVITATION FOR SUBMISSION OF MEMORANDA

At the sitting of the Senate held on Wednesday, 14th February, 2024, the Bills listed at the second column below were introduced in the Senate by way of First Reading and thereafter stood committed to the respective Standing Committees indicated at the third column.

Pursuant to the provisions of Article 118 of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Committees now invite interested members of the public to submit any representations that they may have on the Bills by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P. O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to clerk.senate@parliament.go.ke and copied to the email addresses of the respective Committee indicated at the fourth column below, to be received on or before **Friday, 1st March, 2024 at 5.00 p.m.**

	Bill	Committee Referred To	Email Address
a)	The Conflict of Interest Bill (National Assembly Bills No. 12 of 23)	Standing Committee Justice, Legal Affairs and Human Rights	senatejlahrc@parliament.go.ke
b)	The Gambling Control Bill (National Assembly Bills No. 70 of 2023)	Standing Committee on Labour and Social Welfare	laboursocialwelfarecomm.senate@parliament.go.ke
c)	The Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 46 of 2023)	Standing Committee on Land, Environment and Natural Resources	landenvironcommittee.senate@parliament.go.ke
d)	The Nuts and Oil Crops Development Bill (Senate Bills No. 47 of 2023)	Standing Committee on Agriculture, Livestock and Fisheries	agriculturelfcommittee.senate@parliament.go.ke
e)	The Constitution of Kenya (Amendment) (No. 2) Bill (Senate Bills No. 52 of 2023)	Standing Committee on Justice, Legal Affairs and Human Rights	senatejlahrc@parliament.go.ke

The Bills may be accessed on the Parliament website at <http://www.parliament.go.ke/the-senate/house-business/bills>.

J.M. NYEGENYE, CBS,
CLERK OF THE SENATE.

APPENDIX III:

**THE NUTS AND OILS AMENDMENT BILL,
2023**

SPECIAL ISSUE

Kenya Gazette Supplement No. 184 (Senate Bills No. 47)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2023

NAIROBI, 10th October, 2023

CONTENT

Bill for Introduction into the Senate—

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THE NUTS AND OIL CROPS DEVELOPMENT BILL, 2023
ARRANGEMENT OF CLAUSES

Clause

PART I – PRELIMINARY

- 1 — Short title.
- 2 — Interpretation.
- 3 — Objects.

PART II—THE NUTS AND OIL CROPS DEVELOPMENT BOARD

- 4 — Establishment of the Nuts and Oil Crops Development Board.
- 5 — Composition of the Board.
- 6 —Qualifications for appointment as a member.
- 7 —Term of appointment.
- 8 —Vacation of office.
- 9 —Functions of the Board.
- 10 —Powers of the Board.
- 11 —Delegation by the Board.
- 12 —Remuneration of members of the Board.
- 13 —Chief Executive Officer.
- 14 —Functions of the chief executive officer.
- 15 —Removal of the chief executive officer.
- 16 —Staff of the Board.
- 17 —Protection of members and staff from liability.
- 18 —Common Seal of the Board.
- 19 —Signing authority.
- 20 —Meetings of the Board.

PART III—ROLE OF COUNTY GOVERNMENTS

- 21 — Role of county governments.
- 22 — Enactment of county specific legislation

PART IV—REGULATORY PROVISIONS

- 23 — Regulation of nuts and oils
- 24 — Registration
- 25 — Licensing of processors
- 26 — Publication of a notice
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PART V—FINANCIAL PROVISIONS

- 30 —Funds of the Board.
- 31 —Annual estimates.
- 32 — Accounts and Audit.
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- 34 —Financial year of the Board.

PART VI—MISCELLANEOUS PROVISIONS

- 35 —Incentives.
- 36 —Management of information.
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- 38 —Regulations.
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- 40 —Rights and obligations.
- 41 —Assets.
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**SCHEDULE—CONDUCT OF MEETINGS
OF THE BOARD**

**THE NUTS AND OIL CROPS DEVELOPMENT
BILL, 2023**

A Bill for

AN ACT of Parliament to provide for the production, processing, marketing and distribution of nuts and oil crops and their products; establish the Nuts and Oil Crops Board; provide a framework for the nuts and oil crops farming development and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Nuts and Oil Crops Development Act, 2023 Short title.

2. In this Act, unless the context otherwise requires— Interpretation.

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to Agriculture;

“county executive committee member” means the county executive committee member responsible for matters relating to agriculture in the respective county governments;

“Board” means the Nuts and Oil Crops Development Board established under section 4;

“board” means the persons appointed under section 5;

“chief executive officer” means the chief executive officer of the board under Section 13;

“nuts and oil crops” includes coconut, cashew nut, macadamia nut, ground nuts, castor beans, sunflower, oil seed jojoba, shied safflower, sesame, linseed, oil Palm and bambara nut and such other crops as the Cabinet Secretary may by notice in the gazette designate; and

“processor” means a person who does the processing of the nuts and oil crops.

3. The object of this Act is to— Object.

- (a) promote a globally competitive nuts and oil crops industry;

- (b) increase production and processing of safe and healthy nuts and oil crop trees and products;
- (c) promote value addition to the nuts and oil crop trees and their products;
- (d) generate higher income for the nuts and oil crops farmers and traders by introducing better varieties of the nuts and oil crop trees with higher yield;
- (e) provide continuous and sustained research and extension services for the development of the nuts and oil crops industry;
- (f) facilitate the introduction of modern nuts and oil crops farming techniques and general modernization of their industry; and
- (g) implement effective marketing strategies.

PART II—THE NUTS AND OIL CROPS DEVELOPMENT BOARD

4. (1) There is established the Nuts and Oil Crops Development Board.

Establishment
of the nuts
and Oil Crops
Development
Board.

(2) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable or immovable property
- (c) enter into contracts;
- (d) borrowing and lending money; and
- (e) doing or performing all such other things or act as may be necessary in furtherance of its object and functions.

(3) The headquarters of the Board shall be in Kilifi county.

5. (1) The management of the Board shall vest in a board consisting of—

Composition
of the Board.

- (a) a chairperson appointed by the President by notice in the *Gazette*;

- (b) the Principal Secretary responsible for agriculture or a representative nominated by the Principal Secretary in writing;
- (c) the Principal Secretary responsible for trade and investments or a representative nominated by the Principal Secretary in writing;
- (d) five persons with ten years' experience in the nuts and oil industry appointed by the cabinet secretary, of whom—
 - (i) three shall be farmers;
 - (ii) one shall be a processor; and
 - (iii) one shall be a researcher
- (e) one person nominated by the Council of County Governors; and
- (f) the chief executive officer who shall be an ex-officio member of the Board.

(2) A person is not qualified for appointment if that person—

- (a) prior to the consideration for appointment, was convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (b) is a member of Parliament or county assembly; or
- (c) is adjudged bankrupt.

(3) The Cabinet Secretary shall in making appointments under subsection (1)(d) have regard to the principle of gender parity, age, regional and ethnic balance and shall, to the extent possible, ensure an equitable representation from different subsectors of the nuts and oil industry.

(4) The cabinet Secretary shall appoint the members under subsection (1)(d) and (e) by notice in the *Gazette*.

6. A person is qualified for appointment as a member of the Board if that person—

- (a) is a citizen of Kenya;
- (b) holds a degree from a recognized University in Kenya; and

Qualifications
for
appointment
as a member.

- (c) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

7. The persons appointed under section 6(1)(a), (d) and (e) shall serve for a term of three years renewable for one further term. Term of appointment.

8. (1) A person ceases to be a member of the Board if that person— Vacation of office.

- (a) is absent from three consecutive meetings of the Board without the permission of the chairperson;
- (b) becomes an officer, agent or member of staff of the Board;
- (c) resigns in writing addressed, in the case of the chairperson, to the President, and in the case of any other member, to the Cabinet Secretary;
- (d) is convicted of a criminal offence and sentenced to a term of imprisonment of at least six months;
- (e) is declared bankrupt;
- (f) is unable to perform the functions of office by reason of mental or physical infirmity; or
- (g) dies.

9. The Board shall—

Functions of the Board.

- (a) regulate and promote the development of the nuts and oil crop industry;
- (b) make recommendations to the Cabinet Secretary, and oversee the implementation of strategies, plans and policy relating to the nut and oil crop sector;
- (c) promote the diversification of nuts and oil crop products and by-products,
- (d) promote the marketing of nuts and oil crops products and by-products in both local and foreign markets and preserve the competitiveness and reliability of the country as a producer and supplier of nuts and oil crop products by establishing national acceptable standards acceptable in the international markets;

- (e) establish linkages with local and international research institutions to conduct scientific research and investigations in all areas pertaining to the development of the nuts and oil crop industry;
- (f) collect, collate and disseminate information on the nut and oil crop industry including the appropriate technology and practices to ensure maximisation of yields by farmers;
- (g) regulate the marketing and the exportation of nuts and oil crop products and by-products to conform to the quality or food standards recognized in the international market;
- (h) put in place a framework for the capacity building and interaction of various players in the nuts and oil crops industry;
- (i) develop and enforce the nuts and oil crop industry standards and industry code of practice in collaboration with the Kenya Bureau of Standards; and
- (j) co-ordinate capacity building training for growers, nursery operators, processors, cooperative societies and other associations in the nuts and oil crops value chain.
- (k) put in place measures for provision of assistance to farmers which may include farm inputs and affordable credit facilities.

10. (1) The Board shall have all the powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to—

Powers of the Board.

- (a) enter into contracts;
- (b) manage, control and administer the assets of the Board;
- (c) receive gifts, grants, donations or endowments made to the Board and make disbursement therefrom in accordance with the provisions of this Act;
- (d) subject to the approval of the Cabinet Secretary responsible for matters relating to finance, invest any of the Board's funds not immediately required

for the purposes of this Act, as it may determine; and

- (e) operate a bank account into which all monies received by the Board shall be paid in the first instance and out of which all payments made by the Board shall be made.

(2) The Board may, if it considers it necessary become a member of, or associate with a body or corporation designed to assist or promote the nuts and oil crops industry.

11. The Board may, by resolution, delegate to any committee of the Board or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions of the Board under this Act or under any other written law.

Delegation by the Board.

12. The members of the Board shall be paid such remuneration or allowances as the Cabinet Secretary shall, in consultation with the Salaries and Remuneration Commission, determine.

Remuneration of members of the Board.

13. (1) There shall be a chief executive officer who shall be competitively recruited and appointed by the Board on such terms and conditions as the Board shall determine.

Chief executive officer.

(2) A person is qualified for appointment as the chief executive officer if that person—

- (a) is a citizen of Kenya;
- (b) holds a degree in law, agriculture or finance, from a university recognized in Kenya;
- (c) has at least five years' experience in public administration or senior management; and
- (d) meets the requirements of leadership and integrity set out in chapter six of the Constitution.

(3) The chief executive officer shall hold office for a term of five years and is eligible for re- appointment for one further term.

14. The chief executive officer shall be the secretary to the Board and shall, subject to the direction of the Board—

Functions of the chief executive officer.

- (a) be responsible for the day to day management of the affairs of the Board;

- (b) manage the funds, property and affairs of the Board;
- (c) be responsible for the management of the staff of the Board;
- (d) oversee and coordinate the implementation of the policies, programmes and objectives of the Board;
- (e) cause to be prepared for the approval of the Board—
 - (i) the strategic plan and annual plan of the Board; and
 - (ii) the annual budget and audited accounts of the Board.
- (f) perform such other duties as may be assigned by the Board.

15. The chief executive officer shall cease to hold office if that person—

Removal of
chief
executive
officer.

- (a) resigns in writing, addressed to the Board;
- (b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (c) is found liable for gross misconduct or abuse of office in contravention of the Public Officers Ethics Act or any other relevant law;
- (d) is declared bankrupt;
- (e) is unable to perform the functions of office by reason of mental or physical infirmity; or
- (f) dies.

16. The Board may employ such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Board under this Act and upon such terms and conditions of service as the Board may determine.

Staff of the
Board.

17. Liability shall not attach to the Board or to any of its members, officers, agents or staff for loss or damage incurred as a result of an act or omission done in good faith and without negligence in the performance or exercise or the intended performance or exercise of any duty or power imposed by or conferred under this Act.

Protection of
members and
staff from
liability.

18. The affixing of the common seal of the Board shall be authenticated by the signature of the chairperson and the chief executive officer or a person designated by the Board.

Common seal
of the Board.

19. All letters and instruments written or made by or on behalf of the Board, other than those required by law to be under seal, and all decisions of the Board, shall be signed under the hand of the chief executive officer or in the absence of the chief executive officer, a person authorized by the Board.

Signing
authority.

20. (1) The business and affairs of the Board shall be conducted in accordance with the Schedule.

Meetings of
Boards.

(2) Except as otherwise provided in the Schedule, the Board may regulate its own procedure.

(3) The Board may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not be entitled to vote on any of the Board's decisions.

PART III—ROLE OF COUNTY GOVERNMENTS

21. A county government shall—

Role of
county
governments.

- (a) implement the National Government policy relating to the nuts and oil crop sector;
- (b) maintain an up to date register of nuts and oil crop growers, nursery operators, processors, cooperatives and other associations in that county;
- (c) licence nuts and oil processors;
- (d) implement national and county legislation on nuts and oil crop industry code of practice, policies and guidelines on corporate governance in the growers' institutions;
- (e) facilitate the production of nuts and oil crop in the respective county by implementing and expanding the planting and replanting program of nuts and oil crops in strategic areas identified as having the most potential and the rehabilitation and fertilization of existing nuts and oil crops;
- (f) offer extension services on nuts and oil crop production and primary processing;
- (g) encourage and promote the organization of nuts and oil crop farmers' co-operatives, associations, and organizations and provide them with credit and financing schemes;

- (h) provide training, extension service programs and disseminate information to nuts and oil crop farmers, farm workers and processors relative to production technology, market systems, farm workers, entrepreneurial and other technical skills and values, attitude formation and socio-economic development strategies;
- (i) collaborate with relevant institutions so as to promote access to credit and other financial services;
- (j) formulate and adopt a general program of development geared towards increased farm productivity, through planting or replanting of suitable seedling varieties, rehabilitation and fertilization of the nuts and oil crop, integrated nuts-based farming systems and product processing;
- (k) inspect value addition industries located within their respective counties;
- (l) monitor and report incidences of pests and disease outbreaks to the Board and take action in collaboration with the Board and other relevant government agencies; and
- (m) establish storage facilities and aggregation centres.

22. (1) A county that produces, processes, distributes or markets nuts and oil crop or products may enact county specific legislation prescribing –

Enactment of
county
specific
legislation.

- (a) the criteria for registration and appeal mechanism;
- (b) information required to be submitted by an applicant for registration;
- (c) the criteria for the issuance of licenses by an applicant within the respective county;
- (d) the conditions for the issuance or renewal of a licence under this Act;
- (e) the grounds for the rejection of an application or cancellation of a licence issued under this Act;
- (f) such other provisions as the county government shall consider necessary.

(2) Where county legislation has not been enacted, the provisions of this Act shall apply.

PART IV—REGULATORY PROVISIONS

23. (1) A county government shall regulate the production and processing of nuts and oil crops with a view to—

Regulation of
nuts and oil
crops.

- (a) promoting productivity;
- (b) promoting access to markets;
- (c) facilitating provision of infrastructure including farm inputs;
- (d) providing post-harvest services;
- (e) providing extension services;
- (f) providing incentives to farmers; or
- (g) providing credit facilities.

(2) The county government shall maintain the necessary statistical information with respect to nuts and oil crops to enable proper planning.

24. (1) A person or entity shall not carry out the business of a nuts and oil crop grower, nursery operator, cooperative society or association unless such person is registered by the respective county government in which the business is to be undertaken.

Registration.

(2) Notwithstanding subsection (1), a grower who is a registered member of a nuts and oil cooperative society or association which is registered by a county government, shall be exempted from registration by that county government.

(3) Subsection (2) shall apply to a grower on condition that the cooperative society or association is registered in the same county as that which the grower is carrying out business.

(4) A registered cooperative society or association shall—

- a) submit a register of its members to the respective county government at the beginning of each calendar year; and
- b) furnish the county government with information on any change of membership within thirty (30) days of a change of membership.

(5) A county government shall not charge any fees for the registration of an applicant under this section.

(6) Each county government shall keep and maintain a register under subsection (1).

(7) A register under subsection (6), shall include—

- a) the name of the nuts and oil crop grower, nursery operator, cooperative society or the association;
- b) the location, size and parcel number of the land on which the crop is grown; and
- c) such other information as the Board may prescribe.

(8) Each county government shall submit to the Board a copy of the register under subsection (6).

25. (1) A person shall not engage in the processing of nuts and oil crops and their products unless such person has applied for, and obtained, a licence in accordance with this Act.

Licensing of
processors.

(2) A person who intends to process nuts and oil crop products shall submit an application in the form prescribed in county legislation to the county executive committee member together with —

- (a) such documents and information as the county executive committee member may prescribe; and
- (b) the prescribed fees.

(3) A county executive committee member shall consider an application within fourteen days of receipt of the application and may—

- (a) grant a licence unconditionally;
- (b) grant a licence subject to satisfying such conditions as the county executive committee member may impose; or
- (c) with sufficient cause, refuse to issue or renew the licence.

(4) A decision made under subsection (3) shall be communicated to the applicant by the respective county executive committee member, in writing, within seven days from the date of the decision.

(5) Where the county executive committee member refuses to grant a licence, the county executive committee

member shall, in its notification under subsection (3), specify the reasons for the refusal.

26. (1) A county executive committee member shall, at least thirty days before granting a licence under this Act, publish a notice of the proposed grant by notice in the Gazette and in such other manner as the county executive committee member may determine.

Publication of
a notice.

(2) The county executive committee member shall, in publishing the notice under subsection (1)—

- (a) specify the name or other particulars of the person or class of persons to whom the licence is to be granted;
- (b) state the purpose and the date for which the licence is proposed to be issued; and
- (c) invite objections to the proposed grant of licence and direct that such objections be lodged with the county executive committee member within fourteen days from the date of the notice.

(3) The county executive committee member shall consider any objection submitted to him under subsection (5) and may grant the licence applied for subject to such conditions as the county executive committee member shall consider appropriate to impose.

(4) A licence issued under this Act shall not be transferable.

(5) A person who contravenes the provisions of section 25(1) commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years or both.

27. (1) The county executive committee member may revoke a licence under this Act if the licensee—

Revocation of
licence

- (a) fails to meet any condition imposed by this Act or county legislation; or
 - (b) surrenders the licence together with a notice setting out a request that the licence be revoked.
- (2) The county executive committee member shall not revoke the licence under subsection (1)(a) unless the committee executive member—

- (a) issues to the person, a notice of at least fourteen days of the intention to revoke the licence;
- (b) issues to that person a compliance notice in the prescribed form; and
- (c) grants the person, an opportunity to be heard on the revocation.

28. (1) A compliance notice issued under section 27(2)(b) shall—

Compliance
notice

- (a) be in writing;
- (b) set out the areas of non-compliance and the steps required to be undertaken in order to comply; and
- (c) specify the period within which the person is required to comply with the notice.

(2) The county executive committee member may, upon request by the licensee and, where there are sufficient grounds shown by the licensee, extend the period of compliance for such period as the committee member may consider necessary to ensure compliance.

(3). (1) Where a person who receives a compliance notice under section 27 (2) (b) fails to comply with such notice, the county executive committee member shall —

- (a) revoke the licence of that person;
- (b) notify the person in writing of—
 - (i) the revocation and the reasons thereof; and
 - (ii) indicate the date of revocation.

(4) For purposes of this Act, a cancellation of licence takes effect on the date on which the licence is cancelled by the county executive committee member.

29. An applicant who is aggrieved by the decision of the county executive committee member not to issue a licence under this Act may appeal to the High Court against the decision within fourteen days of receipt of the decision.

Appeal.

PART V—FINANCIAL PROVISIONS

30. The funds of the Board shall consist of—

Funds of the
Board

- (a) monies appropriated by Parliament for the purposes of the Board;

- (b) such monies or assets as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act or any other written law;
- (c) monies received in respect of levies and fees; and
- (d) donations, grants, loans or gifts made to the Board and approved by the Cabinet Secretary for finance.

31. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of revenue and expenditure of the Board for that year.

Annual estimates.

(2) The annual estimates shall make provision for all estimated expenditure of the Board for the financial year concerned.

(3) The annual estimates prepared by the Board under subsection (2) shall be submitted to the Cabinet Secretary for tabling in the National Assembly.

32. (1) The Board shall cause to be kept such books of accounts and other books in relation thereto of all its undertakings, funds, activities and property as the Cabinet Secretary may from time to time approve and shall, within a period of three months after the end of the financial year, cause to be prepared, signed and forwarded to the Auditor-General—

Accounts and audit.

No.34 of 2015

- (a) a balance sheet showing in detail the assets and liabilities of the Board; and
- (b) such other statements of accounts as the Cabinet Secretary may approve

(2) The accounts of the Board shall be examined, audited and reported upon annually by the Auditor-General in accordance with the Public Audit Act.

(3) The Board shall submit to the Auditor-General all books and accounts of the Board and the Auditor-General shall be entitled to require from any member, officer, employee or agent of the Board such information and explanation as he may consider necessary for the performance of his duties.

33. (1) The Board shall, within a period of three months after the end of each financial year or within such longer

Annual report and publication.

period as the Cabinet Secretary may approve, submit to the Cabinet Secretary a report of the operations of the Board during such year, and the annual balance sheet and such other statements of account as the Cabinet Secretary shall require, together with the Auditor-General's report.

(2) The Board shall, if the Cabinet Secretary so requires, publish the report, balance sheet and statements submitted to him under subsection (1) in such manner as the Cabinet Secretary may specify.

(3) The Cabinet Secretary shall submit to the National Assembly and the Senate the reports, balance sheet and statements submitted under subsection (1), within a period of fourteen days of the receipt of the reports and statements or, if a House of Parliament is not sitting, within fourteen days of the commencement of its next sitting.

34. The financial year of the Board shall be the period of twelve months ending on the thirtieth of June in each year.

Financial year
of the Board.

PART VI—MISCELLANEOUS PROVISIONS

35. The Cabinet Secretary responsible for finance may from time to time determine by notice in the *gazette* the tax incentives applicable to the nuts and oil crops industry in order to promote the development of the cotton industry

Incentives.

36. (1) The Board shall carry out market research and analysis and disseminate information on its findings to all stakeholders.

Management
of
information.

(2) The Board shall, subject to subsection (3), facilitate access to information held by it in accordance with Article 35 of the Constitution.

(3) Subject to Article 35 of the Constitution, the Board may decline to give information to a person where —

- (a) the request is unreasonable in the circumstances;
- (b) the information requested is at a deliberative stage by the Board;
- (c) the information requested may compromise the working of board; or
- (d) the person fails to satisfy any confidentiality requirements by the Board.

(4) The right of access to information under Article 35 of the Constitution is limited to the nature and extent specified under this section.

(5) Every member and employee of the Board shall sign a confidentiality agreement.

37. (1) A person who commits an offence under this Act for which no penalty is provided is liable, on conviction, to a fine of not less than twenty thousand shillings or to imprisonment for a term not exceeding six months, or to both. Penalties

(2) Where an offence under this Act is committed by a partnership, company, association or co-operative society, every person who at the time when the offence was committed—

- (a) was a director, partner or officer;
- (b) had knowledge or should have had knowledge of the commission of the offence; and
- (c) did not exercise due diligence to ensure compliance with this Act,

commits an offence and is, subject to subsection (3), liable for the offence as if they had committed the offence.

(3) A person shall not be liable for an offence under subsection (2) where they prove that the act or omission constituting the offence took place without their knowledge, consent or connivance and that they exercised diligence to prevent the commission of the offence as they ought to have exercised having regard to the nature of their functions as director, partner or officer concerned as aforesaid and to all the circumstances.

38. (1) The Cabinet Secretary may, in consultation with the Board and the Council of County Governors, make regulations generally for the effective carrying out the provisions of this Act. Regulations

(2) Without prejudice to the generality of subsection (1), the regulations may provide for —

- (a) conditions for registration;
- (b) forms to be used in the application for registration, and related activities;

- (c) the process of application for registration and related activities; and
- (d) the regulation of contracts between growers, processors and other players in the nut industry.

39. The First Schedule to the Crops Act No. 16 of 2013 is amended by deleting the following items — Amendments

(a) Under Part I—

Sunflower.....*Helianthus annuus*

(b) Under Part II—

(i) Sesame.....*Sesamum Indicum L.*

(ii) Safflower.....*Carthamus tinctorius L.*

(iii) Ground nut.....*Arachis hypogaea L*

(c) Under Part III—

(i) Coconut.....*Cocos nucifera*

(ii) Cashew nut..... *Anacardium occidentale*

(iii) Castor beans.....*Ricinus communis*

(iv) Oil Seed or Rapeseed.....*Brassica napus*
var. *oleifera L*

(v) Jojoba.....*Simmondsia Chinensis*

(vi) Linseed.....*Linum*
usitatissimum L.

PART VII—SAVINGS AND TRANSITION

40. All rights, obligations and contracts which, immediately before the coming into operation of this Act, were vested in or imposed on the Agriculture and Food Authority with respect to the nuts and oil sector shall by virtue of this section, be deemed to be the rights, obligations and contracts of the Board as the case may be. Rights and obligations.

41. All funds, assets, and other property, moveable and immovable which were immediately before the appointed day vested in Agriculture and Food Authority for the carrying out of functions relating to nuts and oil, shall vest in the Board. Assets

42. All actions, suits or legal proceedings pending by or against the Agriculture and Food Authority in relation to the Legal proceedings

nuts and oil sector shall be carried on or prosecuted by or against the Board, and no action, suit or legal proceedings shall in any manner abate or be prejudicially affected by the enactment of this Act.

43. Any reference to the Agriculture and Food Authority in any written law or in any contract, document or instrument of whatever nature, in relation to nuts and oil, shall, be read and construed as a reference to the Board.

Reference to
written law

44. All directions, orders and authorizations given, or licenses or permits issued, or registrations made by the Agriculture and Food Authority in relation to nuts and oil, and subsisting or valid immediately before enactment of this Act, shall be deemed to have been given, issued or made by the Authority as the case may be, under this Act.

Previous
authorization

45. Any person who, at the commencement of this Act, is a member of staff of the Agriculture and Food Authority dealing with the nuts and oil sector shall, upon enactment of this Act, become a member of staff of the Board.

Staff

SCHEDULE (s. 20)

**PROVISIONS RELATING TO THE CONDUCT OF
BUSINESS AND AFFAIRS OF THE BOARD**

1. (a) The Board shall have at least ten meetings in every financial year and not more than two months shall elapse between the date of one meeting and the date of the next meeting. Meetings.

(b) Meetings shall be convened by the Chief Executive Officer in consultation with the Chairperson and shall be held at such times and such places as the Chairperson shall determine.

(c) The Chairperson shall preside over all meetings and in the absence of the Chairperson, by a person elected by the Board as the case may be at the meeting for that purpose.

(d) The Chairperson may at any time convene a special meeting of the Board as the case may be, and shall do so within one month of the receipt by the Chairperson of a written request signed by at least five other members.

(e) Unless half of the members of the Board otherwise agree, at least seven days' notice of a meeting shall be given to every member of the Board as the case may be.

2. The quorum of a meeting of the Board is half of the total number of members. Quorum.

3. A decision of the Board shall be by a majority of the members present and voting and, in the case of an equality of votes; the person presiding at the meeting shall have a second or casting vote. Voting.

4. Minutes of all meetings shall be kept and entered in records kept for that purpose. Minutes.

5(1) If a person is present at a meeting of the Board or respective committee at which any matter is the subject of consideration and in which matter that person is directly or indirectly interested in a private capacity, that person shall as soon as is practicable after the commencement of the meeting, declare such interest. Disclosure of interest.

(2) The person making the disclosure of interest under subsection (1) shall not, unless the Board or committee otherwise directs, take part in any consideration or discussion of, or vote on any question touching on the matter.

(3) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(4) A person who contravenes subsection (1) commits an offence and shall upon conviction be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding seven years or to both such fine and imprisonment.

(5) A member or employee of the Board shall not transact any business or trade with the Board.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to establish the Nuts and Oil Crops Development Board with the aim of saving the nuts and oil crops industry by revamping the policy and institutional framework within which the industry operates. The nuts and oil crops industry is a significant agricultural industry in Kenya.

There is therefore need for a strong and robust policy and institutional foundation to support and guide the multitude of activities, operations, and interactions within the industry so that the growth of the industry results in a strengthened agricultural economy for the country.

Regulatory challenges, national and international economic realities, and scientific reliability are some of the pressing concerns that need to be addressed by the institution responsible for the nuts and oil crops industry.

The Bill proposes to revamp the nuts and oil crops sector in order to make it a profitable, sustainable and development-oriented activity. It proposes to provide an avenue for appreciating the medicinal, aesthetic, touristic and artistic value of various nuts and oil crops by encouraging value addition in the processing of nuts and its products. The Bill therefore establishes the Nuts and Oil Crops Development Board. It further provides for research and development to cultivate a culture of scientific excellence and professionalism in nuts and oil crops farming and industrial development.

Part I (clauses 1–3) contains preliminary matters.

This part contains the short title, interpretation of terms, and the object of the Act.

Part II (clauses 4–20) provides for the establishment, functions and powers of the Nuts and Oil Crops Development Board. It further provides for the composition and qualifications for appointment of the members of the Nuts and Oil Crops Development Board. In addition, it provides for the office of the chief executive officer of the Board and the secretariat.

This part also provides for the establishment of Committees of the Board as well as tenure of office of Board members. It further provides for remuneration of the members as well as the meetings of the Board and other administrative issues revolving around the Board

Clauses 21–22 contain provisions related to the role of county governments in regulating the nuts and oil industry. It allows counties to enact county specific legislation setting out the criteria for registration of the nuts and oil industry stakeholders.

Part IV (Clauses 23–28) sets out the regulatory provisions. The Bill requires the nuts and oil crop growers, nursery operators, association and societies to register with the county government.

Part V (clauses 29–33) sets out the financial provisions of the Board.

This part provides for preparation of annual estimates of income and expenditure of the Board. It further provides for the period of the financial year of the Board and the preparation and auditing of its accounts.

Part VI (Miscellaneous provisions Clauses 34–38) This part provides for tax incentives, management of information by the Board and penalties for non-conformity with the provisions of this Act.

Part VII (clauses 40–45) provides for Savings and Transition clauses.

The Schedule contains provisions relating to meetings of the Board and the conduct of such meetings.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

This Bill does not delegate any legislative powers nor does it limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

Agriculture is a devolved function under paragraph 1 of part 2 of the Fourth Schedule to the Constitution. By facilitating the development of nuts and oil crops industry in the country, the Bill ensures that nuts and oil crops farmers have opportunities to enhance farming and value addition to nuts and oil crops products. This in turn facilitates the growth and development of the economies of the counties that produce nuts and oil crops.

The Bill therefore concerns county governments in terms of Articles 110(1) (a) of the Constitution.

Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 19th September, 2023.

HAMIDA KIBWANA,
Senator.

APPENDIX V:

**MATRIX OF THE SUBMISSIONS
RECEIVED BY THE COMMITTEE ON
EACH CLAUSE OF THE BILL AND ON
GENERAL MATTERS RELATING TO THE
BILL**

THE SENATE



MATRIX

THE NUTS AND OIL CROPS DEVELOPMENT BILL, 2023

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
1 Short title	Ministry of Agriculture.	Amend and insert "Development" before the word "Board"	To align with the title of the Bill.	
2 Definitions	Ministry of Agriculture.	Nuts and Oil crops- Amend by deleting the definition and substituting thereof with 'nuts and oil crops means any of the crops listed under the second schedule and includes such other crops as the CS on the advice of the board may declare to be a scheduled crop by notice in the gazette'.	Since the crops are many, it may not be possible to capture all of them in a definition and therefore the need to introduce the second schedule where all of them will be listed.	
		Amend by inserting a new interpretation. 'Dealer includes a person engaged in either collecting, transporting, storing, distributing, or buying and selling nuts and oil crops produce,	These value chain actors play vital role in development of the nuts and oil crops sub-sector.	

		products or by- products and includes marketing agents, processors, exporters, and importers’.		
2 Definitions	Law Society of Kenya.	<p>This definition should be reworked to ensure that the word that is being defined is not used in its interpretation. This will ensure that the definition is concise especially because section</p> <p>21(c) authorizes the county governments to licence nut and oil processors.</p> <p>The Bill should also define the term “processing” since section 25 (1) states that processing of nuts and oil crops shall not be done without a licence.</p> <p>Section 26(5) further creates an offence where processing is done without a licence and a hefty fine of KES one million or imprisonment for a term not exceeding two years or both.</p> <p>The magnitude of this penalty warrants definition of the word “processing”.</p>	The term “Processor” has been defined to mean “a person who does the processing of nuts and oil crops”	
	Lamu farmers	Lamu farmers	Include cotton seed since they are nuts	

3 Objects of the Bill	Ministry of Agriculture.	Amend by deleting the word 'industry' and substituting it with the word 'subsector'.	The nuts and oil crops comprise several industries.	
		Amend by substituting the word 'tree' with 'produce'.	We process the produce. Not all nuts and oil crops are trees.	
		Amend by substituting the word 'better' with 'improved'.	Technical language used is improved varieties and not better.	
		Amend by inserting a new object to read 'Regulate the Nuts and Oil Crops Sub Sector'.	To ensure harmony and a level playing ground in the sub-sector.	
3 (a) Objects of the Bill	Nature Kenya.	Amend Clause 3 (a) to include the term "sustainable" to promote a more environmentally conscious approach, hence to read: <i>"3 (a) promote a globally competitive and sustainable nuts and oil crops industry".</i>		
4 (3) Headquarters	Ministry of Agriculture.	Amend to substitute the term 'Kilifi' with 'Nairobi'.	The production of nuts and oil crops spread across the country and Nairobi is the most central.	
	Mpeketoni farmers Hindi/ Mokoye farmers	Headquarters to be located in Lamu		
5 (1) Composition the Board	Ministry of Agriculture.	Amend by deleting the clause and inserting 'The Board shall consist of'.	To align with the marginal notes.	
	Mpeketoni farmers	Representatives of the farmers should be appointed by	To elect persons who are involved in nuts farming	

		farmersRepresentatives		
	Mpeketoni farmers	Farmers should elect the chairperson		
5(d)	Mpeketoni farmers	Reduce the requirement of 10 years' experience to five.	To accommodate youth who might lack the long experience but are qualified.	
5(d) (i)	Hindi/ Mokoye farmers	Specify that the farmers to be nominated are nut and oil farmers.		
	Hindi/ Mokoye farmers	Increase the number of farmers representative to 4		
5(3)	Hindi/ Mokoye farmers	Provide for youth and PWD		
5(3)	Law Society of Kenya.	We propose that the PS Treasury be included in the Membership of the Board because the body created would have an impact on the exchequer. The costs of running the Board would have to be approved by the National Treasury.	The composition of the Board does not include representation from the PS Treasury.	
5	Nature Kenya.	We propose amendment to add clause 5 (1) (g) and (h) to read: <i>"Clause 5 (1) (g), the Principal Secretary responsible for environment and climate change or a representative nominated by the Principal Secretary in writing. (h), a representative of a national civil society</i>	Revise the composition of the board to include representation from the environment and climate change sector to advocate for environmental interests.	

		<p>private sector. There are four licensed and operational Macadamia processors in the County. Licensing of macadamia processors is currently done by AFA. This should be devolved to the County Government for ease of enforcement of the Macadamia regulations</p> <p>e) Provision of extension services to the farmers to improve on the crop agronomic practices.</p> <p>f) The private sector is being encouraged to set-up and register nurseries to enhance certified seedlings production. However, licensing of</p> <p>g) Supporting farmers to access certified seedlings to farmers</p>		
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		<p>adversely lowers production and nut quality.</p> <p>f) High cost of farm inputs thus making them unaffordable to majority of the farmers.</p> <p>g) Inadequate supply of certified seedlings as a result of the few registered nurseries, leading to high seedling prices.</p>		
		<p>Interventions to promote the development of the Macadamia sub-sector.</p> <p>a) Establishment of aggregation facilities at the ongoing County Agricultural Industrial Park, at Machanga</p> <p>b) Encourage contract farming</p> <p>c) Continuous mobilization of farmers to join Macadamia Farmers Cooperative.</p> <p>d) Promotion and support to processing and value addition by the</p>		

		<p>is important that predictable and strict timelines be put in place for dispute resolutions. Left to individuals, the disputes shall forever drag to the disadvantage of the citizens and other market players.</p>		
	<p>Embu County Government - Chief Officer- Cooperative Development</p>	<p>Challenges to macadamia production</p> <ul style="list-style-type: none"> a) Low and fluctuating producer prices and lack of organized marketing. This has led to exploitation by brokers who are not regulated. b) Harvesting of immature nuts when prices are very good to counter on-farm theft incidences. c) Little or no value addition at farm gate. d) Effects of climate change (unpredictable weather conditions) which affects flowering pattern and general performance of the tree. e) Pests and diseases damage which 		

		have a recourse whenever the issuing authority at the County fails to act within the stipulated timelines. This could be going to the Board directly. Leaving the recourse to only the High Court which might take ages to determine the matter at the detriment of a farmer is unsustainable.		
		5. The intended legislation should be clearer on the application of licences directly to the Board in the event that a county where a farmer hails from does not have a specific legislation on nuts and oil crops. This should relate to the body to whom Licence application is to be made to, the timelines.		
		6. The dispute resolution mechanism needs to be enhanced in line with the Overriding Objective Principles of fast resolution. The primary legislation and the rules however have ignored a vital constituent of timelines within which the dispute is to be addressed. Given the nature of the sector and the products involved, it		

			imposed by the counties. This will ensure uniformity across the nut producing areas and alleviate the dangers of some counties attempting to exploit investors. To ensure equity, the fees can be based on the turnover as witnessed under the Crops Act.		
			2. There is equally need to harmonize the fees with what counties are already demanding from market players to eliminate the scenarios of double payments coined under different names.		
			3. The Licencing approval should not be left to the sole discretion of the CECMs. To provide for some checks and balances, a body synonymous to the Board under the Bill should be created within the respective counties with representations from market players with the mandate of receiving and reviewing licencing applications. The CECMs or a representative can sit in as a member of the said body.		
			4. An applicant for issuance of the Licence or renewal should		

		<ul style="list-style-type: none"> d) There is need to control prices to ensure that farmers are not exploited. e) Lack of quality seedlings f) Lack of industries to process by products. g) Farmers need to benefit from the climate/ carbon credits. 		
	Hindi/ Mokoye farmers	2. Put in place regulations so that by- products to benefit farmers.		
		3. Construct a factory closer to the farmers to reduce transport costs.		
		4. Farmers whose land was compulsorily acquired for the establishment of county headquarters are seeking for compensation.		
		5. Will the views given by farmers be taken into consideration?		
		6. Protect seedlings farmers.		
		7. Provide guidance on appropriate pesticides which are effective and safe.		
	The Village Nut Company	1. The government should consider coming up with fees policy that is uniform and applicable across the board. This can be achieved by the Cabinet Secretary in consultation with the Board and other market players coming up with a cap on the licencing fees that can be		

		h) Provision of idle land by county government.		
		i) Price control and training by county government.		
		j) Qualification requirements of a degree.		
		k) Introduce Board at the county level.		
	Mpeketoni farmers	1. Regulate prices		
		2. Slip Board to be responsible for specific crops		
		3. Provide for provision of quality seeds and markets		
		4. Include seed and oil farmers		
		5. Production is low because of lack of quality seeds, extension services.		
General Comments	Hindi/ Mukoye farmers	<p>1. There are several issues that affect production. This include-</p> <p>a) Land ownership and titles- most farmers are not registered as land owners and as such they are hesitant to engage in long term investment in farming</p> <p>b) Lack of security- constant clash between the patrolist and farmers affect production.</p> <p>c) Lack of clear demarcation between forest and farm land. Wild fires also spread to the farms destroying crops and farmers are not compensated for it.</p>		

		<p>Nuts and Oil Crops Development Bill, 2023 is adequately addressed by the Crops Act, 2013, AFA Act, 2013, and the Crops (Nuts and Oil Crops) Regulations, 2020. The Ministry is content with the existing legislative and institutional framework.</p> <p>3. The position of the Ministry that the Nuts and Oil Crops Development Bill, 2023 should not be progressed.</p>		
General Comments	Kwale farmers	a) Regulate pricing.		
		b) Provide for credit facilities for nut and oil crop farmers.		
		c) Protection of local growers to ensure ready local markets.	Influx of foreign processed nuts and oil products.	
		d) Replace function of county governments to the Board.	The County governments are ineffective.	
		e) Remove the penalty for cutting of oil crops.	It is perceived that when the crops are not viable it does not make sense to keep growing them.	
		f) Incorporate groundnuts.		
		g) Value addition & establishment of processing plants.		

		Amend by inserting a sub-clause 'If a person does not intend to become a member of staff of the Board, the person shall, within a period of 30 days from the appointed day give notice in writing to the Board.'	Fairness in staff who might opt not to join the Nuts and Oil Crops Development Board.	
		Amend by inserting a sub-clause 'Any other member of staff within the Agriculture and Food Authority may upon consideration and appointment by the Board become a member of staff of the Board after the commencement of this Act.'	Fairness in staff who might want to opt in and join the Nuts and Oil Crops Development Board.	
		Amend to insert a sub-clause 'The staff pensions fund of Kenya Coconut Development Authority Pension Scheme shall on the appointed day vest in the Board'.	To manage the staff pension funds.	
General Comments	Ministry of Agriculture.	<ol style="list-style-type: none"> 1. The establishment of the proposed Nuts and Oil Crops Development Board to regulate Nuts and Oil Crops shall negate the policy direction that informed the merger. This will erode the benefits envisaged in the merger including reducing overlaps in mandates and injecting cost-effectiveness in the management of regulatory boards. 2. The purpose of the proposed 		

		<ul style="list-style-type: none"> f) Rules for ensuring food safety including handling, transportation, processing, and market standards of nuts and oil crops produce and products; g) Periods for which licenses and registration certificates shall be issued; h) Regulation of standard industry agreements; i) Regulation on competitive pricing and market access; and j) Regulation on fees and levies. 		
38 Regulations	Council of County Governors.	<p>Amend by introducing a new sub-clause 38(2)(e) immediately after 38(2)(d) to read as follows:</p> <p>38(2)(e). Establishment of the County Crops Dispute Resolution Committee</p>	No justification provided.	
PART VI- MISCELLANEOUS PROVISIONS	Ministry of Agriculture	Introduce a new clause to give the CS powers to impose a levy on the nuts and oil crops produce and products.	It is important to have the levy for the sustenance, development, provision, and general benefit of the nuts and oil crops sub-sector.	
44 Previous authorization	Ministry of Agriculture	Amend by deleting the word 'Authority' and substituting it with the word 'Board'.	To provide clarity and consistency.	
45 Staff	Ministry of Agriculture	Amend by inserting the following words after the words staff of the board; 'on the same or better terms'.	Provide adequate safeguards for the staff welfare.	

		(2) A party aggrieved by the decision of the Dispute Resolution Committee my appeal to the High Court within fourteen days of receipt of the decision.		
35	Ministry of Agriculture.	Amend by deleting the words 'cotton industry' and replacing them with the words 'sub-sector'.	The use of the cotton industry is not relevant to the nuts and oil crops sub-sector.	
	Mpeketoni farmers	Provide for a stabilization fund	To support farmer.	
	Mpeketoni farmers	Provide for incentives	To assist farmers.	
37 Penalties	Ministry of Agriculture.	Amend to provide for a fine not exceeding five hundred thousand shillings or imprisonment for a period not exceeding one year, or both	The law should provide for a maximum fine and penalty. The Kes. 20,000 provided for is low and may not deter malpractices.	
38 Regulations	Ministry of Agriculture.	<p>Amend to provide for the following regulations.</p> <ul style="list-style-type: none"> a) Procedure for licensing of marketing agents, transporters, processors, exporters, and importers; b) To provide for forms fees to be paid for anything to be done under this Act; c) Mechanisms for conflict resolution; d) To provide for the submission of returns and reports by the holders of licenses and permits under this Act; e) Standards and the manner of grading of the nuts and oil crops 	To ensure adequate provisions for regulations.	

			Executive Committee Member in application for licensing	
	Mpeketoni Farmers	Licensing should be done by AFA or the Board.	County government is ineffective.	
	Mpeketoni Farmers	Amend to protect cottage industries	To protect small scale processors.	
25 (2)	Ministry of Agriculture.	Amend the sub-clause by deleting county legislation and replacing it with the regulations under this Act.	Licensing will be done under this act and not through county legislation.	
25 Licensing of processors	Ministry of Agriculture.	Amend clause 25 to include the marketing agents, exporters, and importers.	They are important actors in the value chain and need to be regulated.	
26,27,28,29	Ministry of Agriculture.	Amend by deleting the word 'county executive committee member' wherever it appears and replacing it with the words 'The Board'.	Licensing of the players should be done by the board because it is intended for the international markets and processors utilize imported raw material.	
29 Appeals	Council of County Governors.	Amend to read as follows: 29. (1) An applicant who is aggrieved by the decision of the county executive committee member not to issue a licence under this Act may appeal to the County Crops Dispute Resolution Committee against the decision within fourteen days of receipt of the decision.	To provide of Alternative means of Dispute Resolution through the formation of county dispute resolution committees before a party can approach the High Court.	

			to the global efforts against the triple planetary crisis. The need for climate smart production cannot be overemphasized.	
24 Registration	Law Society of Kenya.	We propose that a nuts and oil crop grower be defined to ensure that there is certainty as to who falls under that classification for the purpose of determining who qualifies for exemptions under the same section.	The section makes reference to a nuts and oil crop grower yet the entire document does not define who a nuts and oil crop grower.	
24. Registration	Mpeketoni farmers	Amend to regulate the crop and not the farmers.		
	Hindi/ Mokoye farmers	What happens if a farmer does not register? Registration is a burden to farmers.		
25 Licensing of processors.	Ministry of Agriculture.	Amend the clause by deleting CECM where it appears and replacing it with Board.	Licensing of processors should be done by the board because it is intended for the external market and processors utilize imported raw material.	
25	Nature Kenya.	<i>"25 (2) (c), Environmental Impact Assessment or Environmental and Social Impact Assessment license as per the EMCA regulations".</i>	Require Environmental Impact Assessment or Environmental and Social Impact Assessment approvals for processors to ensure compliance with environmental regulations as per Environment Management and Coordination Act (EMCA) regulations among documents submitted to the County	

			governments.	
22 Enactment of county Specific legislation.	Council of County Governors.	Amend clause 22(1)(e) to read as follows: 22(1) (e) the grounds for the rejection of an application or cancellation of a licence issued under this Act and mechanisms for Appeal;	No justification provided.	
22	Law Society of Kenya.	We propose that since the mother Bill has already been developed, counties should only create regulations relating to production, processing, distribution and marketing of nuts and oil crops that align with the current Bill. This will also minimize contradictions like Section 22 “1” a” referring to the counties developing legislation on the criteria for registration and appeal which have later been addressed in Part IV of the Bill on regulatory provisions.	This section provides for development of county specific legislation where a county engages in production, processing, distribution and marketing of nuts and oil crops.	
23 Regulation of nuts and oil Crops.	Ministry of Agriculture.	Delete the entire clause.	The provisions are not regulatory and are provided for under clause 21.	
23	Nature Kenya	Therefore, amend to add 23 (1) to add the above view, to read: <i>"23 (1) (h) Enhancing conservation, protection and management of all ecologically sensitive areas</i>	Expand the regulatory framework to encompass climate change adaptation, halting of biodiversity loss, and pollution prevention in addition to the other listed economic objectives as this will enhance contribution	

		provide a framework for the establishment.	facilities can also be done by value chain actors and private sectors.	
21	Nature Kenya.	<p>Therefore, amend 21 (e) to recognize application of net gain feasibility models in determining strategic sites, by adding the term "suitable", and specifying sites that should not be used, to read:</p> <p><i>"21 (e) Facilitate the production of nuts and oil crop in the respective county by implementing and expanding the planting and replanting program of nuts and oil crops in strategic areas identified as having the most suitable potential, avoiding natural forests, seasonal wetlands and other critical biodiversity habitats, and the rehabilitation and fertilization of existing nuts and oil crops".</i></p>	Commercial cultivation of some nuts and oil crops will have negative impacts to biodiversity and communities. The bill needs to promote a balanced development approach where sites identified as most potential for cultivation are evaluated using net gain feasibility models to establish impacts on valued ecological components within that ecosystem. If not feasible, the projects should be stopped at selection stage.	
22	Ministry of Agriculture.	Delete the entire clause.	The Constitution provides for the enactment of county legislation. The clause is likely to create double legislation which will lead to conflicts and confusion between the two levels of government. National legislation is done in consultation with the county	
Enactment of county-specific legislation.				

		<p>operators, warehouses, processors, cooperatives and other associations in that county;</p> <p>(c) licence nuts and oil processors;</p> <p>(i) collaborate with relevant institutions so as to promote access to farm inputs, affordable credit and other financial services;</p> <p>ii. Add the following functions clause immediately after clause 21(l) to read as follows:</p> <p>(m) promote the diversification of nuts and oil crop products and by-products,</p> <p>(n) Put in place a framework for the capacity building and interaction of famers and various players in the nuts and oil crops industry;</p>		
21 (c)	Ministry of Agriculture.	Amend by deleting the clause.	The processing of nuts and oil crops is for the international market and entails the importation of raw material.	
Role of the County Governments	Hindi/ Mokoye farmers	Provide for- <ul style="list-style-type: none"> • Extension services • Provision of farm inputs and credit • Aggregation centres 		
		Amend to provide for the counties to	The establishment of such	

		subsection (1) shall not relieve the Board of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.		
19 Signing authority	Law Society of Kenya.	We recommend that the section be deleted. This will allow the Board to set its own regulations on these matters with regard to applicable laws and policies. Further a proposal that in the absence of the CEO, then the Board shall authorize another to sign would reduce the work of the Board to administrative issues that would interfere with its ability to give oversight to the management.	This section relates to who has powers to sign documents on behalf of the Board. The section is administrative in nature and should not be legislated.	
21 Role of County Governments.	Council of County Governors.	i. Amend the clauses 21(b),(c) and (i) to read as follows: 21. A county government shall— (b) maintain an up-to-date register of nuts and oil crop growers, nursery	To incorporate the warehouses which store nuts and oil crops and provide for further functions of the County Governments in line with the Fourth Schedule to the Constitution.	

		years,		
17	Law Society of Kenya.	<p>We propose Section 17 of the Bill on liability of Board members, officers and employees should include the following subsections; (1) Liability shall not attach to the Board or to any of its members, officers, agents or staff for loss or damage incurred as a result of an act or omission done in good faith and without negligence in the performance or exercise or the intended performance or exercise of any duty or power imposed by or conferred under this Act. (2) Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any act which is done or purported to be done by him or her under the direction of the Board, shall, if the court holds that such act was done in good faith, be paid out of the funds of the Board, if such expenses are not recovered by the person in such suit or prosecution. (3) The provisions of</p>	<p>The Section provides for liability of Board members and staff but does not sufficiently cover any person to whom a suit or prosecution is brought against in respect of any act which is done or purported to be done by him or her in good faith and without negligence.</p>	

Functions of the Board		term "sustainable" and add a section (1) to promote the avoidance of ecologically sensitive areas, to read: <i>"9 (a) regulate and promote the sustainable development of the nuts and oil crop industry". "9 (1) guide investors and farmers to avoid and protect all ecologically sensitive areas".</i>		
10 Powers of the Board.	Ministry of Agriculture.	Amend by deleting the sub-section and inserting 'Open such bank accounts for its funds as may be necessary'.	To give the Board a leeway to open various bank accounts as may be necessary.	
		Amend to include a general power that 'Undertake any activity necessary for the fulfillment of any of its functions'.	To give leeway to the Board to exercise power as the need may arise.	
12 Remuneration of the Members of the Board	Ministry of Agriculture.	Amend by deleting the clause and inserting the following 'The remuneration payable to members of the Board shall be determined by the Salaries and Remuneration Commission'.	The constitution mandates SRC to determine remunerations and other allowances in the public sector.	
13 Chief Executive Officer	Ministry of Agriculture.	Amend to provide for the requirement is a minimum of a bachelor's degree.	The qualification of a Chief Executive Officer is managerial.	
		Amend to provide for a term of three	Align with the <i>Mwongozo</i> .	

7Term appointment of	Ministry of Agriculture.	Amend by deleting '6' and replacing with '5'.	To provide consistency in the numbering.	
9 Functions of the Board.	Ministry of Agriculture.	Amend by inserting a new function to read 'carry out such other functions as may be assigned to it by this act or any other written law while respecting the roles of the two levels of government'.	The provision caters to any omitted or unforeseeable emerging functions that may support the Board in achieving its mandate.	
9 Functions of the Board	Council of County Governors.	<p>i. Amend clauses 9(b) and (j) to read as follows —</p> <p>9. The Board shall—</p> <p>(b) make recommendations to the Cabinet Secretary and County Executive Committee Members on the national strategies, plans and policy relating to the nut and oil crop sector;</p> <p>(g) regulate the import and export of nuts and oil crop products and by- products to conform to the quality or food standards recognized in the international market;</p> <p>(j) Provide capacity building and technical assistance to the County Governments in the nuts and oil crops value chain.</p> <p>ii. Delete clauses 9(a) (c)(h) and (k) in their entirety.</p>	<p>To align to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the agriculture and trade development and regulation of agriculture and trade excluding international trade are functions fully devolved to County Governments.</p> <p>Further to align with the functions of National Government in nuts and oil crops which are; agricultural policy, institutions of research, international trade and capacity building and technical assistance to the counties.</p>	
9	Nature Kenya.	Amend Clause 9 (a) to add the		

		Amend to insert National Treasury to the membership	To align with the Mwongozo and the State Corporation Act.	
		Amend by deleting the word 'processor' and substituting thereof with 'dealer'.	Other actors need to be represented on the board.	
		Amend to provide for a nomination process by the farmers' or dealers'.	To provide for transparency and fairness in the nomination of the board.	
5 (1) (d) Composition the Board		Amend to provide for a nomination process by the farmers' or dealers' umbrella associations.	To provide for transparency and fairness in the nomination of the board.	
5 Composition of the Board	Council of Governors	<p>Amend clause 5(1)(d) and (e) to read as follows:</p> <p>5. (1) The management of the Board shall vest in a board consisting of—</p> <p>(d) four persons with ten years' experience in the nuts and oil industry appointed by the cabinet secretary in consultation with the Council of County Governors, of whom—</p> <p>(i) two shall be farmers;</p> <p>(ii) one shall be a processor; and</p> <p>(iii) one shall be a researcher</p> <p>(e) two persons nominated by the Council of County Governors;</p>	<p>To align to the provisions of Articles 6(2) and 189 of the Constitution which requires the two levels of government discharge their functions in a consultative manner. We opine that the nomination and subsequent appointment of farmers and processors representatives should be done in consultation with the Council of Governors.</p> <p>We further opine that the County Governments should be represented by two persons to ensure effective representation.</p>	

		<i>organization active in environmental conservation and, climate change issues".</i>		
6	Law Society of Kenya.	We propose that the qualifications for Board members and the Chairperson should be separated. Therefore, there is need to include in the bill a specific subsection providing for the qualifications of the Chairperson to read: 6(1) No person shall be qualified for appointment as the Chairperson of the Board under subsection 5 (1)(a) unless such person— (a) holds a degree from a university recognized in Kenya; and (b) has at least ten years' experience in matters relating to management of a public or private institution, 5 of which shall be in senior leadership and management. This is based on the fact that the Chairperson plays a crucial leadership role in guiding the activities of the Board and management including influencing the direction of policies and strategies.	The Section generally provides for the qualification of members of the board.	
6(b) Qualification for appointment.	Hindi/ Mokoye farmers	Reduce remove the requirement of a degree for farmers representatives		
		Amend by deleting the word 'Researcher' and Replace 'Five persons' with 'Four persons'.	Researchers may be brought on board administratively on a need basis.	

APPENDIX VI:

**COPIES OF STAKEHOLDER SUBMISSIONS
ON THE BILL**



**MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT
OFFICE OF THE CABINET SECRETARY**

Telephone: 2718870/9
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When replying please quote

KILIMO HOUSE
CATHEDRAL ROAD
P.O. Box 30028-00100
NAIROBI

Ref. No. MOALD/CS/ADM/13 VOL.IV

27th February, 2023

J. M. Nyegenye, CBS
Clerk of the Senate
P.O. Box 41842-00100
NAIROBI

Dear **Mr. Nyegenye,**

**RE: STAKEHOLDERS ENGAGEMENT ON THE NUTS AND OIL CROPS
DEVELOPMENT BILL, 2023 (SENATE BILLS NO. 47 OF 2023)**

Reference is made to your letter Ref. SEN/DSEC/SCA/CORR/2024/11 dated 21st February, 2024 inviting me to submit representations on Stakeholders Engagement on the Nuts and Oil Crops Development Bill, 2023 (Senate Bills No.47 of 2023) to the Standing Committee on Agriculture, Livestock and Fisheries on **Thursday 29th February 2024.**

Coincidentally, I have been given a special assignment as **Escort of Honour** during the **Sixth Session of the United Nations Environment Assembly (UNEA-6)** to be held from **26th February to 1st March, 2024 at the UNON.**

In light of the aforementioned, and with your considered concurrence, I would wish that my appearance before the committee be rescheduled to a later date.

I thank you for your continued support.

Yours *Sincerely,*

**Hon. Mithika Linturi, EGH
CABINET SECRETARY**



MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT
OFFICE OF THE CABINET SECRETARY

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CATHEDRAL ROAD
P. O. Box 30028
NAIROBI

REF: MOALF/CS/ADM/12 Vol.6 (20)

27th February 2024

J.M. Nyegenye, CBS
Clerk of the Senate
Parliament Buildings
P.O. Box 41842-00100
NAIROBI

Dear *Nyegenye,*

**MEMORANDA ON THE NUTS AND OIL CROPS DEVELOPMENT BILL,
2023 (SENATE BILLS NO 47 OF 2023)**

Reference is made to your letter Ref: SEN/DSEC/SCA/CORR/20/2/ 2023/14 dated 21st February 2024 concerning the above subject matter.

Attached herewith, are comments by the Ministry of Agriculture and Livestock Development on the proposed Bill.

Yours *Sincerely,*

Hon. Mithika Linturi, EGH
CABINET SECRETARY



REPUBLIC OF KENYA

**MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT
OFFICE OF THE CABINET SECRETARY**

**MEMORANDA ON THE NUTS AND OIL CROPS DEVELOPMENT BILL,
2023 (SENATE BILLS NO. 47 OF 2023)**

BY

**HON. MITHIKA LINTURI, EGH
CABINET SECRETARY**

FEBRUARY 2024

Introduction

The nuts and oil crops sub-sector has a huge potential to contribute to the food and nutrition security pillar. It contributes significantly to job creation, income generation, and production of raw materials for agro-processing industries. Kenya relies heavily on imported edible oil and in 2022 the value of imports was KES 120 billion.

There are 13 scheduled nuts and oil crops namely; Cashew, Coconut, Sesame/Sim Sim, Sunflower, Macadamia, Canola/Rapeseed, Groundnuts, Oil Palm, Bambara nuts, Jojoba, Safflower, Castor, and Linseed.

Overview of the Nuts and Oil Crops Sub-Sector

The nuts and oil crops sub-sector in Kenya plays a significant role in the country's agricultural sector. The subsector contributes to the economy by providing income to farmers, supporting rural livelihoods, and contributing to the country's foreign exchange earnings. The total value of the nuts and oil crops sub-sector for the year 2022 increased to Kes 16.5 billion from Kes 13 billion for the year 2021.

The macadamia industry is the leading export earner in the subsector and is grown in the Central, Eastern, and Rift Valley Regions. Kenya is ranked the fourth largest producer and exporter of macadamia nuts serving the Europe, Asia, and American markets.

Coconut and cashew nuts are major value chains in the Coastal Region but there is a deliberate effort by the government to expand the growing of the crops into the Eastern and Western Regions. The Ministry of Agriculture and

Livestock Development (MOALD) is working on a revitalization program aimed at replanting the crops by providing seedlings to farmers.

Edible oil production in Kenya remains low leading to overreliance on imports. To ensure self-reliance, the ministry is implementing a five-year edible oil crops promotion project that is aimed at enhancing the production and value addition of edible oil crops and reducing imports by half by 2027. Sunflower, canola, soybean, and coconut are the main target crops.

Oil palm production in the Western Region was introduced in 2003. The Ministry is currently revitalizing its production through the establishment of seedling propagation technologies. The seedlings will be given to farmers who will be organized into groups for ease of value addition.

The statistics on production, exports, and imports are as shown in tables 1 to 3.

Table 1 – Production Trends of Nuts and Oil Crops

Crop	Area (Ha)		Quantity (MT)		Values (Kshs) millions	
	2021	2022	2021	2022	2021	2022
Macadamia	7,180.00	8,746.77	42,562.40	40,903.02	2,513.885	2,462.142
Coconut	77,565	73,286	86,554	71,723	5,525.10	8,234.39
Cashew	23,158.00	23,058.97	9,121.00	8,331.69	457.35	416.64
Peanut	14,274	13,190	12,898	13,138	1,431	2,072.48
Bambara	185	209	465	527	163.99	186.29
Sesame	4,881	5,391	3,110.3	3,454.4	229.75	255.09
Canola	4,236	4,381	14,431	14,594	690	811
Sunflower		2,045.60		482.82		16.49
Total	133,500	132,330.34	171,162.7	155,175.93	13,032.075	16,476.522

Table 2 – Exports of Nuts and Oil Crops Produce and Products

Product	Quantity (MT)		Value Ksh (Millions)		Major Destinations
	2021	2022	2021	2022	
Macadamia Nuts	9,136	11,921.50	10,554.10	18,704.84	U.S.A, Germany, Netherlands, China, Japan
Macadamia oil	187.31	304.52	157.98	256.84	
Coconut oil	75	484.52	102.3	93.2	Tanzania, Egypt, Uganda, USA,
Cashew nuts	154.21	150.38	179.67	110.63	U.S.A, U.K, and U.A.E
Total	9,553	12,861	10,994	19,166	

Table 3 – Edible Oil Imports

Edible oil	Volume (MT)		Value KES Million	
	2021	2022	2021	2022
Palm oil	853,689.33	706,358.63	111,282.33	114,290.10
Coconut oil	15,580.34	14,689.53	2,660.70	2,825.47
Sunflower oil	7,638.76	12,742.07	1,166.25	2,561.64
Soya bean oil	5,900.97	2,242.22	937.00	510.91
Castor oil	2,908.90	-	543.71	-
Canola oil	2,249.08	2,559.64	341.19	654.87
Olive oil	816.21	1,037.11	278.08	387.19
Sesame oil	12.45	29.16	3.53	9.05
Peanut oil	2.98	3.48	0.53	0.47
Total	888,799.02	739,661.84	117,213.32	121,239.70

Current regulatory and institutional framework

The Ministry of Agriculture and Livestock Development (MOALD) provides the overall policy direction to the nuts and oil crops sub-sector.

In 2013, the Government initiated legislative reforms in the agricultural sector. The reforms were aimed at streamlining the regulatory function, reducing overlaps in mandates and increasing cost-effectiveness in the management of regulatory boards. These reforms led to the consolidation of various Acts and institutions in agriculture which culminated in the enactment of the Crops Act 2013 and Agriculture and Food Authority (AFA) Act No. 13 of 2013.

The Agriculture and Food Authority Act, No. 13 of 2013 established the Agriculture and Food Authority (AFA) as a State Corporation under the MOALD. The mandate of AFA is to develop, promote, and regulate all scheduled crops. Nuts and oil crops are among the scheduled crops.

In line with Section 11 of the AFA Act, 2013, AFA established the Nuts and Oil Crops Directorate (NOCD) whose mandate is to develop, promote, and regulate the nuts and oil crops sub-sector.

Pursuant to Section 40 of the Crops Act, 2013, the Cabinet Secretary through gazette notice number 151 of 20th August 2020 published the Crops (Nuts and Oil Crops) Regulations, 2020 to guide the development, promotion, and regulation of scheduled nuts and oil crops for the benefit of the growers and other stakeholders.

Hon. Senator Hamida Kibwana has sponsored the Nuts and Oil Crops Development Bill, 2023. The Bill seeks to establish the Nuts and Oil Crops Development Board to regulate the production, processing, marketing, and distribution of these crops. The Bill delinks the regulation of the nuts and oil

crops by AFA and negates all the gains of the reforms in the agricultural sector.

Further, this Bill is introduced at a time when the Ministry has put in place structures, strategies, and measures geared towards strengthening AFA to enhance its mandate.

H.E the President and Head of State, Dr. William Samoei Ruto, CGH, appointed the Chairman of the Board of the Authority on 16th March 2023. Subsequently, the Cabinet Secretary, Ministry of Agriculture and Livestock Development, appointed members of the Board vide gazette notice dated 22nd March 2023.

These appointments therefore fully operationalize the Authority and are anticipated to put in place all pre-requisite structures geared at efficient and effective service delivery to all scheduled crops, including the nuts and oil crops value chains.

Comments on the proposed Nuts and Oil Crops Development Bill, 2023

- a) The establishment of the proposed Nuts and Oil Crops Development Board to regulate Nuts and Oil Crops shall negate the policy direction that informed the merger. This will erode the benefits envisaged in the merger including reducing overlaps in mandates and injecting cost-effectiveness in the management of regulatory boards.
- b) The purpose of the proposed Nuts and Oil Crops Development Bill, 2023 is adequately addressed by the Crops Act, 2013, AFA Act, 2013, and the

Crops (Nuts and Oil Crops) Regulations, 2020. The Ministry is content with the existing legislative and institutional framework.

It is therefore the position of the Ministry that the Nuts and Oil Crops Development Bill, 2023 should not be progressed.

The summary of the comments on the bill is contained in the matrix attached hereto.

ANALYSIS OF THE COMMENTS ON THE PROPOSED NUTS AND OIL CROPS DEVELOPMENT BILL, 2023

No	Clause of the Bill	Observation	Proposal	Justification/Remarks
1.	The Long Title	The name of the Board is Nuts and Oil Crops Development Board and not Nuts and Oil Crops Board	Amend and insert the word "Development" before the word "Board"	To align with the title of the Bill
2.	Clause 2. Interpretation of the term nuts and oil crops	There are many other crops which have been omitted.	Amend by deleting the definition and substituting thereof with 'nuts and oil crops means any of the crops listed under the second schedule and includes such other crops as the CS on the advice of the board may declare to be a scheduled crop by notice in the <i>gazette</i> '.	Since the crops are many, it may not be possible to capture all of them in a definition and therefore the need to introduce the second schedule where all of them will be listed
		Some value chain actors have been left out in the bill (marketing agents, transporters, warehousing, exporters, importers)	Amend by inserting a new interpretation 'Dealer includes a person engaged in either collecting, transporting, storing, distributing, or buying and selling nuts and oil crops produce, products or by-	These value chain actors play vital role in development of the nuts and oil crops sub-sector

No	Clause of the Bill	Observation	Proposal	Justification/Remarks
			products and includes marketing agents, processors, exporters, and importers.	
3.	Clause 3. Objects of the Bill	Refers to nuts and oil crops as an industry	Amend by deleting the word 'industry' and substituting it with the word 'subsector'	The nuts and oil crops comprise several industries
		The word 'tree' has been inappropriately used in (b) and (c)	Amend by substituting the word 'tree' with 'produce'	We process the produce. Not all nuts and oil crops are trees
		The use of the word 'better' varieties is technically inappropriate under (d)	Amend by substituting the word 'better' with 'improved'	Technical language used is improved varieties and not better
		There is no object on regulation of the nuts and oil sub-sector	Amend by inserting a new object to read 'Regulate the Nuts and Oil Crops Sub Sector'.	To ensure harmony and a level playing ground in the sub-sector
		f – use of the word industry	Amend by substituting the word 'industry' with the word 'sub-sector'.	The nuts and oil crops comprise several industries
4.	Clause 4(3) The Headquarters	Providing that the headquarters of the Board shall be in Kilifi County has no basis nor any justifiable merit	Amend to substitute the term 'Kilifi' with 'Nairobi'	The production of nuts and oil crops spread across the country and Nairobi is the most central

No	Clause of the Bill	Observation	Proposal	Justification/Remarks
5.	Clause 5 (1) Composition of the Board	The clause is vesting the management of the development board to the board. The clause lacks clarity	Amend by deleting the clause and inserting 'The Board shall consist of'	To align with the marginal notes
		Researcher is a member of the Board	Amend by deleting the word 'Researcher' and Replace 'Five persons' with 'Four persons'	Researchers may be brought on board administratively on a need basis
		National Treasury is omitted from the composition of the Board	Amend to insert National Treasury to the membership	To align with the Mwongozo and State Corporation Act
		The clause singles out the processor as a member of the board yet there are other value chain actors	Amend by deleting the word 'processor' and substituting thereof with 'dealer'	Other actors need to be represented on the board
		5 (1) (d) It is not clear how the CS will appoint the three farmers and the processor to the board.	Amend to provide for a nomination process by the farmers' or dealers' umbrella associations	To provide for transparency and fairness in the nomination of the board
6.	Clause 7 Term of Appointment	Cross-referencing to '6 (1) a, d, and e' is erroneous since the section does not address the membership of the board	Amend by deleting '6' and replacing with '5'	To provide consistency in the numbering
7.	Functions of the Board	There is no provision for the Board to carry out any other function	Amend by inserting a new function I to read 'carry out	The provision caters to any omitted or unforeseeable

No	Clause of the Bill	Observation	Proposal	Justification/Remarks
		as may be necessary from time to time	such other functions as may be assigned to it by this act or any other written law while respecting the roles of the two levels of government'	emerging functions that may support the Board in achieving its mandate
8.	Powers of the Board	10 (1) (e) provides for opening only one bank account for the board	Amend by deleting the sub-section and inserting 'Open such bank accounts for its funds as may be necessary'.	To give the Board a leeway to open various bank accounts as may be necessary
		The bill does not provide for general power for the Board	Amend to include a general power that 'Undertake any activity necessary for the fulfillment of any of its functions'.	To give leeway to the Board to exercise power as the need may arise
9.	Clause 12. Remuneration of the Members of the Board	The clause empowers the CS to determine the remuneration of the board	Amend by deleting the clause and inserting the following 'The remuneration payable to members of the Board shall be determined by the Salaries and Remuneration Commission'.	The constitution mandates SRC to determine remunerations and other allowances in the public sector

No	Clause of the Bill	Observation	Proposal	Justification/Remarks
10.	Clause 13. Chief Executive Officer	The clause limits the qualifications of the CEO to a degree in law, agriculture, and finance	Amend to provide for the requirement is a minimum of a bachelor's degree.	The qualification of a CEO is managerial
		13 (3) The clause provides for a term of five years for the CEO	Amend to provide for a term of three years	Align with the Mwongozo
11.	Clause 21. Role of the County Governments	21 (c) assigns the role of licensing of processors to County Governments	Amend by deleting the clause	The processing of nuts and oil crops is for the international market and entails the importation of raw material
		21 (m) makes it mandatory for the County Governments to establish storage facilities and aggregation centers	Amend to provide for the counties to provide a framework for the establishment	The establishment of such facilities can also be done by value chain actors and private sectors
12.	Clause 22. Enactment of county-specific legislation	provides for counties to enact county-specific legislation	Delete the entire clause	The constitution provides for the enactment of county legislation, The clause is likely to create double legislation which will lead to conflicts and confusion between the two levels of government. National legislation is done in consultation with the county governments
13.	Clause 23. Regulation of	the clause provides for promotion,	Delete the entire section	The provisions are not regulatory and

No	Clause of the Bill	Observation	Proposal	Justification/Remarks
	nuts and oil crops	facilitation, incentives, etc. This is not regulation of nuts and oil crops as stated in the marginal law		are provided for under clause 21
14.	Clause 25. Licensing of processors	Gives the mandate of licensing the processors to the CECM	Amend the clause by deleting CECM where it appears and replacing it with Board	Licensing of processors should be done by the board because it is intended for the external market and processors utilize imported raw material
		25 (2) the application is prescribed in county legislation	Amend the subclause by deleting county legislation and replacing it with the regulations under this Act	Licensing will be done under this act and not through county legislation
15.	Clause 25 – to include licensing of Marketing Agents, Exporters and Importers	Regulation of marketing agents, exporters, and importers has been omitted yet they are important players in the value chain	Amend clause 25 to include the marketing agents, exporters, and importers	They are important actors in the value chain and need to be regulated
16.	Clauses 26,27,28,29	The CECM has been mandated to publish notices, revoke licenses, give compliance notices, and receive appeals	Amend by deleting the word County Executive Committee Member wherever it appears and replacing it with the words The Board	Licensing of the players should be done by the board because it is intended for the international markets and processors utilize imported raw material
17.	Clause 35. Incentives	The clause mentions the cotton industry which is not relevant	Amend by deleting the words 'cotton	The use of the cotton industry is not relevant to the

No	Clause of the Bill	Observation	Proposal	Justification/Remarks
		under the nuts and oil crops sub-sector	industry' and replacing them with the words 'sub-sector'.	nuts and oil crops sub-sector
18.	Clause 37. Penalties	The clause provides for a fine of not less than Kes. 20,000	Amend to provide for a fine not exceeding five hundred thousand shillings or Imprisonment for a period not exceeding one year, or both	The law should provide for a maximum fine and penalty. The Kes. 20,000 provided for is low and may not deter malpractices.
19.	Clause 38. Regulations	The clause provides for only four regulations and many other areas would require regulations	Amend to provide for the following regulations. a) Procedure for licensing of marketing agents, transporters, processors, exporters, and importers b) To provide for forms fees to be paid for anything to be done under this Act c) Mechanisms for conflict resolution d) To provide for the submission	To ensure adequate provisions for regulations

No	Clause of the Bill	Observation	Proposal	Justification/Remarks
			<p>of returns and reports by the holders of licenses and permits under this Act</p> <p>e) Standards and the manner of grading of the nuts and oil crops</p> <p>f) Rules for ensuring food safety including handling, transportation, processing, and market standards of nuts and oil crops produce and products.</p> <p>g) Periods for which licenses and registration certificates shall be issued</p> <p>h) Regulation of standard industry agreements</p> <p>i) Regulation on competitive</p>	

No	Clause of the Bill	Observation	Proposal	Justification/Remarks
			pricing and market access j) Regulation on fees and levies	
20.	Miscellaneous	There is no provision for levies for the development of the sub-sector	Introduce a new clause to give the CS powers to impose a levy on the nuts and oil crops produce and products	It is important to have the levy for the sustenance, development, provision, and general benefit of the nuts and oil crops sub-sector
21.	Clause 44. Previous authorization	The word authority is used instead of the Board in the last line of the paragraph	Amend by deleting the word Authority and substituting it with the word 'Board'	To provide clarity and consistency
22.	Clause 45. Staff	The clause does not provide for staff transition terms of remuneration	Amend by inserting the following words after the words staff of the board; 'on the same or better terms'	Provide adequate safeguards for the staff welfare
		Does not provide a leeway for the staff who may not wish to join the board	Amend by inserting a subclause 'If a person does not intend to become a member of staff of the Board, the person shall, within a period of 30 days from the appointed day give notice	Fairness in staff who might opt not to join the Nuts and Oil Crops Development Board

No	Clause of the Bill	Observation	Proposal	Justification/Remarks
			in writing to the Board.'	
		Does not provide a leeway for members of staff of AFA who may wish to join the Board	Amend by inserting a subclause 'Any other member of staff within the Agriculture and Food Authority may upon consideration and appointment by the Board become a member of staff of the Board after the commencement of this Act'.	Fairness in staff who might want to opt in and join the Nuts and Oil Crops Development Board
		Does not cater for the transition of staff pension	Amend to insert a subclause 'The staff pensions fund of Kenya Coconut Development Authority Pension Scheme shall on the appointed day vest in the Board'.	To manage the staff pension funds

.....
Hon. Mithika Linturi, EGH

Date.....

27/2/2024



COUNCIL OF GOVERNORS

**LEGISLATIVE MEMORANDUM ON THE NUTS AND OIL CROPS BILL, 2023
(SENATE BILLS NO. 47 OF 2023)**

TO

SENATE

FROM

THE COUNCIL OF GOVERNORS

Introduction

THE COUNCIL OF GOVERNORS,

In recognition of the fact that sovereign power of the state is exercised at two levels of government, that is, the National Government and the County Governments, whose distinctness is recognized by Article 6 (2);

In further recognition of the need to ensure that all legislation are cognizant of the fact that agriculture is a fully devolved function under the Part 2 of the Fourth Schedule to the Constitution; and

Noting that by strengthening the capabilities of our county governments, we can unlock the full potential of the nuts and oil crop value chain, leading to increased income for farmers, job creation, and overall economic growth across the country.

Having reviewed the **Nuts and Oil Crops Bill, 2023 (Senate Bills No. 47 of 2023)** in its entirety, the Council of Governors recommends the following amendments for better implementation of the proposed Act by the County Governments:

CLAUSE	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
5: Composition of the Board	5. (1) The management of the Board shall vest in a board consisting of— (d) five persons with ten years' experience in the nuts and oil industry appointed by the cabinet secretary, of whom— (i) three shall be farmers; (ii) one shall be a processor; and (iii) one shall be a researcher (e) one person nominated by the Council of County Governors;	<i>Amend clause 5(1)(d) and (e) to read as follows:</i> 5. (1) The management of the Board shall vest in a board consisting of— (d) <u>four persons with ten years' experience in the nuts and oil industry appointed by the cabinet secretary in consultation with the Council of County Governors, of whom—</u> (i) <u>two</u> shall be farmers; (ii) <u>one</u> shall be a processor; and (iii) <u>one</u> shall be a researcher (e) <u>two persons nominated by the Council of County Governors;</u>	To align to the provisions of Articles 6(2) and 189 of the Constitution which requires the two levels of government discharge their functions in a consultative manner. We opine that the nomination and subsequent appointment of farmers and processors representatives should be done in consultation with the Council of Governors.

			We further opine that the County Governments should be represented by two persons to ensure effective representation.
9. Functions of the Board.	<p>9. The Board shall—</p> <p>(a) regulate and promote the development of the nuts and oil crop industry;</p> <p>(b) make recommendations to the Cabinet Secretary, and oversee the implementation of strategies, plans and policy relating to the nut and oil crop sector;</p> <p>(c) promote the diversification of nuts and oil crop products and by-products,</p> <p>(g) regulate the marketing and the exportation of nuts and oil crop products and by-products to conform to the quality or food standards recognized in the international market;</p> <p>(h) put in place a framework for the capacity building and interaction of various players in the nuts and oil crops industry;</p> <p>(j) co-ordinate capacity building training for growers, nursery operators, processors, cooperative societies and other associations in the nuts and oil crops value chain.</p> <p>(k) put in place measures for provision of assistance to farmers which may include farm</p>	<p><i>i. Amend clauses 9(b) and (j) to read as follows</i></p> <p>9. The Board shall—</p> <p><u>(b) make recommendations to the Cabinet Secretary and County Executive Committee Members on the national strategies, plans and policy relating to the nut and oil crop sector;</u></p> <p><u>(g) regulate the import and export of nuts and oil crop products and by-products to conform to the quality or food standards recognized in the international market;</u></p> <p><u>(j) Provide capacity building and technical assistance to the County Governments in the nuts and oil crops value chain.</u></p> <p><i>ii. Delete clauses 9(a) (c)(h) and (k) in their entirety.</i></p>	<p>To align to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the agriculture and trade development and regulation of agriculture and trade excluding international trade are functions fully devolved to County Governments.</p> <p>Further to align with the functions of National Government in nuts and oil crops which are; agricultural policy, institutions of research, international trade and capacity building and technical assistance to the counties.</p>

	inputs and affordable credit facilities.		
21. Role of County Governments.	<p>21. A county government shall—</p> <p>(b) maintain an up to date register of nuts and oil crop growers, nursery operators, processors, cooperatives and other associations in that county;</p> <p>(c) licence nuts and oil processors;</p>	<p>i. Amend the clauses 21(b),(c) and (i) to read as follows:</p> <p>21. A county government shall—</p> <p>(b) maintain an up to date register of nuts and oil crop growers, nursery operators, warehouses, processors, cooperatives and other associations in that county;</p> <p>(c) licence nuts and oil processors;</p> <p>(i) collaborate with relevant institutions so as to promote access to farm inputs, affordable credit and other financial services;</p> <p>ii. Add <u>the following functions clause immediately after clause 21(l)</u> to read as follows:</p> <p>(m) promote the diversification of nuts and oil crop products and by-products,</p> <p>(n) Put in place a framework for the capacity building and interaction of famers and various players in the nuts and oil crops industry;</p>	To incorporate the warehouses which store nuts and oil crops and provide for further functions of the County Governments in line with the Fourth Schedule to the Constitution.
22. Enactment of county Specific legislation.	<p>22. (1) A county that produces, processes, distributes or markets nuts and oil crop or products may enact county specific legislation prescribing –</p> <p>(a)...</p> <p>(e) the grounds for the rejection of an application or cancellation of a licence issued under this Act;</p>	<p>Amend clause 22(1)(e) to read as follows:</p> <p>22(1) (e) the grounds for the rejection of an application or cancellation of a licence issued under this Act and mechanisms for Appeal;</p>	
29. Appeal	29. An applicant who is aggrieved by the decision of the county executive committee	Amend to read as follows:	To provide of Alternative means of Dispute

	<p>member not to issue a licence under this Act may appeal to the High Court against the decision within fourteen days of receipt of the decision.</p>	<p>29. (1) An applicant who is aggrieved by the decision of the county executive committee member not to issue a licence under this Act may appeal to the County Crops Dispute Resolution Committee against the decision within fourteen days of receipt of the decision.</p> <p>(2) A party aggrieved by the decision of the Dispute Resolution Committee my appeal to the High Court within fourteen days of receipt of the decision.</p>	<p>Resolution through the formation of county dispute resolution committees before a party can approach the High Court.</p>
38.	<p>38(2). Without prejudice to the generality of subsection (1), the regulations may provide for —</p> <p>(a) conditions for registration;</p> <p>(b) forms to be used in the application for registration, and related activities;</p>	<p>Amend by introducing a new sub-clause 38(2)(e) immediately after 38(2)(d) to read as follows:</p> <p>38(2)(e). Establishment of the County Crops Dispute Resolution Committee</p>	



LAW SOCIETY OF KENYA

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NAIROBI

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MEMORANDUM

TO

THE CLERK OF THE SENATE

ON

THE NUTS AND OIL CROPS DEVELOPMENT BILL, 2023 (SENATE BILLS NO. 47 OF 2023)

MARCH 2024

Eric Theuri, President Law Society of Kenya

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Introduction

The Law Society of Kenya is a professional statutory body established under the Law Society of Kenya Act, No. 21 of 2014 with a mandatory membership of all Advocates in Kenya.

The organs of the Society are the General Membership, the Council, the Branches and the Secretariat. The Council is the governing body of the Law Society of Kenya. It comprises a President, a Vice- President and eleven other members, all of whom must be members of the Law Society of Kenya.

Currently, the Council is comprised of The President, The Vice-president and 11 Council members namely:

- **President**, Eric Theuri
- **Vice President**, Faith Mony Odhiambo
- **General Membership Representatives**, Chrysostom Akhaabi, Kabata Mwaura, Tom K'opere
- **Nairobi Representatives**, Cohen Amanywa, Njoki Mboce, Ochieng Gor
- **Up-country Representatives**, Byron Menezes, Linda Kiome, Michael Wabwire, Vincent Githaiga
- **Coast Representative**, Riziki Emukule
- **Secretary/CEO**, Florence W. Muturi

One of the Law Society of Kenya statutory objects as provided in section 4(a) of the Act is to assist the Government and the courts in all matters affecting legislation and the administration and practice of law in Kenya. Pursuant to the statutory mandate, the Law Society of Kenya makes presentations on the on the review of the National Land Policy as provided herein under.

GENERAL COMMENTS

The Nuts and Oil Crops Development Bill, 2023, represents a crucial step towards regulating and fostering the sustainable growth of the nuts and oil crops industry in the country. By addressing various aspects such as production, processing, marketing, and distribution, the bill aims to streamline the entire value chain, ensuring efficiency and competitiveness in the market. The establishment of the Nuts and Oil Crops Board signifies a centralized authority responsible for overseeing the sector's development and implementing necessary regulations.

Furthermore, the bill's provision of a framework for nuts and oil crops farming development is commendable, as it emphasizes the importance of supporting farmers and encouraging best practices in cultivation. This Bill not only ensures the industry's sustainability but also promotes economic empowerment. However, while the bill addresses key aspects of the nuts and oil crops sector comprehensively, the Law Society of Kenya (LSK) has scrutinized its provisions and makes the following presentations;

SPECIFIC COMMENTS

No:	Provision of the bill	Issue	Proposal
1.	Section 2	The term "Processor" has been defined to mean "a person who	This definition should be reworked to ensure that the word that is being defined is not

		does the processing of nuts and oil crops”	<p>used in its interpretation. This will ensure that the definition is concise especially because section 21(c) authorizes the county governments to licence nut and oil processors.</p> <p>The Bill should also define the term “processing” since section 25 (1) states that processing of nuts and oil crops shall not be done without a licence. Section 26(5) further creates an offence where processing is done without a licence and a hefty fine of KES one million or imprisonment for a term not exceeding two years or both. The magnitude of this penalty warrants definition of the word “processing”.</p>
2.	Section 5(3)	The composition of the Board does not include representation from the PS Treasury.	We propose that the PS Treasury be included in the Membership of the Board because the body created would have an impact on the exchequer. The costs of running the Board would have to be approved by the National Treasury.
3.	Section 6	The Section generally provides for the qualification of members of the board.	<p>We propose that the qualifications for Board members and the Chairperson should be separated. Therefore, there is need to include in the bill a specific subsection providing for the qualifications of the Chairperson to read:</p> <p>6(1) No person shall be qualified for appointment as the Chairperson of the Board under subsection5</p> <p>(1)(a) unless such person— (a) holds a degree from a university recognized in Kenya; and</p>

			<p>(b) has at least ten years experience in matters relating to management of a public or private institution, 5 of which shall be in senior leadership and management.</p> <p>This is based on the fact that the Chairperson plays a crucial leadership role in guiding the activities of the Board and management including influencing the direction of policies and strategies.</p>
4.	Section 17	<p>The Section provides for liability of Board members and staff but does not sufficiently cover any person to whom a suit or prosecution is brought against in respect of any act which is done or purported to be done by him or her in good faith and without negligence.</p>	<p>We propose Section 17 of the Bill on liability of Board members, officers and employees should include the following subsections:</p> <p>(1) Liability shall not attach to the Board or to any of its members, officers, agents or staff for loss or damage incurred as a result of an act or omission done in good faith and without negligence in the performance or exercise or the intended performance or exercise of any duty or power imposed by or conferred under this Act.</p> <p>(2) Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any act which is done or purported to be done by him or her under the direction of the Board, shall, if the court holds that such act was done in good faith, be paid out of the funds of the Board, if such expenses are not recovered by the person in such suit or prosecution.</p>

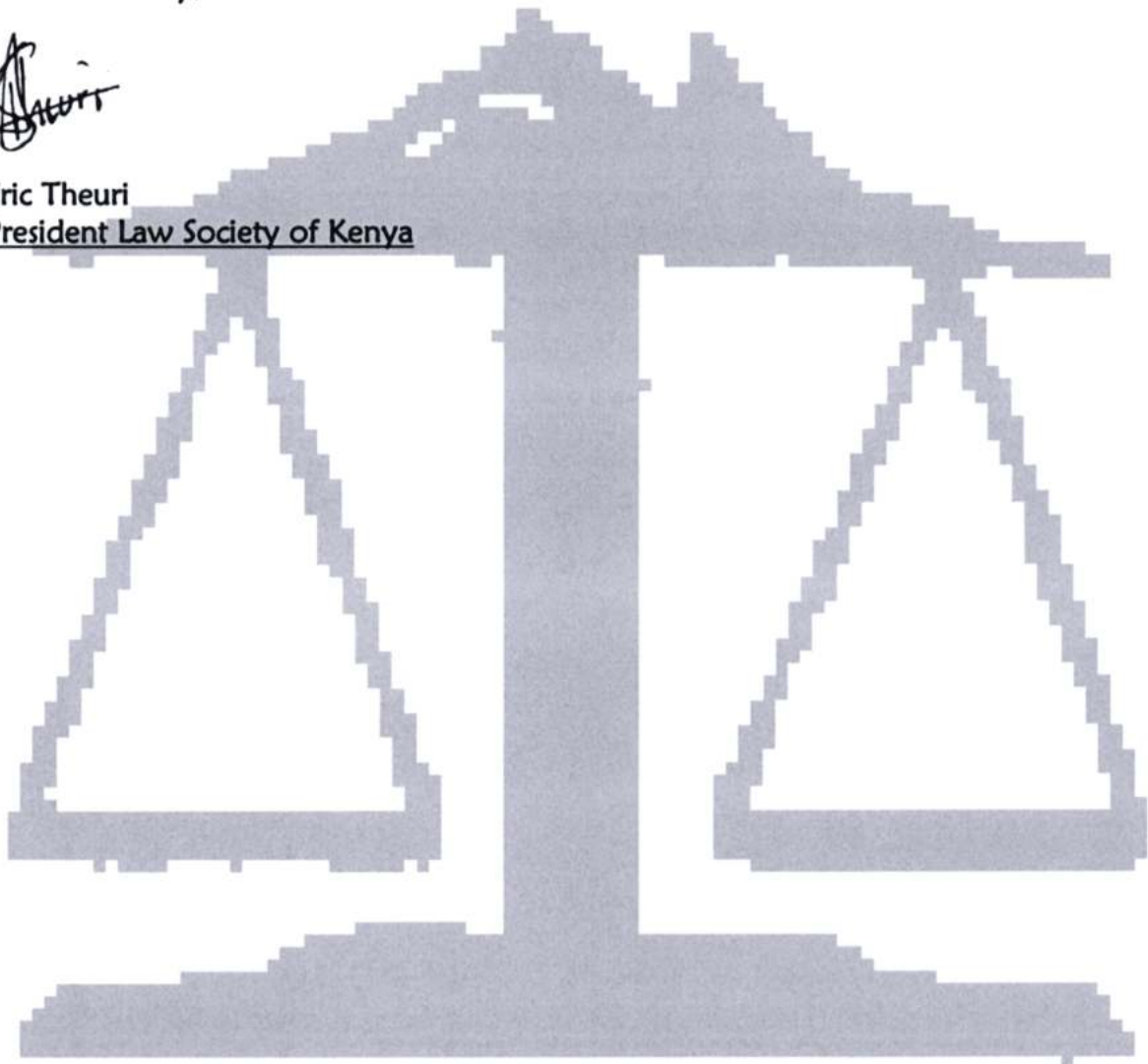
			<p>(3) The provisions of subsection (1) shall not relieve the Board of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.</p>
5.	Section 19	<p>This section relates to who has powers to sign documents on behalf of the Board. The section is administrative in nature and should not be legislated.</p>	<p>We recommend that the section be deleted. This will allow the Board to set its own regulations on these matters with regard to applicable laws and policies. Further a proposal that in the absence of the CEO, then the Board shall authorize another to sign would reduce the work of the Board to administrative issues that would interfere with its ability to give oversight to the management.</p>
6.	Section 22	<p>This section provides for development of county specific legislation where a county engages in production, processing, distribution and marketing of nuts and oil crops.</p>	<p>We propose that since the mother Bill has already been developed, counties should only create regulations relating to production, processing, distribution and marketing of nuts and oil crops that align with the current Bill. This will also minimize contradictions like Section 22 "1" a" referring to the counties developing legislation on the criteria for registration and appeal which have later been addressed in Part IV of the Bill on regulatory provisions.</p>
7.	Section 24	<p>The section makes reference to a nuts and oil crop grower yet the entire document does not define who a nuts and oil crop grower.</p>	<p>We propose that a nuts and oil crop grower be defined to ensure that there is certainty as</p>

			to who falls under that classification for the purpose of determining who qualifies for exemptions under the same section.
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Yours faithfully,



Eric Theuri
President Law Society of Kenya



Our Ref: 10/CGF/31/19

Your Ref: TBA

Date: 13th May 2024

The Chairperson
The Standing Committee on Agriculture, Livestock & Fisheries
NAIROBI

Dear Sir,

RE: IN THE MATTER OF THE NUTS AND OIL CROPS DEVELOPMENT BILL, 2023

A. Brief Background

1. Kenya is an agriculture economy, contributing just over one-third of Kenya's gross domestic product and employing more than 40% of the population. The sector supports the rest of the economy by supplying the manufacturing sector with raw materials and generating tax revenue and foreign exchange.
2. The importance of agriculture to our beloved country not only requires but demands that the government puts in place mechanisms to ensure that the sector thrives. This way the economy will constantly be rejuvenated. The sector cuts across all walks of life from the small scale farmers, traders and/or middlemen, aggregators, off-takers and manufacturers. It is thus desirable that the necessary interventions advanced by the governments takes into consideration the uniqueness of this sector.
3. This is feasible by the government censoriously evaluating the role played by various individuals in the chain ranging from the small farmer to manufacturers. By doing so, the government will understand the various challenges each stage of the food chain faces and formulate distinctive curative measures to the given problems.
4. With the intended inception of the Nuts and Oil Crops Development Bill, 2023 (The "Bill"), the government has indeed made remarkable phase towards augmenting productivity in the agricultural sector. The said proposed legislation introduces noble provisions which holds the promise of increased income for stakeholders.
5. Even though, there are notable reasons to smile following the intended unique recognition of the role nuts and oil crops play in the economy, we are of the firm believe that there is more that needs to be done to align the said intended legislation with realities on the market. The intended law clearly overlooks and makes assumptions on salient issues which will inhibit productivity to wit;

- a) The Licensing powers has been left to the sole mandate of the County Governments. With the corruption and the increased bureaucracies in counties, unscrupulous traders are likely to take advantage of the situation and continue manipulating the market.
- b) The question of Licencing fees is ordinarily a thorn in the flesh. The intended Law as crafted seems to leave the setting of fees payable to respective counties. This is likely to bring about imbalance as some counties are likely to come up with fees that are extremely exorbitant to curtail some farmers.
- c) The Bill clothes the County Executive Committee Member (CECM) with an overwhelming mandate receiving the applications for licencing, approving and/or rejecting the said applications. The Bill equally provides for a timeline within which this is to be done. This firstly possess a danger of a one man show kind of operation and leaves the fate of innumerable farmers to the whims of one individual. The Bill is equally loudly silent on the recourse an applicant should explore in the event that the CEC does not issue any response within the said timelines. This can be exploited by unprincipled CECMs to arm-twist stakeholders into dancing to their tunes and demand for bribes. The provision can equally be exploited by connected individuals to completely paralyse the productivity of other markets players.
- d) The Bill recognizes that some counties might not come up with the legislations relating to nut and oil crops. The Bill proceeds to recommend that in such a scenario, the applicants make applications under the Act. It does not however stipulate where such applications ought to be made and the timelines within which the same is to be addressed and recourse in any.
- e) There is equally no proper dispute handling mechanisms in the Bill to address the bureaucracies that that are likely to be witnessed.

6.From the above, it is evident that the remedial measures proposed by the Bill brings with it gaps that are still exploited by the unscrupulous individuals. If not addressed, players in the market will be confronted daily with infinite inhibitors ranging from government policies both at the county and the national level.

7.It is therefore prudent that your office considers the challenges highlighted above to seal the gaps that are still evident. This will in turn help the government in realizing the agenda enumerated in their manifesto in so far as food security is concerned.

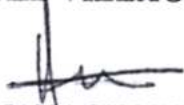
B. Our Prayers

8. From the foregoing, we are of the opinion that your office should initiate measures that are aligned with realities of the day. We therefore propose the following;
- a) The government should consider coming up with fees policy that is uniform and applicable across the board. This can be achieved by the Cabinet Secretary in consultation with the Board and other market players coming up with a cap on the licencing fees that can be imposed by the counties. This will ensure uniformity across the nut producing areas and alleviate the dangers of some counties attempting to exploit investors. To ensure equity, the fees can be based on the turnover as witnessed under the Crops Act.
 - b) There is equally need to harmonize the fees with what counties are already demanding from market players to eliminate the scenarios of double payments coined under different names.
 - c) The Licencing approval should not be left to the sole discretion of the CECMs. To provide for some checks and balances, a body synonymous to the Board under the Bill should be created within the respective counties with representations from market players with the mandate of receiving and reviewing licencing applications. The CECMs or a representative can sit in as a member of the said body.
 - d) An applicant for issuance of the Licence or renewal should have a recourse whenever the issuing authority at the County fails to act within the stipulated timelines. This could be going to the Board directly. Leaving the recourse to only the High Court which might take ages to determine the matter at the detriment of a farmer is unsustainable.
 - e) The intended legislation should be clearer on the application of licences directly to the Board in the event that a county where a farmer hails from does not have a specific legislation on nuts and oil crops. This should relate to the body to whom Licence application is to be made to, the timelines.
 - f) The dispute resolution mechanism needs to be enhanced in line with the Overriding Objective Principles of fast resolution. The primary legislation and the rules however have ignored a vital constituent of timelines within which the dispute is to be addressed. Given the nature of the sector and the products involved, it is important that predictable and strict timelines be put in place for dispute resolutions. Left to individuals, the disputes shall forever drag to the disadvantage of the citizens and other market players.

C. Conclusion

9. The legal framework for the development and regulation of the nut and oil crops agricultural commodities in Kenya is welcomed and its efficacy depends on the robust and proper administration and implementation of practical measures to ensure that the various players in the system comply and meet the stipulated requirements.
10. Nurturing of free and fair trade practices in the agriculture sector by stimulating and enhancing a predictable environment will no doubt cultivate increased growth in the sector. This will equally eliminate unfair market culture deterring the ability of all players to cope and operate competitively.
11. With this addressed, we forecast improved export, earnings to farmers, traders and service providers in agricultural commodity trading.
12. We respectfully submit look forward to productive engagements with your office.

YOURS FAITHFULLY,
THE VILLAGE NUT COMPANY

for 
MANAGING DIRECTOR

EMBU COUNTY GOVERNMENT



**DEPARTMENT OF AGRICULTURE, LIVESTOCK, BLUE ECONOMY AND
COOPERATIVES DEVELOPMENT**

OFFICE OF THE CEC MEMBER

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DATE: Friday, November 01, 2024

Nuts and Oil crops production in Embu County

1.0 Introduction

Macadamia is the major nut crop grown in Embu County and Embu is amongst the highest macadamia producing counties in Kenya.

The other minor nut crop in the County is Cashew nuts and its farming is currently being promoted in the lower areas (Mbeere North and Mbeere south Sub Counties) through collaboration between the County Government and Nuts / Oil crops Directorate (Agriculture and Food authority - AFA). Farmers are being provided with cashew nut seedlings as a strategy to gradually increase the area under the crop.

Sunflower (an oil crop) is being taken up many farmers in the County and commercialization of sunflower farming is expected to pick up as more farmers access seed through the ongoing support from Agriculture and food Authority (AFA). The County has received ten (10) tonnes of sunflower seed from AFA which will be distributed to over 3000 farmers during this rainy season.

Nuts and oil crops; Production Statistics

CROP	Hectarage	Production (Mt)	Value (Million Kshs)	Remarks
1. Macadamia	865	4620	277	Average Price, Kshs 60
2. Cashew nut	6	-	-	Establishment ongoing
3. Sunflower	25	32	1.28	Average farm gate price per Kg, Kshs 40

Currently sunflower production is quite low and is mainly for home use, as poultry feed. Few farmers take the produce for processing to get cooking oil and sunflower cake at Agricultural Technology and Development Centre (ATDC), Siakago. There is high potential of increasing Sunflower production, productivity and profitability of Sunflower in the county by supporting farmers with seed and value addition equipment.

1.1 Macadamia production statistics

Year	2023	2022	POTENTIAL
Area (ha)	865	850	2,000
Total number of trees	135,800	132,200	312,500
Quantity (mt)	4,620	4780	25,000
Value (million kshs)	277.2	286.8	?

Embu County is amongst the highest macadamia producing counties in Kenya.

5,860 farmers are involved in the enterprise with a total area of **865 Ha** and estimated **135,156** trees against a potential of **2,000 Ha**

Production **averages 35 Kg per tree** against a potential of **80 Kg per tree** (fully mature tree).

It is commonly intercropped with coffee and other food crops.

Challenges to macadamia production

1. Low and fluctuating producer prices and lack of organized marketing. This has led to exploitation by brokers who are not regulated.
2. Harvesting of immature nuts when prices are very good to counter on-farm theft incidences.
3. Little or no value addition at farm gate.
4. Effects of climate change (unpredictable weather conditions) which affects flowering pattern and general performance of the tree.
5. Pests and diseases damage which adversely lowers production and nut quality.
6. High cost of farm inputs thus making them unaffordable to majority of the farmers.
7. Inadequate supply of certified seedlings as a result of the few registered nurseries, leading to high seedling prices.

Interventions to promote the development of the Macadamia sub-sector

Embu County has a great opportunity to develop the sub-sector and make it one of the leading income earners to the small holder farmer.

In an effort to achieve the afore said and promote the sub-sector and/or address the challenges experienced, the county government in collaboration with the national government and other stake holders is undertaking the below listed measures;

- i. Establishment of aggregation facilities at the ongoing County Agricultural Industrial Park, at Machanga
- ii. Encourage contract farming
- iii. Continuous mobilization of farmers to join Macadamia Farmers Cooperative.

- iv. Promotion and support to processing and value addition by the private sector. There are four licensed and operational Macadamia processors in the County. Licensing of macadamia processors is currently done by AFA. This should be devolved to the County Government for ease of enforcement of the Macadamia regulations
- v. Provision of extension services to the farmers to improve on the crop agronomic practices.
- vi. The private sector is being encouraged to set-up and register nurseries to enhance certified seedlings production. However, licensing of
- vii. Supporting farmers to access certified seedlings to farmers

Millicent Mugendi

Chief Officer- Cooperative Development

EMBU COUNTY