



SPEAKER'S ROUNDTABLE

2016



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List of Acronyms

ACECA Anti-Corruption and Economic Crimes Act	AIE Authority to Incur Expenditure	BACK Business Against Corruption in Kenya
CBK Central Bank of Kenya	CEC County Executive Committees	COG Council of Governors
CJ Chief Justice	CS Cabinet Secretary	EABC East Africa Business Council
EACC Ethics and Anti-Corruption Commission	EMU Efficiency Monitoring Unit	FRC Financial Reporting Centre
ICT Information, Communication and Technology	KAM Kenya Association of Human Rights	KBA Kenya Bankers Association
KEPSA Kenya Private Sector Alliance	KNHRC Kenya National Human Rights Commission	MFA Ministry of Foreign Affairs and International Trade
MLA Mutual Legal Assistance	MOU Memorandum of Understanding	NCAJ National Council for the Administration of Justice
NCIC National Cohesion and Integration Commission	NT National Treasury	OAG Office of the Attorney General
OCS/HOS Office of the Chief of Staff/ Head of Public Service	PMRT Prime Minister's Round Table	PPSWF Presidential Private Sector Working Forum
PPDA Public Procurement and Disposal Act	PPOA Public Procurement Oversight Authority	PS Principal Secretary



BUILDING ON STRENGTH:

THE MARKS OF AN ENDURING PARTNERSHIP BETWEEN PARLIAMENT AND KEPSA



Carole Kariuki
Chief Executive Officer

Among the key principles and objectives of the collaboration between KEPSA and Parliament is to affirm public participation in the legislative making process as a key constitutional requirement; and, improve the quality of legislation and better inform the work of Parliamentary Departmental Committees.

The engagement with Parliament has been helped by the fact that the Standing

Orders of Parliament have been amended to facilitate more open access to legislative business.

It is important that Parliament has recognized the important role of the private sector as a critical engine of inclusive and sustainable economic growth and development due to its critical role in generating employment, providing goods and services and contributing to GDP. As a result, Parliament has striven to complement industry by enacting legislation that creates a healthy and secure environment for business and investment.

KEPSA's focus will remain that of seeking the enactment of pro-growth laws and policies that power the economy based on the recognition that the private sector cannot thrive without a conducive environment, supportive leadership and progressive policies, laws and regulatory environment. KEPSA's focus is competitiveness of Kenya and has been working closely with the Executive on this agenda in the last few Presidential round tables. This Speaker's roundtable is to focus on the same and this will be carried through to Judiciary and the Council of Governors. Kenya is the 5th largest economy in Africa and we strive to make it the largest economy in Africa.

The Speaker's Roundtable has provided an important framework of collaboration between the Private Sector and the two Houses of Parliament since 2009. This platform has highlighted a strategic need for collaboration between the legislature and Private Sector in building and advancing the economy.

KEPSA's engagement with Parliament has helped strengthen the interface between the two and ensured greater synergy and coherence between legislation and the business environment within which the Private Sector operates.

The Speaker's Roundtable was anchored on a recognition and understanding that Parliament, in its primary role of enacting legislation, has an interest in ensuring that the laws it passes advance the economic and development interests of Kenya. On the other hand, the Private Sector needs laws and policies that advance effective participation in the economy.

Since 2009 to date, KEPSA has worked closely with Parliament, primarily through appearance before various parliamentary departmental committees and written submissions to the committees to provide input on specific legislation. This has created a useful interphase between KEPSA Sector Boards and departmental committees.

About KEPSA

The Kenya Private Sector Alliance (KEPSA) is the voice of the private sector in Kenya and is the umbrella body for private sector associations and corporate bodies in all sectors of the economy including trade associations. KEPSA speaks for multinationals, SMES and startups organized under different sector boards and working groups reflective of the 16 sectors of the economy. KEPSA has over 100,000 members through business member organizations and companies. It provides a platform for the private sector to engage in Public Private Dialogue at Local, National and International level. It also offers information, advisory and networking opportunities for members and is a key partner to government and other stakeholders in the formulation and implementation of policies and strategies geared towards spurring economic growth, wealth creation and national development.

The Established Public Private Dialogue Platforms



SPEAKER'S ROUNDTABLE (SRT):

A high level engagement platform with the National Assembly and the Senate. The SRT facilitates joint review of legislative matters involving respective parliamentary Departmental Committees and the Private Sector.

PRESIDENTIAL ROUNDTABLE (PRT):



An engagement with the Head of State on issues of national importance affecting the economy as well as those issues that require his direct intervention as Head of State. Implementation of the PRT resolutions and commitments are cascaded down to the respective implementing Ministries and other arms of government.

MINISTERIAL STAKEHOLDERS FORUMS (MSFS):



Platform that brings together respective Ministries and KEPSA Sector Boards on quarterly basis (or as frequently as may be agreed) to address sector specific priority issues relating to policy, administrative and operational issues affecting them.



COUNTY ENGAGEMENTS:

COUNCIL OF GOVERNORS FORUM:



A partnership with Governors that meets annually. The forum provides a platform for dialogue and stocktaking on devolution besides establishing mechanisms for better interaction and coordination between Private Sector and Council of Governors.

COUNTY EXECUTIVES FORUM:



KEPSA also engages with the County Executive Committee Council in appreciation of the significance of making the county business environment conducive for private sector investment and business growth.

CHIEF JUSTICE FORUM:



Forum aimed at improving the Commercial Justice process in a manner that ensures efficient resolution of Commercial and Industrial Relations Disputes as well as discussing other ways the Judiciary can facilitate an enabling business environment.

Platforms With SELECTED STATE AGENCIES:



KEPSA meets with state agencies and departments e.g. Attorney General, Immigration, Kenya Revenue Authority (KRA), National Police Service Commission, Kenya Police Service, KPLC, ERC etc on specific business issues that require resolution by the

DEVELOPMENT PARTNERS' ROUNDTABLE:



This is an engagement that provides an opportunity for the private sector to inform and partner on the development agenda and priorities for the country's national development and private sector development.

REGIONAL ENGAGEMENTS:



A platform which provides opportunity for wider Private Sector participation in regional agenda setting. Some of the East African Community forums include the NCIP Summit and EAC Summit.

HISTORY OF PRIVATE SECTOR & PARLIAMENT ENGAGEMENT PARTNERSHIP 2008–2015



KEPSA and National Assembly members in group photo with H.E. President Mwai Kibaki at the joint KEPSA- Parliament conference on 14th - 15th August 2009, at Leisure Lodge, Mombasa.

Background

Before 2008, KEPSA had established mechanisms of engagement between the private sector and the Executive Arm of government through three main forums: The Ministerial Stakeholders Forum, and Presidential meeting. However, there lacked a formal and structured mechanism of engagement with the legislative arm of government despite the very important role the legislature plays in determining the business environment due to its law making and oversight roles. There was apparent disconnect between policy formulation and law making, which had resulted in Parliament passing some laws that did not have the desired positive impact on the business environment.

KEPSA played a major role after the 2007 National elections in mitigating the discord that arose. It was during this period in early 2008 that the then Speaker of Parliament noted how effective KEPSA had been in engaging the executive that he requested that KEPSA engage with Parliament in a structured manner.

Following various meetings with Speaker, it was felt that there was need for a meeting between KEPSA members and the entire membership of the House in order to assist the Members many of whom were yet to understand who KEPSA was and its activities.

Similarly, many KEPSA members did not understand the workings of parliament. And, so, it was deemed necessary for both parties to meet, discuss and learn from each other and to develop pathways for collaboration for the prosperity of the country. In addition, the budding partnership between private sector under KEPSA and Parliament needed the endorsement of the full House. This is what led to the organization of the maiden two-day joint conference between KEPSA and Parliament in Mombasa in 2009. The conference endorsed and formalized the KEPSA-Parliament engagement to-date and the Annual Speaker's Round Table was established.





It was also in 2008 with formation of the coalition government that another new engagement structure was formed: the Prime Minister's Round Table (PMRT) and the Presidential meetings became a structured engagement to under the Presidential – Private Sector Working Forum (PPSWF). These engagements with the Executive and Legislature got enhanced after the promulgation of the 2010 constitution that legislated public participation in law and policy making.



The Former Prime Minister Rt. Hon. Raila Odinga with members from the Kenya Private Sector Alliance on EAC issues during the 5th Prime Minister's Round Table (PMRT) Forum held on 16th June 2010 in Nairobi



Former President Hon. Mwai Kibaki with members of the Kenya Private Sector Alliance during the Presidential Private Sector Working Forum held on 13th October 2010 at Harambee House, Nairobi



The Former Prime Minister Rt. Hon. Raila Odinga with members from the Kenya Private Sector Alliance during a special Prime Minister's Round Table Forum held on 27th June 2012 at KICC, Nairobi



After 2013 elections and introduction of the devolved system of Government and also a strengthened judiciary, KEPSA in 2013 established a structured engagement with Council of Governors (COG) having an annual COG forum and regular meetings with County Executive Committees (CECs) and a structured engagement with Judiciary and especially the commercial department. Parliament also became Bicameral and we now engage the National Assembly and Senate.

In conclusion, the maiden joint conference of 2009 deliberated and reached consensus on the future working relationship between the private sector and parliament with mechanisms of how both parties would engage henceforth.



The Chief Justice, Dr. Willy Mutunga (5th from the right) with his team and the private sector members holding the NCIC peace charter on 28th June 2012 at the Intercontinental Hotel, Nairobi



KEPSA leaders moderate a session with National Assembly Members led by Speaker Justine Muturi during the Speaker's Roundtable in June 2015



Speakers' Roundtable with National Assembly at Leisure Lodge Mombasa, 7th February 2014



Members of the private sector appear before the Parliamentary Committee on Finance, Planning and Trade in October 2014

The following resolutions were made from the conference which formed the basis of partnership with Parliament for the next 8 years:

- That there was now a formal partnership with the Kenya National Assembly and that Parliament would remain open to engage with private sector on any issues that require legislative intervention.
- That the various parliamentary committees would meet with the respective KEPSA sectors to develop a program of engagement for the common good of the country.
- That the Committees would work with KEPSA members in identifying laws that needed harmonization and those that required amendments or areas where new laws needed to be made.
- That KEPSA Sector Board members who had laws they wished to introduce in Parliament would prepare drafts and forward to the Speaker of the National Assembly for drafting and publication by the Parliamentary Legal Department.
- That Parliamentary Committees would endeavour to notify and invite KEPSA members for a discussion in case there were any Bills before Parliament that had an impact on private sector.
- That during budget discussions by the Committees, KEPSA members would attend Parliamentary Committee meetings and help the Members to understand the sector allocations and therefore inform the interrogation of the budget.
- That going forward, Members of Parliament would work with KEPSA as equal partners in the development of the country and help in creating a conducive environment for business.
- That going forward, both KEPSA and Parliament would have regular meetings with a view of forging a common agenda for Kenya and working together for the posterity of the country.
- That now that Parliament and private sector were partners, both parties would work together to help Parliament effectively discharge its role of oversight over the Executive arm of government.
- That a Committee would be formed consisting of four members of KEPSA and four Members of Parliament from the Liaison Committee to constitute the successive Parliament-KEPSA Round Table (Speaker's Roundtable) and to oversee the partnership.





Members of the private sector at a meeting with National Security and Administration Committee Chaired by Hon. Asman Kamama, 28th August 2013



KEPSA Trustee Arun Devani addresses members of KEPSA, ICCF and the Parliamentary Conservation Caucus at a meeting on Private Enterprise and Conservation



Members of the private sector in group photo with National Assembly at Leisure Lodge Resort, Diani in June 2015



Private Sector and Parliament make foot prints on the sands of time



KEPSA Members at a meeting with National Security and Administration Committee Chaired by Hon. Asman Kamama on 28th August 2013



H.E. President Uhuru Kenyatta assents to three key business environment bills championed by Parliament and the Private Sector



Members of the private sector witness the signing of three key business environment bills by H.E. President Uhuru Kenyatta



Consultative forum on Special Economic Zones Bill 2015 convened jointly by KEPSA and the Parliamentary Departmental Committee on Trade, Finance and Planning held from 9th - 11th April 2015 in Mombasa.

Under the leadership of the Speaker of the National Assembly, the Speaker's Roundtable has become an important platform of interrogating legislation and ensuring it supports Kenya's economic development and transformation. Meetings with departmental committees on sectoral issues have been instrumental over this time in identifying areas of amendment in upcoming bills. The following is a brief overview of some of the key Bills that the private sector has engaged on with Parliament and the associated achievements.

2008

BILLS & LAWS ENGAGED ON	PURPOSE & ACHIEVEMENTS
Anti-Counterfeit Bill	→ Outlawing production of counterfeits and protection of industries from dumping of contrabands.
Biosafety Bill	→ Regulation of production of genetically modified product and protection of public by availing information on GMO.
Proceeds of Crime and Money Laundering Bill	→ Outlawing money laundering, terrorism financing and financing of organized crime.



BILLS & LAWS ENGAGED ON	PURPOSE & ACHIEVEMENTS
Alcoholic Drinks Control Bill	→ Regulated manufacturing, consumption and advertising of alcohol including consumption time.
Anti-Corruption and Economic Crimes Bill	→ Inclusion of economic crime and related offences and penalties to Curb Corruption.
Competition Bill	→ Sought to provide level playing field for business and curb anti-competitive practices.
Price Control (Essential Goods) Bill	→ Proposed that government to observe market liberalization fundamentals in regard to price controls.
Biosafety Act (No 2)	→ Concerned with the control of genetically modified organisms and related risks. The Act establishes the National Biosafety Authority for this purpose. Provides for risk assessment and authorization of contained use, introduction into the environment, placing on the market, importation, exportation and transit of GMO's, and establishes an Appeals Board.
Fiscal Management Act	→ After years of playing a largely rubber-stamp role in the budget process, this Act gave Parliament increased oversight role over the national budget process to ensure that the nation's priorities were adequately catered for. It of GMO's, and establishes an Appeals Board.
Proceeds of Crime and Money Laundering Act	<p>→ The Act introduced measures for combating the offence, provided for the identification, tracing, freezing, seizure and confiscation of the proceeds of crime and terrorism financing. It therefore complements the internal controls that stockbrokers and investment banks already have in place to combat money laundering.</p> <p>→ This has led to reduced cases of money laundering and Kenya was reinstated to non-financial risky country.</p>
Kenya Communications (Amendments) Act	→ Regulation of the media and provision for e-commerce transactions.
Merchant Shipping Act	→ Regulated the registration and ownership of maritime activities.

BILLS & LAWS ENGAGED ON	PURPOSE & ACHIEVEMENTS
Companies Bill	<ul style="list-style-type: none"> → Sought to simplify the process of registering a company including proposal for a one-person company registration; requirement that companies re-register once they move from being a public entity to private or vice-versa; reforms in the way companies in Kenya are to be managed in the interest of shareholders, creditors and the investing public.
Insolvency Bill	<ul style="list-style-type: none"> → Proposed to transform the process of company receivership from one lengthy, labourious process to one that gives a company under receivership the chance to revert to normal operations. → Sought to encourage the dissolution of non-viable and inefficient businesses and the survival of the efficient ones and to maximize the value of liquidated assets. → Provided effective mechanisms for indemnifying and prosecuting managers and directors whose illegal actions contribute to the insolvency of a firm.
Special Economic Zones Bill	<ul style="list-style-type: none"> → The SEZ Bill sought to transform the country's economic base in order to realize higher and sustained growth, which is integral to achieving Vision 2030.
Tea Act Amendment Bill	<ul style="list-style-type: none"> → Introduction of levy to finance tea research and develop the tea industry.
Competition Act	<ul style="list-style-type: none"> → Provides a level playing field for business and curb anti-competitive practices.
Alcoholic Drinks Control Act	<ul style="list-style-type: none"> → Regulated manufacturing, consumption and advertising of alcohol including consumption time
Traffic Amendment Bill	<ul style="list-style-type: none"> → Sought to restore order and sanity in the management of the road transport sub-sector
Judicial Service Bill	<ul style="list-style-type: none"> → Sought to reform the Judicial Service Commission to manage the welfare of the Judiciary including employment of judges and magistrates, promotion and other matters of the Judiciary.
Vetting of Judges and Magistrates Bill	<ul style="list-style-type: none"> → To clean up the Judiciary by vetting judges and magistrates.
Private Security Industry Regulation Bill	<ul style="list-style-type: none"> → Set to regulate the registration of Private Security firms and make it a mandatory requirement to seek registration with the Authority created under the Act before offering security services.



2010

BILLS & LAWS ENGAGED ON	PURPOSE & ACHIEVEMENTS
Independent Policing Oversight Authority Act	→ Provided civilian oversight and supervision of the police to enhance the service accountability to the public.
Retirements Benefits (Amendments) Bill	→ Sought to establish and regulate the pension and social security by establishing the Retirement Benefits Authority.
Science, Technology and Innovation Bill	→ Provided for funding of research and innovation in Kenya.

2011

BILLS & LAWS ENGAGED ON	PURPOSE & ACHIEVEMENTS
Consumer Protection Bill	→ Integration of holistic consumer rights in the Bill
East Africa Polythene Control Bill	→ To regulate the manufacturing of polythene papers. → To ensure efficient use, and disposal of the polythene paper while protecting the environment from pollution.
Salaries and Remuneration Commission Act	→ Harmonized and set the remuneration scales for civil servants to help cap and manage public wage bill.
Tourism Bill	→ The Bill was enacted and it aims at reforming the entire Tourism Sector in Kenya by establishing various institutions to regulate, fund, train in the sector.
Unclaimed Financial Assets Act	→ To set up UFA Authority to trace owners of unclaimed assets, manage and invest the fund for economic development.
Commission on Revenue Allocation Act	→ Set up criteria for allocating national revenue to the County Governments.
Micro & Small Enterprise Bill (KEPSA Private Members Bill)	→ Sought to regulate the MSE sector in Kenya and bring them under legal framework in order to access credit and within the tax bracket
Draft VAT Bill	→ Called for efficient VAT regime and simplified VAT refund process.
Price Control (Essential Goods) Act	→ Regulated prices for essential prices to address cost to live.
Labour Institutions (Amendment) Bill	→ To increase wages for employees in the agriculture sector



2011

BILLS & LAWS ENGAGED ON	PURPOSE & ACHIEVEMENTS
Employment and Labour Relations Court Bill	→ Established Industrial Court to settle labour and industrial disputes
Energy and Communication (Amendment) Bill	→ Criminalized vandalization of power, ICT and road signs and cables.
National Construction Authority Bill	→ Regulated construction sector by registering contractors there by eliminating quacks in the construction by establishing NC Authority.
Environment and Land Court Act	→ Established Environment and Land Court to settle related disputes.
Independent Police Oversight Bill	→ To provide a civilian oversight of the police and recommend reforms. Increased efficiency of the policy and secure country.
National Police Service Bill	→ Reformed Police force by creating Kenya Police Service under a Police Service Commission
Kenya Citizens and Foreign Nationals Management Service Act (N 31)	→ Provided to registration if citizens and provided for dual citizenship.
Kenya Citizenship and Immigration Act (No 12)	→ To review registrations of citizens and how to acquire citizenship including allowing dual-citizenship – ease to attract investment and professionals.
Independent Ethics and Anti-Corruption Commission Bill	→ Established EAC Commission to fight corruption
Wildlife Bill	→ Regulate management of wildlife in National Park reserves and private sanctuaries.
Ratification of Treaties Bill	→ Adoption of public participation in Treaty ratification. → Easy access to information on content of ratified Treaties.
Elections Act	→ Efficient management of free, fair and peaceful election
Independent Electoral and Boundaries Commission Act	→ Reformed IEBC to conduct election and review electoral boundaries
National Gender and Equality Commission Act	→ Enhance gender equality in Kenya
Commission on Administration of Justice Act	→ Adherence of justice and complaint mechanism in Kenya.
Ethics and Anti-Corruption Commission Act	→ To establish ethics and Anti-Corruption Commission to fight against corruption. This would lead to increased competitiveness of the county.



BILLS & LAWS ENGAGED ON	PURPOSE & ACHIEVEMENTS
<p>Basic Education Bill</p> <p>Technical and Vocation Education and Training (TVET) Bill</p> <p>University Bill</p> <p>Industrial Training (Amendment) Bill, 2012</p>	<ul style="list-style-type: none"> → Integrating private sector in education governance bodies. → Linking education with industry needs → Private sector participation in education development and provision → Creating conducive environment for private sector education provision. → Linking education to Constitution, 2010
<p>Business Regulation Bill</p>	<ul style="list-style-type: none"> → Representation of private sector in business regulatory reforms committee. → Mandatory regulatory impact assessment (RIA). → Concerned with government overrepresentation in the regulatory committee. → Conflict of the bill with existing regulatory bodies established by an Act of Parliament.
<p>Public Finance Management Act</p>	<ul style="list-style-type: none"> → Oversight over county financial management and effective collaboration to financial management; → Instituting public participation and accountability.
<p>Limited Liability Partnership Act, 2011</p>	<ul style="list-style-type: none"> → The Limited Liability Partnership Act 2011 was assented into law and commenced operation on 16th March, 2012. → Under the former Act, the liability of a partnership firm in the event of insolvency could be settled from personal property of the proprietors. → This has changed with the current Act since the liabilities of LLP are payable out of the property of the LLP and not its proprietors. This can support the development of Kenya's professional services firms (PSFs) which mostly trade as partnerships (accountants, lawyers, surveyors etc.) since the personal assets of the owners are protected in the event of insolvency of their firms.
<p>Public Private Partnership (PPP) Bill</p>	<ul style="list-style-type: none"> → Provides framework for private sector participation in financing government projects.
<p>Breast milk substitutes (Regulation and Control) Act</p>	<ul style="list-style-type: none"> → Regulated manufacture, advertising and use of Breast milk supplements.
<p>Election Campaign Financing Bill</p>	<ul style="list-style-type: none"> → Establish framework, limits, and procedures of financing of political parties and campaigns.

BILLS & LAWS ENGAGED ON	PURPOSE & ACHIEVEMENTS
Contempt of Court Bill	→ Reviewed Contempt of the Court procedure.
Leadership and integrity Bill	<ul style="list-style-type: none"> → Sought to set standards for leadership integrity. → Provided for vetting of public officers and adherence to defined code of conduct while serving in the public service. It was aimed at minimizing corruption and unethical behaviour among public officers
Transition to Devolved Governments Bill	→ Established framework for transition to County Government.
County Government Act	→ To define operations of County governments and function. Private sector protected from prohibitive introduction of levies and charges
Intergovernmental Relations Bill	<ul style="list-style-type: none"> → Provided for the relationship between the County and National Government. It also provided for appellate organ for dispute resolution. → Private sector utilizes this organ to push it agenda
Freedom of Information Bill	→ Repeal Secrets Act in order to avail information to the public.
Geology, Minerals and Mining Bill	→ Not yet passed but set to streamline regulation of the mining sector for the shared benefit of the country.
National Land Commission Bill	→ To establish the National Land Commission to handle land matters such as land injustices, ownership and management.
Land Registration Bill	→ Established process for the registration of Land and automation of the land registry for easy access to land information and transaction leading to increased ranking in the ease of doing business.
National Social Security Pension Trust Bill	→ Set to convert NSSF from a fund to a Pension Trust.
Traffic (Amendment) Bill Traffic (Amendment) Act National Transport and Safety Authority Act (No 33)	→ Sanity and order restored in the management of road safety including increased road transport safety



BILLS & LAWS ENGAGED ON	PURPOSE & ACHIEVEMENTS
Agriculture, Fisheries and Food Authority Bill 2013	→ Strengthens regulation within the agricultural sector by consolidating various regulatory bodies in the Sector
NSSF Bill 2013	→ Creating a retirement benefits scheme capable of delivering value to members and transforming the NSSF into both a social security and pension fund.
VAT Bill 2013	→ Amendment sought to streamline the collection of VAT and making tax administration simpler and easier
The Wildlife (Conservation and Management) Bill 2013	→ Strengthen the management of Kenya's wildlife and natural resources within the national parks and game reserves. The Bill ensures that communities benefits from natural resources such as through bio-prospecting of natural resources within wildlife conservation areas.
Leadership and Integrity Act 2012 (Regulations)	→ The regulations set the operationalization of the Leadership and Integrity Act 2012.
Development of the National Tea Policy	→ KEPSA and the Tea Development Authority convened dialogue on the development of National Tea Policy to safe guard the development of tea industry especially with the introduction of County governments
Development of the Mining Policy	→ KEPSA made submissions to the development of the Mining policy in order to provide a clear and predictable basis in developing and articulating a more enabling legislative framework for the Sector.
The Wildlife (Conservation and Management) Bill 2013	→ Strengthen the management of Kenya's wildlife and natural resources within the national parks and game reserves. The Bill ensures that communities benefit from bio-prospecting of natural resources within wildlife conservation areas.

BILLS & LAWS ENGAGED ON	PURPOSE & ACHIEVEMENTS
The Community Land Bill	<ul style="list-style-type: none"> → Provide for the recognition, protection, management and administration of community land; → Establish and define the powers of Community Land Boards and management committees; and, → Provide for the powers of county governments in relation to unregistered community land.
Companies Act (Amendment Bill)	<ul style="list-style-type: none"> → Seeks to align the legislation to the demands and changes of the 21st Century → It covers issues such as incorporation and registration; appointment of directors; conduct of meetings and passing of resolutions; winding up of companies amongst others.
Central Bank of Kenya (Amendment) Bill	<ul style="list-style-type: none"> → Sought to provide a framework for implementation of the monetary policy to ensure financial stability and a stable macro-economic environment
Private Security Industry Regulation Bill 2014	<ul style="list-style-type: none"> → Set to regulate the registration of Private Security firms and make it a mandatory requirement to seek registration with the Authority created under the Act before offering security services.
Environmental Management and Coordination Act (Amendment) Bill	<ul style="list-style-type: none"> → Sought to align with the provisions of the Constitution as they relate to environmental matters under Chapter 5; ensuring good governance in the institutional framework established in the environmental sector; securing a viable and predictable investment climate; and, keeping up with best practice in the area of environmental law and policy formulation.
Water Bill	<ul style="list-style-type: none"> → Sought to align the Water Act with the provisions of the new constitution
The Public Procurement and Asset Disposal Bill	<ul style="list-style-type: none"> → Set to restructure the management and utilization of public resources by the government and enhance prudence and efficiency in public procurement that will deliver clear returns on public resources.
Foreign Investment Promotion Act	<ul style="list-style-type: none"> → KEPSA proposed amendments take into account the admission of both Rwanda and Burundi to the EAC and accords them the same rights and obligations under the EAC Treaty enjoyed by the original three Partner States of Kenya, Uganda and United Republic of Tanzania.



BILLS & LAWS ENGAGED ON	PURPOSE & ACHIEVEMENTS
Bills of Exchange Act (CAP 27)	<ul style="list-style-type: none"> → KEPSA proposed amendments to reflect the composition of the EAC in its totality as constituted by the 5 Partner states. → This was to mean that bills of exchange drawn in any of the EAC Partner States will be treated as Inland Bills in Kenya.
Export Processing Zones Act (CAP 517)	<ul style="list-style-type: none"> → KEPSA proposed amendments to facilitate the operations of companies registered in the EAC Partner States to operate without the burden of parallel registration under the Companies Act.



Stakeholder meeting on Critical Infrastructure Bill held at KEPSA offices on 6th October 2015

BILLS & LAWS ENGAGED ON	PURPOSE & ACHIEVEMENTS
Critical Infrastructure Bill 2015	<ul style="list-style-type: none"> → Establishes the Critical Infrastructure Protection Unit to coordinate and strengthen source ministries on matters relating to protection of critical infrastructure and for connected purposes. → Addresses concerns over the protection of critical infrastructure installations and facilities to respond to the needs of the owners of such infrastructure and the broader public interest over the security and protection of these facilities.
Value Added Tax (Amendment) Bill 2015	<ul style="list-style-type: none"> → Sought to address concerns over the application of duty exemption for DC powered solar equipment, appliances and accessories.
Energy Bill 2015	<ul style="list-style-type: none"> → The Bill will provide a regulatory framework for the energy sub-sector and take precedence on all matters of regulation in the energy sub-sector. → Facilitates the growth of the energy sub-sector and encourages collaboration between the county / national governments and the Private Sector on energy matters.
Draft VAT Bill	<ul style="list-style-type: none"> → Called for efficient VAT regime and simplified VAT refund process.
Minimum and Maximum Land Holdings Acreage Bill 2015 Physical Planning Bill	<ul style="list-style-type: none"> → They seek to align legislation on land to the requirements of the Constitution, the devolved system of Government and to address the functional relationship between the Ministry and the National Land Commission over land matters.
Public Procurement and Disposal Bill 2015	<ul style="list-style-type: none"> → Seeks to restructure the management and utilization of public resources by the government and enhance prudence and efficiency in public procurement that will deliver clear returns on public resources.
Private Security Industry Regulation Bill	<ul style="list-style-type: none"> → Seeks to regulate the operations of the Private Security Sector and create mechanisms for coordination with the National police service.
Data Protection Bill	<ul style="list-style-type: none"> → Seeks to promote innovation and competition and transform the country as an ICT-enabled economy in line with the Vision 2030 blueprint.
Access to Information Bill	<ul style="list-style-type: none"> → Creates distinct rights and obligations for both the public and private entities with implications on the confidentiality with which information is stored and shared.



Engagement with the Senate on Legislation under devolved government



Members of Senate pose for a group photo with the Private Sector during the Speaker's Roundtable held on 28th - 30th July 2016 at the Pride Inn Beach Resort and Convention Center in Shanzu, Mombasa

Before 2013, the Private Sector's engagement with the legislature was confined to the National Assembly. The promulgation of the Constitution of Kenya 2010 reconstituted the composition of Parliament through the creation of a two-tier system of government under a bicameral Parliament made up of the National Assembly and the Senate.

Under the devolved government structure, the Senate has a specific oversight mandate over Counties and is charged with representing and protecting the interests of the Counties and their governments. As a result, any legislation that impacts on County Governments must be debated at the Senate over and above the National Assembly.

KEPSA has thus since 2013 engaged with the Senate. A major area of concern has been the manner in which some County Governments' legislation contradicts specific provisions of the Constitution. Through the Speaker's Roundtable with the Senate in September 2014, KEPSA highlighted the need for strong Senate oversight over legislation developed by County Assemblies to ensure that levies and taxation measures do not undermine business enterprise by increasing the cost of doing business. Counties are seen as important frontiers of investment but this requires laws that boost business confidence and encourage Private Sector investment. It is critical for the Senate to work towards influencing the development of appropriate institutional and governance structures to promote and enable private enterprise in the Counties. The following were the resolutions agreed jointly between KEPSA and the Senate at the Retreat held in September 4-5, 2014:

ISSUE DISCUSSED	RESOLUTIONS
Developing framework for Public Participation	<ul style="list-style-type: none"> → This would be achieved through a Bill that will guide standards on public participation. The Bill has been proposed for consideration before the Senate and will help clarify implementation of the constitutional standards on public participation in the legislative making process. → The proposed Bill should establish key requirements that must be met as part of public participation in the enactment of any legislation. → It is important to establish a framework and mechanism for public private dialogue with county. → Governments to address both specific county business climate issues and cross cutting high level policy issues.
KEPSA liaison with the Senate	<ul style="list-style-type: none"> → Agreed that a liaison framework with contact point persons between the Senate and KEPSA to ensure that there is a clear framework for dialogue on the legislative mandate
Counter effective taxes and levies	<ul style="list-style-type: none"> → Increased county fiscal autonomy will require additional revenue sources. The probable introduction of counter-effective Levies, taxes, charges, fees and licenses hurts business and this matter requires greater oversight from the Senate and the relationship between the Senate and the Private Sector. → Permits should not be used as a means of raising revenue; any charges levied on business permits should be geared towards meeting administrative costs. → Fees should not undermine inter-County trade and commerce. Specific examples cited: way leaves charges; outdoor advertising on billboards.
Public Private partnerships (PPPs)	<ul style="list-style-type: none"> → There is a need to develop a guiding framework on PPPs to encourage and motivate partnerships with the Private Sector in setting up and managing public services.
County Investment	<ul style="list-style-type: none"> → There is a need to develop County investment plans as a means of encouraging and attracting investments that will impact on development outcomes in the Counties.
Local Investment	<ul style="list-style-type: none"> → There is need for specific policies that target promoting and encouraging local investors in the Counties to benefit from opportunities for investment under the devolved system of government.
Establishing an innovative legislative role of the Senate	<ul style="list-style-type: none"> → The Senate should play an effective and innovative leadership role that better informs the legislation being developed by County Assemblies to ensure that they are in line with the requirements of the Constitution. For instance, clustering different Counties as a means of maximizing on economic potential based on leveraging the key economic strengths of specific counties e.g. promoting industries unique to certain counties; establishing centres of excellence that serve a cluster of counties on specific skills training etc.
County Assemblies legislation and regulations	<ul style="list-style-type: none"> → There is a need to engage more effectively with the County Assemblies to avoid disruptive legislation. The Senate can play a liaison role to address the concerns raised by the Private Sector arising from laws and regulations from the County Assemblies.



Push for Private Member's Bill

While KEPSA has primarily engaged Parliament through Departmental Committees, the Private Sector has made use of the various other avenues of developing legislation to address existing gaps and advance legislation in priority areas. One such method has been support for Private Member's Bills which was used to support the development of small and medium-scale enterprises. This resulted in the enactment of the Medium and Small Enterprises Act, 2013.

Bills, Policies and Regulations that the Private Sector is Tracking in 2016

In 2016, KEPSA has engaged Parliament on several Bills through the relevant Departmental Committees and is also tracking several other bills and policies. The following is a summary of some of these Bills and Policies:

A. THE ROADS BILL

This Bill seeks to strengthen the governance framework in road construction and management by clearly defining the role of the Kenya National Highways Authority and Kenya National Secondary Roads Authority. This will clearly distinguish the responsibility vested in the national and county governments. The Bill provides a framework for Private Sector participation such as under the roads annuity programme.

B. ANTI BRIBERY BILL

The Bill, which is now in Parliament, seeks to deal with corruption resulting from dealings with foreign entities by extending the mandate of various agencies beyond Kenya. It also proposes to bar directors who violate set governance standards in any institution from serving in a similar capacity in other institutions. To this extent the bill has far reaching implications on those who violate or take advantage of their position to unfairly award themselves benefits arising from the companies in which they serve as directors.

C. THE PRIVATIZATION (AMENDMENT) BILL, 2016

This Bill seeks to amend the Privatization Act, 2005 to address presentation of privatization proposals to Parliament upon approval by the Cabinet and the renewal of terms of members of the Privatization

Commission. The privatization of public enterprises is of interest to the Private Sector hence the need for an accountable framework on the management of the process.

D. THE INSURANCE (AMENDMENT) BILL, 2016

This Bill seeks to give legal effect to specific proposals on the insurance industry as contained in 2016/2017 budget with the aim of enhancing the insurance business in Kenya which is an important component of the financial sector. The bill has proposed licensing and regulation requirements for *Takaful* insurance business as a means of encouraging international investment in this new and emerging area. The Bill further seeks to provide a 100 per cent capital adequacy threshold as a means of operationalizing risk-based solvency requirements in the industry.

E. THE PUBLIC PRIVATE PARTNERSHIP (AMENDMENT) BILL, 2016

This Bill seeks to strengthen Public Private Partnership as a mechanism of realizing the objects of public service delivery while benefitting from private sector efficiency to promote social economic development. PPPs are also intended to create the platform of utilizing private sector efficiency and innovation to deliver public services.

KEPSA is engaged in reviewing this Bill based on the recognition that PPPs increase business opportunities in the domestic market for local investors which impacts positively on economic growth. The recognition of County Governments as distinct contracting entities for PPP projects is of the essence.

F. THE COMPETITION (AMENDMENT) BILL, 2016

This Bill seeks to give legislative effect to proposals announced in the 2016/2017 budget and in particular, measures to enhance consumer protection from unfair and misleading market conduct. Specific areas of concern to the Private Sector include the exclusion of mergers from the operation of the Competition Act in line with regional and international best practice. This will reduce the administrative burden placed on the Authority and facilitate investment.

G. THE SACCO SOCIETIES (AMENDMENT) BILL, 2016

This Bill seeks to strengthen various regulatory aspects of Savings and Credit Societies such as the registration and licensing of deposit taking SACCOs and credit information sharing on non-performing loan portfolios. SACCOs are an important vehicle of mobilizing savings through collective initiative and pulling together. This Bill will leverage the role of the Private Sector in encouraging a culture of saving and investment. It is expected to enhance effective management of this vital sector by comprehensively addressing governance in SACCOs.

H. SPECIAL ECONOMIC ZONES REGULATIONS

The Ministry of Industry, Investment and Trade has embarked on the process of developing regulations to support the implementation of various provisions of the Special Economic Zones Act. The Private Sector is keen on various measures under the proposed Regulations such as investor incentives, business set up and rights of residence. KEPSA has participated in consultative meetings with the Ministry to review the draft Regulations.

I. PUBLIC PROCUREMENT & ASSET DISPOSAL ACT REGULATIONS

KEPSA is engaged with the National Treasury in the development of Regulations to the Public Procurement & Asset Disposal Act. The Act seeks to, among other things, promote fairness, transparency and accountability in the procurement and disposal of assets. It also seeks to promote local industries including SMEs through preferential treatment in procurement. In addition, it aims at providing access of opportunity to disadvantaged groups under the 30 per cent procurement threshold reserved for women, youth and persons with disability.

The Regulations to the Act seek to among other things:

- Develop a clear framework for the establishment of procurement units in the Counties to be aligned to the system operational at the National Treasury as a means of enhancing efficiency in public procurement and deliver a more cost effective utilization of public resources.
- Create a framework of implementing the Act on many key areas of concern to the Private Sector such as the operationalization of preference schemes for local industries.
- Establish a clear framework of dispute resolution with clear timelines to ensure that successful bidders are not unduly delayed upon the award of tenders.

J. POLICY FRAMEWORK ON PUBLIC PARTICIPATION

This Framework and Guidelines, currently under consideration by the Department of Justice and Office of the Attorney General seek to respond to the constitutional requirements that have made public participation a key principle of governance at the national and county levels.

Under the new constitutional dispensation, the Private Sector sees the devolved system of government as transformative and one that makes Counties the next frontier of economic development with potential to attract investment. Counties must have good laws and policies that help create an enabling environment for business and facilitate the ease of doing business. To achieve this, it is necessary to have an effective public participation framework.



HIGHLIGHT OF KEY CRITICAL BUSINESS REFORM LAWS ENACTED IN 2015

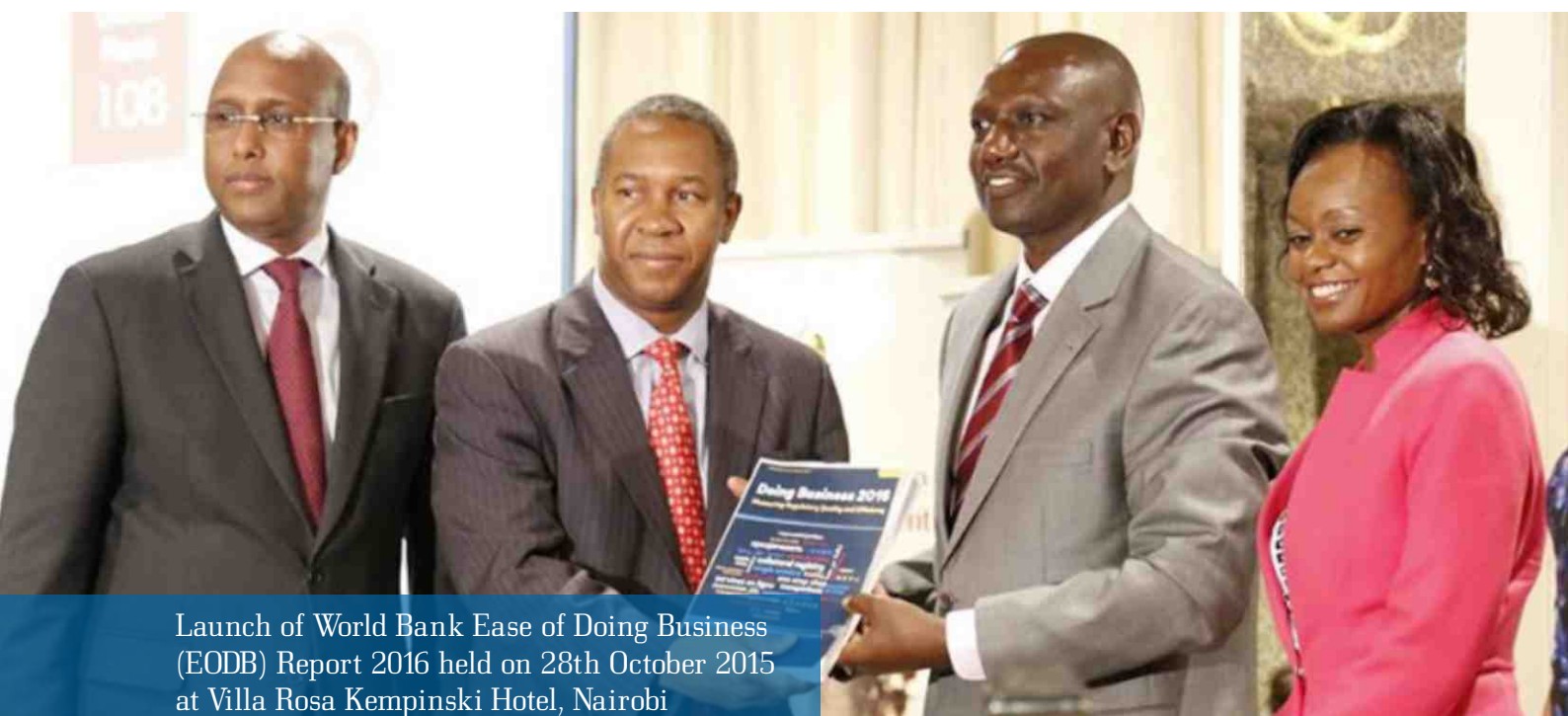
In 2015, H.E President Uhuru Kenyatta assented into law four key business reform bills. The new Acts of Parliament are expected to improve Kenya's overall business environment as the country seeks to improve its ranking on the ease of doing business and as an attractive investment destination. The new laws were developed in close consultation and collaboration with the Private Sector and are highlighted below.

The Private Sector and the Government have since 2009 focused specific attention on improving Kenya's competitiveness as an attractive destination for investment and doing business. This has seen the review of various laws seen as important in improving the country's business regulatory environment.

In the most recent World Bank rankings on the ease of doing business, Kenya improved was ranked at position 108 up from 129 the previous year. Kenya was the third best improved country globally and was ranked 9th amongst 49 Sub-Saharan African countries.

The role of Parliament in enacting key business reform bills has played a significant role in creating an enabling business environment which has in turn contributed to Kenya's strong showing in the World Bank and other global rankings. This year marked a high watershed with the passage of four key business reform bills seen as critical in improving Kenya's competitiveness.

KEPSA actively engaged with the Parliamentary Departmental Committee on Trade, Finance and Planning on these bills based on the recognition of their importance in creating an enabling environment for business and facilitating Private Sector participation in Kenya's economic development.



Launch of World Bank Ease of Doing Business (EODB) Report 2016 held on 28th October 2015 at Villa Rosa Kempinski Hotel, Nairobi

These bills which were assented into law by H.E President Uhuru Kenyatta in September 2015 are the Insolvency Bill, Companies Bill, Business Registration Service Bill and Special Economic Zones Bill.

The new laws will strengthen safeguards for business set-up and regulation; provide greater clarity to investors on issues of regulation and increase the country's attractiveness as an investment destination. The implementation of these bills should help further improve our ranking under the Doing Business Index.

The Special Economic Zones Act 2015

This Act will regulate the creation of industrial zones and provides specific incentives to export-oriented investors. It will enable Kenya exploit its potential for economic growth and development through enhanced investment and industrial policy guidance to investors. The Act will also:

- Serve as an innovative trade and investment instrument, and as industrial development instrument that benefits both local and foreign investors.
- Add value to Kenya's broad national economic industrial development goals
- Facilitate backward and forward linkages between firms operating in the Special Economic Zones with other local manufacturers and producers.
- Support transfer of technology and grow Kenya's domestic technological capacity; upgrade skills and develop research and development capacity in the domestic market

The Companies Act 2015

This Act will enhance corporate governance and protect the interest of shareholders including minority shareholders. It creates a single window for

registration of companies which should further improve Kenya's competitiveness under the Doing Business Index ranking. The Private Sector has welcomed the new law on account of simplifying documentation requirements for registration of companies. The provision of model articles of association will further ease the registration process while its other provisions allow for the enforcement of strict corporate governance standards based on strict fiduciary duties imposed on directors.

The Insolvency Act 2015

This Act represents a key element of legislative reform in the management of businesses facing liquidation and has provides an enabling legal regime that will create opportunity for recovery to profitability. This further improves Kenya's position as a viable and attractive investment destination for investors where the law provides support to businesses at risk of liquidation.

The Business Registration Service Act 2015

This Act creates a legal framework for a more effective and efficient administration of at least 11 laws that regulating business operations in Kenya. These laws include the Companies Act, Partnership Act, Limited Liability Partnership Act, Societies Act, College of Arms Act, Registration of Business Names Act, Hire Purchase Act, Books and Newspapers Act, Bankruptcy Act and Chattels Transfer Act.

As Kenya seeks to enhance its attractiveness and competitiveness as an investment and business destination, the Business Registration Service Act is seen as key in opening up the regulatory environment for business set-up and operations to advance Private Sector enterprise. It provides a window to address some of the bottlenecks and challenges that are seen to undermine the business regulatory environment in the absence of a clear and defined structure for regulation.



KEPSA'S INITIATIVES IN PROMOTING ETHICS AND INTEGRITY

While corruption is perceived to be mainly a matter of public affairs and public services, the private sector appreciates that it is the supply-side of most corruption in Kenya, mostly through public procurement, which accounts for 70% of corruption in the public sector. To this end, KEPSA has adopted several initiatives under its governance agenda seeking to promote ethics and integrity first and foremost within the body of private sector in Kenya and secondly, within the public sector. KEPSA is encouraging all leaders from among the public sector service, intellectuals, local and foreign businesses and development partners to join KEPSA in promoting ethics and integrity in Kenya.

Adoption of Code of Ethics for Business

KEPSA has been involved in championing the adoption of the Code of Ethics for Business in Kenya under the United Nations Global Compact Network Kenya whose secretariat is hosted by the Kenya Association of Manufacturers (KAM). So far 400 companies have signed up to the code of ethics 12 of whom are Business Member Organizations and Professional Associations who are expected to motivate their members to sign up and abide by the Business Code of Ethics. This initiative is significant in the wake of closure of three banks in this year only on concerns that have a governance and ethical bearing.

To further give credence to the Code of Ethics, the Private Sector sought the intervention of the President to ensure that government only procures from companies who have signed up to a code of ethics. To this end the Public Procurement Oversight Authority (PPOA) has developed the Code of Ethics for Suppliers in Public Procurement and Disposal which the private sector is currently reviewing. The private sector is also pursuing for the gazettelement of

Master Item List with prices for common user good and services in public sector. This is will help reduce procurement of goods and services at inflated prices while the known prices are available in the public domain. The government has already directed PPOA to gazette quarterly lists for the procurement of common user goods and services.

Corruption Risk Mapping Survey

In 2014, KEPSA undertook a corruption risk mapping survey to identify the loopholes within the public sector that create avenues for corruption. The Survey identified 7 areas of trade and service delivery where the public and private sector often interact to be the high risk areas for corruption in public sector operations. The import and export sub sector tops the list of points of interaction where corruption is highly likely to occur with a 36% chance. This is followed by Procurement and tax collection at third place with 13% risk chance; the Licensing process at 11% while inspection and quality assurance processes are at 8% with Environment and safety certification at the bottom of the list at 3%.

Business Against Corruption in Kenya

During the 5th Presidential Roundtable in November 2015 that focussed on Kenya's Competitiveness, one of the key areas that was identified as affecting Kenya's competitiveness was corruption.

Subsequently, the private sector formed a group of business leaders known as Business Against Corruption in Kenya (BACK). The aim of BACK is to lead private sector efforts against corruption in Kenya, support a new legal framework against corruption, and work with Government to reward honest behaviour. In recognition of the fact that there are legislative gaps in seeking to prosecute and access information on corrupt practices within the private sector, BACK developed a Draft Anti-Bribery Bill and handed it to the Presidency to adopt as a government Bill.

Under the Anti-Corruption agenda, together with government we have developed a national call to action against corruption (see appendix for the full matrix) which included the Anti-Bribery Bill. We will seek to engage Parliament in some of the areas identified here for the support and legislations needed to address the areas identified.

Establishment of Economic Crimes/Corruption Division of the High Court

The private sector under the KEPSA umbrella is also involved in pushing for the establishment of Economic Crimes/Corruption Division of the High Court. This will speed prosecution in corruption cases which hitherto are delayed in the ordinary judicial process. The court is currently being operationalized.



H.E President Uhuru Kenyatta with members of the private sector, Government, Judiciary, Parliament, Council of Governors and religious leaders during the handover of the report on corruption in Kenya (Call to action), at State House on 23rd November 2015



Mkenya Daima Campaign



Mkenya Daima Steering Team members during the launch of the campaign on 30th January 2012 at Serena Hotel

Prior to the 2013 General Elections, the private sector unveiled a campaign dubbed 'Mkenya Daima' to influence positive outcomes and prevent a recurrence of the 2007 PEV. It was no longer a 'wait and see'. The campaign was launched on 30th January 2012 at the Serena Hotel (a significant place as this is where the peace accord was signed in 2008) and its primary purpose was to inspire peaceful elections and a peaceful transition. The campaign was an initiative spearheaded by the private sector but brought on board other stakeholders including; the Civil Society, Faith Based Organizations, Media, NCIC, Vision 2030, youth among others.

Introduction

The post 2007 election violence that spilled over into 2008 resulted in damage of property, injury and loss of life. 1,133 lives were lost, 600,000 persons were internally displaced and billions of shillings in loss of livelihoods and destruction of property.

It is estimated that 80% of Kenyans in the violence hotspots had their businesses affected and the economy ground to a halt after an uninterrupted growth rate between 2003 and 2007. In particular, property and agriculture sectors were adversely affected.

Migration from the affected areas to mainly the Nairobi metropolitan region put some pressure on amenities but created a hope for a more vibrant and increasingly dominant economy in and around Nairobi.

KEPSA held several meetings with Kofi Annan and contributed to the final content of the Kenya National Dialogue and Reconciliation Process and specifically the National Accord that outlined 4 Agendas towards stopping the violence, dealing with the humanitarian crisis, addressing the political crisis and resolving the long term root causes of the violence.

About Mkenya Daima

This is a non- partisan platform whose primary purpose is to inspire Kenyans towards peaceful elections and prosperity thereafter. The campaign is inspired by KEPSA but it is for all Kenyans and the steering team is made up of representatives from business community, civil society, religious leaders, NCIC, Vision 2030, media and University student leaders among others. It draws from lessons from Kenyans- for Kenya initiative and business involvement in the 2008 National Accord negotiation.



Mkenya Daima meeting with the youth held on 8th August 2012 at the KEPSA boardroom



The campaign initially ran for 15 months in 3 phases.

- **Phase I** focused on creating citizenship awareness and commitment to peaceful elections. That is; 'MY KENYA IS.....
- **Phase II** aimed to celebrate Kenya and handle the negatives that divide us as Kenyans...MY KENYA IS NOT.....
- **Phase III** called on all Kenyans to be responsible for Kenya. i.e. MY KENYA WILL BE..... Rights come with Responsibilities

During the three phases, MKenya Daima received a lot of support both monetary and in-kind from the private sector, development partners, media, civil society, and others who supported the different activities. These included presidential debates, closed door meetings with different stakeholders, roadshow activities and media campaigns.

At the end of phase 3 of the campaign, there were some experiences and findings that revealed most elections in Kenya were characterized by violence provoked by incitements that fueled ethnic hatred. It also proved media is a powerful tool in conveying the peace messages as the outreach was far and wide while patriotism was portrayed through the National Anthem that acted as a national prayer for the country. The private sector also proved that business thrives in a stable political environment and was open to joining other sectors to ensure that the business environment was not affected.



Flower vendors selling flowers and promoting Mkenya Daima peace messages on Valentine's Day



H.E. President Mwai Kibaki endorses the Mkenya Daima - Sauti Ya Mama Peace Pledge during the Presidential Private Sector Working Forum on 11th July 2012

All political leaders, community leaders, institutional leaders and the public as a whole talked about peace and peaceful elections and that did prevail in the whole process of elections that took about a month to be completed.

The Private Sector is keen on the 2017 elections and also actively engaged to encourage investments, expansions and partnership with government on an enabling business environment.



The Nairobi gubernatorial debate hosted by Kenya Association of Manufacturers (KAM) on 4th February 2013 at the Sarova Stanley Hotel



Ms. Carole Kariuki (3rd from the left) during the second Presidential Debate pre and post analysis held on 25th February 2013 at the Standard Group studios.





Launch of MKenya Daima Phase IV in November 2015

The fourth phase of the MKenya Daima Initiative was unveiled on 10th November 2015 at the Serena Hotel and it is scheduled to run for a period of five years; the thematic areas will also apply towards the August 2017 General Elections. In this phase, MKenya Daima will focus on Article 10 of the Constitution which speaks on National Values with an emphasis on accountability/transparency and leadership ethos as well as inspire a peaceful 2017 elections.

So far, MKenya Daima has held stakeholder engagements with the religious leaders, civil society, media editors/owners, youth leaders, university student leaders, development partners, Independent Electoral and Boundaries Commission (IEBC) and the Senate. The objective of these forums is to engage the partners in their role on how to support the initiative and to promote a peaceful country that is free from bad vices.

MKenya Daima has also played a role in the joint parliamentary select committee where they presented a memorandum of submissions on matters relating to the Independent Electoral and Boundaries Commission (IEBC) on 19th July 2016.



Mkenya Daima meeting with youth leaders held on 30th March 2016 at Panafric Hotel



Mkenya Daima meeting with IEBC on 27th January 2016 at Intercontinental Hotel



Mkenya Daima meeting with the Interreligious leaders on 14th June 2016 at NCKK offices

Earlier in the year, MKenya Daima held a live public Eurobond debate on 28th January 2016 in partnership with the University of Nairobi and the Institute of Economic Affairs to clear the air on how the proceeds of the Eurobond were used.

MKenya Daima will use different mediums to pass its message especially in the grassroots such as media campaign, grassroots activations, roadshow activities, music concerts, stakeholder engagements, town hall meeting, gubernatorial debates as well as the presidential debates.



Press conference on role MKenya Daima Initiative has played in the IEBC Impasse held on 28th June 2016 at KEPSA offices



Mkenya Daima meeting with the media editors held on 5th April 2016 at Serena Hotel

Through the media campaign, MKenya Daima will aim to deliver an impactful movement that will reawaken Kenya's national values by recruiting citizens of consciousness to join the MKenya Daima [#NiWajibuWetu](#) movement with the underlying message of [#someoneTellkenyans](#).



KEPSA meeting under the banner of MKenya Daima on Business Code of Ethics held at the Sarova Panafric Hotel



CONCLUSION

The milestones achieved through the partnership between Parliament and KEPSA has reiterated the importance of stakeholder engagement in the development of legislation. The collaboration has advanced and deepened public participation in the legislative process and created a basis of interrogating legislative propositions to secure enhanced Private Sector participation in the economy.

The key strength that KEPSA brings to its partnership with Parliament is capacity to leverage on the experience and insight of its members on specific sectorial issues. KEPSA Sector Boards are able to draw on the day to day experience of members and identify areas in need of legislative intervention to address specific challenges either by way of amendments or enactment of new legislation. The resultant legislation is hence relevant and anchored on the practical experiences of the Private Sector – addressing real needs.

Such legislation can also be benchmarked against global best practice. In the case of the Business Services Regulation Bill – now enacted into an Act of Parliament– KEPSA highlighted the need to borrow a leaf from countries that have undertaken successful steps in improving the ease of business registration procedures. These countries include Nigeria, Morocco and Turkey which have managed to significantly reduce bureaucratic business registration procedures and improved on their overall ranking in the ease of doing business.

It has been acknowledged that KEPSA could draw on its experience and share perspectives on international benchmarking to ensure Kenya remains competitive and our laws conform to established benchmarks. It is equally important to focus on monitoring the implementation of enacted legislation to measure efficiency in the implementation of such laws. As a member of the East African Business Council (EABC) and in its role as the Council's focal point in Kenya, KEPSA has been involved in reviewing of standards and processes in line with agreed benchmarks which could benefit Parliament's work.

The lessons gained from the partnership with Parliament is that the involvement of institutions like KEPSA in providing input and feedback on legislative proposals has been valuable because of institutional capacity to analyse, review and suggest amendments to legislation under consideration. In areas such as fiscal bills and implementing budgetary proposals, the finance committee has provided a platform for such input in its interrogation of proposals on revenue raising measures. Indeed, Kenya's business environment keeps evolving for the better with continued partnership between the private sector and the Legislature in steering policy and legal reforms in the country. It is important to constantly review progress jointly, which is what this report has attempted to achieve.

APPENDIX

National Anti-Corruption Implementation Progress

STRATEGIC THRUST	S/N	IDENTIFIED INITIATIVES
A. Values and Conduct	A1	<p>The Cabinet Secretary, National Treasury, will develop a Business Code of Ethics for adapting by the private sector. This Business Code of Ethics will become part of the pre-qualification conditions under the Public Procurement and Disposal Act. Once developed, business leaders, either individually or through the leaderships of their respective business or professional associations, will publicly sign and commit to the terms and conditions of the Business Code of Ethics. No company or firm will thereafter be eligible to provide goods and services under the Public Procurement and Disposal Act without annually signing and complying with the Business Code of Ethics. PPOA will manage the register of companies that have signed the Business Code of Ethics. Any company or firm, guilty of breaching the Code of Ethics will be delisted from all business associations and barred from doing Business with Government for 5 years.</p>
	A2	<p>Broaden private sector deployment of Values Campaigns such as MKenya Daima. These must be inspired by the national values and principles as contemplated in Article 10 of the Constitution, and must be at scale to capture the bulk of citizens including introducing compulsory and continuous ethics and integrity training across all levels of the public service and in the education curriculums as well as imparting patriotism that is essential in developing a national pledge for all local and international schools in Kenya. This will include the regular singing of the National Anthem and recital of the National Pledge.</p>
	A3	<p>Bring back the principle of 'service' to the Public Service by insisting on higher standards of ethical and behavioural conduct by senior officials. This includes strict adherence to traffic rules, particularly by senior Government officials.</p>



RESPONSIBLE	TIMELINE	PROGRESS
NT/ PPOA	January 2016	<p>a. PPOA through the support of EACC developed a supplier's code of Ethics which has already undergone stakeholder validation.</p> <p>b. Over 400 companies have signed up to the Code of Ethics for Business in Kenya Championed by KEPSA under the Global Compact Network Kenya.</p> <p>c. The Public Procurement and Asset Disposal Act provides that any person contravening the provisions of the Act shall be disqualified from entering into a contract. A procuring entity may lodge a complaint with the relevant professional body for the institution of disciplinary proceedings and any penalties imposed by a professional body shall apply in addition to any penalties that may be imposed under the Act.</p> <p>Ask: Support legislation be developed to anchor the use of the code of ethics in law and enable the legal application of restrictions on companies and their directors.</p>
KEPSA/ NCIC/ Inter Religious Groups	Immediate	<p>The MKENYA Daima Steering Committee has met with relevant stakeholders as follows:-</p> <ul style="list-style-type: none"> • IEBC- To capture mass voter registration • Eurobond Debate - To create a wider understanding on the Eurobond by availing information as part of good practice in Public Finance Management • Code of Ethics for Business in Kenya - An initiative by the business community of Kenya to promote and enhance business ethics. <p>Other stakeholder meetings held include meetings with:-</p> <ul style="list-style-type: none"> • <i>Uwiano</i> Peace Platform • Youth Leaders • Religious/Faith Based leaders • Civil Society Leaders • Media Editors • University Student Leaders • Development Partners
Kenya Police	Immediate	<p>Leadership and Integrity regulations have been developed and gazetted and are now operational. The Leadership and Integrity framework guides the conduct of officials in public and private settings.</p> <p>Leadership and Integrity codes for State Officers in various state agencies have been approved by EACC and gazetted as required. These are 21 MDAs; National Assembly; Judiciary; NIS; 14 Commissions/Independent Offices; Registrar of Political Parties; and DPP. 33 out of 47 County Executive Agencies have complied. 39 out of 47 County Assemblies have also complied. Compliant State officers have also signed commitment forms that are deposited with the EACC.</p> <p>The Public Service Values and Principles Act has been enacted which entrenches principles of Art. 10 in the conduct and actions of public officers. This further enhances the provisions of the Public Officers Ethics Act.</p>

STRATEGIC THRUST	S/N	IDENTIFIED INITIATIVES
	A4	All Cabinet Secretaries, CEO's and Board Chairs to fully comply with the Law and publicity of the Public Officers Ethics Act and quarterly report compliance of the same to EACC and the Presidency. This includes strict reporting of 'Conflicts of Interest' by senior officials with penalties brought to bear for the failure to do so in accordance with procurement laws and all other ethical laws.
	A5	Encourage Kenyans to develop accessible technology platforms that allow citizens and customers to report bribe demands, inordinate delays (against service charters), and corrupt practices in Government departments. The data will be publicised and available to the Presidency to be used for CS/PS and department heads performance reviews.
B. Rule of Law	B1	Enactment of the private sector- steered Bribery Bill to deal with bribery and inducement of officials by members of the public.
	B2	All commercial banks must comply strictly and fully with all provisions of the anti-money laundering regulations. Failure to do so will result in the withdrawal of banking licenses.
	B3	Implement the recommendations of the AG-led Review of Legal Policy and Institutional Framework for Fighting Corruption in Kenya and fast-track the enactment of the following laws among others; Parastatal Reforms Bill, Sovereign Wealth Fund Bill, Whistle-blowers Protection Bill, the Kenya Inland Revenue Agency Bill and the Kenya Customs and Border Protection Agency Bill.



	RESPONSIBLE	TIMELINE	PROGRESS
			The National Anti-Corruption Campaign Steering Committee has also been undertaking value based anti-corruption campaigns to entrench the principles. Public pronouncements by senior political and government leadership have similarly sought to re-emphasize the need to reassert values of integrity and ethics.
	Office of the Chief of Staff /PPOA/ EACC	Immediate	<p>The Taskforce on Corruption is developing a draft Anti-Corruption Amendment Bill that includes inter alia proposal to have the filing of wealth declaration forms by all state officers with EACC and the public accessibility of the same. These amendments should include specifications on the compliance reporting structures.</p> <p>Conflict of interest prescriptions are contained in the Public Procurement and Asset Disposal Act 2015.</p>
	Ministry of ICT	Immediate	<p>The Bribery Bill proposes that all private entities put in place mechanisms for preventing and reporting incidences of bribery.</p> <p>At the same time, various The EACC, NCAJ, KNHRC have platforms for anonymous reporting on incidences of corruption. An Integrated Public Complaints Referral Mechanism exists to channel reported complaints appropriately.</p> <p>Current Performance Contracts for ministers and heads of state corporations include targets and indicators for tracking corruption prevention interventions.</p>
	OAG	February 2016	The private sector presented the Anti-Bribery Bill to the office of the Attorney General for review. The bill has been reviewed by the Attorney General and Department of Justice; received stakeholder input and validation; approved by Cabinet; and submitted to Parliament for debate. OAG&DOJ is engaging parliamentary leadership to fast-track debate and enactment.
	CBK/ FRC/ KBA	Immediate	All Banks currently require customers to provide additional information on all financial transactions above \$10,000 including deposits and withdrawals. This includes the source of funds and purpose for which they are being utilized
	OAG	Immediate	<p>The Taskforce on Corruption is implementing all recommendations in its report. Highlighted below include:</p> <ul style="list-style-type: none"> • Implementation of law reform recommendations through a draft Anti-Corruption Amendment Bill 2016 (amending the EACC, ACECA, Leadership and Integrity, Public Officers Ethics Act, Proceeds of Crime, Government Contracts, Public Procurement, Elections, Commission on Administrative Justice Acts etc). • Development of a Whistle-blower Protection Bill 2016. OAG&DOJ is further developing False Claim (Qai Tam) legislation. Qui Tam Actions are suits commenced by a private citizen against a person believed to have violated performance of a contract with the government. The plaintiff is entitled to a share of the recovered damages. This acts as a major motivator to persons who would like to stop fraudulent claims against the Government. • The EACC Act was amended to provide for five part time commissioners. • Other administrative and institution reform proposals including reshuffle of PFM officers; establishment of Anti-Corruption and Economic Crimes Division of the High Court; Dedicated magistrates courts; Training of judicial officers, investigators, prosecutors handling corruption and economic crimes etc are ongoing.

STRATEGIC THRUST	S/N	IDENTIFIED INITIATIVES
	B4	National Council for the Administration of Justice and the Chief Justice must immediately actualise fast-track prosecution of corruption and economic crimes as envisaged in the Anti-Corruption and Economic Crimes Act. The mentioned offices must pursue setting up a division of the High Court on Corruption and Economic Crimes where special magistrates in sufficient numbers and located in decentralised venues must be assigned.
	B5	Enhance International Cooperation to fight corruption through signing Treaties and MOU's with several countries to fast track MLA's extradition and Asset recovery.
C. Wastage in Government	C1	Introduction of electronic travel wallet cards for all State Officers and Chief Executive Officers of State Corporations thus addressing the obtaining situation of per-diem. From now on, the only payments that will be made are for specific hotels, food and transport below a strict ceiling. No extra money will be earned from trips. All departments will make quarterly reports to the Chief of Staff on trips undertaken by senior officials. No allowances for meetings and activities within the scope of one's official duty across all arms of Government.



	RESPONSIBLE	TIMELINE	PROGRESS
			<ul style="list-style-type: none"> The Government Owned Entities Bill is currently under the consideration of Cabinet. However, the lack of enactment has not hampered the implementation of the proposals as contained in the “Mwongozo” which forms the policy and regulatory framework of the Bill. All State Corporation Boards have undergone training on Mwongozo and are implementing requirements such as governance audits, board and CEO evaluation, and corporation secretary functions. These evaluations are the basis for determining board and CEO incentives and renewals Kenya has continued in its vibrant engagements in the international arena to promote global financial integrity actions. Kenya continues to adhere to the UNCAC and AU compliance review process, leading the world in setting innovative civil society/government engagement frameworks. Kenya recently participated at the London Anti-Corruption Summit, bringing together select practitioners and pioneering jurisdictions undertaking anti-corruption interventions and made commitments to enhancing its financial integrity targets particularly on beneficial ownership structures; open government and international sports governance. A Multi-Agency Team was established by H.E. The President. Since then over 360 criminal cases are before various anti-corruption courts throughout the country undergoing prosecution; Kshs. 344 million worth of contraband ethanol, sugar and rice have been destroyed; Kshs. 1.3 billion worth of tax demands have been undertaken under the Multi Agency framework and 6 KRA officials charged with facilitating tax evasion. Today corruption investigation and tax enforcement measures are simultaneously pursued with each reinforcing the other for greater effectiveness. <p>ASK: The Immediate enactment of all support bills</p>
	CJ/ NCAJ	Immediate	<p>The Judiciary has strengthened and expanded the anti-Corruption court. 34 Magistrates have been appointed to serve under the anti-corruption court and have already undergone special training at the Judiciary Training Institute for effective management of anti-corruption court. The magistrates have directions to pay special attention to Section 4 (4) of the Anti-Corruption and Economic Crimes Act which provides for non-stop hearing of cases until determination.</p>
	MINISTRY OF FOREIGN AFFAIRS/ OAG	Immediate	<p>MLA based engagements are ongoing with UK (Jersey/Chickengate/Deya; US (drug cases); Switzerland (Anglo Leasing). Kenya is also exploiting MLA frameworks with peer signatories of various international instruments that we have acceded to e.g UNCAC, UNTOC, UNDOC etc.</p> <p>The OAG&DOJ as Central Authority on Mutual Legal Assistance is undertaking specific negotiations with China, Mauritius, UAE etc on criminal and civil cooperation.</p>
	NT & OCS/ HOS	Immediate	TBC

STRATEGIC THRUST	S/N	IDENTIFIED INITIATIVES
	C2	The National Treasury and the Efficiency Monitoring Unit will institute a review of all projects under preparation or tender by the National Government, its agencies and Parastatals, to determine each of these projects' priority and commercial viability within the context of both the Medium Term Expenditure Framework and Vision 2030.
	C3	In order to ensure and embed the concept of "Value for Money" in Public Procurement, PPOA will immediately review and publish widely in all media, and on its website, a price reference list for widely available goods and services, with due regard being taken for price differences as a result of location of the purchasing entity. No goods and services will be procured at prices beyond the published price reference list. Where no such lists exist for specialized goods and services, Accounting Officers, AIE holders and CEOs will sign off that they have price-compared and are satisfied the prices entered into are within market parameters, such sign offs to be accompanied by documentary support.
	C4	All Accounting Officers and AIE holders will be held personally accountable and liable for approving or allowing any supply of goods and services with companies, firms and other entities that have been barred or blacklisted by the PPOA, and any losses incurred through such actions will be recovered from these officials.
	C5	The Asset Recovery Agency will immediately institute proceedings to freeze the assets of those charged with economic crimes, and institute proceedings to recover the proceeds of those convicted of economic crimes, where necessary seeking international assistance under MLA treaties.
	C6	Standardise "ICT standards and consumables and enter into a negotiated framework agreement with established local dealers or assemblers at a discount" given the economies of scale to allow for cross-referencing and multi-location spot-checks. Integrate all-of-government digitisation including; enactment of the E-billing system, full operationalization of the E-Procurement system and ensure the same is rolled out to all Government departments inbuilt with automatic price reference and link to e-Business, making available online, for application, payment, printing and validation, the services among others; birth and death certificates, company registration, certificate of good conduct and land search and clearance certificates.
	C7	Tie departmental Service Charters to performance contracts with clear metrics and introduce penalties for non-performance. Accordingly, every Accounting Officer will ensure contracts terms are adhered to otherwise they will be surcharged in accordance with article 226(5), 201(d); and 232(b); and any loss incurred by the public due to delay in payment for goods and services when due, will be recovered from every responsible officer and criminal sanctions will be applicable where necessary.



	REPOSIBLE	TIMELINE	PROGRESS
	NT/ EMU	March 2016	TBC
	PPOA	Immediate	<p>PPOA publishes an annual Market Price Index available on its website.</p> <p>Ask: PPOA be required to review the Index on a quarterly basis and publish it on all leading dailies</p>
	PPOA	Immediate	<p>See A1 and C7</p> <p>ASK: Procurement law to be amended to allow for surcharge of those responsible for losses incurred as a result of corruption</p>
	OAG	Immediate	<p>The Asset Recovery Agency has been operationalized and has so far frozen Kshs. 158 million in bank accounts; 17 assets in the form of land, vehicles and business entities have been preserved from 11 preservation cases.</p> <p>The ARA and OAG&DOJ is in negotiations with the Government of Jersey to repatriate proceeds of crime from corruption cases and is set to engage similar frameworks with peer jurisdictions under MLA arrangements.</p>
	MINISTRY OF ICT/ PPOA	Immediate	<p>Executive Order No. 6 of 2015 entrenched the use of e-procurement for public sector, and particularly emphasized the use of the e-procurement system in state corporations.</p> <p>The new Public Procurement and Disposal Act provides for framework agreements for indefinite delivery contracts to a maximum period of three years with value for money assessment being undertaken annually to determine whether the terms designated in the framework agreement remain competitive. The Ministry of ICT is developing framework arrangements for common ICT services to better administer contracting for ICT consumables.</p> <p>Business Registration, Land searches and Driving License renewals are available under the e-citizen portal. It is expected that more services will be operationalized upon final testing and go live.</p>
	OCS/ HOS PPOA	Immediate	<p>The new Public Procurement and Asset Disposal Act places responsibility on accounting officers to ensure compliance with the provisions on prudent use, competitiveness, transparency and accountability of the public procurement process. These include payments of interest for delayed payments and contractor liability to pay liquidated damages for delayed performance.</p> <p>Disciplinary sanctions are outlined in the Act to guard against irregularities by both Accounting Officers and contractors with due penalties apportioned for breach including debarment from procurement proceedings.</p>

2015 - 2017 KEPSA Board Members

	NAME	INSTITUTION
1	Amb. Dennis Awori	Toyota Kenya Limited
2	Mr. Vimal Shah	Bidco Africa Limited
3	Mr. Adam Jillo	Kenya Tourism Federation
4	Mr. Christopher Wilson	Biogas E.A. Limited
5	Mr. Japh Olende	OBG Company Limited
6	Mr. Muhoho Kenyatta	Brookside Dairy Limited
8	Mr. Nick Nesbitt	IBM East Africa Limited
9	Mr. Jeremy Awori	Kenya Bankers Association
10	Dr. James Mwangi	Equity Bank Limited and Vision 2030
11	Ms. Rita Kavashe	General Motors East Africa Limited
12	Ms. Brenda Mbathi	General Electric
13	Mr. Pradeep Paurana	Kenya Association of Manufacturers
14	Ms. Patricia Ithau	Petu Property Group and MSK
15	Mr. Linus Gitahi	Federation of Kenya Employers
16	Ms. Carole Kariuki	CEO, Kenya Private Sector Alliance



List of KEPSA Sector Board Governors

	NAME	SECTOR BOARD	INSTITUTION REPRESENTED
1	Dr. John Mutunga	Agriculture, Livestock and Fisheries	Kenya National Farmers Federation
2	Ms. Gloria Ndekei	Devolution & Planning , Gender & Youth	Tuwaa Women Institute
3	Mr. Gabriel Kitenga	East African Community and Trade	East Africa Breweries Ltd
4	Ms. Mutheu Kasanga	Education Sector	Kenya Private School Association (KPSA)/ Lukenya Schools
5	Eng. James N. Mwangi	Energy & Extractives	Association of Consulting Engineers (ACEK)
6	Mr. Suresh Patel	Environment & Water Sector Board	Kenya Association of Manufacturers (KAM)
7	Dr. Amit Thakker	Health Sector Board	Kenya Health Federation (KHF)
8	Mrs. Phyllis Wakiaga	Industrialization and Enterprise Development	Kenya Association of Manufacturers (KAM)
9	Mr. Mike Macharia	ICT	Seven Seas Technology
10	Mr. Mucai Kunyiha	Land & Urban Development	Cooper-K Brands Limited
11	Mr. Habil Olaka	Public Finance	Kenya Bankers Association (KBA)
12	Mr. Silvanus Sewe	Security	Federation of Kenya Employers (FKE)
13	Mr. Tonnie Mello	Sports, Arts and Culture	Private Sector Youth Federation (PSYF)
14	Mr. Auni Bhajji	Transport and Infrastructure	Bollore Transport & Logistics

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10.	Amb. Dennis Awori	Chair, Kenya Private Sector Alliance

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An aerial photograph of a savanna landscape. In the center, a person is riding a horse. The terrain is a mix of green grass and brownish soil, with scattered trees and bushes. The sky is a pale, hazy blue.

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