REPORT OF THE NATIONAL ASSEMBLY SPEAKERS ROUND TABLE HELD ON 17TH – 19TH OCTOBER 2019 AT TRAVELLERS' BEACH HOTEL, MOMBASA

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INTRODUCTION

KEPSA hosted the second National Assembly Speaker's Roundtable (SRT) with the 12th Parliament at Travellers' Beach Hotel in Mombasa on 17th to 19th October 2019.

KEPSA's business legislative agenda is carried through the Speaker's Roundtable (SRT) established in 2009 to facilitate structured private sector engagement with both Houses of Parliament (the National Assembly and Senate) and to strengthen private sector participation in policy and legislative development process.

At the beginning of every Parliamentary cycle, as was the case in 2018, KEPSA engages the new Members of Parliament in order to raise awareness on the Parliament's critical role in creating enabling business environment and to set the business legislative agenda for the life of the prevailing Parliament. Much of the technical engagements on business legislation takes place at the Parliamentary Departmental level throughout the year with subsequent SRTs being organized each year to take stock of progress made in the previous year and agree on the business legislative agenda to be prioritized for the subsequent year.

The 2019 National Assembly Speaker's Round Table was the Sixth since establishment of the platform in August, 2009, and the second with the 12th Parliament following the inaugural engagement held on 5th October 2018 at Leisure Lodge Diani, Kwale County. The focus was identifying and harnessing legislative interventions to boost productivity and competitiveness of Kenya's businesses to spur growth & job creation.

The 2nd Sitting of the National Assembly Speakers Round Table with KEPSA was called to order by Ms. Rachel Muthoga, the KEPSA Deputy CEO who welcomed the Members of Parliament led by Speaker Hon Justin Muturi, and KEPSA leaders led by Mr. Nick Nesbitt, the Chairman. The meeting started with a Prayer from Hon. Tuya Roselinda Soipan, MP.

SESSION I: OPENING SESSION

The Session was chaired by Hon. Tuya Roselinda Soipan, MP

While welcoming the chief leaders to make opening remarks, Hon Tuya expressed optimism that the 2019 SRT would resolve some of the most pressing challenges such as liquidity crunch in the country, which touched on everyone. She called upon the National Assembly and the private sector, as representatives of the people, to find a lasting solution to the issue.

Preliminary Remarks by Mr Jeremiah Ndombi – The Deputy Clerk of the National Assembly

Mr. Ndombi highlighted that the Speakers Round Table between National Assembly and KEPSA was part of public participation in policy making process as per provisions of the Constitution; therefore, it remains a critical engagement in the Parliaments Calendar. He added that the Chairs of the various Parliamentary Committees were present and proposed a change in Parliament's strategy to institutionalize the SRT as part of public participation forums.

He noted that the forum presented an opportunity to evaluate progress of resolutions the made during such engagements and to undertake progressive conservations for the interest and future of the country. He appreciated the role the technical staff of the National Assembly had played in preparing and facilitating the engagement.

Welcome Remarks by Dr. Seth Odhiambo: Mombasa County Government CEC for Devolution and Public Affairs

Speaking on behalf of Mombasa County Government, Dr Odhiambo acknowledged the critical role of private sector in complementing the vision and goals of government. He called upon the meeting to reflect on the following key areas:

i) Reengineering the country's economic model to move from consumption to production. A consumption economy is dependent on formal employment and with shortage of jobs and ballooning public service wage bill in Kenya, there is need to shift the approach to encourage entrepreneurship, spur creativity, innovation and production in order to expand the economy.

ii) Educational and curriculum reforms to factor in life skills and competency based training as opposed to theory based training. The competency-based approach presents opportunity for productive engagement and diverse opportunities for the youth and the children of Kenya.

Opening Remarks by Mr Nik Nesbitt, Chairman KEPSA

The KEPSA Chairman, Mr Nik Nesbitt mentioned that the 2019 SRT was a key engagement that provided an opportunity to take stock of the progress realized a year later – since the last SRT in 2018, and also recognize progress in the implementation of Vision 2030 and the impact made to the economy.

The Chairman noted that time was running out, yet the country was still far behind the Vision 2030 ambitions. He observed that the economy had remained stable on some key macro-economic indicators and that the right tone had been set at the Presidential level, but needed to be equally matched with ruthless focus on implementation and self-accountability at the legislature, executive (national and county levels), judiciary and the business sector.

Kenyan businesses face 13 percent higher costs of doing business compared to regional peers due to high costs of power, accessing inputs, logistics inefficiencies, taxation, bureaucracies, multiplicity of fees and charges across counties. The declining growth in private sector credit is also an indication of government crowding-out private sector due to the huge appetite for domestic borrowing. The chairman reiterated that the country was in urgent need of reforms to unlock huge economic potential but only if we focused on sprucing up our competitiveness.

A coming together of bold and necessary reforms in various areas would herald a new era of high value investments, infrastructure growth, job creation, skills development and economic prosperity for all. Mr. Nesbitt pointed out the need to develop a culture of providing regular clear communication about the reforms that were being undertaken and for businesses to provide feedback on the benefits they were realizing to inspire greater reforms.

“No one will do it for us if we do not come together and do it. We are in this together: Let’s do it!!” He concluded.

Remarks by the Leader of Minority: Hon, John Mbadi

The National Assembly leader of Minority, Hon. John Mbadi reiterated the significance of the engagement as provided for in Article 95 of the Constitution. According to him, the SRT provided an opportunity to review key issues that are of concern to the people of Kenya, especially on how to collectively work together to realize higher economic growth and to improve the welfare of the people.

In his remarks, Hon Mbadi emphasized the need for National Assembly to find a way of engaging continuously with the private sector especially at the Parliamentary Departmental Committees level and the budget making process.

The country's debt levels and government borrowing would also need to be audited. Since its Parliament's role to approve the loans, it must interrogate the projects being approved to be financed through borrowing. Also the Budget and Appropriations Committee ought to engage extensively with all players when the government seeks to borrow, analyze impact of the proposed projects and ascertain whether they are worthy borrowing for. For example in the last financial year, about 40 projects were approved to be financed through borrowing including TVETs. A total of Ksh 635 billion was borrowed to finance the projects.

On Corruption, Hon Mbadi acknowledged that corruption and wastage of public resources was threatening to stall the much needed investments for developments amid rising public debt and insufficient revenue mobilization. He insisted that the private sector were the biggest perpetrators and must stop giving. He also asked the private sector to pay their taxes i.e. avoid evasion, and hold the Parliament accountable on usage.

The legislature ought to join hands with private sector to explore ways for boosting competitiveness for economic growth and increase creation of jobs. It is also very imperative to find the link between the economy, competitiveness and job creation in order to accelerate realization of Kenya's Vision 2030.

The speaker's round table provided an opportunity to interrogate the relationship between law, economy and business and to effect effective legal systems that support the economy and business. Increased sharing of information between the legislators and the people is very important in facilitating Member of Parliament to be agents of change by providing solutions on matters that are of concern to the people.

Opening Remarks by Hon Justin Muturi, EGH, M.P Speaker National Assembly

The Speaker of the National Assembly Hon. Justin Muturi, in his remarks reported that the private sector and the National Assembly had always engaged since 2009. The 2019's Round Table was taking place against the backdrop of a strong partnership and successes built over 10 years of engagement between KEPSA and the National Assembly. He commended private sector for their role in the development of the Bribery Act, 2016 that was aimed at addressing corruption – the National Assembly would fast-track the Regulations to operationalize it.

He called upon private sector to put in place procedures and systems to prevent bribery and corruption. He also took stock of the National Assembly progress of implementation of the resolutions agreed upon during the 2018 SRT engagement as follows:

1. **Prompt Payment of Bills:** the National Assembly fully implemented this resolution through the passage of the Statute Law (Miscellaneous Amendments) Bill (No.2) of 2018. The National Assembly passed the Bill on 9th May, 2019 and forwarded it to the Senate.

2. **Support to the Multilateral Task Force against Illicit Trade**: Statute Law (Miscellaneous Amendment) Bill 2018, **which** provides for stiffer penalties on counterfeit and illicit trade.

3. **Strengthening of institution's charged with mandate of fighting corruption:** the National **Assembly**, through the Budget and Appropriation Committee has increased the allocations made to the institutions whose mandate the issues of fighting corruption fall including the Office of the Director of Public Prosecution and The Ethics and Anti-Corruption Commission.

4. **Review of VAT on agrochemicals and farm inputs.** The Finance Bill, 2019 was passed last **month** and contains an amendment to the VAT Act, to zero-rate the supply of agricultural pest control products.

5. **Anchoring the Competency Based Curriculum on legislation.** The Sessional Paper which **anchors** the new competency-based curriculum has been tabled before the House and is under consideration.

6. **Reviewing of Tax regime, expanding the tax base and reducing the tax burden.** In passing the 2019 Finance Bill, The House has undertaken measures to improve the tax regime a follows: provision of a legal framework for consolidated cargo to support business process outsourcing; introduction of taxation of digital market place; and, amendment of the Miscellaneous Fees and Levies Act, No.29 of 2016 that reviews the Import Declaration Fee and Railway Development Levy to be charged at the rate of 1.5 % of the custom value.

7. **Supporting local manufacturing and cottage industries by providing incentives to local-owned companies.** The House amended the VAT Act to exempt plant, machinery and equipment used in the construction of a plastics recycling plant from value added tax.

8. **Enactment of laws to streamline the enablers of the Big Four Agenda.** The House has considered and passed several pieces of legislations seeking to implement the Big Four Agenda among them being the Energy Act, 2019, the Petroleum Act, 2019, the Physical and Land Use Planning Act, 2019, Irrigation Bill, 2019, Warehouse Receipt System Bill, 2019 and the Land Value Index Laws Act, 2019. The House is also currently considering the Data Protection Bill, 2019.

The Speaker also highlighted some of the key areas that private sector should review and align including putting in place systems to deter corruption, alignment with the Employment Act on job creation and employment of local manpower, transfer of pricing benefits to customers, public participation for fostering public interest as opposed to driving commercial interests, among others.

He called upon the National Assembly and Private sector to work together, combine efforts, talents, insights, enthusiasm, patriotism and engage openly and constructively during the round table and develop proposals that propel the country to a successful path.

Remarks by the KEPSA Chief Executive Officer: Ms. Carole Kariuki

The Chief Executive Officer of KEPSA, MS. Carole Kariuki reflected on the 11 years relationship that KEPSA and the National Assembly had built. No other country in Africa holds such regular engagements with the law makers and as such, Kenya was a model. She emphasized the need for dialogue noting that nothing could be achieved without dialogue.

The forum was a manifestation of the power of coming together for and shaping the country in a growth trajectory.

In taking stock of progress of implementation of year 2018 resolutions, KEPSA had also fulfilled its role as follows:

- On regular Engagement between National Assembly and KEPSA on pro-business legislation and ease of doing business. During the period, KEPSA engaged with national assembly on key legislations including KEPSA Energy Sector Board, KEPSA Finance Sector Board, leading to finalization of Energy Act, Petroleum Act Finance Bill.

- On development of long-term development policy for macro-economic stability. KEPSA is developing Economic Transformation Strategy driven by its Economic Thought Leaders Committee.

The private sector and National Assembly are partners in prosperity and hence the KEPSA CEO called upon the forum to consider and review best practices on job creation around the world and to customize one for Kenya. There was also need for alignment of the country's reform agenda under the Doing Business Index, the Competiveness Index and Corruption Perception Index.

SESSION II: MEDIUM TERM ECONOMIC OUTLOOK AND COMPETITIVENESS GAPS TO BE ADDRESED FOR GROWTH AND JOB CREATION

The main objective of this session was to bring together private sector leaders and law makers to have a conversation around the emerging and pertinent issues affecting the economy and business competitiveness with a view of identifying key legislative interventions to be pursued to increase productivity, spur job creation and put the economy back of the Vision 2030 growth trajectory.

Panelists:

1. Mr. Nik Nesbitt – KEPSA Chairman
2. Arch. Lee Karuri – KEPSA Foundation Chairman
3. Hon. (Dr.) Amos Kimunya, FCPA, FCS, EGH, MP
4. Hon. David Mboni, MP

The Session was chaired by Ms. Brenda Mbathi.

The key focus areas included:

a) Regulatory reforms for sustainable revenue generation, use and debt management.
b) Tax reforms and incentives required to increase competitiveness.
c) Unlocking new financing for development through Public Private Partnerships (PPPs).
d) Strengthening oversight role of parliament in policy implementation.

a. Regulatory reforms for sustainable revenue generation, use and debt management.

Responding to question on whether the country's GDP growth was being felt growth within the private sector and how to ensure the growth trickles down in an inclusive manner, the **KEPSA Chairman Mr. Nik Nesbit** observed that the economy had recorded a lot of progress and transformation since 2008 including implementation of major infrastructure projects; however, it was negative perception among Kenyans keeping them from appreciating the progress.

He noted the emerging changes that presented tremendous opportunities for growth if properly harnessed such as devolution, advancements in technology, globalization and e-commerce, among others – these would require re-engineering of business models to remain competitive.

The KEPSA Chairman emphasized the need to address the impediments to growth such as over-regulation by reducing the number of business licenses and also taming the power of regulators to close down businesses.

Hon. Kimunya noted that the Vision 2030 growth target of 10% was made at a time when the economy was recording 7% growth rate but instead, it leap-frogged downwards to about 5.8%. He emphasized the need to rethink the approach and develop a new model to accelerate growth of the economy if the Vision 2030 targets are to be met.

In regards to the high cost of running government and interventions needed to reduce spending and cut wastage; Hon Kimunya acknowledged that the cost was high, even forcing government to borrow to finance recurrent expenditure. The only options available include increasing the revenue generation and cut expenditure.

Hon. Kimunya also took note of the differences in policy intentions, the Budget Policy Statement and desired outputs. He reiterated Parliament's commitment to work in realigning these and bring honesty to the budget cycle, now that the Constitution 2010 had shifted the budget process to Parliament, and established institutions such as the Parliamentary Budget Office for oversight.

He revealed that the Parliamentary Departmental Committees were currently pre-occupied with addressing issues of the day, but would seek to engage them on the budget issues. He emphasized the need for continuous engagement between KEPSA and the National Assembly.

On the issue of increased debt limit to Ksh 9 trillion, Hon Kimunya mentioned that the main concern was the budget deficit, and also urged the leaders to focus more on measuring projects output against the amount of money spent/allocated.

Arch. Lee Karuri reported that KEPSA had formed an economic committee to drive the country's economic transformation agenda. It is through this committee that KEPSA had been engaging on the issues around public finance such as the widening budget deficits, the insufficient revenue mobilization and unrealistic targets set for KRA (collected revenue is only about 60 percent of target), ballooning public debt and government appetite for domestic borrowing which had been affecting business liquidity – a situation made worse by the introduction of interest rates cap.

b. Unlocking new financing for development through Public Private Partnerships (PPPs)

Hon. David Mboni, MP agreed that the Parliament could review the PPP framework, strengthen the PPP Unit and resource it. This would enable Build, Operate and Transfer models for major development projects. He emphasized the need to fight corruption, and also ensure the PPP projects are screened to assess their benefit to the economy before undertaking – not all PPPs are good. E.g. Instead of dualling the Nairobi Mombasa road, which would compete with SGR, the funds could be channeled to LAPSSET which has the potential to open up the Northern Kenyan and contribute about 2 percent to the GDP.

KEPSA Chairman, Mr. Nick Nesbitt noted that most flagship Vision 2030 projects under implementation (28 of them under the Macro and Economic Pillar) were less than 15 per cent complete despite years of billions being sunk in. These projects would need to be re-evaluated for viability, drop some and complete the priority ones. He also emphasized the need for government to be more organized, focused on excellence, address corruption and pick a few areas Kenya is good at to prioritize and invest in them for increased creation of jobs.

c. Tax reforms and incentives required to increase competitiveness

(Balancing taxation such that the government raises sufficient revenue while private sector remains competitive)

Hon Kimunya proposed the need to rethink Corporation Tax in Kenya from the current 30 percent to about 20 percent noting that India had succeeded in attracting investors by cutting their tax from 44 percent to 25 percent. In addition, the global average is 23 percent, OECD average 23.9 percent and 21 percent in the EU. This will lead to economic expansion and creation of more jobs.

Mr. Nick Nesbit reiterated the need to ensure KRA and the taxation regime in Kenya encourage growth. He compared growing the economy on tax to lifting oneself up in a bucket while standing on it. Some ideas that could be explored for investment include:

i) Sports tourism, i.e. marketing Kenya as the place to grow world athletic champions and get investors to build facilities e.g. sports campus in the country.
ii) Review the Strategy for the annual Nairobi Agricultural Show e.g. by adding theme parks, among other attractions, and open it throughout the year.
iii) Building competitiveness through value addition of available resources e.g. tea, coffee and minerals.

KEPSA Proposals for ensure sustainable revenue generation, use and debt management

1. Reduce the total wages and recurrent cost of government through an urgent reform program.
2. Go ahead with government privatization program to inject new funds into Government Revenue.
3. Revisit and audit expensive government projects based on cost benefit analysis and cancel those that are not feasible.
4. Reform the PPP unit and make external investments easier to come through into reality as major projects instead of borrowing.
5. Maximize the business plans and demand high revenue targets from business based Parastatals that is commensurate with the huge asset base the Government has invested. Find a way to maximize this sector.
6. Lower corporate tax to about 20%, and this will trigger huge investments and economic activity that will in return have a multiplier effect to bring even greater tax revenue.
7. Fully support the MSMEs to become a powerful engine of economic growth and also provide more incentives and bring them into the tax bracket thus bringing in more tax to revenue.
8. Introduce a policy and law limiting domestic borrowing by Government to 50 per cent of local funds and leaving the other 50 per cent to private sector credit. This will lead to a multiplier effect of more economic activity followed by increased tax revenue.
9. Removal of the rate cap to ease credit access to MSMEs.
10. Revive the National Economic and Social Council as a think tank to provide sound proposals to the Government.
11. There is need to have a policy for bringing down debt service to revenue ratio from more than 38 per cent currently to the world bank global recommended 25 per cent.
12. Audit the Vision 2030 projects to keep those that are viable and cancel those that are not viable.
13. Target long term but cheaper external loans instead of commercial loans, and stay out of the domestic market. Also lower the T-Bill rates to compel banks to lend to private sector.
14. Identify strategies for organizing the Diaspora for purposes of increasing viable investments in Kenya since the Diaspora remittances have grown steadily.
15. Create a policy to promote social impact investments to take advantage of a new global trend of both corporates and philanthropy organizations interested in blending both economic returns and social return motives. Incentives are required and a framework.

Resolutions

i) KEPSA to work in partnership with National government to rework Vision 2030 model and review the strategy which will ensure the growth targets are met.

ii) National Assembly and KEPSA to work together with the National Treasury to review the tax regime for the business sector to make it competitive and enable private sector to re-invest in the economy and in turn create more jobs.

iii) The National Assembly to review and make amendments to the Public Finance Management Act, 2012 and Regulations on borrowing limits by the Government in the domestic market with the view to stop crowding out private sector and increase access to credit availability to the private sector.

iv) KEPSA to work with the National Treasury to speed up the finalization of the Policy to support the Enhancement of County Government Own-Source Revenue in order to minimize County Government's total reliance on the equitable share.

v) KEPSA to review and make proposals of effective Public Private Partnerships (PPPs) framework needed to increase participation of the private sector in the PPPs at the National and County governments as a source of financing infrastructure projects in a bid to reduce fiscal deficit.

vi) Parliament to amend the Public Procurement and Asset Disposal Act, 2015 to include a clause that provides that people doing business with the government sign a business code of ethics in order to allow KEPSA to follow up on such transactions.

vii) Parliament and KEPSA to work together to ensure operationalization of the Bribery Act, 2016, including the development of accompanying Regulations.

viii) Parliament to ensure there is linkage between the Medium Term Plans, Budget Policy Statement, the alignment of budget estimates and outputs to be achieved thereof as well as enhance its oversight role on outputs rather than inputs to achieve inclusive growth.

SESSION III: MEASURES TO IMPROVE TRADE FACILITATION, INVESTMENT ATTRACTION AND PROTECTION

Towards addressing the challenges hindering smooth trade in Kenya and the EAC region, this session brought together key industry players and National Assembly decision makers to discuss legislative interventions around the following focus areas:

a) Addressing the high cost of cargo transportation via the Standard Gauge Railway.
b) Improving efficiency of the Nairobi Inland Container Depot

c) Enhancing elimination of Non-Tariff Barriers (NTBs) through the EAC Elimination of Non-Tariff Barriers Act, 2017 and National NTB Monitoring Mechanism.
d) Sustaining the fight against illicit trade to support trade and investments.
e) Addressing harmful proposals in the Finance Bill 2019 to increase Excise Duty on tobacco, cigarettes, wines and spirits.
f) Regulatory overreach or investment enablement? Charting a new approach to business regulation and investment promotion by Ministries, Agencies, and Counties etc.

Panelists:

1. Mr. Auni Bhaiji – the KEPSA Transport and Infrastructure Sector Board Chair,
2. Mr. Mohammed Rashid – KAM
3. Hon. Kanini Kega, the Chair of Trade, Industry and Cooperatives committee
4. Hon. (Dr.) Amos Kimunya

The session was moderated by Mr. Thomas Yongo.

a. Cost of cargo transportation via the Standard Gauge Railway

Mr. Auni Bhaiji noted that the cost of transporting cargo via SGR was way too high compared road and that it was against the Big 4 agenda of improving manufacturing competitiveness. Taking recognition of what had been done, he proposed the following:

i) That the minor amendment that KPA had done on the free storage period to the tariff be reversed.
ii) To retain the promotion SGR tariff introduced in 2018 as the actual cost.
iii) Let the market determine the preferred route of moving cargo. i.e. Make the SGR more efficient and allow voluntary use to move cargo.

In Response Hon. Amos Kimunya noted that there were numerous businesses in Mombasa that thrived on inefficiencies e.g. the CFS, and called for change in model for these businesses.

He took note of the efforts undertaken by government since 2013 to improve cargo logistics including drenching of the port which increased business and capacity from about 600 TEUs to over 1000.

On cost of road being cheaper than SGR, he urged businesses to also consider the hidden public costs such as cost of road maintenance, traffic congestion and accidents.

Resolutions:

- National Assembly to follow up on review of the minor Tariff amendment to storage rate for containers at ICDN which is an extra cost to business.

b. Regulatory Overreach

Mr. Mohammed Rashid reported that some Government Agencies were going beyond acceptable limits by forcing businesses to comply with law, treating them like criminals and forcing them to close down. The most adversely mentioned were NEMA, KRA, National Construction Authority, among others.

KEPSA proposals to resolve the issue included:

i) Ensure only managing directors of agencies are authorized to close down companies.
ii) Develop a procedure to guide action against uncompliant businesses and give them time to comply.
iii) Government to focus on facilitating businesses to create employment, but not serve an employer.
iv) Through Parliament's oversight role, focus on holding regulatory agencies to account, develop efficient M&E mechanisms, and ensure regular audit / review of

service charters and performance contracts e.g. develop an annual scorecard for agencies and Social accountability auditing frameworks.

v) Ensure sufficient resources are allocated to all government agencies for efficient service delivery e.g. trained personnel, scanners for KEBS and KRA, testing labs, etc.

vi) Fast-track the Anti-Bribery regulations to ensure enforcement of the Bribery Act.

Hon. Kanini Kega noted that normalcy had been restored following the launch of the war on illicit trade. He concurred that NEMA had been harsh on EPZ companies but urged manufacturers to comply, and Business Associations to help businesses comply.

Resolutions

a) Collaboration between the private sector and government agencies to conduct sensitization and trainings for businesses on different regulations and compliance.

b) Departmental Committee on Trade, Industry and Cooperatives' to engage the agencies on use of excessive force on businesses. (Use of sledge hammer on a mosquito).

c. Excise duty increase on tobacco, cigarettes, wines and spirits

It was reported that the Excise duty on tobacco, cigarettes, wines and spirits had been increased through the Finance Bill 2019 by 21 per cent. Once effected the higher taxes would further affect affordability of the products, thus reducing revenues for both businesses and the government, encourage consumption of alternative products that could be harmful, promote tax evasion and illicit trade in the EAC region as the excise duty in Kenya is more than double that of partner states.

KEPSA proposed the following:

i) National Assembly to re-consider the increase in excise tax on tobacco, cigarettes, wines and spirits sectors in the Finance Bill 2019. The sector recommended a cumulative increase of 10 per cent for 2019 i.e. 4.85 per cent increase in addition to 5.15 per cent inflationary adjustment for 2019/2020.

ii) KRA to employ gradual tax application instead of lump-sum duty increment which hurts forward planning.

iii) Sustain enforcement measures against illicit trade.

Observations/recommendations

- Hon. Amos Kimunya pointed out that while there's need to tax tobacco and alcoholic products, to some extent increase in taxes affects households at lower income level the most, since the individual take more from the family income share to compensate for the increase in price.
- Also the tax differential would potentially create an influx of products from the EAC partner states thus killing Kenyan companies.

Resolutions

- National Assembly to review the effect of excise tax increase on tobacco, cigarettes, wines and spirits to households income, and avoid shifting to cheaper/illicit products or incentive for importation.

d. Elimination of Non-Tariff Barriers (NTBS)

(EAC Elimination of NTBs Act, 2017 and National NTB Monitoring Mechanism)

The SRT was informed that Kenya's exports to the EAC region were on downward trend due to emergence and recurrence of Non-Tariff Barriers. In 2018, the exports to the region reduced to Ksh.129 billion from Ksh 132 billion in 2017 and overall the barriers to trade were estimated to cost Kenya 2.8 per cent in GDP (ODI, 2017).

KEPSA proposed review of the EAC Elimination of Non-Tariff Barriers (NTB) Act, 2017, strengthening of the National NTB Monitoring and reporting mechanism, as well as deployment of technology to reduce to a minimum the number of government agencies and involvement of police around transport and logistics corridors.

In response, Hon. Kanini Kega reported that Kenya was committed to formal Compliance with the EAC NTB Act, the challenge was informal NTBs which are inordinate e.g. police checks, customs delays, among others, some driven by rent-seeking through coercion. An example was given of Tanzania's refusal to admit confectionaries from Kenya alleging contamination with mercury.

Other challenges identified include:

i) Breach of Rules of origin by COMESA countries – moral issues.
ii) The need to control the quality of products coming from neighboring countries especially sugar. The roundtable was informed of huge losses to businesses through contaminated sugar that was condemned or seized.
iii) Competitiveness – it was noted that Kenyan companies found it hard to be competitive within COMESA region due to high cost of doing business in Kenya (e.g. cost of power) which need to be addressed.

Resolutions:

- To address the issue of Non-Tariff Barriers to trade within the East Africa bloc. National Assembly to review the EAC NTB Act and spearhead harmonization of legislations among the EAC states to facilitate ease of doing trade, and strengthen the mechanisms for tackling informal NTBs – this will also ensure the region's success in the AfCFTA.
- National Assembly to fast-track enactment of the Country Governments Revenue Raising Process Bill 2018 to address issues such as cess burden, multiplicity of fees and charges, etc.
- Private sector to assist in raising voice on illegal roadblocks. The Traffic Act 2012 allows only gazetted roadblocks to be mounted.
- KEPSA to engage National Assembly at departmental committee level to address the issues of various sectors and report progress during the Speaker's Roundtable.
- National Assembly to collaborate with KEPSA in ensuring private sector issues are captured in the Budget Policy Statement.

SESSION IV: PRIORITY LEGISLATIVE INTERVENTINS TO HARNESS THE POTENTIAL IN EMERGING KEY SECTORS AND ENABLERS FOR ECONOMIC GROWTH AND COMPETITIVENESS

Building on the success of the previous SPRT, this year's focus will be on identifying and harnessing legislative interventions that catalyze economic and social transformation and growth. This was further followed by breakout sessions on four key four breakout sessions focusing on priority legislative interventions to harness the potential in emerging key sectors and enablers for economic growth namely:

(1) Harnessing digital economy for job creation and economic growth.
(2) Transition to Green and Circular Economy.
(3) Fiscal and monetary policy measures for public and private sector financing.
(4) Measures to support MSMES in wealth and job creation.

Breakout Session I: Harnessing Digital Economy for Job Creation and Economic Growth

The session focused on differentiating between internet economy and digital economy, proper definition of Digital Economy, opportunities arising from Digital Economy and understanding the Digital Economy Blueprint and Strategy.

Session Leaders

- **Session Chair:** Ms. Fiona Asonga, Education and Innovation Sub-committee with the KEPSA ICT Sector Board.
- **Session Co-Chair:** Hon. John Kiarie, MP, Dagoretti South

- **Sector Expert Presenter:** Mr. Gitau Mburu, FSD Kenya

Presentation by Mr. Gitau Mburu- "The Critical role of the Legislature and Private Sector in boosting Economic Competitiveness for Growth & Job Creation"

The digital economy refers to an economy that is based on digital computing technologies. The Economy is growing faster than overall economies, especially in the developing countries. ICT sectors account for 17 per cent of GDP growth in developing countries (World Bank 2016)

In 2017, mobile technologies and services generated 7.1 per cent of GDP or US$110 billion in Sub-Saharan Africa (GSMA XXX) value of ICT sector expanded by 12.9 per cent from Sh345.6b in 2017 to Sh390.2b in 2018 (Kenya Economic Survey 2019)

Difference between value created by mobile technology (delivery of mobile services – voice, data, internet) vs digital economy (the interconnectedness of various technologies)

Enabling the digital economy to grow and thrive can contribute to job creation, growth and investments.

Ms. Fiona Asonga, the Chair of the Education and innovation Subcommittee under the KEPSA ICT Sector Board- Regulating the Digital Economy

The Digital Economy requires an enabled policy and regulatory environment. Current debate in Kenya is on: Taxation, Cyber Security and Data Protection.

i) **Taxation:** In order to provide an enabled environment for the Digital Economy, it is necessary to develop taxation policy and regulations that aim to balance revenue collection and avoid the potential negative impact on the development of the digital economy. Current Debate on taxation of the digital marketplace:
   - Defining a digital marketplace
   - Taxation without stifling the growth of Digital Business
   - The Finance Bill 2019 proposes to tax income accruing through a digital marketplace. Whilst this is a move that will increase the tax base, there is a need to clarify the definition of a digital marketplace, and who will be captured under the proposed provision.

ii) **Data Protection:** Data privacy and protection legislation is needed not only to build trust in the digital environment, but also to strike a balance between personal data protection and privacy and the goal of enabling data driven services, analytics and e-commerce, both domestically and across borders.

iii) Data Privacy and Protection Bill 2019 aims to provide a framework that promotes the protection of personal data, and provides for rights and remedies with regard to protection of personal data. Current debate revolves around:

- Localization of data (storage)
- Cross-border flow of data.

iv) Cyber Security: Protecting of infrastructure is important in ICT. Changing old laws into ICT Infrastructure. Currently, there is no legislation protecting critical infrastructure.

Cyber security laws need to be looked into as below:

- Amendments to the Computer Misuse and Cybercrime Act.
- Technology aspects of cyber security.
- Fraud in payments.
- Securing Kenya's Cyber Space and Critical Infrastructure
  - o With a growing digital economy, the role and importance of information and cybersecurity also increases.
  - o The Digital economy requires functions to protect critical information and infrastructure.

v) Cross cutting issues

Cross cutting issues are identified in regard to the impact they have across the 5 Pillars and are considered critical in the development of the digital economy:

i) **An Integrated Ecosystem**: Seamless flow of information across the entire ecosystem.

ii) **Data**: Established standards for data handling and sharing, data security and universal access to digital services.

iii) **Emerging Trends**: allowing new technologies and business to thrive while safeguarding citizens and fair markets.

iv) **Green ICT:** end to end management of ICT from design to disposal. minimize e-waste and ensure efficacy of ICT equipment.

v) **Security**: provides confidence to both the businesses and the customers to trust the systems and platforms that create the digital market.

vi) **Policy and Regulatory Framework**: Ensure digital business is conducted with integrity in a manner that results in safety, confidence and trust.

vii) **ICT Practitioners Bill** aims establish an ICT Practitioners Institute charged with registering and licensing ICT practitioners and approving training programs.

KEPSA proposals

A robust and enabling innovation ecosystem is key for growth of the Digital Economy. Consideration must be given to this as the enactment of ICT Practitioners Act could stifle innovation. The following were proposed:

i) Policies should be more focused in addressing the new technology innovations.

ii) License Universal Access Taxation and actual tax remittances need to be streamlined.

iii) Update laws to designate ICT as one of the utilities like electricity or water as one of the requirements during building and construction.

iv) Need to focus on the technical activities on the Computers Misuse and Cyber Crime related legislations to ensure that infrastructure is protected.

v) Social Network Amendments- Impracticable because of structure of regulatory environment.

vi) There is need to simplify the digital taxation regime for all players in the sector to ensure adequate compliance. A National Payment Strategy is being developed in conjunction with the Kenya Revenue Authority to ease payment of tax in the ICT field.

Session Resolutions

i) National Assembly to facilitate a robust Film legislative framework to support the film environment. Also, streamline the regulation of this industry to ensure that investment is attracted to the Kenyan economy.

ii) The National Assembly will follow up with the relevant implementations agencies to ensure that regulatory recommendations on various legislations that relate to the Digital Economy are implemented.

iii) The National Assembly to develop required Regulations in anticipation of the passage of the Data Protection Bill to ensure expediting of the operationalization of the law.

iv) KEPSA will engage the Committee on Information Communication and Innovation on the proposed ICT Practitioners Bill.

v) The Private Sector should look into exploiting the market base of providing the necessary equipment for Persons with Disability. Further PWD needs should be adequately addressed within the legislative interventions being contemplated in the forums.

Breakout Session II: Transitioning Kenya to a Green and Circular Economy Pathway

The session focused on expounding the insights and rationale of Green Growth as a competitive strategy and forging of a path for transitioning Kenya to Green and Circular Economy pathway.

Session leaders:

- **Session Chair:** Ms. Emily Waita, KEPSA Environment Water and Natural Resources Sector Board
- **Co- Chair**: Hon. Anthony Oluoch, MP , Mathare Constituency
- **Sector Expert Presenter:** Mr Paul Mbole – Green Growth and Employment Program Manager, Royal Danish Embassy

Presentation by Mr Paul Mbole- Green Growth Pathway for Economic Growth and Competitiveness

There exists an ecological budget and Green Growth is the pursuit of sustainable economic growth within ecological and planetary boundaries. The earth shoot day is that date when natural's resources will have been used more than what earth can renew on its own within a year with. if business as usual scenario continues which comprises of increasing the ecological footprint and carbon emissions, the projected earth shoot day is 16th September 2020. How can Kenya secure growth and decouple this growth from depletion of natural resources and degradation of the environment?

Planetary boundaries include climate change, ocean acidification, freshwater use, biosphere integrity, land system change ozone layer depletion, control of pollution and prevention of biodiversity loss. The best examples in the world show that it is possible to pursue development without affecting ecological balance.

Can Kenya realize its Vision 2030 and the Big 4 Agenda within planetary boundaries while maintaining healthy ecological balance? The linear approach to resource use based on take, make and dispose is an approach that Kenya must rethink if we are to derive maximum utility from natural resources. Natural resources contribute to 42 per cent of Kenya's economy as drawn from agriculture, tourism, wildlife, water, fish, mining, forest, and supports about 70-80 per cent of livelihoods, sadly the sector only gets about 3 per cent of the total national budget.

The country is equally heavily impacted by negative environmental impacts of including destruction of forests and other natural resources for livelihoods; constrained urban infrastructure and proliferation of informal settlements with no or poor sanitation systems; indiscriminate destruction of ecosystems for short term economic activities; pollution of built and natural environment with effluent discharges and solid wastes. To succeed in Vision 2030 therefore, the country must pursue a green and circular economic pathway, preserve the integrity of the natural resources' and extract maximum value from its resources if we realize a higher economic growth and a higher quality of life.

Ms. Emily Waita, the Chair of KEPSA Environment Water and Natural Resources Sector Board – Rethinking Solid Waste Management Approach in Kenya

Waste management plays a significant role in protection of environment, human health and control of pollution and the realization of a green and circular growth pathway. it also presents resources that can reused for spurring economic growth if used effectively rather than disposed. For a long time, Kenya has used the linear approach of take, make and dispose to its resources use which in turn has led to the build-up of a lot of waste and garbage to the environment. This waste is in turn not disposed well, with uncontrolled dumping, garbage is found lying by the roadside, in the rivers, it blocs the sewerage system. Open burning of waste, and recycling is at very low rate. Due this linear approach to waste management, Kenya hosts one of the largest dumpsite of the world that impacts negatively environmental protection, it threatens marine and coastal areas, it's a major contributor to green gas house emissions, and is closely associated with illegal business.

The transition to circular approach to waste management presents opportunities to manage waste effectively as a resource for economic growth and job creation, environment and health protection. Pillars of transiting to a circular economy for waste management include: Culture change and public empowerment, effective waste management services, value recovery and secondary markets, waste treatment and disposal technologies, reporting and information systems, research and innovation. An enabling legislation and regulatory environment is very important hence the significant role of the national assembly, financing of infrastructure and capacity building of the waste value chain players is also a key pillar.

Hon. Anthony Oluoch- Session Co-chair MP Makadara

Hon. Oluoch appreciated the contribution of the experts' presentation on the subject and indicated that indeed we should make environmental protection, green and circular economy as a priority to spur our development pathway. Once the sustainable waste management bill is presented to parliament from the executive, members of the private sector will have opportunity to interact with it during the public participation phase and he called upon members to enrich the bill as proposed.

KEPSA Proposals

Private sector plays a key role in transiting to circular economy in waste management. Opportunities for incorporation in the legislation include:

- A strategic national waste management council for coordination and alignment.
- Mandatory Extended Producer Responsibility to promote total lifecycle environmental protection of product systems.
- Provision of registration of a producer responsibility organization to manage collective extended producer responsibility schemes.
- Organization, registration and regulation of all waste service providers to maintain integrity of waste sorted at source and prevent illegal dumping of waste collected.
- Unlocking material recycling in Kenya through sorting of waste at source, provision of material recovery and composting facilities and easing the licensing regime for recycling.
- Development of standard for secondary raw materials and products.
- Financing and incentivizing waste management facilities including reverse vending machines, composting facilities.
- Development of a national waste management information system.

Plenary Recommendations

- There are too many regulations in the environment sector with very minimal compliance, there is need for audit of existing legislations and identification of the gaps especially other ones limiting adoption of green and circular model of growth.

- There is need to review and align the sector regulatory regime including reconfiguration of the National Environment Management Committee in order to create a conducive environment from command and control for transiting to green and circular economy. As well as iron out institutional overlaps such as between NEMA and WRA on effluent discharge.

- Green Growth and Circular Economy is inter-sectorial therefore all relevant sectors should be involved in the transition and not just Environment only.

- There is need to tap into commercial opportunities arising from the green and circular environment.
- Culture and Behavior change is paramount for the transition especially in waste management.

Session Resolutions

The members agreed that it is possible to realize Vision 2030 by pursuing a green model. Kenya should thus adopt the reform agenda and transit to a green and circular economy pathway in a systematic and integrated manner.

Therefore:

(i) The National Assembly to fast track the development and adoption of the National Sustainable Waste Management Bill.

(ii) KEPSA to engage with the National Assembly Environment and Natural Resources Committee on the Sustainable Waste Management Bill.

(iii) KEPSA to mobilize private sector members in making their submissions during the parliamentary public participation process for the development of the sustainable waste management bill.

(iv) KEPSA to engage the Ministry of Environment and Forestry, National Assembly and relevant stakeholders to develop a National Policy and Legislative framework for Transitioning Kenya to a Green and Circular Economy pathway.

(v) A national framework for determination of fines, penalties' and sentences based on risk mitigation, promotion of advisory and gradual compliance opportunities with due consideration on risk, gravity, magnitude and frequency of occurrence rather than command and control only shall be developed by all the relevant stakeholders.

(vi) There is need for civic engagement and public campaign for culture and behaviour change to empower citizens, instil a duty of care and responsibility for, supportive waste management practices especially that of sorting waste at source and general protection of environmental integrity.

Breakout Session III: Fiscal and Monetary Policy Measures for Public and Private Sector Financing

Session Focus: Sustainable revenue generation, use and reducing wastage

Moderator: The Hon. Waihenya Ndirangu, MP

Sector Lead Expert: Ashif Kassam, Executive Chair, RSM Consulting

The main issue reported was the high cost of running government, and insufficient revenue mobilization leading to wide budget deficits and accumulation of national debt. The effect of this has been high cost of servicing the debt and crowding out private sector access to credit from domestic borrowing.

KEPSA proposals

- There is need for more realistic tax revenue forecasting/targeting which would lead to preparation of credible budgets and their subsequent implementation.
- Rationalization of government expenditure to reduce budget deficits e.g. the government wage bill, through digitization of government service delivery protocols
- Debt negotiations to be based on credible information, ability to repay and project feasibility.
- Ensure accountability in the procurement process and develop an inventory of government goods and service demand.
- Establishment of the credit guarantee schemes to cushion MSMEs from credit crunch
- Expansion and widening of revenue generation – develop strategies to tax the informal sector
- Fast track amendment of the Competition Act, 2010 to sanction the buyer power privilege.

- Enhance ease of doing business through reforms in the legislative frameworks and ensure predictability in law.

Plenary

- Fast-track privatization of non-performing state corporations and use the proceeds to plug in the fiscal deficit, provide financing alternative for Government projects and reduce reliance on debt.
- Develop alternate policy for funding parastatals.
- Conduct strategic cost/benefits analysis of all Tax exemptions by government – it was noted that the exemptions were an avenue for revenue losses.
- Publicize national debt registers for legitimacy and transparency
- To reduce double taxation at national and county levels - establish one supervisory tax authority at both levels of government to regulate the sectors and avoid duplicity of taxes.
- The Finance Bill 2019 reduced WHVAT from 6 per cent to 2 per cent, however, this should be removed especially for SMEs.
- Develop standardized pricing of supplies through markets survey and e-Procurement. Additionally, there is need for sensitization of suppliers on the use of IFMIS/suppliers Portal.
- On payments to suppliers, it was noted that the National payment systems were being re-engineered to allow for speedy clearance of payment to suppliers.
- Fast-track establishment of Special Economic Zones (SEZs) and enhance predictability of taxes e.g. on Alcoholic beverages, to encourage investment.

Resolutions

1. The National Assembly to accelerate the privatization of non-performing State Corporations in order to release financing to development projects as to reduce reliance and provide alternative to borrowing and debt.

2. The National Assembly to work in partnership with the Private Sector to develop alternate policy to assess funding for parastatals.

3. Parliament to establish county level KRAs to facilitate transparent tax collection, enhanced fiscal accountability and address duplicity of taxes.

4. National Assembly to facilitate cost benefit analysis and review of the impact of current tax exemptions to the economy and social economic welfare of the targeted groups. It was noted that the total tax exemptions for the fiscal year 2018/19 was about 49.5 Billion.

5. The National Assembly to fast track the enactment of the Amendment of the Competition Act, 2010 on Buyer Power privilege as proposed in the Finance Bill, 2019to protect MSMEs by ensuring that they have cash flow to trade.

Breakout Session IV: Measures for supporting MSMES in Wealth and Job Creation

The session focused on measures to support MSMEs in wealth and job creation.

Session leaders

1. **Moderator** - Hon. Kanini Kega, MP, Chair of Trade, Industry and Cooperatives committee
2. **Sector Expert** - Mr. Richard Muteti. KEPSA SME Sector lead

Presentation by Mr. Richard Muteti

In his presentation, Mr. Muteti observed that the MSME sector employs about 17 million people majority of them women and youth. Despite this, the sector which is a key segment of the economy is often ignored by policy makers and planners to the extent that worksites, electricity connections are never factored in infrastructure development. For this reason MSMEs are forced to work in trenches, dumpsites and by the roadsides.

In terms of interventions directed to the sector, Muteti observed that National Government Constituencies Development Fund (CDF) was doing a good job though it could be enhanced. Other initiatives include the Youth Enterprise Development Fund (YEDF), Women Enterprise Fund (WEF).

Mr. Muteti informed participants that limited access to credit; poor infrastructure & market linkages and weak regulatory environment were key issues holding the MSME sector back. He informed participants that MSMES operating along Ngong road have been displaced with the ongoing expansion.

He observed that the MSMEs lack requisite skills in finishing products and whereas they can produce long lasting goods, the quality of their finishing is often below par. further, workers lack certification for skills acquired informally which limits access to job opportunities e.g. in shipping industry.

On financing, Mr. Muteti informed participants that the MSE Act created and MSE fund but the national Treasury is yet to develop regulations or even disburse funding. MSMEs largely rely on friends and family as well as on shylocks as opposed to banks as funding is always available even if at high interest rates. Banks on the other hand deem them too risky to lend.

On marketing, Muteti observed that the MSME sector had previously benefited from a presidential directive for ministries to purchase local furniture but this has since been abandoned for imports.

On taxation, Muteti observed that KRA was killing the sector by classifying the sector in the medium tax payer category. He called on creation of an MSME department at KRA and reclassification of tax codes to address the imbalance. Kenya does not have a startup policy to facilitate incubation and takeoff of MSMEs.

Muteti noted that in the past TVET institutions were equipped with obsolete machinery something that limited interactions with MSMEs. He informed the meeting that Micro and Small Enterprises Federation (MSEF) has existing MOUs with several TVET institutions which are geared towards upskilling members. Mr. Muteti called on TVET institutions to consult MSME sector players before purchasing machines to ensure they fit industry needs.

Plenary

Major. John Kipchumba, Kenya Auto Bazaar Association, representing MSMEs in Motor vehicle industry noted that there is need to support MSMES to manufacture spare parts in Kenya. He observed that simple parts like brake pads, chain links could be easily locally manufactured by MSMEs if a subcontracting policy was in place.

Currently he noted that multinationals are not obligated to accept any product produced by MSMEs leading to unnecessary imports of spare parts.

While representing MSMEs in the Security sector, Ms. Annet Kimutai, SENECA Ltd. noted that recently gazetted Private security regulations were not well thought out and would lead to about 500,000 jobs loses if not rescinded. She protested that the regulations gave players (including MSMES) 6 months to implement a raft of reforms that are extremely expensive including training of guards, new uniforms. Further, there is no curriculum or training institution capable of training the over half a million guards in the industry. Ms. Annet noted that even the United Kingdom and USA took 5years to retrain their security guards.

MSMES operating in the industry would be hard pressed for cash as the regulations require cash in transit vehicles to be retooled and this would cost about 20million per vehicle and with 5 per cent salary increase the cost of hiring private security guard will be too exorbitant.

Ms. Mutheu Kasanga, Chair, KEPSA Education Sector Board highlighted that the education system had failed Kenyans as it continues to train students for jobs that don't exist especially in the formal sector. She observed that 82 per cent of Kenyans are trained for formal jobs but statistics indicate 83 per cent of the jobs available are in the informal sector. Ms. Mutheu expressed concern that very few students were enrolling in the TVETs despite the drive by government.

Dr. Gaitho called on increased capitation for higher education to support institutions provide decent accommodation for students while they learn.

Dr. Kaberia, KMT informed participants that Kenya consumes 737 metric tons of beef while it only produces 600metric tons. He noted that the biggest challenge faced by MSMES in the livestock industry is lack of cold storage and our appetite for hot meat which complicates handling leading to wastage and human health risks. He called for MSMEs to be facilitated to purchase cold chain equipment to guarantee food safety.

Response to concerns by the private sector

While appreciating the candid discussion with the private sector Hon. Kanini Kega highlighted that the National Assembly was open to amending laws that limit or curtail business. He noted that incubation support was not working and that entrepreneurs often move with fads instead of doing proper research on business ventures. He noted that access to finance was a huge hindrance to MSME growth and for this reason the SACCO amendment Act was passed to ensure that SACCOS are well managed to provide better funding channels to MSMES.

Hon. Joshua Mbithe confirmed the dire need for cooling systems for MSMEs in the livestock sector and singled out creation of an MSME fund as way to fund purchase of equipment. He however called on MSMES to pursue certification from various TVET institutions in order to upscale and compete with imports.

Hon. Esther Passaris on her part challenged MSMES to up their game and improve on the quality of their produce to remain competitive. She highlighted that quality and investments go hand in hand hence the need for MSMES to reinvest in their businesses and purchase better machinery to enhance quality. She called for a holistic approach in addressing MSME issues with incorporation of family planning to ensure sustainability of business ventures.

Hon. Mishra Ranjan identified the need to properly define MSMEs for support. He observed that Kenya had a great opportunity to export to other countries in Africa if it gets its act together. He noted that corruption, tribalism and nepotism were the leading causes of the decline in economic fortunes and that MSMEs should be facilitate.

Key resolutions

Parliament to take immediate legislative action to;

1. Implement the MSME Act 2012 to actualize MSE Fund envisioned in the Act.
2. Facilitate Certification of skills acquired informally in the MSME sector through recognition of prior learning & foreign qualifications by TVET institutions.
3. Review of the MSME tax bracket as a low cadre and not the medium level tax bracket
4. FastTrack establishment of Biashara Bank that will consolidate various funds
5. Development of linkages between MSMEs and international firms doing projects in the country to scale-up the industry. This can be done through development of sub-contracting policy.
6. Enhance the local content policy of Buy Kenya- Build Kenya by protecting local producers by creating quotas.
7. Develop Start-up policy
8. Review of the recently gazetted Private security regulations.
9. Develop and secure infrastructure for MSMEs through appropriate legal framework
10. Private TVET students to get HELB Loans and private TVETS to get KUCCPS students placement

Breakout Session V: Ad-Hoc Committee on the Interest Rates Cap Issue

After deliberations, the committee led by Hon. Peter Kaluma reported that the Interest Rates Cap issue was a matter before Parliament, and that it ought to be left to Parliamentarians to come up with a way forward. President Uhuru Kenyatta had returned the Finance Bill 2019 to Parliament with a Memo to repeal the caps.

SESSION V: STATUS REPORT ON UNLOCKING THE POTENTIAL OF BIG-4 SECTORS TO DRIVE THE ECONOMY- POLICY AND LEGISLATIVE INTERVENTIONS

Session Chair: Ms. Mutheu Kasanga

Panelists:

a. National Assembly

1) Hon. Kanini Kega, MP, Chair of Trade, Industry and Cooperatives committee
2) Hon. Moses Kuria, MP, Vice Chairperson, Departmental Committee on Transport, Public Works and Housing
3) Hon. Wakhungu Chrisantus Wamalwa MP, Member, Public Investment Committee

b. Private Sector

4) **Agriculture & food Security**- Mr. Wachira Kaguongo- CEO, NPCK
5) **Affordable Housing -**Mr. Gikonyo Gitonga, Chair KEPSA Land, Physical Planning & Housing Sector Board
6) **Universal Healthcare-** Dr. Anastasia Nyalita, CEO, Kenya Healthcare Federation
7) **Manufacturing competitiveness-** Mr. Mohamed Rashid, KAM

Building on SPRT 2018 that focused on the Big 4 agenda stemming from the Government's initiative to streamline the implementation of the Medium Term Plan III to catalyse growth, SPRT 2019 reviewed progress realised on the Big 4 as follows:

Agriculture & Food Security

In his presentation, Mr. Wachira Kaguongo stated that agriculture accounts for:-35 per cent of GDP; 60 per cent of employment; 65 per cent of exports; 3 per cent of government tax revenues; 45 per cent through manufacturing raw materials and Employs ~ 9 million farmers.

Mr. Wachira noted that Kenya is capable of feeding itself but spends Kshs 245.28 billion on food imports (14.21 per cent of total imports).

On financing he highlighted that the Sector Budget allocation is about 3 per cent against a target of 10 per cent as per the Malabo commitments and Results to date +0.2 per cent Increase in Budget Allocation since the inception of the Big 4 Agenda.

Challenges

i) Low Productivity
- Maize, wheat, rice and sorghum yields have been declining over time
- Kenya's Maize production ~ 3.56 ton/ha verses ~ 10.77 ton/ha in the USA
- Kenya struggles to compete with regional potato producers – particularly Egypt and South Africa
- Shortfalls: Maize 26 per cent, wheat 84 per cent, Rice 75 per cent and sugar 33 per cent
- Kenya Shortfall between maize & sugar consumption and production can be easily covered by productivity increase and waste reduction

ii) High Wastage:
- Maize 16 per cent; Rice 3.7 per cent; Potatoes 25 per cent; sugar 20 per cent. This can easily be addressed by post-harvest management and value addition.

iii) Low Value addition
- Only 2.7 per cent of Kenyan tea is sold as value added compared to 50 per cent in Sri Lanka. About $ 2 billion alue add opportunity exist in Kenya (blending and export)

iv) Poor enabling environment
- Multiplicity of taxes at County government level leading to increased cost of doing business

In order to unlock the sector potential, Mr. Wachira underscored the need to address slow administrative procedures by KEBS and insistence on 100 per cent verification of imports (fertilizer, pesticides) resulting in huge demurrage costs; Zero rating VAT on vegetable seeds, pesticides, specialty fertilizers, drip irrigation kits and feeds; upscaling extension services at county level, Building modern markets with cold storage; Increasing budget allocation by 2 per cent per annum in the next 4 years and abolishment of multiple Cross-county Fees.

Affordable Housing

In his presentation Mr. Gikonyo Gitonga, Chair KEPSA Land, Physical Planning & Housing Sector Board highlighted that the affordable housing sector had a gap of about 2 million houses which was an incredible opportunity for investors.

Mr. Gikonyo acknowledged that a lot of work had been done in partnership with the National Assembly including the enactment of the Physical and Land Use Planning Act 2019, Urban Areas and Cities (Amendment) Act 2017, Establishment of Kenya Mortgage Refinance Company (KMRC) and Taskforce on Electronic Transactions, Registration & Conveyancing. He noted that The Sectional Properties (Amendment) Bill 2018 was under consideration by National Assembly.

In terms of challenges, Mr. Gikonyo highlighted lack of a digital land management system, high cost of financing, outdated building code and lack of integration of housing needs in the County Integrated Development Plans (CIDP). He emphasized that the proposed Built Environment Bill 2019 would update the building code and this would allow new technologies to be adopted. Mr. Gikonyo noted that Nairobi County had not approved building construction for a long while putting in jeopardy investments.

Universal Healthcare (UHC)

In her brief Dr. Anastasia Nyalita, the CEO, Kenya Healthcare Federation, highlighted the rollout of UHC pilot program as a milestone in helping the Kenya understand the challenges and opportunities in the sector. She noted key bottlenecks affecting delivery of UHC as Multiple Regulation of Healthcare Products (PVOC / Enhanced COC) which causes delays of on average 3 months in importation process; lack of a system to identify patients, Delays and theft of imported products clearance at ICD, High cost of medical products and supplies and Delayed accreditation and reimbursements by NHIF, Rampant presence of unqualified personnel and unlicensed premises and shortage of human resources for health.

In order to address the challenges, Dr. Nyalita called for Exemption of products regulated by PPB from PVOC / COC process; Offering of 25 per cent Margin of Preference pricing in Public Tenders to locally manufactured products; creation of a Health Benefits Regulatory Authority for oversight of both public and private insurance; Strengthening Regulatory Boards coupled with self-regulatory process that will be supported by industry players.

Manufacturing competitiveness

Mr. Mohamed Rashid, KAM observed that Kenyans are fixated with importation of second hand clothes and this limits production of textiles and foot ware. On the other hand he noted that the AGOA agreement offers access to $ 340 billion textile market in the USA which we barely scratch and this should be a key focus for manufacturing.
He observed that Kenya has only a handful of textile companies in the Export Processing Zones (EPZ) and this was limiting our ability to export and create jobs. Sri Lanka on the other hand has 5million people working in the apparel industry.

Mr. Mohamed stressed that Kenya should get its act together in order to exploit opportunities that come with the recently created Special Economic Zones (SEZ) which he noted prescribes a lower corporate tax rate compared to India.

National Assembly Response to concerns raised by the private sector

Agriculture & Food Security

Hon. Wamalwa noted that agriculture sector was the bread basket of the economy but the Executive effectively controls what happens from funding to major policy decisions on subsidies hence the many challenges in the sector.

In terms of initiatives to support the sector, Hon. Wamalwa highlighted that the National Assembly had enacted the Warehouse Receipt System Act to support commodity trading which he expects would bring better tidings to farmers. Though the finance bill 2019/2020 the National Assembly has also abolished VAT on pesticides.

Hon. Moses Kuria lamented that the agriculture sector challenges were just an excuse for corruption. He mentioned that the executive was pre occupied with big dam projects at the expense of small scale farmers whose needs are different. He called for small scale irrigations solutions to support farmers improve productivity.

Affordable Housing

Hon. Moses Kuria observed that every person had a chance of owning a house if the contracts signed by the government are actualized. He noted that over 200,000 Kenyans had registered under Boma Yangu platform and that the Kenya Mortgage Refinance Company (KMRC) had been established. He however called for adoption of alternative building technologies to tame rising cost of construction.

Manufacturing competitiveness

Hon. Kanini Kega reiterated that we need to peruse aggressive value addition, reduce high tariffs and cost of production to make manufacturing in Kenya competitive. On buy Kenya- build Kenya initiative, he observed that a change in culture was necessary to drive uptake. He highlighted the revival of Rivatex as a short in the arm for textile sector and manufacturing.

Universal Healthcare

Hon. Moses Kuria noted that the key challenge affecting UHC was sustainability. He called into question the rationale for asking tea farmers not to pay NHIF whereas they are not necessarily poor. He observed that the approach in the health sector was wrong as there is an over emphasis on building big hospitals as opposed to focusing on preventive care.

Hon. Kuria compared the approach used by different counties noting that Kakamenga County was building a KES 12billion hospital whereas Makueni County was investing KES 100million in community health which he noted was sustainable.

Hon. Mishra Ranjan highlighted that we have to be very good at implementing laws and policies if we are to succeed in UHC. He mentioned key factors affecting healthcare as financing, technology, medical commodities and human resources. Hon. Mishra called for a phased approach to UHC, investment of proper referral system in all counties.

Hon. Mishra emphasized that we need to train more Kenyans to handle complex medical procedures as opposed to sending people to India. He also noted the need to fight corruption in the sector, enhance transparency in our procurement processes to ensure we get only the best medical equipment available.

PRESENTATIONS BY EVENT SPONSORS AND PARTNERS

1. **Project Oil Kenya**

In his presentation, Mr. Brian Muriuki gave a brief overview of the progress made in Kenya's oil and gas exploration e.g. the Early Oil Pilot Scheme, as well as the medium to long term plans and key opportunities for the economy and local communities. The planned activities include drilling, construction of crude oil and water pipelines, storage facilities, among other infrastructure.

The main interventions needed to unlock the project include facilitating access to land (1350ha for upstream and 2000ha for midstream across seven counties along the LAPSSET corridor), water from R. Turkwel and training for youth to take up the emerging job opportunities e.g. pipeline welding

2. **Kenya Breweries Limited**

Mr. Zack Munyi began by appreciating the stable legislative environment that had enabled KBL to contribute immensely to the country's social economic development. In year end June 2018 and 2019, the company invested capital of Ksh13 billion and Ksh 11.7 billion respectively. In addition, the company supports 47,000 farmers. In the year ended 2019, Ksh 1.1 billion was paid out to small scale soghurm farmers in semi-arid areas, and Ksh Ksh1.4 billion to barley farmers while revenue to government was Ksh45.5 billion.

The main challenge highlighted facing the company was high and unpredictable taxes especially excise duty. He noted that the price of a bottle of beer consists 48 per cent in taxes; in June 2019 the proposed increase in excise duty was 15 per cent (i.e. 5.15 per cent inflation adjustment and 9.85 per cent tax increase), however, as of October 2019 the increase was readjusted to 15.9 per cent meaning total increase in the Finance Bill 2019 was 21 per cent. The effect of this increase is sharp reduction in affordability, thus affecting businesses in the growing spirits market, reduce the income share of the consumers and their families.

He called for the National Assembly to ensure the policy and legislative environment remains predictable to enhance investment and consistency

CLOSING SESSION

Closing Remarks by Mr. Nick Nesbitt, KEPSA Chairman

The KEPSA Chairman appreciated the Members of Parliament led by Speaker Hon. Justin Muturi for meeting the private sector to have direct, candid conversations adding that the meeting had also been a learning experience for business leaders on among other things, parliament procedures. He re-emphasized the need to focus on supporting and building local capacity to manufacture products that can be made locally instead of importing them e.g. wheel chairs, and other products for PWDs as earlier mentioned in the meeting. He thanked the speaker for continued support and called for more frequent engagements between KEPSA and the Parliamentary Committees.

Closing Remarks by Hon. Justin Muturi, EGH, M.P., Speaker of the National Assembly

On his part, the Speaker appreciated the members for staying in and holding candid, straight to the point conversations with the private sector noting that the Roundtable provides for freedom of expression but in a decorous manner. He emphasized the need to continue engaging through sector committees and welcomed KEPSA to write to him, the clerk, or chairs of the different committees to facilitate engagement. He pointed out that public participation was much easier in structured dialogues like the SRT, and that the Parliament would continue nurturing and supporting the forum.

JOINT COMMUNIQUE OF OUTCOMES, EMERGING ISSUES & RESOLUTIONS

Please click here to download the Joint Communique

https://kepsa.or.ke/download/joint-communique-on-the-speakers-roundtable-national-assembly-2019/?wpdmdl=23727