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By Hon. M. Ole Kenja, MP
Chair - Committee on
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TWELFTH PARLIAMENT-SECOND SESSION: 2018

COMMITTEE ON IMPLEMENTATION

REPORT ON IMPLEMENTATION STATUS OF THE SCRAP METAL ACT, NO. 1 OF 2015

Directorate of Committee Services
Clerk's Chambers
National Assembly
Parliament Buildings
Nairobi.

August, 2018

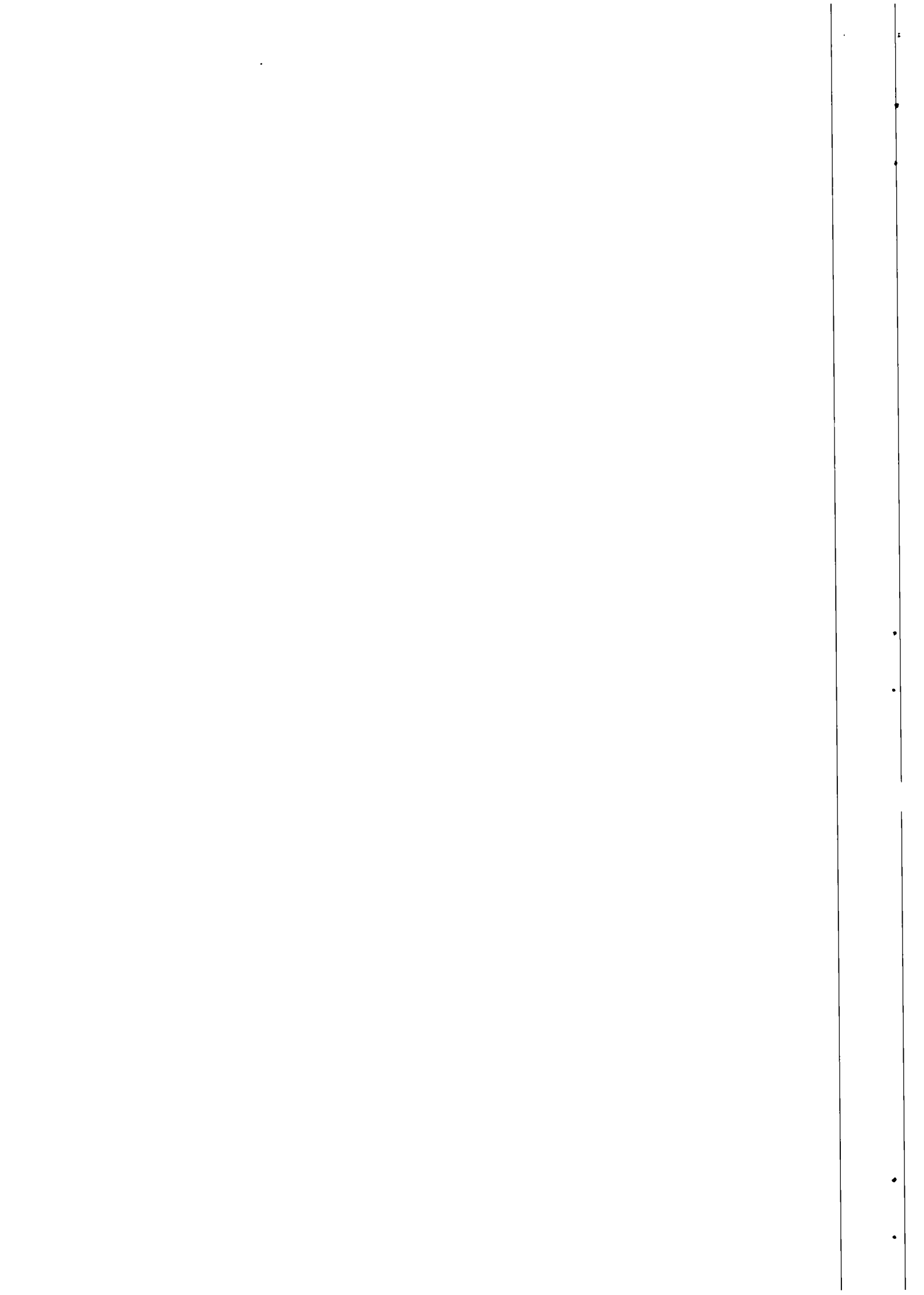


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ABBREVIATION AND ACRONYMS

ABM	Associated Battery Manufacturers (EA) Ltd
COFEK	Consumer Federation of Kenya
EAC	East Africa Community
KPLC	Kenya Power and Lighting Company
MP	Member of Parliament
NCC	Nairobi County Council
Prof.	Professor

CHAIRPERSON'S FOREWORD

The Committee of Implementation tracks the implementation of Resolutions once adopted by the National Assembly mainly to report back to the House that the resolutions have being implemented within the prescribed sixty (60) days and if not, to what extent and the challenges if any that may be impeding full implementation. This ensures that the House does not act in vain. As per Standing Order 201 the implementing agency is required to report back to the House on the implementation status of the resolution which in this instance is the Scrap Metal Act, 2015.

The Committee was made aware that the Scrap Metal Act, 2015 has yet to be operationalized since it was enacted and resolved to receive evidence on the status. The Committee invited both the Centre for Environmental Action and the Ministry of Industry, Trade & Cooperatives to make their submissions to the Committee. The Report provided the submissions from both witnesses as well as the Committee observations and recommendations.

The Committee registers its appreciation to the Office of the Speaker and the Clerk of the National Assembly for facilitation of the retreat. Special gratitude goes to the Secretariat of the Committee who made the production of the report a success.

Pursuant to Standing Order 199(6), it is, therefore, my pleasant duty and privilege, on behalf of the Committee on Implementation, to lay this report on the Table of the House.

Hon. Moitalel Ole Kenta, MP

EXECUTIVE SUMMARY

The Committee on implementation is mandated under Standing Order 209(2)(b) to scrutinize *whether or not legislation passed by the House has been operationalized and where operationalized, the extent to which such operationalization has taken place within the minimum time necessary.*

The Committee was made aware through the written submission from the Centre for Environmental Action that the Act had not been implemented since 23rd January, 2015 when it was to commence operationalization. The Scrap Metal Act, 2015 makes provisions relating to the regulation and management of the scrap metal industry in Kenya. It seeks to control and regulate the handling of scrap metal, the export of scrap metal; the licensing and registry of all scrap metal dealers and the provision for the establishment of a Scrap Metal Council for purposes of streamlining the management of the sector. The Scrap Metal Council had neither been formed nor have the scrap metal inspectors, required to be appointed by the Cabinet Secretary, been hired.

The Act specifically provides stringent conditions under which exports of lead would be permitted. Further, the law requires the establishment of a Scrap Metal Council by the Cabinet Secretary. The Council is mandated to rein in illegal scrap metal dealers as it is the body responsible for licensing of scrap metal dealers.

Generally, the biggest outcry has been that notwithstanding the enactment of the new legislation, the industry was still operating under the old Scrap Metal Act, Cap 503 that had been repealed in 2015.

The Committee deliberated on the submissions by the Centre for Environmental Action and resolved to receive evidence from both the Centre for Environmental Action and the Ministry of Industry, Trade & Cooperatives and thereafter inform the House on the implementation status of the Act.

The Committee after receiving both oral and written submissions from the Ministry observed that the Cabinet Secretary had taken positive steps towards the full operationalization of the Scrap Metal Act, 2015 as he had recently appointed the Scrap Metal Council as required. The Ministry requested for additional funding to operationalize the Act in the 2018/19 budget.

The Committee noted that the full implementation of the Act would require adequate resources to be provided to facilitate the business of the Council. The committee recommends that Scrap metal dealers are registered as provided in the Act and the list made available to the public to ensure that all are aware of the legitimate scrap metal dealers; the requisite licenses that are required for operation of scrap metal dealers are standardized; issuing agents are identified and gazetted; and all stakeholders including the general public are sensitized on the provisions of the Act including the penalties applicable upon contravention.

PREFACE

1.1 Mandate of the Committee

The Committee on Implementation is a select committee of the House established pursuant to the provisions of Standing Order 209 of the National Assembly Standing Orders, with the following terms of reference:-

1. The Committee shall scrutinize the resolutions of the House (including adopted Committee reports), petitions and the undertakings given by the National Executive and examine-
 - a) whether or not such decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within the minimum time necessary; and
 - b) whether or not legislation passed by the House has been operationalized and where operationalized, the extent to which such operationalization has taken place within the minimum time necessary.**
2. Standing Order 201 further provides that within sixty days of a resolution of the House or adoption of a report of a select committee, the relevant Cabinet Secretary under whose portfolio the implementation of the resolution falls shall provide a report to the relevant committee of the House in accordance with Article 153(4) (b) of the Constitution.
3. The Committee may, therefore, propose to the House, sanctions against any Cabinet Secretary who fails to report to the relevant select Committee on implementation status without justifiable reasons.

1.2 Committee Membership

Chairperson	The Hon. Moitalel Ole Kenta, MP
Vice Chairperson	The Hon. Godfrey Osotsi, MP
	The Hon. Richard Onyonka, MP
	The Hon. Alois Lentoimaga, MP
	The Hon. Paul Simba Arati, MP
	The Hon. Onesmas Kimani Ngunjiri, MP
	The Hon. George Theuri, MP
	The Hon. (Dr.) James Murgor, MP
	The Hon. Maj. (Rtd) John Waluke Koyi, MP
	The Hon. Francis Munyua Waititu, MP
	The Hon. Joseph Wathigo Manje, MP
	The Hon. Johnson Many Naicca, MP
	The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
	The Hon. Hassan Oda Hulufu, MP
	The Hon. Nelson Koech, MP
	The Hon. Generali Nixon Kiprotich Korir, MP
	The Hon. Owen Yaa Baya, MP
	The Hon. Paul Odalo Abuor, MP
	The Hon. Silvanus Osoro, MP
	The Hon. Michael Thoya Kingi, MP
	The Hon. Jared Okelo, MP
	The Hon. Joshua Mbithi Mwalyo, MP
	The Hon. Charles Ngusya Nguna, MP

1.3 Committee Secretariat

- | | | |
|--------------------------|---|----------------------------------|
| 1. Ms. Rose M. Wanjohi | - | First Clerk Assistant/Lead Clerk |
| 2. Mr. Abdirahman Hassan | - | Third Clerk Assistant |
| 3. Mr. Dennis Abisai | - | Principal Legal Counsel |
| 4. Mr. Joseph Okongo | - | Media Relations Officer I |
| 5. Ms. Doreen Karani | - | Legal Counsel II |
| 6. Mr. Eugene Akaa | - | Research Officer III |
| 7. Mr. James Muguna | - | Research Officer III |
| 8. Mr. Moses Kariuki | - | Serjeant-at-arms |

2.0 BACKGROUND

The President assented to the Scrap Metal Act, 2015 (**Appendix 1**) on 7th January, 2015, with a commencement date of 23rd January, 2015. The Act makes provisions for the regulation and management of the scrap metal industry in Kenya. It also seeks to control and regulate the handling of scrap metal, the export of scrap metal, the licensing and registry of all scrap metal dealers and the provision for the establishment of a Scrap Metal Council for purposes of streamlining the management of the sector.

Sections 3 of the Act provided that the Scrap Metal Council once established will be a body corporate with perpetual succession and a common seal and shall in its corporate name, be capable of:-

- a) suing and being sued;
- b) purchasing or otherwise acquiring, holding or disposing of movable or immovable property; and
- c) doing or performing all things or acts for the furtherance of the provisions of the Act which may be lawfully done or performed by a body corporate.

Section 4 provided that the Council shall consist of—

- a) a chairperson appointed by the Cabinet Secretary who has at least five years' experience in the public or private sector;
- b) the Principal Secretary of the Ministry for the time being responsible for matters relating to transport or representative;
- c) the Commissioner General of the Kenya Revenue Authority or a representative;
- d) (d) the Inspector-General of Police or a representative;
- e) the Principal Secretary of the Ministry for the time being responsible for matters relating to industrialization or his or her representative;
- f) the following persons, nominated as follows, and appointed by the Cabinet Secretary—
 - i. one person nominated by the Scrap Metal Dealers Association;
 - ii. one person nominated by the metal cottage industry;
 - iii. one person nominated by the Kenya Association of Manufacturers ;
 - iv. one person nominated by large utility companies or agencies in charge of infrastructure, to be appointed on a rotational basis;
 - v. one person nominated by the Consumer Federation of Kenya.
- (g) The members of the Council shall elect a vice-chairperson from among their number during the first meeting of the Council.

In section 6 of the Act, the functions of the Council are to-

- a) advice the Cabinet Secretary on the appropriate measures and mechanisms for regulating the scrap metal industry in ensuring economic growth, protection of public health and conformity to the principles of environmental stewardship as required by the Basel Convention; the appropriate measures and mechanisms for protecting public interest

against vandalism, theft of utility infrastructure and private property; the methods of attracting investors on the utilization of excess scrap materials and supporting existing users of scrap metal; the applicable license fees to be prescribed under this Act; and any other matter relevant to the operations of the Act.

- b) receive, vet and process all applications for the grant and renewal of licenses.
- c) receive public complaints and disputes from the public and within the scrap metal industry.
- d) submit an annual status report on the scrap metal industry in Kenya to the Cabinet Secretary.

Unless otherwise provided in the Act, the council is required to work in collaboration with the inspectors to bring order and integrity to the scrap metal trade.

Sections 10 & 11 provide that, a person seeking a license or renewal of a license shall apply to the Council in the prescribed format and will include the name of the dealer as well as the premises in which the applicant intends to deal in scrap metal. The license will be valid for one year; specify the licensee as the principal or agent to deal in scrap metal, and specify any type of scrap metal the licensee may or may not deal in. A license shall not be transferable except with the consent of the Cabinet Secretary on the advice of the Council and shall authorize dealing at the specified premises.

Section 18 of the Act provided that each person who is granted a license is required to keep a register that contains: -

- a) the weight, dimensions and general description of the scrap metal which from time to time come into the possession or control of the licensee and in respect of each item, the name of the person whether the licensee, servant or agent, who purchased, acquired or received the scrap metal, and the date and time of, and the consideration for the transaction, and the name, identity card number, address and telephone number of the person from whom the licensee, servant or agent purchased, acquired or received the scrap metal from; and
- b) the weight, dimensions and general description of the scrap metal which the licensee sells, disposes or which otherwise ceases to be in his or her possession or control, and showing in respect of each item, the date and time of the transaction and the name, identity card number, address and telephone number or other means of identification of the person to whom the licensee, servant or agent sold, disposed of or parted with possession or control of such scrap metal.

Section 26 of the Act provides that a person shall not export scrap metal in any form except by leave of the Cabinet Secretary for a specific form of scrap metal and for a specific period.

Section 29 provides that Scrap metal inspectors will be appointed by the Cabinet Secretary with adequate training in metallurgy or a related field of study, and shall be issued with certificates of authority to act and shall have police powers in the exercise of his or her duties under the Act. The scrap metal Inspectors may subject to the direction of the Director of Public Prosecutions summon,

examine witnesses under oath or affirmation and conduct prosecutions for offenses committed under the Act.

An inspector may at any reasonable time, with or without a search warrant enter and inspect any place, premises or vehicle at, on or in which goods that are reasonably suspected of being stolen scrap metal or vandalized infrastructure are to be found and make a record in the prescribed form;

The Scrap Metal industry in Kenya has grown over the years supplying metal and steel manufacturers with needed raw materials. The scrap metal dealers operate in almost all the major towns in Kenya and primarily engage people who go out to collect scrap metal from waste disposal sites, homes and businesses. Kenya banned the export of steel (ferrous) scrap but continues to allow the export of all other scrap metals. This makes it difficult to verify exactly what scrap metals are being exported leaving room for exporting ferrous metal disguised as non-ferrous. Inspection of scrap metal at the ports of exit is cumbersome and inconclusive.

Because of its low price-to-weight ratio, raw ferrous scrap is generally purchased locally from industrial manufacturers, demolition firms, railroads, scrap dealers, peddlers, auto wreckers and various other sources, typically in the form of automobile hulks, appliances, and plate and structural steel. Non-ferrous scrap refers to aluminum, copper, brass, stainless steel, other nickel-bearing metals, titanium, high-temperature alloys, and other exotic metals. The geographic markets for non-ferrous scrap tend to be larger than those for ferrous scrap because non-ferrous metals sell for higher prices, which justify the cost of shipping over greater distances.

Theft of machinery, motor vehicles, public utility communication and power cables, manhole covers, steel signage structures and power transformers have been associated with unscrupulous scrap metal dealers. Currently, the Kenya Power and Lighting Company lose almost 3,000 transformers every year and about 200,000 meters of the power cable to thieves strongly suspected to work with scrap metal dealers.

Studies conducted show that to cater to the East Africa Common Market, the automotive battery manufacturers has a manufacturing capacity of over 150,000 batteries a month. The market is approximately requires 100,000 batteries a month but the manufacturers are only able to produce 65,000 batteries. The rest of the requirement is met by imports. This takes away approximately US\$7 million in foreign exchange from the Common Market a month. This is equivalent to US\$84 million in foreign exchange per year.

While it is easy to police and inspect local metal and steel smelters who recycling scrap metals, it is very difficult to inspect compressed loads of scrap metal in containers destined for export. Power and communication costs continue to be high partly because of these factors. For instance, KPLC may import a transformer in one month and the same transformer is exported as scrap in the next month.

3.0 INTRODUCTION

The Scrap Metal Act, No.1 of 2015 was enacted to make provision for the regulation of dealings in scrap metal, to provide for the establishment of a Scrap Metal Council and other connected purposes. It came into force on the 23rd January, 2015 following presidential assent on 7th January, 2015 and it has therefore been in effect for over three years. The responsible Cabinet Secretary for implementation of the Act is the Cabinet Secretary for Industry, Trade & Co-operatives.

Status of the Problem

There have in the recent past been media reports that the Act has not been implemented effectively which in effect means that the thorny issues that the Act sought to address still plague the sector. Particularly, the reports highlighted that the battery manufacturers had alleged that illegal importation of scrap metal materials is threatening the industry. The legislation was meant to support the retention of the raw material for value addition, but scrap metal dealers have continued to export raw materials hence starving local companies of the same raw material. The Act provides stringent conditions under which exports of lead would be permitted but it is alleged that the same is being smuggled via border towns in Busia and Malaba. Lead is the main raw material for battery manufacturing. The deficiency has been supplemented through imports from Asian and Europe countries which consequentially increases the cost of goods.

The law requires for the establishment of a Scrap Metal Council which is mandated to rein in illegal scrap metal dealers as it is the body responsible for licensing of scrap metal dealers.

Another challenge highlighted is that the Scrap Metal Inspectors are yet to be appointed by the Cabinet Secretary. The inspectors employed should be persons with training in metallurgy or a related field of study and work in collaboration with the scrap metal council in order to bring order and integrity to the scrap metal trade by enforcing the Act.

Generally, the biggest outcry is that despite the enactment of the legislation, the industry is still operating under the repealed Scrap Metal Act, Cap 503.

It is on against this background that the Committee was made aware of the delayed implementation of the Act since 2015. Of main concern was the fact that the Scrap Metal Council had neither been formed nor had the scrap metal inspectors, required to be appointed by the Cabinet Secretary, been hired, among other key steps required to implement the Act.

3.1 EVIDENCE FROM THE CENTER FOR ENVIRONMENTAL ACTION

The Chairperson, Centre for Environmental Action, Prof. Karanja Njoroge, a public interest stakeholder in the Scrap Metal Industry, Eng. Geche Karanja from Kenya Alliance for Residence Association, Mr. Israel Dancun, COFEK Representative and Mr. Michael Wanjala, Recycling Manager, A.B.M appeared before the Committee on Thursday 1st March, 2018 and informed the Committee that the enactment of the law was as a result of many hours of work by Parliament as well as long and protracted efforts by industrialists, public asset managers, environmentalists and the general public.

He also informed the Committee that there were many of whom were concerned by the “fly-by-night” smelters of scrap lead-acid batteries (Automotive batteries) illicitly smelting the lead in very poor neighbourhoods leading to environmental contamination and high risks to public health.

The passage of the Act and its operationalization was to stop the unscrupulous dealers and operators in scrap metal industry and bring order and sanity to an otherwise chaotic situation. Unfortunately, none of the key provisions of the Act have been implemented to date. The stakeholders further raised the several key issues outlined below.

The Scrap Metal Council: An Agency that would manage and regulate the scrap metal industry as per the Act was to be created by the Minister of Industrialization was yet to be set up. Therefore the administration of the scrap metal Industry – licensing, restrictions, record keeping, is yet to be put in place. The appropriate measures and mechanisms for regulating the scrap metal industry to ensure long-term economic growth, while protecting public health and high levels of environmental stewardship in scrap metal recycling industry are still far from being achieved.

Exports of scrap metal: Despite the Government’s stated objective of creating jobs and expanding the manufacturing industry, the Country continues to export jobs to Asian countries by continuing non-restrictive practices of shipping out much needed raw material by local industries. This exposes the industries’ vulnerability to international metal markets. The Country must, therefore, take bold and strategic decisions to protect its raw materials from the insatiable export market in Asia. Kenya has the capacity and the industrial base to utilize all the scrap metal within the country.

The absence of Source Register by registered dealers: The Act provided for a system of disclosure of the source of all scrap material in the possession of any scrap dealer. This was to stem the tide against vandalism and theft of public infrastructural installation and other public assets.

The stakeholders further informed the Committee that the scrap batteries were being “exported” to Uganda where the lead was smelted and then “re-exported” again out of Uganda as elevator counterweights to Asian countries. This is done in a region where Kenya has a capacity to produce 100,000 batteries from investments made when the Scrap Metal Act was enacted in 2015. Today, 60% of that capacity is idle due to shortages of raw material.

The rationale for the enactment of the Scrap Metal Act, 2015

Kenya banned the export of all scrap metal in order to protect local manufacturer's raw material requirements and to stem the tide against theft and vandalism of valuable public infrastructural assets like power cables; transformers; storm & sewer manhole covers, guard rails and signboards on its highways. These vandals cause untold havoc on public utility infrastructure across the country, leaving a wake of higher power and communication costs and increased accidents on the Country's roads and highways.

Those persons are engaged in the scrap metal industry, are not threatened by a ban on scrap exports, since scrap dealers will continue to operate, the major change being the market that they will serve. The stakeholders proposed that the dealers concentrate their sales within the East African Common Market once an agreement is reached by the Council of Ministers to ban all scrap metal from leaving the common market.

It is anticipated that the expansion of the manufacturing industry through greater access to cheaper raw materials shall create long-term, secure and well-paying jobs requiring technical and skilled personnel to spur the growth of Kenya's economy.

Kenya has the potential and a sound industrial base to utilize all the scrap metal within the country and perhaps even import within the East African Common Market. The country should, therefore, stand firm in support of its own stated plan for industrialization by 2030.

Situation Analysis in Kenya

The scrap metal industry in Kenya has grown over the years supplying metal and steel manufacturers with needed raw materials. The scrap metal dealers operate in almost all the major towns in Kenya and primarily engage people who go out to collect scrap metal from waste disposal sites, homes and businesses. Kenya banned the export of steel (ferrous) scrap sometimes back but continues to allow the export of all other scrap metals. This makes it difficult to verify what scrap metals are being exported. A lot of ferrous metal is being exported disguised as non-ferrous. Inspection of scrap metal at the ports of exit is cumbersome and inconclusive.

Because of its low price-to-weight ratio, raw ferrous scrap is generally purchased locally from industrial manufacturers, demolition firms, railroads, scrap dealers, peddlers, auto wreckers and various other sources, typically in the form of automobile hulks, appliances and plate and structural steel.

Non-ferrous scrap refers to aluminum, copper, brass, stainless steel, other nickel-bearing metals, titanium, high-temperature alloys and other exotic metals. The geographic markets for non-ferrous scrap tend to be larger than those for ferrous scrap because non-ferrous metals sell for higher prices, which justify the cost of shipping over greater distances.

The dealers separate the scrap and sell to manufacturers in the steel and other metal industries who recycle waste. But because of the insatiable scrap metal needs in Asia, the dealers opt to sell their

wares abroad. The prices are better especially for some critical metals like lead, copper and aluminum.

The industry has, over the last ten to fifteen years, been buffeted with problems of criminal elements using the scrap metal industry as an avenue to get rich quick. Theft of machinery, motor vehicles, public utility communication and power cables, manhole covers, steel signage structures, power transformers etc. have been associated with unscrupulous scrap metal dealers. Today, the Kenya Power and Lighting Company (KPLC) loses approximately 3,000 transformers every year and about 200,000 meters of the power cable to persons strongly suspected to work with scrap metal dealers. Telkom Kenya recently unearthed a syndicate of criminals who steal their communication cable copper wires and sell to scrap metal dealers. Hundreds of cars stolen every day end up as heaps of scrap destined for Asian scrap metal markets.

While it is easy to police and inspect local metal and steel smelters who recycle scrap metals, it is very difficult to inspect compressed loads of scrap metal in containers destined for export. Power and communication costs continue to be high partly because of these factors. For instance KPLC may import a transformer in one month and the same transformer is exported as scrap metal in the next month. The Nairobi County Government (NCG) is unable to replace stolen manhole covers that have ended up either as scrap in a dealer's yard or are refurbished and sold in the local market. In spite of incurring additional costs to secure the manhole covers by welding them to the base, it has become untenable to the N.C.G to keep replacing them.

The banning of scrap metal will largely benefit Kenya Railways Corporation, Kenya Power & Lighting Company, Kenya National Highways Authority and Telkom Kenya among other public utility companies that tend to suffer the most from vandalism and theft of their cables, steel and metal assets.

Regional Situation Analysis

In the East Africa Common Market, both Uganda and Tanzania have banned scrap exports in favor of spurring growth in the manufacturing sector. However, there are loopholes that enable export of certain types of scrap metal like aluminum, copper, brass and lead. Consideration needs to be made to have an EAC common market approach in dealing with the consequences of vandalism of public infrastructure assets and the trend of trans-boundary motor vehicle thefts associated with unscrupulous scrap metal dealers.

All those countries who allow exports of scrap metal face similar problems ranging from high costs of the raw material in the steel industry brought about by the competition with foreign buyers. They experience higher incidences of economic vandalism and theft of public assets, have low-value addition in the manufacturing industry, are largely dependent on imported household and consumer goods. They also spend inordinate amounts of foreign exchange to purchase goods that could easily be manufactured at home with the right support. For example, in the East Africa Common Market, the automotive battery manufacturers have a capacity to manufacture over 150,000 batteries a month. The market is approximately about 100,000 batteries a month but the manufacturers only produce

65,000 batteries. The rest of the requirement is imported. This takes away approximately US\$7 million in foreign exchange from the Common Market a month. This is a staggering US\$84 million in foreign exchange per year.

The local battery manufacturers were not advocating for protection against battery manufacturers abroad but were concerned that the country sells the raw material—scrap lead—to manufacturers abroad and then buys manufactured batteries which could have been manufactured locally.

Battery manufacturers have in the past raised issues related to the protection of sources of lead as a critical raw material requirement in the manufacture of automotive batteries in Kenya. The industry has relied on local acquisitions of the material through an elaborate process of recycling old automotive batteries to reclaim the lead as per the prescribed international and local environmental laws and the Basel and Bamako Conventions on Hazardous Waste Management Practices which includes lead-acid battery waste.

In 2006, the industry advocated for a complete export ban of used/scrap lead acid batteries, lead scrap, crude lead or refined lead from the East African Common Market. This was to conform to the aforementioned conventions as well as protecting the raw material for local battery manufacturers. Kenya manufacturers of automotive and solar batteries cannot acquire enough of the raw material locally because of the insatiable demand of the same in India, Malaysia and China. There are unscrupulous scrap metal dealers who are willing and able to circumvent National Environmental Management Authority and Public Health requirements in the recycling of lead-acid batteries and sell the blocks of lead as “elevator counterweights” to battery manufacturers in India and elsewhere. The scrap metal would be easier to manage with the implementation of the Scrap Metal Act, 2015

The Stakeholders further reported that there are illegal smelters in Nairobi (Kariobangi South), Mombasa and Naivasha which are contaminated with lead beyond acceptable standards causing health hazards and endangering lives; United States of America, England and South Africa are examples of countries with the most progressive systems in the scrap metal industry. The licensing fees will be adequate for the Scrap Metal Council to run its operations hence making it self-sustaining. There are cartels in the industry whose aim was to ensure that the Scrap Metal Act of 2015 was not operationalized. As of 2014, the estimated value of the industry stood at 500 million US dollar.

Conclusion

Kenya has no option but to join many of its competitors in protecting a major source of raw materials for the metal industry by implementing the Scrap Metal Act of 2015. This would also bring sanity and order in an otherwise chaotic sector where the search for cheap scrap acts as an encouragement for vandalism of public assets, theft and illegal smelters of toxic metals (lead) in slum areas.

The Centre for Environmental Action alleged that they had tried to engage the Ministry of Industrialization over the same on several occasions as well as requested for interventions and

implementations of the Act to no avail. The Centre informed the Committee that the industries which require metal in their manufacturing are struggling to obtain it and risk closure due to the siphoning of the raw materials from the local market.

3.2 EVIDENCE BY THE MINISTRY OF INDUSTRY, TRADE AND COOPERATIVES

The Principal Secretary (PS), State Department for Investment and Industry, Ms. Betty Maina, and acting Director, Industrial Sector Support, Mr. Charles Mahinda, appeared before the Committee on 10th April, 2018 and reported that the Scrap Metal Act, 2015 was developed through a consultative process which involved all key stakeholders in the country.

The Scrap Metal Act was meant to empower the competent authorities with sufficient legal framework to issue regulations requiring identification and traceability of all scrap metal handled by any scrap metal dealer.

The principal purpose of the enactment of the Scrap Metal Act, 2015 was to provide for the regulation of dealings in scrap metal and to establish and provide for the functions of the Scrap Metal Council. The Council is an advisory board which helps in market intelligence and identification of illegal operators. The Council is not operational and the Ministry issues licenses under the original Act as the successor law is yet to be operationalized.

The Chairman of the Scrap Metal Council was appointed on 27th October, 2016 vide Gazette Notice No. 8743. The Cabinet Secretary for Industry, Trade and Co-operatives also appointed the other members to the Scrap Metal Council via Gazette Notice 3442 (**Appendix 2**) published on 10th April 2018. The Principal Secretary notified the Committee that the Council was expected to hold its inaugural meeting by end of April, 2018

The Principal Secretary informed the Committee that new measures were introduced which were designed to address problems affecting the development of iron and steel industry including theft of road furniture and infrastructure for scrap metals.

There was a masterpiece plan to ensure companies buy locally available materials from local firms. However, some companies still import materials from their countries e.g. during constructions of highways.

The Principal Secretary also informed the Committee that the Ministry doesn't collect money from scrap metal dealers e.g. licensing fee.

She further added that the budget for operationalization of the Scrap Metal Act has been factored in the 2018/19 Financial Year and requested for support of Parliament for allocation of funds.

The Ministry vide a letter dated 21st June, 2018 (**Appendix 3**) made a further written submission on the extent of the operationalization of the Act which indicated that appropriate measures have been put in place to fully operationalize the Council after the legal gazette notice was published on 10th April, 2018. The Ministry had been allocated a budget line by the National Treasury to facilitate full operationalization of the Council.

Executive Order No. 1 of June, 2018 assigned the oversight and regulatory function of the scrap metal industry to the Ministry of Industry, Trade & Cooperatives whose functions will be implemented through the Scrap Metal Council. Once the Council is fully operational at the beginning of the new financial year, it shall comprehensively review all existing export certificates and consider any other new applications with a view to strengthening operations with the sub-sector.

The Council is to review and vet all applications to deal in scrap metal; advise on all matters related to and affecting the management of the scrap metal sector including the method of disposal of excess materials that local manufacturers are unable to utilize while at the same time protecting public interest against vandalism and theft of utility infrastructure.

4.0 COMMITTEE OBSERVATIONS

The Committee observed

1. **THAT**, the Scrap Metal Act, No.1 of 2015 was enacted following repeal of the Scrap Metal Act, Cap 503, in order to provide for the regulation of dealings in scrap metal, the establishment of a Scrap Metal Council and connected purposes. It came into force on the 23rd January 2015 following presidential assent on 7th January 2015 and it has therefore been in effect for a little over three years.
2. **THAT**, the law requires the establishment of a Scrap Metal Council, a body responsible for licensing of scrap metal dealers and reining in illegal scrap metal dealers.
3. **THAT**, the Ministry delayed the constituting of the Scrap Metal Council, a new body, because the report of the Presidential taskforce on parastatal reforms as contained in the "*Mwongozo; the code of Governance for State Corporations*" emphasized the reduction of state corporations and agencies.
4. **THAT**, the Cabinet Secretary had however since appointed the Chairperson of the Scrap metal Council on 27th October, 2016 vide Gazette Notice No. 8743 and other members to the Scrap Metal Council via Gazette Notice No. 3442 published on 10th April, 2018.
5. **THAT**, it was not clear who was currently issuing licenses to the scrap metal dealers and whether this was being done in line with the current law or the repealed Act.
6. **THAT**, the increasing illegal exportation of scrap metal materials continues to threaten the manufacturing sector including battery manufacturing industry that uses lead as the main raw material in battery manufacturing. Scrap metal dealers illegally export raw materials hence starving local companies. The Act specifically provides for stringent conditions under which exports of certain metals such as lead would be permitted. The result of the illegal exportation is a serious deficiency that has had to be supplemented through imports from Asian and European countries which consequentially has increased the cost of goods.
7. **THAT**, the law required the appointment of scrap metal inspectors whose function is to work in collaboration with the Scrap Metal Council in order to bring order and integrity to the scrap metal trade by enforcing the Act. The Act requires that Inspectors so employed should be persons with training in metallurgy or a related field of study. The Committee noted with concern that the inspectors were yet to be hired.
8. **THAT**, despite the enactment of the new legislation, the committee was concerned of the reports that the industry was operating under the repealed Scrap Metal Act, Cap 503.
9. **THAT**, failure of the implementation of the Act has led to environmental degradation, loss of raw materials leading to high cost of production, loss of signage in the roads leading to accidents through vandalism, loss of jobs and lack of protection of consumers as the scrap metal industry has been taken over by unscrupulous businessmen.
10. **THAT**, the Government was losing millions of shillings through the lack of full operationalization of the Scrap Metal Act, 2015.
11. **THAT**, the Act has not been fully implemented, therefore, the mischief that the Act sought to cure still plagues the sector.

5.0 COMMITTEE RECOMMENDATIONS

The Committee after considerations recommends that-

1. The Cabinet Secretary responsible for Industry, Trade and Co-operatives should facilitate the Scrap Metal Council to organize its first board meeting to chart the way forward in the scrap metal industry.
2. The Scrap Metal Council to forthwith commence executing its mandate under section 6 of the Scrap Metal Act, No. 1 of 2015.
3. The Cabinet Secretary responsible for Industry, Trade and Co-operatives and the Scrap Metal Council should ensure that the licensing of scrap metal dealers is done in accordance with the law.
4. The Cabinet Secretary Industry, Trade and Co-operatives should immediately commence the process of recruitment of inspectors required to be appointed pursuant to section 29 of the Scrap Metal Act, No. 1 of 2015.
5. The Cabinet Secretary Industry, Trade and Co-operatives undertake programs to sensitize stakeholders and the general public on the provisions of the Act including offences and penalties.
6. The Cabinet Secretary Industry, Trade and Co-operatives should take all necessary steps required to ensure the full operationalization of the Scrap Metal Act, No. 1 of 2015.

Signed



Date

15/08/2018

Hon. Moitalel Ole Kenta, MP
Chairperson, Committee on Implementation

The National Assembly



12th Parliament-2nd Session-2018

Committee on Implementation

AGENDA: Adoption of the following Reports: -

1. Report on implementation status of the Scrap Metal Act, 2015;
2. Report on implementation status of the Report by the Departmental Committee on Health on the allegations of sexual assault, breakdown of equipment, surgical mix-up and general operations of the Kenyatta National Hospital, the resolution on establishment of a National Health Referral Hospital in Mombasa County and the resolution to declare cancer a national disaster & establishment of a cancer fund to cater for cancer treatment and care;
3. Report on the Executive Seminar on Livestock Insurance Fund, Mombasa;
4. Report on inspection visit regarding land issues in Taita Taveta County;
5. Report on training on monitoring and evaluation of the Committee on Implementation in Mombasa;
6. Report on the 3rd Annual ICPAK Chapter Seminar, Johannesburg, South Africa;
7. Report on training on strengthening oversight using monitoring and evaluation tools at United Nations Institute on Training and Research (UNITAR), Geneva, Switzerland; and
8. The Report on submissions from stakeholders regarding implementation status of House Resolutions, Petitions, Adopted Committee Reports and Acts.

VENUE: 2nd Floor Boardroom, Protection House **DATE:** Thursday 9th August, 2018 at 10:00 a.m.

NO.	NAME	SIGNATURE
1.	The Hon. Moitalel Ole Kenta, MP - Chairperson	
2.	The Hon. Godfrey Osotsi, MP - Vice Chairperson	
3.	The Hon. Alois Musa Lentoimaga, MP	
4.	The Hon. Maj. (Rtd) John Waluke Koyi, MP	
5.	The Hon. Paul Simba Arati, MP	
6.	The Hon. (Dr.) James Kipkosgei Murgor, MP	
7.	The Hon. Onesmas Kimani Ngunjiri, MP	

8.	The Hon. Francis Munyua Waititu, MP	<i>Francis Munyua Waititu</i>
9.	The Hon. Richard Onyonka, MP	<i>Richard Onyonka</i>
10.	The Hon. Johnson Naicca, MP	<i>Johnson Naicca</i>
11.	The Hon. George Theuri, MP	<i>George Theuri</i>
12.	The Hon. Joseph Wathigo Manje, MP	
13.	The Hon. (Dr.) Daniel Kamuren Tuitoek, MP	<i>Daniel Kamuren Tuitoek</i>
14.	The Hon. Hassan Oda Hulufu, MP	<i>Hassan Oda Hulufu</i>
15.	The Hon. Nelson Koech, MP	<i>Nelson Koech</i>
16.	The Hon. Generali Nixon Korir, MP	<i>Generali Nixon Korir</i>
17.	The Hon. Owen Yaa Baya, MP	<i>Owen Yaa Baya</i>
18.	The Hon. Paul Abuor, MP	<i>Paul Abuor</i>
19.	The Hon. Silvanus Osoro, MP	<i>Silvanus Osoro</i>
20.	The Hon. Michael Thoya Kingi, MP	<i>Michael Thoya Kingi</i>
21.	The Hon. Jared Okelo, MP	
22.	The Hon. Joshua Mwalyo, MP	
23.	The Hon. Charles Ngusya Nguna, MP	

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MINUTES OF THE 46TH SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON THURSDAY 9TH AUGUST, 2018, IN THE BOARDROOM ON 2ND FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDINGS AT 10.00 AM.

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. The Hon. Godfrey Osotsi, MP - **Vice Chairperson**
3. The Hon. Paul Simba Arati, MP
4. The Hon. Alois Musa Lentoimaga, MP
5. The Hon. George Theuri, MP
6. The Hon. (Dr.) James Kipkosgei Murgor, MP
7. The Hon. Maj. (Rtd) John Waluke Koyi, MP
8. The Hon. Francis Munyua Waititu, MP
9. The Hon. Joseph Wathigo Manje, MP
10. The Hon. Richard Onyonka, MP
11. The Hon. Onesmas Kimani Ngunjiri, MP
12. The Hon. Johnson Many Naicca, MP
13. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
14. The Hon. Hassan Oda Hulufu, MP
15. The Hon. Nelson Koech, MP
16. The Hon. Silvanus Osoro, MP
17. The Hon. Generali Nixon Kiprotich Korir, MP
18. The Hon. Paul Odalo Mak'Ojuando Abuor, MP

APOLOGIES

1. The Hon. Michael Kingi, MP
2. The Hon. Jared Okelo, MP

ABSENT

1. The Hon. Charles Ngusya Nguna, MP
2. The Hon. Owen Yaa Baya, MP
3. The Hon. Joshua Mbithi Mwalyo, MP

IN-ATTENDANCE

THE NATIONAL ASSEMBLY

1. Mr. Abdirahman Gele Hassan - Clerk Assistant III
2. Mr. Moses Kariuki - Serjeant-at-arms

MIN. NO.COI/244/2018:

PRELIMINARIES

The Chairperson called the meeting to order at twenty-five minutes past ten o'clock followed by a word of prayer from the Hon. (Dr.) Daniel Kamuren Tuitoek, MP. Thereafter, the agenda of the day was adopted having been proposed and seconded by the Hon. (Dr.) Daniel Kamuren Tuitoek, MP, and the Hon. Godfrey Osotsi, MP, respectively, as follows: -

1. **Meeting with the acting Managing Director, Kenya Bureau of Standards to consider implementation status of the Report by the Departmental Committee on Agriculture and Livestock on inquiry into the crisis facing the sugar industry in Kenya;**
2. **Meeting with the acting CEO, Mumias Sugar Company to consider implementation status of the Report by the Departmental Committee on Agriculture and Livestock on inquiry into the crisis facing the sugar industry in Kenya;**
3. **Consideration of a report from the sub-committee on implementation of the National Budget;**
4. **Adoption of Reports; and**
5. **Consideration of pending business.**

MIN. NO.COI/245/2018:

CONFIRMATION OF MINUTES

The agenda was deferred.

MIN. NO.COI/246/2018:

**MEETING WITH THE ACTING MD,
KEBS**

The meeting did not take place since the acting Managing Director, Kenya Bureau of Standards has not appeared before the Committee as scheduled.

The Committee noted with concern that it had not received official communication from KEBS indicating that the acting Managing Director would not attend the meeting. Consequently, the Committee resolved to reschedule the said meeting to Thursday 16th August, 2018.

MIN. NO.COI/247/2018:

**MEETING WITH THE ACTING CEO,
MUMIAS SUGAR COMPANY**

The Chairperson informed the Committee that the acting CEO was not able to come with the management of Mumias Sugar Company as directed earlier. The acting CEO would write to the Committee to explain as to why he was not able to come with the management of the company.

MIN. NO.COI/248/2018:**REPORT ON SUB-COMMITTEE**

The sub-committee on implementation of National Budget informed the main Committee on its Terms of Reference and highlighted key issues that required implementation from the Budget and Appropriations Committee (BAC) Report on the Budget Estimates for the Financial Year 2018/2019.

The Committee was advised not to step on mandate of the BAC and Departmental Committees as it follows up on approved projects for implementation considering that departmental committees play the oversight roles.

MIN. NO.COI/249/2018:**ADOPTION OF REPORTS**

The Committee adopted the following Reports: -

1. The Report on Implementation status of the Scrap Metal Act, 2015;
2. The Report on Implementation status by the Departmental Committee on Health Report on the allegations of sexual assault, breakdown of equipment, surgical mix-up and general operations of the Kenyatta National Hospital, the Resolution on establishment of a national health referral hospital in Mombasa County and the Resolution to declare cancer a national disaster and establishment of a cancer fund to cater for cancer treatment and care;
3. The Report on the Executive Seminar on Livestock Insurance Fund, Mombasa;
4. The Report on inspection visit regarding land issues in Taita Taveta County.
5. The Report on training on monitoring and evaluation of the Committee on Implementation in Mombasa;
6. The Report on the 3rd Annual ICPAK Chapter Seminar, Johannesburg, South Africa;
7. The Report on training on strengthening oversight using monitoring and evaluation tools at United Nations Institute on Training and Research (UNITAR), Geneva, Switzerland; and
8. The Report on submissions from the stakeholders regarding implementation status of House Resolutions, Petitions, Adopted Committee and Acts.

MIN. NO.COI/250/2018:**ANY OTHER BUSINESS**

The following issues were raised: -

1. Consideration of submissions from stakeholders

The Committee noted the need to include the dates responses were received from various stakeholders and categorize the submissions into resolutions/motions, adopted committee reports, petitions and legislations passed by the House.

2. Study Visits/Proposed Training

- a) The Chairperson informed the meeting that the Committee received an invitation from the State University of New York in conjunction with the Centre for Parliamentary Studies & Training requesting for nomination of Members for training. The training is proposed to be undertaken from 14th to 23rd September, 2018 at Albany, New York.


The Committee had proposed the following seven (7) Members to undertake the training: -

- i. Hon. Godfrey Osotsi, MP – Vice Chairperson/Leader of the Delegation
 - ii. Hon. Onesmas Kimani Ngunjiri, MP
 - iii. Hon. Alois Musa Lentoimaga, MP
 - iv. Hon. Nixon Kiprotich Korir, MP
 - v. Hon. John Waluke Koyi, MP
 - vi. Hon. (Dr.) Daniel Kamuren Tuitoek, MP
 - vii. Hon. Jared Okelo, MP
- b) The Hon. Francis Waititu, MP, to replace the Hon. Jared Okelo, MP, for the proposed study visit to Romania.
- c) The Hon. Paul Abuor, MP, to replace the Hon. Godfrey Osotsi, MP, Vice Chairperson, for the proposed study visit to Zambia.

MIN. NO.COI/251/2018:

ADJOURNMENT

There being no other business, the meeting was adjourned at forty minutes past eleven o'clock.

Sign.......... Date.....16/08/2018.....
(Chairperson)

MINUTES OF THE 28TH SITTING OF THE COMMITTEE ON
IMPLEMENTATION HELD ON THURSDAY 17TH MAY, 2018, IN THE
FOURTH FLOOR BOARDROOM, PROTECTION HOUSE, PARLIAMENT
BUILDINGS, AT 10.00 AM.

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - Chairperson
2. The Hon. Godfrey Osotsi, MP - Vice Chairperson
3. The Hon. Richard Onyonka, MP
4. The Hon. Onesmas Kimani Ngunjiri, MP
5. The Hon. George Theuri, MP
6. The Hon. Maj. (Rtd) John Waluke Koyi, MP
7. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
8. The Hon. Owen Yaa Baya, MP
9. The Hon. Hassan Oda Hulufu, MP
10. The Hon. Joshua Mbithi Mwalyo, MP
11. The Hon. Nelson Koech, MP
12. The Hon. Paul Odalo Mak'Ojuando Abuor, MP
13. The Hon. Michael Thoya Kingi, MP

APOLOGIES

1. The Hon. Alois Musa Lentoimaga, MP
2. The Hon. Francis Munyua Waititu, MP
3. The Hon. (Dr.) James Kipkosgei Murgor, MP
4. The Hon. Paul Simba Arati, MP
5. The Hon. Johnson Many Naicca, MP
6. The Hon. Joseph Wathigo Manje, MP
7. The Hon. Jared Okelo, MP
8. The Hon. Silvanus Osoro, MP
9. The Hon. Charles Ngusya Nguna, MP
10. The Hon. Generali Nixon Kiprotich Korir, MP

IN-ATTENDANCE

NATIONAL ASSEMBLY

- | | | |
|-------------------------------|---|---------------------------|
| 1. Mr. Abdirahman Gele Hassan | - | Clerk Assistant III |
| 2. Mr. Eugene Apaa | - | Research Officer III |
| 3. Mr. Joseph Okong'o | - | Media Relations Officer 1 |
| 4. Mr. Moses Kariuki | - | Serjeant-at-arms |

MIN. NO.COI/143/2018:

PRELIMINARIES

The Chairperson called the meeting to order at twenty-five minutes past Ten o'clock followed by a word of prayer.

MIN. NO.COI/144/2018:

CONFIRMATION OF MINUTES

The Minutes of the 16th Sitting held on Tuesday 10th April, 2018 was confirmed as a true record of the proceedings having been proposed and seconded by Hon. Godfrey Osotsi, MP and Hon. Joshua Mwalyo, MP respectively.

MIN. NO.COI/145/2018:

MATTERS ARISING

Under Min.No.COI/086/2018: Implementation of the Scrap Metal Act

1. The Committee was informed of a letter from the Ministry of Trade, Industry and Cooperatives indicating that the Kenya Government Printers published the appointment of members to the Scrap Metal Council on 5th April, 2018 vide Gazette Notice No. 3442.
2. The Committee noted the need to verify the said gazette to the Scrap Metal Council independently to ensure implementation of the Act.

MIN. NO.COI/146/2018:

CONSIDERATION OF THE REPORT ON OWNERSHIP OF MOMBASA CEMENT LIMITED LAND IN KILIFI COUNTY

The Committee deliberated on the Report and noted the need to look into the matter further before engaging the stakeholders. The Committee formed a sub committee, which included the following Members;

1. The Hon. Godfrey Osotsi, MP - Vice Chairperson

2. The Hon. Onesmas Kimani Ngunjiri, MP
3. The Hon. Owen Yaa Baya, MP
4. The Hon. Nelson Koech, MP
5. The Hon. Paul Odalo Abuor, MP

MIN. NO. COI/147/2018:

**CONSIDERATION OF THE
REPORT ON THE CRISIS FACING
THE SUGAR INDUSTRY IN KENYA**

The Committee noted that the Reports by the Departmental Committee on Agriculture regarding challenges facing sugar industries were yet to be implemented. They resolved to consider the two reports and thereafter invite the Cabinet Secretary for Agriculture and Irrigation, the CS National Treasury, Kenya Revenue Authority, the Kenya Bureau of Standards, Kenya Sugar Board, Mumias Sugar Company and other relevant stakeholders for a meeting on Tuesday 3rd July, 2018.

MIN. NO. COI/148/2018:

**CONSIDERATION AND ADOPTION
OF THE INDUCTION REPORT**

The Committee considered and adopted the Induction Report of the Committee as proposed and seconded by Hon. Daniel Kamuren Tuitoek and Hon. Paul Abuor, MP respectively.

MIN. NO. COI/149/2018:

ANY OTHER BUSINESS

1) Draft Committee Reports

The Secretariat was urged to submit/forward copies of reports through the Members email before hand so that Members can appraise themselves with the contents of the reports before coming to committee meetings.

2) Payment of Members Sitting allowances

The Committee noted with concern that their sitting allowances are yet to be paid. The Chairperson assured the Committee that he would pick up the matter with the Liaison Committee to ensure Members are paid their sitting allowances accordingly.

3) Foreign Travels

The Committee echoed that nomination of members to foreign travels be based on committee attendance and participation.

4) Implementation of House Resolutions

The Vice Chairperson informed the Committee that he was working on a draft legislation to ensure implementation of House Resolutions and government assurances.

5) Work Plan

The Committee resolved to have a retreat in due course to prepare its work plan for the Financial Year 2018/19.

MIN. NO.COI/150/2018:

ADJOURNMENT

The meeting was adjourned at ten minutes past twelve o'clock. The next meeting will be on notice.

Sign.......... Date.....**05.06.2018**.....

(Chairperson)

MINUTES OF THE SIXTEENTH SITTING OF THE COMMITTEE ON
IMPLEMENTATION HELD ON TUESDAY 10TH APRIL, 2018 IN 2ND FLOOR
BOARDROOM, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS, AT 11:00 AM.

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - Chairperson
2. The Hon. Godfrey Osotsi, MP - Vice Chairperson
3. The Hon. Paul Simba Arati, MP
4. The Hon. Maj. (Rtd) John Waluke Koyi, MP
5. The Hon. Johnson Many Naicca, MP
6. The Hon. Alois Musa Lentoimaga, MP
7. The Hon. (Dr.) James Kipkosgei Murgor, MP
8. The Hon. George Theuri, MP
9. The Hon. Joseph Wathigo Manje, MP
10. The Hon. Charles Ngusya Nguna, MP
11. The Hon. Paul Odalo Abuor, MP
12. The Hon. Michael Thoyah Kingi, MP
13. The Hon. Hassan Oda Hulufu, MP
14. The Hon. Jared Okelo, MP
15. The Hon. Joshua Mbithi Mwalyo, MP
16. The Hon. Generali Nixon Kiprotich Korir, MP

APOLOGY

The Hon. Silvanus Osoro, MP

ABSENT

1. The Hon. Onesmas Kimani Ngunjiri, MP
2. The Hon. Francis Munyua Waititu, MP
3. The Hon. Richard Onyonka, MP
4. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
5. The Hon. Nelson Koech, MP
6. The Hon. Owen Yaa Baya, MP

IN-ATTENDANCE

COMMITTEE SECRETARIAT

1. Mr. Abdirahman Gele Hassan - Clerk Assistant III
2. Ms. Doreen Karani - Legal Counsel II

MINISTRY OF INDUSTRY, TRADE, AND COOPERATIVES

1. Ms. Betty C. Maina, CBS - Principal Secretary, State Department for Industry
2. Mr. Charles W. Mahinda - Acting Director, Industrial Sector Support

ABM

Michael Wanjala- Recycling Manager

MIN.NO. COI/083/2018:

PRELIMINARIES

The Chairperson called the meeting to order at thirteen minutes past eleven o'clock and said the Prayer. He welcomed everyone to the meeting and led a round of self-introduction. Thereafter, the agenda of the day was adopted having proposed by the Hon. (Dr.) James Murgor, MP, and seconded by the Hon. Hassan Hulufo, MP, as follows:-

- i. Meeting with the CS for Industry, Trade & Cooperatives to deliberate on the implementation status of the Scrap Metal Act, 2015.
- ii. Consideration of pending business before the Committee.

MIN.NO. COI/084/2018:

CONFIRMATION OF MINUTES

Minutes of the 15th Sitting held on Tuesday 27th March, 2018 were confirmed as a true record of the proceedings having been proposed and seconded by the Hon. Alois Musa Lentoimaga, MP, and the Hon. Paul Simba Arati, MP respectively.

MIN.NO. COI/085/2018:

MATTERS ARISING

Under Min No. COI/077/2018-Inspection visit to Makueni County:-

The Committee resolved to postpone the inspection visit to Makueni County to follow up implementation of the Report by the Departmental Committee on Lands on the displacement of residents due to the construction of Maanoni dam in Mbitini to a later date.

Under Min No. COI/078/2018-Meeting with the Cabinet Secretary for Interior and Coordination of National Government:-

The Committee resolved to postpone the meeting with the Cabinet Secretary which was scheduled for Tuesday 17th April, 2018 to a later date to be communicated in due course.

MIN.NO. COI/086/2018:

**MEETING WITH THE MINISTRY OF
INDUSTRY, TRADE, AND
COOPERATIVES TO CONSIDER
IMPLEMENTATION STATUS OF THE
SCRAP METAL ACT, 2015**

The Principal Secretary of the State Department for Industry, Ms. Betty Maina and acting Director, Industrial Sector Support, Mr. Charles Mahinda appeared before the Committee and brief them as follows:-

1. The Scrap Metal Act was developed through a consultative process and involved all key stakeholders.
2. New measures were introduced which were designed to address the problems affecting the development of iron and steel industry including theft of road furniture and infrastructure for scrap metals.
3. The Scrap Metal Act empowers the competent authorities with sufficient legal framework to issue regulations requiring identification and traceability of all scrap metal handled by any scrap metal dealer.
4. The principal purpose for the enactment of the Scrap Metal Act, 2015 was to provide for the regulation of dealings in scrap metal and to establish and provide for the functions of the Scrap Metal Council.
5. The Ministry doesn't collect money from scrap metal dealers. e.g. licensing fee.
6. Major countries that import scrap metals were South Korea and China.
7. The basic convention controls the movement of lead which is normally smuggled into the country.
8. There was a masterpiece plan to ensure international companies buy locally available materials from local firms. However, some companies still import materials from their countries e.g. during constructions of highways.

9. The Scrap Metal Council is an advisory board and helps in market intelligence and identification of illegal operators.
10. Currently, the Council is not operational and the Ministry issue licenses under the original Act as the successor law is yet to be operationalized.
11. The Council is expected to have its inaugural meeting by end of April once it's properly constituted.
12. The Chairman of the Scrap Metal Council was appointed on 27th October, 2016 vide Gazette Notice No. 8743.
13. The Committee wondered how the Ministry has appointed only the Chairperson of the Council without the other board members and how they were operating without the council.
14. The legal gazette notice appointing members to the Scrap Metal Council has already been issued awaiting printing by the Government Printer and assured the Committee that it will be printed by Friday 20th April, 2018.
15. The budget for operationalization of the Scrap Metal Act has been factored in the 2018/19 Financial Year and requested for the support of Parliament in order to fully operationalize the Act.
16. The Presidential taskforce on parastatal reforms emphasized on the reduction of parastatal hence the Ministry was hesitant in forming a new body.
17. The Principal Secretary promised to move with speed and operationalize the current Act soonest possible.

The Committee observed the following: That

1. The Scrap Metal Act required for the formation of a Council which is yet to be established.
2. Despite the repeal of Cap 503, the Ministry was yet to operationalize the Scrap Metal Act, 2015 hence still operating under the previous Act.
3. The Scrap Metal Act is yet to be operationalized three years after its enactment.
4. Considering the long and unnecessary delays in operationalization of the Act, the Committee directed the Ministry to fast track the process to ensure that the Act is fully implemented.

MIN.NO. COI/087/2018:

CONSIDERATION OF PENDING
BUSINESS

The agenda was deferred.

MIN.NO. COI/088/2018:

ANY OTHER BUSINESS

The Committee deliberated on the planned executive seminar on index-based Livestock Insurance scheduled for Monday 16th April to Wednesday 18th April, 2018 at Mombasa. Members were urged to provide their preferred departure times by close of business, Tuesday 10th April, 2018. The Committee further resolved to substitute Hon. Generali Nixon Korir, MP with Hon. Paul Abuor, MP, in the said seminar.

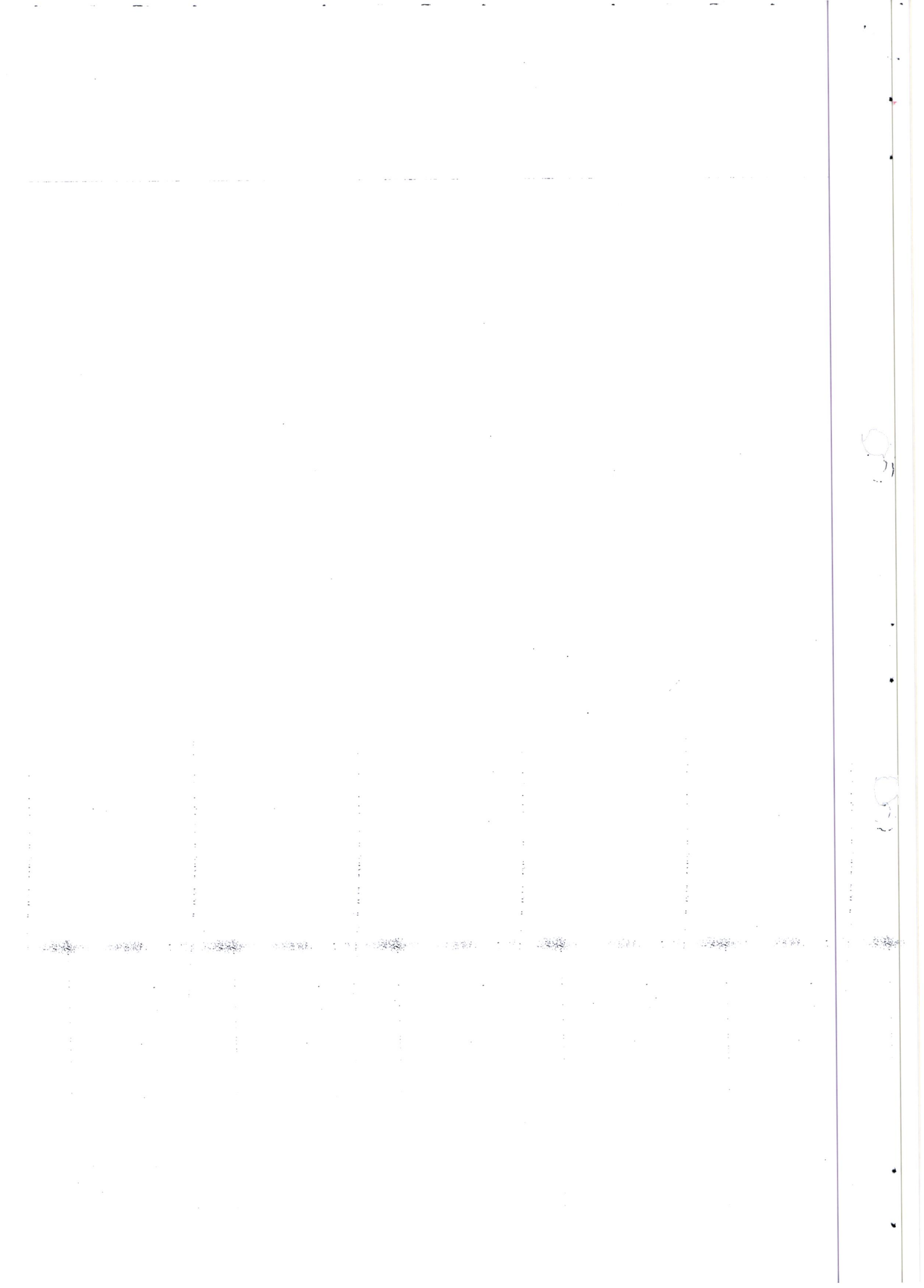
MIN.NO. COI/089/2018:

ADJOURNMENT

The meeting was adjourned at nineteen minutes past twelve o'clock. The next meeting will be held on Thursday 12th April, 2018 at 11:00 am.

Sign.  Date. 17.05.2018.

(Chairperson)



**MINUTES OF THE TENTH SITTING OF THE COMMITTEE ON
IMPLEMENTATION HELD ON THURSDAY 1ST MARCH, 2018 IN 4TH FLOOR
BOARDROOM, PROTECTION HOUSE, PARLIAMENT BUILDINGS, AT 11.00 AM.**

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. The Hon. Alois Musa Lentoimaga, MP
3. The Hon. (Dr.) James Kipkosgei Murgor, MP
4. The Hon. George Theuri, MP
5. The Hon. Maj. (Rtd) John Waluke Koyi, MP
6. The Hon. Paul Odalo Mak'Ojuando Abuor, MP
7. The Hon. Michael Thoyah Kingi, MP
8. The Hon. Jared Okelo, MP
9. The Hon. Joshua Mbithi Mwalyo, MP
10. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
11. The Hon. Johnson Many Naicca, MP
12. The Hon. Charles Ngusya Nguna, MP
13. The Hon. Owen Yaa Baya, MP
14. The Hon. Hassan Oda Hulufu, MP

APOLOGIES

1. The Hon. Godfrey Osotsi, MP - **Vice Chairperson**
2. The Hon. Francis Munyua Waititu, MP
3. The Hon. Silvanus Osoro, MP
4. The Hon. Joseph Wathigo Manje, MP
5. The Hon. Nelson Koech, MP

ABSENT

1. The Hon. Onesmas Kimani Ngunjiri, MP
2. The Hon. Richard Onyonka, MP
3. The Hon. Paul Simba Arati, MP
4. The Hon. Generali Nixon Kiprotich Korir, MP

IN-ATTENDANCE

NATIONAL ASSEMBLY

1. Ms. Rose M. Wanjohi - Clerk Assistant II
2. Mr. Abdirahman Gele Hassan - Clerk Assistant III
3. Mr. James Muguna - Research Officer III
4. Mr. John Ng'ang'a - Audio Officer
5. Mr. Moses Kariuki - Serjeant-at-arms

CENTER FOR ENVIRONMENTAL ACTION

1. Prof. Karanja Njoroge - Chair, Public Interest Stakeholder in Scrap Metal Industry.
2. Eng. Geche Karanja - Kenya Alliance for Residence Association
3. Mr. Israel Dancun - COFEK Representative
4. Mr. Michael Wanjala - Recycling Manager, A.B.M

MIN.NO. COI/040/2018:

PRELIMINARIES

The Chairperson, Hon. Moitalel Ole Kenta, MP, called the meeting to order at twenty-three minutes past eleven o'clock and said the Prayer. Introductions were made thereafter.

MIN. NO. COI/041/2018:

CONFIRMATION OF MINUTES

The Minutes of the 9th Sitting held on Tuesday 27th February, 2018 were confirmed as a true record of the proceedings having been proposed and seconded by the Hon. (Dr.) James Murgor, MP and the Hon. Joshua Mwalyo Mbithi, MP respectively.

MIN. NO. COI/042/2018:

MATTERS ARISING

No matters arose.

MIN. NO. COI/043/2018:

CONSIDERATION OF THE SCRAP METAL ACT, 2015

Prof. Karanja Njoroge and other stakeholders appeared before the Committee and informed the Members as follows; That:-

1. The President assented to the Scrap Metal Act 2015 on 7th January, 2015, with a commencement date of 23rd January, 2015. The Act seeks to make provisions for the regulation and management of the scrap metal industry in Kenya. It also seeks to control and regulate the handling of scrap metal, the export of scrap metal, the licensing and registry of all scrap metal dealers and the provision for the establishment of a Scrap Metal Council for purposes of streamlining the management of the sector.
2. The enactment of the law was as a result of many hours of work by Parliament as well as long and protracted efforts by industrialists, public asset managers, environmentalists and the general public.

3. There were many who were concerned about “fly-by-night” smelters of scrap lead-acid batteries (Automotive batteries) illicitly smelting the lead in very poor neighborhoods leading to environmental contamination and high risks to public health.
4. The passage of the Act was to stop the unscrupulous dealers and operators in scrap metal industry and bring order and sanity to an otherwise chaotic situation. Unfortunately, none of the key provisions of the Act have been implemented to date, three years after enactment.

They further raised the following key areas:-

- (a) **The Scrap Metal Council:** An Agency that would manage and regulate the scrap metal industry as per the Act was to be created by the Cabinet Secretary for Industry, Trade and Cooperatives but it is yet to be set up. Therefore the administration of the scrap metal industry – licensing, restrictions, record keeping, is yet to be put in place. The appropriate measures and mechanisms for regulating the scrap metal industry to ensure long-term economic growth, while protecting public health and high levels of environmental stewardship in scrap metal recycling industry are still far from being achieved.
- (b) **Exports of scrap metal:** Despite the Government’s stated objective of creating jobs and expanding the manufacturing industry, the Country continues to export jobs to Asian countries by continuing non-restrictive practices of shipping out much needed raw material by industries. This exposes the industries’ vulnerability to international metal markets. The Country must, therefore, take bold and strategic decisions to protect its raw materials from the insatiable export market in Asia. Kenya has the capacity and the industrial base to utilize all the scrap metal within the country.
- (c) **The absence of Source Register by registered dealers:** The Act provided for a system of disclosure of the source of all scrap material in the possession of any scrap dealer. This was to stem the tide against vandalism and theft of public infrastructural installation and other public assets.

The scrap batteries are now being “exported” to Uganda where the lead is smelted and then “re-exported” again out of Uganda as elevator counterweights to Asian countries. This is done in a region where Kenya has a capacity to produce 100,000 batteries from investments made when the Scrap Metal Act was enacted in 2015. Currently, 60% of that capacity is idle due to shortages of raw material.

The rationale for the enactment of The Scrap Metal Act 2015

Kenya banned the export of all scrap metal in order to protect local manufacturer's raw material requirements and to stem the tide against theft and vandalism of valuable public infrastructural assets like power cables, transformers, storm and sewer manhole covers, guard rails and signboards on highways. These vandals cause untold havoc on public utility infrastructure across the country, leaving a wake of higher power and communication costs and increased accidents on our roads and highways.

Those persons are engaged in jobs in the scrap metal industry are not threatened by a ban on scrap exports, because jobs shall continue to be secure since scrap dealers will continue to operate as usual, the change is only in the market that they will serve. The stakeholders proposed that the dealers concentrate their sales within the East African Common Market once an agreement is reached by the Council of Ministers to ban all scrap from leaving the common market.

The anticipated expansion of the manufacturing industry through greater access to cheaper raw materials shall create jobs that are long-term, secure, requiring technical and skilled personnel and well-paying to spur the growth of Kenya's economy. Adding value to scrap metals will, therefore, provide these types of jobs.

Kenya has the potential capacity and a sound industrial base to utilize all the scrap metal within the country and even perhaps import within the East African Common Market. The country should, therefore, stand firm in support of its own stated plan for industrialization by 2030.

Situation Analysis in Kenya

The scrap metal industry in Kenya has grown over the years supplying metal and steel manufacturers with needed raw materials. The scrap metal dealers operate in almost all the major towns in Kenya and primarily engage people who go out to collect scrap metal from waste disposal sites, homes and businesses. Kenya banned the export of steel (ferrous) scrap sometimes ago but continues to allow the export of all other scrap metals. This makes it difficult to verify what scrap metals are being exported. A lot of ferrous metal is being exported disguised as non-ferrous. Inspection of scrap metal at the ports of exit is cumbersome and inconclusive.

Because of its low price-to-weight ratio, raw ferrous scrap is generally purchased locally from industrial manufacturers, demolition firms, railroads, scrap dealers, peddlers, auto wreckers and various other sources in the form of automobile hulks, appliances and plate and structural steel.

Non-ferrous scrap refers to aluminum, copper, brass, stainless steel and other nickel-bearing metals, titanium, high-temperature alloys and other exotic metals. The geographic markets for non-ferrous scrap tend to be larger than those for ferrous scrap because non-ferrous metals sell for higher prices, which justify the cost of shipping over greater distances.

The dealers separate the scrap and sell to manufacturers in the steel and other metal industries who recycle waste. But because of the insatiable scrap metal needs in Asia, the dealers tend to opt to sell their wares abroad. The prices are better especially for some critical metals like lead, copper, and aluminum.

The industry has, over the last ten to fifteen years, been buffeted with problems of criminal elements using the scrap metal industry as an avenue to get rich quick. Theft of machinery, motor vehicles, public utility communication and power cables, manhole covers, steel signage structures and power transformers have been associated with unscrupulous scrap metal dealers. The Kenya Power and Lighting Company (KPLC) loses almost 3,000 transformers every year and about 200,000 meters of the power cable to persons strongly suspected to work with scrap metal dealers. Over a year ago, Telkom Kenya unearthed a syndicate of criminals who steal their communication cable copper wires and sell to scrap metal dealers. Hundreds of cars stolen every day end up as heaps of scrap destined for Asian scrap metal markets.

While it is easy to police and inspect local metal and steel smelters who recycle scrap metals, it is very difficult to inspect compressed loads of scrap metal in containers destined for export. Power and communication costs continue to be high partly because of these factors. KPLC may import a transformer in one month and the same transformer is exported as scrap in the next month. The Nairobi County Government (NCC) is unable to replace stolen manhole covers that have ended up either as scrap in a dealer's yard or are refurbished and sold in the local market. In spite of incurring additional costs to secure the manhole covers by welding them to the base, it has become untenable to the NCC to keep replacing them.

The banning of scrap metal will largely benefit Kenya Railways Corporation, Kenya Power & Lighting Company, Kenya National Highways Authority and Telkom Kenya among other public utility companies that tend to suffer the most from vandalism and theft of their cables, steel and metal assets.

Regional Situation Analysis

In the East Africa Common Market, Uganda and Tanzania have banned scrap exports in favor of spurring growth in the manufacturing sector. However, there are loopholes that enable export of certain types of scrap metal like aluminum, copper, brass and lead. Consideration needs to be made to have an EAC common market approach in dealing with the consequences of vandalism of public infrastructure assets and the trend of trans-boundary motor vehicle thefts associated with unscrupulous scrap metal dealers.

All those countries who allow exports of scrap face similar problems ranging from high costs of the raw material in the steel industry brought about by the competition with foreign buyers. They experience higher incidences of economic vandalism and theft of public assets, have low-value addition in the manufacturing industry and are largely dependent on imported household and consumer goods. They also spend inordinate amounts of foreign exchange to purchase goods that could easily be manufactured at home with the right support. For example, in the East Africa Common Market, the automotive battery manufacturers have a capacity to manufacture over 150,000 batteries a month. The market is approximately about 100,000 batteries a month. But the manufacturers only produce 65,000 batteries. The rest of the requirement is imported. This takes away approximately US\$7 million in foreign exchange from the Common Market a month. This is a staggering US\$84 million in foreign exchange per year. The local battery manufacturers were not advocating for protection against battery manufacturers abroad but were concerned that the country sells the raw material—scrap lead—to manufacturers abroad and buy manufactured batteries from them which could have been manufactured locally.

Battery manufacturers have in the past raised issues related to the protection of sources of lead as a critical raw material requirement in the manufacture of automotive batteries in Kenya. The industry has relied on local acquisitions of the material through an elaborate process of recycling old automotive batteries to reclaim lead as per the prescribed international and local environmental laws, in accordance with the Basel and Bamako Conventions on Hazardous Waste

Management Practices which includes lead-acid battery waste. In 2006, the industry advocated for a complete export ban of used/scrap lead acid batteries, lead scrap, crude lead or refined lead from the East African Common Market. This was to conform to the above conventions as well as protecting the raw material for local battery manufacturers.

Kenya manufacturers of automotive and solar batteries cannot get enough of the raw material because of the demand of the same in India, Malaysia and China. There are unscrupulous scrap metal dealers who circumvent National Environmental Management Authority and Public Health requirements in the recycling of lead-acid batteries and sell the blocks of lead as “elevator counterweights” to battery manufacturers in India and elsewhere. This practice would be easier to manage with the implementation of the Scrap Metal Act.

The Stakeholders further informed the Committee that:-

- i. There were illegal smelters in Nairobi (Kariobangi South), Mombasa and Naivasha which are contaminated with lead beyond acceptable standards causing health hazards thus endangering lives.
- ii. Countries like United States of America, England and South Africa have a good system that is most progressive in the scrap metal industry.
- iii. The licensing fees will be adequate for the Scrap Metal Council to run its operations hence making it self-sustaining.
- iv. There are cartels in the industry whose aim was to ensure that the Scrap Metal Act of 2015 was not operationalized.
- v. As at 2014, the estimated value of the industry was at 500 million US dollars.
- vi. The Government was losing millions of shillings through the lack of operationalization of the Act.
- vii. Failure of the implementation of the Act led to environmental degradation, loss of raw materials leading to high cost of production, loss of signage in the roads leading to accidents through vandalism, loss of jobs and lack of protection of consumers.

Conclusion

- i. Kenya has no option than to join many of its competitors in protecting a major source of raw materials for the metal industry by implementing the Scrap Metal Act of 2015. This

would also bring sanity and order in an otherwise chaotic sector where the search for cheap scrap becomes an encouragement for vandalism of public assets, theft and illegal smelters of toxic metals (lead) in slum areas.

- ii. They further informed the Committee that they engaged the Ministry of Industry, Trade and Cooperatives over the same on several occasions and requested for interventions and implementations of the Act to no avail adding that the industries which require metal in their manufacturing are struggling and risk closure due to the siphoning of raw materials.
- iii. The stakeholders requested the Committee to revisit the matter and establish why the Ministry of Industry, Trade and Cooperatives failed to implement the legislation three years after its enactment.

MIN. NO. COI/044/2018:

COMMITTEE OBSERVATIONS

1. The Scrap Metal Act, No.1 of 2015 was enacted to provide for the regulation of dealings in scrap metal, the establishment of a Scrap Metal Council and other connected purposes. It came into force on 23rd January, 2015 following presidential assent on 7th January, 2015 and it has therefore been in effect for a little over three years.
2. The Cabinet Secretary for Industry, Trade and Cooperatives is responsible for implementation of the Act.
3. The Act has not been implemented effectively, therefore, the mischief that the Act sought to cure still plague the sector.
4. The increasingly illegal ^{exportation} importation of scrap metal materials continues to threaten the battery manufacturing industry. Lead is the main raw material in battery manufacturing and it is alleged that the same is being smuggled into the country.
5. The legislation was meant to support the retention of the raw material for value addition but scrap metal dealers have continued to export raw materials hence starving local companies.
6. The Act specifically provides for stringent conditions under which exports of lead would be permitted. The result of the illegal exportation is a serious deficiency that has had to be supplemented through imports from Asian and European countries which consequentially has increased the cost of goods.
7. The law requires the establishment of a Scrap Metal Council, a body responsible for licensing of scrap metal dealers and reign in on illegal scrap metal dealers. The Council is yet to be formed hence continued poor regulation of the sector.

8. The law further required the appointment of scrap metal Inspectors whose function was to work in collaboration with the Scrap Metal Council in order to bring order and integrity to the scrap metal trade by enforcing the Act. The Act required that Inspectors so employed should be persons with training in metallurgy or a related field of study. The Committee noted with concern that the inspectors were yet to be hired.
9. Despite the enactment of the new legislation, the industry is still operating under the old regime despite the Scrap Metal Act, Cap 503 having been repealed in 2015.

Resolution

The Committee resolved to invite the Cabinet Secretary for Industry, Trade and Cooperatives on Tuesday 20th March, 2018, to provide a detailed explanation of the implementation status of the Scrap Metal Act of 2015.

MIN. NO. COI/045/2018:

ANY OTHER BUSINESS

1. The Committee resolved to invite the CS for Interior & Coordination of National Government on Tuesday 13th March, 2018 to deliberate on the implementation status of the Petition on compensation for village managers.
2. The Committee further resolved to engage the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development on the implementation of a Resolution on tarmacking of 20km of roads in each constituency.

MIN. NO. COI/046/2018:

ADJOURNMENT

The meeting was adjourned at five minutes past one o'clock. The next meeting will be held on Tuesday 13th March, 2018 at 11.00am.

Sign.....

(Chairperson)

Date..... 13/03/2018

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THE REPUBLIC OF KENYA

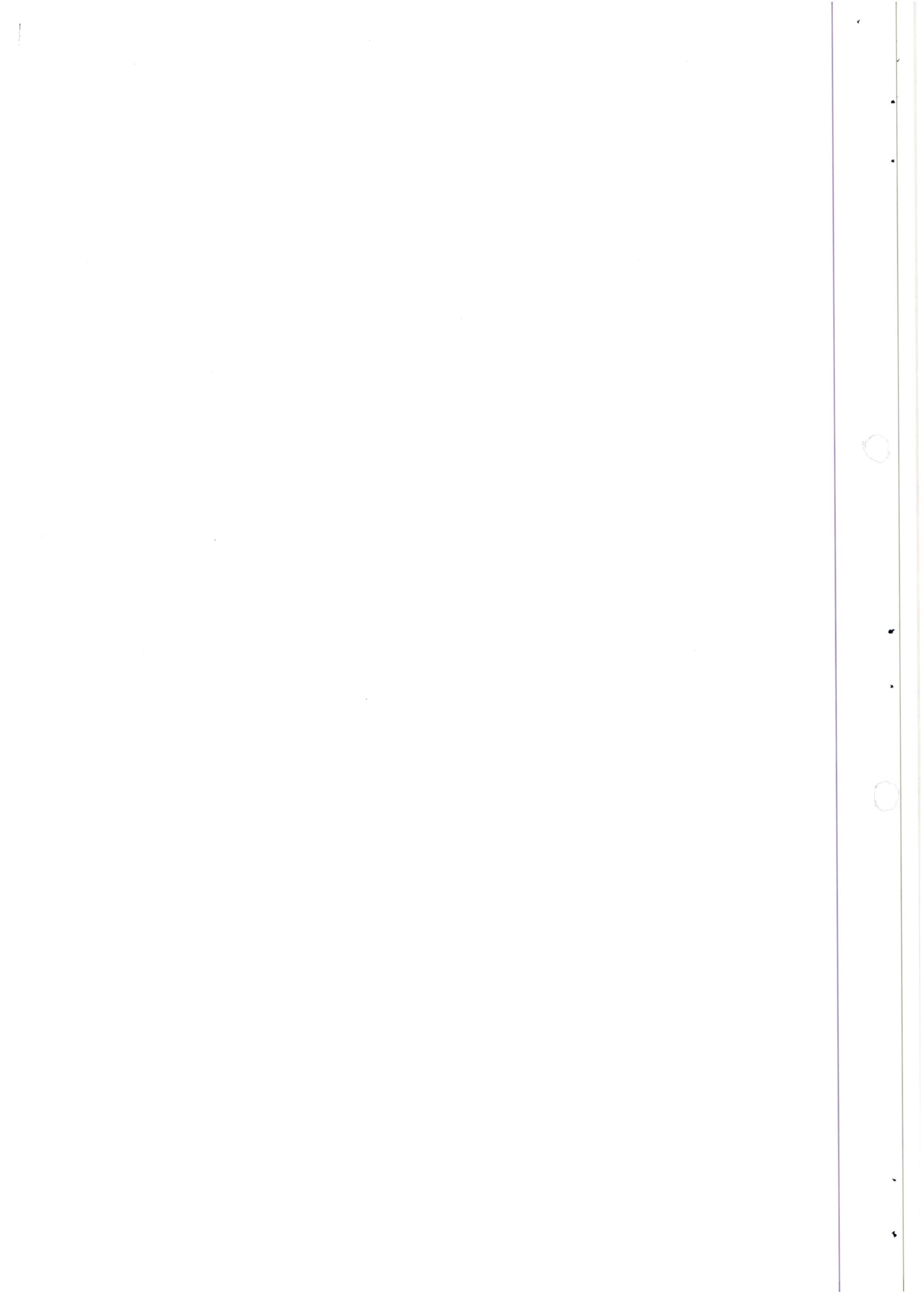
LAWS OF KENYA

SCRAP METAL ACT

NO. 1 OF 2015

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No. 1 of 2015

SCRAP METAL ACT
ARRANGEMENT OF SECTIONS

PART I – PRELIMINARY

Section

1. Short title.
2. Interpretation.

PART II – ESTABLISHMENT AND MANAGEMENT OF THE COUNCIL

3. Establishment and incorporation of the Council.
4. Composition of the Council.
5. Removal of Council members from office.
6. Functions of the Council.
7. Business Affairs of the Council.
8. Protection from personal liability.

PART III – ADMINISTRATION

9. Restriction from dealing in scrap metal.
10. Application for licence.
11. Issue of licence.
12. Appeal to Cabinet Secretary.
13. License not transferable.
14. Cancellation of licence.
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16. Display of signboard.
17. Record by licensee.
18. Register by licensee.
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20. Restriction on licensees.
21. Restriction on disposing or changing the form of scrap metal.
22. Information regarding stolen or lost property.
23. Scrap metal of unknown origin.
24. Destruction, vandalism of infrastructure.
25. Forfeiture of scrap metal.
26. Exports of scrap metal.
27. Actions by agents or servants.
28. Offence committed by corporation, cooperative society or other person.

PART IV – ENFORCEMENT

29. Appointment of inspectors.
30. Power of entry.

PART V – MISCELLANEOUS

31. Protection from personal liability.
32. General penalty.
33. Power to make Rules.
34. Repeal of Cap 503.

SCHEDULES

FIRST SCHEDULE	- PROVISIONS RELATING TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNCIL
SECOND SCHEDULE	- APPLICATION FOR A LICENCE OR RENEWAL OF A LICENCE
THIRD SCHEDULE	- LICENCE TO DEAL IN SCRAP METAL
FOURTH SCHEDULE	- RECORD OF SCRAP METAL IN THE POSSESSION OF DEALER
FIFTH SCHEDULE	- REGISTER OF SCRAP METAL
SIXTH SCHEDULE	- VARIATION OF A LICENCE TO DEAL IN SCRAP METAL
SEVENTH SCHEDULE	- NOTICE OF SEIZURE

NO. 1 OF 2015

SCRAP METAL ACT

[Date of assent: 7th January, 2015.]

[Date of commencement: 23rd January, 2015.]

AN ACT of Parliament to make provision for the regulation of dealings in scrap metal, to provide for the establishment of a Scrap Metal Council and for connected purposes

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Scrap Metal Act, 2015.

2. Interpretation

In this Act, unless the context otherwise requires—

"agent" means a person or institution contracted by a licensee to buy or sell on behalf of such dealer in scrap metal whose weight does not exceed five thousand kilograms;

"to bale" means to—

- (a) pack in drums or other containers; or
- (b) bind, hold together by cordage, metal straps, canvas roping or other means;

"Cabinet Secretary", means the Cabinet Secretary responsible for matters relating to industrialization;

"collector" means a person appointed by a licensee to operate as a mobile collector in a designated area to gather, collect and buy scrap metal in order to sell to a licensed agent or dealer in quantities that do not exceed three thousand kilograms per transaction;

"conditional order" means an order issued by the court as provided under section 25 (4);

"Council" means the Scrap Metal Council established under section 3;

"dealing" in relation to scrap metal, includes buying or otherwise acquiring, selling or otherwise disposing of scrap metal whether by way of barter, pledge or otherwise;

"licence" means a licence issued under section 11;

"licensed dealer" means a person licensed to deal in scrap metal under section 11, whether or not such person engages in any other trade or business, and excludes a person generating or using such metal as a by-product;

"miller" means a person who buys scrap metal in its original form for the recycling and processing it into semi-finished or finished products;

"Principal Secretary" means the Principal Secretary responsible for matters relating to industrialization;

"scrap metal" includes—

- (a) any old metal, second-hand metal, broken metal, defaced or old metal goods (including machinery and plant), whether wholly or partly manufactured, and any metal which is the property of the Government, or is privately owned, whether ferrous, non-ferrous or ferro-alloyed, but does not include gold, silver or any metals of the platinoid group; and
- (b) used automobile batteries;

"inspector" means an officer appointed as a scrap metal inspector under section 29, and

"utility company" means a public body established under the relevant laws in the railway, telecoms, energy, water or roads sectors.

PART II — ESTABLISHMENT OF THE SCRAP METAL COUNCIL

3. Establishment and incorporation

- (1) There is established the Scrap Metal Council.
- (2) The Council shall be a body corporate with perpetual succession and a common seal and shall in its corporate name, be capable of—
 - (a) suing and being sued;
 - (b) purchasing or otherwise acquiring, holding or disposing movable or immovable property; and
 - (c) doing or performing all things or acts for the furtherance of the provisions of this Act which may be lawfully done or performed by a body corporate.

4. Composition of the Council

- (1) The Council shall consist of—
 - (a) a chairperson appointed by the Cabinet Secretary who has at least five years' experience in the public or private sector;
 - (b) the Principal Secretary of the Ministry for the time being responsible for matters relating to transport or representative;
 - (c) the Commissioner General of the Kenya Revenue Authority or a representative;
 - (d) the Inspector-General of Police or a representative;
 - (e) the Principal Secretary of the Ministry for the time being responsible for matters relating to industrialisation or his or her representative;
 - (f) the following persons, nominated as follows, and appointed by the Cabinet Secretary—
 - (i) one person nominated by the Scrap Metal Dealers Association;
 - (ii) one person nominated by the metal cottage industry;
 - (iii) one person nominated by the Kenya Association of Manufacturers;
 - (iv) one person nominated by large utility companies or agencies in charge of infrastructure, to be appointed on rotational basis;
 - (v) one person nominated by the Consumer Federation of Kenya.
- (2) The members of the Council shall elect a vice-chairperson from among their number during the first meeting of the Council.

(3) The chairperson and members of the Council, other than an *ex-officio* member shall be appointed by notice in the Gazette and hold office for a period of three years, but shall be eligible for reappointment once.

5. Removal of Council members from office

A member of the Council, other than an *ex-officio* member may—

- (a) at any time resign from office by notice in writing to the Cabinet Secretary; or
- (b) be removed from office by the Cabinet Secretary if the member is—
 - (i) absent from three consecutive meetings of the Council without the permission of the chairperson, or in the case of the chairperson, without the permission of the Cabinet Secretary;
 - (ii) adjudged bankrupt or enters into a scheme of arrangement with his or her creditors;
 - (iii) in breach of the Public Officers Ethics Act or other relevant laws;
 - (iv) incapacitated by reason of prolonged physical or mental illness from performing his or her duties as a member of the Council;
 - (v) convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings; or
 - (vi) incompetent and the Council makes a written recommendation to this effect to the Cabinet Secretary.

6. Functions of the Council

- (1) The functions of the Council shall be to—
 - (a) advise the Cabinet Secretary on—
 - (i) the appropriate measures and mechanisms for regulating the scrap metal industry in ensuring economic growth, protection of public health and conformity to the principles of environmental stewardship as required by the Basel Convention;
 - (ii) the appropriate measures and mechanisms for protecting public interest against vandalism, theft of utility infrastructure and private property;
 - (iii) the methods of attracting investors on the utilization of excess scrap materials and supporting existing users of scrap metal;
 - (iv) the applicable license fees to be prescribed under this Act; and
 - (v) any other matter relevant to the operations of this Act.
 - (b) receive, vet and process all applications for the grant and renewal of licenses.
 - (c) receive public complaints and disputes from the public and within the scrap metal industry.
 - (d) submit an annual status report on the scrap metal industry in Kenya to the Cabinet Secretary.
- (2) The Council shall unless otherwise provided in this Act work in collaboration with the inspectors to bring order and integrity to the scrap metal trade.

7. Business affairs of the Council

(1) The conduct and regulation of the business and affairs of the Council shall be as provided for in the First Schedule but subject thereto, the Council may regulate its own procedure.

(2) The Ministry responsible for matters relating to industrialization shall provide secretariat services to the Council.

8. Protection from personal Liability

(1) No act or omission by any member of the Council or by any officer, employee, agent or servant of the Council shall, if the act or omission was done bona-fide for the purposes of executing a function, power or duty under the Act render such member, officer, employee, agent or servant personally liable to any action, claim or demand whatsoever.

(2) The provisions of subsection (1) shall not relieve the Council of the liability to pay compensation to any person for any injury to him or her, his or her property or to any of his or her interests caused by the exercise of any power conferred by this Act or by failure, whether wholly or partially, of any action or omission.

PART III — ADMINISTRATION**9. Restriction from dealing in scrap metal**

(1) A person shall not deal in scrap metal, unless that person has a licence issued by the Council and is a member of Scrap Metal Dealers Association.

(2) Any person who contravenes subsection (1) commits an offence and is liable on conviction—

- (a) for a first offence to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding three years or both; and
- (b) for a second or subsequent offence to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding five years or both.

10. Application for licence

(1) A person seeking a licence or renewal of a licence shall apply to the Council as provided in the Second Schedule.

(2) The application in subsection (1) shall be in triplicate and shall—

- (a) specify the name of the dealer;
- (b) specify the premises in which the applicant intends to deal in scrap metal; and
- (c) be accompanied by the prescribed fee.

(3) The Council shall consider the application for the grant or renewal of a licence and shall approve or reject the application within thirty days from the date of application.

(4) The Council may decline to issue or renew a licence—

- (a) if the applicant has been convicted of any offence under this Act at any time during the three years immediately preceding the date of the application;
- (b) if the applicant has been convicted of any offence involving fraud or dishonesty at any time during the five years immediately preceding the date of the application;

- (c) if the applicant is an un-discharged bankrupt or a company in liquidation; or
- (d) if the applicant's premises are in the opinion of the Council unsuitable for dealing in scrap metal; or
- (e) in the case of renewal of a licence, if the applicant does not have a valid certificate of good conduct and a valid certificate of tax compliance.

(5) Where the Council refuses to issue a licence it shall give reasons for such refusal to the applicant within the period specified in subsection (3).

11. Issue of licence

Every licence granted or renewed under this section shall—

- (a) be issued in the form prescribed in the Third Schedule;
- (b) be valid for one year;
- (c) specify the licensee as the principal or agent to deal in scrap metal;
- (d) specify the location of all the premises in which the licensee is authorized to deal in scrap metal;
- (e) specify any type of scrap metal the licensee may or may not deal in; and
- (f) be subject to such conditions as the Council may consider necessary.

12. Appeal to Cabinet Secretary

Where the Council refuses to issue or renew a licence, the applicant may appeal to the Cabinet Secretary.

13. Licence not transferable

(1) A licence shall not be transferable except with the consent of the Cabinet Secretary on the advice of the Council and shall authorize dealing at the specified premises.

(2) Notwithstanding subsection (1), the Council may, on the application of a licensee and upon payment of the prescribed fee, vary a licence by substituting for the specified premises, other premises as provided in the Sixth Schedule and thereupon all the provisions of this Act shall apply to such premises.

(3) Any licensee who contravenes this section commits an offence and is liable on conviction to a fine not exceeding three million shillings.

14. Cancellation of licence

The Council may cancel a licence issued under this Act if—

- (a) the licensee becomes bankrupt, or, being a company, goes into liquidation; or
- (b) in the opinion of the Council, the premises of the licensee are unsuitable for dealing in scrap metal; or
- (c) the licence was obtained by fraud, misrepresentation or non-disclosure of any material fact; or
- (d) the licensee is convicted of an offence involving fraud or dishonesty or theft.

15. Appeal to High Court

A person whose licence has been cancelled by the Council may appeal to the Cabinet Secretary and if not satisfied by the decision of the Cabinet Secretary, may appeal to the High Court.

16. Display of signboard

(1) Every licensee shall conspicuously display a signboard within his or her premises the manner prescribed.

(2) Without prejudice to the generality of subsection (1), every signboard shall—

- (a) bear the full name of the licensee;
- (b) bear the words "LICENSED SCRAP DEALER" in capital letters;
- (c) be in English or Kiswahili.

(3) Subsections (1) and (2) shall not apply to a person who internally generates scrap metal as a result of their internal processes.

(4) Any person who fails to comply with the requirements of subsections (1) or (2) commits an offence and is liable on conviction to a fine not exceeding two million shillings.

17. Record by licensee

(1) Every licensee shall prepare in duplicate, a record as prescribed in the Fourth Schedule or in such other form as the Cabinet Secretary may in any particular case approve, of each variety of scrap metal, which was at the date and time of the grant of the licence in the licensee's possession or under the licensee's control and shall sign the duplicate copy of the register and submit it to the Council within one month of the grant of the licence.

(2) The record shall contain the weight, dimensions and general description of the scrap metal.

(3) The licensee shall keep this record for a maximum of seven years.

(4) Any licensee who fails to comply with this section commits an offence and is liable on conviction to a fine not exceeding two million shillings and where such offence continues after conviction, to a fine not exceeding two thousand shillings for each day in which such offence continues or until the license is revoked.

18. Register by licensee

(1) Every licensee shall keep a register as prescribed in the Fifth Schedule, or in such other form as the Cabinet Secretary on the recommendation of the Council may approve and the register shall contain—

- (a) the weight, dimensions and general description of the scrap metal which from time to time come into the possession or control of the licensee and in respect of each item, the name of the person whether the licensee, servant or agent, who purchased, acquired or received the scrap metal, and the date and time of, and the consideration for the transaction, and the name, identity card number, address and telephone number of the person from whom the licensee, servant or agent purchased, acquired or received the scrap metal from; and
- (b) the weight, dimensions and general description of the scrap metal which the licensee sells, disposes or which otherwise ceases to be in his or her possession or control, and showing in respect of each item, the date and time of the transaction and the name, identity

Scrap Metal

card number, address and telephone number or other means of identification of the person to whom the licensee, servant or agent sold, disposed of or parted with possession or control of such scrap metal.

(2) Every entry required to be made under subsection (1) shall be made within twenty-four hours of the time when the transaction took place, and the licensee shall ensure that every party to such transaction signs or affixes his or her left thumb-print to such entry.

(3) Any licensee, servant or agent who fails to comply with this section commits an offence and is liable on conviction—

- (a) for a first offence, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both; and
- (b) for a second or subsequent offence to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years, or to both and such license shall be revoked.

19. Presumption as to records

Every entry required to be prepared or kept under section 17 or section 18 of this Act shall be deemed, unless the contrary is shown, to have been made with the authority of the respective licensee.

20. Restriction on licensees

(1) A licensee shall not deal in scrap metal—

- (a) except between the hours of half-past six o'clock in the morning and half-past six o'clock in the evening;
- (b) with any person under the age of eighteen years, whether that person is acting or purporting to act on his or her own behalf or on behalf of another person; or
- (c) with any person who does not satisfy the licensee as to his or her identity.

(2) A licensee shall not store or deal in any scrap metal elsewhere other than at the specified premises; unless the licensee is authorized by the Council.

(3) A variation of the licence shall be in the form prescribed in the Sixth Schedule.

(4) Any licensee who contravenes this section commits an offence and is liable on conviction to a fine not exceeding one million shillings and, where such offence continues after conviction, to a fine not exceeding two thousand shillings for each day in which such offence continues or until the license is revoked.

21. Restriction on disposing or changing the form of scrap metal

(1) A licensee shall not—

- (a) dispose of;
- (b) disfigure or in any way change the form or shape of; or

- (c) bale any scrap metal within seven days of acquiring possession or control of the scrap metal except with the written permission of the Principal Secretary.

(2) Any person who contravenes sub-section (1) commits an offence and is liable on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years or to both.

22. Information regarding stolen or lost property

(1) Where a description of any lost or stolen property has been given by an inspector to a licensee, and any property fitting such description is in the possession or control of the licensee or thereafter comes into the possession or control of the licensee or is thereafter offered or shown to the licensee, the licensee shall immediately report such incident to the nearest Police Station or inspector, and supply the following information—

- (a) name;
- (b) identity number;
- (c) telephone number; and
- (d) address of the person from whom he or she acquired or saw such property.

(2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both.

23. Scrap metal of unknown origin

(1) No person whether a licensee, servant or agent shall allow scrap metal whose origin is unknown into his or her possession whether in the licensed premises or otherwise.

(2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding seven years or to both.

24. Destruction of infrastructure

(1) A person shall not remove, deface or destroy any scrap metal from the infrastructure designed for roads, bridges, railways, pipelines, telecommunication, electricity, water and sewerage, or any government infrastructure project.

(2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding three years or to both.

25. Forfeiture of scrap metal

(1) Subject subsection (3), an inspector may seize any scrap metal whose ownership is undetermined and shall within a period of fourteen days present it before a Court and if the Court is satisfied that the owner cannot be found, declare it forfeited to the State.

(2) A Court may order that any scrap metal in respect of which an offence has been committed under this Act shall be forfeited to the State.

(3) Where the Court intends to make an order of forfeiture, the inspector shall issue the notice prescribed in the Seventh Schedule to the person from whom the scrap metal was seized from.

(4) An order for the forfeiture of scrap metal under subsection (1) or subsection (2) may be a conditional order, and upon a conditional order being made, the Court shall direct an inspector to advertise the order in the Gazette.

(5) If, within three months from the date of publication of the order in the Gazette, a person proves to the satisfaction of the Court that—

- (a) the person has a lawful title to the scrap metal or part thereof in respect of which the conditional order of forfeiture has been made, or
- (b) the person was not involved in the commission of the offence in respect of which such order was made,

the Court may order the scrap metal, or such part as the Court considers just, to be delivered to that person subject to the payment of any such sum the Court may direct to be paid for the reimbursement of the expenses incurred in recovering, transporting and storing such scrap metal and for publishing such advertisement and where the expenses are not paid within three months, the conditional order for forfeiture shall become absolute.

26. Exports of scrap metal

(1) A person shall not export scrap metal in any form.

(2) Notwithstanding subsection (1), the Cabinet Secretary for matters relating to finance, in consultation with the Cabinet Secretary responsible for industrialization and with the recommendation of the Council, may, under such circumstances as may be prescribed, authorize the export of specific scrap metal for a specified period.

(3) A certificate for each consignment shall be issued by the Principal Secretary.

(4) Any exemption allowed under this section shall be valid for six months from the date of issue of the certificate of exemption.

(5) Any person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding five years or to both.

27. Actions by agents or servants

(1) Where any act or thing is done or omitted to be done by an agent or servant employed by a licensee who, if done or omitted by such licensee would constitute an offence under this Act, such licensee shall be personally liable for such offence as if the act or omission was occasioned by the licensee.

(2) Every agent or servant employed by a licensee who in the course of business does or omits to do anything which would under this Act constitute an offence if done or omitted by a licensee commits an offence and is liable on conviction to the punishment prescribed under this Act.

28. Offence committed by a company, cooperative society or other person

Where an offence under this Act committed by a company, cooperative society or other body of persons, corporate or not corporate, is proved to have been committed with the consent of or to have been facilitated by the neglect of any director, chairperson, manager, secretary or other officer of the company, cooperative society or other entity, the director, chairperson, manager, secretary or other officer of the company as well as the company, cooperative society or other entity, shall upon conviction be liable to the punishment prescribed under this Act.

PART IV — ENFORCEMENT

29. Appointment of inspector

(1) The Cabinet Secretary shall, for purposes of enforcing the provisions of this Act, appoint such number of inspectors with adequate training in metallurgy or a related field of study, as the Cabinet Secretary may consider appropriate and shall issue to such inspectors, certificates of authority to act as scrap metal inspectors.

(2) A person appointed as an inspector under subsection (1)—

- (a) shall hold office subject to such terms and conditions as the Cabinet Secretary may determine;
- (b) shall have police powers in the exercise of his or her duties under this Act;
- (c) may subject to the direction of the Director of Public Prosecutions summon, examine witnesses under oath or affirmation and conduct prosecutions for offences committed under this Act.

(3) The Cabinet Secretary may designate other public officers to be inspectors for purposes of this Act.

(4) The Cabinet Secretary may amend or withdraw the appointment of inspectors under this section.

(5) The appointment of inspectors under this section shall be by notice in the Gazette for a renewable period of three years.

30. Power of entry

(1) An inspector may at any reasonable time, with or without a search warrant—

- (a) enter upon and inspect any place, premises or vehicle at, on or in which goods that are reasonably suspected of being stolen scrap metal or vandalized infrastructure are to be found and make a record as provided in the prescribed form;
- (b) take the steps that may be reasonably necessary to terminate the deal or transaction on vandalized or stolen scrap metal at, on or in such place, premises or vehicle, and to prevent the recurrence of any such act in future:

Provided that the actions set out herein shall not include the destruction or alienation of the relevant scrap metal unless authorized by an order issued by a court of competent jurisdiction;

- (c) seize, detain, and, where applicable, remove for detention, all the scrap metal found at, on or in such place, premises or vehicle or other modes of conveyance;
- (d) seize detain, and, where applicable, remove for detention, any tools which may be used in processing such scrap metal;
- (e) if the inspector suspects that a person at, on or in such place, premises or vehicle may furnish any information with respect to any dealing in vandalized or stolen scrap metal—
 - (i) question that person and take down a statement from that person;
 - (ii) demand from that person any book, document, article, item or object which in any way may assist in identifying the location, source or destination of the scrap metal, or the identity and address of any person who may be involved in dealing as a

Scrap Metal

supplier, miller, distributor, exporter or clearing and forwarding agent of the scrap metal.

(2) Nothing in this section shall be construed as requiring a person to answer any question or give any information, if to do so might incriminate him or her.

(3) The inspector shall make in duplicate and in the prescribed form, an inventory of all the scrap metal that has been detained and the inventory shall be signed by the inspector and licensee and each shall retain a copy.

(4) An inspector may, with or without a warrant, arrest any person whom the inspector suspects upon reasonable grounds of having committed an offence under this Act and may search and detain such a person for a maximum of twenty four hours at the nearest Police Station.

(5) Before acting under this section, an inspector shall, if required to do so, produce documentary evidence of his or her appointment.

(6) Any person who obstructs or hinders an inspector in the exercise of the inspector's powers under this section, or who fails to furnish any information required by the inspector commits an offence and is liable on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding one year or to both.

PART V — MISCELLANEOUS

31. General penalty

A person who commits an offence under this Act for which no penalty is specifically provided, is liable to a fine not exceeding two hundred thousand shillings or for a term not exceeding three months or to both.

32. Power to make rules

(1) The Cabinet Secretary may on the recommendation of the Council make rules for the better carrying out of this Act.

(2) Without prejudice to the generality of subsection (1), rules made under this section may make provision for or with respect to—

- (a) prescribing the forms to be used under this Act; prescribing the fees to be charged under this Act;
- (b) prescribing the manner and particulars of the signs and notice boards that are required to be displayed by licensees;
- (c) prescribing the manner in which scrap metal forfeited under this Act shall be disposed of; and
- (d) generally for the carrying out of any of the purposes of this Act.

33. Repeal of Cap. 503

The Scrap Metal Act, 1962 is repealed.

SCHEDULES

FIRST SCHEDULE

(s. 7 (1))

PROVISIONS RELATING TO THE CONDUCT
OF BUSINESS AND AFFAIRS OF THE COUNCIL

1. The Council shall meet on a quarterly basis or as may be required by the Cabinet Secretary.
 2. A meeting of the Council shall be held on such date and at such time as the chairperson shall decide.
 3. The chairperson shall, on the written application of one-third of the members, convene a special meeting of the Council.
 4. Unless the majority of the total membership of the Council otherwise agree, at least fourteen days' written notice of every meeting of the Council shall be given to every member of the Council.
 5. The quorum for the conduct of business at a meeting of the Council shall be at least five members of the Council.
 6. The chairperson shall preside at every meeting of the Council and in the absence of the chairperson at a meeting, the vice-chairperson shall preside and in the absence of both the chairperson and the vice-chairperson, the members present shall elect one of their number to preside and who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.
 7. Unless a unanimous decision is reached, a decision on any matter before the Council shall be by concurrence of a majority of all the members.
 8. Subject to paragraph 5, no proceedings of the Council shall be invalid by reason only of a vacancy among the members thereof.
 9. The Council shall cause minutes of all proceedings of meetings of the Commission to be entered in books for that purpose.
 10. Except as provided by this Schedule, the Council may regulate its own procedure.
 11. A member of the Council shall not transact any business or trade with the Council.
-

SECOND SCHEDULE

(s. 10 (1))

APPLICATION FOR A LICENSE OR RENEWAL
OF A LICENSE TO DEAL IN SCRAP METAL

FORM A

This form should be submitted to the Scrap Metal Council in TRIPLICATE. One copy will be returned to the applicant.

Name(s) of applicant(s)

.....

(Block capitals)

Postal address(es)

.....

.....

Address of registered office

.....

.....

Situation of all the premises at which authority to deal in scrap metal is required

.....

Other business transacted on these premises

.....

.....

Number and date of previous license(s) issued to applicant(s)

.....

I/we hereby certify that

- (a) I have not/neither/none of us has been convicted of any offence under the provisions of the Scrap Metal Act, at any time during the three years immediately preceding the date of this application; and
- (b) I have not/neither/none of us has been convicted of any offence involving fraud or dishonesty at any time during the five years immediately preceding the date of this application; and
- (c) *I am not/neither/none of us is an undischarged bankrupt or a company in liquidation;

And that the information supplied in this application is true and correct.

Date Signature(s)

.....

*Delete as necessary

Note: - In the case of a partnership, all partners must join in the application.

THIRD SCHEDULE

(s. 11 (a))

FORM B

LICENCE TO DEAL IN SCRAP METAL

License No.

Name

Address

is hereby licensed to deal in all kinds of scrap metal except
at in the District,
subject to the provisions of the Scrap Metal Act and of all Rules made hereunder.

This license expires on 31st December, 20

Fee paid: Licensed dealer - KSh. 250,000.00 for which this License is also the
OFFICIAL RECEIPT.

Signature of Chairperson, Scrap Metal Council

.....

Date

FOURTH SCHEDULE

(s. 17 (1))

RECORD OF SCRAP METAL IN THE POSSESSION OF DEALER

(This form should be submitted to the Scrap Metal Council in DUPLICATE within
one month after the grant of the License.)

I/We hereby declare that the following is a true and accurate description of
every variety of scrap metal in my/our possession or under my/our control on
the 20.....

the date of the grant of my license.

FULL NAME(S) of LICENSEE(S)

.....

.....

Item General Description Variety of Metal Weight or Dimensions

No. metal dimensions description

- 1.
- 2.
- 3.
- 4.
- 5.

Scrap Metal

- 6.
- 7.
- 8.

Date Signature(s)

FIFTH SCHEDULE

(s. 18(1))

REGISTER OF SCRAP METAL

RECORD OF SCRAP METAL ACQUIRED

Name of person(s) who purchased, acquired or received:

.....

Date and time of transaction

.....

Consideration for transaction

.....

Name and postal address of person from whom purchased, acquired or Received

.....

Item General Description Variety of Metal Weight or Dimensions

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.

Time and date of making this entry

.....

Signature or left thumb-print of every party to the transaction:

.....

.....
Note.-This record must be completed within TWENTY-FOUR HOURS of the time when the Transaction took place.

Form E
RECORD OF SCRAP METAL DISPOSED OF

Name, postal address and occupation or other adequate means of identification of person(s) to who scrap metal is sold or disposed of or to whom possession or control given:

.....
.....
.....

Date and time of transaction

.....

Item General Description Variety of Metal Weight or Dimensions

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.

Time and date of making this entry

.....

Signature or left thumb-print of every party to the transaction:

.....
.....

Note.-This record must be completed within TWENTY-FOUR HOURS of the time when the Transaction took place.

SIXTH SCHEDULE

(s. 20(3))

FORM F

VARIATION OF A LICENCE TO DEAL IN SCRAP METAL

Licence No.

Superseding Licence No. Dated

Name

Address

is hereby licensed to deal in scrap metal throughout Kenya, subject to the provisions of the provisions of the Scrap Metal Act, and to all Rules made there under, at the following premises:

.....
.....
.....

This Licence expires on 31st December, 20

Fee Paid: Licensed dealer - KSh. 250,000.00 for which this Licence is also the OFFICIAL RECEIPT

Signature of Chairperson, Scrap Metal

Council

Date

For Accounts Office use of duplicate copy only.

HEAD: ACCOUNT NO. SH. CTS

SUB-HEAD:

1,000,000.00 ITEM:

SEVENTH SCHEDULE

(s. 25(3))

FORM G

NOTICE OF SEIZURE

Premises.
To

Take notice that the following scrap metal item(s):
Item No. General Description Variety of Metal Weight or Dimensions has/have
been seized as liable to forfeiture under the Scrap Metals Act on the following
grounds:

.....
.....
.....

2. If you claim or intend to claim that the things seized are not liable to forfeiture you
should, within fourteen days from the date of this notice, give notice in writing of your
claim in accordance with the provisions of the Scrap Metal Act. In default of such
notice, the scrap metal seized will be deemed to have been lawfully condemned
and will be liable to be disposed of in such a manner as the Court may direct.

Signed:
Scrap Metal Inspector Date
Dealer Date



1107



① OI/Committees
26/04

MINISTRY OF INDUSTRY, TRADE AND COOPERATIVES

**State Department of Investment & Industry
Office of the Principal Secretary**

Telephone: 020-2731531-9
0704097021/23, 0788484840/41
Fax: 020-2731511
Email: ps@industrialization.go.ke
When replying please quote:

Social Security House BLK 'A'
Bishops Road, Capital Hill
P.O. Box 30418 - 00100
NAIROBI

REF: MCDM/1/17

Date: 24th April, 2018

Mr. Michael R. Sialai, EBS
The Clerk of National Assembly
Clerk Chambers
Parliament Building
NAIROBI

② ROSE
pls deal
FA
26/4/18

Dear Mr. Sialai,

RE: GAZETTE NOTICE NO. 3442 ON SCRAP METAL ACT

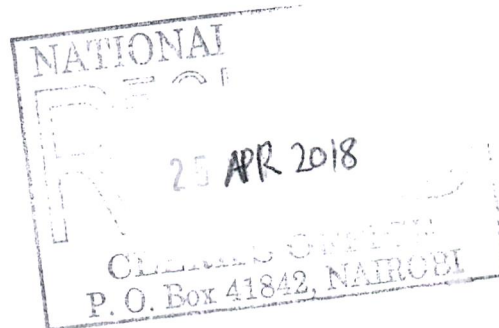
Reference is made to our letter Ref: MCDM/1/17 dated 15th March, 2018 addressed to you to consider the implementation of the Scrap Metal Act, 2015.

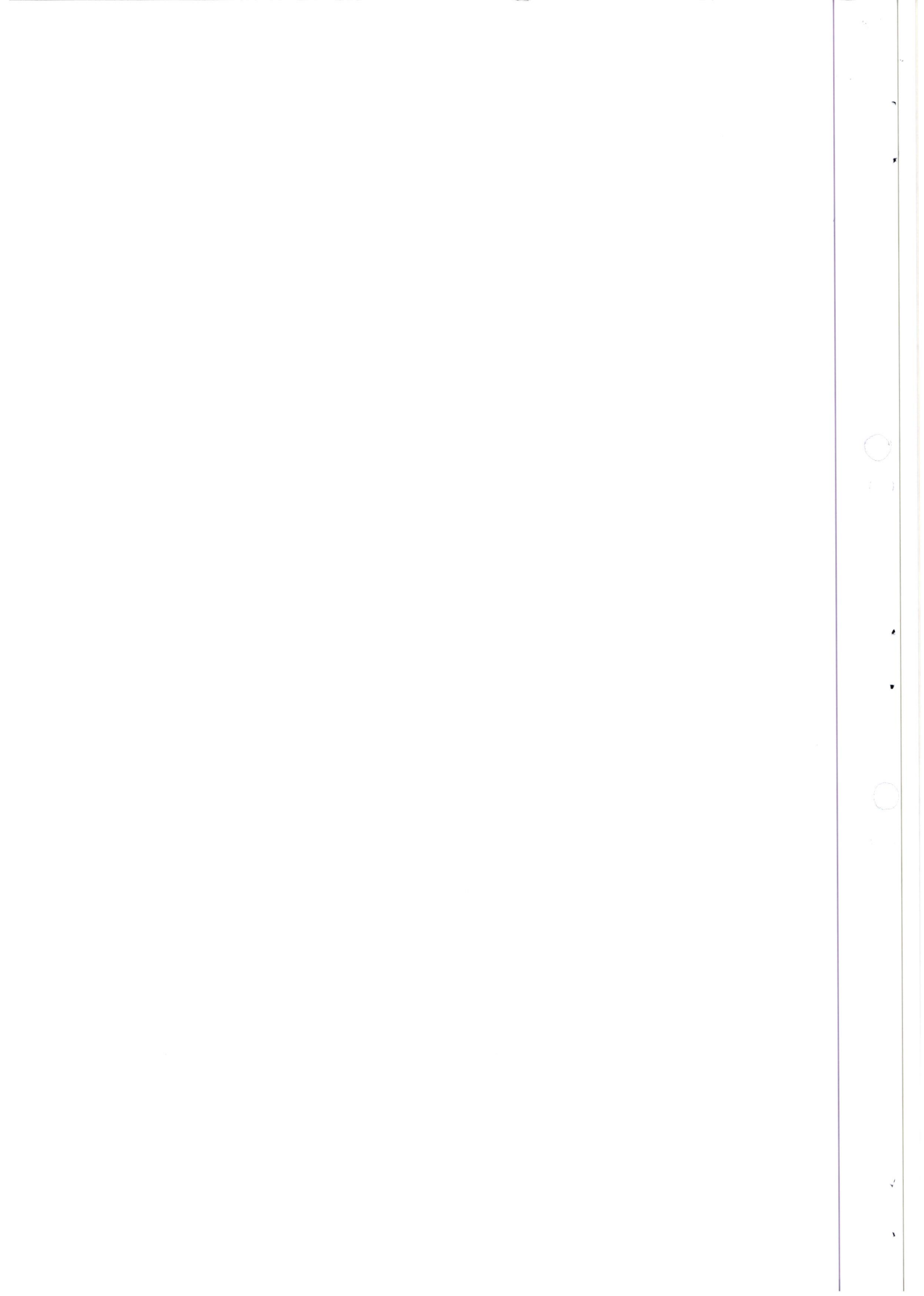
The Kenya Government Printers published the appointment of the members of Scrap Metal Council on 5th April, 2018.

This is to request that you forward the attached copy of Kenya Gazette Notice No. 3442 on Scrap Metal Act to the Chairman on Implementation Committee for information and necessary action.

Yours sincerely,

Betty C. Maina, CBS
PRINCIPAL SECRETARY





Published by Authority of

(Registered as a Newspaper)

Vol. CXX — No. 44

NAIROBI, 10th

GAZETTE NOTICE NO. 3442

THE SCRAP METAL ACT

APPOINTMENT

IN EXERCISE of the powers conferred by section 4 (1) of the Scrap Metal Act, the Cabinet Secretary for Industry, Trade and Co-operatives appoints—

Under:

- (b) the Principal Secretary responsible for Transport
- (c) the Commissioner-General for Kenya Revenue Authority
- (d) the Inspector-General, Kenya Police Service
- (e) the Principal Secretary responsible for Industrialization
- (f) (i) Stephen M. Irungu
- (ii) Shezad Fazal
- (iii) Aaron Bobby Johnson
- (iv) Director-General, Kenya National Highways Authority
- (v) Stephen Mutoro, Consumer Federation of Kenya

to be members of the Scrap Metal Council, for a period of three (3) years, with effect from 5th April, 2018.

Dated the 5th April, 2018.

ADAN MOHAMED,
Cabinet Secretary,
Ministry of Industry, Trade and Co-operatives.

GAZETTE NOTICE NO. 3443

THE CONSTITUTION OF KENYA
THE COUNTY GOVERNMENTS ACT

(No. 17 of 2012)

NOTIFICATION FOR THE APPOINTMENT OF COUNTY EXECUTIVE
COMMITTEE MEMBERS



OD/Cuts 26/6

MINISTRY OF INDUSTRY, TRADE AND CO-OPERATIVES

State Department of Industry

OFFICE OF THE PRINCIPAL SECRETARY

Telephone: +254-(0)-20-2731531/2-44

Web: www.industrialization.go.ke

Email: ps.moied@gmail.com

Email: ps@industrialization.go.ke

Social Security House, Block A

P.O. Box 30547 - 00100

NAIROBI, GPO

KENYA

Ref. No. **MOI/CORP/5/3**

Ms. Rose Wanjiku
Pse bring to the attention
of the committee
Mutegy 27/6/18

21st June 2018

Mr. Michael Sialai, CBS

Clerk of the National Assembly

Clerk's Chambers

National Assembly

NAIROBI

John Mutegwa/HOD
pls TNA
27/6/18

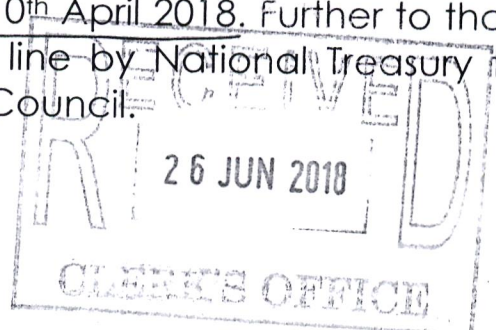
Dear Mr. Sialai,

RE: IMPLEMENTATION STATUS OF THE PROVISIONS IN THE SCRAP METAL ACT, 2015

I am in receipt of your letter under reference NA/DCS/COI/2018/(55) dated 12th June 2018.

As you are aware, on 10th April 2018, I appeared before the select Committee of the House on the Implementation of resolutions of the House with respect to implementation of the provisions of the Scrap Metals Act, 2015 where I conveyed the message of the Cabinet Secretary to undertake operationalization of the Scrap Metal Council through issuance of a legal gazette notice and facilitation of the same.

I am happy to report to you that, appropriate measures have now been put in place to fully operationalize the Council after the legal gazette notice was published on the 10th April 2018. Further to that, the Ministry was allocated a budget line by National Treasury to facilitate full operationalization of the Council.



Further to the above, Executive Order No. 1 of June 2018 has assigned the oversight and regulatory function of the scrap metal industry to the Ministry which function shall be implemented through the Scrap Metal Council. Once the Council is fully operational at the beginning of the new financial year, it shall comprehensively review all existing export certificates and consider any other new applications with a view to streamlining operations with this sub-sector.

In view of the above we wish to suggest that, we allow the Council to review and vet all applications to deal in scrap metal as this is one of its core mandate and advise on how to deal with all matters related to and affecting the management of the scrap metal sector including the methods of dispensing off excess materials that local millers are unable to utilize while protecting public interest against vandalism and theft of utility infrastructure.

Yours Sincerely,



Betty Maina, CBS
PRINCIPAL SECRETARY

Copy to:- Mr. Adan Mohamed, EGH
Cabinet Secretary
Ministry of Industry, Trade and Cooperatives
NAIROBI