

**IN THE EAST AFRICAN COURT OF JUSTICE AT ARUSHA**

**IN THE FIRST INSTANCE DIVISION**

**REFERENCE NO. 19 OF 2024**

THE EAST AFRICAN COURT OF JUSTICE  
Lodged in the Sub-Registry  
Nairobi  
★ 16 APR 2024 ★  
at 4:00 am/pm Sign: N.S.O.  
FIRST INSTANCE DIVISION

**IN THE MATTER OF THE TREATY FOR THE ESTABLISHMENT OF THE EAST  
AFRICAN COMMUNITY**

Eugenia Wanjiru Gikonyo.....

APPLICANT

BETWEEN  
OFFICE OF THE ATTORNEY GENERAL  
& DEPARTMENT OF JUSTICE  
P.O. BOX 40112 - 00100, NAIROBI  
18 APR 2024  
AND  
CIVIL LITIGATION REGISTRY  
RECEIVED  
OFFICE OF THE ATTORNEY GENERAL  
P.O. BOX 40112 - 00100, NAIROBI  
TIME 3:30pm

THE ATTORNEY GENERAL OF  
THE REPUBLIC OF KENYA.....

RESPONDENT

**STATEMENT OF REFERENCE**

(Brought under Articles 5 (2), 5 (3) (c), (3) (f), 6 (a), 6 (b), 6 (c), 6 (d), 7 (2), 8 (1) (c), 23 (1), 27 (1), 30 (1), 30 (2), 111 (1) (b), 111 (1) (d), 111 (2), (a), (b), (c), 112 (1), 114 (1) (a), (b) of the Treaty of the Establishment of the East African Community, Rule 25 (1), 25 (3) of the East African Court of Justice Rules of Procedure 2019)

**A. The Applicant**

The Applicant is Eugenia Wanjiru Gikonyo, a long-standing Kenyan advocate for good governance and accountability. The Applicant is thus a resident in a Partner State of the East African Community (EAC) within the meaning of Article 30 of the Treaty of the Establishment of the East African Community (EAC Treaty). Eugenia Wanjiru Gikonyo's address of Service for purposes of this Reference is Care of Almond Print Limited, P.O. Box 56095 – 00200, Nairobi, 112 Slip Road Old Waiyaki Way, KENYA, email: [harryocenic@gmail.com](mailto:harryocenic@gmail.com) and [james.gathii@gmail.com](mailto:james.gathii@gmail.com)

10

**B. The Respondent**

1. The Respondent is the Attorney General of the Republic of Kenya, whose office is established under Article 156 of the Constitution of Kenya, 2010. He is the principal legal advisor to the Government of the Republic of Kenya, and is being sued on behalf of the Government of the Republic of Kenya. The address for Service for purposes of this

WG.

Reference is The Office of the Attorney General & Department of Justice, Sheria House, Harambee Avenue, P.O.BOX 40112-00100, Nairobi, Kenya.

- 2. The Republic of Kenya is a Partner State of the East African Community (EAC), having acceded to and ratified the Treaty of the Establishment of the East African Community (EAC Treaty) and officially joining the EAC on 7 July 2000.

C. Jurisdiction

- 3. Article 23 (1) of the EAC Treaty provides that this Honourable Court has jurisdiction to ensure adherence to law in the interpretation and application of and compliance with the provisions of the EAC Treaty, Protocols, and all subsequent EAC law.

- 4. Further, Article 27 (1) of the EAC Treaty bestows upon this Court the original jurisdiction to interpret and apply the provisions of the EAC Treaty and EAC law.

10

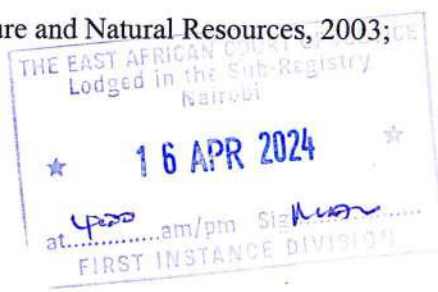
- 5. Article 30 (1) of the EAC Treaty allows any person who is resident in a Partner State to refer for determination by the Court, the legality of any Act, regulation, directive, decision or action of a Partner State or an institution of the Community on the grounds that such Act, regulation, directive, decision or action is *unlawful* or is an *infringement* of the provisions of this Treaty.

- 6. The illegality (unlawfulness above) jurisdiction of the EACJ covers all actions of a Partner State or an institution of the Community that violates domestic or international law (*British American Tobacco (BAT) (U) LTD vs. The Attorney General of the Republic of Uganda* EACJ Ref No. 7 of 2017 (Judgment on March 26, 2019), para 29. This therefore means that the subject matter jurisdiction of the Court expands to all treaties and conventions signed and ratified by the Respondent State. Furthermore, in *The Attorney General of the United Republic of Tanzania vs. African Network for Animal Welfare (ANAW)* Appeal No. 3 of 2011 (Judgement on March 15, 2012) the Court found Articles 5 (2), 5 (3) (c), 111 (1) (b), 111 (1) (d), 111 (2), 112 (1), 114 (1), (a), (b) of the EAC Treaty bring environmental disputes within the purview of the EACJ subject matter jurisdiction. The Appellate Division held that Articles 111–114 of the EAC Treaty, which relate to environmental obligations, responsibilities, and standards of EAC states, are self-executing and do not require a protocol or other special act, process, procedure or proceeding to establish their enforcement. The Court thus affirmed that these provisions are not only obligations of the Partner States, but also causes of action allowing an injured party to seek a remedy against the state for their breach without having to demonstrate “a personal tort, right, infringement, injury or damage specific to himself.” Furthermore, the Court held that the Treaty does not require the Partner States to ratify a Protocol on the Management of the Environment and Natural Resources in order for Articles 111–114 to become enforceable. Consequently, the Respondent is in this regard is a party to the following treaties and conventions that the court can exercise subject matter jurisdiction over:

20

30

- (a). African Convention on the Conservation of Nature and Natural Resources, 2003;



WG

(b). United Nations Convention on Biological Diversity, 1992.

- 7. Article 39 of the EAC Treaty also empowers the Court in any case referred to it, to make any interim orders or issue any directions which it considers necessary or desirable. The provision further stipulates that interim orders and other directions issued by the Court shall have the same effect *ad interim* decisions of the Court.
- 8. The Republic of Kenya is a Partner State of the EAC, and is thus bound by the EAC Treaty and all other international treaties and instruments that it has signed/acceded to and ratified as per the provisions of the EAC Treaty and its jurisprudence.
- 9. This Statement of Reference concerns the actions of the Respondent State in relation to its lack of transparency and public participation, and violation of the EAC Treaty through its actions while considering, setting up, and implementing debt swaps transactions, especially debt for nature swaps and debt for food security swaps to fund the budget deficit for Kenya's financial year 2024/2025. The Respondent State has kept crucial details of these transactions outside the public eye. The only publicly available information relates to vague and general references of these transactions during the parliamentary approval process. These vague and general references to these transactions do not constitute full disclosure of the entirety of the debt swap transactions the Respondent is currently negotiating and implementing. The extremely limited amount of, quality, and comprehensiveness of available information on the debt swaps do not meet even the lowest thresholds of rule of law requirements. Further, there has been no public participation in the consideration of these debt-swap transactions. Paragraph 34 below fully outlines the exact details of the information the Respondent has failed to provide. The Respondent State is thus violating the provisions of the EAC Treaty and its domestic constitution (Constitution of Kenya, 2010) and laws on principles of the rule of law, good governance, transparency, accountability, democracy, and participation of the people. These unlawful actions violate Articles 6 (a) to (c), (d), 7 (2), 8 (1) (c), and 124 (1), (2), and (5) of the EAC Treaty. 10
- 10. Under the EAC Treaty, the Respondent has an obligation to uphold the fundamental and operational principles of the Community as enshrined under Articles 6 (a), (b), (c), (d), 6 (f), and 7 (2) of the Treaty. In particular, these operational principles include the principles of good governance, including the adherence to the principles of democracy, the rule of law, transparency, social justice, equal opportunities, gender equality, as well as the recognition, promotion and protection of human and peoples' rights in accordance with the provisions of the African Charter on Human and Peoples' Rights, and the maintenance of universally accepted standards of human rights. Specifically, Article 9 (1) of the African Charter on Human and Peoples' Rights provides that every individual shall have the right to receive information. Article 24 of the same Charter also provides that all peoples shall have the right to a general satisfactory environment favourable to their development. Furthermore, these universally accepted standards of human rights include Article 2 (10) of the African Charter on Democracy, Elections and Governance which provides that the objective of the Charter include the promotion of the establishment of the necessary conditions to foster citizen participation, transparency, access to information, freedom of the press and accountability in the management of public affairs; and Article 6 (1), (2), (3), 20



30

40

Wg.

and (4) of the African Charter on Values and Principles of Public Service and Administration which provides: Public Service and Administration shall make available to users information on procedures and formalities pertaining to public service delivery; Public Service and Administration shall inform users of all decisions made concerning them, the reasons behind those decisions, as well as the mechanisms available for appeal; Public Service and Administration shall establish effective communication systems and processes to inform the public about service delivery, to enhance access to information by users, as well as to receive their feedback and inputs; Public Service and Administration shall ensure that administrative procedures and documents are presented in a user-friendly and simplified manner.

10

11. Consequently, and according to Article 8 (1) (c) of the EAC Treaty, the Respondent, being one of the contracting parties to the EAC Treaty that established the EAC undertook to abstain from measures likely to jeopardize the achievement of the objectives of the EAC or the implementation of the provisions of the EAC Treaty.

12. It thus follows from all the provisions cited above that the jurisdiction *ratione personae* (personal jurisdiction) and *ratione materiae* (subject matter jurisdiction) of the East African Court of Justice (EACJ) are unequivocally and lawfully invoked in the present case both to hear the dispute over the violations mentioned below of the Treaty and the Respondent's obligations under it and to order interim measures in favour of the Applicant Partner State.

**D. Admissibility**

20

13. This Reference has been filed within 2 months of the actions of the Respondent State that the Applicants complain about. The setting of new debt swap arrangements (DSAs) and projects that form the subject matter of this reference are contained in the Respondent's 2024 Medium Term Debt Management Strategy (the 2024 Medium-Term Debt Management Strategy (MTDMS) and its 2024 Budget Policy Statement both adopted by the Kenyan Parliament on the 5<sup>th</sup> March 2024 for the National Assembly and 7<sup>th</sup> March 2024 for the Senate. However, the process and crucial details of the transactions remain shrouded in secrecy and unless the Respondent State produces evidence that the new debt swap arrangements (DSAs) were initiated, adopted, and implemented 2 months before the date of filing this reference, the Court should find that this case is admissible.

30

**E. Subject Matter of the Reference**

14. The Respondent State indicated the intention to set up sovereign debt swap arrangements in its National Treasury and Economic Planning 2023 Medium Term Debt Management Strategy (the 2023 Medium-Term Debt Strategy (MTDS)). As part of its public debt stock management strategy, the Respondent State made the claim that there were opportunities for 'debt for climate/nature swaps' that will be pursued under the proposed government water dams investment/funding programme with eligible creditors. As stated by the Respondent, the main objective is the introduction of stated restraint measures aimed at reducing the rate of accumulation of public debt stock as an imperative to public debt sustainability.

40



WG.

15. In early January 2024, various reputed news media outlets reported that the Respondent State was looking into setting up a kind of debt swap that would bolster its finances as it faces crucial debt repayment deadlines. The goal of these swaps was to free up funds in the budget for basic social services such as healthcare and provision of food relief services. Thus, unlike the traditional debt-for-nature swaps, where the borrower refinances existing debt at more favorable rates and uses the savings on environmental conservations (like the case of Gabon described below), the Respondent intended to direct the savings accrued from its swaps towards social projects such as healthcare and food aid.

16. In March 2024, in its National Treasury and Economic Planning 2024 Medium Term Debt Management Strategy (tabled in the Kenyan National Assembly on 15 February 2024) (the 2024 Medium-Term Debt Management Strategy (MTDMS)), the Respondent State stated as follows:

10.

‘Other emerging funding sources such as debt swaps especially debt for nature swaps and debt for food security swaps are under consideration between the governments of Kenya and the United Nations Development Partners to fund the budget deficit for FY 2024/2025’

This option is presented as one of the potential external sources to finance the medium-term budget.

17. In the same document, the Respondent stated that it will also explore the issuance of green, sustainability-linked, and blue bonds to finance climate related or environmental sustainability projects. The Respondent also adds the possibility of exploring the issuance of Panda (Chinese renminbi-denominated) and Sumurai (Japanese yen-denominated market) bonds as part of its debt instrument diversification.

20

18. Together with the 2024 MTDMS, the Respondent Ministry of Finance also submitted to the National Assembly and Senate its Medium-Term 2024 Budget Policy Statement sub-titled: “Sustaining Bottom-Up Economic Transformation Agenda for Economic Recovery and Improved Livelihoods.” In it, the Respondent State elaborates its plans for debt swaps but provides no details that this Reference seeks to have disclosed. It states that the Respondent State would continue to explore other alternative sources of financing including climate Fund financing options, Debt for Nature Swaps, Sumurai and Panda bonds depending on the prevailing market and macroeconomic conditions.

30

19. Both documents have now received parliamentary approval in the Respondent State, with approval made at the National Assembly on 5<sup>th</sup> March 2024 and the Senate on 7<sup>th</sup> March 2024. This effectively sets the stage for the Respondent to implement its debt swaps proposals. Doing so without fully disclosing the details of the transactions and the entities involved in executing them including how much they would cost the citizens of the Respondent would be inconsistent with the requirements of transparency, accountability, and public participation as required in both the EAC Treaty and the Respondent’s Constitution and its Public Finance legislative instruments.



W9.

20. A debt swap is a financial instrument that normally provides conditional debt reduction in exchange for the debtor agreeing to invest the freed-up resources (usually in local currency) in specific areas such as education, health, climate or the environment, or food aid. Debt swaps can be divided into three main types: bilateral debt swaps, third party involvement debt swap (also called triangular or trilateral debt swap); and a private intermediated debt swaps via debt buy-back. In so far as the available public record discloses, the proposals by the Respondent State fall under the second type i.e a third-party involvement debt swap programme that are supported by a UN development partners; for example the Debt2Health programme run by the Global Fund to fight AIDs, Tuberculosis, and Malaria and the World Food Programme's debt-for-food programme.

10

21. The Respondent's Clerk of the National Assembly on 16<sup>th</sup> February 2024 (erroneously indicated as 2023) made an invitation for the submission of Memoranda in the Matter of Consideration by the National Assembly of the 2024 Medium-Term Debt Management Strategy. The National Assembly's Clerk invokes Article 118(1)(b) of the Constitution of Kenya, 2010 requiring Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees. The deadline for submission of memoranda was set for 26<sup>th</sup> February 2024. Yet without a full disclosure of the details of the transactions and the entities involved in executing them including how much they would cost the citizens of the Respondent would be inconsistent with obligations of the Respondent as more fully elaborated in Paragraph 34 below.

20

22. The feasibility of debt swaps for the Respondent State hides a serious and invidious issue on the specific details, transactions, actors, and amounts involved in the debt swap arrangements. These issues are neither debated nor discussed in the parliamentary approval of the 2024 Medium-Term Debt Strategy (MTDS) and the Medium Term 2024 Budget Policy Statement. It is not surprising that both the report of the Public Debt and Privatization Committee of the National Assembly and that of the Standing Committee on Finance and Budget do not mention the issue of debt swaps at all. Both the 2024 Medium-Term Debt Strategy (MTDS) and the Medium Term 2024 Budget Policy Statement offer so limited information that it is impossible to expect any meaningful public participation and approval of the issue of debt swaps. The approval process, thus, for purposes of the debt swap arrangements that are the subject of this Reference become a mere rubber stamp process that further makes the processes of acquiring these debt swap arrangements an illegality as detailed below and an infringement of the EAC treaty provisions detailed below.

30

23. The Respondent's Constitution, 2010 provides in Article 201 that one of the principles of public finance management is openness and accountability, including public participation in financial matters. Additionally, Article 201(b)(iii) of the Kenyan Constitution states that the burdens and benefits of the use of resources and public borrowing shall be shared equitably between present and future generations. Article 211(1) of the same Constitution requires Parliament through legislation to: (a) prescribe the terms on which the national government may borrow; and (b) impose reporting requirements. The impetus of transparency and accountability within the Respondent is further bolstered by Article 10 of the Constitution that stipulates the Respondent's national values and principles. These

40



WG

principles include good governance, integrity, transparency and accountability, principles which are also stipulated with the EAC Treaty.

24. The Respondent's Treasury Cabinet Secretary, Prof. Njuguna Ndung'u in a video at the Kenyan parliament stated that the Respondent was prioritizing debt-for-food security swaps and that talks were underway with the World Food Programme (WFP) and a debt-for-medicine swap (with talks with the Global Fund). According to Prof. Njuguna Ndung'u, such prioritization is aimed at engaging in a robust process of liability management. He specifically stated that the government was prioritizing the debt-for-food swap because of its certainty and policy credibility. Despite placing the debt-for-nature swap last in priority, he states that while it is not the burner, the government was ranking its options with other institutions that it had worked with. He specifically states that the government was already receiving funds and was training its staff on liability management to target future bonds.

10

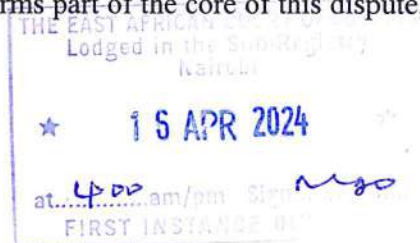
25. The Respondent's debt-for-nature swap would not be the first in Africa. On 14 August 2023 Gabon completed a \$500 million debt-for-nature swap deemed the first in Africa of its kind. Gabon's deal was expected to generate \$163 million for marine conservation over 15 years while slashing the country's debt. Gabon bought back three bonds, one maturing in 2025 and two in 2031, with a total nominal value of \$500 million. The buybacks were equivalent to around 4% of Gabon's total debt. In their place, Gabon issued a \$500 million blue bond which matures in 2038. The coupon on the new blue bond was priced at 6.097%, lower than the coupons on the repaid bonds which were between 6.625%-7%. Gabon's arrangement falls under the private intermediation debt swaps via debt buy-back type of debt swap described above (in paragraph 21). This arrangement also involves third parties but they are usually not-for-profit entities, non-governmental organizations (NGOs), or private foundations (for debt-for-nature swaps principally Conservation International (CI), World Wildlife Fund (WWF) and The Nature Conservancy (TNC)). The Gabon debt-for-nature was intermediated by TNC. These organizations usually offer a debtor government the possibility to facilitate a debt swap involving a debt buy-back. A debt buy-back is simply an arrangement that allows the debtor to buy the debt titles (either private or bilateral) from a creditor at a discount. The operation of buy-backs especially involving private bondholders normally involves other agents including commercial banks, multilateral development banks, development finance institutions, insurance companies, legal, and financial advisors and other private financial institutions.

20

30

26. There are at least three major risks associated with Gabon's debt-for-nature swap transactions. First, and at the core of this dispute, is the lack of transparency and accountability on the amount, quality, and comprehensiveness of available information on debt swaps. As mechanisms to deal with sovereign debt, debt swaps should have high levels of transparency and accountability. Gabon's swaps did not fulfil this criteria and those being considered and/or negotiated by Kenya are moving on the same track. Second, debt swaps are not effective instruments for significantly reducing debt levels. Over three decades of debt swaps have led to roughly US\$8.4 billion of debt being treated, which equates to just 0.11 per cent of total debt payments made by low- and middle-income countries during the same period. Third, which also forms part of the core of this dispute,

40



wg

the processes of acquiring debt swaps minimize community participation and consultation. This is particularly the case with regard to indigenous communities affected by nature conservation projects. Civil society participation is also minimized if not entirely eliminated. There has been no public participation exercises in debt swap transactions the Respondent State is considering. The exclusion of indigenous peoples and local communities in the definition and implementation of debt-for-nature swaps while they have lived for millennia on the lands on which these swaps are being offered is a direct violation of their fundamental human and community rights, their right to development and consultation as recognized in the African human rights system. Indigenous communities have for millennia managed the ecosystems in which they have lived and should be at the center of any environmental initiatives such as those involving debt for nature swaps. The Gabon debt-for-nature swap has had significant effects on practices for coastal and small-scale fishing communities “including the privatisation of fishing rights, advancing blue carbon trading, expanding high end eco-tourism and commercial fish farming.” That is why the Respondent in this case must have as much transparency by disclosing all the details of the debt swap transactions.

10

27. In the earlier period of debt swaps of the 1980s, UNICEF used the private debt buy-back type of debt swap scheme above for a children’s aid programme instead of a conservation programme. This means that this type of arrangement can also be used for other types of debt swaps and not just for debt-for-nature swaps. It is therefore, important for Respondent state in its processes to indicate clearly which type of arrangements it has set up in motion. Debt swap arrangements also involve many other agents such as commercial banks, multilateral development banks, development finance institutions, insurance companies, legal and financial advisors and other private financial institutions. This multiplicity of agents creates very high transactional costs for the sovereign involved and such costs must be accessed through robust public participation before approval of such arrangements. Since in this case, the Respondent State only provides cursory information such engagement is precluded from the very beginning of the process. In many cases, debt swap arrangements overpromise and underdeliver in ways that some commentators have described as an avenue for greenwashing. Greenwashing includes practices committed by different actors to mislead the public in believing that these entities are doing more to protect the environment yet in many cases they are promoting false solutions that do not deal with climate change and in some cases even exacerbates the climate change problem. In September 2023, the International Capital Markets Association (ICMA) Deputy Chief Executive and Head of Sustainable Finance, Nicholas Pfaff, stated that the debt-for-nature swaps using the combination of “blue bonds” issuance by Credit Suisse and Bank of America in the cases of Belize, Barbados and Gabon and debt buy-back, was something “completely different” to what the blue bond terminology referred to, leading to “regrettable confusion”. The main reason was that most of the funds raised, if not all, were actually used for the debt buy-back, and not for the marine conservation policies. This led to the US-based non-profit group The Nature Conservancy (TNC) to rebrand from ‘blue bonds’ to ‘nature bonds.’

20

30

40

F. Points of Law of the Reference



WG-



(a). **Violation of Articles 6 (d) and 7 (2) as read together with Article 8 (1) (c) of the EAC Treaty**

28. Article 6 (d) of the EAC Treaty lays down the fundamental principles of the Community relating to good governance including adherence to the principles of democracy, the rule of law, accountability, transparency, social justice, equal opportunities, gender equality, as well as the recognition, promotion and protection of human and peoples' rights in accordance with the provisions of the African Charter on Human and Peoples' Rights. Article 8 (1) (c) stipulates that each Member State shall refrain from any measure which would impede the attainment of the objectives of the Community or the implementation of the provisions of the EAC Treaty. Thus, Partner States are bound to ensure that the principles of democracy, the rule of law, accountability, transparency, social justice, equal opportunities, gender equality, as well as the recognition, promotion and protection of human and peoples rights in accordance with the provisions of the African Charter on Human and Peoples' Rights are strictly adhered to. 10

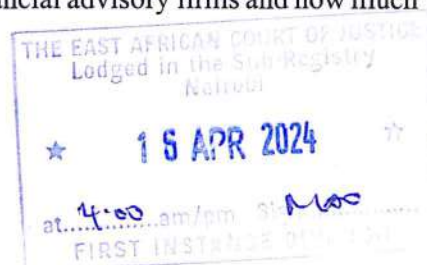
(b). **Violations of Articles 6 (d) and 7 (2) of the EAC Treaty as read together with Articles 1, 8, 9, 14, 17, 21 and 22 of the African Charter on Human and Peoples' Rights and Article 35, 10, and 201 (a) of the Constitution of Kenya, 2010 on Right to Access to Information, principle of public participation, principle of transparency, accountability, and openness**

29. Transparency and accountability in public finance are now understood as core pillars of a democratic and a rule of law-oriented public finance governance framework. These principles require that citizens are able to access information and provide adequate feedback on government revenue, allocations, expenditures, and public debt acquisition and repayment at all levels of government. To facilitate these processes, the national government of the Respondent State is required to provide detailed, structured, and formalized information to Parliament and the public in an easy, user-friendly, and widely accessible platforms. The International Monetary Fund (IMF) defines Public Debt Transparency as "processes and outputs through which timely, accurate, credible, and sufficiently comprehensive information on public debt—and related procedures and policies—is available to stakeholders." Therefore, the Respondent State, has to disseminate publicly data that is detailed and clear on the following specific areas: 20

- (a). The contracted and outstanding stocks of public debt;
- (b). Public contingent liabilities;
- (c). The key financial and legal terms in the debt transactions;
- (d). The creditor profile;
- (e). The debt service payments;
- (f). All the intermediaries including financial, legal and other advisors hired in procuring debt to be paid by the public;
- (g). All the details and information relating to the structure of the transactions and how they will impact the environment and the rights of communities, indigenous peoples and others. 30 40



30. This statement of request is further anchored on Article 35 of the Constitution of Kenya, 2010 as read together with Section 4 of the Access to Information Act, No. 32 of 2016 (ATI Act, 2016). These provisions state that every citizen has the right of access to (a) information held by state and (b) information held by another person and required for the exercise or protection of any right or fundamental freedom. Furthermore, the ATI Act, 2016 states that every citizen's right to access information is not affected by (a) any reason the person gives to seek access; or (b) the public entity's belief as to what are the person's reasons for seeking access.
31. Article 10 (2) (c) and Article 232(1)(f) of the Constitution of Kenya, 2010 require that state organs, State officers, public officers and all persons to uphold the national values and principles of good governance, integrity, transparency, and accountability. Furthermore, the Constitution of Kenya, 2010 provides in Article 201 that one of the principles of public finance management is openness and accountability, including public participation in financial matters. Additionally, Article 201(b)(iii) of the Kenyan Constitution states that the burdens and benefits of the use of resources and public borrowing shall be shared equitably between present and future generations. 10
32. In *Khelif Khalifa & another v Principal Secretary, Ministry of Transport & 4 others* (Constitutional Petition E032 of 2019) [2022] KEHC 368 (KLR) (13 May 2022) (Judgment), the petitioners claimed that in spite of the extraordinary expenditure incurred in the construction of the Standard Gauge Railway (SGR), the SGR project was undertaken with controversy and secrecy. The High Court held that any restriction on information that a government sought to justify on grounds of national security had to have a genuine purpose. The court issued a declaration that the failure of respondents to provide information was a violation of the right to access to information. 20
33. For purposes of the subject matter of this dispute, in order fulfill the dictates of EAC Treaty, the Constitution of Kenya, 2010 and the Kenya's domestic legislation on public finance management, this Court ought to make a declaration that the Respondent State must make the following information publicly available:
- (i). The specific contracts and/or indentures on debt swap arrangements that Kenya has entered and/or is currently negotiating. 30
  - (ii). Specific details on the type of debt swap arrangements that Kenya has entered into and/or is currently negotiating including their coupon rates, amortization schedules, as well as the principal and interest rate on each until each is completely paid off.
  - (iii). Specific details on the nominal value of debt, if any, to be reduced in the debt swap arrangements.
  - (iv). The specific legal entities established under Kenyan or foreign law that would act as legal advisors, investment bank and other financial advisory firms and how much they will be paid?



- (v). Specific details on how much, if any, debt cancelation will take place in the debt swap arrangements.
- (vi). The specific details about how the proceeds of these debt swap arrangements will be put to including the specific details about what the debt for medicine and debt for food arrangements will fund.
- (vii). What nongovernmental conservation or other organizations the Respondent is working with on its debt-for-nature swaps and the transaction costs to be borne by the government of Kenya as well as all associated costs relating to their involvement including any payments that will be made to them under these transactions. 10
- (viii). What process and procedures have been put in place to ensure public participation of communities that will be affected and/or are covered by the debt swaps, including the debt-for-nature swaps.
- (ix). Which banks will act as the bond issuance arrangers in this debt swap arrangements as well as the costs to the government of Kenya associated with the services that they will provide.
34. Furthermore, the international statistical standards call for a broad definition and inclusion of public sector debt that includes general government, all central liabilities (not only those contracted on behalf of the general government), and liabilities contracted by public corporations. At the minimum to fulfill the IMF transparency threshold, public debt coverage should include: explicit contingent liabilities, such as government guaranteed and non-guaranteed debt of public non-financial corporations (state-owned enterprises or state corporations), and liabilities related to Public-Private partnerships (PPPs). Contingent liabilities are financial obligations whose timing and magnitude depend on the occurrence of some future event outside the control of the government. They can further be divided into explicit and implicit contingent liabilities. Explicit liabilities are normally provided under contractual agreements like in Power Purchase Agreements (PPAs). Implicit contingent liabilities are political and moral obligations created through legitimate expectations that a government will intervene in a crisis, disaster, or *force majeure*. While contingent liabilities are debt per se (at least they are not latent debt yet), their disclosure is essential to account for fiscal risks if and when they materialize. 20 30
35. The Respondent's through its National Treasury and Economic Planning Ministry's and the Parliamentary approval of both the 2024 Medium-Term Debt Management Strategy (MTDMS) and the Medium-Term 2024 Budget Policy Statement do not meet even the lowest threshold requirements of public debt transparency and accountability relating to its debt swaps. The policy objective is placed in a single short statement simply stating that the government:



“In light of increased cost of financing, the Government will continue to monitor the global financial market conditions before accessing the international capital market for any liability management operations. The Government will also explore other alternative sources of financing including *climate Fund financing options, Debt for Nature Swaps*, Samurai and Panda bonds depending on the prevailing market and macroeconomic condition.” (the Medium Term 2024 Budget Policy Statement para, 189).”

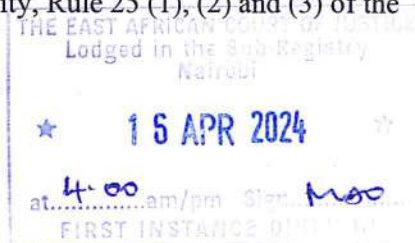
and

“Other emerging funding sources such as debt swaps especially debt for nature swaps and debt for food security swaps are under consideration between the governments of Kenya and the United Nations Development Partners to fund the budget deficit for FY 2024/2025.” (the 2024 Medium-Term Debt Strategy (MTDS), para 84). 10

36. The Respondent’s Treasury Cabinet Secretary, Prof. Njuguna Ndung’u stated that the priority is currently on debt-for-food swaps and debt-for-medicine swap intermediated by the World Food Programme (WFP) and the Global Fund respectively (see para 26 above). This is the third-party involvement debt swap (or triangular or trilateral debt) type referenced above. In such a debt swap, the creditor—usually a bilateral lender—cancels part of the debt owed by a country that commits to disburse, in local currency, an equivalent amount to the whole or part of the cancelled debt to an existing multilateral fund in this case a WFP programme and Global Fund. In these two processes, the Respondent State has not disclosed the quantity of debt to be cancelled and the percentage to be disbursed by the debtor country in existing fund. Additionally, the bilateral debt to be cancelled is also unknown. So far, the third-parties have also remained tight-lipped about the details of these transactions only adding more mystery and secrecy concerns on the nature and details of these transactions. Such a process directly violates the transparency, openness, and rule of law principles in the EAC Treaty and amounts to unlawful actions on the part of the Respondent State. 20

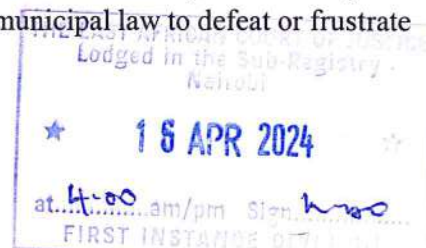
37. The transparency challenge here is exacerbated by the possible Respondent claim that these processes are still in the making and no deals have been struck. Such claims further validate the violations of the principles of the EAC Treaty as many of such debt swap deals are announced ex-post and only after concerned citizens and or civil society raise alarm and make freedom of information demands. Thus, if in deed the Respondent State is in the process of negotiating such complex debt swap deal, such arrangements must be subjected to the rigorous processes of public participation that involves timely, accurate, credible, and sufficiently comprehensive disclosure of all the relevant information as outlined more fully in Para 34 above. The current process by the Respondent State blatantly violates these requirements and will eventually led to an ex-post deal announcement that cannot be challenged or be adequately and reasonably subjected to judicial review. 20

38. This Reference is grounded under Articles 6 (d), 7 (2), 8 (c), 23 (1), 27 (1), and 30 (1), the Treaty of the Establishment of the East African Community, Rule 25 (1), (2) and (3) of the 40



East African Court of Justice Rules of Procedure 2019, the Vienna Convention on the Law of Treaties, 1969, and other enabling provisions of law and is based on the facts that:

- (a). The Treaty for the Establishment of the East African Community is the *grund norm* of the integration process for the East African Community, from which all other legal instruments in the Community derive, subsist and draw legality, and whose provisions must be strictly adhered to.
- (b). This Honourable Court is seized with the original jurisdiction to handle this matter by virtue of Articles 23 (1), 27 (1), and 30 (1) of the Treaty for The Establishment of The East African Community, and Rules 4 and 25 of the East African Court of Justice Rules of the Court 2019 and the Vienna Convention on the Law of Treaties, 1969. 10
- (c). This Reference is premised on Articles 6 (d), 7 (2), 8 (c), 23 (1), 27 (1), and 30 (1) of the Treaty and seeks inter alia interpretation, adherence and application of Treaty.
- (d). The Applicant aver that by virtue of the aforesaid breaches as more particularized in paragraph 34 above, the Respondent has infringed/violated the spirit and letter of the EAC Treaty.
- (e). The Applicant further avers that failure of Respondent to honour the aforesaid objectives, fundamental and operational principles of the Community is an infringement of its legal and contractual obligations under the Treaty. 20
- (f). The Respondent is guilty of a breach of its obligations under Articles 6(d), 7 (2), and 8 (c) of the EAC Treaty.
- (g). The Treaty being an international treaty among eight sovereign States, namely, Burundi, DRC, Kenya, Rwanda, Tanzania, Uganda and South Sudan, and Somalia is subject to the international law on interpretation of treaties, the main one being the Vienna Convention on the Law of Treaties.
- (h). Relying on the principle set forth in Article 31(1) of the Vienna Convention on the Law of Treaties as a general principle to interpret the EAC Treaty a Treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the Treaty in their context and in the light of its object and purpose. 30
- (i). Further, the principle of *pacta sunt servanda* established under Article 26 of the Vienna Convention on the Law of Treaties provides that every treaty in force is binding on the parties and must be performed by them in good faith.
- (j). The Respondent is responsible for the impugned actions of entities and persons exercising elements of the Respondent's government authority by virtue of the International Law Commission (ILC) Articles on Responsibility of States for Internationally Wrongful Acts 2001.
- (k). In addition, the Respondent being a Party to the EAC Treaty is bound by the Treaty objects and purpose and cannot use its municipal law to defeat or frustrate 40



the objects of the Treaty as is stipulated in Article 27 of the Vienna Convention on the Law of Treaties.

**(c). Violation of Article 5 (2), 5 (3) (c), 111 (1) (b), 111 (1) (d), 111 (2), (a), (b), (c), 112 (1), 114 (1) (a), (b) read together with 24 of the African Charter on Human and Peoples' Rights**

39. Article 5 (2) provides that the Partner States in pursuance of the objectives of the Community will work to strengthen and regulate the industrial, commercial, infrastructural, cultural, social, political and other relations of the Partner States to the end that there shall be accelerated, harmonious and balanced development and sustained expansion of economic activities, the benefit of which shall be equitably shared. In relation to the environmental issues, Article 111 (1) (b) 111 (1) (d), enjoins the Partner States to recognise that development activities may have negative impacts on the environment leading to the degradation of the environment and depletion of natural resources and that a clean and healthy environment is a prerequisite for sustainable development undertake, through environmental management strategy, to co-operate and co-ordinate their policies and actions for the protection and conservation of the natural resources and environment against all forms of degradation and pollution arising from developmental activities. Article 112 (1) (b) requires Partner States to develop special environmental management strategies to manage fragile ecosystems, terrestrial and marine resources, noxious emissions and toxic and hazardous chemicals. Furthermore, Article 114 states that the Partner States will: (a) take necessary measures to conserve their natural resources; (b) co-operate in the management of their natural resources for the conservation of the eco-systems and the arrest of environmental degradation; and (c) adopt common regulations for the protection of shared aquatic and terrestrial resources. Finally, Article 24 of the African Charter on Human and Peoples' Rights provide that all peoples shall have the right to a general satisfactory environment favourable to their development.

10

20

40. While the stated reason for debt-for-nature swaps is to protect the environment, as the Gabon debt-for-nature swaps clearly demonstrate that these swaps have clear risks for the violation the rights of local communities and indigenous peoples' to a clean and satisfactory environment. The Respondent's planned debt-for-nature swaps are already violating if not risking violating the free, prior, and informed consent of these communities. These projects join a long list of conservation-based projects that do not engage with the communities where the taunted environmentally friendly projects are implemented. The process thus leads to the displacement of local communities and indigenous communities and denying them the use of the community lands, cultural sites, and religious sites. The reasons for such displacements include conservation efforts as part of green finance projects such as carbon trading and debt-for-nature swaps arrangements. This process thus leads to outcomes that are presented as environmentally friendly but which have disparate, dispossessive, and marginalizing impacts to local communities. In some cases, these processes are themselves injurious to the environment as they ignore the environmental conservation practices of these communities and instead impose top-down state and international institutional approaches. In order to fulfill the requirements of the EAC treaty and international environmental law, the debt-for-nature swaps processes have to engage with communities who would be the most affected by such projects.

30

40



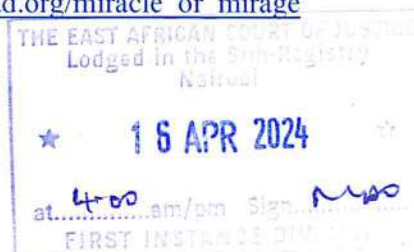
W.G.

41. Without full disclosure of the contract elements and all details as enumerated in paragraph 44 below of these debt-swaps there is very little likelihood that they will end protecting the environment. Thus, the setting up of conservation projects e.g game parks and reserves aimed at attracting tourists creates what ecologist Mordecai Ogada has called “the apartheid in conservation” or “Green Capitalist Colonialism.” This model is one where the rate of ‘green’ climate finance proposals such as debt-for-nature swaps are directly overtaking the actual pace and urgent need to fight climate change thorough the reduction of Green House Gases (GHGs) emissions.

### G. Nature of Evidence

42. The Applicant shall rely on the following evidence in support of the Reference: 10

1. The Kenya 2024 Medium Term Debt Management Strategy (the 2024 Medium-Term Debt Management Strategy (MTDMS)).
2. The Kenya 2024 Budget Policy Statement.
3. The Kenya National Assembly Thirteenth Parliament Hansard, Vol. III. No. 13, 5<sup>th</sup> March 2024.
4. The Kenya National Assembly Thirteenth Parliament, The Public Debt and Privatization Committee, Report on the 2024 Medium-Term Debt Management Strategy.
5. The Kenya National Assembly Thirteenth Parliament Senate Standing Committee on Finance and Budget Report on the 2024 Medium-Term Debt Management Strategy, March 2024. 20
6. IMF, ‘Making Public Debt Public—Ongoing Initiatives and Reform Options’ (2023) available at <https://www.elibrary.imf.org/view/journals/007/2023/034/article-A001-en.xml>
7. Aliona Cebotari, Contingent Liabilities: Issues and Practice, (IMF Working Paper WP/08/245, 2008).
8. Rita Madeira, Symposium on Electricity/Energy Markets in Africa and their Intersections with International Economic Law: From Electricity Market Reform to Contingent Liabilities AFRONOMICSLAW, (2020) <https://www.afronomicslaw.org/category/analysis/symposium-electricityenergy-markets-africa-and-their-intersections-international> (last visited on Jul. 7, 2023). 30
9. Iolanda Fresnillo, ‘Miracle or Mirage?: Are Debt Swaps really a Silver Bullet?’ (EURODAD, November 2023), <https://www.eurodad.org/miracle-or-mirage>



10. African Sovereign Debt Justice Network (AfSDJN), 'Ninety Sixth Sovereign Debt News Update: Gabon's Debt-For-Nature Swap: Some Critical Reflections' (September 4, 2023), <https://www.afronomicslaw.org/category/african-sovereign-debt-justice-network-afsdjn/ninety-sixth-sovereign-debt-news-update>
11. African Sovereign Debt Justice Network (AfSDJN), 'One Hundred and Thirteenth Sovereign Debt News Update: African Countries and Eurobonds: An Avalanche of Buybacks in 2024' (March 20, 2024), <https://www.afronomicslaw.org/index.php/category/african-sovereign-debt-justice-network-afsdjn/one-hundred-and-thirteenth-sovereign-debt>
12. Debt Justice, 'Flagship Lending Transparency Scheme gets Information from just Two Banks' (April 18, 2022), <https://debtjustice.org.uk/press-release/flagship-lending-transparency-scheme-gets-information-from-just-two-banks> 10
13. Iolanda Fresnillo, '10 Reasons why Debt Swaps aren't a Miracle Cure to the Sovereign Debt Crisis' (EURODAD, December 4, 2023), <https://www.linkedin.com/pulse/10-reasons-why-debt-swaps-arent-miracle-cure-sovereign-crisis-rcpqf/>
14. Climate Action Network International, 'Climate Action Network Position on Debt Swaps' (May 2023), <https://reliefweb.int/report/argentina/climate-action-network-position-debt-swaps>
15. Marcos Chamon, Erik Klok, Vimal Thakoor, and Jeromin Zettelmeyer, 'Debt-for-Climate Swaps: Analysis, Design, and Implementation' (IMF Working Paper 22/162) (August 2022), <https://www.imf.org/en/Publications/WP/Issues/2022/08/11/Debt-for-Climate-Swaps-Analysis-Design-and-Implementation-522184> 20
16. Coalition for Fair Fisheries Arrangements, 'Gabon's Odious Debt-for-Ocean Swap: The Implications for Ocean Governance' (November 15, 2023), <https://www.cffacape.org/publications-blog/gabon-debt-ocean-swap-tnc>
17. African Sovereign Debt Justice Network (AfSDJN), 'Debt-for-Climate Swaps and Illicit Financial Flows: A call for caution in designing climate finance infrastructures' (December 1, 2023), <https://www.afronomicslaw.org/category/analysis/debt-climate-swaps-and-illicit-financial-flows-call-caution-designing-climate>
18. African Sovereign Debt Justice Network (AfSDJN), 'Sixty Fifth Sovereign Debt News Update: Debt-For-Nature Swap: Portugal Signs Agreement to Trade Cape Verde's National Debt for Climate Investments' (February 6, 2023), <https://www.afronomicslaw.org/category/african-sovereign-debt-justice-network-afsdjn/sixty-fifth-sovereign-debt-news-update-debt> 30





19. African Sovereign Debt Justice Network (AfSDJN), Nciko wa Nciko, 'Misery of Others as a New Site for Capital Accumulation: The Problem With Debt-For-Climate Swaps', Transforming Climate Finance in An Era of Sovereign Debt Distress Chapter 4 (2023), [https://www.afronomicslaw.org/sites/default/files/pdf/transforming\\_climate\\_finance\\_aug10.pdf](https://www.afronomicslaw.org/sites/default/files/pdf/transforming_climate_finance_aug10.pdf)
20. Godwin Eli Kwadzo Dza, 'Africa and the (New) Green Finance Rush', in James Thuo Gathii et al, Transforming Climate Finance in An Era of Sovereign Debt Distress Chapter 7 (Sheria Publishing House, 2023), [https://www.afronomicslaw.org/sites/default/files/pdf/transforming\\_climate\\_finance\\_aug10.pdf](https://www.afronomicslaw.org/sites/default/files/pdf/transforming_climate_finance_aug10.pdf) 10
21. James Thuo Gathii, "Without Centering Race, Identity, and Indigeneity, Climate Responses Miss the Mark in Wilson Center and Adelphi (eds.), Climate Change, Equity and the Future of Democracy, 11 (2020) available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3718507](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3718507)
22. James Thuo Gathii, Adebayo Majekolagbe and Nona Tamale, (eds.) Transforming Climate Finance in an Era of Sovereign Debt Distress, (Sheria Publishing House, (2023)

#### News Media Outlets

1. KENZA Bryan, "Sustainable" debt Pioneer ditches Controversial 'Blue Bond' Label' (Financial Times, September 22, 2023), <https://www.ft.com/content/68bcb820-c4af-42b7-84b7-ca2682af60ad> 20
2. Esteban Duarte & Natasha White, 'Kenya Turns to Sustainability Swap before \$2 billion debt Deadline' (Bloomberg, January 16, 2024), <https://www.bnnbloomberg.ca/kenya-turns-to-sustainability-swap-before-2-billion-debt-deadline-1.2022383>
3. Vincent Owino, 'Could debt-for-Nature Swaps solve Africa's twin Problems?' (The East African, September 4, 2023), [https://www.theeastafrican.co.ke/tea/science-health/could-debt-for-nature-swaps-solve-africa-s-twin-problems-4355644#google\\_vignette](https://www.theeastafrican.co.ke/tea/science-health/could-debt-for-nature-swaps-solve-africa-s-twin-problems-4355644#google_vignette) 30
4. Adenkule Agbetiloye, 'Kenya considers Debt-for-Nature Swap as \$2 Billion debt Looms' (Business Insider Africa, January 16, 2024), <https://africa.businessinsider.com/local/markets/kenya-considers-debt-for-nature-swap-as-dollar2-billion-debt-deadline-looms/dex15jr>
5. David Herbling, 'Kenya Lawmakers to Vote on Nature, Food Security Debt Swap Plans' (Bloomberg, March 6, 2024), <https://www.bnnbloomberg.ca/kenya-lawmakers-to-vote-on-nature-food-security-debt-swap-plans-1.2043250>



6. VoA, 'Gabon Signs Africa's First Debt-for-Nature Swap' (August 16, 2023) <https://www.voaafrica.com/a/gabon-closes-africa-debt-for-nature-swap/7227886.html>
7. Allison Schrager, 'Why Climate-Swap debt is a Bad Idea' (New York Post, October 14, 2023), <https://nypost.com/2023/10/14/climate-swap-debt-is-a-bad-idea/>
8. Natasha White, 'Barclays sees Real Greenwashing Risk in ESG Debt-Swap Market' (Bloomberg, January 23, 2023), <https://www.bloomberg.com/news/articles/2023-01-23/barclays-sees-real-risk-of-greenwashing-in-esg-debt-swap-market?leadSource=uverify%20wall&sref=T4zDKGrK>
9. Patrick Greenfield, 'Are Debt-for-Nature Swaps the Way Forward for Conservation?' (The Guardian, June 21, 2024), <https://www.theguardian.com/environment/2023/jun/21/are-debt-for-nature-swaps-way-forward-for-conservation-aoe> 10

## H. Reliefs Sought

### 43. Reasons wherefore the Applicants will move the Court for the following orders:

- (a). A Declaration that the action of the Respondent State complained of above violates Articles 6 (d) and 7 (2) as read together with Article 8 (1) (c) of the EAC Treaty;
- (b). A Declaration that the action of the Respondent State complained of above violates Articles 6 (d) and 7 (2) of the EAC Treaty as read together with Article 9 of the African Charter on Human and Peoples' Rights and Article 35, 10, and 201 (a) of the Constitution of Kenya, 2010 on Right to Access to Information, principle of public participation, principle of transparency, accountability, and openness; 20
- (c). A Declaration that the Respondent State should immediately and unconditionally supply the Applicant and place on a publicly available platform the following information:
  - (i). The specific contracts and/or indentures on debt swap arrangements that Kenya has entered and/or is currently negotiating.
  - (ii). Specific details on the type of debt swap arrangements that Kenya has entered into and/or is currently negotiating including their coupon rates, amortization schedules, as well as the principal and interest rate on each until each is completely paid off. 20
  - (iii). Specific details on the nominal value of debt, if any, to be reduced in the debt swap arrangements.



(iv). The specific legal entities established under Kenyan or foreign law that would act as legal advisors, investment bank and other financial advisory firms and how much they will be paid?

(v). Specific details on how much, if any, debt cancelation will take place in the debt swap arrangements.

(vi). The specific details about how the proceeds of these debt swap arrangements will be put to including the specific details about what the debt for medicine and debt for food arrangements will fund.

(vii). What nongovernmental conservation or other organizations the Respondent is working with on its debt-for-nature swaps and the transaction costs to be borne by the government of Kenya as well as all associated costs relating to their involvement including any payments that will be made to them under these transactions.

10

(viii). What process and procedures have been put in place to ensure public participation of communities that will be affected and/or are covered by the debt swaps, including the debt-for-nature swaps.

(ix). Which banks will act as the bond issuance arrangers in this debt swap arrangements as well as the costs to the government of Kenya associated with the services that they will provide.

(d). That the Court makes such further or other orders as may be necessary in the circumstances;

20

(e). That the costs of this Reference be borne by the Respondent State.

Dated at Nairobi this 16<sup>th</sup> day of April 2024

*[Handwritten Signature]*

Eugenia Wanjiru Gikonyo

Applicant



*felextos LOANING*  
*ADVISED*  
*[Signature]*

PRESENTED for Filing at the Nairobi Sub-Registry this 16<sup>th</sup> Day of April 2024



*MAJ*

REGISTRY CLERK

**DRAWN & FILED BY:**

**Harrison Otieno Mbori and  
James Thuo Gathii**

Care of Almond Print Limited,  
112 Slip Road Old Waiyaki Way,  
P.O. Box 56095 – 00200,  
Nairobi, Kenya

Email: [harryocenic@gmail.com](mailto:harryocenic@gmail.com) and

Email: [james.gathii@gmail.com](mailto:james.gathii@gmail.com)



**TO BE SERVED UPON:**

**The Hon. Attorney General of the Kenya,**  
Attorney-General's Chambers,  
Office of the Attorney General & Department of Justice,  
State Law Office  
Sheria House, Harambee Avenue  
P. O. BOX 40112-00100  
Nairobi, Kenya.  
Email: [cl@ag.go.ke](mailto:cl@ag.go.ke)

*LODGED IN COURT AT NAIROBI THIS 16<sup>TH</sup>  
DAY OF APRIL 2024*

*MAJ*  
*BY DEPUTY REGISTRAR*

IN THE EAST AFRICAN COURT OF JUSTICE AT ARUSHA

IN THE FIRST INSTANCE DIVISION

REFERENCE NO...19...OF 2024

IN THE MATTER OF THE TREATY FOR THE ESTABLISHMENT OF THE EAST AFRICAN COMMUNITY

BETWEEN

Eugenia Wanjiru Gikonyo.....

APPLICANT

AND

THE ATTORNEY GENERAL OF THE REPUBLIC OF KENYA.....

RESPONDENT



AFFIDAVIT IN SUPPORT OF THE OF REFERENCE

(Pursuant to Rule 25 (3) of the East African Court of Justice Rules of Procedure, 2019)

I, Eugenia Wanjiru Gikonyo, an adult of sound mind, a resident of Kenya of Passport No. BK 139924 and P.O. Box 47089-00100 Nairobi, Kenya, do make oath and solemnly state as follows:

1. THAT I am a Kenyan citizen, and a long-standing advocate for good governance and accountability. (*Attached & marked EWG-1 is a copy of my passport*).
2. THAT I have read and understood the contents of this Statement of Reference and confirm the correctness of all averments contained in it.
3. THAT I am well conversant with the facts in this Statement of Reference and hence competent to swear this affidavit.
4. THAT I swear this affidavit in support of the averments contained in this Statement of Reference, which averments are correctly stated to the best of my knowledge.
5. THAT I have a first-hand understanding of the facts presented in this Statement of Reference.
6. THAT the Applicant is a resident corporate entity in a Partner State of the East African Community (EAC) the Republic Kenya and thus this Court is competent to hear this case.

7. **THAT** the Respondent state is a Partner States of the EAC and thus the Reference is properly filed in accordance to the provisions of the EAC Treaty.
8. **THAT** all the jurisdiction and admissibility requirements of the EAC Treaty to institute this case have been met and thus the Reference is properly filed in accordance with the provisions of the EAC Treaty.
9. **THAT** I have material knowledge that the Respondent State is currently implementing Debt Swaps Arrangements (DSAs) under the National Treasury and Economic Planning 2024 Medium-Term Debt Management Strategy (2024 MTDMS) and the Medium Term 2024 Budget Policy Statement (MTBPS). (*Attached & marked* EWG-2 and EWG-3 respectively copies are copies of the 2024 National Treasury and Economic Planning 2024 Medium-Term Debt Management Strategy and the Medium-Term 2024 Budget Policy Statement).
10. **THAT** the Respondent State indicated its intention to set up sovereign debt swap arrangements in its National Treasury and Economic Planning 2023 Medium Term Debt Management Strategy (the 2023 Medium-Term Debt Strategy (MTDMS)). (*Attached & marked* EWG-4 is a copy of the 2023 National Treasury and Economic Planning 2023 Medium-Term Debt Management Strategy).
11. **THAT** the Respondent State as part of its public debt stock management strategy, suggested that there were opportunities for 'debt-for-climate/nature swaps' that will be pursued under the proposed government water dam investment/funding programme with eligible creditors. The objective here was the need for restraining measures to reduce the rate of accumulation of public debt stock as an imperative to public debt.
12. **THAT** in early January 2024, various reputed news media outlets reported that the Respondent States (mainly through the office of the Cabinet Secretary, The National Treasury & Economic Planning) was looking into setting up a kind of debt swap that would bolster its finances as it faces crucial debt repayment deadlines including upcoming Eurobond deadlines. (*Attached & marked* EWG-5 copies of newspaper clips detailing these information).
13. **THAT** from the publicly available information, I gather that the general idea of pursuing the foregoing transactions is to free up funds in the budget for basic social services such as healthcare and the provision of food relief services. So far, it is unclear whether the planned transactions are similar to or different from traditional debt-for-nature swaps.
14. **THAT** under traditional debt-for-nature swaps, the borrower refinances existing debt at more favourable rates and uses the savings on environmental conservations. Gabon has done this kind of arrangement in November 2023 (see paragraph 29 below). It is unclear whether Kenya would pursue transactions like those in Gabon and direct the savings accrued from its swaps towards social projects such as healthcare and food aid. (*Attached & marked* EWG-6 are some materials prepared by the African Sovereign Debt Network's Research and informational output on Gabon's debt-for-nature swap arrangements).



15. THAT in March 2024, National Treasury and Economic Planning in its 2024 Medium Term Debt Management Strategy (the 2024 Medium-Term Debt Management Strategy (MTDMS)), the Respondent State provided as follows:

‘Other emerging funding sources such as debt swaps especially debt for nature swaps and debt for food security swaps are under consideration between the governments of Kenya and the United Nations Development Partners to fund the budget deficit for FY 2024/2025.’

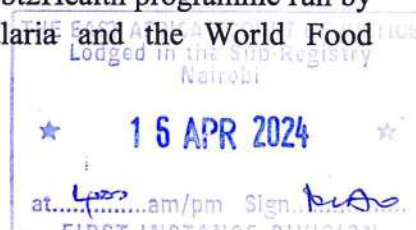
16. THAT the Respondent, additionally, in the 2024 Medium-Term Debt Management Strategy (MTDMS) states that it will also explore the issuance of green, sustainability-linked, and blue bonds to finance climate related or environmental sustainability projects. The Respondents also adds the possibility of exploring the issuance of Panda (Chinese renminbi-denominated) and Sumurai (Japanese yen-denominated market) bonds as part of its debt instrument diversification.

17. THAT the 2024 Medium-Term Debt Management Strategy (MTDMS) and the Medium-Term 2024 Budget Policy Statement sub-titled: “Sustaining Bottom-Up Economic Transformation Agenda for Economic Recovery and Improved Livelihoods” were tabled, debated, and adopted Kenya’s Parliament on 5<sup>th</sup> March 2024 for the National Assembly and Senate 7<sup>th</sup> March 2024 for the Senate. (*Attached & marked EWG-7 copies of the National Assembly Hansard for Tuesday 5<sup>th</sup> March 2024*).

18. THAT the Respondent’s Treasury Cabinet Secretary, Prof. Njuguna Ndung’u in a video on February 26<sup>th</sup> 2024, stated that the priority is currently on debt-for-food swaps and debt-for-medicine swap intermediated by the World Food Programme (WFP) and the Global Fund respectively (see para 26 of Statement of Reference). This is the third-party involvement debt swap (or triangular or trilateral debt) type referenced above. In such a debt swap, the creditor—usually a bilateral lender—cancels part of the debt owed by a country that commits to disburse, in local currency, an equivalent amount to the whole or part of the cancelled debt to an existing multilateral fund in this case a WFP programme and Global Fund. (*Attached & marked EWG-8 is a video of Prof. Njuguna Ndung’u addressing this matter*).

19. THAT this effectively sets the stage for the Respondent to implement its debt swaps proposals without any further requirements as to transparency, accountability, and public participation as required in both the EAC Treaty and the Respondent’s Constitution and Public Finance legislative instruments.

20. THAT a debt swap is are complex financial instruments that normally provides conditional debt reduction in exchange for the debtor agreeing to invest the freed-up resources (usually in local currency) in specific areas such as education, health, climate or the environment, or food aid. Debt swaps can be divided into three main types: bilateral debt swaps, third party involvement debt swap (also called triangular or trilateral debt swap); and a private intermediated debt swaps via debt buy-back. The proposals by the Respondent State’s are covered under the second type i.e a third-party involvement debt swap programme that are supported by a UN development partners for example the Debt2Health programme run by the Global Fund to fight AIDs, Tuberculosis, and Malaria and the World Food



Programme's debt-for-food programme. (*Attached & marked EWG-9 is a copy of Eurodad Report of November 2023 titled: Miracle or Mirage? Are Debt Swaps Really a Silver Bullet?*).

21. **THAT** the feasibility of debt swaps for the Respondent State hides a serious and invidious issue on the specific details, transactions, actors, and amounts involved in the debt swap arrangements. These issues are neither debated nor discussed in the parliamentary approval of the 2024 Medium-Term Debt Management Strategy (MTDMS) and the Medium-Term 2024 Budget Policy Statement.
22. **THAT** it is not surprising that both the report of the Public Debt and Privatization Committee of the National Assembly and that of the Standing Committee on Finance and Budget in the Senate do not mention the issue of debt swaps at all. Both the 2024 Medium-Term Debt Management Strategy (MTDMS) and the Medium Term 2024 Budget Policy Statement offer so limited information that it is impossible to expect any serious public participation and approval of the issue of debt swaps. (*Attached & marked EWG-10 and EWG-11 respectively are copies of the National Assembly Public Debt and Privatization Committee report on the 2024 Medium-Term Debt Management Strategy and the Senate Standing Committee on Finance and Budget Report on the 2024 Medium-Term Debt Management Strategy*).
23. **THAT** the approval process, thus, for purposes of the debt swap arrangements that are the subject of this Reference become a mere rubber stamp process that further makes the processes of acquiring these debt swap arrangements an illegality as detailed below and an infringement of the EAC treaty provisions detailed below.
24. **THAT** the Respondent's Constitution, 2010 provides in Article 201 that one of the principles of public finance management is openness and accountability, including public participation in financial matters. Additionally, Article 201(b)(iii) of the Kenyan Constitution states that the burdens and benefits of the use of resources and public borrowing shall be shared equitably between present and future generations. Article 211(1) of the same Constitution requires Parliament through legislation to: (a) prescribe the terms on which the national government may borrow; and (b) impose reporting requirements. The impetus of transparency and accountability within the Respondent State is further bolstered by Article 10 of the Constitution that stipulates the Respondent's national values and principles. These principles include good governance, integrity, transparency and accountability, principles which are also stipulated with the EAC Treaty.
25. **THAT** furthermore, Article 35 of the Constitution of Kenya, 2010 as read together with Section 4 of the Access to Information Act, No. 32 of 2016 (ATI Act, 2016) provide that every citizen has the right of access to (a) information held by state and (b) information held by another person and required for the exercise or protection of any right or fundamental freedom. Furthermore, the ATI Act, 2016 states that every citizen's right to access information is not affected by (a) any reason the person gives to seek access; or (b) the public entity's belief as to what are the person's reasons for seeking access.





26. **THAT** in the Kenyan High Court decision in *Khelif Khalifa & another v Principal Secretary, Ministry of Transport & 4 others* (Constitutional Petition E032 of 2019) [2022] KEHC 368 (KLR) (13 May 2022) (Judgment), the petitioners claimed that in spite of the extraordinary expenditure incurred in the construction of the Standard Gauge Railway (SGR), the SGR project was undertaken with controversy and secrecy. The High Court held that any restriction on information that a government sought to justify on grounds of national security had to have a genuine purpose. The court issued a declaration that the failure of respondents to provide information was a violation of the right to access to information.

27. **THAT** the Respondent's debt-for-nature swap would not be the first in Africa. On 14 August 2023 Gabon completed a \$500 million debt-for-nature swap deemed the first in Africa of its kind. Gabon's deal was expected to generate \$163 million for marine conservation over 15 years while slashing the country's debt. Gabon bought back three bonds, one maturing in 2025 and two in 2031, with a total nominal value of \$500 million. The buybacks were equivalent to around 4% of Gabon's total debt. In their place, Gabon issued a \$500 million blue bond which matures in 2038. The coupon on the new blue bond was priced at 6.097%, lower than the coupons on the repaid bonds which were between 6.625%-7%. Gabon's arrangement falls under the private intermediation debt swaps via debt buy-back type of debt swap described above (in paragraph 20). This arrangement also involves third parties but they are usually not-for-profit entities, non-governmental organizations (NGOs), or private foundations (for debt-for-nature swaps principally Conservation International (CI), World Wildlife Fund (WWF) and The Nature Conservancy (TNC)). The Gabon debt-for-nature was intermediated by TNC. These organizations usually offer a debtor government the possibility to facilitate a debt swap involving a debt buy-back. A debt buy-back is simply an arrangement that allows the debtor to buy the debt titles (either private or bilateral) from a creditor at a discount. The operation of buy-backs especially involving private bondholders normally involves other agents including commercial banks, multilateral development banks, development finance institutions, insurance companies, legal, and financial advisors and other private financial institutions.

28. **THAT** Transparency and accountability in public finance are now understood as core pillars of a democratic and a rule of law-oriented public finance governance. These principles require that citizens are able to access information and provide adequate feedback on government revenue, allocations, expenditures, and public debt acquisition and repayment at all levels of government. To facilitate these processes, the national government of the Respondent state is required to provide detailed, structured, and formalized information to Parliament and the public in an easy, user-friendly, and widely accessible platforms. The International Monetary Fund (IMF) defines Public Debt Transparency as "processes and outputs through which timely, accurate, credible, and sufficiently comprehensive information on public debt—and related procedures and policies—is available to stakeholders." The Respondent state, has to therefore, disseminate publicly data that is detailed and clear on the following specific areas:

- (a). The contracted and outstanding stocks of public debt;
- (b). Public contingent liabilities;
- (c). The key financial and legal terms in the debt transactions;



- (d). The creditor profile;
- (e). The debt service payments.

*(Attached & marked EWG-12 is a copy of IMF Report of 31<sup>st</sup> July 2023 titled: Making Public Debt Public—Ongoing Initiatives and Reform Options).*

29. THAT in order for the Respondent State to have fulfilled the requirements of the EAC Treaty, its Constitution, and domestic legislation on public finance governance, it must immediately and unconditionally make the following information available to the public in accessible media and platforms:

- (a). The specific contracts on debt swap arrangements that Kenya has entered and/or is currently negotiating. 10
- (b). Specific details on the type of debt swap arrangements that Kenya has entered into and/or is currently negotiating, including their coupon rates, amortisation schedules, as well as the principal and interest rate on each until each is completely paid off.
- (c). Specific details of the nominal value of debt, if any, to be reduced in the debt swap arrangements.
- (d). The specific legal entities established under Kenyan or foreign law that would act as legal advisors, investment bank and other financial advisory firms and how much will they be paid?
- (e). Specific details on how much, if any, debt cancelation will take place in the debt swap arrangements. 20
- (f). The specific details about how the proceeds of these debt swap arrangements will be put to including the specific details about what the debt for medicine and debt for food arrangements will fund.
- (g). What nongovernmental conservation organizations are Kenya working with on its debt-for-nature swaps and the transaction costs to be borne by the government of Kenya are associated with their involvement including any payments that will be made to them under these transactions.
- (h). What process and procedures have been put in place to ensure public participation of communities that might be affected by the debt swaps, including the debt-for-nature swaps. 30
- (i). Which banks will act as bond issuance arrangers in these debt swap arrangements as well as the Kenyan costs to the government associated with the services that they will provide.

30. THAT the actions of the Respondent State in failing to provide specific details of the debt swap arrangements violate 6 (d) and 7 (2) as read together with Article 8 (1) (c) of the EAC Treaty Articles 6 (d) and 7 (2) of the EAC Treaty as read together with Article 9 of the African Charter on Human and Peoples' Rights and Article 35, 10, and 201 (a) of the



Constitution of Kenya, 2010 on Right to Access to Information, principle of public participation, principle of transparency, accountability, and openness.

- 31. THAT there is no other suit pending in this Court or any other Court presenting the same question of violations of the EAC Treaty, and there have been no previous proceedings in any Court on the same subject matter of a breach of the EAC Treaty and involving the same parties as in this case.
- 32. THAT the causes of action arose within the jurisdiction of this Court.
- 33. THAT I pray that this Honourable Court finds that the Respondent through its impugned actions has violated provisions of the EAC Treaty and allows the Reference and the orders sought. 10

Verification

I, **Eugenia Wanjiru Gikonyo** do hereby verify that what is stated above is true to the best of my knowledge, information and belief.

This.....16<sup>th</sup>.....Day of April.....2024

*[Handwritten signature]*

Deponent

Before me: FELISTO W. AMUKU MUDURU

Commissioner for Oaths/Notary Public



*[Handwritten signature]*

**DRAWN & FILED BY:**

**[Insert details]**

**TO BE SERVED UPON**

**The Hon. Attorney General of the Kenya,  
Attorney-General's Chambers,  
Office of the Attorney General & Department of Justice,**

State Law Office  
Sheria House, Harambee Avenue  
P. O. BOX 40112-00100  
Nairobi, Kenya.  
Email:



**IN THE EAST AFRICAN COURT OF JUSTICE AT ARUSHA**

**IN THE FIRST INSTANCE DIVISION**

**REFERENCE NO.....OF 2024**

**IN THE MATTER OF THE TREATY FOR THE ESTABLISHMENT OF THE EAST  
AFRICAN COMMUNITY**

BETWEEN

Eugenia Wanjiru Gikonyo .....APPLICANT

THE ATTORNEY GENERAL OF  
THE REPUBLIC OF KENYA.....

RESPONDENT

**APPLICANTS LIST OF MARKED EVIDENCE IN STATEMENT OF REFERENCE  
AFFIDAVITS**

	Evidence/Exhibit in the Affidavit	Evidence/Exhibit Mark/Label
1.	Copy of Eugenia Wanjiru Gikonyo's Passport	EWG-1
2.	National Treasury and Economic Planning 2024 Medium Term Debt Management Strategy	EWG-2
3.	The Kenya Medium-Term 2024 Budget Policy Statement sub-titled: "Sustaining Bottom-Up Economic Transformation Agenda for Economic Recovery and Improved Livelihoods."	EWG-3
4.	The National Treasury and Economic Planning 2023 Medium-Term Debt Management Strategy	EWG-4
5.	Copies of newspaper clips detailing Respondent State intention to set up debt swap arrangements.	EWG-5
6.	Africa Sovereign Debt Network's Research and informational output on Gabon's debt-for-nature swap arrangements	EWG-6
7.	The National Assembly Hansard for Tuesday 5 <sup>th</sup> March 2024	EWG-7
8.	Prof. Njuguna Ndung'u addressing the issue of debt swaps	EWG-8
9.	Eurodad Report of November 2023 titled: <i>Miracle or Mirage? Are Debt Swaps Really a Silver Bullet?</i>	EWG-9
10.	The National Assembly Public Debt and Privatization Committee report on the 2024 Medium-Term Debt Management Strategy	EWG-10
11.	The Senate Standing Committee on Finance and Budget Report on the 2024 Medium-Term Debt Management Strategy	EWG-11
12.	IMF Report of 31 <sup>st</sup> July 2023 titled: <i>Making Public Debt Public—Ongoing Initiatives and Reform Options</i>	EWG-12

THE EAST AFRICAN COURT OF JUSTICE  
 Lodged in the Sub-Registry  
 NAIROBI

★ 15 APR 2024 ★

at... 4:50 ...am/pm Sign... *MA*

FIRST INSTANCE DIVISION

**Exhibit EWG 1:**

**Copy of Eugenia Wanjiru Gikonyo's Passport (Biopage)**

FELISTUS WANGIKU NJOROGE  
 ADVOCATE  
 COMMISSIONER FOR OATHS  
 P.O. Box 75555 - 00200, NAIROBI.

This is the Exhibit Marked EWG 1 Referred to in the  
 Affidavit Sworn  
 Declaration of Eugenia Wanjiru Gikonyo Declared  
 Before me this 16 Day of April 2024  
 At Nairobi

*[Signature]*  
 COMMISSIONER FOR OATHS

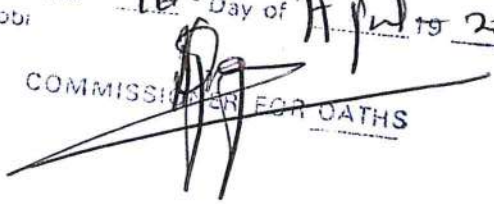


THE EAST AFRICAN COURT OF JUSTICE  
Lodged in the Sub-Registry  
Nairobi  
★ 16 APR 2024 ★  
at.....am/pm Sign.....  
FIRST INSTANCE DIVISION

**Exhibit EWG 2:**

**National Treasury and Economic Planning 2024 Medium Term  
Debt Management Strategy**

FELISTUS WAINWANI MURUGO  
ADVOCATE  
COMMISSIONER FOR OATHS  
P.O. Box 75555 - 00200, NAIROBI.

This is the Exhibit Marked EWG2 Referred to in the  
Affidavit Declared Sworn  
Declaration of Eugenia Wanjiru Givony  
Before me this 16 Day of April 2024  
At Nairobi  
  
COMMISSIONER FOR OATHS





REPUBLIC OF KENYA

THE EAST AFRICAN COURT OF JUSTICE  
Lodged in the Sub-Registry  
Nairobi  
★ 15 APR 2024 ★  
at.....am/pm Sign.....  
FIRST INSTANCE DIVISION

THE NATIONAL TREASURY AND ECONOMIC PLANNING

PUBLIC DEBT MANAGEMENT OFFICE

2024 Medium-Term Debt Management Strategy

JANUARY 2024

15 FEB 2024 Thursday

Hon. Justice Edgardson (Rajiv  
Wadhwa)

Amir Shalke

SECRET

For comments and clarifications, please contact:

**Public Relations Office**  
The National Treasury and Economic Planning  
Treasury Building  
P. O. Box 30007-00100  
NAIROBI, KENYA

Tel: +254-20-2252-299  
Email: [ps@treasury.go.ke](mailto:ps@treasury.go.ke)

The document is also available on the website at: [www.treasury.go.ke](http://www.treasury.go.ke)

*Information in this publication may be reproduced without restriction provided that due acknowledgement of the source is made*

© 2024 Medium-Term Debt Management Strategy (MTDS)

SECRET

## TABLE OF CONTENT

TABLE OF CONTENT .....	ii
LIST OF FIGURES.....	iv
LIST OF TABLES .....	v
FOREWORD .....	vi
ACKNOWLEDGEMENT .....	vii
ABBREVIATION AND ACRONYMS .....	viii
EXECUTIVE SUMMARY.....	x
INTRODUCTION.....	1
Background to Medium-Term Debt Management Strategy.....	1
Review of Costs and Risks Characteristics of Public Debt.....	3
Review of the implementation of the 2022 MTDS.....	6
Average terms of new external debt.....	9
Stock of Public and Publicly Guaranteed Debt.....	9
Costs and Risks Analysis of the Existing Public Debt Portfolio .....	10
Debt Sustainability Analysis .....	14
Kenya's Debt Carrying Capacity.....	14
External Debt Sustainability Analysis.....	15
Total Public Debt Sustainability Analysis.....	16
Macroeconomic Assumptions and Key Risks.....	18
Baseline Macroeconomic Assumptions.....	18
Risks to the 2024 BPS baseline macroeconomic assumptions.....	19
Assessment of Potential Sources of Financing .....	20
Sources of financing of the fiscal deficit.....	20
Potential sources to finance the medium-term budget.....	21
Domestic Sources.....	21

3 SECRET

SECRET

External Sources.....	21
Public Debt Risks and Costs Evaluation under Alternative Public Debt Management Strategies.....	23
Public Debt costs and risks evaluation.....	23
Baseline Pricing Assumptions and Description of Shock Scenarios.....	24
Description of Alternative Debt Management Options.....	25
Cost-Risk Analysis of Alternative Debt Management Options.....	26
Baseline projection and alternative options.....	26
Effect of shocks on the costs and risks characteristics of debt.....	30
The preferred deficit financing strategy.....	32
Public Debt Management Reforms.....	33
Domestic debt market reforms.....	34
MTDS Implementation, Monitoring and Evaluation.....	36
Domestic and external borrowing Plan.....	36
Monitoring and Review of Cost and Risk Indicator Outturn of the Strategy.....	36
Dissemination.....	37
County Borrowing.....	38
ANNEXES.....	39
ANNEX I: Publication of the Debt Management Strategy.....	39
ANNEX II: MTDS Implementation Work Plan.....	40

SECRET

SECRET

## LIST OF FIGURES

Figure 1: Debt to GDP ratio percent and Total Debt Service as percent of Revenue from 2019-2023 .....	3
Figure 2: Weighted Average Domestic and External Interest rates as at end June 2023 .....	11
Figure 3: Redemption profile as at end June 2023 (Ksh millions).....	12
Figure 4: Currency Composition of External Debt, End June 2023 .....	13
Figure 5: Existing share of external debt as at end June 2023.....	20
Figure 6: Redemption Profiles under Alternative Options (End-FY2026/27) .....	29
Figure 7: Cost and Risk Characteristics under Alternative Strategies.....	30

SECRET

SECRET

## LIST OF TABLES

Table 1: 2020-2023 MTDS Targets against borrowing outturn (percent).....	6
Table 2: Gross borrowing for FY 2022/23.....	7
Table 3: Review of costs and risks indicators.....	8
Table 4: Average Terms of New External Debt.....	9
Table 5: Public and Publicly Guaranteed Debt in the MTDS end-June 2023.....	4
Table 6: Outstanding Government Guaranteed Debt (End-June 2023).....	5
Table 7: Cost and risk indicators for existing debt as at end June 2023.....	10
Table 8: Domestic Debt by Maturity Profile, in USD equivalent.....	12
Table 9: Kenya's debt risk levels and debt carrying capacity.....	14
Table 10: Applicable Thresholds and Benchmark for Strong and Medium Performance.....	15
Table 11: Kenya's External Debt Sustainability Analysis.....	16
Table 12: Kenya's Public Debt Sustainability Analysis.....	16
Table 13: Baseline Macroeconomic Assumptions.....	18
Table 14: Costs and risks characteristics table.....	23
Table 15: Average new borrowing by instrument under alternative strategies (in percent of gross borrowing by end of FY 2026/27).....	26
Table 16: Composition of Debt Portfolio by Instrument under Alternative Options . (in Percent of Outstanding Portfolio as at End of FY 2026/27).....	27
Table 17: Cost and Risk Indicators under Alternative Options.....	28
Table 18: Template for Monitoring and Evaluation of Cost and Risk Indicators under Alternative Strategies.....	37

6  
SECRET

SECRET

## FOREWORD

The Medium-Term Debt Management Strategy (MTDS) is a policy document that guides government borrowing and public debt management in ensuring its sustainability. It is prepared and published annually to guide the government in pursuing the desired structure of the public debt portfolio which reflects its choice on cost and risk trade-offs in the medium-term. Additionally, the strategy reflects on the government's commitment to develop and implement viable strategies designed to maintain public debt at sustainable levels.

The preparation of 2024 MTDS is in accordance with the requirements of Section 33(2) of the Public Finance Management (PFM) Act, 2012 and the guidelines outlined in the public debt and borrowing policy. The strategy is anchored on the Budget Policy Statement (BPS) as provided for in the Public Finance Management. The objective is to reduce the fiscal deficit and public debt vulnerabilities and lower Kenya's high risk of debt distress to moderate in the medium-term. 10

The 2024 MTDS has been prepared on the background where the economy has been facing major shocks, among them, the geopolitical conflicts that disrupted global trade leading to increased fuel, fertilizer and food prices; the lingering of the post COVID-19 pandemic effects; and a severe drought witnessed in the region and most parts of the country associated with climate change which exerted more strain on the country's resources. The practice of reviewing MTDS on a regular basis demonstrates government's commitment to promote transparency and accountability in public debt management that considers new debt policy direction on emerging economic environment. 20

In preparing the 2024 MTDS, several financing options were evaluated based on costs and risks underlying various alternative strategies. The most optimal cost-risk trade-off is determined by considering a range of financing alternatives. Key consideration included potential sourcing from domestic and foreign financial market with an objective of minimizing costs and risks.

The strategy recognizes a diversified debt structure and development of the domestic debt market which is necessary to mitigate against exchange rate risks on a country's external debt. In relation to this, the government successfully implemented the DhowCSI system that will broaden the Kenyan market to include retail investors hence mobilizing domestic savings to support development and inclusive growth which is consistent with Vision 2030. Kenya has also made a deliberate effort to consider diversifying sources of external borrowing in the international capital markets targeting instruments such as green and blue bonds, Samurai bonds, Panda bonds, Sukuk bonds among others. 30

Reducing fiscal deficit is necessary to stem escalation of debt accumulation and maintain debt at sustainable levels. To achieve this, the government is on a fiscal consolidation path consistent with the approved debt anchor which pegs public debt as a percentage of Gross Domestic Product (GDP) in net present value.



NJUGUNA NDUNG'U, EBS

CABINET SECRETARY/THE NATIONAL TREASURY AND ECONOMIC PLANNING

SECRET 7

SECRET

## ACKNOWLEDGEMENT

The Medium-Term Debt Management Strategy (MTDS) is prepared and revised annually to guide public debt management in the medium-term. In-depth consideration and reflection of the costs and risks of public debt amidst the continuous paradigm changes in the global financial markets informed the development of 2024 MTDS. The analysis employed is cognizant to the objectives of Public Debt and Borrowing Policy with an emphasis to minimized costs and risks of the evolving debt portfolio.

The development of the 2024 MTDS involved the use of analytical tools to analyze the existing debt portfolio; debt risks characteristics and potential borrowing alternatives of which an optimal borrowing strategy was determined. The analysis takes into account the macro-economic assumptions underpinned in the 2024 Budget Policy Statement. 10

The resources mobilized through borrowing shall facilitate the achievement of the government development agenda while minimizing the cost of public debt management. Further, emphasis will be on promoting development and deepening of the domestic debt market institutions and enhance intergenerational equity.

The preparation of the 2024 MTDS was a collaborative effort involving various Departments within the National Treasury and the Central Bank of Kenya. I would like to appreciate the invaluable leadership and guidance provided by the Cabinet Secretary, National Treasury and Economic Planning towards the development of this Strategy. Moreover, I recognize the untiring effort of the Governor Central Bank of Kenya and the Director General, Public Debt Management Office for providing the technical guidance and putting together the core team that worked tirelessly to develop this document while maintaining esteemed professionalism. 20

The 2024 MTDS and previous years' versions of the Medium-Term Debt Management Strategies are available for reference and information in the National Treasury website: [www.treasury.go.ke](http://www.treasury.go.ke).



**DR. CHRIS K. KIPTOO, CBS**  
**PRINCIPAL SECRETARY, THE NATIONAL TREASURY**

8  
SECRET



SECRET

**ABBREVIATION AND ACRONYMS**

ADF	African Development Fund
AfDB	Africa Development Bank
AIA	Appropriation in Aid
ATM	Average Time to Maturity
ATR	Average Time to Re-fixing
BPS	Budget Policy Statement
BRDP	Budget Review and Outlook Paper
CBK	Central Bank of Kenya
CFS	Consolidated Fund Services
CI	Composite Indicator
CMA	Capital Market Authority
COVID-19	Corona Virus Disease
CPIA	Country Policy and Institutional Assessment
CSD	Central Securities Depository 10
DSA	Debt Sustainability Analysis
FCCL	Fiscal Commitment and Contingent Liabilities
FX	Foreign Exchange
FY	Financial Year
GDP	Gross Domestic Product
GoK	Government of Kenya
IBRD	International Bank for Reconstruction and Development
IDA	International Development Association
IEBC	Independent Electoral and Boundaries Commission
IFAD	International Finance for Agricultural Development 20
IMF	International Monetary Fund

9  
SECRET

SECRET

ISB	International Sovereign Bond
KenGen	Kenya Electricity Generating Company
KPA	Kenya Ports Authority
KQ	Kenya Airways
Ksh.	Kenya Shillings
MDAs	Ministries, Departments and Agencies
MFAD	Macro and Fiscal Affairs Department
MIDS	Medium-Term Debt Management Strategy
MTEF	Medium-Term Expenditure Framework
MTP III	Medium-Term Plan III 10
NSE	Nairobi Securities Exchange
OTC	Over the Counter
PDMO	Public Debt Management Office
PFM	Public Finance Management Act 2012
PPG	Public & Public Guaranteed
PPP	Public Private Partnerships
PV	Present Value
RMD	Resources Mobilization Department
S1	Strategy 1 20
S2	Strategy 2
S3	Strategy 3
S4	Strategy 4
SDR	Special Drawing Rights
SOEs	State Owned Enterprises
USD	United States Dollar

10  
SECRET

## EXECUTIVE SUMMARY

The 2024 Medium-Term Debt Strategy (MTDS) has been prepared as per the requirements of Section 33(2) of the Public Finance Management Act, 2012 that guides borrowing activities of the government over the medium-term. This strategy covers the period 2024/25-2026/27 and it outlines the strategies and initiatives to be implemented, aiming at minimizing costs and risks of debt management.

The strategy was developed in the face of ongoing global uncertainties, which includes high but gradually declining inflationary pressures, an unfavourable outlook for global growth, elevated geopolitical tensions, concerns about the stability of the financial sector in advanced economies and rise in food insecurity as a result of climate change related shocks. 10

The strategy is aligned to 2024 Budget Policy Statement (BPS) whose aim is to support economic recovery through a growth friendly fiscal consolidation plan aimed at slowing the public debt accumulation without compromising service delivery to citizens.

The government's plan in the fiscal year 2024/25 and over the medium-term is to implement priority economic policies, structural reforms, fiscal consolidation plan and sectoral expenditure programs outlined in the 2024 BPS, through a Bottom-Up approach for a socioeconomic transformation, economic turnaround and inclusive growth. Special focus will be placed on increased employment, more equitable distribution of income, social security while also 20 expanding the tax revenue base, and increased foreign exchange earnings.

The scope of coverage of this strategy is the existing debt portfolio, non-performing guarantees, and the projected fiscal deficits in the 2024 BPS.

Public and publicly guaranteed debt in nominal terms as at end June 2023 was Ksh. 10,278.7 billion (70.8 percent of GDP). This comprises external debt stock of Ksh. 5,446.5 billion and domestic debt stock of Ksh. 4,832.1 billion. Kenya's debt remains sustainable with high risk of debt distress as per the Debt Sustainability Analysis (DSA) report by International Monetary Fund (IMF) as at June, 2023.

11

The present value of public debt was 68.2 percent of GDP against the approved debt anchor of 55 percent of debt to GDP. The domestic debt was 36.5 percent while external debt was 31.7 percent of GDP in PV terms.

Preparation of the 2024 MTDS to guide borrowing in the medium-term is in line with the PFM Act, 2012. The 2024 optimal strategy seeks to achieve gradual reduction of Treasury bills stock with domestic financing mainly sourced from medium to long-term Treasury bonds. Externally, the strategy focuses more on budget financing through concessional borrowing. In terms of net financing, the option assumes 45 percent domestic and 55 percent external borrowing.

The strategy will meet the government requirements while repaying its debt maturities. The outcomes of the optimal strategy are:

- i. It has the least cost of debt in terms of interest payments as a percent of GDP and implied interest rate.
- ii. It has least PV of debt to GDP as a resulting outcome of the fiscal consolidation plan.
- iii. To minimize refinancing risk by lengthening the total portfolio Average Time to Maturity (ATM) through issuance of medium to long-term bonds and concessional loans with longer maturities.
- iv. To minimize interest rate risk in terms of average time to re-fixing.
- v. To deepen the domestic bond market through issuance of more medium to long-term instruments as the main source of domestic financing.

Changes in global economic and market conditions may result to deviation from the optimal strategy. Appropriate measures will be taken to align the strategy to policy actions at the time. Implementation of the strategy will be monitored and evaluated closely to factor any changes as they evolve based on market realities and fiscal adjustments.

## I. INTRODUCTION

1. Article 225 (1) of the Constitution of Kenya and Section 12 (1) (b) of the Public Finance Management (PFM) Act, 2012 give the National Treasury the mandate to manage the level and composition of national public debt, National Guarantees and other financial obligations of national government within the framework.
2. Section 62 (3) of the PFM Act, 2012 specifies objectives of the Public Debt Management to include: minimization of the cost of debt management and borrowing over the long-term taking account of risks; promote the development of market institutions for Government securities; and ensure the sharing of the benefits and costs of public debt between the current and future generations.
3. Section 63 (c) of the PFM Act, 2012 mandates the PDMO to prepare and update MTDS annually including Debt Sustainability Analysis (DSA). Additionally, Section 64 (2) (a) of the Act, requires the MTDS to be consistent with the Budget Policy Statement (BPS). 10
4. The National Treasury prepares and publishes the Medium-Term Debt Management Strategy every year, which sets optimal strategy to finance government's medium-term borrowing requirements at the most optimal combination of cost and risk. It links the medium-term fiscal framework of government to the annual borrowing plan to facilitate borrowing at the lowest cost and most prudent degree of risk.
5. The 2024 Medium-Term Debt Management Strategy (MTDS) is prepared in conformity to Section 33(3) of the PFM Act, 2012 and include: a) the total stock of debt as at the date of the statement; b) the category of loans made to the national government; c) the principal risks associated with those loans and guarantees; d) the assumptions underlying the debt management strategy; and e) an analysis of the sustainability of the amount of debt, both actual and potential. It highlights plans reforms to be implemented by the National Treasury and other key market players aimed at deepening the domestic debt markets and reducing costs and risks of borrowing and debt management, develop the domestic debt market and pursuit of intergenerational equity in costs and benefits of public debt. 20
6. The MTDS aims to minimize costs and risks of the existing domestic and external guaranteed debt and called-up guaranteed debt, projected debt and financing of the fiscal deficit for the period FY2024/25 to FY2026/27.

### Background to Medium-Term Debt Management Strategy

7. Kenya's economic performance has remained stable amidst global shocks in relation to Russia-Ukraine conflict, climate-related shocks and rising uncertainties in the global economy due to ongoing geo-political dynamics. In 2023, the economy is expected to grow by 5.5 percent from 5.2 percent in 2022 and is expected to remain stable the medium-term. The steady economic growth is expected to be supported by recovery in the agricultural

sector and resilient service sector including information and communication, financial services and trade.

8. Inflation rate has largely been within the government target of 5-2.5 percent at 6.6 percent in December 2023 from 9.1 percent in December 2022 and this was supported by lower food prices, prudent monetary policy and other government policy interventions. The overall inflation is expected to remain within the target range in the medium-term with the support of muted demand pressures.
9. In 2023, Kenya sovereign rating is at B by both Standard and Poor's (S&P) and Fitch Ratings. Moody's rated Kenya at B3 with a negative outlook. The variations in the credit rating scores were due to the influence of subjectivity and the perceptions on the qualitative analysis. Nevertheless, Kenya's public debt is within sustainable levels. The fiscal consolidation path is aimed at lowering fiscal deficit to curtail growth in the public debt. 10
10. The total revenue for the FY 2024/25 is estimated at Ksh. 3,435.0 billion, equivalent to 19.1 percent of GDP while total expenditure is projected at Ksh. 4,188.2 billion, equivalent to 23.2 percent of GDP. The deficit is projected at 3.9 percent of the GDP and expected to decline to 3.3 percent in the medium-term.
11. As at end June 2023, the public debt in nominal terms amounted to Ksh. 10,278.7 billion, equivalent to 70.8 percent of GDP. Total external debt was Ksh. 5,446.6 billion, equivalent to 37.5 percent of GDP, whereas domestic debt totalled Ksh. 4,832.1 billion, equivalent to 33.3 percent of GDP.
12. Kenya's public debt remains sustainable but with high risk of debt distress (IMF December 2023). Kenya is ranked a medium performer, in terms of Debt Carrying Capacity, with a Composite Indicator (CI) of 3.01. Implementation of ongoing fiscal consolidation program through domestic revenue mobilization and spending rationalization measures will stem debt accumulation. 20
13. The next chapters include: reviews of the costs and risks characteristics of public debt; debt sustainability analysis; macroeconomic assumptions and key risks under the 2024 BPS; potential sources of financing; costs and risks of alternative debt management strategies; and the implementation work plan.

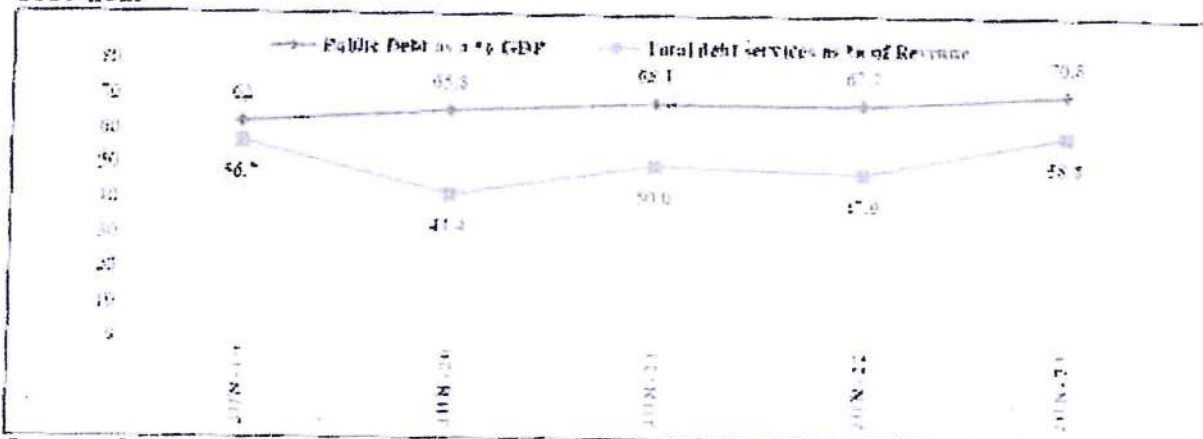
SECRET

## II. STOCK OF PUBLIC AND PUBLICLY GUARANTEED DEBT

14. As at end June 2023, the stock of public debt was Ksh. 10,278.7 billion, equivalent to USD 73.1 billion in nominal terms of which, domestic debt was Ksh. 4,832.1 billion while external debt was Ksh. 5,446.5 billion (Table 5).

15. As at end June 2023, the public debt as a percentage of GDP stood at 70.8 percent while total debt service as a percentage of revenue was 58.8 percent (Figure 1).

Figure 1: Debt to GDP ratio percent and Total Debt Service as percent of Revenue from 2019-2023



Source: The National Treasury

16. The 2024 MTDS analysis considers a debt stock of Ksh. 10,091.6 billion or USD 71.8 billion excluding Ksh. 187.0 billion of which unrealised guaranteed debts of Ksh. 82.0 billion, Government overdraft at CBK of Ksh. 76.5 billion, Suppliers credit of Ksh. 14.8 billion and Bank advances of Ksh. 7.3 billion. 10
17. External public debt comprise multilateral, bilateral and commercial creditors while the domestic debt comprise Treasury bonds and bills. As a proportion of total external debt, multilateral, commercial debt (including international sovereign bond) and bilateral accounted for 48.7 percent, 26.4 percent and 24.6 percent respectively. (Figure 5, Treasury bonds accounted for 83.1 percent and Treasury bills accounted for 12.7 percent of total domestic debt. The other domestic debt includes pre-1997 government loan of Ksh. 17.8 billion and IMF on-lent loan of Ksh. 95.5 billion.
18. As at end June 2023, the stock of domestic debt was Treasury bills Ksh. 614.7 billion, while Treasury bonds with various tenors was Ksh. 4,013.9 billion. 20

14  
SECRET

SECRET

Table 1: Public and Publicly Guaranteed Debt in the MTDS end-June 2023

	Ksh (billions)	USD (billions)
<b>A. Domestic Debt (included in MTDS)</b>		
Treasury Bills	614.7	4.1
Treasury Bonds	4,013.9	28.6
IMF SDR Allocation	95.5	0.7
Pre-1997 Government Debt	17.8	0.1
<b>Sub Total</b>	<b>4,741.9</b>	<b>33.7</b>
<b>B. External debt (included in MTDS)</b>		
IDA/IBRD	1,725.8	12.3
AfDB/AfDB	517.9	3.7
Bilateral	1,257.5	8.9
Multilateral	411.2	2.9
Commercial Banks	351.3	2.5
International Sovereign Bond	997.7	7.1
Called-Up Guaranteed Debt	88.2	0.6
<b>Sub Total</b>	<b>5,349.7</b>	<b>38.1</b>
<b>C. Excluded from MTDS</b>		
Suppliers Credit	14.8	0.1
CBK Overdraft	76.5	0.5
Performing Guarantees	82.0	0.6
Bank advances	13.7	0.1
<b>Sub Total</b>	<b>187.0</b>	<b>1.3</b>
<b>TOTAL DEBT Included in MTDS (A+B)</b>	<b>10,091.6</b>	<b>71.8</b>
<b>TOTAL DEBT (A+B+C)</b>	<b>10,278.7</b>	<b>73.1</b>
<b>Domestic</b>	<b>4,832.1</b>	<b>34.4</b>
<b>External</b>	<b>5,446.6</b>	<b>38.8</b>

Source: The National Treasury and Central Bank of Kenya

19. Government guaranteed debt as at end June 2023, to Kenya Power and Lighting Company (KPLC), Kenya Ports Authority (KPA), Kenya Electricity Generation Company (KenGen) and Kenya Airways (KQ) amounted to Ksh. 170.2 billion (Table 2). The called-up guarantee loan relates to Kenya Airways guaranteed debt of Ksh 88.2 billion.

15

SECRET



SECRET

Table 2: Outstanding Government Guaranteed Debt (End-June 2023)

Beneficiary Entity	Ksh. (billions)	USD (billions)
Kenya Power and Lighting Company	9.0	0.1
Kenya Ports Authority	50.5	0.4
Kenya Electricity Generation Company	22.4	0.2
Sub-Total Un-Called Guarantees	82.0	0.6
Kenya Airways	88.2	0.6
Sub-Total Called Guarantees	88.2	0.6
Totals Guaranteed debt	170.2	1.2

Source: The National Treasury

10

16

SECRET

SECRET

### III. REVIEW OF THE COSTS AND RISKS OF KENYA PUBLIC DEBT

#### Review of the implementation of the 2022 MTDS.

20. The 2022 Medium-Term Debt Management Strategy guided borrowing in the FY 2022/23. The Strategy aimed to reduce the cost of debt by optimizing on concessional borrowing and minimizing commercial borrowing. Additionally, it sought to reduce the refinancing risk by lengthening the maturity profile of public debt and supporting the deepening of domestic market through issuance of medium to long-term debt securities.
21. The external and domestic financing was to account for 25 percent and 75 percent respectively, in gross terms. The composition of gross external financing consisted of concessional and commercial sources at 22 percent and 3 percent respectively, with no borrowing from semi-concessional sources. The stock of Treasury bills was projected to decrease over the medium term.
22. The 2023 MTDS achieved 22:78 percent external to domestic financing, deviating from the projected 25:75 percent, in gross borrowing terms (Table 3). This was on account of unfavourable global market conditions.

10

Table 3: 2020-2023 MTDS Targets against borrowing outturn (percent)

Borrowing source		FY2019/20	FY2020/21	FY2021/22	FY2022/23
External	MTDS	38	28	27	25
	Actual	28	19	15	22
	Deviation	10	9	12	3
Domestic	MTDS	62	72	73	75
	Actual	72	81	85	78
	Deviation	-10	-9	-12	-3

Sources: National Treasury

23. The total net borrowing to fund the fiscal deficit was Ksh.758.0 billion. This comprises actual net foreign borrowing of Ksh. 310.8 billion against a target of Ksh. 280.7 billion and actual net domestic borrowing of Ksh. 447.2 billion against a target of Ksh. 475.0 billion.
24. As at end June 2023, the actual gross domestic borrowing was Ksh. 1,957.5 billion while gross external borrowing was Ksh. 548.2 billion.

20

17  
SECRET

SECRET

Table 4: Gross borrowing for FY 2022/23

	2022 MTDS Targets (%)	FY 2022-2023 Actual (%)	FY 2022-2023 (Ksh. millions)
Gross domestic borrowing	75.0	78.0	1,957,479
Gross external borrowing	25.0	22.0	548,171
o/w Concessional and Semi concessional	22.0	18.0	445,953
Commercial borrowing	3.0	4.0	102,218

Source: National Treasury

25. The total actual gross external borrowing was 22.0 percent of the total borrowing against a target of 25.0 percent. This comprises disbursements from multilateral and bilateral sources in form of program loans, project AIA, cash loans and IMF SDR allocation (Table 4)
26. The actual gross domestic borrowing was 78.0 percent of the total borrowing compared to 75.0 percent optimal strategy target.
27. The 2022 MTDS aimed at lowering the debt service cost and minimizing the refinancing risk. However, there was an increase in both the debt service cost and the refinancing risk due to appreciation of major currencies against the Kenya shilling and elevated interest rates in the domestic market (Table 5)

10

18

SECRET

SECRET

Table 5: Review of costs and risks indicators

Risk Indicators		Baseline June 2021	2022 MTDS Targets	Actual End June 2023	Deviation (4.3)	Remark on deviation
Interest costs as % of GDP		4.6	4.1	5.8	+1.7	Increased debt service cost due to increase in interest rates in the international and domestic debt market and accumulation of debt and exchange rate depreciation
Refinancing risk	Debt maturing in 1yr (% of total debt)	10.8	10.7	12.7	+2.0	Increased refinancing risk due to increased issuance of short-term instruments
	Debt maturing in 1yr (% of GDP)	10.2	6.4	10.0	+3.6	
	ATM External Portfolio (years)	10.6	14.1	9.3	-4.8	
	ATM Domestic Portfolio (years)	6.9	9.1	7.5	-1.6	
	ATM Total Portfolio (years)	4.0	11.5	8.5	-3.0	
Interest rate risk	ATR (years)	9.3	11.3	7.7	-3.6	Marginal increase in interest rate risk indicators Worse off due to \$2bn returning in 2024
	Debt re-fixing in 1yr (% of total)	25.4	14.1	26.7	+12.6	
	Fixed rate debt (% of total)	57.7	95.3	50.5	-44.8	
Foreign exchange (FX) risk	FX debt as % of total debt	31.3	47.1	51.5	+4.4	Increased foreign exchange (FX) exposure due to currency depreciation

Source: The National Treasury

38. The interest payment as a share of GDP increased by 1.2 percentage points due to accumulation of debt and increase in interest rates by Central Banks both in the domestic and international capital markets, to contain inflationary pressures.

29. The increase in refinancing risk is reflected by the increase in the proportion of debt maturing in one year as a percentage of total debt from 10.1 percent to 12.7 percent. This indicates an increase in the issuance of short-term instruments. In addition, the Average time to Maturity (ATM) of the total debt portfolio reduced from 11.5 years to 8.5 years.

30. Marginal increase in interest rate risk indicators is echoed by the reduction of Average Time to Re-fixing (ATR) from 11.3 years to 7.7 years. Additionally, the debt re-fixing in 1 year as a percentage of total debt rises to 26.7 percent against a target of 14.1 percent. 10

SECRET

31. The Kenya shilling depreciating against major currencies exacerbated the foreign exchange risk. Foreign debt as a percentage of total debt increased to 51.5 percent from 47.1 percent (Table 5).

#### Average terms of new external debt

32. Global markets rates have tightened from the hardening borrowing terms. The worsening market conditions due to global and geopolitical economic shocks including monetary policy tightening in major economies and uncertainties related to war. The new external debts average maturity reduced to 15.7 years as at end June 2023 from 25.9 years in June 2022. The weighted average interest rate increased to 3.2 percent from 0.8 percent in June 2022. However, the grace period increased to 4.8 years from 4.2 years during the same period (Table 6). 10

**Table 6: Average Terms of New External Debt**

Terms	2016	2017	2018	2019	2020	2021	2022	2023
Average Maturity (years)	20.3	17.6	20.8	18.3	26.1	23.3	25.9	15.7
Grace Period (years)	6.2	4.5	10.3	5.6	7.4	7.4	4.2	4.8
Average Interest Rate (%)	2.6	2.6	3.9	3.9	0.5	2.1	0.8	3.2

Source: The National Treasury

#### IV. COSTS AND RISKS ANALYSIS OF THE EXISTING PUBLIC DEBT PORTFOLIO

33. This section highlights the costs and risks characteristics of the existing public debt portfolio as at end June 2023.

34. Nominal debt as a percentage of GDP increased to 70.8 percent in June 2023 from 67 percent in December 2022 due to depreciation of Kenya shilling against major currencies and new borrowing to finance fiscal deficit while the present value of public debt to GDP increased to 68.2 percent from 60.0 percent in the same period (Table 7).

Table 7: Cost and risk indicators for existing debt as at end June 2023

Risk Indicators	Dec-22			Jun-23		
	External debt	Domestic debt	Total debt (External + Domestic)	External debt	Domestic debt	Total debt
Nominal debt as percentage of GDP	34.4	32.6	67.0	37.5	33.3	70.8
PV as percentage of GDP	26.8	33.2	60.0	31.7	36.5	68.2
Cost of debt: Interest payment as percentage of GDP	1.4	3.9	5.3	1.7	3.8	5.5
Weighted Av. IR (percentage)	3.9	11.4	7.6	4.5	11.4	7.7
Refinancing risk: ATM (years)	9.8	7.8	8.8	9.3	7.5	8.5
Debt maturing in 1yr (percentage of total)	5.1	18.7	11.7	9.7	16.8	12.7
Debt maturing in 1yr (percentage of GDP)	1.9	6.5	8.4	4.1	5.0	10.0
Interest rate risk: ATR (years)	8.4	7.8	8.1	7.7	7.5	7.7
Debt re-fixing in 1yr (percentage of total)	27.0	18.7	23.0	35.9	16.8	26.7
Fixed rate debt incl T-bills (percentage of total)	75.3	100.0	87.2	73.2	100.0	84.5
T-bills (percentage of total)	0.0	15.3	7.4	0.0	13.0	5.5
FX risk: FX debt (percentage of total debt)			49.0			51.5
SI FX debt (percentage of reserves)			23.9			55.1

Source: The National Treasury

35. The total interest payments as a share of GDP increased to 5.5 percent as at end June 2023 from 5.3 percent as at end December 2022. External interest payments as a share of GDP increased to 1.7 percent as at end June 2023 from 1.4 percent as at end December 2022 while domestic interest payments as a percentage of GDP decreased to 3.8 percent from 3.9 percent during the same period. This increase is explained by increased interest rates in the domestic market and depreciation of Kenya shillings against major currencies.

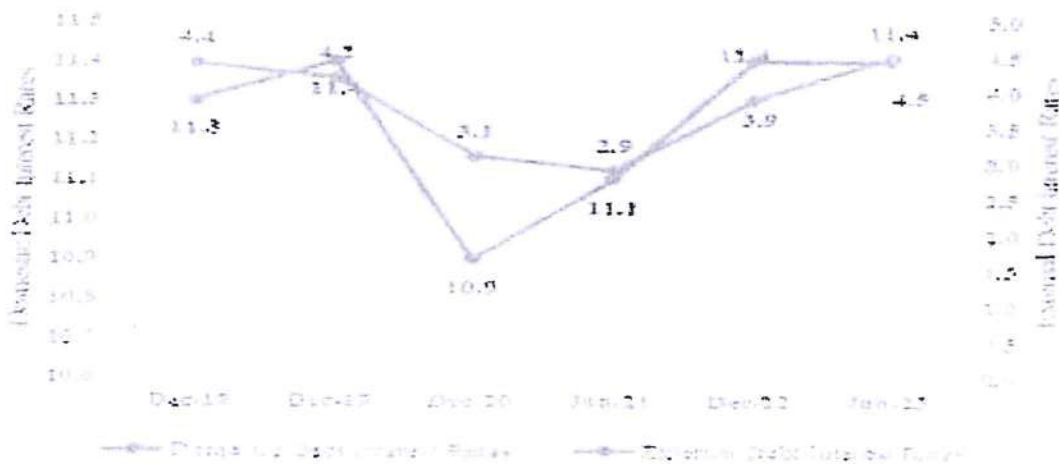
36. The main refinancing risk indicators are: debt maturing in one year as a percentage of total public debt; and Average Time to Maturity (ATM). As at end June 2023, the ATM of

SECRET

external and domestic debt portfolio reduced to 9.3 years and 7.5 years as at end June 2023 from 9.8 years and 7.8 years as at end December 2022 respectively. This was due to investors' preference for short-term debt instruments.

37. Overall, the average time to maturity of the existing public debt portfolio (external and domestic debt) reduced from 8.8 years as at end December 2022 to 8.5 years as at end June 2023.
38. Domestic debt maturing in one year as a percentage of total debt decreased to 16.8 percent in June 2023 from 18.7 percent in December 2022. External debt maturing in one year as percentage of the total debt increased to 9.7 percent from 5.1 percent as at end June 2023, due to large bullet maturity of USD 2 billion maturing in June 2024. 10
39. The Average Time to Re-fixing (ATR) of total public debt (external and domestic) reduced from 8.1 years in December 2022 to 7.7 years in June 2023. The Weighted Average Interest Rate (WAIR) for external debt increased from 3.9 percent to 4.5 percent while domestic debt remained same during the same period (Figure 2). In a volatile interest rate environment, a shorter ATR is risky because interest rates may change to a higher rate in a short time resulting into higher debt service costs.

Figure 2: Weighted Average Domestic and External Interest rates as at end June 2023



Source: The National Treasury

40. The maturity structure of domestic debt improved as at end June 2023. The proportion of instruments with less than one year to maturity reduced to 16.7 percent as at end June 2023 from 19.5 percent as at end December 2022. Further, instruments with the remaining years to maturity between 2-3 years, 4-5 years and 6-10 years increased by 5.2 percentage points, 7.3 percentage points and 4.3 percentage points respectively. However, the proportion of instruments with longer than 11 years to maturity as at end June 2023 reduced by 14 percentage points from 40.9 percent as at end December 2022 to 26.9 percent as at end June 2023. This was attributed to the investor's preference to short-term instruments (Table 8). 20

SECRET

SECRET

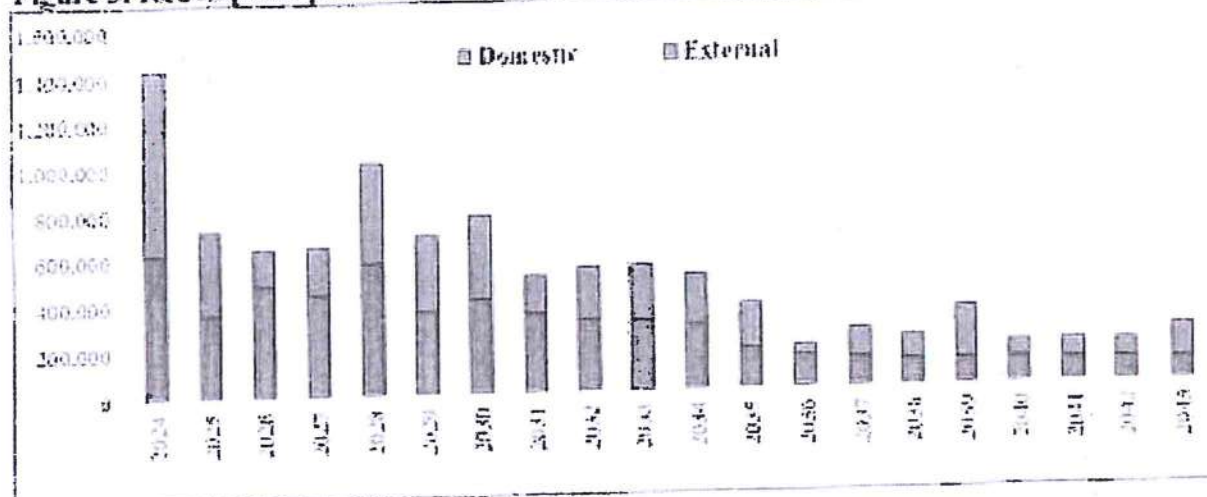
Table 8: Domestic Debt by Maturity Profile, in USD equivalent

Remaining Maturity in Years	End Dec 2022 In million USD	As Percent of Total	End June 2023 In million USD	As Percent of Total
Less than one year	6,963	19.5	5,645	16.7
2 to 3 years	3,598	10.1	5,143	15.3
4 to 5 years	3,119	8.7	5,407	16.0
6 to 10 years	7,401	20.8	8,465	25.1
Above 11 years	14,587	40.9	9,085	26.9
<b>Total</b>	<b>35,668</b>	<b>100</b>	<b>33,745</b>	<b>100.0</b>

Source: The National Treasury

41. Debts maturing in 2024 and 2028 are relatively elevated due to bullet maturing government securities and the International Sovereign Bond (ISB). (Figure 3)

Figure 3: Redemption profile as at end June 2023 (Ksh millions)



Source: The National Treasury and Central Bank of Kenya

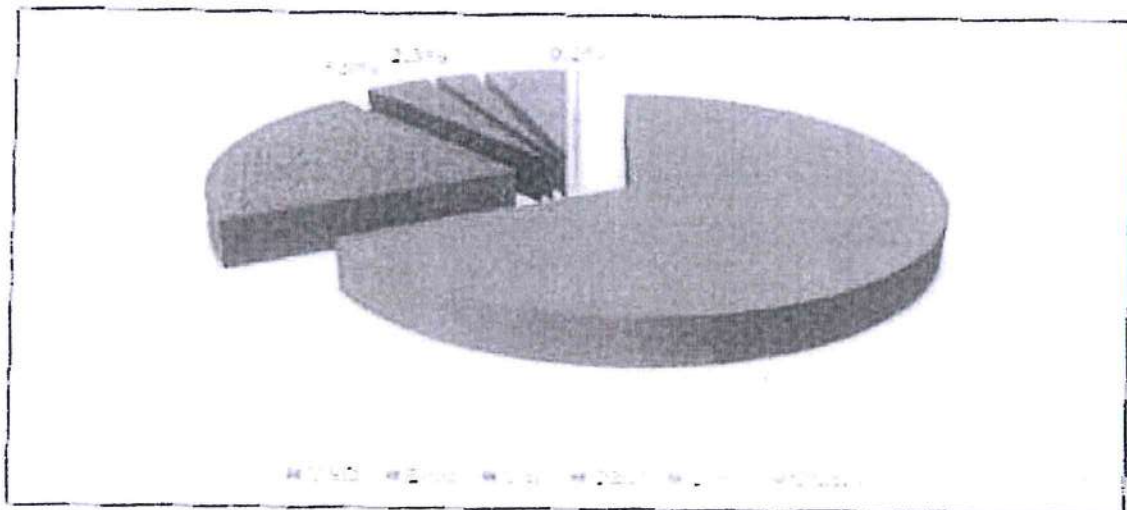
42. Foreign currency denominated debt as a percentage of the total debt increased from 49.0 percent as at end December 2022 to 51.5 percent as at end June 2023. The increase is attributed to net new external borrowing to finance expenditure requirements in FY 2022/23 and appreciation of major foreign currencies against the Kenya shilling.
43. Short-term foreign debt as a percentage of reserves increased from 23.9 percent to 55.1 percent in the same period. The share of major foreign currency denominated debt as at end June 2023 is as shown in Figure 4.

23  
SECRET



SECRET

Figure 3: Currency Composition of External Debt, End June 2023



Source: The National Treasury

24

SECRET

SECRET

## V. DEBT SUSTAINABILITY ANALYSIS

### Introduction

44. Debt Sustainability Analysis (DSA) conducted in December 2023 indicates that Kenya's public debt remains sustainable but with a high risk of debt distress. The scope of the analysis covers public debt from central government, Central Bank of Kenya debt contracted on behalf of the Government, and National Government guaranteed debt. The analysis excludes non-guaranteed debt of the public sector and arrears, which are disclosed in the annual debt management report.

### Kenya's Debt Carrying Capacity

45. Kenya is assessed as a medium performer in terms of Debt Carrying Capacity (DCC), with an estimated Composite Indicator (CI) of 2.98 (Table 9). The CI captures the impact of various factors through a weighted average of an institutional indicator (measured by the World Bank's Country Policy and Institutional Assessment (CPIA)), real GDP growth, remittances, international reserves, and global growth.
46. The December 2023 DSA CI score was marginally higher than the June 2023 DSA CI score and this was due to stronger projected path of import coverage of reserves. The applicable thresholds for the Public and Publicly Guaranteed (PPG) external and total public debt benchmark for a medium performer are shown on Table 10.
47. As shown in Table 9, Kenya's debt carrying capacity has remained medium since March 2021, a downward revision from Strong, largely reflecting the impact of COVID-19 crisis on the global and domestic economies. The downgrade from Strong to Medium performer resulted to lower debt sustainability thresholds for external debt and benchmarks for total public debt. The rating also moved to high risk of debt distress in 2020 from moderate risk in 2019, reflecting the impact of the global COVID-19 crisis which exacerbated existing vulnerabilities (Table 9 and Table 10).

Table 9: Kenya's debt risk levels and debt carrying capacity

	2017	2018	2019	May-20	Mar-21	Dec-21	Dec-22	Jan-23	Dec-23
Debt Carrying Capacity Composite Index (CI)	Strong	Strong	Strong	Strong	Medium	Medium	Medium	Medium	Medium
Risk of Debt Distress	Low	Moderate	Moderate	High	High	High	High	High	High

Source: The National Treasury & IMF country reports, IMF 2023

SECRET

SECRET

**Table 10: Applicable Thresholds and Benchmark for Strong and Medium Performance**

	Debt Burden Indicators	Strong DCC	Medium DCC
External Debt Thresholds	PV of debt in % of Exports	240	180
	PV of debt in % of GDP	55	40
	Debt service in % of Exports	21	15
	Debt service in % of Revenue	23	18
Total Public Debt Benchmark	PV of total public debt in % of GDP	70	55

Source: Guidance Note on Bank-Fund Debt Sustainability Framework for Low Income Countries

### External Debt Sustainability Analysis

48. External DSA indicate that the Present Value (PV) of PPG external debt-to GDP ratio remains below the 40 percent indicative threshold throughout the projection period. This solvency indicator is projected to decline from 31.7 percent in 2023 to about 28.3 percent in 2028, reflecting the impact fiscal consolidation and a borrowing mix biased towards concessional borrowing (Table 11).
49. However, external debt indicators in terms of exports and revenues exceed their respective thresholds under the current trend (baseline), resulting to a mechanical high-risk signal (Table 11). The PV of PPG external debt-to-exports (solvency indicator) remains above the threshold (180 percent) through 2029, with the ratio expected to decline gradually as the exports recover.
50. Debt service-to exports (liquidity indicator) exceeds its threshold (15 percent) in the medium-term on account of Eurobond repayments in 2024 and 2028, and rollover of external bank loans (in 2025-26). Additionally, the anticipated rollovers of maturing commercial financing will cause the PPG debt service-to-revenue ratio (liquidity indicator) to exceed its threshold (18 percent).
51. The breaches in the debt thresholds in terms of exports indicate increased vulnerability of public debt to export and financing shocks. This underscores the importance of broadening the export base given the volatility in export commodity prices as well as continuation of the recent practice of contracting loans with amortizing repayment terms and lengthening of the maturity profile of domestic debt through issuance of longer dated bonds. 20

SECRET  
26

SECRET

Table 11: Kenya's External Debt Sustainability Analysis

Indicators	Threshold	2022	2023	2024	2025	2026	2027	2028	2033
		Actual			Projection				
PV of PPG external debt-to-GDP ratio	40	29.0	21.7	35.8	33.8	31.8	29.9	28.3	23.3
PV of PPG external debt-to-exports ratio	180	238.2	256.9	740.7	224.0	209.9	154.3	182.1	137.9
PPG debt service-to-exports ratio	15	21.5	24.0	36.0	25.1	24.9	21.1	23.3	14.5
PPG debt service-to-revenue ratio	18	15.3	17.3	28.5	19.8	19.6	16.9	18.8	13.6

Source: The National Treasury & IMF country report

#### Total Public Debt Sustainability Analysis

52. PV of debt to GDP ratio is projected to remain above the 55 percent benchmark until 2029, resulting in a high-risk signal (Table 12). The PV of public debt-to-GDP ratio is projected to decline steadily reflecting the impact of fiscal consolidation. To improve the ratio, the Government is implementing a multi-year growth-friendly fiscal consolidation program supported by measures to enhance revenue collection and curtail overall spending while safeguarding priority high-impact social and investment expenditure.

Table 12: Kenya's Public Debt Sustainability Analysis

Indicators	Benchmark	2022	2023	2024	2025	2026	2027	2028	2033
		Actual		Projection					
PV of debt-to-GDP ratio	55	63.9	68.2	67.2	64.0	61.4	59.1	56.9	48.1
PV of public debt-to-revenue and grants ratio	n/a	170.3	380.3	352.0	330.1	315.1	303.5	292.2	247.3
Debt service-to-revenue and grants ratio	n/a	56.0	55.2	68.9	58.0	55.5	50.5	50.9	41.6

Source: The National Treasury & IMF country report

53. Kenya's debt burden indicators are projected to improve in the medium-term, supported by the ongoing fiscal consolidation program that is expected to reverse the primary balance

SECRET

SECRET

from a deficit to a surplus, in the context of continued strengthening of global and domestic economic activity and robust exports receipts.

54. The Government will continue to optimize use of concessional funding, lengthen the maturity profile of public debt through issuance of medium to long dated bonds, and deepen domestic debt market to reduce cost of public debt and borrowing. Additionally, a steady and strong inflow of remittances and a favourable outlook for exports will play a major role in supporting external debt sustainability. The newly rolled out Central Securities Depository system (DhowCSD) is expected to bolster implementation of market development initiatives by improving the process in government securities auction and settlement, broadening investor base, improving liquidity, and reducing segmentation in the interbank market. (0)
55. Additionally, although Kenya's public debt continues to be sustainable, annual borrowing limits (fiscal deficits) must be reduced to limit the rate of accumulation of public debt.

SECRET  
28

SECRET

## VI. MACROECONOMIC ASSUMPTIONS AND KEY RISKS

### Baseline Macroeconomic Assumptions

56. The macroeconomic assumptions outlined in the 2024 Budget Policy Statement (BPS) (Table 13) are the integrated into the 2024 MTDS assumptions.
57. Economic growth in the FY 2024/25 is projected at 5.5 percent. This growth will be supported by implementation of priority programmes outlined in the Bottom-Up Economic and Transformational Agenda (BETA) and the fourth Medium-Term Plan of Vision 2030.
58. Over the medium-term, growth is projected to remain above 5.5 percent supported by inclusive growth through increased employment, more equitable distribution of income, enhanced social security and expansion of the tax revenue base. D

Table 13: Baseline Macroeconomic Assumptions

	Unit	2023	2024	2025	2026	2027	2028
		Pre-Act	Projection				
Real GDP	Percent	6.2	5.2	5.5	5.5	5.5	5.6
GDP Deflator	Percent	5.2	6.6	6.7	5.5	5.7	5.6
Inflation	Percent	6.9	7.7	6.3	5.6	5.0	5.0
Revenue	Percent of GDP	17.1	16.5	19.0	19.1	19.2	19.7
Expenditure	Percent of GDP	23.8	22.6	24.2	23.2	22.8	23.2
Overall Fiscal Balance	Percent of GDP	(6.9)	(5.6)	(4.9)	(4.9)	(3.3)	(3.5)
Primary Budget Balance	Percent of GDP	(1.9)	(2.2)	0.7	1.7	1.8	1.5
Revenue	Ksh. Billion	2,099.8	2,360.5	3,695.6	3,435.0	3,523.1	4,276.5
Expenditure	Ksh. Billion	3,027.8	3,221.0	3,902.9	4,188.2	4,551.0	5,170.0
Overall Fiscal Balance	Ksh. Billion	(747.8)	(770.3)	(755.0)	(733.9)	(666.7)	(724.9)
Primary Budget Balance	Ksh. Billion	(207.2)	(65.0)	764.9	804.8	359.1	325.7
GDP (Current Prices)	Ksh. Billion	12,693.0	14,274.4	16,131.5	18,052	20,023	22,180.5

Source: The National Treasury

### Inflation

59. Inflation as at end June 2023, inflation increased above the government target range of 5 ± 2.5 percent. The overall inflation returned to target band from July 2023 declining to 6.9 percent in October 2023, and is expected to remain within the target supported by lower food prices, prudent monetary policy and other government policy interventions.

29  
SECRET

SECRET

## Revenue and deficits

60. The government will continue implementing growth responsive fiscal consolidation through broadening of tax revenue base and rationalization of expenditures in order to reduce the fiscal deficits. To this end, the fiscal deficit is projected to decline to 3.9 per cent of GDP in the FY 2024/25 and further to 3.1 percent of GDP over the medium-term.
61. The 2024 MTDS's alternative debt management strategies are aligned to the 2024 HPS's policy objectives.

## Risks to the 2024 BPS baseline macroeconomic assumptions

62. Kenya's debt sustainability is vulnerable to exogenous shocks e.g. export, revenue patterns, climate related shocks and exchange rate movements. To reduce debt vulnerabilities, the government is committed to finance capital investments using concessional borrowing and to deepen domestic market through setting up of an OTC exchange among other strategies. <sup>fo</sup> Additionally, a steady inflow of remittances and a favourable outlook for exports will play a major role in supporting external debt sustainability.
63. Performance of the economy and government revenues has a direct impact on debt sustainability. A slowdown in the growth of the economy may elevate debt indicators.
64. Inflation induced high interest rates in both domestic and international markets thus increasing the cost of borrowing. Continued pattern may pose a challenge to government's financing of the FY2024/25 Budget and performing liability management operations on its debt portfolio as well as increasing its debt service costs. Government will continue to monitor market conditions with the view of taking appropriate actions when the conditions are favourable. Additionally, the government will continue to implement reforms to <sup>20</sup> strengthen the domestic debt market to cushion against the downside risks emanating from international capital markets.
65. Investor preference for short-term instruments has resulted in increased refinancing risk through accumulation of more short-term debt.
66. The continued appreciation of major currencies against the Kenya shilling may increase the cost of debt service as over 50 percent of the total debt portfolio is in foreign currencies.
67. Materialization of fiscal risks especially from contingent liabilities arising from State-Owned Enterprises (SOEs) debts and Public Private Partnership (PPPs) projects remain a key risk to the budget. Continuous monitoring of these exposures is important to mitigate against <sup>30</sup> any risks before they materialize.
68. The PDMO will continue to monitor evolving public debt risk profile and advise the National Treasury on appropriate remedial interventions.

30  
SECRET

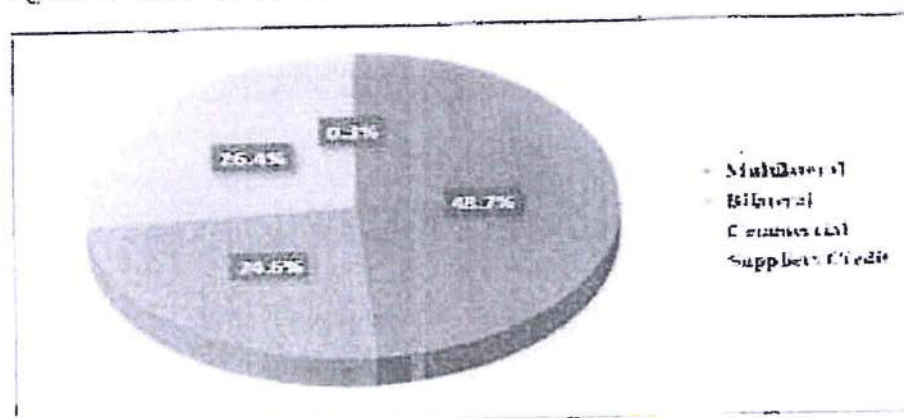
SECRET

## VII. ASSESSMENT OF POTENTIAL SOURCES OF FINANCING

### Sources of financing of the fiscal deficit

69. Borrowing from domestic and external markets remains the main source of funding budget deficits.
70. External borrowing mainly through loans from multilateral, bilateral and commercial lenders as well as bond issuances while domestic borrowing will be through Treasury bills refinancing and bonds issuance.
71. The Government will issue benchmark Treasury instruments (with tenors of 2, 5, 10, 15, 20 and 25 years), retail bonds and infrastructure bonds. However, off-benchmark bonds may be issued depending on the prevailing market conditions mainly through reopening of existing series. Treasury bills will be used for cash management purposes.
72. Non-bank institutions (pension funds, insurance firms, parastatals and retail investors) and commercial banks remain the major investors as they held 52.5 percent and 47.5 percent of the outstanding Treasury Bills and bonds as at end June 2023 respectively.
73. Multilateral, bilateral and commercial (including International Sovereign Bond, ISB) share in external debt was 50.5 percent, 23.8 percent and 25.4 percent respectively. Suppliers Credit accounted for 0.3 percent (Figure 5).
74. The main multilateral lenders comprise of International Development Association (IDA), International Bank for Reconstruction and Development (IBRD), African Development Bank (ADB), African Development Fund (ADF) and International Monetary Fund (IMF) while dominant bilateral lenders included China, France and Japan as at end June 2023.

Figure 5: Existing share of external debt as at end June 2023



Source: The National Treasury

31  
SECRET



SECRET

## Potential sources to finance the medium-term budget

### i. Domestic Sources

75. Over the years, the PDMO has successfully mobilized domestic debt as it contributed 59.7 percent of net new funding requirement in the FY 2022/23 through issuance of government securities.
76. To supplement traditional sources of funding, the PDMO will explore alternative funding sources including issuance of a Kenya shilling syndicated debt, foreign currency denominated domestic bond, and private placement for both local and external markets, among others.
77. The newly launched DhewCSD, which is a versatile market infrastructure, will improve monetary policy implementation and transmission and enhance operational efficiency in the domestic debt market. This will further promote capital market growth and deepen financial market through expanded digital access for broader financial inclusion, positioning Kenya as the preferred financial hub in the region. Additionally, the government will leverage on the DhewCSD to promote a national savings culture and to democratize access to government securities through re-engineering issuance of the retail bonds. 10
78. The PDMO will continue to spearhead key reforms to deepen the domestic debt market and diversify the investor base. To enhance the growth of the non-bank financial institutions such as pension, insurance and mutual funds, the PDMO will consider expanding the volumes and initiate new financial products such as post-retirement medical funds and contributory pension schemes.

### ii. External Sources

79. External sources remain a key source of financing the fiscal deficit as it contributed 40.3 percent of net new funding requirement in the FY 2022/23.
80. Global shocks as a result of supply chain disruptions, monetary policy tightening in the USA and European countries, continue to have impact on Kenya's medium-term prospects negatively. Spikes in oil and commodity prices are exerting pressure on inflation and the exchange rate leading to increased cost of external finance. 20
81. The PDMO will continue to source concessional financing for development expenditure from multilateral financial institutions and bilateral lenders.
82. The PDMO may also explore the issuance of green, sustainability-linked, and blue bonds to finance climate related or environmental sustainability projects. Additionally, the PDMO may explore the possibility of issuing a Panda and Samurai Bonds as part of instrument diversification.

32  
SECRET

SECRET

83. A shift in the international financing landscape has created new challenges and opportunities and options for developing countries. Kenya will focus on leveraging the involvement of the private sector in infrastructure financing such as public-private partnership.
84. Other emerging funding sources such as debt swaps especially debt for nature swaps and debt for food security swaps are under consideration between the government of Kenya and the United Nations Development Partners to fund the budget deficit for FY 2024/2025. ||
85. The Government will endeavour to maintain its presence in the international financial markets through refinancing the existing commercial maturities and mobilizing resources for budget support. 10

33  
SECRET

## VIII. PUBLIC DEBT RISKS AND COSTS EVALUATION UNDER ALTERNATIVE PUBLIC DEBT MANAGEMENT STRATEGIES

### Public Debt costs and risks evaluation

86. In order to manage costs and risks associated with public debt, an evaluation of the risks and costs under various alternative debt management options has been undertaken to inform the optimal strategies. The results of the evaluation are used to populate the matrix of risks and costs of public debt, (Table 14), to help identify the optimal public debt management and deficit financing strategies that provide the best projection of costs minimization and risks optimization against the current indicators.

Table 14: Costs and risks characteristics matrix

10.

<i>Risk Indicators</i>		June	As at end 2027			
		2023	S1	S2	S3	S4
	<i>Nominal debt as percent of GDP</i>	70.8				
	<i>Present value debt as percent of GDP</i>	68.2				
	<i>Interest payment as percent of GDP</i>	5.5				
	<i>Implied interest rate (percent)</i>	7.7				
<i>Refinancing risk</i>	Debt maturing in 1yr (percent of total)	12.7				
	Debt maturing in 1yr (% of GDP)	10.0				
	ATM External Portfolio (years)	9.3				
	ATM Domestic Portfolio (years)	7.5				
	ATM Total Portfolio (years)	8.5				
<i>Interest rate risk</i>	ATR (years)	7.7				
	Debt re-fixing in 1yr (percent of total)	26.7				
	Fixed rate debt including T-bills (percent of total)	84.5				
	T-bills (percent of total)	5.5				
<i>FX risk</i>	FX debt as % of total	51.5				
	ST FX debt as % of reserves	55.1				

Source: National Treasury

34

### Baseline Pricing Assumptions and Description of Shock Scenarios

87. The pricing assumptions under the baseline scenario for interest rates and the exchange rates are as follows:

- i. ADF loans are priced at an average fixed rate of 0.75 percent, with a 40-year tenor and up to 10-year grace period.
- ii. IDA/IFAD loans are priced at an average fixed rate of 1.75 percent, with a 35-year tenor and up-to 8-year grace period.
- iii. Other concessional loans are priced at an average fixed rate of 1.17 percent, with a 28-year tenor and up to 7-year grace period.
- iv. Semi-concessional loans are assumed to be contracted at a fixed interest rate of approximately 2.3 percent and a maturity of 23 years including a grace period of up to 5 years.
- v. Commercial borrowings and Export Credit Agencies financing with floating rates are contracted at a reference rate plus a margin.
- vi. The pricing of Kenya's International Sovereign debt is based on the average of prevailing Sovereign Bond yields for October 2022 to October 2023.
- vii. Pricing on the domestic debt instruments is based on the prevailing market yield curve during the month of October 2023.

88. The outlook on the baseline interest rates and exchange rates is based on the following considerations: 20

- i. The exchange rate (Ksh/USD) is assumed to depreciate annually at an average of 3.1 percent.
- ii. The fixed interest rates of market-based instruments in the international capital markets were based on the average of prevailing Sovereign Bond yields for October 2022 to October 2023. The domestic market yields were based on the average of FY 2022/23.
- iii. The interest rates for fixed rate loans are assumed to remain priced as per the existing portfolio.

89. Three risk scenarios are evaluated as follows:

- i. The risk scenario for interest rates assumes moderate interest rate shock of 2.5 percent over the baseline projections and a stand-alone extreme shock of 5 percent which remains constant thereafter. 30
- ii. The risk scenario for exchange rate assumes a stand-alone extreme shock of 25 percent in 2024 which was applied on the baseline exchange rate projections.
- iii. The combined exchange rate and interest rate risk shock scenario assumes an increase in interest rate by a moderate shock of 2.5 percent combined with a 12.5 percent exchange rate depreciation in 2024.

SECRET

### Description of Alternative Debt Management Options

90. The preparation of the 2024 MTDS considered four alternative financing strategies to fund the fiscal deficits for the FY 2024/2025 and the medium-term borrowing.
91. The domestic financing sources include a combination of Treasury bills and bonds while external financing alternative sources include a mix of concessional, semi-concessional, commercial loans and international debt securities.
- i. **Strategy 1 (S1) – The Medium-Term debt management strategy is maximizing use of concessional external funding and deepening domestic debt market to reduce costs of Kenya's public debt:** This strategy will be optimized by a gross external borrowing of 28 percent and gross domestic borrowing of 72 percent. The composition of gross external financing consists of concessional, semi-concessional and commercial sources at 13 percent, 3 percent and 12 percent respectively. The net domestic borrowing is 60 percent while net external borrowing is 40 percent. Domestic borrowing is through issuance of Treasury bonds while maintaining the stock of Treasury bills to continue mitigating refinancing risk. From external sources, the strategy aims to maximize concessional funding while minimizing commercial borrowing to reduce the cost of debt. (0
  - ii. **Strategy 2 (S2) – Increased External Commercial Borrowing and Reduction of Treasury bills Stock:** This strategy would maximize external commercial borrowing and reduce refinancing risk in the domestic debt portfolio. The option involves issuing medium to long-term Treasury bonds. In terms of net financing, the strategy assumes 63 percent domestic and 37 percent external financing. In gross borrowing terms, external and domestic financing accounts for 30 percent and 70 percent, respectively. Gross external financing would be composed of 9 percent concessional, 3 percent semi-concessional and 18 percent commercial borrowing. 20
  - iii. **Strategy 3 (S3) – Maintaining the Stock of Treasury bills and Increasing External Commercial Borrowing:** The strategy envisages 50 percent each from net domestic and net external borrowing. The strategy aims at maintaining the stock of Treasury bills and issuing medium to long-term Treasury bonds while maximizing on external commercial borrowing. In gross borrowing terms, external and domestic financing accounts for 35 percent and 65 percent, respectively. Gross external financing would be composed of 11 percent concessional, 3 percent semi-concessional and 21 percent commercial borrowing. 30
  - iv. **Strategy 4 (S4) – Maximizing on External Concessional Borrowing and Reducing Refinancing Risk:** The strategy seeks to achieve gradual reduction of Treasury bills stock with domestic financing mainly sourced from medium to long-term Treasury bonds. Externally, the strategy focuses more on budget financing through concessional borrowing. In terms of net financing, the option assumes 45 percent domestic and 55 percent external borrowing. In gross borrowing terms, external and domestic financing accounts for 37 percent and 63 percent, respectively. Gross external financing would be

36  
SECRET

SECRET

composed of 16 percent concessional, 6 percent semi-concessional and 15 percent commercial borrowing.

### Cost-Risk Analysis of Alternative Debt Management Options

92. The cost and risk indicators generated by the MTDS Analytical Tool (MTDS AT) under each of the four alternative funding strategies provides the output of the evolution of the debt costs and risks characteristics in the medium-term. The Tool also provides the projected characteristics of the debt portfolio under standard shock scenarios. In addition, the MTDS AT provides projected stock and cash flow of the debt profile.

#### i. Baseline projection and alternative options

93. The average gross borrowing in each alternative strategy during the period ending FY 2025/26 is presented in Table 15. 10

Table 15: Average new borrowing by instrument under alternative strategies (in percent of gross borrowing by end of FY 2026/27)

<i>New debt in % of Total Gross Borrowing</i>	S1	S2	S3	S4
<i>ADF</i>	1	0	1	1
<i>IDA/IFAD</i>	6	4	5	8
<i>Concessional</i>	6	5	5	7
<i>Semi-Concessional</i>	3	3	3	6
<i>Commercial/International Sovereign Bond</i>	12	18	21	15
<i>Treasury bills</i>	28	26	28	26
<i>Treasury bonds 2-3 Years</i>	6	2	2	1
<i>Treasury bonds 4-7 Years</i>	17	17	16	15
<i>Treasury bonds 8-12 Years</i>	5	8	5	6
<i>Treasury bonds 13-17 Years</i>	13	12	13	11
<i>Treasury bonds 18-22 Years</i>	2	4	2	2
<i>Treasury bonds 23-30 Years</i>	1	1	1	1
<i>External</i>	28	30	35	37
<i>Domestic</i>	72	70	65	63
<i>Total</i>	100	100	100	100

Source: The National Treasury

94. The composition of the debt portfolio arising from the financing options in Table 15 during the period ending FY 2026/27 is presented in Table 16.

37 SECRET

**Table 16: Composition of Debt Portfolio by Instrument under Alternative Options, (in Percent of Outstanding Portfolio as at End of FY 2026/27)**

<i>In Percent of Total</i>	<i>As at end FY2026/27</i>				
	<i>FY 2022/23</i>	<i>S1</i>	<i>S2</i>	<i>S3</i>	<i>S4</i>
<i>Outstanding by Instrument</i>	<i>Current</i>				
<i>ADF</i>	3	3	3	3	3
<i>IDA/IFAD</i>	17	16	15	16	18
<i>Concessional</i>	3	6	5	6	7
<i>Semi-Concessional</i>	9	7	7	7	8
<i>Commercial/International Sovereign Bond</i>	21	17	20	22	18
<i>Treasury bills</i>	6	4	4	4	4
<i>Treasury bonds 2-3 Years</i>	1	2	1	1	0
<i>Treasury bonds 4-7 Years</i>	6	12	11	10	10
<i>Treasury bonds 8-12 Years</i>	9	7	9	7	8
<i>Treasury bonds 13-17 Years</i>	12	15	14	14	14
<i>Treasury bonds 18-22 Years</i>	10	8	9	8	8
<i>Treasury bonds 23-30 Years</i>	3	3	3	3	3
<i>External</i>	<b>53</b>	<b>49</b>	<b>50</b>	<b>53</b>	<b>54</b>
<i>Domestic</i>	<b>47</b>	<b>51</b>	<b>50</b>	<b>47</b>	<b>46</b>
<i>Total</i>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

*Source: The National Treasury*

95. Projected composition of domestic debt portfolio increases under strategy 1 and 2, remains unchanged under strategy 3 and reduces under strategy 4.
96. The projected costs and risks trade-off of the various alternative strategies is used to inform the choice of the optimal strategy (Table 17 and Figure 6)

Table 17: Cost and Risk Indicators under Alternative Options

Risk Indicators		2023	2027			
		Current	S1	S2	S3	S4
Nominal debt as percent of GDP		70.8	67.3	67.6	67.4	67.0
Present value debt as percent of GDP		68.2	63.9	62.1	61.7	59.9
Interest payment as percent of GDP		5.5	5.6	5.7	5.6	5.5
Implied interest rate (percent)		7.7	9.3	9.6	9.3	8.8
Refinancing risk	Debt maturing in 1yr (percent of total)	12.7	12.4	11.4	12.1	11.4
	Debt maturing in 1yr (% of GDP)	10.9	9.5	7.7	8.2	7.6
	ATM External Portfolio (years)	9.3	10.2	9.5	9.5	10.6
	ATM Domestic Portfolio (years)	7.5	6.9	7.4	7.3	7.1
	ATM Total Portfolio (years)	8.5	8.6	8.5	8.3	9.1
Interest rate risk	ATR (years)	7.7	8.1	7.9	7.7	8.5
	Debt re-fixing in 1yr (percent of total)	26.7	22.3	24.1	26.5	22.1
	Fixed rate debt including T-bills (percent of total)	84.5	88.4	85.5	81.7	87.6
	T-bills (percent of total)	5.5	4.2	3.7	4.1	3.7
FX risk	FX debt as % of total	31.5	49.2	49.8	57.2	50.6
	ST FX debt as % of reserves	55.1	33.2	33.0	35.1	32.6

Source: The National Treasury

97. Across all the alternative options projections, both nominal and Present Value (PV) of debt to GDP ratios are lower than the levels in June 2023. This is driven by projected higher GDP growth and government's commitment to fiscal consolidation in the medium term.

98. As shown in Table 17, Strategy 1 (S4) has greater projected benefits to debt management objectives than the other three strategies in terms of the following attributes:

- i. Has the least cost of debt in terms of interest payments as a percentage of GDP and implied interest rate.
- ii. Has least PV of debt to GDP as a resulting outcome of the fiscal consolidation plan.
- iii. Minimizes refinancing risk by lengthening the total portfolio ATM attributed to issuance of medium to long-term bonds and concessional loans with longer maturities.
- iv. Minimizes interest rate risk in terms of average time to re-fixing. 10
- v. Deepens the domestic bond market through issuance of medium to long-term instruments as the main source of domestic financing and setting up of OTC platform for government securities.

99. Overall, Strategy 1 indicated minimized foreign exchange risks in terms of FX debt as a percentage of total debt.

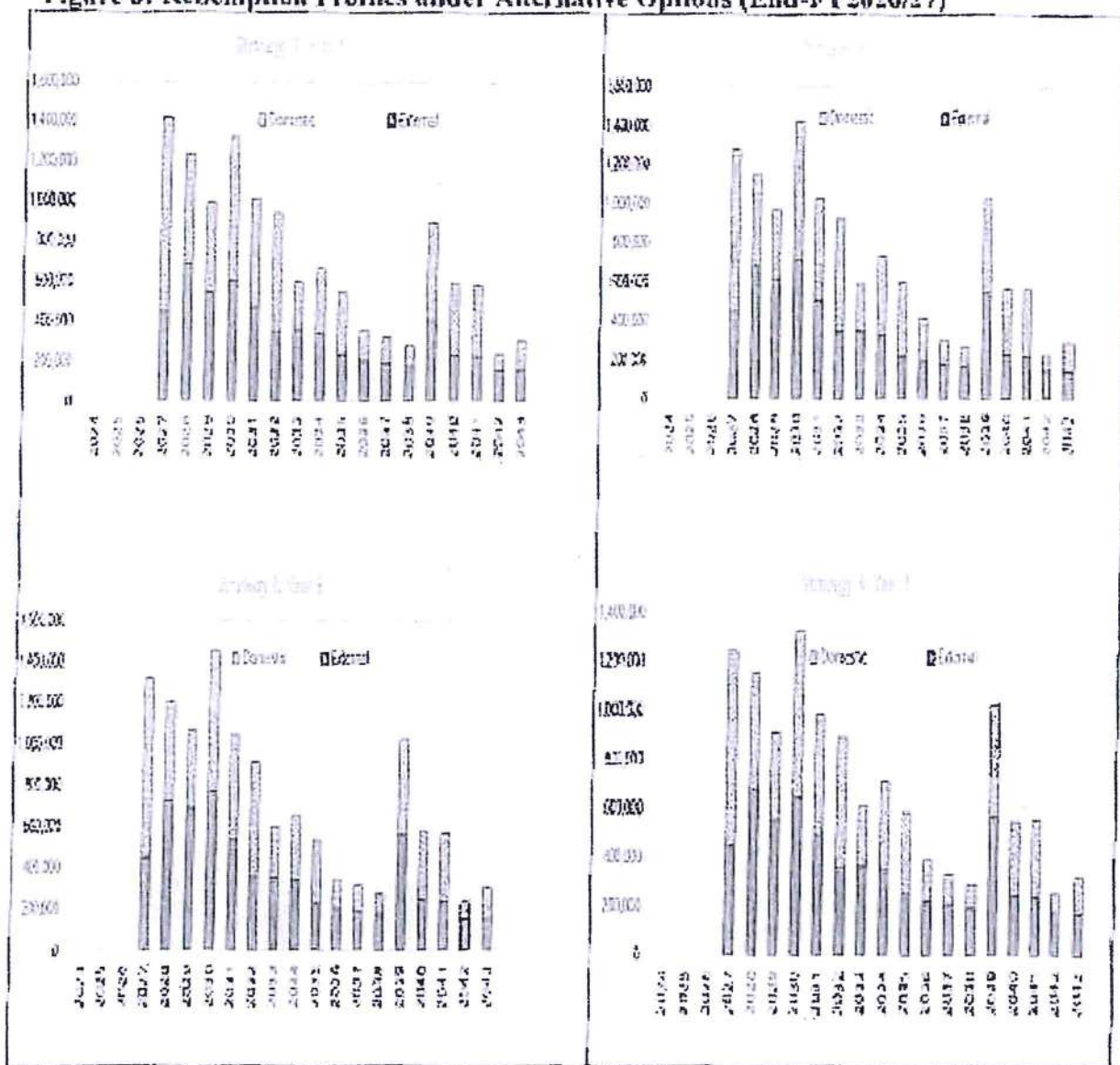
100. Strategy 2 minimizes refinancing risk by lengthening the ATM of domestic portfolio.

101. Strategy 3 projects undesirable results in the trade-off between all costs and risk indicators and may be unrealistic to implement.



102. The projected redemption profiles of the alternative strategies by end 2027 are shown in Figure 6. High maturities of both domestic and external debt are observed in 2027, 2028 and 2030. These maturities are associated with maturing domestic debt and International Sovereign bonds as well as other commercial loans.

Figure 6: Redemption Profiles under Alternative Options (End-FY2026/27)



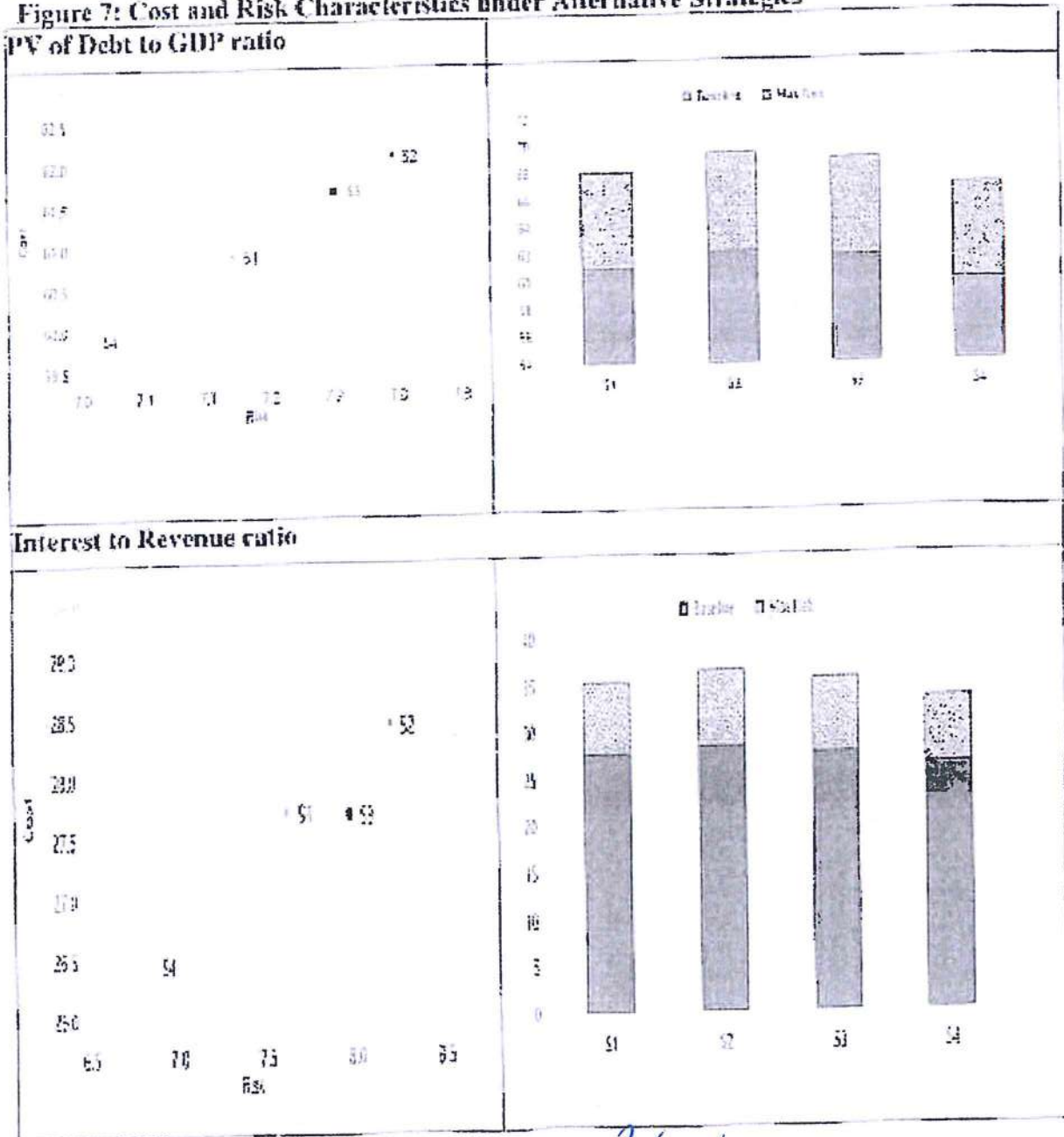
Source: The National Treasury

ii. Effect of shocks on the costs and risks characteristics of debt

103. Current trend (Baseline) pricing and shock scenarios analysis considered the following indicators: Present Value of Debt/GDP, interest payments/Revenues, interest payments/GDP and total debt service/GDP (Figure 7)

104. The outcome of the analysis indicates the extent of risk associated with each strategy under the baseline and shock scenarios. The optimal strategy is the one with projected lowest cost-risk combination.

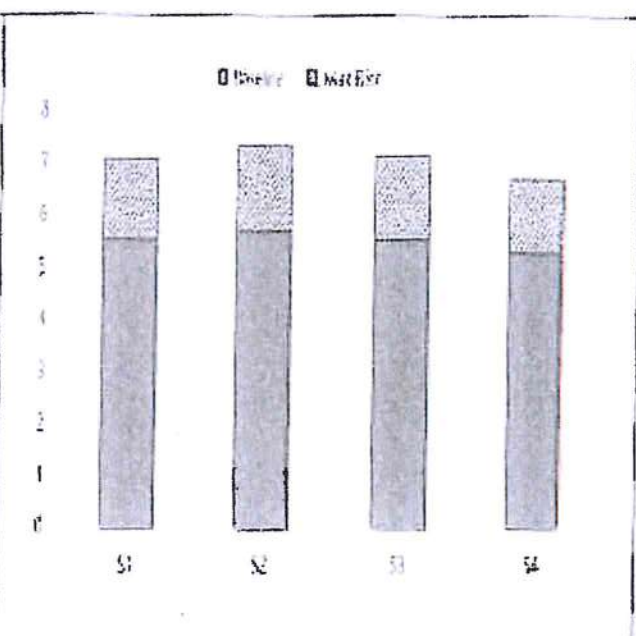
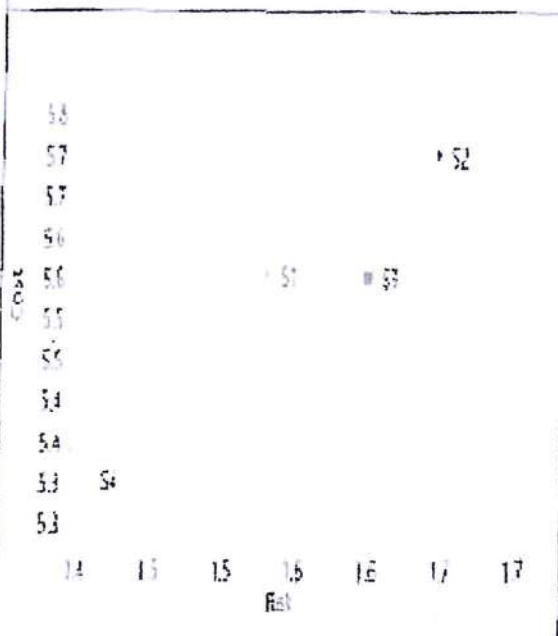
Figure 7: Cost and Risk Characteristics under Alternative Strategies



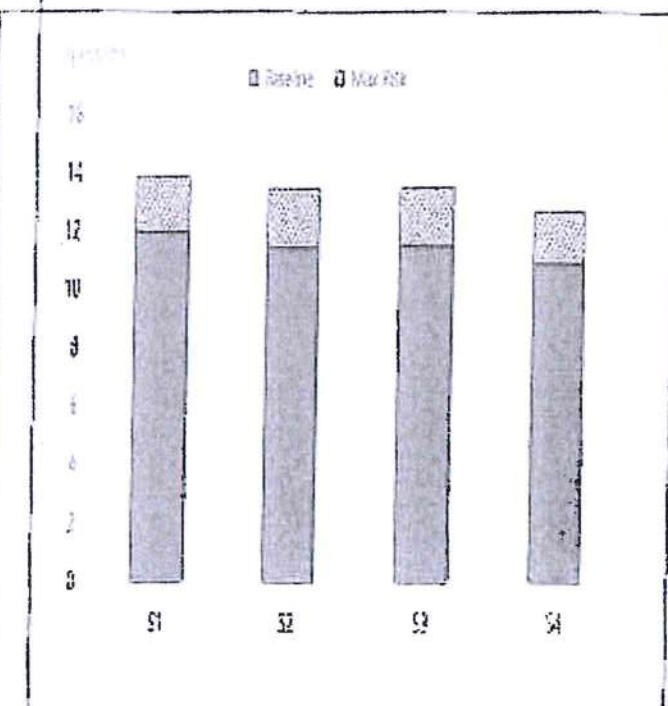
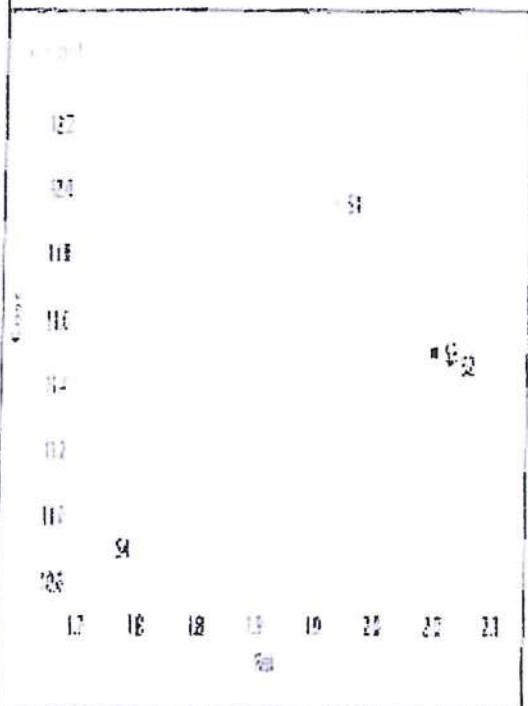
SECRET 241

SECRET

Interest to GDP ratio



Total debt service to GDP ratio



Source: The National Treasury

SECRET 42

SECRET

**iii. The preferred financing strategy**

105. Strategy 4 is the optimal strategy selected as it results in optimization of majority of costs and risks indicators. The Strategy aims at achieving a net financing mix of 55 percent from net external sources and 45 percent from domestic market. The objective is to optimize on the use of concessional and reducing commercial borrowing, thereby reducing the cost of debt. In the domestic market, the strategy seeks to reduce refinancing risk through issuance of medium to long-term Treasury bonds.

43

SECRET

SECRET

## IX. PUBLIC DEBT MANAGEMENT REFORMS

106. **Shift from a debt limit to a debt anchor:** The National Treasury amended the numerical debt limit and replaced it with a debt anchor of 55 percent of debt to Gross Domestic Product ratio in Present Value terms. A debt anchor is a desired level of public debt as a ratio of GDP that is supportive of economic growth and development, the debt carrying capacity and ability to service debt.
107. **Operationalization of sinking fund:** The National Treasury is developing Sinking Fund Regulations for purposes of operationalization of the Sinking Fund. The Fund's objective is redemption of government loans and securities, and payment of expenses of, or incidental to redemption of an issue of national government loans.
108. **Liability Management Operations:** In order to lower costs and risks associated with existing public debt portfolio, the government will apply Liability Management Operations (LMOs) targeting the existing debt portfolio. The operations will include amongst others: Debt swaps, buy-backs etc. The government also endeavour to maintain its presence in the international financial markets through refinancing the existing commercial maturities and mobilizing resources for budget support.
109. **Diversified sources of borrowing:** The government will explore alternatives financing sources to the conventional bonds that are more flexible and less costly. Examples of these include the Sukuk bonds, Green and sustainability linked bonds, Samurai bonds, Panda bonds and Diaspora bonds.
110. **Strengthen the institutional arrangement and operational capability of the PDMO:** The PFM Act, 2012 seeks to establish PDMO within the National Treasury, but with some degree of independence or autonomy, regarding the management of the portfolio and of the office. This will be achieved by developing a Policy, Financial and Administrative Framework (PFAF) within which the PDMO would operate, and delegating the operational decisions on borrowing and debt management and the day-to-day management of the Office from the Cabinet Secretary to the Head of the PDMO.
111. **Expanding coverage of public debt reporting:** The government is committed to expanding coverage in reporting of public debt to include non-guaranteed debt owned by State-owned Enterprises (SOEs), fiscal risk and contingency liability posted by Public-Private Partnerships (PPPs) and guarantees through a gradual approach to promote debt transparency and accountability. Since FY 2020/21, the PDMO has been reporting non-guaranteed debt and has institutionalized to annual reporting.

SECRET 44

SECRET

## Domestic debt market reforms

112 The National Treasury has been undertaking a number of reforms in collaboration with other financial sector players, which include the Capital Market Authority (CMA), the Central Bank of Kenya (CBK) and market participants. These reforms include:

- i. **Publication of an issuance calendar:** Regular publication of an issuance calendar for government securities to support predictability in the issuance process and provide a guide for investor planning. The National Treasury together with the CBK coordinates the preparation and publication of an issuance calendar for the financial years.
- ii. **Separation of the Retail and Wholesale Market for government Securities:** The new Central Securities Depository system called DhowCSD went live on 31<sup>st</sup> July 2023. It sets the foundation for the separation of the retail and wholesale market. It will facilitate the retail investors to directly access government securities market including buying and selling Treasury bills and bonds online. The DhowCSD is a versatile market infrastructure that will improve monetary policy transmission, implementation and operational efficiency in the domestic debt market. The system is accessible via CBK website and App Store.
- iii. **Retail-Bond Issuance Re-engineering:** The National Treasury is currently undertaking Retail-bond issuance re-engineering process in coordination with the CBK to further deepen the government securities at the retail level. The re-engineering process is intended to among others incorporate recommendations spelt out in the post M-Akiba Issuance survey report while addressing the challenges therein. The re-engineering of Retail bond issuance will contribute to democratization of investment opportunities and improve efficiency and access in the government securities market.
- iv. **Establishment of the Over-The-Counter (OTC) Market for government Securities:** The development of the OTC trading platform for government securities is being undertaken. Treasury bills have been trading on OTC. The Capital Market Authority in collaboration with market participants has developed OTC trading guidelines, which will support implementation of the OTC for Treasury bonds trading platform. The establishment of OTC platform is envisaged to boost liquidity in the bond market.
- v. **Establishment of an Efficient Horizontal Repo Market and Securities Lending and Borrowing (SLB):** The CBK DhowCSD system will now allow full transfer of securities ownership for Repo transactions through a collateral management module. The launch of Repo market and securities lending and borrowing through DhowCSD system will provide a critical anchor to the financial sector in Kenya. It will promote the distribution of liquidity among the capital markets stakeholders and enhance uptake of government securities in financial market.

45  
SECRET

SECRET

**Other pending Initiatives in the Domestic Debt Market include:**

- vi. Initiate local private placements for government securities targeting specific segment of the market; and
- vii. Establishment of offshore issuance of local currency denominated debt instrument to diversify investor base without elevating foreign currency risk.
- viii. Development of policies to streamline use of CBK overdraft facility

SECRET 46

SECRET

## X. MTDS IMPLEMENTATION, MONITORING AND EVALUATION

### Domestic and external borrowing Plan

113. The Government will implement the debt management strategy and the optimal fiscal funding strategy through the annual borrowing plan
114. The PDMO will prepare domestic and external borrowing plan comprising of projected borrowing and settlement of maturities within the 2024/25 financial year.
115. The external borrowing plan will comprise of expected disbursements by creditor, the disbursement period and currency of disbursement within the financial year as per the 2024 MTDS
116. The borrowing plan may be revised to include liability management operations to manage debt-stock risks when the market conditions allow.

### Review of the Borrowing Plan

117. Review of the outcome of implementation of the borrowing plan will be done on weekly basis (weekly debt bulletins), monthly and annual basis to provide data for strategy evaluation and for public information
118. The progress of implementation of the 2024 MTDS will be monitored and reported through monthly and annual public debt management reports. The Annual Public Debt Management Report is regularly prepared and published after end of each financial year.

### Monitoring and Review of Cost and Risk Indicator Outturn of the Strategy

119. The actual costs and risks characteristics of debt will be assessed against sustainability threshold indicators and any deviations will be used to inform strategy review in the next MTDS cycle.
120. The costs and risks outcome characteristics in the 2024 MTDS are evaluated semi-annually and annually against sustainability threshold indicators to determine deviations and suggest mitigation measures. Table 18 outlines the costs and risks parameters to be evaluated
121. The evolving public debt structure and fiscal deficit will inform review of strategy for management of costs and risks of the public debt going forward
122. Likewise, guaranteed State corporations' debt, fiscal commitments and contingent liabilities will be tracked and assessed against overall sustainability levels

SECRET

47



**Table 18: Template for Monitoring and Evaluation of Cost and Risk Indicators under Alternative Strategies**

Risk Indicators		Baseline June 2023	2024 MTDS (2027 projection)	Actual By Month <sup>a</sup>	Deviation	Remarks
Nominal debt as % of GDP						
Present value debt as % of GDP						
Interest payment as % of GDP						
Implied interest rate (%)						
Refinancing risk	Debt maturing in 1yr (% of total)					
	Debt maturing in 1yr (% of GDP)					
	ATM External Portfolio (years)					
	ATM Domestic Portfolio (years)					
	ATM Total Portfolio (years)					
Interest rate risk	ATR (years)					
	Debt refixing in 1yr (% of total)					
	Fixed rate debt (% of total)					
FX risk	FX debt as % of total					
<sup>a</sup> June 2023 for Semi-Annual and June 2024 for Annual assessment						

Source: The National Treasury

### Dissemination

123. To uphold commitment to debt transparency principles and ensure public access to information on public debt, the National Treasury will publish and upload the 2024 MTDS on the National Treasury's website after Parliament approval.

SECRET 48

SECRET

### County Borrowing

174. Article 212 of the constitution of Kenya allows County Governments to borrow only if the borrowing is approved by the County Assembly and guaranteed by the National Government. Section 58 of the PFM Act, 2012 gives power to the Cabinet Secretary to issue a loan guarantee of a county government or any other borrower on behalf of the national government and that loan shall be approved by Parliament.

125. County borrowing should conform to the fiscal responsibility principles prescribed in the PFM Act, 2012. Borrowing by County Governments should be informed by County Medium-Term Debt Strategy. As the National Treasury and Economic Planning prepares the MTDS that takes into account public debt and borrowing by the national government, respective county governments are required by law to do the same.

10

49  
SECRET

SECRET

## XI. ANNEXES

### ANNEX I: Publication of the Debt Management Strategy

Section 33 of the Public Finance Management Act, 2012 provides:

1) On or before 15th February in each year, the Cabinet Secretary shall submit to Parliament a statement setting out the debt management strategy of the national government over the medium term with respect to its actual liability in respect of loans and guarantees and its plans for dealing with those liabilities.

2) The Cabinet Secretary shall ensure that the medium-term debt management strategy is aligned to the broad strategic priorities and policy goals set out in the Budget Policy Statement.

3) The Cabinet Secretary shall include in the statement the following information:

a) The total stock of debt as at the date of the statement;

b) The sources of loans made to the national government and the nature of guarantees given by the national government;

c) The principal risks associated with those loans and guarantees;

d) The assumptions underlying the debt management strategy; and

e) An analysis of the sustainability of the amount of debt, both actual and potential.

4) Within fourteen days after the debt strategy paper is submitted to Parliament under this section, the Cabinet Secretary shall submit the statement to the Commission on Revenue Allocation and the Intergovernmental Budget and Economic Council, publish, and publicize the statement.

5) PFM Act 2012, 'General responsibilities of the National Treasury' Section 12. Provides that: (1) Subject to the Constitution and this Act, the National Treasury shall – (b) manage the level and composition of national public debt, national guarantees and other financial obligations of national government within the framework of this Act and develop a framework for sustainable debt control.

50  
SECRET

## ANNEX II: MTDS Implementation Work Plan

NO.	OUTPUT	ACTIVITY	TIME FRAME	ACTION BY	DATA/INFORMATION SOURCE
1.	MTDS 2024	Review of 2022 & 2023 MTDS, preparation and submission of 2024 to Parliament MTDS	November 2023 to February 2024	PDMO PS/NT CS/NT&P Cabinet Parliament	BPS 2024, BROP 2023 CS DRMS CBK MTDS 2022& 2023
2.	Dissemination of the MTDS 2024 to the National Treasury Departments	Circulation of printed copies, clear dissemination of the information to implementing departments and training counties	February 2024	PDMO	MTDS 2024
3.	CFS (Debt) Budget estimates	Prepare the debt service projections and CFS budget estimates	Annually as per Budget Calendar and during revisions	PDMO/MD MFAD/CBK PS/NT, CS/NT&P Cabinet Parliament	PDMO
4.	Quarterly MTDS monitoring and evaluation report	Technical Fora and peer review of implementation of the MTDS	Quarterly	PDMO; MFAD CBK; CoG	BPS 2024, BROP 2023 CS DRMS, CBK MTDS 2023, 2024
5.	Monthly debt management reports	Access of domestic and external borrowing and repayment data	Monthly	PDMO CBK	RMD CBK FMA/NI
6.	MTDS 2024 half year performance review	Undertake half year review of performance of the 2024 MTDS	Every six months after effective date of the MTDS	PDMO CBK MFAD	RMD DRS CBK MFAD
7.	FCCL Report	Undertake analysis of FCCL and FOCL assessment	Annually	PDMO, PPP Unit MFAD, CBK	PPP Unit
8.	Review of issuance calendar	Stakeholders Forums to review issuance calendar	Quarterly	PDMO AGB CBK MFAD Market Participants PS/NT CS/NT&P	PDMO CBK AGB Market Participants

**Exhibit EWG 3:**

**The Kenya Medium-Term 2024 Budget Policy Statement sub-titled:  
“Sustaining Bottom-Up Economic Transformation Agenda for  
Economic Recovery and Improved Livelihoods.”**

FELISTUS WANJIRU NJIROGE  
ADVOCATE  
COMMISSIONER FOR OATHS  
P.O. Box 75555 - 00299, NAIROBI

This is the Exhibit Marked EWG 3 Referred to In the  
Affidavit Sworn  
Declaration of Eugenia Klonjiru Givongo Declared  
Before me this 16<sup>th</sup> Day of April 2024  
At Nairobi

  
COMMISSIONER FOR OATHS



# **REPUBLIC OF KENYA**

**THE NATIONAL TREASURY AND ECONOMIC PLANNING**

**MEDIUM TERM**

## **2024 BUDGET POLICY** **STATEMENT**

**SUSTAINING BOTTOM-UP ECONOMIC  
TRANSFORMATION AGENDA FOR  
ECONOMIC RECOVERY AND IMPROVED  
LIVELIHOODS**

1

**FEBRUARY 2024**

© Budget Policy Statement (BPS) 2024

To obtain copies of the BPS, please contact:

The National Treasury and Economic Planning  
Treasury Building  
P. O. Box 30007-00100  
**NAIROBI, KENYA**

Tel: +254-20-2252-299

Fax: +254-20-341-082

The document is also available on the website at: [www.treasury.go.ke](http://www.treasury.go.ke)

2

## Foreword

The 2024 Budget Policy Statement (BPS), the second to be prepared under the Kenya Kwanza Administration, reaffirms the priority policies and strategies under the Bottom-Up Economic Transformation Agenda (BETA) and prioritized in the Fourth Medium Term Plan of the Vision 2030.

Since coming to office in September 2022, the Government has implemented bold policy responses to mitigate the negative global and persistent shocks that have pushed the economy to its lowest vibrant level and embarked on structural reforms to stabilize Government finances and the economy. These shocks include global supply chain disruptions due to ongoing conflicts in Eastern Europe and the Middle East; high interest rates limiting access to credit and exacerbating debt servicing costs; significant losses and damages due to frequent extreme weather events; and elevated commodity prices such as petroleum products on account of increased geopolitical fragmentation and global oil supply cuts. 10

Against this background, the Government continues to implement interventions and policies to reduce the cost of living and improving livelihoods, while at the same time fostering a sustainable inclusive economic transformation through the Bottom-Up Economic Transformation Agenda. This is meant to reverse the economic recession and ignite economic recovery. This Development Agenda recognizes the importance of managing the cost of living through well-functioning markets to enhance increased production and productivity, availability and affordability of goods and services for all citizens. Indeed, market failures in sectors that supported the economy are glaring. The interventions target five core priority areas namely: i) Agricultural Transformation and Inclusive Growth; ii) Micro, Small and Medium Enterprise (MSME) Economy; iii) Housing and Settlement; iv) Healthcare; and v) Digital Superhighway and Creative Industry. 20

The Agenda places special focus on increased employment, more equitable distribution of income, social security while also expanding the tax revenue base, and increased foreign exchange earnings. To realize this, the Government has targeted 9 value chains with the largest impact on jobs creation and economic recovery as follows: (i) Leather; (ii) Cotton; (iii) Dairy; (iv) Edible Oils; (v) Tea; (vi) Rice; (vii) Blue Economy; (viii) Natural Resources Including Minerals & Forestry); and (ix) Building Materials. 30

Despite the challenging environment, there is notable significant success following the various interventions rolled out during the past one year by the Government. Specifically, economic vibrancy has started. The economy remained strong in the first three quarters of 2023, growing by an average of 5.6 percent, a demonstration of resilience. This growth was well above estimated global and Sub-Saharan African region average of 2.9 percent and 3.3 percent, respectively. The economy is projected to expand by 5.5 percent in 2023 and 2024 from 4.8 percent in 2022. This growth outlook will be supported by a broad-based private sector growth, continued robust performance of the services sectors, the rebound in agriculture, 40



and the ongoing implementation of policy measures to boost economic activity in the priority sectors of the BETA.

Over the next four years, the Government will scale up efforts on policy interventions and structural reforms under BETA so as to navigate the global turbulence, accelerate economic recovery, and address overarching development challenges namely creating jobs, eradicating poverty and mitigating climate change. As part of the process, the Government will accelerate investments in: (i) human capital development; (ii) reforming markets some of which are in disarray and non-functional; (iii) domestic resource mobilization and application of those resources to development projects; (iv) reform and restructure of institutions; and (v) digitization so as to coordinate all the other four areas.

The fiscal policy stance for the FY 2024/25 and the medium term budget aims to support the Bottom-Up Economic Transformation Agenda (BETA) through a growth friendly fiscal consolidation plan. The consolidation will be supported by enhanced revenue mobilization and rationalization of non-priority expenditure while protecting essential social and development budget. As part of the process, the Government has embarked on the implementation of the National Tax Policy and the Medium-Term Revenue Strategy (MTRS) that will further strengthen tax revenue mobilization efforts to over 20.0 percent of GDP over the medium term.<sup>20</sup> In addition, tax administration by the Kenya Revenue Authority will be strengthened through scaling up use of technology to seal leakages. In part, this will involve enhancements of iTax and Integrated Customs Management System (iCMS) and usage of Tax Invoice Management System (e-TIMS). Further, the Government will scale up efforts on requiring the various Ministries, Departments and Agencies (MDAs) to not only mobilize more non-tax revenues but also transfer resources to exchequer. Eventually, majority of the MDAs are expected to be self-financing. These policy strategies are expected to expand the primary surplus in the fiscal framework and stabilize the growth of public debt thereby boosting the country's debt sustainability position.<sup>30</sup>

Given the limited resources, the hard sector ceilings provided for the FY 2024/25 and the medium term budget will form the basis of the detailed budget allocations for submission to Parliament by 30<sup>th</sup> April, 2024. In this regard, all Sector Working Groups and MDAs are expected to prepare their budgets consistent with the hard sector ceilings and adopt the value chain approach under the five clusters for the nine value chains as enumerated earlier to facilitate the finalization of the FY 2024/25 and the medium-term budget proposals.

**NJUGUNA NDUNG'U, CBS**  
**CABINET SECRETARY**

## Acknowledgement

The 2024 Budget Policy Statement is prepared in compliance with the provisions of the Public Finance Management Act, 2012. It outlines the strategic priorities of the Government, highlights the current state of the economy, provides macro-fiscal outlook over the medium term together with a summary of Government spending plans as a basis for the FY 2024/25. The publication of the 2024 BPS aims to improve the public's understanding of Kenya's public finances and guide public debate on economic and development matters.

The Government is keen on fostering prudent management of public resources in order to support inclusive economic growth and development. In this respect, the Government has adopted a "hard budget constraint" principle in relation to the fiscal framework for FY 2023/24. Expenditure requirements arising within the year will be financed by cutting back on other expenditures thereby maintaining the expenditure ceilings and primary budget balance as per the fiscal framework. This policy has been operationalized in the current financial year - new expenditure requirements which have arisen during the year have been accommodated by an across the board 10 percent budget cut. Additionally, while preparing this budget, all proposed Ministries, Departments and Agencies (MDAs) budgets for FY 2024/25 have been scrutinized carefully to ensure quality and alignment to the Government's Bottom-Up Economic Transformation Agenda as outlined in this BPS and the Fourth Medium Term Plan and other strategic interventions of national interest.

The policy measures outlined in the 2024 BPS are expected to improve economy-wide efficiencies, create an enabling environment that supports growth in businesses and investment, reduce the cost of living as well as enhance the wellbeing of all Kenyans. The tight fiscal stance is expected to reduce debt vulnerabilities through implementation of reforms to broaden the domestic tax base and improve tax compliance. Expenditure rationalization will continue to focus on enhanced efficiency of public investments, better targeting of subsidies and transfers, addressing weakness in state corporations, and digital delivery of public services. Social safety nets and fiscal risk management framework will be enhanced.

The completion of this policy statement was as a result of collective effort by various MDAs who provided valuable information. We are grateful for their contributions. We are also grateful for the inputs we received while preparing this document from the Macro Working Group; stakeholders and the general public during the Country-Wide Public Participation in October-November 2023 and the Public Sector Hearings in December 2023. A dedicated team in the National Treasury spent substantial amount of time putting together this BPS. We are particularly grateful to them for their tireless efforts and dedication.

**DR. CHRIS KIPTOO, CBS**  
**PRINCIPAL SECRETARY/THE NATIONAL TREASURY**

## Table of Contents

Foreword .....	iii
Acknowledgement .....	v
<b>I. SUSTAINING BOTTOM-UP ECONOMIC TRANSFORMATION AGENDA FOR ECONOMIC RECOVERY AND IMPROVED LIVELIHOODS .....</b>	<b>1</b>
1.1 Overview .....	1
1.2 Core Pillars .....	3
1.2.1 Agricultural Transformation and Inclusive Growth.....	3
1.2.2 Transforming the Micro, Small and Medium Enterprise (MSME) Economy.....	4
1.2.3 Housing and Settlement .....	5
1.2.4 Healthcare .....	6
1.2.5 Digital Superhighway and Creative Economy .....	8
1.3 Enablers .....	9
1.3.1 Infrastructure.....	9
1.3.2 Manufacturing Sector .....	12
1.3.3 Blue Economy .....	15
1.3.4 The Services Economy .....	16
1.3.5 Environment and Climate Change .....	20
1.3.6 Education and Training.....	20
1.3.7 Women Agenda .....	22
1.3.8 Social Protection .....	22
1.3.9 Sports, Culture and Arts.....	23
1.3.10 Youth Empowerment and Development Agenda .....	24
1.3.11 Governance.....	24
1.3.12 Foreign Policy and Regional Integration .....	27
1.4 Medium Term Revenue Strategy.....	29
1.5 National Tax Policy.....	30
<b>II. RECENT ECONOMIC DEVELOPMENTS AND MEDIUM-TERM OUTLOOK.....</b>	<b>32</b>
2.1 Overview .....	32
2.2 Domestic Economic Developments.....	33
2.3 Fiscal Performance .....	41
2.4 Fiscal Policy .....	42
2.5 Economic Outlook.....	46
2.6 Risks to the Economic Outlook.....	50
<b>III. BUDGET FOR FY 2024/25 AND THE MEDIUM TERM.....</b>	<b>51</b>
3.1 Fiscal Framework for FY 2024/25 and Medium Term Budget .....	51
3.2 FY 2024/25 and Medium-Term Budget Priorities.....	51
3.3 Budgetary Allocations for the FY 2024/25 and the Medium-Term.....	52
3.4 Details of Sector Priorities.....	54
3.5 Public Participation/Sector Hearings and Involvement of Stakeholders .....	69

<b>IV. COUNTY FINANCIAL MANAGEMENT AND DIVISION OF REVENUE.....</b>	<b>71</b>	
4.1 County Governments' Compliance with Fiscal Responsibility Principles .....	71	
4.1.1 Allocation to Development Expenditure over the Medium-Term .....	71	
4.1.2 Actual Development Expenditure over the Medium Term .....	72	
4.1.3 Compliance with the Requirement on Expenditure on Wages and Benefits .....	73	
4.2 Enhancement of County Governments' Own-Source-Revenue .....	73	
4.3 Prudent Management of Fiscal Risks .....	76	
4.3.1 Pending Bills.....	76	
4.3.2 County Governments Capacity Building on Public Finance Management.....	78	
4.4 Division of Revenue for FY 2024/25 .....	79	( 0
4.4.1 Performance of Shareable Revenue .....	79	
4.4.2 Division of Revenue for FY 2024/25.....	79	
4.5 Horizontal Allocation of Revenues .....	86	
4.6 Intergovernmental Fiscal Transfers .....	88	
4.7 Equalization Fund.....	88	
4.7.1 Challenges Facing Disbursement of Equalization Fund .....	88	
4.7.2 Equalization Fund Allocation for FY 2024/25.....	89	
4.8 Emerging Issues and Policy Interventions.....	89	
4.8.1 Integrated County Revenue Management System (ICRMS) .....	89	
4.8.2 Challenges in County Governments' Public Finance Management.....	89	20
4.8.3 Intergovernmental Agreements in respect of the Additional Conditional Allocations	90	
<b>ANNEX 1: ADHERENCE TO FISCAL RESPONSIBILITY PRINCIPLES.....</b>	<b>91</b>	
<b>ANNEX 2: STATEMENT OF SPECIFIC FISCAL RISKS.....</b>	<b>95</b>	
<b>ANNEX 3: MEMORANDUM ON HOW RESOLUTIONS BY PARLIAMENT ON PREVIOUS BUDGET POLICY STATEMENTS HAVE BEEN INCORPORATED .....</b>	<b>118</b>	
Annex Table 1: Macroeconomic Indicators .....	123	
Annex Table 2: Government Fiscal Operations, Ksh Billion .....	124	
Annex Table 3: Government Fiscal Operations, Percent of GDP .....	125	
Annex Table 4: Summary of Expenditure by Programmes (Ksh Million) .....	126	
Annex Table 5: Highlights of the Issues Raised During Public Participation .....	137	30
Annex Table 6: Stakeholder and Public Proposals or Comments on the 2024 Budget Policy Statement.....	146	

### *About the Budget Policy Statement*

The Budget Policy Statement (BPS) is a Government policy document that sets out the broad strategic priorities and policy goals to guide the National Government and the County Governments in preparing their budgets for the subsequent financial year and over the medium term.

In the document, adherence to the fiscal responsibility principles demonstrates prudent and transparent management of public resources in line with the Constitution and the Public Finance Management (PFM) Act, 2012.

Section 25 of the PFM Act, 2012, provides that the National Treasury shall prepare and submit to the Cabinet the BPS for approval. Subsequently, the approved BPS is submitted to the Parliament, by the 15<sup>th</sup> of February each year. Parliament shall, not later than 14 days after the BPS is submitted, table and discuss a report containing its recommendations and pass a resolution to adopt it with or without amendments. The Cabinet Secretary, the National Treasury and Economic Planning shall take into account resolutions passed by Parliament in finalizing the budget for the FY 2024/25 and the medium term. 10

The Budget Policy Statement contains:

- (a) an assessment of the current state of the economy, including macroeconomic forecasts as well as the priorities of the Government current pillars of growth and strategic directions;
- (b) the financial outlook with respect to Government revenue, expenditures and borrowing for the next financial year and over the medium term;
- (c) the proposed expenditure ceilings for the National Government, including those of Parliament and the Judiciary and indicative transfers to County Governments; 20
- (d) the fiscal responsibility principles and financial objectives over the medium-term including limits on total annual debt; and
- (e) Statement of Specific Fiscal Risks.

The preparation of the BPS is a consultative process that involves seeking and taking into account the current Government priorities and challenges in economic management and the views of: The Commission on Revenue Allocation; County Governments; Controller of Budget; Parliamentary Service Commission; Judicial Service Commission; Ministries, Departments and Agencies; the public and any other interested persons or groups. 30

# I. SUSTAINING BOTTOM-UP ECONOMIC TRANSFORMATION AGENDA FOR ECONOMIC RECOVERY AND IMPROVED LIVELIHOODS

## 1.1 Overview

1. The 2024 Budget Policy Statement (BPS), the second to be prepared under the Kenya Kwanza Administration, reaffirms the priority policies and strategies outlined in the Bottom-Up Economic Transformation Agenda (BETA) and as prioritized in the Fourth Medium Term Plan of the Vision 2030. Since coming to office in September 2022, the Government has implemented bold policy responses to mitigate the negative global and persistent shocks that have pushed the economy to its lowest vibrant level, and embarked on structural reforms to stabilize Government finances and the economy. These shocks include, global supply chain disruptions due to ongoing conflicts in Eastern Europe and the Middle East; tightening of monetary policy in the developed world leading to high interest rates (10) that limit access to credit and exacerbating debt servicing costs; significant losses and damages due to frequent extreme weather events; and elevated commodity prices such as petroleum products on account of increased geopolitical fragmentation and global oil supply cuts.

2. Against this background, the Government continues to implement policy reforms and programs interventions to reduce the cost of living and improve livelihoods. The critical focus here is that of ensuring poverty reduction after a series of negative shocks that is the underlying critical factor, while at the same time fostering a sustainable inclusive economic transformation through the Bottom-Up Economic Transformation Agenda. This is meant to reverse the economic recession and ignite economic recovery. This Development Agenda recognizes the importance of managing the cost of living through well-functioning markets to enhance productivity, availability and affordability of goods and services for all citizens. We have noted that market failures in sectors that supported the economy are glaring. The interventions target five core priority areas namely: i) Agricultural Transformation and Inclusive Growth; ii) Micro, Small and Medium Enterprise (MSME) Economy; iii) Housing and Settlement; iv) Healthcare; and v) Digital Superhighway and Creative Industry. 20

3. Despite the challenging environment, we have noted significant success following the various interventions rolled out during the past one year by the Government. Specifically, economic vibrancy has started. The economy in the first three quarters of 2023 remains strong at an average growth of 5.6 percent, a demonstration of resilience. This growth well above estimated global and Sub-Saharan African region average of 2.9 percent and 3.3 percent respectively. The economy is projected to expand by 5.5 percent in 2023 and 2024 from 4.8 percent in 2022. This growth outlook will be supported by a broad-based private sector growth, continued robust performance of the services sectors, the rebound in agriculture, and the ongoing implementation of policy measures to boost economic activity in the priority sectors of the BETA. 30

4. Other progress has been realised in the core pillars of the Bottom-Up Economic Transformation Agenda. In order to support livelihood and businesses, the Government through the Financial Inclusion Fund, or the 'Hustlers Fund' has provided access to affordable credit to over 20 million Kenyans and MSMEs at the bottom of the pyramid and encouraged savings. To ensure food security in the country thereby reducing the cost of living, the Government rolled out fertilizer and seeds subsidies to farmers across the country; and granted duty waiver for importation of key food products such as white maize, rice, yellow maize, soya beans, soya bean meal, assorted protein concentrates, and feed additives in order to bridge the food stocks deficit as well as lower and stabilize food prices. 10

5. To promote achievement of the universal health coverage, the Government has reformed the National Health Insurance Fund to meet the urgent needs of Kenyans at the bottom of the socioeconomic structure by actualizing its purpose as a social medical insurance facility. The Government is on track to facilitate delivery of affordable houses and enable low-cost housing mortgages. The Housing Levy that was enacted in Finance Act, 2023 is providing an off-take fund that will de-risk investors, and offer affordable finance to home-owners, bringing home ownership within the reach of the majority of urban population. To foster digital transformation, the Government has closed the digital divide between urban and rural areas by proving last mile connectivity to 25,000 small towns within proximity of fibre backbone, thereby positioning Kenya to expand the pool of its global digital workforce without requiring physical mobility. 20

6. Over the next four years, the Government will scale up efforts on policy and structural reforms under the BETA so as to navigate the global turbulence, accelerate economic recovery, and address overarching development challenges namely creating jobs, eradicating poverty and mitigating climate change. As part of the process, the Government will accelerate investments in: (i) human capital development; (ii) revive and sustain markets to play their pivotal function; (iii) develop diverse methods for domestic resource mobilization; (iv) reform and restructure of institutions to provide policy leadership and policy implementation; and (v) digitization so as to coordinate all the other four areas. 30

7. On human capital development, in order to achieve economic transformation, two driving factors are important, that is, human capital development and enhancement of savings. The Government will ignite a sustained economic transformation by raising capital accumulation. This is in addition to ongoing investments in education, health, nutrition and labour markets to boost human capital development.

8. On revival and sustaining markets to play their pivotal function, most Kenyans overtime sunk into abject poverty mostly because markets in their segments were interfered with or markets were not properly governed. This disrupted market development, and importantly curtailed further investments in those sectors. Examples are subsectors like sugar, coffee, pyrethrum, cotton, even tea and milk where markets were interfered with. The outcome of this is an institutional failure problem that pushed policies to fail and poverty because widespread. The interventions at the Bottom of the pyramid under this 30

Administration, are therefore targeted to ensure markets work for the poor and also markets should work for everybody.

9. On the development of diverse methods for domestic resource mobilization, the Government is keen to raise domestic resources to support implementation of various ongoing programmes. The National Treasury has embarked to redesign the taxation instruments to make them more supportive to economic activity without distorting the market and eroding investment incentives. This will boost revenue collection and raise tax effort from the current 16.0 percent of GDP in FY 2023/24 to where it was previously, above 20 percent of GDP. This will be done through the implementation of the National Tax Policy and the Medium-Term Revenue Strategy for the period FY 2024/25 - 2026/27 that will provide a combination of tax administration and policy measures to enhance revenue mobilization. 10

10. The Government has also scaled up efforts on requiring the various Ministries, Departments and Agencies (MDAs) to not only mobilize more non-tax revenues but also transfer resources to exchequer. Eventually, majority of the MDAs are expected to be self-financing. On the Tax Administration side, the Authority's capacity will be scaled up to rely more on technology to seal leakages; enhancements of iTax and Integrated Customs Management System (iCMS); and use of e-TIMS (Tax Invoice Management System). These policy strategies will expand the primary surplus in the fiscal framework and stabilize the growth of public debt thereby boosting the country's debt sustainability position. In order to boost supply of public goods, the Government will leverage on the Public Private Partnerships (PPP) framework so as to tap into capacity of private sector to deliver projects that have strong economic, commercial and environmental benefits and aligned to the BETA priorities. 20

11. On the reform and restructure of institutions, the Government has embarked on a process to wean some of the parastatals from reliance on exchequer. At the same time, some institutions have governance related issues. In line with the Privatisation Act, Entities have been identified and proposed to be included in the 2023 Privatisation Programme. These include eleven Government Owned Enterprises and Government Linked Corporations.

12. Lastly, the Government will leverage on digitization to coordinate all the above interventions. Specifically, the Government will digitize and automate all critical Government processes throughout the country, with a view of bringing greater convenience to citizens; support extension of National Fibre Optic Backbone infrastructure to ensure universal broadband availability and promote investment in the digital superhighway and the creative economy; raise revenue efficiently for Government services that are paid for electronically, thus eradicating leakage. 30

## 1.2 Core Pillars

### 1.2.1 Agricultural Transformation and Inclusive Growth

13. Agriculture remains a core pillar for the realization of the Bottom-Up Economic Transformation Agenda's aspiration of proving employment and a



means of livelihood to the majority of the Kenyan people. In order to support agricultural production, the Government rolled out a countrywide farmer registration and fertiliser subsidy programme that has made available 5.5 million bags to farmers across Kenya. The Government has also progressively reduced the cost of fertiliser from Ksh 6,500 to Ksh 2,500, increased maize acreage under production by an extra 200,000 acres and enhanced maize production by an additional 18 million bags.

14. To achieve efficiency, transparency and accuracy in fertiliser distribution, the Government enrolled farmers on a digital register, with accurate details of the location and acreage of their agricultural landholding. The database enabled the Government to implement an e-voucher system through which farmers received their fertiliser consignments for planting and top-dressing of maize, tea, coffee, rice, potatoes, cotton and edible oil crops. 10

15. Additionally, the Government has made adequate arrangements, including investment in necessary infrastructure, to facilitate post-harvest management and prevent losses. Seventeen certified warehouses, jointly managed by the National Cereals and Produce Board and private sector owners, with a combined capacity of 365,000 metric tonnes, or 4 million 90 kilograms' bags, have been prepared in the maize-growing areas. Further, the Government has mainstreamed nine priority value chains into the budget including those that have the highest potential to impact on the economic vibrancy and reduce cost of food stuffs, increasing exports (tea, dairy, leather), reducing food imports (rice, edible oils, blue economy). 20

16. Over the medium term, the Government will align all policies under the agriculture sector towards increasing food production, boosting smallholder productivity and reducing the cost of food. Overall, the strategies under the Agricultural Transformation and Inclusive Growth Pillar will be geared towards: addressing the cost, quality and availability of inputs; reducing the cost of food and cost of living in general; reducing the number of food insecure Kenyans; raising productivity of key food value chains; increasing access to affordable credit and agricultural extension services; creating direct and indirect jobs, increasing average daily income of farmers as well as foreign exchange earnings; and revamping underperforming and collapsed export crops while expanding emerging ones. 30

### **1.2.2 Transforming the Micro, Small and Medium Enterprise (MSME) Economy**

17. The Micro, Small and Medium Enterprise (MSME) Economy provides diverse enormous opportunities for Kenya's socio-economic transformation especially by providing income opportunities for economically excluded segments of the population including youth, women, persons with disabilities and low-skilled persons, who experience disproportionately high unemployment. 40

18. In order to support individuals and MSMEs at the bottom of the pyramid, the Government established the Financial Inclusion Fund, or the Hustlers Fund in November 2022 as an intervention to correct market failure problems at the bottom of the pyramid and to cushion the MSMEs against high cost of credit. By the end of November 2023, the Fund had disbursed Ksh 36.6 billion and realized Ksh 2

billion in savings, benefitting 21.3 million customers with 7.7 million repeat borrowers whose overall repayment rate is at an impressive 73 per cent. The top borrower of the fund has so far accessed a total Ksh 4.5 million in 816 transactions, while the top voluntary saver is at Ksh 631,491.

19. In the intervening period, the Hustler Fund has also launched a group product, which has attracted 50,000 active groups to the platform, of which 20,000 have received Ksh 151 million. Going forward, the Fund will be enhanced with specific financial products to provide additional enterprise and business facilities for existing mama mboga and boda boda saccos.

20. Building on the progress made, to support MSMEs, the Government will review and rationalise all business licences, establish MSME Business Development Centre in every ward, an industrial park in each county and business incubation centre in every TVET institution.

### 1.2.3 Housing and Settlement

21. As a core pillar in Bottom-Up Economic Transformation Agenda, the Government is committed to ensuring that the constitutional right to accessible and adequate housing is achieved. For this reason, through the Affordable Housing Programme, the Government targets to support provision of at least 250,000 affordable houses to Kenyans every year thereby increase the percentage of affordable housing supply from 2 percent to 50 percent. The Government is on track to facilitate delivery of affordable houses and enable low cost housing mortgages.

#### 1.2.3.1 Urban Housing

22. The estimated shortfall of 200,000 urban housing units a year, has led to high cost for very poor quality housing including slums. In order to bridge the housing gap, the Government has launched several affordable housing projects across the country. The construction of 46,792 units in various parts of the country is already underway, while another 40,000 units are ready to commence construction. A total of 746,795 housing units are in the pipeline, undergoing various stages of delivery.

23. The Government is also implementing policy and administrative reforms to lower the cost of construction and improve access to affordable housing finance while creating jobs and entrepreneurial opportunities to all Kenyans. In this regard, the Government is structuring affordable long-term housing finance schemes, including a National Housing Fund and Cooperative Social Housing Schemes, that will guarantee off take of houses from developers. As part of the process, the Housing Levy that was enacted in Finance Act, 2023 is providing an off take fund that will de-risk investors, and offer affordable finance to home-owners, bringing home ownership within the reach of the majority of urban population.

24. The Affordable Housing Programme is also envisaged as a job creating economic stimulus that will offset the cutback in public infrastructure spending. The Programme is expected to create quality jobs for youths, employing graduates from TVETS, directly in construction sector and indirectly throughout every value chain in the housing development ecosystem. Already, 50,000 Kenyans, who were

previously unemployed, are now engaged directly and indirectly in this enterprise, and the numbers will significantly increase as the projects move into the next phases.

25. Towards this end, the Government will continue to upgrade and support Jua Kali capacity to produce high quality construction productions by linking it with technical and vocational education institutions. More jobs will be created with the formalisation of the Jua Kali clusters, providing products like doors, hinges and windows. Architects, engineers, quantity surveyors, masons, electricians, plumbers, transporters, steel and cement factory workers, and hardware merchants will be partakers of this transformative plan from the bottom up. 10

### 1.2.3.2 Rural Housing and Settlement

26. To support rural housing and settlement, the Government will establish a Settlement Fund similar to the one that was used to acquire land from settler farmers after independence. The land purchased by the scheme will be subject to land use planning where beneficiaries will own transferable residential plots in planned settlement to stop land fragmentation.

### 1.2.4 Healthcare

27. The Constitution guarantees Kenyans the right to the highest standards of health. For this reason, the Kenya Kwanza Administration identified healthcare delivery as one of the core pillars of the Bottom-Up Economic Transformation Agenda. In order to deliver Universal Health Coverage, the Government embarked on various interventions to: i) provide fully public financed primary health care system, an emergency care fund and a health insurance fund that will cover all Kenyans, ii) install digital health management information system, iii) set up a Fund for improving health facilities; iv) set up an Emergency Medical Treatment Fund, iv) establish a National Insurance Fund that covers all Kenyans, and v) avail medical staff who would deliver Universal Health Coverage. 20

28. Significant progress has been made in the delivery of the universal health care. Notably, the Government has reformed the National Health Insurance Fund to meet the urgent needs of Kenyans at the bottom of the socioeconomic structure by actualizing its purpose as a social medical insurance facility. Health insurance coverage in Kenya has generally been low at 26 percent, with those at the bottom of the economic pyramid having the least coverage of less than 5 per cent. Many Kenyans incur catastrophic expenditures from out-of-pocket healthcare payments, while many more do not seek care when they fall ill, because they simply cannot afford. Over the last decade, several measures have been put in place to enhance the capacity of the National Hospital Insurance Fund to effectively deliver on its mandate. While these reform initiatives have yielded significant progress, several gaps remain. Recent analysis shows that, among others, the NHIF operates as a passive, rather than a strategic purchaser, is plagued by inefficiency and governance challenges, and is potentially financially unsustainable. 30 40

29. To strengthen the legal basis for health financing, health service provision and achievement of UHC, four new health laws have been enacted. These are: i) Social 14

Health Insurance Act, 2023; ii) Primary Health Care Act, 2023; iii) Facility Improvement Financing Act, 2023; and iv) Digital Health Act, 2023. These laws will usher in and guarantee a new era in the provision of healthcare, covering all essential services from preventive, promotive, curative, palliative and rehabilitative services, guaranteeing every Kenyan access to comprehensive and quality care. The Social Health Insurance Act will among other things, establish the publicly financed Primary Health Fund, a fully publicly financed chronic, emergency and critical illness fund and the Social Health Insurance Fund. In order to enhance access to healthcare, the Government will be implementing a per-household payment system, where a flat rate applies to everyone, regardless of their income. 10

30. To increase the availability of human capital in public health sector, the Government has scaled up investment in healthcare workforce under Afya Nyumbani. Under the program, 8,429 workers whose contracts had lapsed have been renewed and 4,129 interns enrolled across the country. Additionally, the Government has collaborated with all the County Governments to recruit and deploy 100,000 community health promoters (CHP) throughout the country. In the last one month, CHPs have attended to 1.2 million households. The work of the promoters will include basic preventive and promotive health, health education, basic first aid for the treatment of minor injuries and ailments at the household level and referral for facility-based healthcare. Each community health promoter is allocated 100 homes within their neighbourhoods countrywide. Considering the pivotal role played by community health in the attainment of UHC, the long-term financial sustainability of community health is contingent on enhanced domestic resources for health. The National Government is working closely with the County Governments to strengthen the delivery of community health services through payment of stipends for CHPs, on a matching basis of 50:50. 20

31. To better deliver universal health coverage, the Government has leveraged on the digital health agenda starting from the community level. In this regard, the electronic community health information systems (e-CHIS), which is live and being used by the promoters across the country, is a simple and user-friendly mobile health application that will be used to collect real-time accurate household data, initiate planning for health service delivery and provide linkage to health facilities. Along with the CHP kits, the Government has provided 110,000 smartphones for use by the promoters and Community Health Assistants. This will provide quality community health data that is essential for the planning, resource allocation and monitoring of progress towards Universal Health Coverage. 30

32. To further deliver universal health coverage, the Government has instituted a paradigm shift to preventive and promotive health rather than curative. The shift will further be strengthened by the promotive services provided by community health promoters at the household units, and integration of preventive services at the primary health care levels. These services will include screening for conditions such as hypertension, diabetes and eye conditions; offer the necessary health education on water and sanitation, nutrition and provide community rehabilitation services, among others. These services will be provided through multidisciplinary teams that will be established at the level of the Primary Care networks. 40

## 1.2.5 Digital Superhighway and Creative Economy

### 1.2.5.1 Digital Superhighway

33. The Government recognizes that digital economy is the emerging frontier of opportunity, productivity and competitiveness. In order to entrench Kenya's lead in digital economy, the Government under the BETA committed to: i) promote investment in the digital superhighway and the creative economy; ii) support extension of National Fibre Optic Backbone infrastructure to ensure universal broadband availability; and iii) digitize and automate all critical Government processes throughout the country, with a view of bringing greater convenience to citizens.

34. The Government has made progress to honor these commitments. Indeed, when the Kenya Kwanza Administration came to office, only 320 Government services were available online. Today, there are 16,000 services and with a target of onboarding all services by the end of the year. This has increased efficiency in service delivery, revenue collection and enhanced accountability. Working with the private sector, the Government launched the local assembly of affordable smartphones in November 2023 in Athi River. In particular, the Government has prioritized digital registration in order to promote a reliable identification and authentication system for all citizens and reduce fraud linked to identity theft. A reliable and centralized identification system will also support better management of social programmes, delivery of essential services and transparency and accountability in Government operations. As part of the digitized registration system, the Government has developed the following: i) Maisha Namba; ii) Maisha Card; iii) Digital ID; and iv) National Population Master Register. 10 20

35. The Government is currently rolling out the last mile 100,000 km of fibre optic infrastructure throughout the country to improve internet connectivity in health facilities, schools, Judiciary offices in far flung areas, and other public institutions. The Government is also concurrently setting up 25,000 WiFi hotspots targeting fresh produce markets, bus parks and other public spaces. Further, the Government is working with Members of Parliament in the set-up of 1,450 ICT Hubs equipped for digital innovation in every ward in the country, 8 remote working and other online enterprises to enable our youth to find opportunities.

36. The Government has also prioritised the teaching and learning of digital skills, including coding, from the primary school level to tertiary education, be it technical and vocational education and training (TVET) institutions, or other colleges and universities, including the recently launched Open University of Kenya to prepare children to be competitive in the economy of the future. The curriculum for primary and secondary schools as well as tertiary learning institutions, will continuously be reviewed to make sure that Kenya's youth stay up to speed in terms of global technological changes. These initiatives are expected to spur e-commerce, the creative arts and the digital economy; the frontier of our Bottom-Up Economic Transformation Agenda. 30

37. Over the medium, the Government will continue to: increase and fast-track broadband connectivity across the country by construction of national fibre optic 40

connectivity network; enhance Government service delivery through digitization and automation of all government critical processes; establish Africa Regional Hub and promote the development of software for export; implement the Digital Master Plan will adhere to environmental agreements in which Kenya is a signatory; and strengthen Konza Technopolis to bring together industry, academic institutions, and other innovators to co-invest in emerging technologies to create high-quality jobs that leverage artificial intelligence, robotics, and other technologies.

### 1.2.5.2 Creative Economy

38. The Government is committed to leverage digital prowess in order to enhance the creative economy's position as a significant sector and increase its contribution to fashion and value addition to leather and crafts export. Towards this end, the Government will continue protecting intellectual property rights as the foundation of effective monetisation and mainstream the development of arts and culture infrastructure. Further, the Government will extend incorporating the creative economy into the Brand Kenya and commercial diplomacy initiatives, establish a vibrant film ecosystem and facilitate the monetisation of music to promote entrepreneurship. 10

39. The creative industry will significantly add value to Kenya's exports such as fashion, leather products and craft industries among others. The Government will mainstream the creative economy into Brand Kenya and our commercial diplomacy, including appointing accomplished Kenyan artistes and creative sector personalities as cultural ambassadors. Government will continue to partner with other stakeholders such as Hollywood's Invention Studios that will open doors for rapid growth of Kenya's film industry. 20

## 1.3 Enablers

40. Attainment of Government's Bottom – Up Economic Transformation Agenda will be underpinned by sound and innovative policy and structural reforms targeted at all socio-economic sectors, building efficient infrastructure, climate-change mitigation mechanisms, as well as foster strict compliance with the Constitution and the rule of law. This will create a strong and solid foundation for economic transformation and industrialization as envisaged in the Kenya Vision 2030 and supported by BETA. This will improve the living conditions of all Kenyans and fight poverty that has engulfed majority of Kenyans. The following enablers will be prioritized to enhance the attainment of the Agenda: 30

### 1.3.1 Infrastructure

41. Development of critical infrastructure is key to economic growth as well as key enabler to the implementation of Bottom-Up Economic Transformation Agenda (BETA). The Government will continue to intensify national and regional connectivity through water, road, rail, port, energy and fibre-optic infrastructure in order to achieve socioeconomic transformation in the country, enhance Kenya's competitiveness, and facilitate cross-border trade and regional integration. 40

Infrastructure lowers transactions costs and hence enhances profitability of private investments.

### 1.3.1.1 Water

42. In Kenya, more than 90 percent agricultural products are grown in rain-fed farming systems and only 20 percent of land is deemed suitable for rain-fed agriculture. The remaining land requires irrigation to ensure optimal production due to inadequate rainfall. To enhance access to safe water for domestic, irrigation and industrial use, the Government has made significant progress by developing the Water (Amendment) Bill, 2023 which seeks to promote private investment in the water sector through the Public-Private Partnerships (PPPs) model. The amendments seek to expand the role of National Government entities such as the Water Works Development Agencies (WWDAs) and National Water Storage Authority (the NWSA) to provide water services by allowing them to enter into bulk water purchase agreements under the PPP Act, 2021 which was previously the preserve of county water service providers (WSPs). Additionally, the Government also plans to construct 100 dams in the next five years and are likely to use the PPP model. 10

### 1.3.1.2 Roads

43. The Government will continue to strengthen the institutional framework for road development in order to accelerate the speed of completion of new and stalled road construction projects to cater for the growing population. In order to minimize waste of resources, the Government will ensure all projects are completed within two years and no new project will be launched before the ongoing ones are complete. 20

44. Over the medium term, the Government will prioritize upgrading and maintaining rural access roads to open up the rural areas to enable farmers to get their produce to markets faster and cheaply. The Government will also improve road infrastructure in urban informal settlement and critical national and regional trunk roads that have the highest immediate economic impact. To streamline transport accident investigations, the Government will establish the Kenya Transport Accident Investigation Bureau (KTAIB) as part of institutional and legal reforms proposed. The Bureau will utilize international best practices and will pursue safety interventions in road, rail, pipeline and marine transport. 30

### 1.3.1.3 Electricity

45. Access to affordable and efficient energy is crucial for the achievement of the socioeconomic transformation as envisioned in the Bottom-Up Economic Transformation Agenda and the Kenya's Vision 2030. While generation capacity and total electricity connections have increased considerably in the recent years, electricity in the country remains expensive in comparison to other countries.

46. To reduce electricity prices, the Government has introduced a myriad of interventions to provide relief for electricity consumers while at the same time ensure the long-term viability and sustainability of the energy sector. This includes

Renewable Energy Feed-in Tariffs (REFIT), investment in geothermal energy, rural electrification, and engagement of independent power producers in keeping with the Renewable Energy Auction Policy. The Government has also lifted the moratorium on Power Purchase Agreements (PPAs) as a way of enhancing the nation's energy security through opening up the energy sector for continued investments.

47. Building on these interventions, the Government has set up a team to advise on how to bring down the cost of electricity to lower the cost of living by the end of 2023. The Government will continue to support the use of renewable energy. Kenya has abundant renewable energy sources such as wind, solar, and geothermal power. By investing in these sources of energy, Kenya can reduce its dependence on expensive fossil fuels and lower the cost of electricity. 10

48. In order to meet the growing demand for electricity, the Government has successfully completed key transmission projects that connect most parts of the country to the national grid. The Athi River Substation, 400kV Suswa – Isinya Transmission Line, 500kV HVDC Ethiopia – Kenya Transmission Line and Converter Substation at Suswa, 132kV Olkaria – Narok Transmission Line, 132kV Mwingi – Kitui Transmission Line, Kitui Substation and 220/400kV Isinya – Namanga Substation have been completed and commissioned, among other projects.

#### 1.3.1.4 Petroleum and E-mobility

##### *Petroleum*

49. Price volatility of petroleum products remains a key challenge for consumers and economic stability. In order to stabilize consumer prices against unpredictable swings in global oil prices, the Government has developed a strategy to revive and commercialize the National Oil Corporation of Kenya (NOCK). Under this strategy, NOCK will benefit from a partnership that restructures it into three subsidiaries segmented around the petroleum products value-chain along the following streams: NOC Upstream Limited, focused on exploration and upstream production activities and services; NOC Downstream Limited, focused on marketing and distribution of petroleum products; and NOC Trading Limited, specializing in holding strategic stocks of petroleum products for import and export. 20

50. The Government has also approved the acquisition of the Kenya Petroleum Refineries Limited (KPRL) by the Kenya Pipeline Company Limited (KPC). This is expected to enhance petroleum supply chain infrastructure and thereby result in security of supply and cost efficiency through reduced demurrage costs and enhanced penetration of LPG usage in the country. This will enhance efficiency and also foster synergy in the petroleum value chain by optimizing the use of our existing downstream petroleum infrastructure. 30

51. Further, to cement the country as a leader in green energy, the Government has developed the Liquefied Petroleum Gas (LPG) Growth Policy. The Policy seeks to steer our nation along an irreversible path towards securing the dignity of all households through the use of safe and affordable LPG. The Policy provides a



pathway for progressively weaning-off the 70 percent of Kenyan households from using dirty fuels as their primary cooking fuel. The Policy proposes that all housing developments to have provisions for liquefied petroleum gas reticulation infrastructure. This provision will be embedded as a prerequisite for approval of any housing development projects, including those under the Affordable Housing Programme. The policy further seeks to encompass establishing common-user LPG import terminals, distributing subsidized LPG cylinders to low-income households, promoting LPG use in institutions, facilitated by partnerships with finance institutions, LPG players, and the Ministries of Education and Health. These measures aim to reduce consumer prices, improve public safety and contribute to both public health and environmental sustainability. 10

### *E-Mobility*

52. BETA identifies the adoption of electric mobility, or e-mobility, as a priority intervention to achieve the win-win outcomes of reducing greenhouse gas emissions, providing cheaper transport and leveraging our large local and regional motorcycle market to build an electric and battery electric vehicle industry.

53. Motorcycles comprise the fastest growing form of transport in many countries. This has had serious implications for climate change and air quality. Africa now faces a tremendous carbon dioxide emissions challenge owing to its huge two-wheeler, internal combustion engine powered fleet. Ageing fleets and unsustainable technologies are to blame for this hazard. In Kenya, two and three-wheeler vehicles comprise the largest share of the national fleet, at 67 percent. This puts Kenyan cities and urban areas in danger of turning into heavily polluted and unhealthy places, placing millions of enterprising people at great risk. 20

54. For this reason, the Government has adopted e-mobility is a high-priority intervention to address the challenges of pollution, adverse health effects and fuel costs that raises operational and health costs across the board. Successful transition to e-mobility requires intensive investment to reconfigure transportation system through electrification and the provision of all necessary services and infrastructures throughout the ecosystem. To attract investment, the Government has developed a compelling package of incentives for serious investors in e-mobility to stake their capital on opportunities in the country's green growth agenda. 30

### **1.3.2 Manufacturing Sector**

55. Manufacturing sector in Kenya plays an important role in driving economic growth by promoting and supporting productivity, boosting employment and enhancing competitiveness of the country in exports markets. The Government's value chain approach is expected to revamp the sector, and encourage competitiveness and growth of local industries. The Government has implemented the following initiatives across the value chains:

### 1.3.2.1 Agro-Processing

56. To promote growth of the agro-processing sector, the Government will continue supporting value addition to agricultural produce across the value chain. This will involve processing tea, coffee, meat, sugar, dairy, fruits and vegetables locally in order to obtain more value and create additional jobs and wealth for Kenyans.

57. In Kenya, post-harvest management has been a major challenge in the agricultural sector with estimated loss of 20 percent to 50 percent of harvested crops, fruits, vegetables and fresh horticultural produce, mainly due to poor storage and handling practises. In the view of addressing the post-harvest losses and enhance farmers income, the Government has begun the construction of the initial 18 County Aggregation and Industrial Parks (CAIPs). The CAIPs are special zones being set-up by the Government with the aim of having the project implemented in all 47 Counties by FY 2025/26. This CAIPs will provide value addition centres for agricultural products as well as storage facilities.

### 1.3.2.2 Leather and Leather Products

58. Kenya remains a leading producer of hides and skins in Africa. The leather industry has the capacity to deliver 80,000 jobs and 100 billion dollars. To support the growth of the leather industry in the country, the Government will build on the ongoing interventions to facilitate local processing of all hides and skins that include; setting up of leather cottage industries and expansion of existing tanneries; completing the development of leather parks such as the Kenya Leather Industrial Park (KLIP) and Kenanie; and supporting establishment of processing clusters in Isiolo, Wajir, Narok, Ewaso Ng'iro.

### 1.3.2.3 Building and Construction Materials

59. The Government will continue to support building and construction value chains, by: initiating the establishment of industrial park for construction materials; enhancing local manufacturing of construction materials (clinker, cement, cabros, prefabs) and electrical and electronics fittings, cables and products; and ring fencing certain components of the low cost housing project for MSMEs.

### 1.3.2.4 Garments and Textiles

60. Garments and textiles sector has huge untapped potential of employing thousands of Kenyans and earning significant foreign exchange. However, the sector is confronted by numerous challenges including high cost of labour and low agricultural productivity that hampers the competitiveness of Kenya's garment export. To unlock the potential of the sector, the Government will build on ongoing measures including: attracting investment in manufacture of garments and apparels, promoting modernization of textiles mills and cotton ginneries; and promoting linkage of MSMEs (tailors) with schools, institutions to provide a market for uniforms.

21

### 1.3.2.5 Dairy Products

61. Dairy and livestock sub-sectors are an integral part to the Government's plan to improve food security, create jobs and boost exports. To support value chains under the dairy sub-sector, the Government targets to double milk production in the next five years to expand opportunities for farmers. The Government has already put in place a solid plan that will boost increase in production from 5.2 billion litres to 10 billion litres a year.

62. As part of the process, the Government will modernise Kenya Cooperative Creameries plants and install milk coolers countrywide so that more milk can be processed boosting milk quality and income of dairy farmers. The Government will also eliminate brokers from agricultural value chain using the county aggregation and industrial parks so that farmers can earn maximum returns from their milk. Other interventions include: duty free importation of raw materials for manufacture of animal feeds to lower the cost production and make animal feeds affordable; establishment of cottage industries at the Nasewa Industrial Park to promote animal feeds production; supply and installation of dairy mechanization and value addition equipment including bulk milk coolers; and promotion of investment in the cold chains.

### 1.3.2.6 Edible and Crop Oils

63. Currently, Kenya's edible oil consumption is estimated to surpass 900,000 metric tonnes annually, with only 80,000 metric tonnes produced domestically. This vast production deficit, amounting to 820,000 metric tonnes, is primarily bridged through imports, translating to an import bill of around Ksh 120 billion annually. To reverse this trend, the Government will continue to implement measures targeted at increasing the annual production of edible oils from 80,000 metric tonnes to 240,000 metric tonnes within five years. This will reduce Kenya's dependence on imports and thus generate savings of almost Ksh 100 billion spent annually on imports. Towards this end, the Government will continue to attract investment to support edible oil cottage industries; provision of CMFs and processing machinery for small industries; and expand processing capacity of existing industries.

64. As part of the process, the Government launched dispensing machines made-in-Kenya dubbed "Mama Pima" geared towards lowering the cost of cooking oil in August 2023. The machines are expected to provide employment to thousands of citizens and reduce the cost of the commodity. The initiative showcases the Government's commitment to address the needs of the most economically disadvantaged citizens and empowering them to improve the quality of life

### 1.3.2.7 Tea and Coffee Sub-sectors

65. Tea and coffee sub-sectors remain a key sector providing livelihoods to millions of Kenyans and contributing significant foreign exchange earnings. To revitalize the sub-sectors, the Government will build on the ongoing efforts including: reforming the legal and policy frameworks; promote value addition through provision of processing equipment; export market development and export

promotion; and establishment of warehouse for value added tea and coffee in key development markets.

66. The Government's reforms in the coffee sector are bearing fruit, with farmers set to earn four times advance pay for their crop, from a low of Ksh 20 to Ksh 80, following the allocation of Ksh 4 billion from the Coffee Cherry Fund. Coffee reforms regulations will give farmers' the necessary representation and weight at the Nairobi Coffee Auction. These measures are expected to aid ongoing efforts, including expanding production to new counties and double coffee output in the next 4 years.

### 1.3.2.8 Sugar Sub-sector

67. The Government is currently restructuring public sugar mills, expediting the leasing of five companies for rehabilitation and expansion to boost industry competitiveness before the COMESA sugar safeguards expire. The objective includes creating a competitive sector, raising farmer incomes and enhancing their productivity. As part of the process, the Government has waived Ksh 117 billion non-performing debt for government-owned sugar factories. 10

### 1.3.3 Blue Economy

68. The Kenya's lakes, coastal and marine environment are endowed with rich natural resources that have an immense economic and cultural value to the region's inhabitants and the nation at large. Indeed, the blue economy provides a massive potential for economic growth, livelihoods and jobs, and ocean ecosystem health. However, the potential of the blue economy remain largely untapped in Kenya. 20

69. In order to support the blue economy, the Government has: established 22 new fish landing sites and 2 fish markets in 9 counties in the Nyanza and Coast regions; funded and organised beach management units into cooperatives; set up two aquaculture development and training centres in Sagana and Kiganjo; developed two hatcheries at Kabonyo and Shimoni; and is in the process of completing Liwatoni fish processing plant and Shimoni fish port; modernized a Fisheries Monitoring, Control and Surveillance Centre.

70. The Government has also commissioned MV Uhuru II, a wholly newly-built merchant marine vessel that demonstrates the rapid maturation of the national shipbuilding industry especially the Kenya Shipyards and highlights its dynamic capacity to undertake different important assignments and deliver various types of vessels for diverse markets. Notably, the Kenya Shipyards is quickly emerging as a leader in high-quality shipbuilding for our local and regional needs. In this regard, the Kenya Shipyards have been contracted to repair and maintain ships for Government Ministries, Departments and Agencies, including the Kenya Coast Guard Services, the Kenya Ports Authority, the Kenya Maritime Authority, the Kenya Marine Fisheries Research Institute, Kenya Fisheries Service, Kenya Fishing Industries Corporation, and private operators in the Indian Ocean coast as well as Lake Victoria. In addition, the Kenya Shipyards remains Kenya's strategic anchor in the development of the blue economy by channelling technology as well 30 23

as local and foreign direct investment into a diverse industrial ecosystem with distinct clusters assembled around shipbuilding.

### 1.3.4 The Services Economy

#### 1.3.4.1 Financial Services

71. Safeguarding financial stability and expanding access to affordable finance remain key priorities under the Government's Bottom - Up Economic Transformation Agenda (BETA). Towards this end, the Government will continue to take steps to improve prudential regulation and supervision, with a view to addressing the increased sophistication of the financial sector. This will promote sustainability and resilience of the Kenyan financial sector along four pillars: 10 customer centricity; risk-based credit pricing; transparency; and ethical practices. This will also enhance the financial sector's capacity to provide affordable financial services to all Kenyans and help millions of ordinary citizens overcome pressing economic challenges and achieve prosperity.

72. To expand access to affordable financing to individuals and Micro, Small and Medium Enterprises (MSMEs) excluded at the bottom of the pyramid, the Government will continue implementing the Financial Inclusion Fund, or the 'Hustlers' Fund. The Government will also convert the Credit Guarantee Scheme into the Kenya Credit Guarantee Scheme Company (KCGSC) to ensure sustainability and develop a Credit Guarantee Policy whose objective is to provide 20 a clear framework for a sustainable model for credit guarantee scheme for MSMEs.

73. To promote agricultural productivity and transformation, the Government has initiated an Agricultural Financing and Inclusion Programme. The objective of the Programme is to enhance access, efficiency and stability of agricultural rural finance to facilitate transformation of the agricultural sector into an innovative, commercially oriented and modern agriculture, livestock and fisheries sector as envisaged in the Kenya Vision 2030. In this regard, the Government established a Rural Kenya Financial Inclusion Facility (RK-FINFA). This will pursue the objective of increased rural financial inclusion and green investments by agriculture value chain stakeholders, leading to equitable employment 30 opportunities, innovative and resilient production systems, and increased incomes for smallholders, poor and marginalized rural households, women and youth.

74. The banking sector remains stable and resilient, with strong liquidity and capital adequacy ratios, although some risks are emerging. Helped by proactive policies, credit to the private sector expanded at a broadly steady pace throughout the pandemic and accelerated with the economic recovery, though it has moderated recently with the tightening of financial conditions.

75. To strengthen resilience of the financial system, the Government will continue to stress preservation of capital and liquidity buffers, and closely monitor foreign exposures. In this regard, the Government will enhance surveillance while encouraging banks to strengthen their governance frameworks and business models, embark on mergers and acquisitions, and other capital strengthening efforts. The Government will also continue monitoring of foreign exchange loans, deposits, and on-and off-balance sheet exposures in the banking system, with a 40

view to, identifying any potential liquidity risks and strengthening resilience and contingency policies should these risks materialize.

76. As part of the process, the Central Bank of Kenya (CBK) is currently reviewing the licensing fees for commercial banks. The licencing fees for commercial banks was last reviewed in 1990. This was based on the number of branches that a bank has. The banking sector has transformed significantly since 1990 with technology and innovations and moved towards branchless banking. For this reason, the review will consider, among other things: the changing banking sector land scape, increased supervisory or surveillance costs, and international best practice. To further strengthen the resilience of the banking sector and increase commercial banks' capacity to finance large projects, the CBK will review the minimum capital requirements for commercial banks. The current minimum capital requirements of Ksh 1.0 billion for commercial banks has been in effect since 2012. The banking sector has been transformed since 2012, growing from an asset base of Ksh 2.3 trillion to over Ksh 7.0 trillion currently. The banking sector's risk profile has also changed in the last 10 years with growing prominence of among others, cyber security risk, cross border risk and climate-related risks. 10

77. In order to position Kenya as premier green financial hub, CBK will work with banks to build capacity and climate related risk management in their day to day operations. The initiative will attract global funds that are looking for opportunities to finance initiatives that build climate resilience. As a strategy, CBK will build on the progress that has been made in this areas which include issuance the Guidance on Climate-Related Risk Management on 15<sup>th</sup> Ocotber, 2021. The Guidance was aimed at enabling banks to integrate climate-related risks into their governance, strategy, risk management and disclosure frameworks. It was also intended to enable banks leverage on business opportunities from efforts to mitigate and adapt to climate change. These include the adoption of low emission energy sources, development of new products and services, access to new markets, housing, and resilient infrastructure. 20

78. In order to deepen the domestic financial markets, CBK in partnership with the National Treasury has spearheaded market development initiatives aimed at increasing liquidity, reducing market segmentation as well as establishing a stable yield curve which extends to twenty-five years. Notably, the Central Bank introduced DhowCSD, an upgraded Central Securities Depository infrastructure that offers a simple, efficient, and secure portal by the CBK to enable the public to invest in Government of Kenya securities. The platform enables investors to participate and trade in Government securities market (Treasury Bills and Bonds) on their mobile phones and on web-based devices. The DhowCSD will transform Kenya's financial markets through enhanced operational efficiency and expansion of digital access, market deepening for broader financial inclusion, and improved monetary policy operations. The DhowCSD will also improve the functioning of the interbank market by facilitating collateralized lending amongst commercial banks and further reduce segmentation in the interbank market. The Treasury Mobile Direct (TMD) is also available to retail investors as well as the Internet Banking (IB) platform targeting institutional and corporate clients to access services such as bidding and dissemination of auction results for Government securities and view their portfolio positions. 40

25

79. To deepen capital markets, the Government is undertaking a comprehensive review of the legal and regulatory framework to address emerging issues in the capital markets space. This includes, among others, aspects on collective investment schemes, public offers and listings, alternative investment mechanisms, and streamlining credit rating operations in Kenya.

80. To further exploit Kenya's established lead in digital finance, the Government will continue to implement the National Payment Strategy (2022-2025) and fast-track finalization of a National Policy on Digital Finance. Notably, the National Payments System has undergone major changes and transformation, which include establishment of national payments infrastructure, automation and upgrades of various payment systems. These efforts have resulted in increased efficiency for large-value, retail, and cross-border payment services. Together with the introduction of mobile financial services in 2007, these modernisation efforts revolutionized the payments landscape in Kenya, and boosted financial inclusion.

81. Building on the progress made, the Government will undertake a comprehensive review of the National Payments System legal and regulatory framework. The amendments are aimed at: i) strengthening CBK's national payments mandate and oversight to ensure that Kenya operated a safe, efficient and effective national payments system; and ii) broadly, enhancing CBK payments policy and supervisory framework in order to protect Kenyans from abuse by entities that are operating without the required authorization and licensing. Additionally, the review is intended to provide CBK with a comprehensive consumer protection framework tailored on for the unique context of digital payments, guide CBK's oversight of Payments Service Providers from a market conduct point of view, and mitigate current and future consumer protection risks.

82. The Kenya National Payments System (NPS) does not operate in isolation; it is linked to payment systems in other countries in the EAC and COMESA regions through the East African Payment and Settlement System (EAPS) and the Regional Electronic Payment and Settlement System (REPSS) for the EAC and COMESA. CBK has worked closely with regional and continental counterparts in ensuring that payment systems are supported by regional cooperation to facilitate trade at an EAC, COMESA and pan-African level. In order to deepen co-operation and emergence of integrated and efficient regional payment system that can support the continent's trade and investments agenda, CBK will continue to participate in various initiatives at the regional and continental level. This continued cooperation with sister central banks and regional partners will be anchored on ongoing initiatives such as implementation of regional interoperability systems and upgrading of the EAPS to run on a single shared technology platform.

83. To further improve domestic and cross-border payments, CBK has been implementing a security programme, the SWIFT Customer Security Programme (CSP), to ensure that Kenya is meeting set global security standards for payments. With an increased digitisation of the payment infrastructure and the ever-growing cyber threat, CBK will continue to build strong security systems in order to ensure the safety, confidentiality and confidence in the NPS is maintained. This will also protect payments infrastructure against cyber-attacks and other threats. Further, Kenya joined and accepted to host the Pan-African Payment and Settlement

System (PAPSS). PAPSS, which is a brainchild of African Export-Import Bank (Afreximbank), is a centralized financial market infrastructure that allows a trader in one country to instruct his or her financial institution to pay another trader in a different country using their local currency. The platform is projected to save the continent billions that are incurred when traders have to convert and trade in dollars. With 12 African central banks having already been incorporated into PAPSS so far, and many more expected to join up, the system will be effective in the continent by when the platform will be adopted by African Union's Assembly of Heads of State and Government, later in 2024.

#### 1.3.4.2 Tourism Sector

84. Tourism sector is a critical enabler of the Bottom-Up Economic Transformation Agenda in terms of unlocking employment opportunities and generate foreign exchange which is important for enhancing the welfare of Kenyans. For this reason, the Government will continue to implement initiatives targeted at increasing tourist visits in the country in order to increase the sector contribution to GDP over the next 10 years. In part, the Government will promote investments in adventure, relaxation, sports, conference and medical tourism among others aimed at growing tourist visit from the current 1.4 million to 200 million over the next 10 years that will increase foreign earnings to the country. In this regard, the National Government in collaboration with the County Governments will map out potential tourism products and sites for development and marketing to attract tourist with focus on a bottom-up job-creation. The Government will also engage sector stakeholders in re-examining the tourism and wildlife sector and redesign tourism ecosystem to improve flow to the country. 10 20

85. The Government successfully hosted the Africa Climate Summit (ACS) at the Kenyatta Convention Center and the first Wildlife Scientific Conference that brought together wildlife researchers, scientists, conservationists, policy makers and Government officials across the world. Following the success of the conference, the Government tourism marketing model will focus on a more inclusive approach in order to maximize the economic potential and create employment opportunities. This also provides an opportunity to divert from the usual wildlife and traditional safari tourism, but also showcase Kenya's rich cultural heritage, pristine beaches, adventure tourism, and emerging markets such as eco-tourism. 30

#### 1.3.4.3 Aviation Sector

86. The Government will continue to entrench Kenya's position as regional aviation hub by expanding, modernizing and managing the aviation sector. In this regard, the Government will continue to expand and modernize airstrips to connect various parts of the country and enhance Kenya connectivity and competitiveness in the region.



### 1.3.5 Environment and Climate Change

87. The Government remains committed to the provision of a clean, secure and sustainable environment and adequate drinking water and sanitation for all Kenyans. Sustainable environment and water management is critical for the realization of the Bottom-Up Economic Transformation Agenda and the Kenya Vision 2030. For this reason, the Government will strengthen actions to halt and reverse biodiversity loss, prevent deforestation, combat desertification and restore degraded landscapes as part of a broader programme to fulfil the commitments to reduce emissions by 32 percent by 2030. This is expected to achieve land degradation neutrality, implement a global biodiversity framework and enhance the integrity and efficacy of carbon markets. 10

88. Over 80 percent of Kenya's land area is arid and semi-arid, with only 12 percent tree cover. This makes Kenya vulnerable to climate hazards such as droughts, floods and landslides. In order to reverse this, the Government will continue to implement its National Tree Growing Programme as part of its plan to grow 15 billion trees across the country by 2030 to promote and support more resilient livelihoods. This will ensure that the country attains the Constitutional mandate of at least 10 percent land area forest cover. Towards this end, the Government has launched the National Landscapes, Ecosystem Restoration Strategy that is aligned with the UN Decade for Ecosystem Restoration and Land Degradation Neutrality Targets under UNCCD, Global Biodiversity Framework and NDC targets. This programme is expected to contribute to climate change mitigation and adaptation, and employment creation for vulnerable groups and the youth. In addition, the Government in collaboration with County Governments and Development Partners will continue to commit funds towards the National Tree Growing Programme through the Financing Locally-led climate Action (FLLoCA) Program. 20

89. Restoration and rehabilitation of wetlands remains a key priority of the Government. Towards this end, the Government has unveiled the Wetlands Restoration Strategy to facilitate ecosystem restoration through the National Tree Growing Programme, circular economy and climate action. To initiate the process, Toniyo and Horri Ghudha wetlands were commissioned after being rehabilitated by NEMA through fencing and tree planting to allow them to regenerate. The wetlands offered a restoration model which will be replicated in the rehabilitation of other wetlands across the country. 30

90. In order to sustainably manage waste, the Government is working on developing a vibrant circular economy that will transform over 8 million metric tonnes of waste Kenya generates annually into raw material for industrial production.

### 1.3.6 Education and Training

91. Education and training is a key enabler of the Government's Bottom-Up Economic Transformation Agenda for inclusive growth. For this reason, the Government has continued to heavily invest in education to facilitate development of the necessary skills and competencies to learners from pre-primary to the tertiary 28

level to enable them effectively play their part by contributing to the nation building effort, and partake of the dividends of shared prosperity.

92. The investment by Government has significantly reduced the teacher-student ratio, with 56,760 new teachers employed, while 8,200 primary school teachers were retrained to equip them with capacity to effectively deliver learning and teaching at the Junior School level. In subsequent years, the Government is committed to recruit more to further bridge the teacher-student ratio gap. Government has also engaged 46,000 teacher interns to equip Kenyan youth with practical skills and competencies.

93. Funding TVET and Universities in Kenya over the years, has continued to experience challenges over time. TVET has grown exponentially in the number of institutions and enrolment rate because it provides opportunities for youths to acquire employment and entrepreneurship skills. The rapid change in technology and the dynamics in the labour market, require that TVET links with industries to update skills and training. To address this, the Government plans to increase tutors in the Technical and Vocational Education and Training (TVETs) by another 2,000 to facilitate the value of technical and vocational training in the provision of skills, knowledge and competencies.

94. To address the financing gaps which denied many young Kenyans the opportunity to pursue tertiary education, the Government has unveiled a new funding model for higher education and technical and vocational training that guarantees needy students free college studies. The new model for financial support is student-centred and deploys a rigorous, impartial means testing instrument to establish their level of need, which then becomes the primary consideration in allocating scholarships and loans. Additionally, to fully democratise Kenya's education system and make higher education accessible and affordable to all, the Government has chartered the Open University of Kenya following requisite Cabinet and parliamentary approvals.

95. Information and technology (ICT) is a key factor in the developing world and there is need to leverage technology at all levels of education by developing ICT infrastructure for curriculum and improve digital literacy among teachers, parents, and other stakeholders. In this regard, KNEC in line with the global trends and expectations of the 21<sup>st</sup> Century has incorporated digital literacy by ensuring that the assessments for teacher trainees are conducted electronically. This will entrench digital literacy among the teachers and provide skills that the teachers can impart to the learners in schools. Additionally, digital literacy is one of the core competencies that learners are expected to acquire under the CBC and is a key target needed to ensure Kenya's industrial development.

96. Further, the Government has prioritised the teaching and learning of digital skills, including coding, from the primary school to tertiary education, including TVET institutions. The recently launched Open University of Kenya will prepare students to be competitive in the economy of the future. The curriculum for primary and secondary schools as well as tertiary institutions, will continuously be reviewed to make sure the students are in touch with global technological change.

### 1.3.7 Women Agenda

97. Gender equality, women empowerment especially representation in decision making and economic empowerment, and breaking the silence on Gender Based Violence (GBV) remains key priorities of the Government. To protect women against domestic violence, the Government launched Protection against Domestic Violence Rules (PADV). This is a remarkable milestone in the collective efforts to combat domestic violence. PADV rules are designed to provide a robust legal framework that strengthens the support and protection mechanisms available to survivors of domestic violence. These rules emphasize protection, intervention, and holistic support, reflecting a multi-sectoral approach that involves collaboration between Government agencies and civil society organizations. 10

98. Over the medium term, the Government will continue to provide financial and capacity building support for women through the Hustler Fund for women-led co-operative societies, 'chamas', merry-go-rounds and table banking initiatives and protect them from predatory interest rates charged by unscrupulous money lenders. Specifically, the Government will; i) prioritize Women's Economic Empowerment, ending GBV and implementation of the Constitutional provisions of Article 81(b) of not more than two thirds of either gender; ii) develop an Affirmative Action Policy; iii) finalize the process of merging the Affirmative Action Funds into the proposed Biashara Bank.

### 1.3.8 Social Protection

99. Social Safety Nets Programs in Kenya play a pivotal role in reducing poverty, improving social inclusion and enhance economic stability. By providing financial and non-financial support to vulnerable populations, these programs contribute to the well-being and resilience of elderly citizens. For this reason, the Government will continue to develop and expand its social safety nets, addressing coverage gaps, improve targeting, and building administrative capacity will be crucial to achieving the goal of reducing poverty and promoting social inclusion. In part, the Government will continue to enhance the capabilities of communities and officially register Self Help Groups and Beneficiaries Welfare Committees (BWCs), granting them formal recognition and opportunities to connect with Micro Finance Institutions (MFIs) and non-state entities. 20 30

100. The National Council for Persons Living with Disabilities Fund has made significant strides in promoting the welfare and inclusion of persons with disabilities in Kenya. However, challenges such as resource constraints, ensuring that funds are utilized effectively and raising public awareness about the rights of individuals with disabilities continue to be areas of focus and improvement by the Government. In order to effectively support people with disabilities (PWDs), the Government is developing programs designed to provide support persons with disabilities and their caregivers. Special focus will be placed on offering respite care services and strengthen psychosocial support systems. The Government is also developing the National Disability Policy that seeks to advance the inclusion and participation of persons with disabilities. 40

101. Street families is one of the impediments to socio-economic developments of a country as potential human capital is wasted in the streets. The National Government in collaboration with County Governments will create a well-planned strategy on the rehabilitation of street families to ensure dignified reintegration of persons living in the streets to society.

102. To ensure attainment of 100 percent NHIF coverage for senior citizens, the Government has enacted the Social Health Insurance Bill, which extend health insurance to all Kenyans based on member contributions, with government-subsidized coverage for the poor; expand the cash transfer programmes for elderly and vulnerable households to improve operational efficiency, prompt payment accountability and coverage; invest in education and training for caregivers and medical staff to fill the gap of skills in the provision of specialised care for older people.

103. To enhance savings rate that have consistently been among the lowest globally, and to correct the delayed transformation of our social security architecture, fundamental reforms are underway in our savings and social security space. In this regard, the Government has taken deliberate measures to foster a strong culture of saving among Kenyans and enable them to mobilise resources for investment and development of intergenerational capital, to eliminate old age poverty and ensure comfort in retirement. As a result of these initial interventions, contributions to the National Social Security Fund have grown to Ksh 6.5 billion monthly from the previous level of Ksh 1.4 billion a month. The implication of this growth in national savings is that it will significantly consolidate Kenya's ability to invest in development using domestic pension industry financing.

### 1.3.9 Sports, Culture and Arts

#### 1.3.9.1 Sports and Arts

104. Sports, Culture and Arts sectors are critical for revenue generation by availing the foreign exchange through a sports economy value chain, inclusive growth and employment creation. To realize these benefits, the Government continues to facilitate the development of legal framework, economic institutions, and organisational mechanisms to promote the effective and sustainable monetisation of all talent in sports and creative economies. To foster talent development, the Government developed the Sports and Creative Economy Master Plan, or Talanta Hela. The program is intended to support and nurture the talents of Kenyan youth, providing them with opportunities to turn their skills and abilities into viable sources of income. The endpoint of Talanta Hela is 'pesa mfukoni' or competitive incomes that can sustain livelihoods and reward talent, dedication, discipline and focus. Talanta Hela program is a demonstration of the Government's commitment to turn competitive capabilities across all sporting disciplines and the expansive spectrum of the creative industry, including music and dance, film and theatre, fashion and pageantry, digital content creation as well as literary and fine arts.

105. Over the medium term, the Government will establish a National Academy by expanding the resident academy at the Moi International Sports Centre-Kasarani, to incorporate modern training and accommodation facilities that meet international standards. The Government will also prioritize the completion and upgrading of stalled/ old sports facilities in optimal utility areas and high potential talent zones.

Currently, the Government is upgrading the Moi International Sports Centre, Kasarani, Nyayo National Stadium and the Kipchoge Keino Stadium in Eldoret to provide the infrastructure for international football in Kenya.

106. Kenya is poised to co-cost the Africa Cup of Nations (AFCON) in 2027, jointly with Uganda and Tanzania. AFCON is the premier sporting event in Africa, with significant socio-economic benefits, well beyond the immense positive impact on sports development. Hosting the event requires significant infrastructural investment, in stadia, roads, airports, hospitality, communications, security and related infrastructure. AFCON 2027 is among national priorities, particularly with regard to construction of a new Talanta Stadium and upgrading of the existing Kasarani, Nyayo and Kipchoge Keino stadia and the attendant training grounds. 16

107. As a build up to AFCON'27 Kenya will also co-host in September, 2024 the African Nations Championship (CHAN), earmarked for Kakamega and Bungoma, with Bukhungu Stadium and Masinde Muliro Stadium, Kanduyi undergoing significant upgrades. The hosting of major international sporting events, including the WRC Safari Rally, Magical Kenya Open and Kipchoge Keino Classic remain key avenues for the global branding of Kenya and for Sports Tourism, generating significant revenues and contributing to the national economy.

108. To grow the sports and creative economy, the Talanta Hela flagship initiative will continue to expand through grassroots youth talent identification, nurturing and monetisation, and strengthening of institutions like the Kenya Academy of Sports, the new Kenya Rallying School, the Kenya Film Commission and the Kenya National Theatre. To effectively anchor this, the Sports Act and Sports Policy are undergoing review, while enactment of the Creative Economy Policy, the Creative Industries Bill and the Start-Ups Bill has been accelerated. 20

### 1.3.9.2 Culture

109. Culture serves as a critical repository of identity, knowledge, skills and practices, including sustainable solutions to the pressing challenges of our time. Article 11, the Constitution recognizes culture as the foundation of our nation and the cumulative civilization of the Kenyan people and nation. Therefore, the Government will promote all forms of national and cultural expression in various forms, including traditional celebrations. The Government has approved the Culture Bill and is developing Creative Economy Framework, National Kiswahili Council of Kenya Bill, the Kenya Film Bill, the National Heritage and Museums Bill. 20

### 1.3.10 Youth Empowerment and Development Agenda

110. Youth empowerment and development is an integral part of the Government's Bottom-up Economic Transformation Agenda and essential to the entire plan. For this reason, the Government will continue providing education, employment, and engagement opportunities that is aimed at empowering the youth to drive Kenya's socio-economic development and foster a generation of informed, responsible, and empowered citizens. This comprehensive approach is essential for building a more inclusive and prosperous future for Kenya. Government interventions for the youth will be anchored on the Kenya Young People's Agenda. 40

### 1.3.11 Governance

111. To strengthen the framework for governance as envisaged under Article 10 of Constitution on national values and principles of governance, the Government

has approved the Public Relations and Communication Management Bill and the Statute Law (Miscellaneous Amendments) Bill, 2023. Further, the Government has identified the significant improvement of productivity in key sectors an urgent priority of national economic governance efforts. Such improvements require immense investments and the resources from revenues generated. There is simply no space for wastage and corruption because that would be the recipe for disastrous failure. In line with this, the Cabinet approved the Public Audit (Amendment) Bill, 2023 in November 2023, which will enhance the Auditor General's independence and transparency to ensure proper utilization of public resources through audits.

112. Corruption, wastage, inefficiency and negligence are serious threats to the Transformation Agenda, and unacceptable practices that have no place in the nation. To address these challenges, the Government will continue to scale-up the implementation of the provisions of the Kenya 2010 Constitution, strengthen the rule of law, increase access to justice, and ensure respect for human rights. As part of the process, the Government will continue to strengthen various institutions that are mandated to fight corruption in the country, implement reforms on good governance and enhance the capacity to recover corruptly acquired assets. Additionally, enactment of the Assets Declaration and Conflict of Interest Bill will further tighten Kenya's anti-corruption policy framework, and eliminate space for misbehaviour. 10  
20

113. The attainment of the Government's BETA agenda will be underpinned by sound and innovative policy and structural reforms targeted at all socio-economic sectors, building efficient infrastructure, climate change, mitigation mechanisms, and fostering strict compliance with the Constitution and the rule of law. Parliament is an enabler in the prosecution of the agenda by way of its legislation, oversight and representation roles. Parliament will specifically facilitate the achievement of this agenda by approving the budget estimates submitted by the National Treasury, passing the necessary pieces of legislation to enable the implementation of the agenda and oversight the implementation of the agenda to ensure transparency and accountability. 30

#### 1.3.11.1 Public Service Transformation

114. Kenya has one of the world's finest human capital with huge potential to drive socio-economic transformation envisaged under the Bottom-Up Economic Transformation Agenda and the Kenya Vision 2030. For this reason, the Government will continue to transform public service sector to make it more responsive to people needs. In particular, the Government will continue to facilitate Public Service Commission so as to exhibit high levels of productivity, good governance, diligence and excellent performance.

115. In order to improve human resource management, the Government has developed a Unified Human Resource (UHR) system - which will consolidate Human Resource and Payroll data in the Public Service for access through a single warehouse. Since July 2023, the UHR system is linked to Kenya Revenue Authority i-Tax to facilitate filing of PAYE tax element associated with individual employees and total monthly PAYE tax obligation from the State Departments. The Government will incorporate the other deductions to enable all remittances to 40

be sent to respective entities including Pension Funds and other employees' contributions schemes by July 2024.

116. The Government intends to roll out the UHR system for the entire Public Service by July 2024. The roll out of the UHR will be carried out in phases. Phase 1 entailed rolling out the system to all MDAs and Counties, implemented in September 2023. Phase 2 involved the roll out to all State Agencies that have adopted the Unified Payroll Numbering (UPN) System—including Teachers Service Commission (TSC). The 349,000 teachers under TSC have been issued with UPN. Phase 3 will entail issuing the UPN to all Commissions and Independent Offices, State Corporations, Public Universities, and Agencies by July 2024.

117. Public Service Internship Program is a transformative program that is currently in its third year with 16,500 young university graduates having successfully completed a 12-month internship period since its inception. The Government's commitment is to onboard at least 10,000 interns every year to offer an opportunity for university graduates. The internship programme has immense value not only to the individual intern but also to the country. At the individual level, the programme has afforded the interns opportunity to gain work experience and enhance their employability chances. It has provided hands-on experience by building upon skills acquired in the classroom while also instilling public service etiquette, values and ethics. The programme has also enabled the Government to establish a database of skills available to the public service for future human resource needs. Further, the programme has also helped to promote inclusivity and diversity as envisaged in the Constitution. The internship programme is therefore a clear testimony of the Government's commitment to empower Kenyan youth and enable them to contribute significantly to the socio-economic transformation of our country.

#### **1.3.11.2 Strengthening Leadership Accountability and De-Personalising Politics**

118. The Government has implemented various initiatives and strategies to strengthen leadership and governance. These efforts are aimed at enhancing transparency, accountability, and leadership effectiveness. Specifically, the Government has been engaging public participation in decision-making processes. This includes public consultations and other forums for citizens to engage and hold the Government accountable. Additionally, efforts have been made to improve the efficiency and professionalism of the civil service. This includes hiring, training, and performance evaluation of civil servants.

#### **1.3.11.3 Strengthening Devolution**

119. The Government remains committed to ensuring the success of devolution. Delays in disbursing allocations to County Governments have had tremendous negative effects overtime. This has been due to inadequate revenues flowing to the exchequer. To reverse this trend, the Government for the first time in seven years, disbursed 100 percent of equitable share to the 47 County Governments amounting to Ksh 399.6 billion by 30<sup>th</sup> June 2023. This included Ksh 370.0 billion equitable share and the arrears of Ksh 29.6 billion for the FY 2022/23.

120. Over the medium term, the Government will continue disbursing funds to counties in a more efficient and timely way; and supporting counties to improve their capacity to generate their own source revenue reduce over-reliance on transfers from the National Government. Government will also complete transfer of all functions constitutionally earmarked to counties and develop a framework for ensuring that state-owned firms carrying out devolved or shared functions adhere to the principles of governance and ensure that the principle of funding-follows-functions is adhered to with respect to all devolved functions.

#### 1.3.11.4 Security

121. The security and safety of all citizens is the Government's foremost commitment and most fundamental obligation, without which every other endeavour including attaining the Bottom-Up Economic Transformation Agenda is not possible. For this reason, the Government continues to implement reforms targeted at improving the operational capacities of our security forces to protect Kenyans against external and internal threats. 10

122. As part of the process, the Government has increased funding to all security agencies to improve their operations including addressing the spectre of terrorism that is a continuing threat, banditry, cattle-rustling and armed lawlessness have besieged and devastated communities in the Rift Valley, North-Eastern and, occasionally, parts of Eastern and the Coast regions. As a strategy, the Government will endeavour to achieve a corrupt free law enforcement sector and restoring public confidence in the country's security apparatus. The Government will also cultivate a culture of open communication and information sharing among different stakeholders, with a special focus on local communities, to aid in the ongoing campaign against violent extremism. 20

123. Cybersecurity threats are becoming a growing concern for Kenyan online business especially with the rise of payment portals which have rendered them vulnerable by cybercriminals. To mitigate these risks, the Government will continue employing a robust security measure, educate business owners, and collaborate with various actors both state and non-state. The use of electronic payment systems and inclusion is a critical infrastructure deliberated through a National Computer and Cybercrimes Coordination Committee (NCCCC).

124. The Government's commitment to peace initiatives is unwavering as enshrined within the Global Public Security Framework. The Government aim to deepen cooperation in peace and security initiatives as well as law enforcement programs. To ensure peace in the region, the Government launched a security operation dubbed Operation Maliza Uhalifu North Rift to deal with security challenges caused by pastoralist militia activity. This has significantly reduced insecurity across North Rift region. However, its long-term impact is less certain due to the country's multiple security challenges and the risk of overstressing Government security forces. To enhance boarder security, the Government will earmark more Ports of Entry (PoE) in different parts of the country. 30

#### 1.3.12 Foreign Policy and Regional Integration

125. The Kenyan economy is firmly interconnected with regional, continental and global economic systems. Our security and stability is likewise integrated with those of our neighbours. Kenya has a fundamental, essential, legitimate and clear 40



interest in conducting robust diplomacy in the form of bilateral and multilateral engagements.

126. Notably, for the past 12 months, the Government has continued to fulfil international obligations through Kenya's leadership in the international arena. This is underscored by the high-level summits Kenya has hosted and participated in. Kenya successfully hosted the inaugural Africa Climate Summit (ACS 23), the 43<sup>rd</sup> Ordinary Session of the Executive Council, the 5<sup>th</sup> MidYear Coordination meeting of the African Union and the Regional Economic Communities, and the first-ever African edition of the Berlin Climate and Security Conference in Nairobi, bringing over 30 Heads of State and Governments to our country and over 30,000 delegates from different parts of the world. 10

127. Over the medium term, to entrench Kenya's significance in world affairs, the Government will continue to promote friendly relations with our neighbours, play a leading role in regional and pan-African affairs, collaborate with international partners, and uphold commitment to the international community.

### 1.3.12.1 Economic and Commercial Diplomacy

128. To unlock the potential of Kenya's commercial and trade relations, the Government will continue developing bilateral cooperation in trade and investment, agriculture, forestry, capacity development in the public service and transport and communications, among others. Other MOUs are on telecommunications and ICT, oil and gas, mining and geology, health collaboration, capacity building of the Public Service and cooperation of our respective diplomatic academies. 20

129. The Government has also set up a highly experienced economic advisory team to forge the right policies and create an enabling environment for foreign investors to support Kenya's economic development agenda. Part of the critical pillars of the foreign policy and regional integration agenda will include:

- i) deepening bilateral ties and work with other countries at various multilateral fora. Kenya is fully committed to a just and rules-based multilateral order that works for the betterment of humanity;
- ii) ensuring that existing bilateral agreements and memorandums of understanding (MOUs) are constantly reviewed and updated for maximum benefit; 30
- iii) ensuring a mutually beneficial partnership that will seek more initiatives, particularly for vocational training where young Kenyans can acquire critical innovation skills in agriculture, science and technology, and health systems, among others;
- iv) considering easing entry visa requirements for this category of visitors including diplomats, legislators, and businesspeople, in order to capitalize on these opportunities. This would necessitate a reciprocal agreement for us to ease access to visas into Kenya; and
- v) expanding the market for our products and services by taking advantage of our membership in regional organisations such as the East African 40

Community, the Common Market for Eastern and Southern Africa (COMESA), the African Continental Free Trade Area (AfCTA), and the Intergovernmental Authority on Development (IGAD).

### 1.3.12.2 Anchor State

130. The Government will continue to strengthen Kenya's profile as regional role as an anchor state in regional, continental, and global affairs. Underlying Kenya's peace and security diplomacy is the recognition of peace and stability as necessary pre-conditions for development and prosperity. Linked to this, is Kenya's conviction that its own stability and economic wellbeing are dependent on the stability of the sub-region, Africa and the rest of the world. To realize these benefits, the Government will continue to:

- i) promote the resolution of conflicts by peaceful means drawing on Kenya's experiences in mediation, conflict resolution and peacekeeping; 10
- ii) collaborate with other African countries to strengthen the conflict prevention, management and resolution capacity of regional institutions, including the East African Community (EAC), Inter Governmental Authority on Development (IGAD), Common Market for Eastern and Southern Africa (COMESA) and the African Union (AU with the aim of promoting sustainable peace and development;
- iii) support peace efforts by the African Union and the United Nations through contributing troops and providing leadership in peacekeeping missions within the continent and globally; and
- iv) create conflict analysis and prevention capacity nationally and in the region through the foreign service academy. 20

### 1.3.12.3 Global citizenship

131. The Government recognizes the role played by international organizations in the global arena. These include the African Union, the East African Community and the UN and its affiliates. For this reason, as part of global cooperation, the Government will deepen bonds with long-standing international and bilateral partners to address various issues such as peace and security, trade, human rights and environmental protection shaped by its foreign policy objectives, economic interests, and regional dynamics. Special focus will be placed on causes that improve the welfare of Africans worldwide.

### 1.3.12.4 Diaspora

132. The Government recognizes the huge and untapped potential of Kenyans living abroad which can contribute to the country's national socio-economic transformation as envisaged in the Bottom-Up Economic Transformation Agenda and the Kenya Vision 2030. For this reason, the Government will implement the National Diaspora Policy that seeks to engage the Kenyan Diaspora in a more constructive and productive manner to harness the diverse skills, knowledge, expertise and resources of Kenyans living abroad, and facilitating their integration into the national development agenda. 30

## 1.4 Medium Term Revenue Strategy

133. Domestic resource mobilization is a major source of long-term financing for sustainable development and has been a concern of many developing countries. To

address this, a number of countries have embarked on the development of a framework for guiding tax reforms to enhance domestic revenue mobilization. Since 2016, over twenty-five countries globally have formulated Medium Term Revenue Strategy (MTRS) and are at various stages of implementation geared towards boosting tax revenues and improving efficiency of tax systems.

134. In Kenya, revenue as a percentage of GDP has been declining over the years from 18.1 percent in FY 2013/14 to 14.3 percent in FY 2022/23 while expenditure pressure has been rising resulting in increased borrowing to bridge the revenue gap. In this respect, the Government with the support of development partners, in 2021, embarked on the development of the MTRS to enhance domestic revenue mobilization. 10

135. The MTRS is aligned to the National Tax Policy and will guide tax administration to improve efficiency in the administration of tax laws, close loopholes for tax evasion, and enhance voluntary tax compliance. The MTRS is expected to hasten the fiscal consolidation process thus reducing the fiscal deficit to facilitate the achievement of the EAC target of 3.0 percent of GDP.

136. The additional resources raised from the MTRS will facilitate the implementation of the Government's Bottom-up Economic Transformation Agenda geared towards economic turn-around and inclusive growth through the Fourth Medium Term Plan (MTP IV) of the Vision 2030, as well as the Medium-Term Expenditure Framework (MTEF). 20

137. The objectives of the Medium-Term Revenue Strategy (MTRS) are to: (i) improve efficiency in revenue administration; (ii) ensure equity and fairness in the tax regime; (iii) enhance tax-payer compliance with tax obligations; (iv) expand the tax base; (v) create certainty in the tax regime to attract investment; and (vi) promote investment across various sectors by removing market distortions.

138. The implementation of MTRS is expected to among others: (i) raise revenue to GDP ratio from 14.3 percent in FY 2022/23 to 20.0 percent by end of the FY 2026/27; (ii) increase tax compliance rate from 70 percent in FY 2022/23 to 90 percent by FY 2026/27; and (iii) increase investment to GDP ratio from 19.3 percent in FY 2022/23 to 25.7 percent in FY 2026/27. 30

139. The MTRS will be implemented within a three-year period beginning from FY 2024/25 to FY 2026/27. Tax policy reforms will be implemented through the Finance Acts and Regulations, beginning with the Finance Act, 2024 while revenue administration reforms will begin from January 2024 as per the implementation matrix annexed to the MTRS.

140. The implementation of the Strategy will involve Ministries, Departments and Agencies; the Legislature, Judiciary; County Governments; private sector players and development partners.

## 1.5 National Tax Policy

141. The National Tax Policy that was approved by Parliament in December 2023 sets out broad parameters on tax policy and other tax related matters. The policy provides broad guidelines for governing tax administration and the tax system in Kenya. More specifically, the policy provides a set of guidelines for taxation of 40

38

income, goods and services and forms the basis for review of tax legislation, development and administration.

142. The overall objective of the policy is to guide the development of a progressive tax system that enhances revenue mobilization by the Tax administration, promotes investment and fosters a flexible fiscal space. The aim is to ensure that tax rates do not affect the demand of the product and the tax structure do not distort markets and to ensure that taxes do not affect investment.

143. The principles to guide tax reforms include: (i) economic efficiency - the tax system shall minimize discrimination in favour of, or against, any economic choice to mitigate distortions and expand the productive capacity of the economy; (ii) equity and fairness - the tax system shall be designed to treat equally all taxpayers placed in similar circumstances (horizontal equity), and treat differently those placed under different circumstances (vertical equity); (iii) simplicity - tax laws and administrative processes shall be clear so that it is easy to comply and difficult to evade; (iv) administrative efficiency - the cost of compliance by taxpayers and the administration cost to the Revenue Authority, shall be kept at a minimum level; (v) flexibility - while the tax system shall provide certainty of "direction", it will be dynamic and responsive to changing circumstances in the economy; (vi) revenue adequacy - the tax system will be designed to mobilize adequate tax revenues to meet the needs of public expenditure; (vii) transparency and accountability - the tax system shall enhance disclosure of information on revenues collected and tax expenditures; and (viii) consultative - there will be wide consultation of key players in developing and implementing changes to the tax system to ensure it adheres to the guiding principles and meets the constitutional requirements.

## II. RECENT ECONOMIC DEVELOPMENTS AND MEDIUM-TERM OUTLOOK

### 2.1 Overview

144. The global economy is experiencing challenges arising from global supply chain disruptions due to heightened geopolitical tensions, weakening demand particularly in China and Eurozone, elevated global interest rates on account of inflationary pressures limiting access to credit and exacerbating debt servicing costs and significant losses and damages due to frequent extreme weather events increasing fiscal pressures. As such, global growth is projected to slow down to 3.0 percent in 2023 and 2.9 percent in 2024 from 3.5 percent in 2022 which is below the historical (2000–2019) average of 3.8 percent (Table 2.1).

145. Additionally, most currencies in emerging market and frontier economies weakened against the U.S. Dollar, mainly due to the tightening of U.S. monetary policy. Inflation in advanced economies has continued to ease, reflecting effects of monetary policy tightening and lower energy prices. Nevertheless, core inflationary pressures remained elevated.

**Table 2.1: Global Economic Performance**

Economy	Growth (%)			
	Actual		Projected	
	2021	2022	2023	2024
World	6.3	3.5	3.0	2.9
Advanced Economies	5.4	2.6	1.5	1.4
Of which: USA	5.9	2.1	2.1	1.5
Euro Area	5.3	3.3	0.7	1.2
Emerging and Developing Economies	6.8	4.1	4.0	4.0
Of which: China	8.4	3.0	5.0	4.2
India	9.1	7.2	6.3	6.3
Sub-Saharan Africa	4.7	4.0	3.3	4.0
Of which: South Africa	4.7	1.9	0.9	1.8
Nigeria	3.6	3.3	2.9	3.1
Kenya*	7.6	4.8	5.5	5.5

Source: IMF World Economic Outlook, October 2023. \*National Treasury Projection

146. Advanced economies are projected to record a slower growth of 1.5 percent in 2023 and 1.4 percent in 2024 from 2.6 percent in 2022 mainly driven by lower growth in the Euro Area. The slowdown in growth in the advanced economies is as a result of aggressive monetary policy tightening that has contributed to a significant deterioration of global financial conditions.

147. Growth in the emerging market and developing economies is projected to decline relatively modestly, from 4.1 percent in 2022 to 4.0 percent in both 2023 and 2024, although with notable shifts across regions. In sub-Saharan Africa, growth is projected to decline to 3.3 percent in 2023 from 4.0 percent in 2022 reflecting worsening climate change related shocks, inflationary and exchange rate pressures, and domestic supply issues, including, notably, in the electricity sector.

Growth in the region is expected to rebound to 4.0 percent in 2024, picking up in four fifths of the sub-Saharan Africa's countries, and with strong performances in non-resource intensive countries.

## 2.2 Domestic Economic Developments

148. Despite the challenging environment, the Kenyan economy is demonstrating resilience with growth performance well above the global and SSA average. In the first three quarters of 2023, the economic growth averaged 5.6 percent (5.5 percent Q1, 5.5 percent Q2 and 5.9 percent Q3). This growth was primarily underpinned by a rebound in the agricultural activities which grew by an average of 7.0 percent in the first three quarters of 2023 compared to a contraction of 1.8 percent during the same period in 2022. All economic sectors recorded positive growth rates in the first three quarters of 2023, though the magnitudes varied across activities (Table 2.2).

**Table 2.2: Sectoral GDP Performance**

Sectors	Annual Growth Rates		Quarterly Growth Rates					
	2021	2022	2022 Q1	2022 Q2	2022 Q3	2023 Q1	2023 Q2	2023 Q3
<b>1. Primary Industry</b>	0.5	(1.0)	(0.4)	(1.5)	(1.5)	5.9	8.0	6.4
1.1. Agriculture, Forestry and Fishing	(0.4)	(1.6)	(1.7)	(2.4)	(1.3)	6.1	8.2	6.7
1.2. Mining and Quarrying	18.0	9.3	23.8	16.6	(4.5)	3.3	5.2	1.1
<b>2. Secondary Sector (Industry)</b>	6.8	3.5	4.4	4.2	3.0	2.4	1.7	2.9
2.1. Manufacturing	7.3	2.7	3.8	3.6	1.8	2.0	1.4	2.6
2.2. Electricity and Water supply	5.6	4.9	3.2	5.6	6.0	2.5	0.8	1.9
2.3. Construction	6.7	4.1	6.0	4.5	3.5	3.1	2.6	3.8
<b>3. Tertiary sector (Services)</b>	9.6	6.7	8.5	7.7	5.7	5.9	5.9	6.9
3.1. Wholesale and Retail trade	8.0	3.8	4.9	4.1	3.6	5.7	4.2	4.8
3.2. Accommodation and Restaurant	52.6	26.2	40.1	44.0	16.9	21.5	12.2	26.0
3.3. Transport and Storage	7.4	5.6	7.7	7.2	5.1	6.2	3.0	2.8
3.4. Information and Communication	6.1	9.9	9.0	11.2	11.8	9.0	6.4	7.3
3.5. Financial and Insurance	11.5	12.8	17.0	16.1	9.6	5.8	13.5	14.7
3.6. Public Administration	6.0	4.5	6.2	3.8	3.4	6.6	3.8	4.2
3.7. Others	10.8	5.2	6.7	5.5	4.7	4.8	4.9	6.3
of which: Professional, Admin & Support Services	7.1	9.4	13.1	10.9	9.0	7.3	5.5	9.5
Real Estate	6.7	4.5	6.0	5.0	4.0	5.2	5.8	6.2
Education	22.8	4.8	4.6	4.4	3.9	3.0	4.0	4.7
Health	8.9	4.5	5.7	4.4	3.7	5.4	5.0	5.1
Taxes less subsidies	11.9	7.0	9.5	6.1	7.3	5.3	4.0	2.8
<b>Real GDP</b>	7.6	4.8	6.2	5.2	4.3	5.5	5.5	5.9

Source of Data: Kenya National Bureau of Statistics.

149. **Agriculture:** In the first three quarters of 2023, the agriculture sector rebounded strongly following improved weather conditions and the impact of fertilizer and seed subsidies provided to farmers by the Government. The sector grew by 6.1 percent in the first quarter, 8.2 percent in the second quarter and 6.7 percent in the third quarter. The strong performance was reflected in enhanced production, especially of food crops that led to significant increase in exports of tea, coffee, vegetables and fruits. However, production of cut flowers and sugarcane declined during the period.

150. **Services:** The services sector continued to sustain strong growth momentum in the first three quarters of 2023 growing by an average of 6.2 percent (5.9 percent in the first quarter, 5.9 percent in the second quarter and 6.9 percent in the third quarter). The robust performance was reflected in the notable growth of information and communication (driven by increases in wireless internet and fiber-to-home subscriptions), wholesale and retail trade, accommodation and food services (driven by recovery in tourism), financial and insurance (due to strong private sector credit growth, increased yield on investment and increased return on deposits by commercial banks) and real estate (supported by sustained expansion of the construction industry). 10

151. **Industry:** In the first three quarters of 2023, the industrial sector remained positive and recorded growths of 2.4 percent in the first quarter, 1.7 percent in the second quarter and 2.9 percent in the third quarter compared to growths of 4.4 percent, 4.2 percent and 3.0 percent, respectively in similar quarters in 2022. Growth in the sector was supported by increased activities in the construction sector mainly reflected in the increased consumption of cement and imports of bitumen, iron, and steel. Activities in the manufacturing sector, which accounts for nearly half of the industrial sector output, was hampered by a decline in the manufacture of both food (particularly sugar production) and non-food products while electricity sub-sector slowed down due to a notable decrease in electricity generation from all sources, except geothermal. 20

### *Inflation outcomes*

152. Inflation had remained above the Government target range of  $5 \pm 2.5$  percent from June 2022 to June 2023. In order to anchor inflation expectations, the Monetary Policy Committee (MPC) gradually raised the policy rate (Central Bank Rate (CBR)) from 7.50 percent in May 2022 to 10.50 percent in June 2023 and further to 12.50 percent in December 2023. The tightening of the monetary policy was to address the pressures on the exchange rate and mitigate second round effects including from global prices. This ensured that inflationary expectations remain anchored, while setting inflation on a firm downward path towards the 5.0 percent mid-point of the target range. This policy action was complemented by Government interventions and favourable weather conditions that increased food supply. Consequently, inflation eased gradually to 6.6 percent in December 2023 from a peak of 9.6 percent in October 2022 and has been within the target range for the first half of FY 2023/24 (**Figure 2.1**). However, inflation has remained sticky in the upper bound of the Government's target range since July 2023 due to relatively higher energy prices. 30

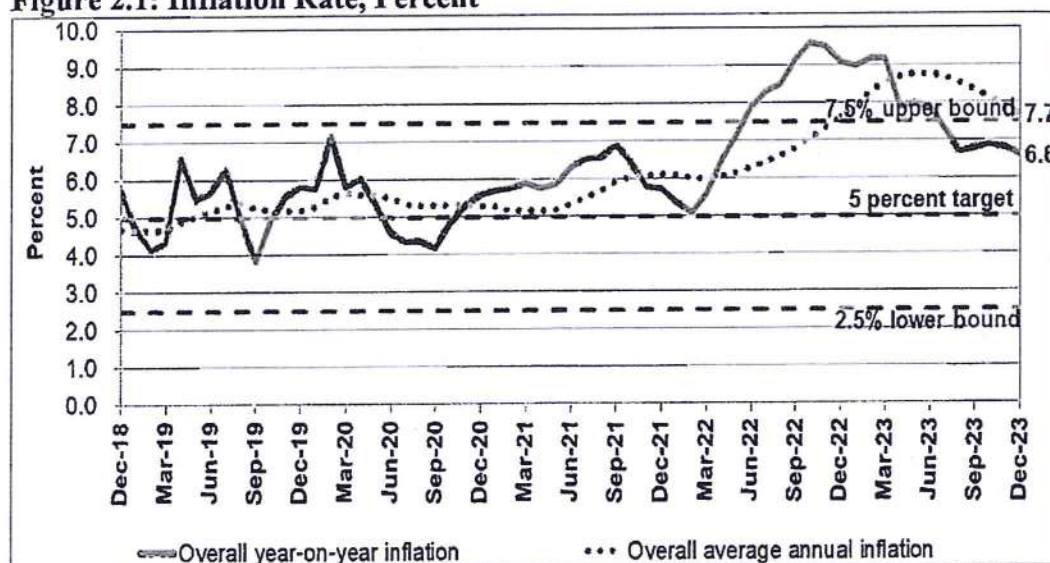
153. Food inflation remained the dominant driver of overall inflation in December 2023. However, it declined to 7.7 percent in December 2023 from a peak of 15.8 percent in October 2022 supported by general decline in international food prices, government interventions through zero rating of select food commodities, and improved weather conditions that enhanced production of fast-growing food items, thus moderating their prices. Nonetheless, sugar prices remained elevated driven by domestic and global factors. 40

154. Fuel inflation declined to 13.7 percent in December 2023 from 15.5 percent in November 2023, driven by a downward adjustment in pump prices by the 42

Energy and Petroleum Regulatory Authority (EPRA). However, fuel inflation has remained elevated reflecting the impact of higher international oil prices, depreciation in the shilling exchange rate and gradual withdraw of the fuel subsidize from September 2022 and the upward adjustment of electricity tariff from April 2023. In addition, the upward adjustment of VAT on petroleum product in July 2023 from 8.0 percent to 16.0 percent to eliminate tax credits from the sector exacted upward pressures on prices. However, prices of cooking gas continued to decline and moderated inflation reflecting the impact of the zero-rating of VAT on liquefied petroleum gas (LPG).

155. Core (non-food non-fuel) inflation remained stable at 3.4 percent in <sup>10</sup> December 2023, from a peak of 4.4 percent in March 2023. The decline is attributed to the tight monetary policy and muted demand pressures.

**Figure 2.1: Inflation Rate, Percent**



Source of Data: Kenya National Bureau of Statistics

### Monetary and Credit Developments

156. Broad money supply, M3, grew by 21.1 percent in the year to November 2023 compared to a growth of 5.3 percent in the year to November 2022 (Table 2.3). The primary source of the increase in M3 was an improvement in the Net Foreign Assets (NFA) of the banking system and resilient domestic credit. The increase in NFA mainly reflected the improvement in commercial banks' foreign assets.

157. Net Domestic Assets (NDA) registered a growth of 10.7 percent in the year to November 2023, compared to a growth of 14.6 percent over a similar period in 2022. The growth in NDA was mainly supported by an increase in domestic credit particularly resilient private sector credit and net lending to government. Growth of domestic credit extended by the banking system to the Government declined to a growth of 14.4 percent in the year to November 2023 compared to a growth of 15.2 percent in the year to November 2022. <sup>20</sup>



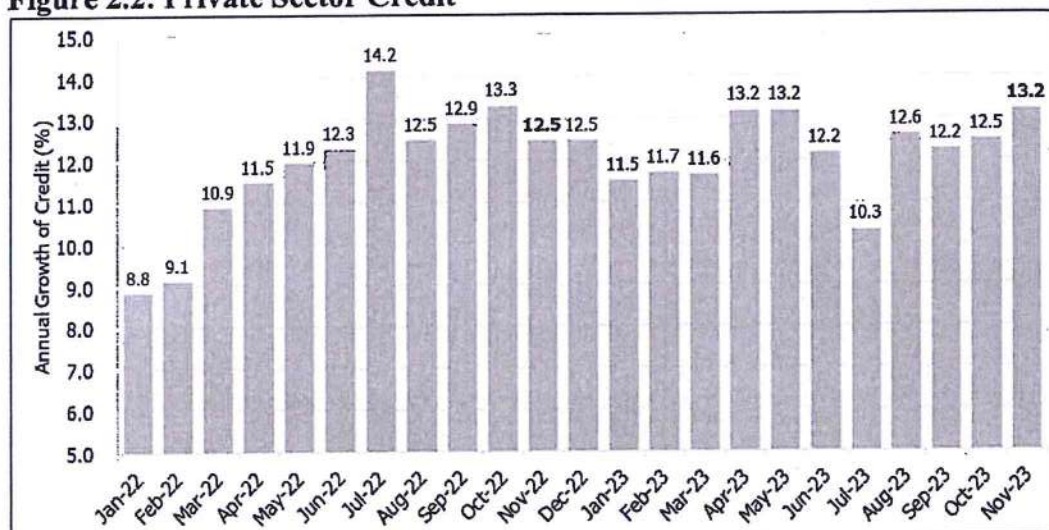
**Table 2.3: Money and Credit Developments (12 Months to November 2023, Ksh billion)**

				Change		Percent Change	
	2021 November	2022 November	2023 November	2021-2022 November	2022-2023 November	2021-2022 November	2022-2023 November
<b>COMPONENTS OF M3</b>							
1. Money supply, M1 (1.1+1.2+1.3)	1,822.0	1,902.0	2,012.5	80.0	110.5	4.4	5.8
1.1 currency outside banks (M0)	238.6	252.2	272.7	13.6	20.5	5.7	8.1
1.2 Demand deposits	1,496.6	1,560.6	1,632.7	64.0	72.1	4.3	4.6
1.3 Other deposits at CBK	86.8	89.2	107.1	2.4	17.9	2.7	20.1
2. Money supply, M2 (1+2.1)	3,435.3	3,537.3	3,906.3	102.0	369.0	3.0	10.4
2.1 Time and savings deposits	1,613.3	1,635.3	1,893.8	22.01	258.5	1.364	15.8
Money supply, M3 (2+3.1)	4,234.0	4,460.2	5,402.6	226.2	942.4	5.3	21.1
3.1 Foreign currency deposits	798.7	922.9	1,496.3	124.2	573.4	15.6	62.1
<b>SOURCES OF M3</b>							
1. Net foreign assets (1.1+1.2)	581.4	276.0	771.8	(305.3)	495.8	(52.5)	179.6
1.1 Central Bank	710.4	531.7	497.1	(178.7)	(34.5)	(25.2)	(6.5)
1.2 Banking Institutions	(129.0)	(255.7)	274.6	(126.6)	530.3	(98.2)	207.4
2. Net domestic assets (2.1+2.2)	3,652.7	4,184.2	4,630.8	531.5	446.6	14.6	10.7
2.1 Domestic credit (2.1.1+2.1.2+2.1.3)	4,797.6	5,425.2	6,186.8	627.6	761.6	13.1	14.0
2.1.1 Government (uat)	1,684.4	1,940.4	2,220.7	256.0	280.4	15.2	14.4
2.1.2 Other public sector	84.9	79.3	111.6	(5.5)	32.3	(6.5)	40.7
2.1.3 Private sector	3,028.3	3,405.5	3,854.5	377.2	448.9	12.5	13.2
2.2 Other assets net	(1,145.0)	(1,241.1)	(1,556.0)	(96.1)	(315.0)	(8.4)	(25.4)

Source of Data: Central Bank of Kenya

158. Growth in private sector credit from the banking system remained resilient partly reflecting improving business conditions and demand for working capital. Credit advanced to the private sector grew by 13.2 percent in the year to November 2023 compared to a growth of 12.5 percent in the year to November 2022 (**Figure 2.2**). Strong credit growth was observed in finance and insurance, agriculture, transport and communications and manufacturing. Growth in private sector credit is expected to remain relatively stable, supported by, among other factors, resilient economic activity, and the implementation of the Credit Guarantee Scheme for the vulnerable MSMEs.

**Figure 2.2: Private Sector Credit**



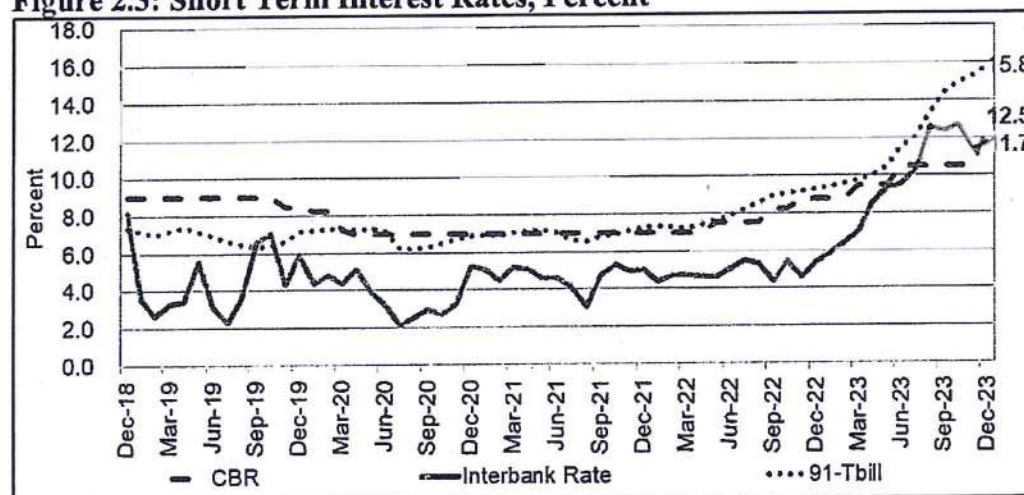
Source of Data: Central Bank of Kenya

44

### Interest Rates Developments

159. Short-term interest rates increased in December 2023, partly reflecting the tight monetary policy stance and liquidity conditions in the money market. The interbank rate increased to 11.7 percent in December 2023 compared to 5.4 percent in December 2022 while the 91-day Treasury Bills rate increased to 15.8 percent compared to 9.3 percent over the same period (Figure 2.3). The introduction of the interest rate corridor around the CBR (set at CBR $\pm$  250 basis points by the MPC in August 2023) has aligned the interbank weighted average rate to the Central Bank Rate and thereby improving the transmission of the monetary policy.

**Figure 2.3: Short Term Interest Rates, Percent**



Source of Data: Central Bank of Kenya

160. Commercial banks average lending and deposit rates increased in the year to October 2023 in tandem with the tightening of the monetary policy stance. The average lending rate increased to 14.2 percent in October 2023 from 12.4 percent in October 2022 while the average deposit rate increased to 9.1 percent from 7.0 percent over the same period. Consequently, the average interest rate spread declined to 5.1 percent in October 2023 from 5.4 percent in October 2022.

### External Sector Developments

161. The current account deficit improved to USD 4,196.5 million (4.2 percent of GDP) in November 2023 compared to USD 6,012.3 million (5.4 percent of GDP) in November 2022. The current account balance was supported by an improvement in the trade balance account and resilient remittances (Table 2.4).

162. In the year to November 2023, exports contracted by 2.9 percent mainly due to a decline in horticultural exports particularly cut flowers despite an improvement in receipts from tea, chemicals and manufactured exports. The increase in receipts from tea exports reflects higher prices attributed to lower global supply due to drought amid resilient demand from traditional markets while the increase in manufactured exports receipts reflects strong regional demand.

163. On the other hand, imports declined by 11.4 percent in the 12 months to November 2023, mainly reflecting lower imports of infrastructure related equipment, manufactured goods, oil, and chemicals. Oil prices remain elevated on

account increased geopolitical fragmentation and global oil supply cuts by major oil exporters particularly Saudi Arabia and Russia. As a result, the trade account balance improved by USD 2,015.0 million to a deficit of USD 10,002.2 million in November 2023.

**Table 2.4: Balance of Payments (USD Million)**

				Year to November 2023		Actuals as a Percent of GDP	
	Nov-21	Nov-22	Nov-23	Change	Percent Change	Nov-22	Nov-23
<b>Overall Balance</b>	<b>(1,005.0)</b>	<b>1,802.8</b>	<b>1,321.4</b>	<b>(481.3)</b>	<b>(26.7)</b>	<b>1.6</b>	<b>1.3</b>
<b>A) Current Account</b>	<b>(5,637.6)</b>	<b>(6,012.3)</b>	<b>(4,196.5)</b>	<b>1,815.9</b>	<b>30.2</b>	<b>(5.4)</b>	<b>(4.2)</b>
<i>Merchandise Account (a-b)</i>	<i>(10,669.5)</i>	<i>(12,017.2)</i>	<i>(10,002.2)</i>	<i>2,015.0</i>	<i>16.8</i>	<i>(10.8)</i>	<i>(10.1)</i>
a) Goods: exports	6,699.7	7,472.9	7,258.5	(214.4)	(2.9)	6.7	7.3
b) Goods: imports	17,369.2	19,490.1	17,260.7	(2,229.4)	(11.4)	17.5	17.4
<i>Net Services (c-d)</i>	<i>876.9</i>	<i>1,290.4</i>	<i>768.2</i>	<i>(522.2)</i>	<i>(40.5)</i>	<i>1.2</i>	<i>0.8</i>
c) Services: credit	4,792.2	6,466.9	5,641.8	(825.0)	(12.8)	5.8	5.7
d) Services: debit	3,915.4	5,176.5	4,873.7	(302.8)	(5.8)	4.7	4.9
<i>Net Primary Income (e-f)</i>	<i>(1,823.9)</i>	<i>(1,742.6)</i>	<i>(1,988.7)</i>	<i>(246.1)</i>	<i>(14.1)</i>	<i>(1.6)</i>	<i>(2.0)</i>
e) Primary income: credit	62.0	40.6	103.4	62.7	154.3	0.0	0.1
f) Primary income: debit	1,885.9	1,783.2	2,092.0	308.8	17.3	1.6	2.1
<i>Net Secondary Income</i>	<i>5,979.0</i>	<i>6,457.0</i>	<i>7,026.2</i>	<i>569.2</i>	<i>8.8</i>	<i>5.8</i>	<i>7.1</i>
g) Secondary income: credit	6,116.5	6,519.5	7,150.5	631.0	9.7	5.9	7.2
h) Secondary income: debit	137.5	62.5	124.3	61.8	98.9	0.1	0.1
<b>B) Capital Account</b>	<b>196.8</b>	<b>144.5</b>	<b>133.7</b>	<b>(10.8)</b>	<b>(7.4)</b>	<b>0.1</b>	<b>0.1</b>
<b>C) Financial Account</b>	<b>(5,828.8)</b>	<b>(4,329.1)</b>	<b>(3,030.6)</b>	<b>1,298.6</b>	<b>30.0</b>	<b>(3.9)</b>	<b>(3.1)</b>

Source of Data: Central Bank of Kenya

164. Net receipts on the services account declined by USD 522.2 million to USD 768.2 million in November 2023 compared to a similar period in 2022. This was mainly on account of a decline in receipts from transport despite an increase in receipts from tourism as international travel continues to improve. Net Secondary income remained resilient owing to an increase in remittances which amounted to USD 4,174.6 million in the 12 months to November 2023, and were 3.8 percent higher compared to a similar period in 2022.

165. The capital account balance declined by USD 10.8 million to register a surplus of USD 133.7 million in November 2023 compared to a surplus of USD 144.5 million in the same period in 2022. Net financial inflows slowed down but remained vibrant at USD 3,030.6 million in November 2023 compared to USD 4,329.1 million in November 2022. The net financial inflows were mainly in the form of other investments, financial derivatives, and direct investments. Portfolio investments registered a net outflow during the period.

166. The overall balance of payments position slowed down to a surplus of USD 1,321.4 million (1.3 percent of GDP) in November 2023 from a surplus of USD 1,802.8 million (1.6 percent of GDP) in November 2022.

#### **Foreign Exchange Reserves**

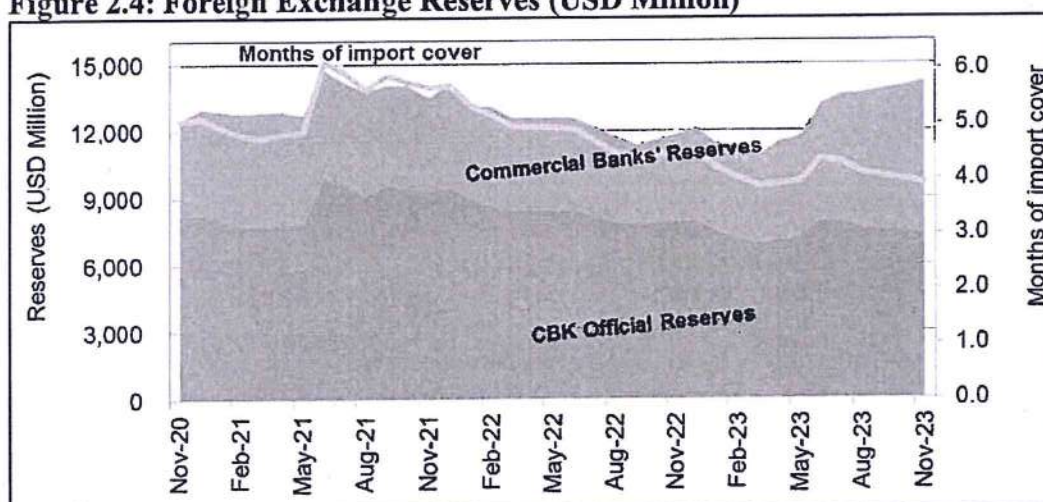
167. The banking system's foreign exchange holdings remained strong at USD 14,211.1 million in November 2023, an improvement from USD 12,084.7 million in November 2022. The official foreign exchange reserves held by the Central

46

Bank stood at USD 7,397.6 million compared to USD 7,969.5 million over the same period (Figure 2.4). Commercial banks holdings improved to USD 6,813.5 million in November 2023 from USD 4,115.2 million in November 2022.

168. The official reserves held by the Central Bank in November 2023 represented 4.0 months of import cover as compared to the 3.9 months of import cover in November 2022. It, however, fulfilled the requirement to maintain it at a minimum of 4.0 months of imports cover to provide adequate buffer against short-term shocks in the foreign exchange market.

**Figure 2.4: Foreign Exchange Reserves (USD Million)**



Source of Data: Central Bank of Kenya

### Exchange Rate Developments

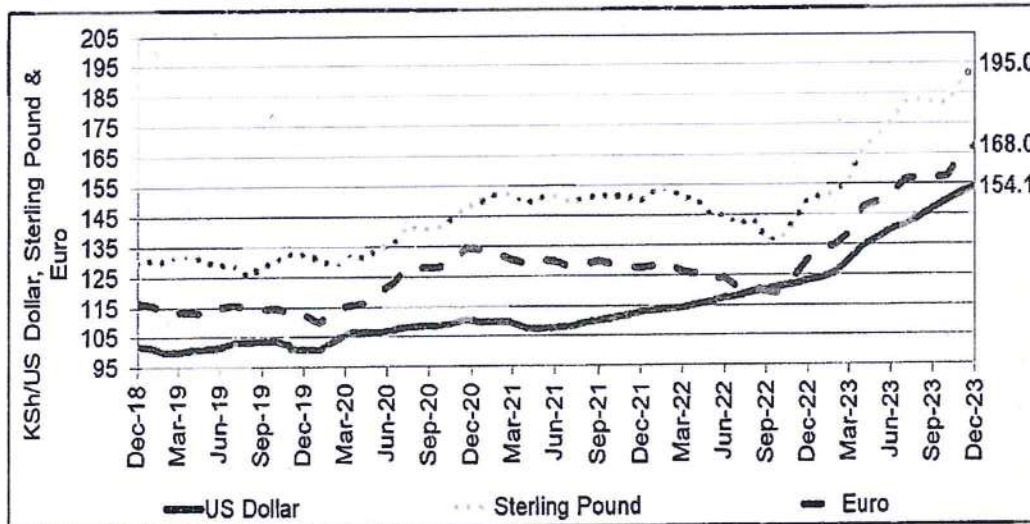
169. Kenya like several other countries is experiencing foreign exchange challenges due to the rise of US interest rates. In December 2023, the Kenya Shilling weakened by 25.3 percent against the US Dollar, 30.2 percent against the Sterling Pound and 29.2 percent against the Euro, compared to a similar period in 2022. 10

170. The Kenya Shilling against the US Dollar exchanged at an average of Ksh 154.1 in December 2023 compared to an average of Ksh 122.9 in December 2022. Against the Euro, the Kenya shilling weakened to exchange at Ksh 168.0 in December 2023 compared to Ksh 130.0 in December 2022 while against the Sterling Pound the Kenyan Shilling also weakened to exchange at Ksh 195.0 compared to Ksh 149.8, over the same period (Figure 2.5). The Kenyan Shilling was supported by increased remittances, adequate foreign exchange reserves and strong exports receipts. 20

171. The Government has taken measures to stabilize the foreign exchange market which include resuscitating the inter-bank forex market and the Government-to-Government petroleum supply arrangement. This arrangement is mainly intended to address the US Dollar (USD) liquidity challenges and exchange rate volatility caused by the global dollar shortage and spot market reactions that was driving volatility and a false depreciation that was a scarcity value as well as market distortion.

47

Figure 2.5: Kenya Shillings Exchange Rate

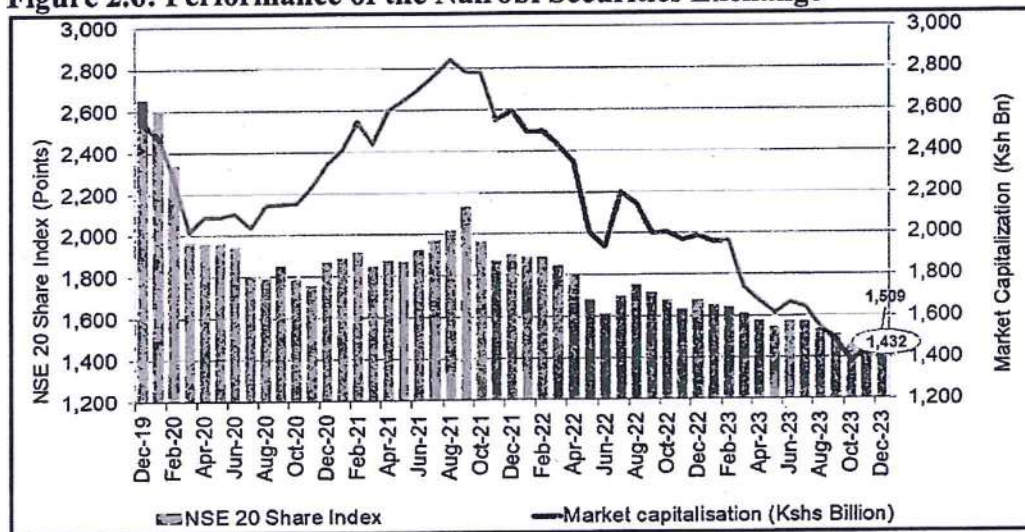


Source of Data: Central Bank of Kenya

Capital Markets Developments

172. Activity in the capital markets slowed down in December 2023 compared to December 2022 as advanced economies tightened their monetary policy amid inflationary pressures. The NSE 20 Share Index declined to 1,509 points in December 2023 compared to 1,676 points in December 2022 while Market capitalization declined to Ksh 1,432 billion from Ksh 1,986 billion over the same period (Figure 2.6).

Figure 2.6: Performance of the Nairobi Securities Exchange



Source of Data: Nairobi Securities Exchange

48

## 2.3 Fiscal Performance

173. Budget execution during the first five months of FY 2023/24 progressed relatively well with revenues recording a growth of 13.2 percent in November 2023 compared to a growth of 10.6 percent in November 2022. Total revenue recorded a shortfall of Ksh 98.7 billion with ordinary revenue missing the November 2023 target by Ksh 98.2 billion and Ministerial Appropriation in Aid (AiA) recording a shortfall of Ksh 0.5 billion. Revenue performance is anticipated to improve over the course of the fiscal year, mainly supported by the improved revenue administration by the Kenya Revenue Authority.

174. Similarly, overall expenditures were below target by Ksh 335.7 billion in November 2023 on account of below target disbursements towards; recurrent expenditures by Ksh 166.7 billion, development expenditure by Ksh 106.1 billion, and County Governments by Ksh 62.8 billion. The below target performance in expenditures is largely explained by the shortfalls in revenue performance (Table 2.5a).

**Table 2.5a: Fiscal Performance as at 30<sup>th</sup> November, 2023(Ksh billion)**

	Nov-22		Nov-23		% of GDP	
	Ksh. Billion				Target Prl. Act.	
	Prel. Act.	Target	Prl. Act.	Deviation	Target	Prl. Act.
<b>A. Total Revenue including External Grants</b>	897.1	1,116.7	1,016.4	(100.3)	6.9	6.3
<b>Total Revenues (1+2)</b>	893.8	1,110.2	1,011.5	(98.7)	6.9	6.3
<b>1. Ordinary Revenue</b>	786.5	977.1	878.9	(98.2)	6.1	5.4
Import duty	54.9	68.8	56.2	(12.6)	0.4	0.3
Excise duty	108.9	133.1	116.1	(17.1)	0.8	0.7
Income tax	342.5	457.0	380.4	(76.6)	2.8	2.4
VAT	222.1	263.9	266.1	2.2	1.6	1.6
Other Revenue	58.1	54.3	60.1	5.8	0.3	0.4
<b>2. Ministerial Appropriation in Aid</b>	107.3	133.2	132.7	(0.5)	0.8	0.8
o/w RDL	16.8	14.2	13.7	(0.4)	0.1	0.1
<b>3. External Grants</b>	3.3	6.5	4.9	(1.6)	0.0	0.0
<b>B. Total Expenditure and Net Lending</b>	1,093.8	1,496.4	1,160.8	(335.7)	9.3	7.2
<b>1. Recurrent Expenditure</b>	822.8	1,087.5	920.8	(166.7)	6.7	5.7
<b>2. Development</b>	149.0	238.6	132.4	(106.1)	1.5	0.8
<b>3. County Allocation</b>	122.1	170.4	107.5	(62.8)	1.1	0.7
<b>4. Contingency Fund</b>	-	-	-	-	-	-
<b>C. Balance Exclusive of Grants</b>	(200.0)	(386.2)	(149.2)	236.9	(2.4)	(0.9)
<b>D. Grants</b>	3.3	6.5	4.9	(1.6)	0.0	0.0
<b>E. Balance inclusive of Grants (Cash basis)</b>	(196.7)	(379.7)	(144.4)	235.3	(2.4)	(0.9)
Discrepancy	23.0	-	(11.6)	(11.6)	-	(0.1)
<b>F. Total Financing</b>	219.7	379.7	132.7	(247.0)	2.4	0.8
<b>1. Net Foreign Financing</b>	39.0	0.9	(23.4)	(24.3)	0.0	(0.1)
<b>2. Net Domestic Financing</b>	180.7	378.8	156.2	(222.7)	2.3	1.0
<b>Nominal GDP (Fiscal Year)</b>	14,002.5	16,131.5	16,131.5	-	100.0	100.0

Source of Data: National Treasury

### Revenue Performance

175. Revenue collection to November 2023 recorded a slightly higher growth of 13.2 percent compared to a growth of 10.6 percent in November 2022. This revenue performance is partly explained by rising cost of living which has negatively affected the business environment. As at end November 2023, the

49

cumulative total revenue inclusive of Ministerial Appropriation in Aid (A-i-A) was Ksh 1,011.5 billion against a target of Ksh 1,110.2 billion recording a shortfall of Ksh 98.7 billion.

176. Ordinary revenue for the period to November 2023 was Ksh 878.9 billion against a target of Ksh 977.1 billion translating into a shortfall of Ksh 98.2 billion despite recording a growth of 11.7 percent. All broad tax categories of ordinary revenue save for Value Added Tax (VAT) fell short of the respective targets during the review period. Income tax recorded a shortfall of Ksh 76.6 billion, Excise taxes of Ksh 17.1 billion and Import duty of Ksh 12.6 billion. Value Added Tax (VAT) and other revenue were above target by Ksh 2.2 billion and Ksh 12.0 billion.

177. Ministerial A-i-A inclusive of the Railway Development Levy amounted to Ksh 132.7 billion in November 2023 against a target of Ksh 133.2 billion recording a shortfall of Ksh 0.5 billion.

### Expenditure Performance

178. Total expenditure and net lending in the period to November 2023 amounted to Ksh 1,160.8 billion against a target of Ksh 1,496.4 billion, translating to a shortfall in expenditure of Ksh 335.6 billion. This was largely on account of below target disbursement towards recurrent expenditure by Ksh 166.7 billion, development expenditure by Ksh 106.1 billion and below target disbursement to County Governments of Ksh 62.8 billion (Table 2.5a).

179. The below target recurrent expenditure as at November 2023 was on account of below target payments on domestic interest (Ksh 51.8 billion), operations and maintenance (Ksh 83.7 billion), pensions (17.0 billion), external interest (Ksh 6.2 billion) and below target contributions to civil service pension fund of Ksh 7.3 billion. Development expenditures were below target by Ksh 106.1 billion on account of below target disbursement towards domestically financed programmes by Ksh 91.1 billion and foreign financed programmes by Ksh 13.1 billion. Disbursement to County Governments was below target by Ksh 62.8 billion.

180. Fiscal operations of the Government by end of November 2023 resulted in an overall deficit including grants of Ksh 144.4 billion against a projected deficit of Ksh 379.7 billion. This deficit was financed through net domestic borrowing of Ksh 156.2 billion and net foreign repayment of Ksh 23.4 billion.

## 2.4 Fiscal Policy

181. The medium-term fiscal policy approach seeks to support the Government's Bottom-Up Economic Transformation Agenda through continued implementation of a growth responsive fiscal consolidation plan that slows the yearly increase in the public debt and puts in place an efficient liability management strategy without affecting the provision of services to the public. In addition, the Government will put in place measures to broaden the revenue base and rationalize expenditures in order to reduce the fiscal deficits. Consequently, revenue collections are expected to rise to 20.2 percent of GDP in FY 2027/28 from 19.0 percent of GDP in the FY 2023/24 while total expenditures are projected to reduce to 23.7 percent of GDP from 24.2 percent of GDP over the same period. Implementation of the reforms on

50

revenue and expenditure is expected to result in reduction in the fiscal deficit including grants from Ksh 785.0 billion (4.9 percent of GDP) in the FY 2023/24 to Ksh 771.0 billion (3.1 percent of GDP) in the FY 2027/28 (Table 2.5 b).

**Table 2.5b: Fiscal Framework (Ksh billion)**

	FY 2021/22	FY 2022/23		FY 2023/24	FY 2024/25	FY 2025/26	FY 2026/27	FY 2027/28
	Actual	Revised Estimates	Prel. Act.	PROJECTIONS				
<b>TOTAL REVENUE</b>	2,199.8	2,478.6	2,360.5	3,070.6	3,435.0	3,833.1	4,376.5	4,978.4
Ordinary revenue	1,917.9	2,145.4	2,041.1	2,624.6	2,948.1	3,294.2	3,775.7	4,305.8
Ministerial Appropriation in Aid	281.9	333.2	319.4	445.9	486.9	538.9	600.8	672.6
<b>TOTAL EXPENDITURE AND NET LENDING</b>	3,027.8	3,366.6	3,221.0	3,902.9	4,188.2	4,553.0	5,170.0	5,823.1
Recurrent	2,135.3	2,367.7	2,311.6	2,760.1	2,859.3	3,026.5	3,403.7	3,799.9
Development	540.1	560.5	493.7	717.8	877.8	1,068.7	1,209.3	1,427.9
County Transfer	352.4	436.3	415.8	423.9	446.1	452.9	552.0	590.3
Contingency Fund	-	2.0	-	1.2	5.0	5.0	5.0	5.0
<b>BALANCE EXCLUDING GRANTS</b>	(828.0)	(897.9)	(860.5)	(832.3)	(753.2)	(719.9)	(793.5)	(844.8)
Grants	31.0	41.7	23.1	47.4	49.3	53.2	68.6	73.8
<b>BALANCE INCLUSIVE OF GRANTS</b>	(797.0)	(846.2)	(837.4)	(785.0)	(703.9)	(666.7)	(724.9)	(771.0)
Adjustment to cash basis	11.9	-	37.0	-	-	-	-	-
<b>BALANCE INCLUSIVE OF GRANTS(cash basis)</b>	(785.1)	(846.2)	(800.4)	(785.0)	(703.9)	(666.7)	(724.9)	(771.0)
<i>Discrepancy</i>	(37.3)	-	(30.1)	-	-	-	-	(0.0)
<b>TOTAL FINANCING</b>	747.8	846.2	770.3	785.0	703.9	666.7	724.9	771.0
Net Foreign Financing	142.5	362.7	310.8	362.2	326.1	103.7	230.8	217.5
Net Domestic Financing	605.3	483.6	459.5	422.7	377.7	563.0	494.1	553.5
Nominal GDP (Fiscal year)	12,698.0	14,521.6	14,274.4	16,131.5	18,015.2	20,002.3	22,180.5	24,594.5
	<i>As a share of GDP</i>							
<b>TOTAL REVENUE</b>	17.3	17.1	16.5	19.0	19.1	19.2	19.7	20.2
Ordinary revenue	15.1	14.8	14.3	16.3	16.4	16.5	17.0	17.5
Ministerial Appropriation in Aid	2.2	2.3	2.2	2.8	2.7	2.7	2.7	2.7
<b>TOTAL EXPENDITURE AND NET LENDING</b>	23.8	23.2	22.6	24.2	23.2	22.8	23.3	23.7
Recurrent	16.8	16.3	16.2	17.1	15.9	15.1	15.3	15.5
Development	4.3	3.9	3.5	4.4	4.9	5.3	5.5	5.8
County Transfer	2.8	3.0	2.9	2.6	2.5	2.3	2.5	2.4
Contingency Fund	-	0.0	-	0.0	0.0	0.0	0.0	0.0
<b>BALANCE EXCLUDING GRANTS</b>	(6.5)	(6.1)	(6.0)	(5.2)	(4.2)	(3.6)	(3.6)	(3.4)
Grants	0.2	0.3	0.2	0.3	0.3	0.3	0.3	0.3
<b>BALANCE INCLUSIVE OF GRANTS</b>	(6.3)	(5.8)	(5.9)	(4.9)	(3.9)	(3.3)	(3.3)	(3.1)
Adjustment to cash basis	0.1	-	0.3	-	-	-	-	-
<b>BALANCE INCLUSIVE OF GRANTS(cash basis)</b>	(6.2)	(5.8)	(5.6)	(4.9)	(3.9)	(3.3)	(3.3)	(3.1)
<i>Discrepancy</i>	(0.3)	-	(0.2)	-	-	-	-	(0.0)
<b>TOTAL FINANCING</b>	5.9	5.8	5.4	4.9	3.9	3.3	3.3	3.1
Net Foreign Financing	1.1	2.5	2.2	2.2	1.8	0.5	1.0	0.9
Net Domestic Financing	4.8	3.3	3.2	2.6	2.1	2.8	2.2	2.3
Nominal GDP (Fiscal year)	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Source of Data: National Treasury

### Domestic Revenue Mobilization

182. The Government will implement a mix of tax administrative and tax policy measures in order to boost revenue collection efforts by the Kenya Revenue Authority (KRA) to over Ksh 4.0 trillion in the medium term thereby supporting economic activity. In particular, the Government will focus on domestic resource mobilization efforts that include:

- i) Implementation of the Finance Act 2023 that targets to boost revenue collection. This will lead to a tax effort of 16.3% of GDP in FY 2023/24;

51



- ii) Implementation of the National Tax Policy to improve the tax system's administrative effectiveness, offer uniformity and clarity in tax laws, and control tax expenditures;
- iii) Implementation of the Medium-Term Revenue Strategy (MTRS) for the period FY 2024/25 - 2026/27 to further strengthen tax revenue mobilization efforts to 20.0% of GDP over the medium term;
- iv) Focus on non-tax measures that MDAs can raise through the services they offer to the public e.g. Ministry of Land, Immigration and citizen services among others; and
- v) Strengthening of Tax Administration by KRA through scaling up use of technology to seal leakages; enhancements of iTax and Integrated Customs Management System (iCMS); and use of e-TIMS (Tax Invoice Management System).

### *Expenditure Reforms*

183. The Government will sustain efforts to improve efficiency in public spending and ensure value for money by: i) eliminating non priority expenditures; ii) rationalizing tax expenditures; iii) scaling up the use of Public Private Partnerships financing for commercially viable projects; iv) digitizing of asset reporting through operationalization of IFMIS asset module by all MDAs; and iv) rolling out of an end - to - end e-Government Procurement (e-GP) System to the National and County Governments in the FY 2024/25 where all public procurement and assets disposal transactions are undertaken online and are fully compliant with the Public Procurement and Asset Disposal Act of 2015 and its attendant Regulations 2020. The developed e-GP system will be interfaced with the Integrated Financial Management Information System (IFMIS) to process payments of contracted suppliers. Currently, the Government is piloting the new e-GP system in twelve (12) MDAs. Once the system is implemented, it is expected to promote savings of about 10-15 percent of the total Government procurement expenditure, value for money, efficiency, transparency, audit trail and enhance good governance in our public procurement. 20

184. In order to increase efficiency and effectiveness of the public spending, the Government will continue to implement Public Investment Management Regulations that aim to streamline initiation, execution and delivery of public investment projects. Ministries shall be required to finalize ongoing projects before commencing new projects in order to reduce the Government's exposure on stalled projects. Additionally, all PIM approved projects shall be required to factor environmental and climate related risks including carbon emission and disaster risk management as part of project appraisal. Going forward, the National Government will commence rolling out the PIM Regulations to County Governments. Further, the Government will roll out the Public Investment Management Information System (PIMIS) to all the Ministries, Departments and Agencies (MDAs). The System is aimed at improving the management of development projects in the country. All State Departments, SAGAs and SOEs shall be required to list all the projects. 30 40

52

185. To sustain and strengthen the pension reforms, the Government will monitor and completely separate and delink the governance of the Public Service Superannuation Scheme from that of the non-contributory scheme. The Government will also revamp the public service pension administration through digitization and re-engineering of the pension management system, expected to be completed by December 2024. Digitization will streamline processes, improve accuracy, and facilitate timely pensions payments. This also enable better monitoring and management of pension-related matters while re-engineering will complement the digitization by availing an end-to-end Enterprise Resource Planning (ERP) solution that takes advantage of the modern IT technologies.

186. In order to address the challenges faced by Government Owned Enterprises (GOEs), commonly known as Commercial State Corporations, the Government has embarked on the process of privatising and restructuring of these entities. Following the enactment of the Privatisation Act, 2023, the Government will fast-track the privatisation of GOEs and Government Linked Corporations (GLCs). As part of the process, the Government has identified and proposed eleven (11) entities to be included in the 2023/2024 Privatisation Program, in line with the provisions of the Privatisation Act, 2023. The privatisation is geared towards the Government's efforts for fiscal consolidation and spurring economic development through: Raising additional revenue; Reduction in the demand for Government resources; Improvement of regulatory framework in the economy by unbundling regulatory and commercial functions among some entities; and Improvement of efficiency in the economy by encouraging more participation of the private sector hence make the economy more responsive to market forces; among others.

### ***Deficit Financing Policy***

187. Consistent with the objective of minimizing costs and risks of public debt, the Government will mobilize resources mainly from multilateral and bilateral Development Partners (DPs). Commercial borrowing sources will be utilized as last resort to fund the fiscal deficit and repay maturing external debts. Net domestic financing requirements will be met through the issuance of Treasury bonds in the domestic market.

188. More emphasis will be on maximizing concessional loans while non-concessional and commercial external borrowing will be limited to economic enabler projects that cannot secure concessional financing and are in line with the Bottom-Up Transformation Agenda of the Government.

189. In light of increased cost of financing, the Government will continue to monitor the global financial market conditions before accessing the international capital market for any liability management operations. The Government will also explore other alternative sources of financing including climate Fund financing options, Debt for Nature Swaps, Samurai and Panda bonds depending on the prevailing market and macroeconomic conditions.

190. The domestic debt market remains one of central funding source to the Government as it contributes to half of the total required financing needs thus mitigating against external currency risks. The Government will continue to

implement reforms that are aimed at deepening, improving efficiency and diversifying the investor base within the domestic market.

191. Commitment to fiscal consolidation with a view to reducing fiscal deficits remains important to Government in restraining debt accumulation and thus progressively reduce the debt service over the medium-term amidst global shocks on Kenya's economy and its medium-term prospects.

## 2.5 Economic Outlook

192. The economy is projected to remain strong and resilient in 2023, 2024 and over the medium term supported by the continued robust growth of the services sectors, the rebound in agriculture, and the ongoing implementation of measures to boost economic activity in priority sectors by the Government. As such, the economy is expected to remain strong and expand by 5.5 percent in both 2023 and 2024 (5.5 percent in FY 2023/24 and in FY 2024/25) (Table 2.6 and Annex Table 1).

193. **From the supply side**, this growth will be driven by a strong recovery in the agriculture sector supported by the anticipated adequate rainfall in most parts of the country and a decline in global commodity prices that will reduce the cost of production. Additionally, Government intervention measures aimed at lowering the cost of production such as the ongoing fertilizer and seed subsidy program and provision of adequate affordable working capital to farmers will support growth of the sector.

194. The industry sector will be driven mainly by increased activities in manufacturing and construction subsectors. Manufacturing subsector will be supported by improved availability of raw materials following the recovery in agriculture production and a decline in global commodity prices which will support food processing. Construction subsector will be driven by sustained investment in the Affordable Housing programme, PPP infrastructure projects and the ongoing work on building and maintaining public infrastructure. Electricity and water supply subsector is expected to remain vibrant due to the anticipated increase in demand as the industrial and residential consumption grows.

195. Services sector will be supported by resilient activities in accommodation and restaurant, financial and insurance, information and communication, wholesale and retail trade and transport and storage, among others. Accommodation and restaurant subsector will be supported by the continued increase in tourists' arrivals as international travels recovers following the global economic slowdown and Government's effort to revamp the sector, through promotion of international conference, cultural festivals and promoting wildlife safaris. Transport and Storage subsector will be supported by improvement of critical national and regional trunk roads that have the highest economic impact and adoption of electric vehicles which signals new era of mobility. Activities in information and communication subsector will be supported by laying of additional National Fiber Optic network which will enable the Country to achieve the required national bandwidth to expedite the deployment and development of rural telecommunication services.

196. **On the demand side**, growth will be driven by an improvement in aggregate demand. Aggregate demand will be supported by household private consumption and robust private sector investments coupled with Government investments as the public sector consolidates. This growth will also be supported by improvement in the external account supported by strong export growth and resilient remittances.

197. Consumption will mainly be driven by strong Private consumption which is expected to increase to 78.9 percent of GDP in 2024 from 78.1 percent of GDP in 2023. The easing of inflationary pressures will result in strong household disposable income, which will in turn support household consumption. Government consumption is projected to decline in 2023 and 2024 in line with the ~~the~~ fiscal consolidation program.

198. Aggregate investment is projected to remain stable at 19.4 percent of GDP in 2023 and 19.5 percent of GDP in 2024 mainly supported by the private sector. Investment will benefit from focus on public-private-partnership (PPP) projects and improvements in the Foreign Exchange market conditions. Additionally, private investments will be supported by stable macroeconomic conditions coupled with the ongoing fiscal consolidation which will provide the needed confidence for investors. Interventions by the Government through the Hustlers' Fund will strengthen MSMEs thereby correcting market failures for the vast majority of Kenya's at the bottom of the pyramid. This will strengthen the private sector led <sup>20</sup> growth opportunities.

199. Growth over the medium term will also be driven by sustained Government investments in the Affordable Housing programme, PPP infrastructure projects and the ongoing work on building and maintaining public infrastructure. The development spending in the budget will be above 5.0 percent of GDP so as not to impact on growth momentum. The spending supports investments in key projects under the Bottom-Up Economic Transformation Agenda (BETA). Particularly, investments in the nine priority value chains (Leather, Cotton, Dairy, Edible Oils, Tea, Rice, Blue economy, Natural Resources (including Minerals and Forestry), and Building Materials). <sub>30</sub>

200. The current account deficit is projected to improve to 4.4 percent of GDP in 2023 and 4.0 percent of GDP in 2024 compared to 5.1 percent of GDP in 2022. The expected narrowing of the current account deficit is driven by a decline in imports amid lower oil prices, exchange rate adjustment, and further rationalization of capital spending. Additionally, the current account balance will be supported by continued strong remittance inflows.

201. Kenya's exports of goods and services is expected to continue strengthening supported by receipts from tourism, and an increase in receipts from tea and manufactured exports. The strengthening of the dollar against the Shilling is also expected to support export receipts. The expected recovery of Kenya's trading ~~partners~~ <sup>340</sup> and the implementation of Africa Continental Free Trade Area (AfCFTA) will enhance demand for exports of Kenyan manufactured products. Additionally, the implementation of crops and livestock value chains, specifically, exports of tea, coffee, vegetables and fresh horticultural produce, among others will support growth in export receipts.

202. In the Balance of Payments Statement, external financing needs will be met mainly by equity inflows and foreign direct investment given the conducive business climate that Government has created particularly the fiscal policy predictability.

### *Monetary Policy Management*

203. The monetary policy stance is aimed at achieving price stability and providing adequate credit to support economic activity. With agriculture recovering, the contribution from food prices to headline inflation is expected to decline but pressures from fuel prices are expected to remain in the near term. Overall, inflation is expected to largely remain within the target band of  $5\pm 2.5$  percent in the medium-term. This will be supported by muted demand pressures consistent with prudent monetary policy and easing of domestic and global food prices coupled with Government measures to lower cost of production through subsidizing farm inputs and support sufficient supply of staple food items through zero rated imports.

204. In order to ensure that inflationary expectations are well anchored and in line with maintaining external sustainability, the Government will continue to adjust the monetary policy stance decisively as needed, to mitigate the second-round effects, including from international oil price shocks, exchange rate adjustments, and risks from any other future shocks. In addition to inflation objectives, the Central Bank of Kenya (CBK) will ensure that the monetary policy stance and central bank policy operations are mutually consistent at all times with policy, in order to support confidence in macroeconomic stability, meeting Government's financing needs, maintaining Kenya's external sustainability, and ensuring adequacy of foreign exchange reserves.

205. The Government will also support a flexible exchange rate system to act as external shock absorber. To address the challenges of pricing and liquidity, CBK issued the Kenya FX code in March 2023. The code is aligned to best practices adopted in leading jurisdictions and incorporates relevant elements of the Global FX Code. The leading principles include practices on Execution, Governance, and Risk Management and Compliance which foster a robust, fair, open, liquid and appropriately transparent market. This was complemented by concerted efforts to reactivate the interbank FX market. Two foreign exchange inter-dealer brokers are already active in the interbank FX market, supporting price discovery.

206. Over the medium term, CBK will continue implementing reforms outlined in the White Paper on Modernization of the Monetary Policy Framework and Operations. The reforms aim at enhancing the effectiveness of monetary policy and support anchoring of inflation expectations through inflation targeting. In order to enhance monetary policy transmission, CBK adopted a new monetary policy implementation framework and launched the Centralized Securities Depository System (CSD) in 2023.

207. The new framework, adopted in August 2023, which is based on inflation targeting, introduced an interest rate corridor around the Central Bank Rate (CBR) set at  $CBR\pm 250$  basis points. Consequently, monetary policy operations are aimed at ensuring the interbank rate, the operating target, closely tracks the CBR within the corridor. To further improve the operation of the interest rate corridor

framework, access to the Discount Window was improved as the applicable interest rate was reduced from the 600 basis points above CBR to 400 basis points above CBR. The Centralized Securities Depository System, the DhowCSD, which went live on 31<sup>st</sup> July, 2023, is a versatile market infrastructure that will improve monetary policy transmission and implementation and enhance operational efficiency in the domestic debt market, further promoting capital growth, market deepening, expansion of digital access for broader financial inclusion, and positioning Kenya as the preferred financial hub in the region.

208. Additionally, the CBK will continue improving monetary policy formulation and implementation in Kenya by refining macroeconomic modelling and forecasting frameworks, fine tuning of monetary policy operations around the CBR and improving the communication of monetary policy decisions to make them more effective. KO

**Table 2.6: Macroeconomic Indicators and Projections**

	2020	2021	2022	2023	2024	2025	2026	2027
	Act	Prel. Act	Prel. Act	Proj.	BPS 2024	BPS 2024	BPS 2024	BPS 2024
<i>annual percentage change, unless otherwise indicated</i>								
<b>National Account and Prices</b>								
Real GDP	-0.3	7.6	4.8	5.5	5.5	5.5	5.5	5.6
Primary Sector	-1.7	0.5	-1.0	6.6	4.2	4.4	4.1	3.9
of which: Agriculture	4.6	-0.4	-1.6	6.9	4.2	4.4	4.0	3.9
Industry	3.2	6.8	3.5	2.5	3.3	3.4	3.3	3.8
Services	-1.8	9.6	6.7	6.2	6.1	6.2	6.6	6.6
GDP deflator	4.9	4.3	6.0	7.2	6.2	5.8	5.8	4.6
CPI Index (eop)	5.6	5.7	9.1	6.3	5.0	5.0	5.0	5.0
CPI Index (avg)	5.3	6.1	7.6	7.7	5.0	5.0	5.0	5.0
Terms of trade (-deterioration)	-5.3	-2.2	0.7	-6.3	1.3	2.5	2.8	3.9
<b>Money and Credit (end of period)</b>								
Net domestic assets	15.9	15.2	14.9	11.7	9.8	9.2	8.6	8.9
Net domestic credit to the Government	26.7	18.9	10.6	7.7	8.4	8.7	7.9	6.7
Credit to the rest of the economy	10.1	12.2	13.2	14.2	14.4	13.6	12.8	14.0
Broad Money, M3 (percent change)	6.9	10.5	13.2	12.3	11.3	11.0	10.9	11.3
Reserve money (percent change)	10.5	4.0	3.2	12.2	11.2	10.8	10.8	11.1
<i>in percentage of GDP, unless otherwise indicated</i>								
<b>Investment and Saving</b>								
Consumption	88.3	88.7	90.1	88.6	88.8	86.3	86.1	85.1
Central Government	12.5	12.1	12.3	10.5	9.9	9.2	9.0	9.2
Private	75.4	74.6	75.6	78.1	78.9	77.1	77.1	76.0
Gross Fixed Capital Investment	19.7	20.4	19.2	19.4	19.5	19.9	19.9	19.9
Central Government	5.5	4.5	3.8	3.6	4.1	4.6	4.9	5.1
Private	14.2	15.9	15.4	15.8	15.4	15.3	15.0	14.8
Gross National Saving	14.9	15.6	14.1	14.9	15.5	15.8	15.9	15.9
Central Government	-3.3	-4.4	-4.1	-4.1	-3.7	-2.3	-1.5	-1.3
Private	18.1	20.0	18.2	19.0	19.3	18.1	17.4	17.2
Exports value, goods and services	9.7	10.8	12.2	13.1	12.8	12.8	12.5	12.7
Imports value, goods and services	17.7	19.9	21.5	21.4	21.4	20.1	19.4	18.9
Current external balance, including official transfers	-4.8	-4.8	-5.1	-4.4	-4.0	-4.1	-4.0	-4.0
Gross reserves in months of next yr's imports	4.6	4.7	4.4	3.6	4.2	4.0	4.0	3.9
Gross reserves in months of this yr's imports	5.6	5.2	3.9	4.0	4.3	4.3	4.3	4.3
<i>fiscal year, in percentage of GDP, unless otherwise indicated</i>								
<b>Central Government Budget</b>								
Total revenue	16.5	16.0	17.3	16.5	19.0	19.1	19.2	19.7
Total expenditure and net lending	24.4	24.6	23.8	22.6	24.2	23.2	22.8	23.3
Overall Fiscal balance excl. grants	-7.9	-8.6	-6.5	-6.0	-5.2	-4.2	-3.6	-3.6
Overall Fiscal balance, incl. grants	-7.7	-8.3	-6.3	-5.9	-4.9	-3.9	-3.3	-3.3
Overall Fiscal balance, incl. grants, cash basis	-7.6	-8.3	-6.2	-5.6	-4.9	-3.9	-3.3	-3.3
Primary budget balance	-3.4	-3.9	-1.6	-0.8	0.7	1.7	1.8	1.5
<b>Public debt</b>								
Nominal central government debt (eop), gross	68.4	68.0	71.4	68.0	64.8	61.7	58.9	56.3
Nominal debt (eop), net of deposits	63.4	64.7	68.0	65.0	62.1	59.3	56.7	54.3
Domestic (gross)	32.8	34.1	33.9	32.6	31.3	31.0	30.2	29.5
Domestic (net)	27.9	30.8	30.5	29.6	28.6	28.6	28.0	27.5
External	35.5	33.9	37.5	35.5	33.6	30.7	28.8	26.8
<b>Memorandum Items:</b>								
Nominal GDP (in Ksh Billion)	10,715	12,028	13,368	15,180	17,083	18,948	21,057	23,304
Nominal GDP (in US\$ Million)	100,658	109,697	113,421	101,978	114,510	126,574	142,044	155,474

Source of Data: The National Treasury

57

## 2.6 Risks to the Economic Outlook

209. There are downside risks emanating from domestic as well as external sources. On the domestic front, risks relate to unpredictable weather conditions due to the impact of climate change which could adversely affect agricultural production and result in domestic inflationary pressures and food insecurity. Additionally, tight fiscal space due to the impact of the multiple shocks that have affected the global and the domestic economy might lead to tight liquidity conditions for financing the budget.

210. On the external front, uncertainties in the global economic outlook stemming from the escalating geopolitical fragmentations could result in higher commodity prices which poses a risk to domestic inflation outcomes leading to further tightening of financial conditions. Additionally, weaker global demand due to the slowdown in the global economic recovery could adversely affect Kenya's exports, foreign direct investments and remittances. Continued strengthening of US dollar against other global currencies arising from aggressive monetary policy tightening present significant risks to financial flows and puts pressures on the exchange rate with implication to growth and inflation.

211. The upside risk to the domestic economy relate to early easing of global financing conditions and lower international fuel and food prices, which would strengthen Kenya's external balances. Faster than projected rebound in economic activities that would result in higher Government revenues providing fiscal space that would support fiscal consolidation.

212. The Kenyan Government continues to monitor the domestic and external environment and will take appropriate policy measures to safeguard the economy against the adverse effects of the risks if they were to materialize.

### III. BUDGET FOR FY 2024/25 AND THE MEDIUM TERM

#### 3.1 Fiscal Framework for FY 2024/25 and Medium Term Budget

213. The FY 2024/25 and the medium-term budget is based on the Government's policy priorities and macroeconomic policy framework set out in Chapter I and Chapter II. To support the Bottom - Up Economic Transformation Agenda, the Government will continue with the growth friendly fiscal consolidation plan by containing expenditures and enhancing mobilization of revenues in order to slow down growth in public debt without compromising service delivery.

##### Revenue Projections

214. In the FY 2024/25, revenue collection including Appropriation-in-Aid (A.i.A) is projected to increase to Ksh 3,435.0 billion (19.1 percent of GDP) up from the projected Ksh 3,070.6 billion (19.0 percent of GDP) in the FY 2023/24 (Annex Table 2 and 3). Revenue performance will be underpinned by the on-going reforms in tax policy and revenue administration measures geared towards expanding the tax base and improving tax compliance. Ordinary revenues will amount to Ksh 2,948.1 billion (16.4 percent of GDP) in FY 2024/25 from the projected Ksh 2,624.6 billion (16.3 percent of GDP) in FY 2023/24.

##### Expenditure Projections

215. Government expenditure as a share of GDP for FY 2024/25 is projected to decline to 23.2 percent from the projection of 24.2 percent of GDP in the FY 2023/24. In nominal terms, the overall expenditure and net lending is projected at Ksh 4,188.2 billion compared to a projection of Ksh 3,902.9 billion in the FY 2023/24 budget. The FY 2024/25 expenditures comprise of recurrent of Ksh 2,859.3 billion (15.9 percent of GDP) and development of Ksh 877.8 billion (4.9 percent of GDP).

##### Deficit Financing

216. Reflecting the projected expenditures and revenues, the fiscal deficit (including grants), is projected at Ksh 703.9 billion (3.9 percent of GDP) in FY 2024/25 compared to the projected fiscal deficit of Ksh 785.0 billion (4.9 percent of GDP) in FY 2023/24.

217. The fiscal deficit in FY 2024/25, will be financed by net external financing of Ksh 326.1 billion (1.8 percent of GDP), and net domestic borrowing of Ksh 377.7 billion (2.1 percent of GDP).

#### 3.2 FY 2024/25 and Medium-Term Budget Priorities

218. The FY 2024/25 and the Medium Term Framework will focus on the implementation of the Bottom-up Economic Transformation Agenda (BETA) as prioritized in the Medium Term Plan (MTP) IV. The Agenda is geared towards economic turnaround and inclusive growth, and aims to increase investments in the five core pillars envisaged to have the largest impact to the economy as well as on



household welfare. These include: Agricultural Transformation and Inclusive Growth; Micro, Small and Medium Enterprise (MSME); Housing and Settlement; Healthcare; and Digital Superhighway and Creative Industry. Implementation of these priority programmes aims at bringing down the cost of living; eradicating hunger; creating jobs; and provide the greater majority of our citizens with much needed social security while expanding the tax revenue base and improving foreign exchange balance.

219. To achieve the pillars, the Government will implement strategic interventions under the following key enablers: Infrastructure; Manufacturing; Blue Economy; Services Economy, Environment and Climate Change; Education and Training; Women Agenda; Social Protection; Sports, Culture and Arts; Youth Empowerment and Development Agenda; Governance; and Foreign Policy and Regional Integration.

### 3.3 Budgetary Allocations for the FY 2024/25 and the Medium-Term

220. The total budget for FY 2024/25 is projected at Ksh 4,143.7 billion. The allocations to the three arms of government including sharable revenues to the County Governments is summarized in Table 3.1.

**Table 3.1: Summary Budget Allocations for the FY2024/25 – 2026/27 (Ksh Million)**

S/NO.	Details	Financial Years			
		Approved	BPS Projection		
		2023/24	2024/25	2025/26	2026/27
1.0	National Government	2,464,474.4	2,511,463.6	2,733,098.4	2,994,685.9
	Executive	2,400,067.0	2,438,939.0	2,662,848.9	2,918,504.4
	Parliament	40,742.0	41,623.4	43,168.3	44,777.7
	Judiciary	22,784.0	23,690.3	27,081.1	31,403.8
2.0	Consolidated Fund Services	1,131,650.1	1,241,151.7	1,279,212.4	1,351,034.5
3.0	County Government	385,424.6	391,117.1	415,591.0	515,051.0
	<b>Total.....Kshs.</b>	<b>3,981,549.0</b>	<b>4,143,732.3</b>	<b>4,427,901.8</b>	<b>4,860,771.4</b>
<b>% Share in the Total Allocation</b>					
1.0	National Government	61.9	60.6	61.7	61.6
	Executive	60.3	58.9	60.1	60.0
	Parliament	1.0	1.0	1.0	0.9
	Judiciary	0.6	0.6	0.6	0.6
		-	-	-	-
2.0	Consolidated Fund Services	28.4	30.0	28.9	27.8
3.0	County Government	9.7	9.4	9.4	10.6
<i>Notes**</i>					
<i>* Consolidated Fund Services(CFS)is composed of domestic interest, foreign interest, Net lending and pension&amp; salaries for State Officers</i>					
<i>**County Government allocation is composed of sharable allocation</i>					

Source of Data: The National Treasury

59

221. The resource allocation for the priority programmes will be developed through a value chain approach under five clusters namely: Finance and Production Economy; Infrastructure; Land and Natural Resources; Social Sectors; and Governance and Public Administration. The nine (9) identified key value chain areas for implementation include: Leather; Cotton; Dairy; Edible Oils; Tea; Rice; Blue Economy; Natural Resources (including Minerals and Forestry); and Building Materials. This process ensures there is no break in the cycle in the resource allocations for a value chain. The process also ensures adequate resources are allocated to any entity along the value chain and helps to eliminate duplication of roles and budgeting of resources. Spending in these critical needs are aimed at achieving quality outputs and outcomes with optimum utilization of resources. The momentum and large impact they will create will raise economic vibrancy and tax revenues.

222. Further, the MDAs will be encouraged to adopt efficiency in allocation of resources through cost budgeting and reviewing the portfolio of externally funded projects. The MDAs are also encouraged to restructure and re-align with the Government priority programmes. Realization of these objectives will be achieved within the budget ceilings provided in this BPS. The following criteria will serve as a guide for allocating resources:

- i) Linkage of programmes with the value chains of the Bottom-Up Economic Transformation Agenda priorities;
- ii) Linkage of the programme with the priorities of Medium-Term Plan IV of the Vision 2030;
- iii) Linkage of programmes that support mitigation and adaptation of climate change;
- iv) Completion of ongoing projects, viable stalled projects and payment of verified pending bills;
- v) Degree to which a programme addresses job creation and poverty reduction;
- vi) Degree to which a programme addresses the core mandate of the MDAs, Expected outputs and outcomes from a programme;
- vii) Cost effectiveness, efficiency and sustainability of the programme; and
- viii) Requirements for furtherance and implementation of the Constitution.

223. The baseline estimates reflect the current ministerial spending levels in sector programmes. In the recurrent expenditure category, non-discretionary expenditures take first charge. These include payment of public debts and interest therein, salaries and pensions.

224. Development expenditures have been allocated on the basis of the flagship projects in Vision 2030, the Bottom - Up Economic Transformation Agenda and the MTP IV priorities. The following criteria was used in apportioning capital budget:

- a. *On-going projects*: emphasis was given to completion of on-going capital projects and in particular infrastructure projects with high impact on poverty reduction, equity and employment creation;
- b. *Counterpart funds*: priority was also given to adequate allocations for donor counterpart funds which is the portion that the Government must finance in support of the projects financed by development partners;
- c. *Post COVID-19 Recovery*: Consideration was further given to interventions supporting Post COVID-19 recovery; and
- d. *Strategic policy interventions*: further priority was given to policy interventions covering the entire nation, regional integration, social equity and environmental conservation. (D)

### 3.4 Details of Sector Priorities

225. **Table 3.2** provides the projected baseline ceilings for the FY2024/25 and the medium-term, classified by sector. **Annex Table 4** provides a summary of expenditures by programmes for the FY 2024/25– 2026/27 period. The BPS Sector ceilings were enhanced on account of additional programmes, completion of ongoing projects and additional expenditures tied to A-i-A revenue collection.

**Table 3.2: Summary of Budget Allocations for the FY2024/25 – 2026/27 (Ksh Million)**

Code	Sector		Suppl Estimates No.1	2024 BPS Ceiling			Suppl Estimates No.1	% Share in Total Ministerial Expenditure				
				2023/24	2024/25	2025/26		2026/27	2023/24	2024/25	2025/26	2026/27
010	AGRICULTURE, RURAL & URBAN DEVELOPMENT (ARUD)	Sub_Total	98,089.1	87,808.0	95,811.3	97,228.6	4.03	3.50	3.51	3.25		
		Rec_Gross	32,506.7	29,819.9	31,320.7	32,931.0	1.97	1.80	1.78	1.66		
		Dev_Gross	65,582.3	57,988.1	64,490.6	64,297.6	8.37	6.79	6.65	6.39		
020	ENERGY, INFRASTRUCTURE AND ICT	Sub_Total	494,715.3	505,668.0	546,261.0	555,684.6	20.35	20.13	19.99	18.56		
		Rec_Gross	145,306.0	145,306.0	156,245.0	158,046.6	8.82	8.77	8.86	7.95		
		Dev_Gross	349,409.3	360,362.0	390,016.0	397,638.0	44.61	42.20	40.25	39.51		
030	GENERAL ECONOMIC AND COMMERCIAL AFFAIRS (GECA)	Sub_Total	72,443.0	56,715.2	66,981.5	62,360.8	2.98	2.26	2.45	2.08		
		Rec_Gross	39,575.5	32,305.2	35,101.9	40,297.0	2.40	1.95	1.99	2.03		
		Dev_Gross	32,867.5	24,410.0	31,879.6	22,063.8	4.20	2.86	3.29	2.19		
040	HEALTH	Sub_Total	138,845.9	147,599.8	155,507.7	160,080.8	5.71	5.88	5.69	5.35		
		Rec_Gross	88,191.2	87,325.1	91,930.2	95,303.5	5.35	5.27	5.21	4.79		
		Dev_Gross	50,654.6	60,274.7	63,577.5	64,777.3	6.47	7.06	6.56	6.44		
050	EDUCATION	Sub_Total	689,611.6	666,468.1	724,125.0	782,847.2	28.37	26.54	26.49	26.14		
		Rec_Gross	655,657.5	638,044.0	685,625.0	745,247.2	39.79	38.49	38.87	37.48		
		Dev_Gross	33,954.1	28,424.1	38,500.0	37,600.0	4.34	3.33	3.97	3.74		
060	GOVERNANCE, JUSTICE, LAW AND ORDER (G/LO)	Sub_Total	240,335.8	250,919.2	272,956.5	308,239.0	9.89	9.99	9.99	10.29		
		Rec_Gross	225,163.4	232,772.7	248,802.1	280,342.8	13.66	14.04	14.10	14.10		
		Dev_Gross	15,172.5	18,146.6	24,154.4	27,896.2	1.94	2.13	2.49	2.77		
070	PUBLIC ADMINISTRATION AND INTERNATIONAL RELATIONS (PAIR)	Sub_Total	299,326.2	351,696.9	390,571.7	523,614.4	12.31	14.00	14.29	17.48		
		Rec_Gross	182,823.8	204,963.5	219,431.0	330,778.9	11.10	12.37	12.44	16.64		
		Dev_Gross	116,502.3	146,733.4	171,140.7	192,835.5	14.87	17.18	17.66	19.16		
080	NATIONAL SECURITY	Sub_Total	199,286.5	244,421.6	250,053.0	261,792.1	8.20	9.73	9.15	8.74		
		Rec_Gross	196,032.5	205,585.6	209,714.0	216,453.1	11.90	12.40	11.89	10.89		
		Dev_Gross	3,254.0	38,836.0	40,339.0	45,339.0	0.42	4.55	4.16	4.50		
090	SOCIAL PROTECTION, CULTURE AND RECREATION	Sub_Total	72,853.5	72,201.8	73,230.7	75,119.5	3.00	2.87	2.68	2.51		
		Rec_Gross	47,822.2	46,858.5	47,559.3	48,148.4	2.90	2.83	2.70	2.42		
		Dev_Gross	25,031.3	25,343.3	25,671.4	26,971.1	3.20	2.97	2.65	2.68		
0100	ENVIRONMENT PROTECTION, WATER AND NATURAL RESOURCES	Sub_Total	125,516.7	127,965.0	157,600.0	167,719.0	5.16	5.10	5.77	5.60		
		Rec_Gross	34,724.9	34,549.0	38,306.0	40,672.0	2.11	2.08	2.17	2.05		
		Dev_Gross	90,791.7	93,416.0	119,294.0	127,047.0	11.59	10.94	12.31	12.62		
GRAND TOTAL		Sub_Total	2,431,023.4	2,511,463.6	2,733,098.4	2,994,686.0	100.0	100.0	100.0	100.0		
		Rec_Gross	1,647,803.7	1,657,529.5	1,764,035.2	1,988,220.5	67.78	66.00	64.54	66.39		
		Dev_Gross	783,219.7	853,934.1	969,063.2	1,006,465.5	32.22	34.00	35.46	33.61		

Source of Data: National Treasury

### Agriculture Rural and Urban Development Sector

226. The Agriculture Rural and Urban Development Sector is a major player in the delivery of national development agenda as envisaged in Kenya Vision 2030, the Kenya Kwanza Plan - Bottom-Up Economic Transformation Agenda (2022-2027), Agricultural Sector Transformation and Growth Strategy (ASTGS) and the Sustainable Development Goals (SDGs) and among other national and international policies and obligations.

62

227. During the 2020/21-2022/23 Medium-Term Expenditure Framework (MTEF) period, the Sector registered and issued 1,233,706 title deeds countrywide; settled 24,112 landless households; geo-referenced 144,951 land parcels; developed a national land value index in 25 counties, graduated 2,632 veterinary and animal production technicians from livestock industry training institutions; trained 2,293 actors in dairy, beef and apiculture value chains; produced 3.4 million straws of semen and 85.7 million doses of assorted vaccines for livestock; constructed a model feedlot in Baringo County; provided crop insurance cover to 1,004,651 farmers across 41 counties; supported 1,368,935 beneficiaries with fertilizers, seeds, chemicals, agricultural lime and storage bags and 227,189 litres of pesticides and 4,000 personal protective equipment; formalized and issued 6,023 letters of allotments in urban areas; facilitated compulsory land acquisition for 60 infrastructural development public projects; supported 19,395 groups in coastal areas with a grant of Ksh 1.5 billion for alternative livelihoods; trained 875 fishing crew to support deep sea fishing, completed 7 fish landing sites, and disbursed Ksh 251 million under the Coffee Cherry Advance Revolving Fund.

228. During the MTEF period 2024/25 – 2026/27, the sector plans to: register and issue 1,270,000 title deeds countrywide; settle 47,000 landless households; geo-reference 1,770,000 land parcels; produce and distribute 135 million doses of assorted livestock vaccines, 10.5 million doses of semen and 45,000 improved embryos; distribute 640 milk coolers to counties; complete Kenya Leather Industrial Park at Kenanie; train and recruit 1,000 fishing crew annually; construct 77 fish landing sites; develop 3 fishing ports; develop a fish processing plant in Kalokol; undertake fish stock assessments; support 6,400 smallholder fish farmers in aquaculture farming and 300 fisher folks interest groups with fish production technological packages; support 4,166,282 farmers with 1,583,835 MT of subsidized fertilizers and 9,102 MT of agricultural lime through the e-voucher input subsidy system; create an enabling environment through development of 3 policies and compliance to various quality standards and regulations; provide 1585 MT of assorted oil crop seeds, 800 MT of Cotton seeds to farmers, 16.4 MT of basic seed of cotton and 93.6 million of assorted clean crop planting materials; 41,500 MT of seed maize, 13,700 MT of seed potato and 900 MT of rice seed, issue 22,425 allotment letters; facilitate compulsory land acquisition for 70 infrastructural development projects; and address 4,500 land disputes through Alternative Dispute Resolution.

229. To implement the above interventions, the sector has a resource allocation of Ksh 87.8 billion, Ksh 95.8 billion, and Ksh 97.2 billion for the FY 2024/25, 2025/26 and FY 2026/27 respectively.

### **The Energy, Infrastructure, and ICT (EII)**

230. The Energy, Infrastructure, and ICT (EII) Sector emerges as a pivotal force, strategically propelling and expediting socio-economic progress within the country. Functioning both as a driver and an enabler to the other Sectors of the economy, EII steadfastly advances sustainable, efficient, and effective infrastructure aligned to the Bottom-Up Economic Transformation Agenda (BETA), the Fourth Medium-Term Plan (MTP IV) 2023-2027 of Kenya Vision 2030, regional infrastructure commitments, Africa Agenda 2063 and Sustainable

Development Goals (SDGs). The Sector comprises of nine sub-sectors namely; Road, Transport, Shipping and Maritime, Housing and Urban Development, Public Works, Information Communication Technology and Digital Economy, Broadcasting and Telecommunications, Energy, and Petroleum.

231. During the period FY2020/21-2022/23, the Sector realized the following achievements: Roads: Constructed 3,805 Km of new roads and 73 Bridges; repaired 240 km of roads; and maintained and rehabilitated 122,736 Km; designed 4,923 Km of roads and trained 14,603 plant operators, contractors and technicians. Constructed Nairobi to Naivasha Standard Gauge Railway (SGR) and Naivasha Inland Container Depot; Revitalized 69 km of Kisumu-Butere, 65 Km Leseru-Kitale and 78Km Gilgil-Nyahururu rail branch lines; Rehabilitated Railway Training School in Kisumu; Rehabilitated Kisumu Port; Rehabilitated Moi and Isiolo Airports; Constructed and operationalization of East African Community Regional Centre for Aviation Medicine; Constructed the first three berths at Lamu Port; Completed relocation of Kipevu Oil Terminal; Completed development of the Second Container Terminal at the Port of Mombasa; rehabilitated 4 aerodromes; and completed construction of a new airstrip at Mandera. The Sector Trained 7,709 seafarers, 1,516 offered sea time; facilitated recruitment of 2,416 on foreign ships; Constructed 1,787 housing units across the country and 10,261 housing units are ongoing at an average of 56% completion level under various housing programs; Completed construction of Mtangawanda Jetty and Lamu Terminal Jetty Access and New Mokowe Jetty was implemented to 98% level of completion; Completed construction of 33 footbridges spread across the country; Deployed 640KM of fibre from Eldoret to Nadapal, and 2,501 KM to 290 sub-county sites; Connected and maintained 660 Government buildings with broadband Network; Connected 46 hospitals and 46 markets to Public Wi-Fi; Operationalized the Office of the Data Protection Commissioner in four regions Nairobi, Mombasa, Kisumu and Nakuru; Completed Konza National Data Centre with 72 clients on-boarded; Fully on-boarded 5084 Government services to E-citizen portal; Gathered and disseminated news and information in both print and electronic media; Developed twenty-one (21) media standards which include modules for accreditation guidelines; Increased the installed capacity from 2840MW as of June 2020 to 3312MW as of June 2023; Constructed 675 Km of transmission line, 4 new high voltage substations, 1,266.7 Km of medium voltage distribution lines and 30 distribution substations; Connected 1,681,404 new customers to electricity Reviewed the South-Lokichar Field Development Plan (FDP); Acquired Geoscientific Data in Block L16 covering 1,600KM2 and in Block L17 covering 600KM2;

232. During the FY 2024/25 and the Medium Term period, the sector will implement the following programmes to achieve key strategic interventions as highlighted; Construct 2,794 Km of new roads; Rehabilitate 560 Km of roads; Maintain 137,544 Km of existing roads and bridges; Construct 84 new bridges; and Train 16,230 Plant operators, contractors and technicians. Complete construction of Riruta – Lenana – Ngong Railway Line; Fast track completion of construction of phase I of Nairobi Railway City (NRC) ; Complete construction of the new MGR Link from Mombasa SGR Terminus - Mombasa MGR Station; Complete construction of the Railway Bridge across Makupa Causeway; Acquire ferry vessel

64

for Lake Victoria; Complete construction of Kisumu Airport Control Tower; Complete rehabilitation of terminal building and apron at Ukunda Airport; Automate and upgrade 9 Motor Vehicle inspection centres; and Establish 5 new inspection centres. Develop Bills and Regulations; Develop and implement the Maritime Spatial Plan; Complete development of survival training centre for upscaling of Bandari Maritime Academy; Develop Maritime Rescue Coordination Centre in Kisumu and Search and Rescue Centres in Busia, Migori, Homabay and Siaya; and Train 21,500 seafarers and facilitate recruitment of 12,000 seafarers under the Vijana Baharia Programme; Development: Construct 151,081 affordable and 40,992 social housing units; Construct 5,000 hostel units in higher learning institutions; Implement Second Kenya Informal Settlement Improvement Project (KISIP II) in 33 Counties; Implement Second Kenya Urban Support Programme (KUSP II) in 79 Municipalities in 45 Counties; and Construct 434 markets; Design, document and supervise 330 new Government buildings and 495 for rehabilitation and maintenance; Construct 197 footbridges; Construct 9 jetties and 1,150 meters of seawall; Complete construction of 5 County Government Headquarters; Inspect and audit 8,500 buildings and structures for safety; Test 60 buildings for structural integrity; and Register 29,500 contractors and accredit 156,000 skilled construction workers and site supervisors; Install 6,700 Kms of Fiber Cable; Provide internet connectivity to 42,697 public institutions; Install 15,000 public Wi-Fi hotspots for the Digital Superhighway; Modernize Kenya News Agency and Government Advertising Agency; Establish 12 KBC Studio Mashinani; Connect 1,350,000 additional customers to electricity including 9,514 public institutions, and install 110,000 stand-alone solar home systems to enhance electricity access (both On Grid and Off Grid); Acquire Geo-Scientific data in 4,350 Km<sup>2</sup> to establish oil and gas potential in the petroleum blocks; Complete evaluation of gas potential in Block 9 in Anza Basin in Marsabit and Isiolo Counties; Provide 227 public learning institution with Clean Cooking Gas (CCG); Distribute 6 Kg LPG cylinders to 210,000 low-income households;

233. To implement these programmes, the Sector has been allocated Kshs. 505.7 billion, Kshs. 546.3 billion and Kshs. 555.7 billion in FY2024/25, FY 2025/26 and FY2026/27 respectively.

### **General Economic and Commercial Affairs Sector**

234. The General Economic and Commercial Affairs (GECA) Sector comprises eight subsectors namely: ASALs and Regional Development; Cooperatives; Trade; Industry; Micro, Small and Medium Enterprises Development; Investment Promotion; Tourism; and East African Community Affairs. The sector contributes to the Bottom-Up Economic Transformation Agenda (BETA) priorities through promotion of job and wealth creation; industrial development, promotion of investments and trade, tourism development, regional development; co-operative development and widening regional economic integration while observing the need for environmental conservation and climate change mitigation.

235. During the MTEF period 2020/21 - 2022/23 the sector implemented twenty programmes and forty sub programmes which resulted to remarkable achievements that include: Increase in the value of wholesale and retail trade by 12.1% from Ksh 727.6 billion in 2020 to Kshs. 815.9 billion in 2022; Increase in the value of

Kenya's exports by 35.6% from Ksh 643.7 billion in 2020 to Ksh 873.1 billion in 2022; manufacturing sector output increased from Ksh 2.376 million to Ksh 3.175 million in 2022; Growth in national SACCO savings from Ksh 846 billion in 2020 to Ksh 1,047 billion in 2022; Registered a total of 720,821 Micro and Small Enterprises (MSEs) in the data system and 195,498 MSE Associations and groups in collaboration with other government agencies; Constructed and refurbished 20 Constituency Development Centres across the country; Completed main works and equipping of the Nyandarua Cold Storage facility; On-boarded 22 million Kenyans within the Hustler platform with a repeat customer base of 7.5 million. Modernization of NKCC has resulted in the increase of processing capacity of milk from 300,000 litres to 800,000 litres per day in the last 5 years. 10

236. During the MTEF period 2024/25 - 2026/27 the sector will play a key role in delivery of the Government's Bottom-up Economic Transformation Agenda for attainment of higher and sustained economic growth. As a driver, the Sector will undertake targeted investments in manufacturing, agro-processing industry, growth and promotion of MSMEs. As an enabler, the sector will create a conducive environment for business, mobilize resources for investments and industrial development, promote exports, promote sustainable tourism, deepen the EAC integration, implement special programmes for accelerated development of the ASALs and promote equitable regional socio-economic basin-based development. 20

237. The sector will also implement other earmarked priority programmes such as: Modernization of processing/ storage facilities and enhancement of value addition; Promotion, aggregation and value addition for smallholder tea growers; National feed subsidy; Establishment of aggregation centres and export warehouses; Sensitization of Kenya's exporters on export market requirements and opportunities for dairy value chain, edible oils, garments/textile, leather and leather products, rice and tea value chains; Promotion of Linkage of small enterprises to large enterprises; Enhancement of Infrastructure for MSMEs; Establishment of County Aggregation and Industrial Parks (CAIPs), Modernization of RIVATEX machinery; promotion of consumption of locally manufactured goods/services; 20  
Attraction of Investments both local and foreign into SEZs; Development of Athi River Textile Hub, Railway siding and Industrial Sheds; Establishment of a Convention center at Mombasa Beach Hotel; and Hosting of 5 international sporting events.

238. To implement the above interventions, the sector has a resource allocation of Ksh 56.7 billion, Ksh 67.0 billion and Ksh 62.4 billion in the FY2024/25, FY2025/26 and FY2026/27 respectively. This comprises Ksh 32.3 billion, Ksh 35.1 billion and Ksh 40.3 billion for recurrent expenditure and Ksh 24.4 billion, Ksh 31.9 billion and Ksh 22.1 billion for development expenditure for the same period. 20

### Health Sector

239. The Health Sector is an important contributor to the national economic growth through ensuring that all Kenyans are productive and live a healthy life. The Constitution underscores the "right to health" while the Vision 2030 while the Vision 2030, the MTP IV as well as the Bottom-Up Economic Transformation 66



Agenda recognize provision of equitable, accessible and affordable health care of the highest attainable standards to all Kenyans.

240. Significant achievements were realized during the FY 2020/21 to FY2022/23 period: Reduction of Prevalence of HIV from 4.3% in 2020 to 3.7% in 2022; new HIV infections from 32,027 to 22,154; and AIDS related mortality from 19,486 to 18,473. Kenya made strident efforts to combat Drug-Sensitive tuberculosis (DSTB), Multi-Drug Resistant Tuberculosis (MRTB) and malaria by developing new TB drugs, optimization of the existing ones, production of 244,927 units of bleach (TBCide) and developing, piloting and adopting a new malaria vaccine.

241. The Sector established a diagnostic and reporting centre at KNH in the FY 2020/21, constructed and operationalized an Oxygen plant with a capacity to produce 1,500 litres of oxygen per minute at Mwai Kibaki Hospital and development and equipping the Chandaria Cancer and Chronic Diseases Centre (CCCDC) at Moi Teaching and Referral Hospital (MTRH). 10

242. In FY 2022/23 over 6,000 primary health workers were trained on early cancer diagnosis through e-learning platforms on the MOH Virtual Academy and another 6,500 primary health workers on cervical and breast cancer screening and treatment of precancerous lesions across the 47 counties. 257 community health promoters in 10 counties were trained in cancer screening. Through support from partners 150 thermal ablation devices were distributed in 22 counties. 20

243. In the FY 2021/22 and 2022/23, 270 healthcare workers were trained on trauma and injury management. For the FY 2022/2023, 200 Community Health Promoters (CHP's) and other community members such as boda boda riders were trained on prevention of injuries and basic first aid in Nairobi and Nakuru counties.

244. During the period under review, KNH performed specialized surgeries that include thirty-two (32) major liver resections, increased kidney transplants from fifteen (15) FY 2021/22 to nineteen (19) in the FY 2022/23. A total of 30,451, 33,523 and 37,307 specialized surgeries were conducted in FY 2020/21, 2021/22 and 2022/23 respectively. These specialized surgeries include maxillofacial, obstetrics and gynaecology, paediatrics surgery, cardiothoracic surgery, neurosurgery, plastic surgery, general surgery, ENT surgery, orthopaedic surgery, ophthalmology. In addition, a total of 16,106 specialized renal services were provided in the FY 2022/23 that included Continuous Renal Replacement Therapy (CRRT), Tissue Typing, Venesection, Haemodialysis, Peritoneal dialysis, dialysis Catheter procedures and Renal Biopsy. The hospital established heart surgery, cancer treatment, diagnostics and imaging, laboratory medicine, tissue and organ transplantation, gastroenterology, diabetes and endocrinology centres. 30

245. In FY 2022/2023, MTRH Laboratory performed 1,426,746 tests against 1,119,596 in FY 2020/21; 27.43% Improvement over the last 3 years. The Laboratory was the first to hit over 1 million in East & Central Africa. This was made possible through the construction of a modern laboratory. Further, fifteen (15) Corneal Transplants were conducted in FY 2022/2023 against 7 in FY 2020/2021; 118.28% Improvement over the last 3 years. In addition, MTRH performed the first Cochlear Transplant Surgery in June 2023, being the first public Hospital to undertake specialized Surgery in East and Central Africa. 40

67

246. KUTRRH commissioned the Integrated Molecular Imaging Center (IMIC) and IMIC Hospitality Centre on 16<sup>th</sup> October, 2021. The center started operations on 10<sup>th</sup> January 2022 and since then, the facility has been able to perform 1,169 successful FDG PET/CT scans in the year 2021/22 and 3685 in the year 2022/23 and 592 PSMA in the year 2022/23. A total of 395 Brachytherapy sessions were carried out in the year 2021/22 and 851 in the year 2022/23. To enhance capacity for cancer detection, treatment and care, the sector established an Integrated Molecular Imaging Center (IMIC) and IMIC Hospitality Centre at KUTRRH and established.

247. In FY 2021/22 KEMRI supported the Ministry of Health in undertaking the public Health Initiatives such as National school-based deworming programme, Malaria Survey in school children, National Trachoma impact assessment survey, capacity building for school health and nutrition and capacity building and technical support for NTDs control and elimination by providing technical support and field operationalization. 10

248. During the period under review the Ministry put several measures and interventions in place to prevent and contain AMR. Key policy documents were developed including the National Action Plan for containment and prevention of antimicrobial resistance (2021), National antimicrobial stewardship guidelines for health care settings in Kenya (2021) and the Patient and healthcare worker and quality of care policy (2022). 20

249. Over the period in review 10 counties have established PCNs translating to 21% as per the target of 47 counties during the financial year in review. The country has established 30 primary health care networks spread across ten counties since 2020, with the bulk having been established in 2022/23. To strengthen community reporting, the Sector developed an e-community health information system for roll out to all the counties in 2022/23. It also collaborated with the county governments to set up seven (7) primary care networks in seven counties, namely Makueni, Kisumu, Garissa, Mombasa, Nakuru, Kakamega and Marsabit.

250. All essential HPT lists were reviewed to increase the scope and depth of coverage by increasing the number of products available and the level of care decentralized to improve accessed to UHC. The National Medicines and Therapeutics Committee was operationalized to enhance rational use of Medicines in the Country. Subsequently, 47 counties also formed and operationalized their County MTCs. 30

251. One Million indigent households identified were covered under the government social health insurance scheme nested in NHIF. 254,368 orphans and vulnerable children (OVC) household were covered under Health Insurance Subsidy Program (HISP). Number of mothers who registered through the Linda mama program were 3,580,916 and 2,532,794 successful deliveries were reported over the period. 58,800 households were covered under Older Persons and Persons with Severe Disability (OPSD) program annually over the period. 40

252. Electronic patient health records system for diabetes and hypertension was rolled out in 98 health facilities during the period. Three (3) regional cancer centres were established in Garissa, Mombasa, and Nakuru counties. Health care facilities

68

with laboratory capacity to detect and report on Antimicrobial Resistance (AMR) increased from 12 (2020/21) to 17 (2022/23). The proportion of laboratories with capacity to conduct molecular testing of High-risk HPV increased from 9.1% to 10.6% in the period. Proportion of national and county reference laboratories able to conduct molecular testing for emerging and re-emerging diseases stood at 31%.

253. Proportion of Women of reproductive age receiving Family Planning commodities also increased from 43% in 2020/21 to 74% in 2022/23. Number of facilities based neonatal deaths was 9.5 in 2020, 9.4 2021 and 10.1 in 2022. In FY 2021/22, a total of 2.2 million copies of Mother Child Health Handbook (MOH 216) were printed and distributed to all 47 counties. Proportion of fully immunized children was 84%, 88% and 84.7% in 2020/21, 2021/22 and 2022/23 respectively. Orthopaedic Trauma Registers (MOH 274) was developed. Vitamin A Supplementation coverage was 82.1% in 2020, 86.3% in 2021, and 83.7 in 2022 due to Malezi Bora. 10

254. 121 hospitals across all the 47 counties facilities benefitted from the Managed Equipment Services with Uninterrupted services due to an uptime of more than 95%.

255. Number of students enrolled at KMTCs increased from 17,241 in 2020/21, 21,700 in 2021/22 to 25,889 in 2023. KEMRI conducted 2.45 million specialized laboratory test and produced 1,147,490 diagnostic kits over the period. KHPOA inspected for compliance to standards in service delivery a total of 13,996 facilities while 17 level 5 hospitals assessed for emergency care preparedness. 20

256. 13 Medical oxygen was installed in six (6) national referral hospitals, (11) county referral facilities, and 83 sub-county referral hospitals (L4s), with KUTRRH, MTRH and KNH having 20,000-Litre capacity. 5 Pressure Swing Adsorption (PSA) plants were installed. 10 facilities received liquid oxygen tanks and 20,620 oxygen cylinders were delivered to facilities.

257. Electronic Community Health Information System (eCHIS) -piloted in 2021/2022 in Isiolo and Kisumu and expanded to Kakamega, Siaya, Yihiga, Migori, Nakuru, and Nyeri in 2022/2023. Further, Operationalization of existing Community Health Units increased from 81 per cent in 2021/2021 to 86% in 2022/2023. 30

258. In the FY 2022/23 the Ministry of Health undertook a health facilities census of equipment at all health facilities in Kenya, both public and private. The census revealed a large gap in equipment with some facilities lacking up to 70% of key equipment for the level of the hospital. The Ministry has prioritised National Equipment Support Programme to Counties which seeks to ensure each facility has the minimum equipment for that level of hospital.

259. The key Sector programme priorities for the FY 2024/2025 – FY 2026/27 include: National Referral and Specialized Services, Curative and Reproductive Maternal Neonatal Child & Adolescent Health (RMNCAH) Services, Health Innovations and Research, General Administration and Support Services, Preventive & promotive health services, Health resource development & innovation and Health policy standards & regulations. 40

260. To implement these programmes, the Sector has been allocated Ksh 147.5 billion, Ksh 155.5 billion and Ksh 160.1 billion in the FY 2024/25, 2025/26 and 2026/27 respectively.

### Education Sector

261. Education Sector is comprised of four sub-sectors namely; Basic Education, Technical Vocational Education and Training, Higher Education and Research, and Teachers Service Commission. The Sector is a critical player in promoting political, social, and economic development through education and training to create a knowledge-based economy.

262. The Sector realized a number of achievements during the 2020/21-2022/23 MTEF period. These includes: Enrolment in Public Primary Schools grew from 8,592,810 in FY 2020/21 to 8,849,268 in FY 2021/22 before declining to 8,123,952 in FY 2022/23, due to transition of grade 6 learners to junior school in grade 7. 10 Enrolment of learners with special needs increased from 132,466 in FY 2020/21 to 146,313 in FY 2022/23. All learners in public primary schools were supported by the government through capitation under the free primary education programme. During the MTEF period, enrolment in Public Secondary Schools increased from 3,289,885 to 3,690,376, representing a 12.17% growth.

263. Overall enrolment in Public TVET institutions depicted a positive trend having increased from 250,733 to 380,638 (51.81% change). At the same time, the number of trainees enrolled in TVET SNE institutions increased from 3,301 to 4,487.

264. The combined enrolment in public and private universities increased by 20 11.72% from 571,510 in FY 2020/21 to 638,479 in FY 2022/23. The enrolment corresponded to a rise in demand for university student loans with the number of undergraduate students receiving loans increasing from 229,727 in FY 2020/21, 244,552 in FY 2021/22 before declining to 228,453 in FY 2022/23.

265. The Sector increased its skilled workforce in public schools by recruiting 5,000 teachers in FY 2020/21 and FY 2021/22 and 13,000 teachers in FY 2022/23. In the FY 2020/21, 8,000 teacher interns were recruited, while 4,000 were recruited and finally a total of 22,000 interns were recruited in the FY 2022/23. The sector also promoted 42,564 teachers to various cadres to effectively implement the curriculum. In addition to reduction of staffing gaps, 148,819 teachers were 30 retooled on CBC reforms. To improve service delivery, 145,300 teacher files were digitized in the period under review. Presently, a total of 356,321 teacher's files are accessible online. The sector recruited 1,918 and 1,300 TVET trainers in FY 2020/21 and FY 2022/23 respectively.

266. The MTEF 2024/25- 2026/27 coincides with a period when the sector is undergoing major reforms in line with the Presidential Working Party on Education Reform Report. These reforms aim to promote quality and inclusive education, training and research for sustainable development and ensure socio-economic development.

267. Under Basic Education, the Sector targets to enroll 10,058,422 learners in 40 pre-primary schools; enroll 21,773,321 students in public Primary School and 10,523,218 in Junior Secondary Schools; enroll 465,867 SNE learners in Primary

Schools; enroll 10,430,181 students in public Secondary Schools; construct 3,320 classrooms and 1,110 Laboratories in public Secondary Schools; Construction of 4,500 classrooms in Junior Secondary Schools; 8,992 learners provided with Elimu scholarships; 16,000,000 vulnerable students to benefit from the School Feeding Programme; enroll 61,409 SNE learners in Secondary Schools and 5,272 SNE learners in Junior Secondary Schools; 155 curriculum designs developed for Grade 10 to 12 and 48,000 institutions assessed for quality and standards.

268. Under TVET, the sector intends to enroll 441,200 trainees in National Polytechnics; enroll 637,350 trainees in TVCs; 13,620 students to be enrolled in Special Needs TVCs; 7,500 TVET trainers accredited; 195 CBET curriculum developed/reviewed; 9,000 TVET trainers recruited and 77 workshops equipped in the existing TVCs.

269. Under Universities, the sector targets to enroll 1,982,583 students in universities; award loans to 2,413,042 students in Universities and TVET through HELB and support 570 Research projects.

270. The Teachers Service Commission plans to recruit 8,000 teachers and 6,000 intern teachers for Primary Schools; promote 12,000 Primary School teachers; recruit 58,000 teachers and 54,000 intern teachers for Secondary Schools; promote 5,760 Secondary School teachers; train 270,000 teachers on Competency Based Curriculum and digitize 90,000 employee Records.

271. To implement these programmes, the Sector has been allocated Ksh 666.5 billion, Ksh 724.1 billion, and Ksh 782.9 billion in FY 2024/25, FY 2025/26 and FY 2026/27 respectively. This comprises of Ksh 638.0 billion, Ksh 685.6 billion, and Ksh 745.2 billion for recurrent expenditure and Ksh 28.4 billion, Ksh 38.5 billion, and Ksh 37.6 billion for development expenditures for the same period.

#### **Governance, Justice, Law and Order Sector**

272. Governance, Justice, Law and Order (GJLO) Sector consists of sixteen sub-sectors namely: State Department for Internal Security and National Administration, National Police Service, State Department for Immigration and Citizen Services, State Department for Correctional Services, State Law office, The Judiciary, Ethics and Anti-Corruption Commission (EACC), Office of the Director of Public Prosecutions (ODPP), Office of the Registrar of Political Parties (ORPP), Witness Protection Agency (WPA), Kenya National Commission on Human Rights (KNCHR), Independent Electoral and Boundaries Commission (IEBC), Judicial Service Commission (JSC), National Police Service Commission (NPSC), National Gender and Equality Commission (NGEC), and Independent Policing Oversight Authority (IPOA).

273. During the MTEF review period, 2020/21 -2022/23, the Sector recorded achievements in various programs and activities notably: On-boarding of 5,127 government services on the e-citizen platform; Enhanced public safety through coordination of national police services and modernization of assorted security equipment; Improved police and prison officers' welfare through provision of additional housing units, counselling services, enhanced mobility for police and administrative officers, and fully operationalized 3 counselling centres and regional offices; Clearance of 6,944 independent candidates for election;

Upgrading of Integrated Political Parties Management Systems for verifying political parties membership list; Conducted elections for 1874 electoral positions (General Elections); Rehabilitated 3,625 persons with substance use disorders at Miritini rehabilitation centre; registered 65 NGOs; Conducted psychosocial assessments to 421 witnesses and related persons; trained 3,303 duty bearers' officers on human rights and fundamental freedoms; 92.4% Successful Conviction rate of all prosecuted cases; concluded 3,749 cases filed against the Attorney General; and inspected 1,639 police premises. Further, in the bid to reduce the level of corruption, 369 cases of corruption crimes were investigated where the value of loss of Ksh 14.94 billion was averted and Ksh 13.14 billion corruptly acquired 10 assets traced and recovered.

274. In the 2024/25 to 2026/27 MTEF period and line with the vision for a secure, just, cohesive, democratic, accountable and a transparent environment for a globally competitive and prosperous Kenya, the sector endeavours to: Facilitate effective compliance with the Constitution to maintain peaceful coexistence, security, law and order as well as enhance administration of and access to justice; Strengthen the administrative, legal and policy coordination; Enhance and promote digitization of information gathering, processing, recording and sharing for effective service delivery; Increase use of geographical information systems in crime surveillance and mapping; Promote anti-corruption, ethics and integrity, national values and cohesion, as well as professionalism and impartiality in service delivery; and Enhance compliance with the principles of equality and inclusion for state and non-state actors and strengthen regional & international cooperation and collaboration. 20

275. The sector has been allocated Ksh 250.9 billion, Ksh 273.0 billion and Ksh 308.2 billion in FY 2024/25, FY 2025/26 and FY 2026/27 respectively. This comprises Ksh 232.8 billion, Ksh 248.8 billion and Ksh 280.3 billion for recurrent expenditure and Ksh 18.1 billion, Ksh 24.2 billion and Ksh 27.9 billion for development expenditure for FY 2024/25, FY 2025/26 and FY 2026/27 30 respectively.

#### **Public Administration and International Relations**

276. Public Administration and International Relations sector is comprised of twenty-three Sub-Sectors. They include: Executive Office of the President; Office of the Deputy President; Office of the Prime Cabinet Secretary; State Department for Parliamentary Affairs; State Department for Performance and Delivery Management; State Department for Cabinet Affairs; State House; State Department for Devolution; State Department for Foreign Affairs; State Department for Diaspora Affairs; The National Treasury; State Department for Economic Planning; State Department for Public Service; Parliamentary Service Commission; National Assembly; Parliamentary Joint Services; Senate; Commission on Revenue Allocation; Public Service Commission; Salaries and Remuneration Commission; Office of the Auditor General; Office of the Controller of Budget; and Commission on Administrative Justice. 40

277. During the implementation of the FY 2020/21 to FY 2022/23 budgets the 23 sub sectors realized various achievements of the targeted outputs and outcomes. This includes facilitated the executive to fulfil the Constitutional mandate, 72

facilitated retired Presidents, Vice Presidents and designated State Officers in accessing statutory benefits, Coordinated the implementation of key Government strategic priorities and interventions, coordinated Intergovernmental Budget and Economic Council (IBEC) meetings, fostered international relations and cooperation, promoted sound public financial management and accountability, strengthened coordination between policy formulation policy, planning and budgeting, ensured efficiency of the Public Service, strengthened intergovernmental relations and financial matters, promoted citizen centric public service and promoted accountability and transparency in public financial management. 10

278. During the 2024/25-2026/27 Medium Term Budget Framework the sector will ensure the proposed programmes and projects are in line with the priorities of the Kenya Vision 2030, the Fourth Medium Term Plan and the Government priorities related Bottom-Up Economic Transformation Agenda (BETA). The sector plans to implement the prioritized activities within 43 programs and 126 sub-programs despite a decrease in resource allocation for the FY 2024/25. In addition, the Sector will continue to enhance efficiency and effectiveness in service delivery and promote comprehensive public financial management, intensify resource mobilization and strengthen monitoring and evaluation.

279. To implement these programmes, the Sector has been allocated Ksh 351.7<sup>20</sup> billion, Ksh 390.6 billion and Ksh 523.6 billion in the FY2024/25, FY2025/26 and FY2026/27 respectively.

### **National Security**

280. The Sector plays critical role is key in creating a conducive environment for socio-economic and political development. It is therefore a critical actor and enabler in the realization of Kenya Vision 2030, and the Bottom-up Economic Transformation Agenda (BETA). The Sector will continue to address contemporary and emerging threats to national security that undermine peace and development. These include terrorism, radicalization, human and drug trafficking, money laundering, cyber-crime and other socio-economic and political challenges.

281. In order to implement the prioritized programmes and minimize the above-mentioned threats, the Sector has been allocated Ksh 244.4 billion, Ksh 250.1 billion and Ksh 261.8 billion in FY 2024/25, FY 2025/26 and FY 2026/27, respectively. 30

### **Social Protection, Culture and Recreation**

282. The Social Protection, Culture and Recreation Sector is comprised of six (6) sub-sectors namely: - Sports; Culture, the Arts and Heritage; Youth Affairs and Creative Economy; Labour and Skills Development; Social Protection and Senior Citizen Affairs, Gender and Affirmative Action. The Sector visualizes on a global competitive, healthy workforce, Sports, culture and recreation industry, an enduring impartial and informed society. The strategic roles played by the sector in the country's transformation and social economic development agenda include: creating an efficient, motivated and healthy human resource base for an enhanced national competitive, economic growth and Development, productive healthy 40

workforce, fundamentals rights, and adequate income from, work, representation and social security, social protection, community empowerment, promotion of volunteerism, safety, care and service for children, persons with disabilities, older persons and other vulnerable group, rescue, rehabilitation, re-socialization & reintegration of street families, advancement of diverse cultures, to monetize sports and the Arts through the Talanta Hela Initiative, and enhance cohesiveness and Kenyans regional and international competitiveness.

283. The sector major achievements during the Medium Term Expenditure Framework (MTEF) period FY 2020/21 - 2022/23 include; the Sector garnered 134 medals in 32 International Sports Competitions hosted in the country, seven stadia constructed/upgraded to completion and a 16-storey Talanta Plaza in Upper hill, Nairobi which serves as the Ministry's headquarter office was constructed. Further, 608 Sports Organizations were registered, 33,439 persons were reached through Anti-Doping education and 3,127 Intelligence-based tests on athletes conducted. In addition, 6,015 athletes, 1,360 coaches, referees and umpires were offered training in different sports disciplines. The Sector established a virtual Library through instillation of the library information management system (LIMS); established and operationalized National Heroes council; established a COVID-19 testing and research centre at the institute of primate research (IPR), rehabilitated the see wall of Fort Jesus, natured and trained youth, in theatre, drama and concerts and poetry; and refurbished the Kenya National Archive and Documentation services.

284. In addition, there were 19,900 youth provided with employment opportunities; 61,391 youth trained in life skills, 29,415 in core business skills, 27,162 in job specific skills and 159,210 in entrepreneurship skills. Operationalized 88 Youth Empowerment Centres and constructed 25 new Centres; identified and nurtured 11,400 youth talents; 2,715 youth were engaged in green jobs and 390,335 youth in the President's Award Programme. In addition, 102,095 youth were sensitized on social vices, harmful cultural practices and contemporary issues, 165,050 youth in peace, volunteerism and national cohesion, 35 youth Saccos operationalized, 1,847 youth trained on online jobs and 32,430 youth on AGPO and Affirmative Action Funds. The Sector finalized the National Policy on Labour Migration to provide a framework for promotion of inclusive and sustainable development of the country through safe, orderly and productive Labour Migration; Developed Bilateral Labour Agreements on recruitment and employment of Kenyan Migrant workers with Key The Sector disbursed cash to 756,485 older persons; 38,118 households with persons with severe disabilities (PWsD); and 278,188 Orphans and Vulnerable Children (OVCs); Empowered 167,797 Community Self-Help Groups through mobilization, registration, and capacity building, linked 139,822 groups to MFIs for financial support Registered and issued 120,929 PWDs with disability cards; Granted tax exemption certificates to 5,533 PWDs; Supported 10,291 PWDs with assistive devices against a target of 12,000; Provided scholarships to 7,550 learners. Rescued 10,149 street persons, against a target of 8,500; Supported 66,900 Orphans and Vulnerable children (OVCs) with Presidential Secondary School education scholarship in the review period. The National Government Affirmative Action Fund (NGAAF) supported vulnerable groups through disbursement of grants to groups of social development

74



through value additional initiative, disbursement of loans through Uwezo funds to groups of youths, women and PWDs.

285. In the Medium Term period, the sector will prioritise the implementation of the following key strategic interventions: - Review the existing labour laws to align them with emerging issues in the labour employment sector, upgrade and expand the existing industrial and training centres, strengthen the linkages between training institution and industry. Social Development and Children services, National safety programs that supports Social Economic growth and development (NGAAF, WEF) and Sports, Arts and Social Development Fund (SASDF) to promote and develop Sports, Arts and social development including Universal Health. Moreover, other Sector priority programmes for implementation during the medium term include the following among others: Promotion of Harmonious Industrial Relations, Provision of Skilled Manpower for the Industry, Improvement of youth employability, Conservation of Heritage and facilities, Youth Empowerment Services, Youth Development Services, General Administration, Planning and Support Services, Talent development in the areas of sports, music and arts, Development of sports infrastructure to international standards and Establishment and operationalization of Government-run shelters for victims of human trafficking.

286. To implement these programmes, the Sector has been allocated Ksh 72.2 billion, Ksh 73.2 billion and Ksh 75.1 billion for financial years 2024/25, 2025/26 and 2026/27, respectively

### **Environment Protection, Water and Natural Resources Sector**

287. The sector contributes directly and indirectly to the Country's economy through revenue generation, wealth creation and job creation. The sector plays a critical role in securing, stewarding and sustaining the environment and natural capital of the Country. The sector has a great potential in contributing to transforming Kenya into a newly industrialized middle-income country by the year 2030 as envisioned in the Vision 2030 and the successive 5-year Medium Term Plans (MTPs). According to the Economic Survey report 2023, the contribution of the sector to the Gross Domestic Product (GDP) was 3.6 percent for the year 2022.

288. During the FY 2020/21 – 2022/23 period the Sector's key achievements include; domestication of ten (10) Multilateral Environmental Agreements (MEAs); training of small scale gold miners on mercury free gold mining; monitoring pollution and effluent discharging facilities and conducting inspections on plastic ban. Meteorological Services were modernized thus providing reliable weather and climate information. The sector realized improved national forest and tree cover by 8.83% and 12.13% respectively, protected 7.8 million Ha of closed canopy forests and rehabilitated 16,589 Ha of degraded forests. In an effort to increase access to water and sanitation, the sector increased access to improved water services from 65.5 % 2020/21 to 68% in 2022/23, improved urban sewerage services from 27.7 % in 2020/21 to 32% and increased national sanitation coverage from 78% to 81.5%. In addition, 1,117,492 people were connected to water and sanitation services in low urban income areas/informal settlements and rural marginalized/ASAL areas. On water harvesting and storage, Karimenu dam, Yamo dam and three (3) peace dams namely Kases in West Pokot, Forolle in Marsabit

TS

and Naku'etum in Turkana were completed. The sector also fast-tracked the construction of Thwake dam (86%), and Siyoi-Muruny Dam (77.5%). In addition, 156 small dams and pans were constructed, 258 schools and 45 health facilities were connected to clean and reliable water in various counties. The sector further enhanced flood control through constructing 34.134 kilometres of dykes / flood control structures, completed the designs for the Igembe Dam and produced Design Review Reports for the Badasa and Umaa Dams. The sector completed construction of Thiba Dam; completed 97% of Galana 10,000 acres' model farm; put 5,000 acres under production and increased the capacity of water stored for irrigation by 29.9 million cubic meters. The sector continued to sustainably reduce wildlife poaching; increased human Wildlife Conflicts response rate to 100% of all reported cases; constructed 124.0 km; rehabilitated 120.5Km and maintained 4,725km of fences.

289. During FY 2024/25 and the medium term key outputs for the Sector include: completion of Thwake, Itare, Thambo Dam, Kanjogu Dam; complete 70 water and sewerage projects across the county; connect 120 public learning institution and 140 health centres with clean and safe water; rehabilitate 200 rural water schemes targeting approximately 1,500,000 people under Horn of Africa Groundwater project; improve access to water services for approximately 2.02 million in urban water supply and sanitation services; and expand water and sanitation infrastructure in 28 towns across the country. The Sector will decentralize online cadastre system; generate 10.5 billion in revenue; rehabilitate 10 mines; and train 7,500 Artisanal and Small-Scale Miners on appropriate technologies. The Sector will reduce and compensate cases of human wildlife conflicts; maintain access roads and airstrips in Conservancies and parks; implement plastic ban in protected areas across the country; rehabilitate Research & Training Facilities at WRTI Naivasha; and construct four Research and Training Centres. To foster environment protection and mitigate climate change impact the Sector plans domesticate four (4) Multilateral Environmental Agreements; restore and rehabilitate 36 wetlands; establish 12 model waste demonstration centres country-wide; and establish 10 Material Recovery Facilities (MRF) and collection points for plastic recycling countrywide. To enhance forest, cover the sector will produce 104,000 Kgs of seeds to support in the Tree planting programme; distribute 102,000 Kgs of seeds; produce 566 Million tree seedlings; refurbish and establish 149 tree nurseries; rehabilitate 25,950 Ha of degraded forests; protect 2.6 Million Ha of existing forest canopy; establish 4,140 Ha of forest plantations; plant 17,575 Ha of commercial farm forests; and rehabilitate 606 Ha of Bamboo forests.

290. To achieve these outputs, the Sector's total allocation is Ksh 128.0 billion, Ksh 157.6 billion and Ksh 167.7 billion for the FY 2024/25, 2025/26 and 2026/27 respectively.

### 3.5 Public Participation/Sector Hearings and Involvement of Stakeholders

291. Public participation and involvement of stakeholders in the medium-term budget process is a Constitutional requirement. In fulfilment of this requirement, while preparing the 2024 Budget Policy Statement (BPS), the resolutions adopted

by Parliament on the previous Budget Policy Statements were taken into account. **Annex 3** explains how the resolutions by Parliament on the 2022 BPS and 2023 BPS have been taken into account in the 2024 BPS and the reasons thereof.

292. The PFM Act, 2012 requires that the input of the public be taken into account before the budget proposals are firmed up. In this regard, the Sectors conducted a Country-Wide Public Participation from 30<sup>th</sup> October to 6<sup>th</sup> November 2023 in 46 Counties with the exception of Mandera County which could not be accessed due to flooding. The issues raised by the Citizens were used by the Sectors while prioritizing programmes and projects to be funded. The reports from the Country-Wide Public Participation are annexed in each Sector Report. Further, Public Hearings for the FY 2024/25 Budget were held between 13<sup>th</sup> and 15<sup>th</sup> December 2023 at the Kenya School of Monetary Studies. Virtual platforms were made available on WebEx as well as live streaming on Face Book to ensure that stakeholders who could not attend the Public Hearings physically had access to the Hearings. **Annex Table 5** provides a summary of the comments received and the actions taken and or response given during the Public Hearings. 10

293. Further, the draft 2024 BPS was uploaded onto the National Treasury website on 19<sup>th</sup> January, 2024 inviting the public and stakeholders to share comments. As required by the Public Finance Management Act (PFM) Act, 2012, the document was further shared with the various stakeholders including: 20

- i) Institutions listed in the PFM Act, 2012 which include: the Commission on Revenue Allocation; County Governments; Controller of Budget; Parliamentary Service Commission and the Judicial Service Commission;
- ii) Institutions that constitute the Macro Working Group which include: the National Treasury; State Department of Economic Planning; Central Bank of Kenya; Kenya Revenue Authority; Kenya National Bureau of Statistics; Kenya Institute of Public Policy Research and Analysis; and Commission on Revenue Allocation;
- iii) Cabinet Secretaries and Principal Secretaries of all Government Ministries and the Office of the Attorney General; and 30
- iv) Office of the Council of Economic Advisors at the Executive office of the President.

294. The comments were considered in finalizing this document. A summary of the comments received from the various stakeholders and the public and the actions taken are summarized in **Annex Table 6**.

## IV. COUNTY FINANCIAL MANAGEMENT AND DIVISION OF REVENUE

### 4.1 County Governments' Compliance with Fiscal Responsibility Principles

295. Management of county finances shall be in accordance with the Constitution, Public Finance Management (PFM) Act, 2012 and the Public Finance Management (County Government) Regulations, 2015. **Table 4.1** below provides a summary of total expenditures and total revenues by counties for FY 2020/21 to 2022/23.

**Table 4.1: Summary of County Revenues and Expenditures from FY 2020/21 to 2022/23**

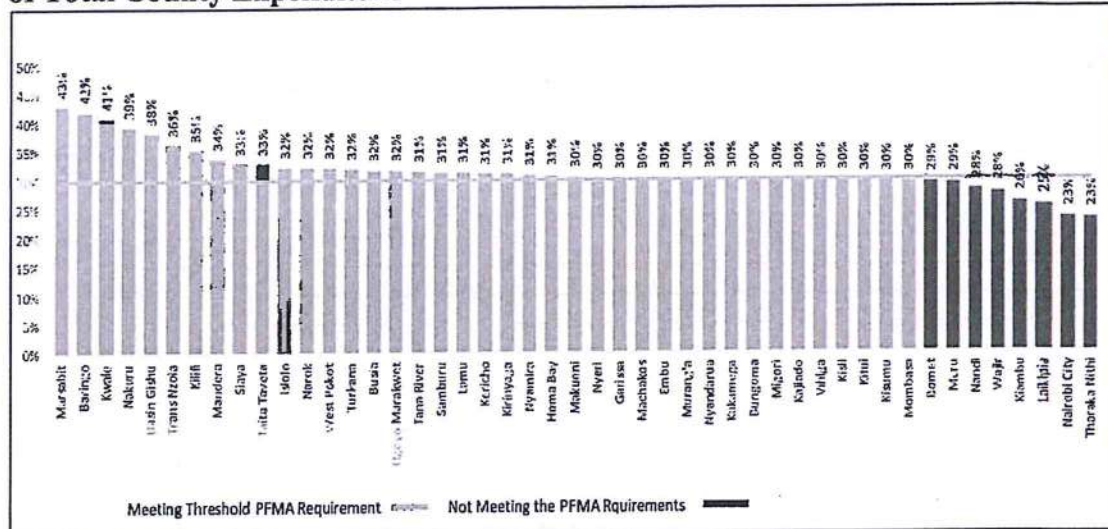
Ksh Billions	FY 2020/21		FY 2021/22		FY 2022/23	
	Approved Budget	Actual Budget	Approved Budget	Actual Budget	Approved Budget	Actual Budget
Total Revenue	475.5	436.6	529.2	436.5	491.9	466
Total Expenditures	501.7	398	535.7	401	515.2	428.9
Total Development	186.9	116.1	193.5	98.5	160.5	98
Total Recurrent	314.9	281.9	342.2	302.5	354.6	330.9
Wages		176		190.1		195.1
Other recurrent		105.9		112.4		135.8
% of Development in Total Budget	37%	29%	36%	25%	31%	23%
% of Recurrent in Total Budget	63%	71%	64%	75%	69%	77%
% of wages in Total Revenue		40%		44%		42%

*Source of Data: Controller of Budget*

#### 4.1.1 Allocation to Development Expenditure over the Medium-Term

296. As indicated in **Table 4.1**, the total County Governments' approved development expenditures over the medium-term account for 37% in FY 2020/21, 36% in FY 2021/22 and 31% in FY 2022/23 translating to an average of 35 % of the total budget. The approved budget of eight counties, namely Bomet, Meru, Nandi, Wajir, Kiambu, Laikipia, Nairobi and Tharaka Nithi did not conform with the requirement of Section 107 (2) (b) of the PFM Act, 2012 in FY 2022/23 (**Figure 4.1**).

**Figure 4.1: FY 2022/23 Budgeted Development Expenditure as a Percentage of Total County Expenditure**

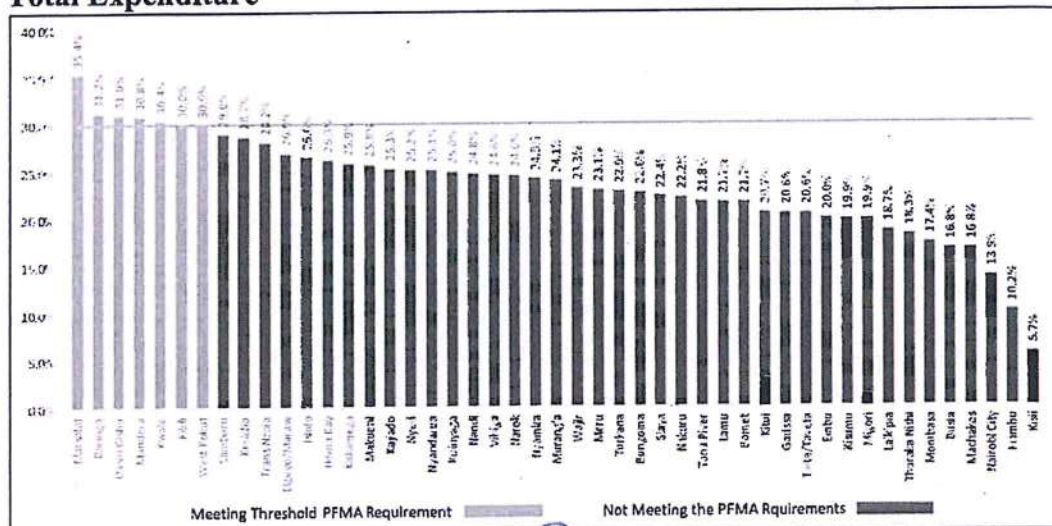


Source of Data: Controller of Budget

**4.1.2 Actual Development Expenditure over the Medium Term**

297. The total actual development expenditure for the FY 2020/21, FY 2021/22, and FY 2022/23 accounted for 29%, 25% and 23% of the total actual budget for the same period as indicated in Table 4.1. This translates to an average allocation of 26% of actual total expenditures to development expenditures. For the FY 2022/23, only seven counties met this requirement as far as the actual expenditure as a percentage of total budget is concerned. These counties are: Marsabit (35.4%), Baringo (31.2%), Uasin Gishu (31.0%), Mandera (30.8%), Kwale (30.4), Kilifi (30.0%), and West Pokot (30.0%). On other hand, Busia (16.8%), Machakos (16.8%), Nairobi City (13.9%), Kiambu (10.2%) and Kisii (5.7) spent the lowest budgets on actual development in the reporting period as shown in Figure 4.2.

**Figure 4.2: FY 2022/23 Actual Development Expenditures as a Percentage of Total Expenditure**



Source of Data: Controller of Budget

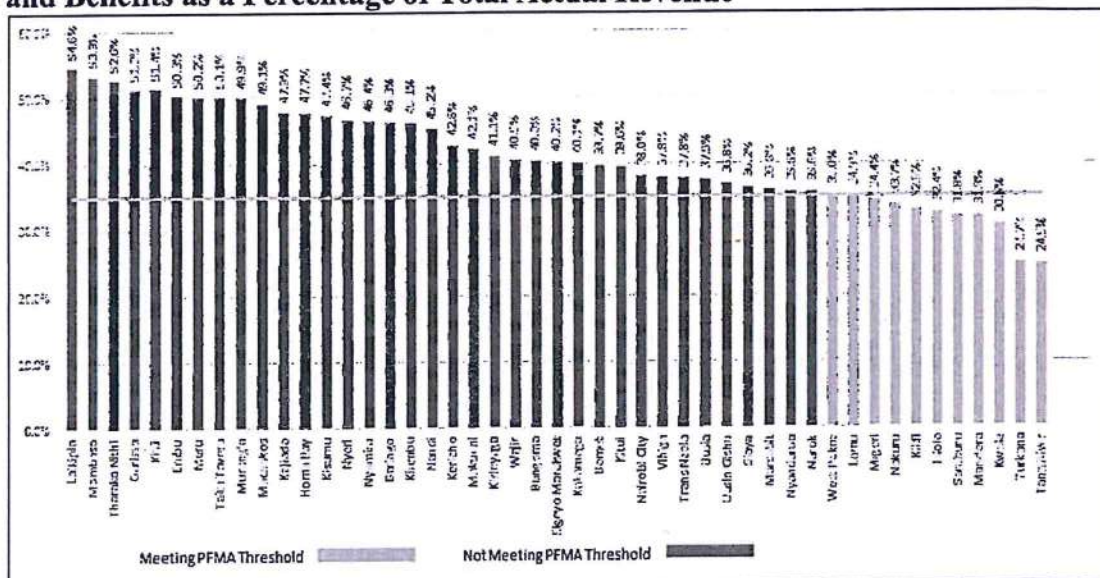
79

298. Whereas most counties allocate the required 30% of their budgets towards development, the actual development expenditure is less over the medium term. This implies that County Governments' development agenda is compromised with higher allocations going towards recurrent expenditure. There is need for the relevant institutions, including the Controller of Budget to put measures in place to enhance compliance with the PFM law provision on development expenditure and ensure the actual expenditures are aligned with spirit of the PFM Act, 2012.

### 4.1.3 Compliance with the Requirement on Expenditure on Wages and Benefits

299. Over the medium – term, expenditure on wages and benefit for the FY 2020/21, FY2021/22, and FY 2022/23 accounted for 40%, 44% and 42% of the total revenue, respectively as shown in Table 4.1. The report by the Controller of Budget on review of County Government's budget implementation for FY 2022/23 shows the total expenditure on wages reported by County Governments amounted to Ksh 195.1 billion. During the same period, the total revenue available to the County Governments was Ksh 466 billion. This means that on average County Governments spent 41.8 percent of their total revenue on wages and benefits which is higher than the threshold of 35 percent provided by the PFM Act, 2012. Only 11 Counties, (Tana River, Turkana, Kwale, Mandera, Samburu, Isiolo, Kilifi, Nakuru, Migori, Lamu and West Pokot) were able to maintain their expenditures to wages and salaries below the 35 percent threshold in FY 2022/23 as shown in Figure 4.3.

**Figure 4.3: FY 2022/23 County Governments' Actual Expenditures on Wages and Benefits as a Percentage of Total Actual Revenue**



Source of Data: Controller of Budget

### 4.2 Enhancement of County Governments' Own-Source-Revenue

300. The report by COB on County Governments Budget Implementation Review Report for the FY 2022/23 provides the Own Source Revenue (OSR) for the County Governments as indicated in the Table 4.2.

Table 4.2: Total OSR Collection for the FY 2022/23 (Including A-i-A)

County	FY 2022/23 Actual OSR Collection (Ksh)	FY 2022/23 AIA (Ksh)	Other OSR FY 2022/23	Total FY 2022/23 OSR Collection (Including A-i-A) (Kshs)
Baringo	313,351,637	-	-	313,351,637
Bomet	242,395,023	-	-	242,395,023
Bungoma	379,716,358	797,606,548	-	1,177,322,906
Busia	201,772,364	142,150,611	-	343,922,975
Elgeyo Marakwet	217,350,490	-	-	217,350,490
Embu	383,178,337	295,460,000	-	678,638,337
Garissa	81,361,298	61,130,000	-	142,491,298
Kiama Bay	491,496,550	-	-	491,496,550
Isiolo	151,805,623	894,555	-	152,700,178
Kajiado	875,281,130	-	-	875,281,130
Kakamega	1,309,679,900	-	-	1,309,679,900
Kericho	501,354,545	-	-	501,354,545
Kiambu	2,424,634,382	1,162,647,728	-	3,587,282,110
Kilifi	661,686,660	-	-	661,686,660
Kirinyaga	399,321,046	187,339,593	-	586,660,639
Kisii	413,988,597	563,229,532	-	977,218,129
Kisumu	731,449,033	422,015,272	-	1,153,464,305
Kitui	464,354,467	-	-	464,354,467
Kwale	392,952,872	-	-	392,952,872
Laikipia	504,274,788	475,888,673	-	980,163,461
Lamu	156,907,612	-	-	156,907,612
Machakos	1,429,791,260	-	-	1,429,791,260
Makueni	418,752,940	472,843,046	-	891,595,986
Mandera	122,528,934	-	-	122,528,934
Marsabit	58,565,723	74,980,000	-	133,545,723
Meru	418,801,954	317,884,152	14,300,484	750,986,590
Migori	406,364,909	-	-	406,364,909
Mombasa	3,998,628,848	-	-	3,998,628,848
Murang'a	534,416,925	123,750,039	-	658,166,964
Nairobi City	10,237,263,780	241,552,546	-	10,478,816,326
Nakuru	1,611,062,682	1,519,361,041	-	3,130,423,723
Nandi	200,737,628	-	-	200,737,628
Narok	3,061,007,640	-	-	3,061,007,640
Nyamira	113,484,901	171,113,720	-	284,598,621
Nyandarua	505,913,306	-	-	505,913,306
Nyeri	610,656,883	469,530,000	-	1,080,186,883
Samburu	226,516,961	-	429,707,684	656,224,645
Siaya	402,229,607	105,812,055	-	508,041,662
Taita Taveta	265,254,255	161,118,235	-	426,372,490
Tana River	59,173,171	-	-	59,173,171
Tharaka Nithi	164,200,787	122,536,863	-	286,737,650
Trans Nzola	267,760,051	209,520,518	574,892,612	1,052,173,181
Turkana	177,717,811	-	-	177,717,811
Uasin Gishu	936,606,563	45,440,000	-	982,046,563
Vihiga	108,347,382	133,002,807	-	241,350,189
Wajir	46,746,101	-	-	46,746,101
West Pokot	128,195,210	-	-	128,195,210
	<b>37,809,038,924</b>	<b>8,276,807,534</b>	<b>1,018,900,780</b>	<b>47,104,747,238</b>

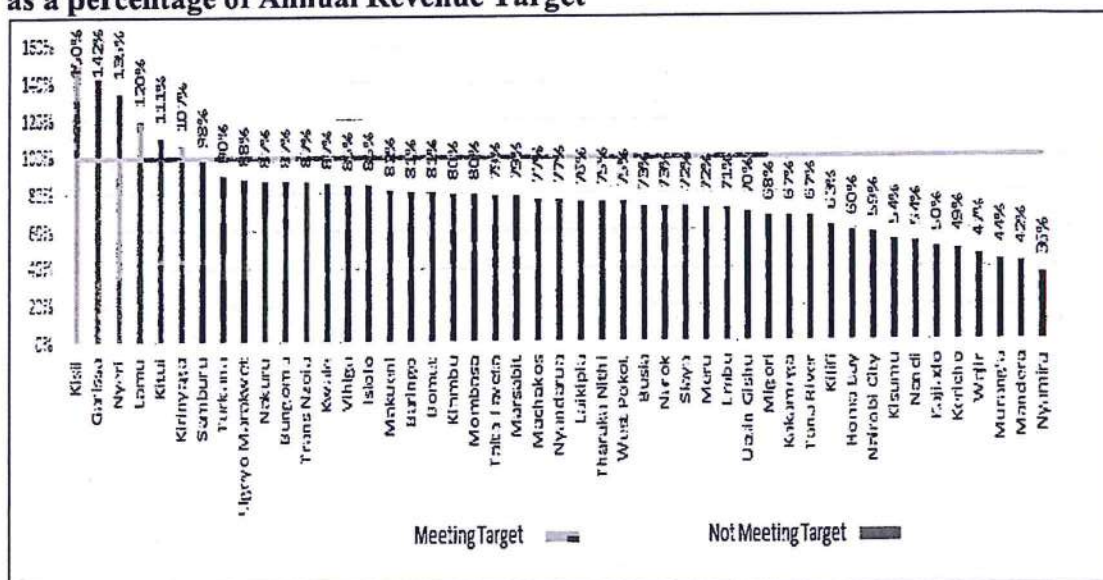
Source of Data: Controller of Budget

301. Analysis of OSR performance in the FY 2022/23 shows that County Governments were able to raise a total of Ksh 47.1 billion from Own Source Revenue (OSR) against an annual target of Ksh 66.1 billion representing an outturn of 71.3 percent.

302. In FY 2022/23 six counties were able to meet their revenue targets namely Kisii (150%), Garissa (142%), Nyeri (135%), Lamu (120), Kitui (111%) and Kirinyaga (107). On the other hand, forty-one (41) County Governments did not

meet their OSR revenue targets in FY 2022/23. Five counties collected less than 50% of their OSR targets which are Kericho (49%), Wajir (47), Murang'a (44%), Mandera (42%), and Nyamira (36%) as shown in Figure 4.4.

**Figure 4.4: FY 2022/23 Actual Revenue Collected by the County Governments as a percentage of Annual Revenue Target**



Source of Data: Controller of Budget

303. In order to support the County Governments to enhance their Own Source Revenue, the National Treasury is in the process of implementing the *National Policy to Support Enhancement of County Governments Own Source Revenue*. Some of the activities underway include enactment of the National Rating Bill, the County Revenue Raising Process Bill and the development of a model Tariffs and Pricing Policy by use by the County Governments.

304. The National Rating Bill was passed by the National Assembly and forwarded to the Senate on 31<sup>st</sup> October 2023 for consideration. The Bill provides for among others, standards in the way rating and valuation is conducted in the country; how to deal with properties cross-cutting in more than one County Government; procedure for claiming and payment of Contribution in Lieu of Rates (CILOR); and timely updating of valuation rolls by the County Governments. More importantly, the Bill will repeal the outdated Valuation for Rating Act, Cap 266 and Rating Act, Cap 267 and align the property rating legal regime with the devolved system of governance.

305. The County Governments (Revenue Raising Process), Bill 2023 provides for a process by which the County Governments introduce revenue raising measures in conformity with Article 209 (5) of the Constitution. The Bill, which is currently before Senate has gone through the First Reading.

306. The National Treasury notes that a number of County Governments are having challenges in setting realistic revenue targets. To address this, the National Treasury in collaboration with other stakeholders are planning to roll out a training

82



on Tax Analysis and Revenue Forecasting in the FY 2024/25. The team is currently working on the training module on revenue forecasting.

307. In addition, the National Treasury is planning to build the capacity of County Governments to generate statistics that conform to the Government Finance Statistics 2014 Manual beginning in FY 2023/24. This will strengthen the County Government's fiscal policy making including realistic revenue forecasting.

### 4.3 Prudent Management of Fiscal Risks

#### 4.3.1 Pending Bills

308. According to Section 94 (1) (a) of the PFM Act, 2012, failure to make any payments as and when due by a State Organ or a Public Entity may be an indicator of a serious material breach or a persistent material breach of its operational and financial commitments. In this context, Article 225 of the Constitution read together with Section 96 of the PFM Act gives the Cabinet Secretary responsible for Finance powers to stop transfer of funds to the concerned State Organ. Over the years, County Governments have accumulated pending bills. As at 30<sup>th</sup> September, 2023 Counties reported accumulated pending bills amounting to Ksh 163.62 billion, compared to Ksh 164.76 billion reported as at 30<sup>th</sup> June, 2023, a decrease of 1.14 billion. This amount is as reported by County Governments to the Office of the Controller of Budget. 10

309. The Office of the Auditor General (OAG) conducted a special Audit of pending bills for County Governments as at 30<sup>th</sup> June, 2020 for the FY 2018/19 and 2019/20 which were conducted from May 2021 to December 2021. As per the report, a total of Ksh 156.18 billion pending bills presented for audit to OAG, bills amounting to Ksh 48.13 billion were reported as payable while Ksh 108.05 billion lacked sufficient documentation to support services rendered or work done and therefore were not recommended for payment. 20

310. A report by the Controller of Budget (CoB) indicates that as of 17<sup>th</sup> April, 2023, Counties had settled Ksh 23.96 billion (49.78% of the eligible pending bills) leaving an outstanding balance of Ksh 24.05 billion (49.95% of the eligible pending bills).

311. In relation to the ineligible pending bills, the Intergovernmental Budget and Economic Council (IBEC) through a resolution of 5<sup>th</sup> June, 2023 instructed all County Governments to finalize verification of ineligible pending bills. Once verified, County Governments should prioritize payment of these arrears. As at 17<sup>th</sup> April, 2023 a total of Ksh 1.8 billion of the ineligible pending bills had been paid by the County Governments, leaving a balance of Ksh 106.2 billion (Table 4.3). 30

83

**Table 4.3: Payment of 30<sup>th</sup> June, 2020 Audited Pending Bills by County Governments as at 17<sup>th</sup> April, 2023**

County Name	Eligible Pending Bills	Amount Paid so far	Balance	Ineligible Pending B	Amount Paid so far	Balance	Total Outstanding
Baringo	404,682,061	171,302,755	233,379,306	57,709,448	-	57,709,448	291,088,754
Bomet	575,277,293	540,142,991	35,134,302	177,803,997	-	177,803,997	212,938,299
Bungoma	280,568,664	247,016,877	33,551,787	102,669,258	-	102,669,258	136,221,045
Busia	735,462,434	516,476,629	218,985,805	160,041,266	-	160,041,266	379,027,071
Elgeyo/Marakwet	97,250,631	62,848,774	34,401,857	11,657,517	-	11,657,517	46,059,374
Embu	376,985,675	289,645,685	87,339,999	260,720,598	119,943,842	140,776,756	228,116,746
Garissa	1,173,876,512	622,602,867	551,273,645	4,428,629,228	-	4,428,629,228	4,979,902,873
Homa Bay	525,179,984	286,039,857	239,140,127	400,219,660	-	400,219,660	639,359,187
Isiolo	963,669,236	562,336,466	401,332,770	208,912,399	-	208,912,399	610,245,169
Kajiado	1,389,961,092	420,893,832	969,067,260	1,627,807,464	-	1,627,807,464	2,596,874,724
Kakamega	1,198,949,826	1,015,355,470	183,594,356	251,246,426	9,837,390	341,439,036	425,033,392
Kericho	1,259,577,667	544,182,280	715,395,387	268,911,420	-	268,911,420	984,306,807
Kiambu	3,365,130,484	143,373,054	3,221,757,430	881,170,421	56,081,899	825,088,522	4,046,845,952
Kiifi	610,835,144	464,842,712	145,992,432	581,780,751	-	581,780,751	727,731,183
Kirinyaga	983,032,372	531,737,395	451,294,977	494,719,011	-	494,719,011	946,013,988
Kisii	758,725,977	466,730,539	291,995,438	516,389,488	-	516,389,488	808,384,926
Kisumu	1,064,082,741	828,429,512	235,653,229	817,392,020	-	817,392,020	1,053,045,249
Kitui	1,068,523,966	625,807,850	442,516,116	1,652,024,526	27,769,948	1,624,254,558	2,066,770,674
Kwale	30,395,083	18,421,465	11,973,618	2,929,346,292	-	2,929,346,292	2,941,319,910
Lakipia	857,616,477	425,879,073	431,737,404	1,187,938,976	137,228,268	1,050,710,708	1,482,448,112
Lamu	166,652,981	163,862,932	2,190,049	126,554,441	99,256,365	27,298,076	29,488,125
Machakos	1,829,505,555	1,104,322,827	725,182,728	519,755,508	-	519,755,508	1,244,938,236
Makueni	300,407,810	280,416,891	19,990,919	11,921,955	258,823,577	246,901,622	226,910,703
Mandera	195,606,061	195,606,061	-	211,731,110	-	211,731,110	211,731,110
Marsabit	427,725,791	219,826,370	207,899,421	561,882,902	-	561,882,902	769,782,323
Meru	1,645,514,751	1,489,716,055	155,798,696	252,142,550	-	252,142,550	407,941,246
Migori	606,362,615	582,590,982	23,771,633	791,428,051	490,545,104	300,882,947	324,654,580
Mombasa	3,629,365,578	2,228,797,144	1,460,568,434	273,639,725	-	273,639,725	1,674,208,159
Murang'a	591,589,896	590,386,662	1,203,234	1,683,941,778	8,291,985	1,675,649,793	1,676,853,027
Nairobi City	10,609,369,860	975,251,721	9,634,118,139	75,142,481,171	-	75,142,481,171	84,776,599,310
Nakuru	504,225,508	422,996,705	81,228,803	309,435,561	-	309,435,561	390,664,364
Nandi	999,961,375	738,865,952	261,095,423	424,863,941	-	424,863,941	685,959,364
Narok	911,820,629	237,684,009	674,136,620	983,780,638	-	983,780,638	1,657,917,258
Nyamira	278,105,607	275,698,124	2,407,483	67,438,141	-	67,438,141	69,845,624
Nyandarua	1,104,557,249	434,777,239	669,780,010	849,222,218	-	849,222,218	1,519,002,228
Nyeri	477,332,318	477,332,318	-	20,507,256	-	20,507,256	20,507,256
Samburu	100,097,274	95,476,412	4,620,862	638,141,820	485,194,368	152,947,432	157,568,294
Siaya	239,440,577	239,440,577	0	69,732,235	-	69,732,235	69,732,235
Taita Taveta	713,199,641	649,923,111	63,276,530	192,854,197	-	192,854,197	256,130,727
Tana River	594,862,915	282,718,273	312,144,642	1,663,178,525	-	1,663,178,525	1,975,323,167
Tharaka-Nithi	619,348,506	408,436,547	210,911,559	244,289,662	-	244,289,662	455,201,161
Trans Nzoia	619,607,056	549,360,530	70,246,526	372,066,151	-	372,066,151	442,312,677
Turkana	472,120,183	316,914,391	155,205,793	585,037,816	-	585,037,816	740,243,609
Uasin Gishu	494,815,241	453,581,511	41,233,730	140,056,169	125,575,115	14,481,054	55,714,784
Vihiga	1,278,738,001	844,279,732	308,458,269	410,172,194	-	410,172,194	718,630,463
Wajir	329,022,136	310,279,035	18,743,101	4,335,524,264	-	4,335,524,264	4,354,267,365
West Pokot	673,361,710	607,434,712	65,926,998	153,836,525	16,516,318	137,320,207	203,247,205
<b>Total</b>	<b>48,131,700,143</b>	<b>23,960,043,307</b>	<b>24,045,656,836</b>	<b>108,052,705,970</b>	<b>1,835,034,179</b>	<b>106,217,671,791</b>	<b>130,263,328,627</b>

Source of Data: Office of the Auditor General and Controller of Budget

#### 4.3.1.1 Status of Pending Bills

312. County Governments owe money to the various pension funds (LAPTRUST, LAFUND and County Pension Fund) which have accumulated over the years. As at 31<sup>st</sup> August, 2023, the status of pension pending bills submitted by the different pension schemes to the Retirement Benefits Authority (RBA) was Ksh 73.4 billion. A breakdown of the outstanding pension pending bills is shown in the Table 4.4.

**Table 4.4 Outstanding Pension pending bills owed by County Governments**

S/No.	Name of the Scheme	Principal Debt (Ksh)	Accrued Interest (Ksh)	Total Debt Accrued Interest (Ksh)
1	Local Authorities Provident Fund (LAFUND)	2,471,216,005	34,753,086,080	37,224,302,085
2	Local Authorities Pension Trust (LAPTRUST)	7,999,904,407	24,231,311,725	32,231,216,132
3	County Pension Fund (CPF DC)	2,005,928,055.55	1,941,522,988.18	3,947,451,043.73
	Total	12,477,048,467.55	60,925,920,793.18	73,402,969,260.73

Source: Retirement Benefits Authority

313. Some County Governments are not reflecting these pension liabilities in their pending bills stock hence posing a great risk that these liabilities may not be prioritized for payment. There is need for the County Governments to take stock of all the pension liabilities and ensure proper recording in the stock of County pending bills. In addition, Counties should prioritize the settling of these liabilities to ensure County staff do not retire without a pension. 10

#### 4.3.1.2 Status of Debt owed to Kenya Power & Lighting Company (KPLC) by County Governments

314. The outstanding pending bills owed to Kenya Power & Lighting Company (KPLC) by County Governments as at 24<sup>th</sup> September, 2023 amounts to Ksh 3,492,122,613.47 with Nairobi County Government having the largest outstanding bill amounting to Ksh 2,171,944,344.79. The amounts have been accumulating over the years. Consequently, the National Treasury has issued a Circular to County Governments reminding them to settle debts owed to KPLC and ensure that these pending bills are included in their budgets and repayment plans in line with the Public Finance Management Act, 2012 and in order to avoid disrupting operations and other financial obligations of the Company.

#### 4.3.2 County Governments Capacity Building on Public Finance Management

315. The Public Finance Management Act (PFMA), 2012 mandates the National Treasury to develop and oversee the implementation of a comprehensive county financing systems that ensures financial controls for efficient and effective utilization of public resources. The National Treasury is further required to strengthen county public finance management institutional capacities to implement, manage and support governance, development and service delivery. 20

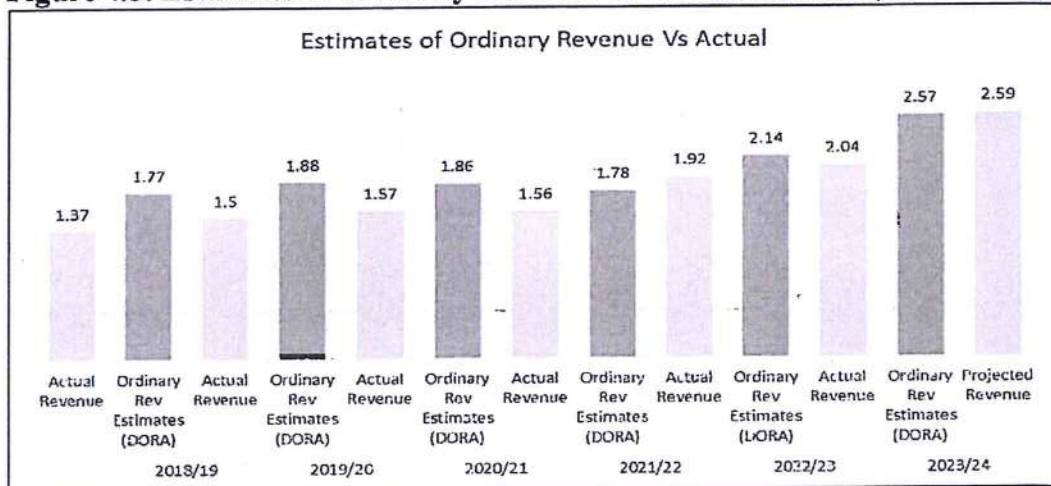
316. There have been significant changes in key financial management leadership positions in the county governments occasioned by change in the county administration. In this regard, the National Treasury is planning for a capacity building programme to the new Chief Executive Committee Members and Chief Officers responsible for Finance, Heads of accounting, finance/budget, procurement, economic planning, revenue, and internal audit; and County Assembly Chair budget /Finance Members at the County Governments on PFM matters.

#### 4.4 Division of Revenue for FY 2024/25

##### 4.4.1 Performance of Shareable Revenue

317. Ordinary revenue collected over the years has been below target except for FY 2021/22 when the target was surpassed as indicated in Figure 4.5.

**Figure 4.5: Estimates of Ordinary Revenue vs. Actual Revenue (Ksh trillion)**



Source of Data: National Treasury

##### 4.4.2 Division of Revenue for FY 2024/25

###### 4.4.2.1 Application of Article 203 (1) of the Constitution in Division of Revenue

318. Article 218(2) of the Constitution requires division of revenue between the two levels of Government and across County Governments to take into account the criteria set out in Article 203(1) of the Constitution. The criteria include factors such as: national interest, public debt and other national obligations and needs of the disadvantaged groups and areas, among others.

319. As indicated in Table 4.5, it should be noted that after taking into account all the mandatory expenditures under Article 203(1) of the Constitution, the balance left for sharing between the two levels of Government is Ksh 753.2 billion. After allocating Ksh 410.2 billion to County Governments for FY 2024/25, of which Ksh 391.1 billion is the proposed equitable share and Ksh 19.1 billion is the allocation from National Government share of revenue, the National Government is left with

only Ksh 343.0 billion to finance functions such as education, health, defence, roads and energy, among others. This may occasion additional borrowing which may distort the fiscal framework already set out in the 2024 Budget Policy Statement. **Table 4.5** provides an assessment of the extent to which the requirements of Article 203 (1) of the Constitution have been incorporated in estimating the division of revenue between the national and county levels of Government in the FY 2024/25.

**Table 4.5: Summary of considerations under Article 203 (1) of the Constitution**

ITEM DESCRIPTION (Ksh Millions)	FY 2024/25
Ordinary Revenue (Excluding AIA)	2,948,124
National Interest [Article 203 (1)(a)]	106,830
Public debt (Art. 203 [1][b])	1,352,610
Other National obligations (Article. 203 [1][b])	719,092
Emergencies [Art. 203 (1)(k)]	5,000
Equalization Fund [Art. 203 (1) (g) and (h)]	11,400
Of which: a) Allocation in FY 2024/25	7,867
b) Arrears	3,533
Balance to be Shared by the 2 Levels of Government	753,192
County Government allocation from revenue raised nationally-	410,177
Of which: a) Equitable Share of Revenue	391,117
b) Additional allocations	19,060
Balance left for the National Government	343,015

*Source of Data: National Treasury*

320. Based on ordinary revenue projection of Ksh 2,948.1 billion in FY 2024/25, it is proposed that Ksh 2,549.1 billion be allocated to National Government, Ksh 391.1 billion to County Governments as equitable revenue share and Ksh 7.87 billion to the Equalization Fund. The National Treasury proposes to further allocate Ksh 3.53 billion to the Equalization Fund in FY 2024/25 as partial payment to arrears for Equalization Fund. **Table 4.6** shows the computation of the equitable share to County Governments for the FY 2019/20 to FY 2024/25.

87

**Table 4.6: County Governments' Equitable Revenue Share (Ksh Million)**

Budget Item	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25
1. Baseline (i.e. allocation in the previous FY)	314,000	316,500	316,500	370,000	370,000	385,425
Less :-						
Adjustment for RMLF	-	-	-	-	-	10,933
2. Adjusted Equitable share Base	314,000	316,500	316,500	370,000	370,000	374,492
Add:-						
a. Revenue Share (RMLF, Level-5 Hospital Grant, Compensation for foregone user fees and Rehabilitation of Village Polytechnics)	-	-	17,400	-	-	-
b. Adjustments for revenue growth	2,500	-	36,100	-	15,000	16,625
c. Transfer of Library Services	-	-	-	-	425	-
Computed Equitable Revenue Share Allocation	316,500	316,500	370,000	370,000	385,425	391,117

Source of Data: National Treasury

321. The allocation to County Governments' equitable revenue share of Ksh 391.1 billion in FY 2024/25 is informed by the following prevailing circumstances:

- i) The implementation of the fiscal consolidation plan by the Government which is aimed at reducing the fiscal deficit inclusive of grants from 5.6 percent of GDP in FY 2022/23 to 4.9 percent of GDP in FY 2023/24, and further to 3.9 percent of the GDP in FY 2024/25. In this regard, there is need for continuous rationalization of expenditures by eliminating non-core expenditures while improving efficiency in development projects implementation so as to contain expenditure growth, stabilize debt and reduce debt vulnerabilities;
- ii) The National Government continues to solely bear shortfalls in revenue in any given financial year. However, County Governments continue to receive their full allocation despite the budget cuts affecting the National Government entities.
- iii) Increased expenditures for National Government for purposes of debt servicing coupled with a weakening shilling against the dollar;
- iv) Low ordinary revenue collections attributed to the ongoing geopolitical shocks. This includes the Russia-Ukraine war and the US Federal Reserve's interest rate hike which has negatively affected the dollar and the international debt market; and
- v) The proposed equitable share of Ksh 391.1 billion in the FY 2024/25 is equivalent to 24.86 percent of the actual revenues raised nationally, which is in compliance with the Article 203(2) of the Constitution.

#### 4.4.2.2 Application of Article 203 (2) of the Constitution in Division of Revenue.

322. Article 203 (2) the Constitution requires that the equitable share allocation to counties should not be less than fifteen (15) per cent of the last audited revenue raised nationally, as approved by the National Assembly. The above proposed equitable share for FY 2024/25 of Ksh 391.1 billion is equivalent to 24.86 per cent of the actual revenues raised nationally of Ksh 1,573 billion for FY 2019/20, as per

the records of the National Treasury. However, the last audited revenue raised nationally, as approved by the National Assembly is Ksh 1,673 billion implying an overstatement of Ksh 100 billion. This discrepancy has since then been raised with the Office of Auditor-General and the Office of the Auditor-General has since responded to the National Treasury modifying the audited revenues for the FY 2019/20, to Ksh 1,578,035,418,993. On revenue resulting from AMISON Grant of Ksh. 4.6 billion, the Auditor-General has determined that it is within the purview of the National Treasury to determine the sharable and non-sharable revenue/receipts with regard to the UN/AMISOM receipts in accordance with legislation. The modification to Ksh 1,578,035,418,993 and the determination on the AMISON Grant of Ksh 4.6 billion has since been communicated to Parliament for a resolution of the House. 10

323. However, applying the last audited revenue raised nationally, as approved by the National Assembly of Ksh 1,673 billion, the allocation of Ksh 391.1 billion as equitable share translates to 23.38 percent This also within the constitutional threshold of Article 203 (2).

#### 4.4.2.3 Other Policy Considerations in Division of Revenue for FY 2024/25

324. The Government under the Extended Fund Facility (EFF)/Extended Credit Facility (ECF) program supported by the development partners' targets is implementing a fiscal consolidation targeting to reduce the fiscal deficit to 3.9 percent of GDP in FY 2024/25. This is designed to slow down public debt accumulation. 20

325. To achieve this aggressive fiscal consolidation, amid increase in debt servicing costs as a result of exchange rate fluctuations and increased interest rates, the National Treasury has proposed huge expenditure rationalisation in the FY 2024/25 and over the medium term. In order to be within this commitment, the National Treasury, has so far managed to reduce the fiscal deficit to 5.6 percent of GDP in FY 2022/23 and targets to reduce it further to 4.9 percent of GDP in FY 2023/24 through expenditure rationalization and mobilization of additional non-tax revenues from Ministries, Departments and Agencies.

#### 4.4.2.4 Additional Allocations to County Governments in FY 2024/25

326. Article 202 (2) of the Constitution provides that County Governments may be given additional allocations from the National Governments Share of revenue either conditionally or unconditionally; while Article 190 of the Constitution also provides that Parliament shall by legislation ensure that County Governments have adequate support to enable them to perform their functions. 30

327. Further, Section 4 of the County Governments Additional Allocations Act (CGAAA), 2022 requires that additional allocations shall be funds agreed upon by the National Assembly and the Senate during the consideration of the Budget Policy Statement and shall comprise of County Governments' additional allocations financed from either the National Government's Share of Revenue or proceeds of loans or grants from Development Partners. Pursuant to Section 5 of the CGAAA 2022, funds for additional allocations to County Governments shall

be included in the budget estimates of the National Government and shall be submitted to Parliament for approval.

328. In the 2024 Budget Policy Statement, the National Treasury proposes to allocate Ksh 54.7 billion as additional allocations (conditional and unconditional) to County Governments. Out of this, Ksh 19.06 billion will be financed from the National Government's share of revenue, and Ksh 35.66 billion from proceeds of loans and grants from Development Partners. These additional allocations to counties are as follows:

- i) *Proceeds from Court fines amounting to Ksh 7.4 million:* The unconditional additional allocation to beneficiary counties emanating from contravention of 20 county legislation is projected to be Ksh 7.4 million. Whereas Court fines from the National Government are remitted to the consolidated fund, court fines from County legislation ought to be remitted to the County Revenue Fund. Collection of fees, fines, and penalties is to be streamlined across the 47 Counties so that collection of the same is undertaken by the Judiciary and the funds transferred to the National Treasury in line with the law. These funds will be transferred from the exchequer to the respective County Revenue Fund (CRF) Account;
- ii) *20% share of mineral royalties amounting to Ksh 1.055 billion:* The National Treasury proposes to allocate Ksh 1.055 billion to thirty-two (32) counties in FY 2024/25; being the total sum of mineral royalties accrued in the FY 2021/22 as submitted by the State Department for Mining. Additionally, to facilitate transfer of 10% share of mineral royalties due to communities, the State Department for Mining, as the implementing agency has developed draft regulations that have already gone through public participation. This will be disbursed to the communities once the regulations have been finalized;
- iii) *Construction County Headquarters amounting to Ksh 445 million:* To support the construction of county, headquarter offices for five (5) County Governments (Isiolo, Lamu, Tana River, Tharaka Nithi and Nyandarua), the State Department for Public Works, Ministry of Lands, Public Works, Housing and Urban Development has been implementing construction of five (5) county headquarters. These five (5) counties did not inherit adequate facilities that could accommodate the new administration at the onset of devolution and their construction are at different levels of completion. In the FY 2024/25, Ksh 445 million has been proposed for transfer to five counties;
- iv) *County Aggregation and Industrial Parks (CAIP) amounting to Ksh 4.5 billion:* In order to continue operationalizing the National Government's programme on County Aggregation and Industrial Parks (CAIP) Project under the BETA framework, the National Treasury proposes to conditionally allocate Ksh 4.5 billion to CAIP in the FY 2024/25;
- v) *Road Maintenance Fuel Levy (RMFL) amount to Ksh 10.5 billion:* The summit resolution of February 2023 stipulated the need to develop a reform agenda for the road sector so that the RMFL allocation to the County Governments is considered in the FY 2024/25 through a restructured process. In this regard, a consensus has since been reached that, Ksh 10.522 billion



being allocation for maintenance of county roads from RMFL be allocated as a conditional allocation to County Governments;

- vi) *Conditional Allocation for the Community Health Promoters (CHPs) Programme of Ksh 2.5 billion:* During the 10<sup>th</sup> National and County Governments Coordinating Summit, the implementation of the CHPs programme was extended from the current three years to five years under the BETA model of economic revival to accelerate the achievement of universal health coverage through support to the County Governments. To this end, the National Treasury proposes to allocate Ksh 2.5 billion as a conditional grant to all the forty-seven County Governments. County Governments are expected to provide an equal amount of counterpart funding from their equitable share to match the National Government's contribution; 10
- vii) *Transferred Function of Museums amounting to Ksh 30. 2 million:* The Intergovernmental Relations Technical Committee vide Gazette Notice No. 13982 dated 11<sup>th</sup> November 2022 delineated and transferred the Museum function to County Governments. During the unbundling of the function the National Government was carried to have exclusive mandate of "ancient and historical monuments of national importance". Thus eight (8) stations which included: - Meru-Njuri-Njeke Museums, Narok Museum, Garissa Museum, Wajir Museum, Longaingalani Museum, Kisumu Museum, Kitale Museum and Isiolo Museum, were identified to be transferred to the respective County Governments. By principle of resources follow functions, the determined cost of the function amounting to Ksh. 30.2 million shall be transferred to the respective County Governments, as additional unconditional allocations, in FY 2024/25; and 20
- viii) *Conditional allocations financed from proceeds of Loans and grants by Development Partners amounting to Ksh 35.7 billion:* A total of Ksh 35. 7 billion has been proposed for transfer to County Governments as conditional additional allocations financed from proceeds of loans and grants from Development Partners in the FY 2024/25, to support a total of fourteen (14) donor-funded projects as outlined in **Table 4.7.** 30

91

**Table 4.7: Additional Allocations to County Governments for FY 2024/25**

S/No	Additional Allocation	Amount (Ksh)
<b>a) Additional (Conditional &amp; Unconditional) Allocations from the National Government's Share of revenue for Financial Year 2024/2025</b>		
1	Unconditional allocation financed from court fees and fines emanating from contravention of County Legislation	7,431,745
2	Unconditional allocation financed from the 20% Share of Mineral Royalties (due for the FY 2021/22)	1,055,205,814
3	Conditional allocation for the Construction of County Headquarters	445,000,000
4	Conditional allocation for County Aggregated Industrial Parks (CAIP) Programme	4,500,000,000
5	Conditional allocation for Road Maintenance Levy Fund (RMLF)	10,522,211,853
6	Conditional allocation for Community Health Promoters (CHPs)	2,500,000,000
7	Conditional allocation for the Transferred Museum Function	30,184,835
	<b>Total Allocation from GoK</b>	<b>19,060,034,247</b>
<b>b) Additional Conditional Allocations Financed from proceeds of loans and grants from Development Partners for Financial Year 2024/2025</b>		
1	IDA (World Bank) Credit - National Agricultural Value Chain Development Project (NAVCDP)	5,000,000,000
2	IDA (World Bank) Credit - Food Systems Resilience Project (FSRP)	2,250,000,000
3	IDA (World Bank) Credit - Water & Sanitation Development Project	5,700,000,000
4	DANIDA Grant - Primary Health Care in Devolved Context Programme	487,500,000
5	IDA (World Bank) Credit - Second Kenya Devolution Support Program (KDSP II)	1,762,500,000
6	IDA (World Bank) Credit - Financing Locally - Led Climate Action (FLLoCA) Program - County Climate Resilience Investment (CCRI) Grants	3712000000
7	KfW (German Financial Cooperation) Credit - Co-Financing Locally- Led Climate Action (FLLoCA) Program - County Climate Resilience Investment (CCRI) Grant	1,200,000,000
8	KfW (German Financial Cooperation) Credit - Drought Resilience Programme in Northern Kenya (DRPNK) Project	781,969,410
9	IDA (World Bank) Credit - Emergency Locust Response Project (ELRP)	1,900,000,000
10	IFAD - Kenya Livestock Commercialization Project (KeLCoP)	378,730,000
11	IFAD - Aquaculture Business Development Project (ABDP)	245,879,120
12	IDA (World Bank) Credit - Kenya Urban Support Project (KUSP) - Urban Institutional Grant (UIG)	1,575,000,000
13	IDA (World Bank) Credit - Kenya Informal Settlement Improvement Project (KISIP II)	10,600,000,000
14	UNFPA Grant - 10th Country Kenya Programme	65,190,000
	<b>Total Allocation from DPs</b>	<b>35,658,768,530</b>
	<b>Grand Total (both from GoK &amp; DPs)</b>	<b>54,718,802,777</b>

Source of Data: National Treasury

#### 4.4.2.5 Disaggregation of Total Proposed Transfers to the Counties

329. Taking in to consideration the above proposed additional allocations to County Governments in FY 2024/25, the expected total transfers to County Governments is Ksh 445.8 billion. Table 4.8 shows disaggregation of total proposed transfers to the Counties in FY 2024/25 and expected transfers in previous financial year. From the table, there is clear demonstration that there has been consistent growth of total transfers to County Governments over the financial years.

**Table 4.8 Disaggregation of County Governments' Allocation (Ksh Million)**

Type/Level of Allocation	FY 2019/20	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25
A County Equitable Share	316,500	316,500	370,000	370,000	385,425	391,117
B Additional conditional allocations, of which	45,595					
a) Gok Funded	6,505					19,060
b) Allocations from proceeds of loans and grants	39,090	30,204	32,334	31,382	33,192	35,658
C Total County Allocations (A+B)	362,095	353,209	409,871	407,036	424,933	445,835

Source of Data: National Treasury

#### 4.4.2.6 Allocation of Sharable revenue between the two levels of Government and the additional allocations to counties from the National Government share of Revenue

330. It should be noted that, and pursuant to Article 202 (2) of the Constitution, the National Government has over the years out of its own share of revenue provided for additional allocations to County Governments. These allocations, which have been mostly conditional are meant to accelerate achievement of policy priorities of both levels of Government, some of which have international obligations. In so doing, this tends to reduce on the National Governments entitled share of revenue from revenues raised nationally. **Table 4.9** shows additional allocations to County Governments from the National Governments share of revenue raised nationally.

**Table 4.9: Division of Revenue Raised Nationally for FY 2020/21 – 2024/25 (Ksh Million)**

Type/Level of Allocation	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25
a) National Government Share	1,533,700	1,398,799	1,764,516	2,177,867	2,549,140
Of Which					
i) Additional Allocations to counties					
i) Leasing of Medical Equipment	6,205	7,205	5,200	5,862	-
ii) County Aggregated Industrial Parks					4,500
iii) Road Maintenance Levy Fund					10,522
iv) Court fines and fees					7.4
v) 20% Share of Mineral Royalties					1,055
vi) Supplement for construction of County Headquarters	300	332	163	454	445
vii) Community Health Promoters (CHPs)					2,500
viii) Transferred Museums Function					30
ii) Equalization Fund Arrears					3,533
b) 0.5% Equalization Fund	6,500	6,825	7,068	8,369	7,867
c) County Equitable share	316,500	370,000	370,000	385,425	391,117
Total Shareable revenue	1,856,700	1,775,587	2,141,585	2,571,159	2,948,124

Source of Data: The National Treasury

## 4.5 Horizontal Allocation of Revenues

331. Horizontal allocation of equitable share of revenue among the County Governments for FY 2023/24 is based on the Third Basis Formula, which was considered and approved by Parliament in September 2020. The third basis takes into account the following parameters: Population (18%); Health Index (17%);

Agriculture Index (10%); Urban Index (5%); Poverty Index (14%); Land Area Index (8%); Roads Index (8 percent); and Basic Share Index (20%). The County Governments equitable share of revenue for FY 2024/25 are as shown in Table 4.10.

Table 4:10 County Governments Equitable shares for FY 2024/25

County	FY 2023/24		FY 2024/25			Total Equitable Share <sup>3+4+5</sup>
	Total Equitable Share	0.5 (Allocation Ratio <sup>4</sup> )		(Equitable Share <sup>2+3-0.5</sup> Allocation Ratio) <sup>5</sup> (Formula <sup>2+3+4</sup> )		
		Allocation ratio	Equitable Share	Allocation ratio	Equitable Share	
		Column A	Column B	Column C	Column D	
Baringo	6,647,771,186	1.61	2,547,825,000	1.8	4,202,674,960	6,750,499,960
Bomet	6,977,924,070	1.74	2,753,550,000	1.86	4,330,220,756	7,083,770,756
Bungoma	11,111,983,608	2.81	4,446,825,000	2.93	6,832,162,461	11,278,987,461
Busia	7,475,585,295	1.9	3,006,750,000	1.97	4,580,808,705	7,587,558,705
Elgeyo Marakwet	4,801,453,188	1.22	1,930,650,000	1.26	2,942,735,244	4,873,385,244
Embu	5,341,810,744	1.36	2,152,200,000	1.4	3,269,531,176	5,421,731,176
Garissa	8,248,748,101	2.22	3,513,150,000	2.08	4,854,254,856	8,367,404,856
Homa bay	8,128,387,250	2.13	3,370,725,000	2.09	4,876,870,879	8,247,595,879
Isiolo	4,899,041,209	1.34	2,120,550,000	1.22	2,848,109,825	4,968,659,825
Kajiado	8,300,213,576	2.03	3,212,475,000	2.24	5,215,219,332	8,427,694,332
Kakamega	12,912,646,262	3.29	5,206,425,000	3.39	7,899,311,766	13,105,736,766
Kericho	6,703,129,925	1.7	2,690,250,000	1.77	4,113,428,765	6,803,678,765
Kisumu	12,227,552,449	2.98	4,715,850,000	3.31	7,699,917,252	12,415,767,252
Kilifi	12,109,200,498	3.3	5,222,250,000	3.03	7,059,512,633	12,281,762,633
Kirinyaga	5,420,217,528	1.34	2,120,550,000	1.45	3,382,345,819	5,502,895,819
Kisii	9,258,588,608	2.46	3,892,950,000	2.36	5,500,082,943	9,393,032,943
Kisumu	8,361,797,770	2.16	3,418,200,000	2.18	5,067,465,357	8,485,665,357
Kitui	10,829,486,936	2.79	4,415,175,000	2.82	6,575,030,956	10,990,205,956
Kwale	8,584,103,693	2.46	3,892,950,000	2.06	4,808,696,798	8,701,646,798
Lalikipia	5,358,246,532	1.32	2,088,900,000	1.44	3,351,265,089	5,440,165,089
Lamu	3,237,350,707	0.82	1,297,650,000	0.85	1,988,302,778	3,285,952,778
Machakos	9,547,295,309	2.45	3,877,125,000	2.5	5,812,243,198	9,689,368,198
Makueni	8,455,460,962	2.34	3,703,050,000	2.09	4,871,489,327	8,574,539,327
Mandera	11,633,191,646	3.23	5,111,475,000	2.87	6,685,128,044	11,796,603,044
Marsabit	7,560,398,412	2.14	3,386,550,000	1.84	4,278,428,854	7,664,978,854
Meru	9,892,625,172	2.54	4,019,550,000	2.59	6,020,232,825	10,039,782,825
Migori	8,341,446,108	2.14	3,386,550,000	2.18	5,079,048,151	8,465,598,151
Mombasa	7,861,523,826	2.23	3,528,975,000	1.91	4,441,107,262	7,970,082,262
Muranga	7,473,786,703	1.99	3,149,175,000	1.9	4,432,970,897	7,582,145,897
Nairobi	20,072,059,115	5.03	7,959,975,000	5.33	12,415,569,797	20,375,544,797
Nakuru	13,593,424,693	3.31	5,238,075,000	3.68	8,564,705,320	13,802,780,320
Nandi	7,305,294,033	1.69	2,674,425,000	2.04	4,746,900,940	7,421,325,940
Narok	9,196,276,899	2.54	4,019,550,000	2.28	5,306,437,910	9,325,987,910
Nyamira	5,334,198,486	1.52	2,405,400,000	1.29	3,002,183,805	5,407,583,805
Nyandarua	5,905,976,056	1.54	2,437,050,000	1.53	3,555,845,547	5,992,895,547
Nyeri	6,485,331,051	1.71	2,706,075,000	1.66	3,873,950,891	6,580,025,891
Samburu	5,594,312,489	1.46	2,310,450,000	1.45	3,366,145,277	5,676,595,277
Siaya	7,263,019,462	1.83	2,895,975,000	1.92	4,476,465,755	7,372,440,755
Taita Taveta	5,040,427,430	1.34	2,120,550,000	1.29	2,993,039,227	5,113,589,227
Tana River	6,790,702,542	1.85	2,927,625,000	1.7	3,959,871,749	6,887,496,749
Tharaka Nithi	4,378,234,821	1.24	1,962,300,000	1.06	2,476,468,407	4,438,768,407
Trans Nzoia	7,499,822,440	1.82	2,880,150,000	2.03	4,735,425,264	7,615,575,264
Turkana	13,143,946,933	3.33	5,269,725,000	3.47	8,071,521,411	13,341,246,411
Uasin Gishu	8,426,072,635	2	3,165,000,000	2.32	5,392,896,690	8,557,896,690
Vihiga	5,267,026,885	1.47	2,326,275,000	1.29	3,014,437,256	5,340,712,256
Wajir	9,853,656,422	2.7	4,272,750,000	2.46	5,720,742,852	9,993,492,852
West Pokot	6,573,866,403	1.58	2,500,350,000	1.79	4,175,583,239	6,675,933,239
<b>Total</b>	<b>385,424,616,067</b>	<b>100</b>	<b>158,250,000,000</b>	<b>100</b>	<b>232,866,788,147</b>	<b>391,116,788,147</b>

Source of data: The National Treasury

## 4.6 Intergovernmental Fiscal Transfers

332. National Government Ministries Departments and Agencies (MDAs) are responsible for development of frameworks for the management of conditional additional allocations made to beneficiary County Governments. These frameworks outline the total allocation to each conditional additional allocation and the specific amount apportioned to each participating county governments; the conditions to be met by participating County Governments; and the responsibilities of both MDAs, and beneficiary County Governments. The Accounting Officers in the respective MDAs are responsible for submission of these frameworks to the National Treasury for inclusion in the County Governments Additional Allocations Bill (CGAAB), 2024. 10

## 4.7 Equalization Fund

### 4.7.1 Challenges Facing Disbursement of Equalization Fund

333. The Equalisation Fund is established under Article 204 (1) of the Constitution with an allocation of a half percent (0.5%) of all revenue collected by the National Government each year on the basis of most recently audited accounts of revenue approved by the National Assembly.

334. Article 204 (2) of the Constitution provides that the National Government shall use the Equalization Fund only to provide basic services including water, roads, health facilities, and electricity to marginalized areas to the extent necessary to bring the quality of those services in those areas to the level generally enjoyed by the rest of the nation, so far as possible. 20

335. The Second Marginalization Policy was published in 2018. The policy identified a total of 1,424 marginalized areas spread across 366 wards, 111 constituencies in 34 counties as eligible for Equalization Fund. To guide the management and implementation of the Equalization Fund, the PFM (Equalization Fund Administration) Regulations, 2021 were developed. The regulations provide for establishment of three county committees; County Technical Committee, Sub-County Technical Committee, and the Project Identification and Implementation Committee.

336. Two Petitions, Petition number 003 of 2023 and Petition 4 of 2023 dated 31st May, 2023 were filed in the High Court of Kenya at Garissa. The Court cases 30 questioned the criteria of identifying and sharing revenue among the marginalized areas and creation of fake wards as beneficiaries. In the Petitions, the Court ordered that pending the hearing and determination of the applications.

- i) An order restraining the respondents from implementing the Commission on Revenue Allocation Second Marginalisation Policy and Criteria 2022/2023 for sharing revenue amongst marginalised areas;
- ii) Conservatory orders issued restraining the Controller of Budget from authorising the withdrawal of Equalisation funds; and

95

- iii) Conservatory orders issued restraining the National Treasury from disbursing the Equalisation funds.

337. The Court Order on the following Petitions was lifted on 26<sup>th</sup> November, 2023 hence commencement of implementation of the Second Marginalisation Policy in the 34 beneficiary counties. Implementation will be hampered in 15 counties that have not complied with the requirement to establish the three committees anticipated in Regulations 14, 16, and 18 of the PFM (Equalization Fund Administration) Regulations, 2021. The Fund has already written to the counties requesting them to fast track the creation of the committee to allow them access and utilize the funds allocated to them. 10

#### **4.7.2 Equalization Fund Allocation for FY 2024/25**

338. The National Treasury proposes to allocate Ksh 7,867 million to the Equalisation Fund being 0.5% of the actual revenues raised nationally of Ksh 1,573.4 billion for FY 2019/20, as per the records of the National Treasury and Ksh 3,533 million towards payments arising from Equalisation Fund arrears.

### **4.8 Emerging Issues and Policy Interventions**

#### **4.8.1 Integrated County Revenue Management System (ICRMS)**

339. In order to support County Governments, enhance their own source revenue through automation, it is recommended that all the County Governments adopt an Integrated County Revenue Management System. In view of the above, there is an ongoing process to recommend a uniform integrated county revenue management system that will enhance OSR administration and management at the County level for improved service delivery. This will ensure uniformity in the collection, recording, and reporting of own source revenues across the 47 County Governments. Further, it will enable County Governments to generate reliable data for revenue forecasting and revenue enhancement. 20

#### **4.8.2 Challenges in County Governments' Public Finance Management**

340. During the last two cycles of devolution, independent and oversight institutions such as the Office of the Auditor General, the Office of the Controller of Budget as well as the National Treasury among others have reported gaps in the control and management of public resources in county governments. A Multi-Agency Taskforce established in FY 2022/23 identified challenges faced by County Governments in the management of public finances.

341. These challenges include weak linkage between planning and budget formulation, inability of county governments to adhere to the Public Procurement Act resulting in high outstanding pending bills, low development budget absorption, under-performance in own-source revenue, failure to use the prescribed financial systems (such as IFMIS, IPPD among others), non-adherence to fiscal responsibility principles, pilferage of public resources due to manual systems, inadequate understanding of the Office of the Controller of Budget's role in approval of county requisitions, high wage bill, weaknesses in human resource 30

management, weak oversight by County Assembly and a weakened internal audit function among others.

342. The solutions proposed in the report by the Taskforce to address these challenges include; review of the existing policy, legal and regulatory environment to guide planning; strengthening county structures and institutions; adhering to existing provisions of existing policies, legislations, regulations and guidelines guiding economic planning, public finance management and expenditure control; and continuous capacity building of County Government staff among others.

#### **4.8.3 Intergovernmental Agreements in respect of the Additional Conditional Allocations**

343. Section 9 of the CGAAA, 2022 for FY 2021/22 vide Kenya Gazette Supplement No. 74 of 29<sup>th</sup> April made consequential amendments to the PFMA, 2012 to provide for among others, the insertion of Sections 191A to 191E on intergovernmental agreements. These sections require that the National Treasury shall enter into an intergovernmental agreement with the respective County Governments for the transfer of the respective conditional allocations made to the County Governments pursuant to the Act; that such agreements shall set out any conditions that may be attached to the conditional allocations; and that the requisition of funds from the County Revenue Fund (CRF) for the purposes of a conditional grant shall be supported by the intergovernmental agreement approved under Section 191A. 10

344. The Principal Secretary, National Treasury constituted an inter-agency task force to develop a model Intergovernmental Conditional Allocations Transfer Agreement (ICATA). The task force has since finalized the development of the model ICATA and subjected it to nationwide public consultations. Further, on 10<sup>th</sup> November 2023, the National Treasury submitted the draft ICATA to the office of the Attorney General for legal opinion, which was provided on 13<sup>th</sup> December, 2023 and has since been incorporated in the agreement. On 8<sup>th</sup> January, 2024 the National Treasury forwarded the final Model ICATA to the Council of Governors for onward transmission to the county governments for processing in line with Section 191A-191E of the PFM Act, 2012. 20

345. The National Treasury has made a request to Parliament to fast-track the approval of CGAAB, 2023 in order to facilitate the processes leading to timely disbursements and requisition of the funds for additional conditional allocations made to County Governments in FY 2023/24. 30

346. In the FY 2024/25, Parliament is also called upon to expeditiously approve the DORB 2024, CARB 2024 and CGAAB 2024 alongside 2024 BPS. This will assist in eliminating delays in the processing of ICATAs and hence the disbursements and requisition of the funds for additional conditional allocations made to County Governments in FY 2024/25.

## ANNEX 1: ADHERENCE TO FISCAL RESPONSIBILITY PRINCIPLES

1. In line with the Constitution, the Public Finance Management (PFM) Act, 2012, the PFM (National Government) Regulations, 2015 and in keeping with prudent and transparent management of public resources, the Government has adhered to the fiscal responsibility principles as set out in the statute as follows (Table 1):

**Table 1: Performance of Fiscal Responsibility Indicators**

	FY 2021/22	FY 2022/23		FY 2023/24		FY 2024/25		FY 2025/26		FY 2026/27		FY 2027/28		FY 2028/29	
	Actual	Revised Budget	Prel. Actual	Budget	Supp II	BROP'23	BPS'24	BROP'23	BPS'24	BROP'23	BPS'24	BROP'23	BPS'24	BROP'23	BPS'24
	Ksh. Billions														
1.0 Total Expenditure & Net Lending	3,028	3,267	3,221	3,747	3,993	4,257	4,188	4,627	4,553	5,175	5,170	5,786	5,823	6,430	6,430
1.1 Total Ministerial National Govt Expenses	1,961	2,091	1,972	2,375	2,412	2,652	2,542	2,959	2,838	3,341	3,304	3,807	3,844	4,245	4,245
Total Recurrent	2,135	2,384	2,324	2,553	2,739	2,871	2,879	3,040	3,046	3,376	3,408	3,800	3,800	4,211	4,211
CFS (Interest & Pensions)	727	876	850	986	1,166	1,199	1,241	1,233	1,279	1,318	1,351	1,426	1,426	1,567	1,567
Ministerial Recurrent	1,409	1,508	1,474	1,567	1,673	1,672	1,638	1,807	1,767	2,057	2,057	2,374	2,374	2,643	2,643
c/w Wages & Salaries	555	575	572	618	623	681	681	743	743	967	967	1,040	1,040	1,160	1,160
Wages as % National Government Revenues/I	29.8%	27.7%	29.2%	23.8%	23.2%	22.7%	22.4%	21.9%	21.7%	25.0%	25.0%	23.5%	23.5%	23.0%	23.0%
Development	552	583	498	808	738	980	924	1,152	1,091	1,284	1,247	1,433	1,470	1,602	1,602
Development as % Ministerial NG expenditures	28.2%	27.9%	25.2%	34.0%	30.6%	36.9%	35.6%	38.9%	38.2%	38.4%	37.7%	37.6%	38.2%	37.7%	37.7%
Contingencies	-	2	-	3	1	5	5	5	5	5	5	5	5	5	5
1.2 County Allocation	352	436	416	436	424	444	446	473	453	552	552	590	590	654	654
Equitable share	540	450	400	385	385	407	391	436	416	515	515	553	553	617	617
Conditional Grants	12	37	16	44	38	37	55	37	37	37	37	37	37	37	37
2.0 Total Revenues	2,200	2,479	2,361	2,986	3,071	3,408	3,435	3,836	3,833	4,379	4,377	4,978	4,978	5,659	5,659
3.0 Total National Government Revenues (Incl. A-I-A)	1,859	2,079	1,961	2,600	2,685	3,001	3,044	3,400	3,417	3,864	3,861	4,425	4,425	5,041	5,041
4.0 National Government Domestic Borrowing (net)	605	484	460	587	423	504	378	562	563	451	494	441	554	409	409

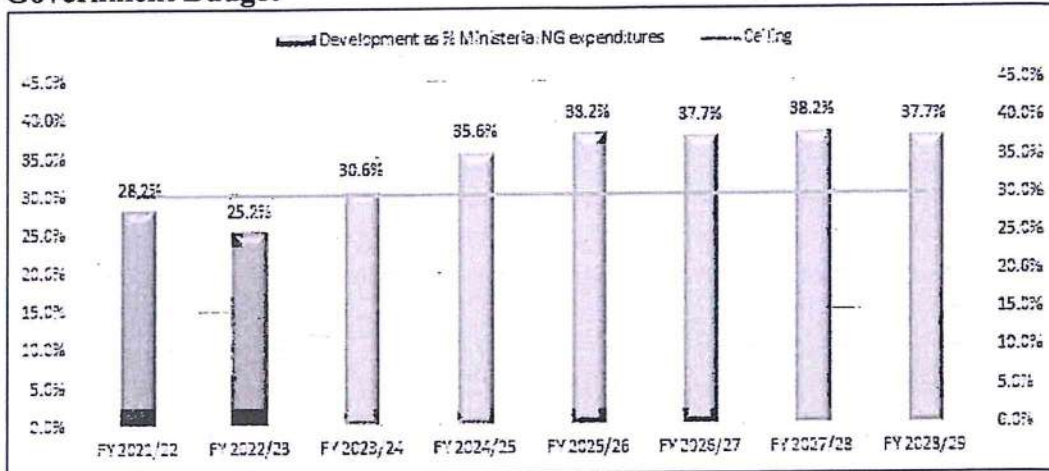
Source: The National Treasury

a) A minimum of 30 percent of the national Government's budget allocated to the development expenditure over the medium term.

2. Consistent with the requirements of the law, the National Government's allocation to development expenditures has been set above the 30 percent of its Ministerial expenditures. The allocation to development expenditures is projected to increase to 35.6 percent in the FY 2024/25 and remain above the recommended threshold over the medium term as shown in Table 1 and Figure 1.



**Figure 1: Development Expenditures as a Percent of Total National Government Budget**



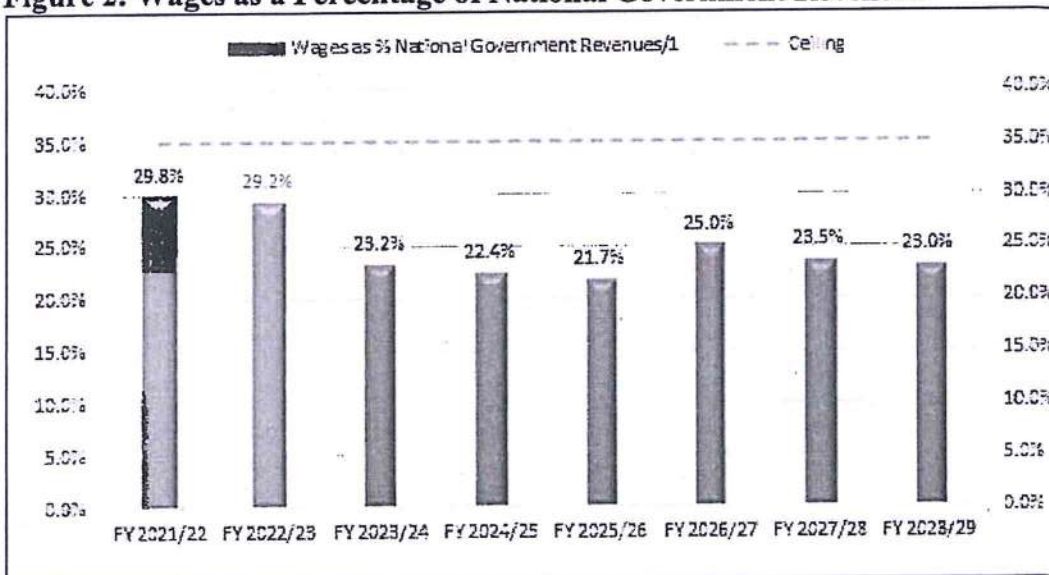
Source: National Treasury

b) The National Government’s expenditure on wages and benefits for its employees not to exceed 35 percent of the national Government equitable share of the revenue.

3. The law requires that the National Government’s expenditure on the compensation of employees (including benefits and allowances) shall not exceed 35 percent of the National Government’s equitable share of the revenue raised nationally plus other revenues generated by the National Government pursuant to Article 209 (4) of the Constitution. In conformity to this regulation, the National Government share of wages and benefits to revenues was 29.2 percent in the FY 2022/23, and is projected to decline to 23.2 percent in the FY 2023/24, and to further decline to 21.7 percent by FY 2025/26 (Figure 2).

10-

**Figure 2: Wages as a Percentage of National Government Revenues**



1Wages: For teachers and civil servants including the police. The figure includes the funds allocated for the pension contributory scheme

Source: National Treasury

99

- c) **Over the medium term, the National Government's borrowings shall be used only for the purpose of financing development expenditure and not for recurrent expenditure.**

4. The Government is committed and continues to adhere to the principle as per the PFM Act section 15(2) (c) which requires that national Government's borrowed resources be used only for purposes of financing development and not for recurrent expenditure. In the FY 2022/23, a total of Ksh 493.7 billion was spent on development expenditure. This amount is projected to increase to Ksh 717.8 billion in FY 2023/24, Ksh 877.8 billion in FY 2024/25 and Ksh 1,427.9 billion over the medium term. 10

- d) **Public debt and obligations shall be maintained at a sustainable level as approved by Parliament for National Government**

5. The public debt and obligations remain at sustainable levels though with high risk of debt distress due to global shocks that has led to a slowdown of economic growth (*IMF Country Report No. 23/266-July 2023*). Under external Debt Sustainability Analysis (DSA), the Present Value of the external debt to GDP ratio remain sustainable through 2026. However, the Present Value of external debt to exports and debt service to export ratios breach the sustainability thresholds even in the medium term due to subdued growth in exports. These ratios are expected to improve with economic growth recovery boosting growth in Kenya's export sector expected to improve external public debt sustainability ratios. 20

6. The debt service to revenue ratio in 2024 is worsened by the maturity of USD 2.0 billion international sovereign bond in June 2024 (**Table 2**).

**Table 2: Kenya's External Debt Sustainability**

Indicators	Thresholds	2022	2023	2024	2025	2026	2027
PV of debt-to-GDP ratio	40	27.8	29.5	30.5	29.4	28.0	27.1
PV of debt-to-exports ratio	180	228.3	220.4	210.8	195.6	181.7	170.3
PPG Debt service-to-exports ratio	15	21.2	22.0	31.1	21.7	22.0	19.7
PPG Debt service-to-revenue ratio	18	14.8	16.6	24.9	18.2	19.2	17.6

Source: *IMF Country Report No. 23/266-July 2023*

7. Overall, the Present Value (PV) of debt to GDP ratio is projected to remain above the 55 percent sustainability threshold in the medium-term but will gradually improve by 2027 (**Table 3**). The improvement in debt levels is anchored to fiscal consolidation through broadening the tax revenue base and minimizing overall expenditures tied to implementation of the fiscal reforms under the IMF Extended Credit Facility program.

**Table 3: Kenya's Public Debt Sustainability Analysis**

Indicators	Benchmark	2022	2023	2024	2025	2026	2027
		Projections					
PV of debt-to-GDP ratio	55	63.1	64.4	61.9	60.2	58.3	56.6

Source: *IMF Country Report No. 23/266-July 2023*

8. As the economy recover from global shocks and fiscal consolidation continues, Kenya's debt indicators are expected to improve. However, Kenya debt sustainability is vulnerable to exogenous shocks e.g., export and exchange rate.

**e) Fiscal risks shall be managed prudently**

9. Kenya's risk remains high due to volatile international commodity prices, tighter external financing conditions, elevated inflation and continued drought. The Government established a Fiscal Risk Committee which will continue playing a key role in identification, quantification and management of fiscal risks going forward. In addition, the Government through the recently established pending bills verification committee will minimize accumulation of arrears to suppliers; and with continued fiscal consolidation programme, debt vulnerabilities will be reduced and ensure a stronger debt sustainability position going forward. The Government will also continue reviewing its macroeconomic forecasts and regularly to ascertain the impact of the macroeconomic projections and their implications on the budget. Potential fiscal risks arising from contingent liabilities, including from Public Private Partnership projects among others are taken into account and a contingency provision made to cushion the economy from unforeseeable shocks.

**f) A reasonable degree of predictability with respect to the level of tax rates and tax bases shall be maintained, taking into account any tax reforms that may be made in the future**

10. On the principle of maintaining a reasonable degree of predictability with respect to the level of tax rates and tax bases, the National treasury will implement the National Tax Policy that will guide tax reforms and ensure certainty in taxation and the Medium Term Revenue Strategy (MTRS) which contains revenue-raising tax policy and administrative reforms to be undertaken over the medium-term. Further, the Government continues to carry out tax reforms through modernization and simplification of tax laws in order to lock in predictability and enhance compliance within the tax system.

101

## ANNEX 2: STATEMENT OF SPECIFIC FISCAL RISKS

### Introduction

1. The economy is expected to remain strong and expand by 5.5 percent in both 2023 and 2024. The growth outlook will be supported by broad-based private sector growth, resilient services sector, and the rebound in agriculture. The growth outlook will be reinforced by implementation of policies and reforms under the priority sectors of the Bottom - Up Economic Transformation Agenda geared towards economic turnaround and inclusive growth. There are, however, downside risks to the macroeconomic outlook envisaged in this 2024 BPS emanating from domestic as well as external shocks.
2. For prudent management of risks, the PFM Act, 2012 requires the preparation of a "Statement of Fiscal Risks. Thus, this section provides an assessment of fiscal risks that the Kenyan economy is exposed to that may affect the achievement of the macroeconomic targets and objectives detailed in this BPS. The fiscal risks arise from assumptions that underline fiscal projections, the dynamics of public debt, and operations of state corporations, contingent liabilities, financial sector vulnerabilities and natural risks. Emergence of these risks could make it difficult for the Government to actualize and sustain macroeconomic policies detailed in this BPS. Thus, this section also details the measures that the Government is implementing to mitigate such risks.

### Risk in Changes in Macroeconomic Assumptions

3. Macroeconomic variables play a key role in the formulation of the budget as they form a baseline in revenue projections and determine the Government's spending priorities. The macroeconomic assumptions underlying the FY 2024/25 budget entail an estimated growth of 5.5 percent in both 2023 and 2024. Inflation is projected to gradually ease towards the Government target range of 5.0 percent in FY 2024/25 and remain within the target range over the medium term. The External sector is expected to remain relatively stable despite the projected global economic slowdown, geopolitical fragmentation and uncertainties and tight global financial conditions. The unexpected changes in the macroeconomic projections in this BPS may pose risks to the projected revenue and expenditure.
4. Table 1 summarizes the likely impact of changes in the 2024 BPS outcomes on the fiscal projections.

102

**Table 1: Fiscal Sensitivity to Key Macroeconomic Variables, FY 2024/25 – 2027/28 (Ksh billion)**

	Revenue				Expenditures				Budget Balance			
	2024/25	2025/26	2026/27	2027/28	2024/25	2025/26	2026/27	2027/28	2024/25	2025/26	2026/27	2027/28
Reduction in real GDP (%) by 1.0 % point	-12.3	-13.5	-14.9	-16.6	-6.3	-6.9	-7.7	-7.7	-6.0	-6.6	-7.2	-8.0
Increase in inflation rate (%) by 1.0 % Point	12.5	13.9	15.5	17.3	6.9	7.6	8.5	8.5	5.6	6.2	7.0	7.9
Depreciation in exchange rate (Ksh/US\$) by 10%	21.3	24.1	27.9	32.3	3.8	4.3	4.8	4.8	17.5	19.8	23.1	26.9
Increase in value of imported goods (US\$) by 10%	14.0	-4.9	-5.3	-5.8	0.0	0.0	0.0	0.0	14.0	-4.9	-5.3	-5.8
All shocks Combined	35.9	16.5	19.7	23.1	4.0	4.5	5.1	5.1	31.9	12.0	14.6	17.4

*Source of Data: National Treasury*

5. The reduction of the projected real GDP in 2024 by one percent (from 5.5 percent to 4.5 percent) has the adverse impact of reducing revenue collection by Ksh 12.3 billion in FY 2024/25. Due to the reduced revenues, expenditures would decline by Ksh 6.3 billion resulting to an increase in fiscal deficit by Ksh 6.0 billion in the same period. This shock would persist over the medium term with the decline in revenues more than the decline in expenditures leading to a higher than projected fiscal deficit.

6. A shock of a one percent increase in the projected inflation rate for FY 2024/25, from 5.0 percent to 6.0 percent, would result in an increase in revenues and expenditures by Ksh 12.5 billion and Ksh 6.9 billion, respectively in FY 2024/25. The higher revenues compared to expenditures would result to an improvement of the fiscal deficit by Ksh 5.6 billion in FY 2024/25. The impact of the shock would persist over the medium term thereby improving the fiscal deficit by Ksh 7.9 billion by FY 2027/28.

7. A 10 percent depreciation of the Kenya shilling to the dollar would have a higher impact on the revenues as compared to the expenditures. The revenues and expenditures would increase by Ksh 21.3 billion and Ksh 3.8 billion respectively in FY 2024/25 thereby reducing the projected fiscal deficit by Ksh 17.5 billion. The effect of this shock would persist over the medium term with the increase in revenues offsetting the increase in expenditures leading to a lower than projected fiscal deficit. Fiscal deficit would reduce by an estimated Ksh 26.9 billion by FY 2027/28.

8. A shock of 10 percent increase in the value of imported goods in the FY 2024/25 would increase revenue collection by Ksh 14.0 billion in the same period. However, the shock would have a negative effect on revenue collection over the medium term due to change in consumer behaviour. The shock would not significantly affect expenditures.

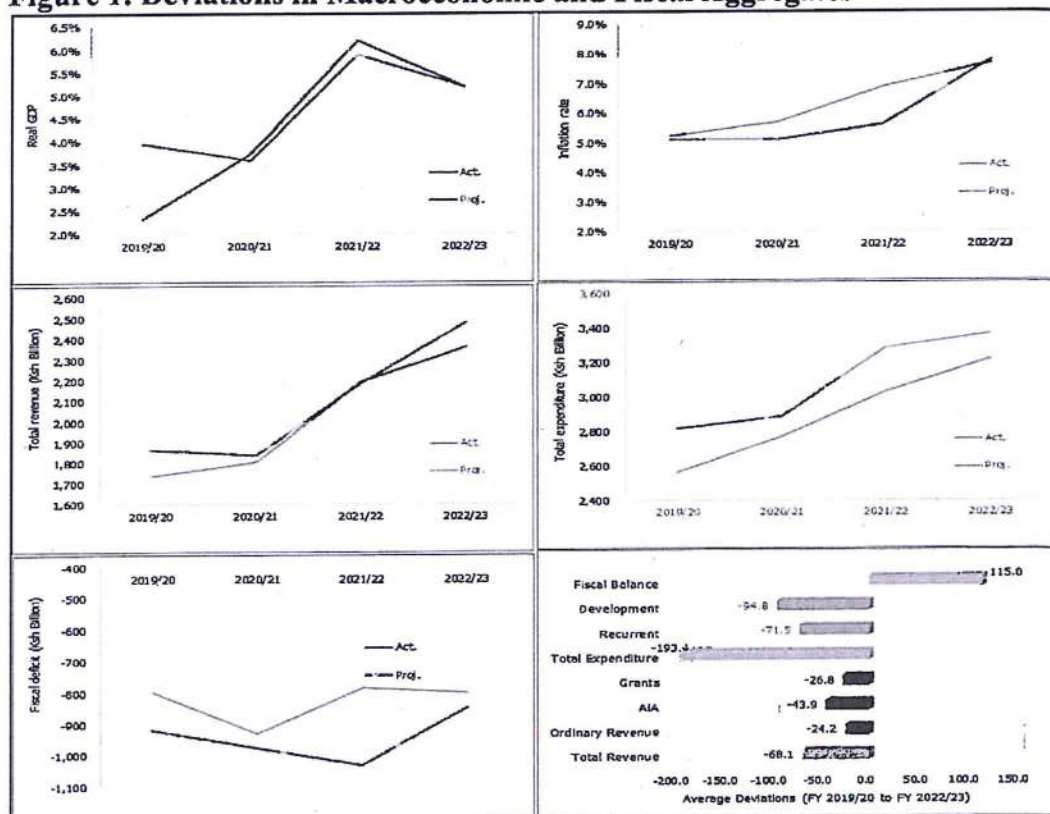
9. Overall, if all the four shocks were to hit the economy concurrently in the FY 2024/25, revenues would increase by Ksh 35.9 billion as the movements in inflation and exchange rate would offset the risk posed by a slowdown in real GDP

growth. The adverse impact of the shocks to expenditures would be significantly lower compared to the increase in revenues thereby eliminating the fiscal risk on the budget from macroeconomic shocks.

### Assessment of Past Forecast Accuracy of Underlying Assumptions and Budgetary Aggregates

10. Overall, the actual real GDP growth and revenue projections have been within their respective set targets for the past three years with minimal deviations as shown in Figure 1. However, expenditures have been performing below the target leading to a lower than targeted fiscal deficit.

Figure 1: Deviations in Macroeconomic and Fiscal Aggregates



Source: National Treasury

11. Over the period 2019/20-2022/23, the average deviation between the assumed and provisional actual real GDP growth rates was -0.3 percentage point with a standard deviation of 0.8 percentage point. With respect to inflation assumptions, the standard deviation was at 0.7 percentage point over the four years, with the largest deviation being recorded in FY 2021/22 at 1.3 percent mainly due to the unanticipated inflationary pressures resulting from prolonged drought and external pressures (Table 2).

12. The actual performance of fiscal aggregates against their targets was mainly below target. Total revenue between FY 2019/20 and FY 2022/23 fell short of its target by an average of Ksh 68 billion. This shortfall was from both ordinary revenues by Ksh 24 billion and Ministerial A-I-A of Ksh 44 billion. The average deviation of total expenditure and net lending between FY 2019/20 and FY

104

20

2022/23 was an underspending of Ksh 193 billion. This shortfall was mainly due to lower absorption in development expenditures by Ksh 95 billion and recurrent expenditures by Ksh 72 billion. The lower recurrent spending is in line with the fiscal consolidation programme by the Government that targets to curtail unproductive expenditures.

13. The lower-than-projected spending on development expenditure poses a risk to the projected economic growth and fiscal program. In order to prevent this risk from materializing and improve efficiency of public investments, the National Treasury froze initiation of new capital projects until the completion of the ongoing ones. The Public Investment Management Unit will ensure that all capital projects are planned, appraised, and evaluated before funds are finally committed in the budget.

**Table 2: Deviations in Macroeconomic and Fiscal Aggregates**

	2019/20			2020/21			2021/22			2022/23*			2023/24	Average	Standard
	Proj.	Act	Dev.	Proj.	Act	Dev.	Proj.	Actual	Dev.	Proj.	Pre/Actual	Dev.	Proj.	Deviations	Deviations
<b>I. Key Macroeconomic Assumptions</b>															
Real GDP	4.0%	2.3%	-1.6%	3.6%	3.7%	0.1%	5.9%	6.2%	0.3%	5.2%	5.2%	0.0%	5.5%	-0.3%	0.8%
Inflation Rate (avg)	5.1%	5.2%	0.1%	5.1%	5.7%	0.6%	5.6%	6.9%	1.3%	7.8%	7.7%	-0.1%	6.3%	0.5%	0.7%
Exchange rate (Ksh/US\$), avg		104.2			108.0			115.8			153.4				
Export growth		-0.3%			7.7%			10.6%			8.0%				
Import growth		-5.6%			4.9%			16.4%			3.9%				
<b>II. Fiscal Aggregates (in Ksh billion)</b>															
Total Revenue	1,865	1,737	-128	1,838	1,804	-34	2,192	2,200	8	2,479	2,361	-118	3,071	68	77
Ordinary Revenue	1,615	1,573	-42	1,579	1,562	-17	1,852	1,918	66	2,145	2,041	-104	2,625	24	46
Aia	249	164	-86	259	242	-18	340	282	-59	333	319	-14	446	44	61
Grants	35	20	-15	73	31	-41	63	31	-32	42	23	-19	47	27	31
Total Expenditure	2,818	2,565	-252	2,887	2,769	-118	3,286	3,028	-258	3,367	3,221	-146	3,903	193	219
Recurrent	1,777	1,645	-132	1,820	1,813	-6	2,227	2,135	-92	2,368	2,312	-56	2,760	72	93
Development	678	595	-84	666	557	-111	658	540	-117	561	494	-67	718	95	105
Domestic	450	397	-53	418	390	-28	411	378	-33	337	344	7	438	27	39
External	228	198	-31	251	167	-84	239	162	-78	194	138	-56	250	62	68
Net Lending	1	1	0							16	12	-4	19	1	0
Equalization Fund							7		-7	14		-14	11	5	4
County Allocation	362	325	-37	399	399	0	401	352	-49	436	416	-21	424	27	35
Balance	918	797	-121	976	929	-47	1,031	785	-246	846	800	-46	785	115	161
Financing	918	791	-127	976	950	-26	1,031	748	-283	846	770	-76	785	128	180
Net Foreign Financing	324	340	16	418	323	-94	343	143	-201	363	311	-52	362	83	128
Net Domestic Financing	594	450	-144	559	627	68	688	605	-83	484	460	-24	423	46	103
<b>Memo Items:</b>															
Nominal GDP (Ksh billion)	10,197	10,526	330	11,169	11,256	88	12,844	12,698	-146	14,336	14,274	-61	16,132	52	214

Source: National Treasury

14. The Kenyan economy slowed down to a growth of 5.2 percent in FY 2022/23 from a growth of 6.2 percent in FY 2021/22 mainly due to three major constraints affecting the economy during the period. These included: Russia and Ukraine conflict that disrupted global trade leading to increased fuel, fertiliser and food prices; the lingering effects of the COVID-19 pandemic; and a severe drought witnessed in the region and most parts of the country.

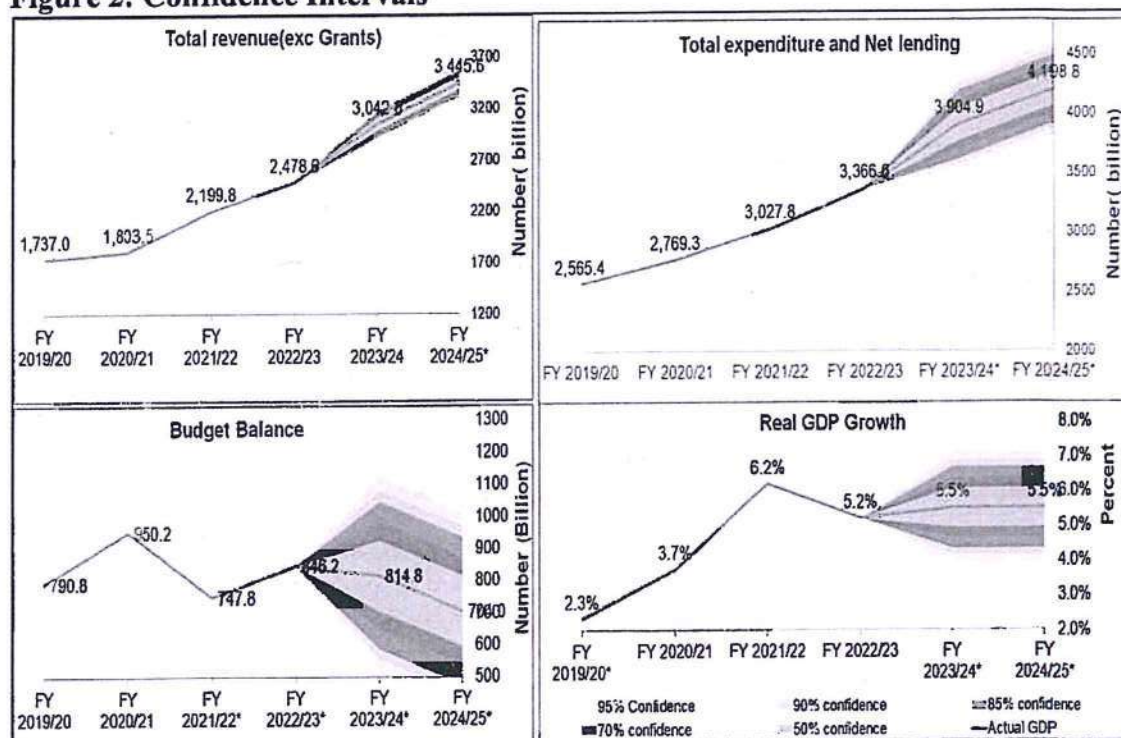
15. The economy is projected to recover to 5.5 percent in FY 2023/24 with a 95 percent confidence level ranging between 7.1 percent and 3.9 percent at 0.8 percent standard deviation. The economy is projected to grow by 5.5 percent in FY 2024/25 at a growth range of around 7.1 percent and 3.9 percent using the same standard deviation at 95 percent confidence interval (Figure 2).

16. There is a 95 percent chance that the forecasted total revenue of Ksh 3,042.8 billion in FY 2023/24 will be within the actual revenue range of Ksh 3,216.8 billion

and Ksh 2,868.7 billion and a 50 percent possibility between Ksh 3,103.1 billion and Ksh 2,982.4 billion with a standard deviation of Ksh 77 billion. The Projected revenue of 3,445.6 billion for FY 2024/25 will fall at an actual range of Ksh 3,619.8 billion and Ksh 3,271.5 billion at 95 percent confidence interval.

17. The forecasted expenditure of Ksh 3,904.9 billion in FY 2023/24 has a 95 percent chance to range between Ksh 4,303.4 billion and Ksh 3,506.3 billion with a 219.0 billion standard deviations. The expenditure is projected to increase further in FY 2024/25 to Ksh 4,198.8 billion and to range between Ksh 4,597.4 billion and Ksh 3,800.3 billion at 95 percent confidence interval. The fiscal deficit will therefore fall between Ksh 1,129.2 billion and Ksh 500.4 billion in FY 2023/24 and between Ksh 1,018.3 billion and Ksh 389.6 billion in FY 2024/25 at a 95 percent confidence interval.

**Figure 2: Confidence Intervals**



Source of Data: National Treasury

**SPECIFIC FISCAL RISKS**

18. This section covers specific fiscal risk that Kenya faces and elevates the importance of effective risk management. The specific fiscal risks include:

- a) Fiscal Risks Associated with Public Debt;
- b) Fiscal Risks Arising from Accumulation of National Government’s Pending Bills;
- c) Crystallization of Contingent Liabilities;
- d) Fiscal Risks Related to Devolution;
- e) Climate Change Related Fiscal Risks to the Economy; and
- f) Other fiscal risks.



### a) Fiscal Risk Associated with Public Debt

19. Kenya debt sustainability is vulnerable to exogenous shocks e.g, export revenue patterns and exchange rate. To reduce debt vulnerabilities, the Government has committed to reliance of concessional borrowing to finance capital investments. Additionally, a steady and strong inflow of remittances and a favourable outlook for exports will play a major role in supporting external debt sustainability.

20. Performance of the economy and public revenues has a direct impact on the debt sustainability. A slowdown in the growth of the economy worsens the debt sustainability indicators. Market pressures due to the monetary tightening in the USA and Europe have led reduced access to the international capital market. This may hinder the Government from mobilizing resources to finance the budget. 10

21. High inflation rates stimulated high interest rates environment both international and domestic markets making borrowing costly. This may hinder the Government in performing liability management operation on its debt portfolio and also increase the debt service costs on the existing portfolio. The Government will continue to monitor the market conditions before performing any liability management operations.

22. Limited access coupled with illiquid international capital market and domestic market may hinder the Government's plan to finance the FY2024/25 Budget. Thus, there is need for adequate prioritizations and rationalization in the budget should resources not be available. In addition, the on-going implementation of reforms in the domestic debt market are expected to support Government against the downside's risks emanating from external debts as it provides an alternative, though costlier funding source. 20

23. The risk of depreciation of Kenya shilling against major currencies may increase in the cost of debt service as over 50 per cent of the total debt portfolio is from foreign currencies. High interest rates have implication on the fiscal policy as a larger proportion of revenue may be used to service debt. There is also increased refinancing risk as most investors of new debt are increasingly preferring short-term maturities due to uncertainty in the movement of interest rates. 30

24. Materialization of fiscal risks and contingent liabilities arising from state-owned enterprises debts remain a key risk to the budget. Continuous monitoring of these exposures is critical to avert any risks before they materialize.

### b) Fiscal Risks Arising from Accumulation of National Government Pending Bills

25. The Public Finance Management Act, 2012, Section 74(4) d states that an Accounting Officer engages in improper conduct in relation to a national government entity if the officer fails, without reasonable excuse to pay eligible and approved bills promptly in circumstances where funds are provided for in the budget. According to Section 94 (1) failure to make any payment as and when due 4

by a State organ or public entity is an indicator of a serious material breach or persistent material breach of the measures established under the Act.

26. Despite numerous Circulars and Directives by the National Treasury requiring Ministries, Departments and Agencies (MDAs), State Corporations to prioritize payment of pending bills and the requirement that pending bills should form the first charge of the budget, the level of compliance has been very low.

27. The total outstanding National Government pending bills as at 30<sup>th</sup> June, 2023 amounted to Ksh 567.7 billion comprising of Ksh 443.8 billion for State Corporations and Semi-Autonomous Government Agencies, and Ksh 123.9 billion in respect of Ministries, Departments and Agencies as shown in **Table 3 and 4.** 10

28. The National Treasury has devised a strategy to avoid the persistent problem of pending bills. The strategy involves verification of the current stock of arrears and identifying their underlying causes. This will help the Government to bring the issue of pending bill to finality by identifying system changes necessary to avoid accumulation of arrears. Towards this end, the National Treasury with the approval of the Cabinet has established a Pending Bills Verification Committee to carry out a thorough analysis of the stock of National Government pending bills.

29. The Committee will identify causes of pending bills and make recommendations on policy, legal framework and procedures it considers appropriate to curtail escalation of and avoidance of pending bills. The Committee will also identify the causes of the pending bills and make recommendations to the National Treasury on the necessary actions to be taken for satisfactory disposal or settlement of the identified pending bill. 20

30. In addition to the above, there are other special areas pending bills which include:

- a) Pensions Arrears: The Retirement Benefits Regulations require pension contributions be remitted to a custodian or guaranteed fund within ten days of every calendar month. According to the Retirement Benefits Authority, as at 30<sup>th</sup> June, 2023, the outstanding public sector schemes contributions amounted to Ksh 40.8 billion excluding penalties and interest charged for late remittances. 30
- b) Legal liabilities: The legal arrears are handled by a taskforce in the Office of the Attorney General and Department of Justice. As at June, 2020, the total legal bills amounted to Ksh 150.95 billion. It is notable that legal bills are very fluid and some have since been paid while others have arisen from court and arbitral awards.
- c) Tax Refunds: The Kenya Revenue Authority had reported tax refund claims amounting to Ksh 16.34 billion as at 31<sup>st</sup> October, 2023 comprising of Ksh 2.75 billion income tax and Ksh 13.58 billion in respect of VAT.

158

**Table 3: Status of Pending Bills for National Government MDAs as at 30<sup>th</sup> June, 2023**

Vote	Ministry/ State Department/ Agency	Latest Submission	Pending Bills as at 30th June 2023					Total Outstanding Pending Bills as at 30th June 2023
			Prior Years				Bills incurred in the FY2022-23	
			Pending bills as at 30th June 2022	Amount Paid in the FY2022/23	Ineligible Bills	Outstanding Bills as at 30th June 2023		
			A	B	C	D	E=B-C-D	
	Kshs	Kshs	Kshs	Kshs	Kshs	Kshs		
1011	The Presidency - Nairobi Metropolitan Service (NMS)	11.08.2023	14,814,008,078	3,160,111,169	-	11,633,866,939	-	11,633,866,939
1011	The Presidency - HQ	11.08.2023	1,218,953,935	220,971,363	-	997,982,572	863,097,522	1,861,080,094
1012	Office of the Deputy President	11.08.2023	-	-	-	-	38,825,588	38,825,588
1013	Office of the Prime Cabinet Secretary	14.08.2023	-	-	-	-	-	-
1014	State Department for Parliamentary Affairs	14.08.2023	-	-	-	-	-	-
1015	State Department for Performance and Delivery Management	14.08.2023	-	-	-	-	-	-
1016	State Department for Cabinet Affairs	11.08.2023	-	-	-	-	-	-
1017	State House	11.08.2023	-	-	-	-	-	-
1026	State Department for Internal Security & National Administration	24.07.2023	3,909,623,109	2,960,585,216	-	949,057,893	1,174,477,557	2,123,535,450
1023	State Department for Correctional Services	25.07.2023	552,039,519	-	-	552,039,519	1,034,308,932	1,586,348,421
1024	State Department for Immigration and Citizen Services	14.07.2023	-	-	-	-	1,313,268,464	1,313,268,464
1025	National Police Service	26.07.2023	1,816,970,330	-	-	1,816,970,330	4,271,997,382	6,088,967,712
1032	State Department for Devolution	25.07.2023	1,232,854,859	-	-	1,232,854,859	15,392,227	1,248,247,066
1036	State Department for the ASALs and Regional Development	27.07.2023	3,134,097,714	21,407,995	-	3,112,689,829	5,554,205,913	8,666,855,722
1041	Ministry of Defence	17.07.2023	1,755,046,240	1,755,046,240	-	-	9,787,307,827	9,787,307,827
1053	State Department for Foreign Affairs	11.09.2023	701,161,996	-	-	701,161,996	1,366,179,926	2,067,341,901
1054	State Department for Diaspora Affairs	17.07.2023	-	-	-	-	92,184,582	92,184,582
1064	State Department for Vocational and Technical Training	14.07.2023	-	-	-	-	-	-
1065	State Department for Higher Education and Research	26.07.2023	40,163,357	-	-	40,163,357	118,933,328	159,096,685
1066	State Department for Basic Education	26.07.2023	429,299,232	-	-	429,299,232	6,796,280	436,095,512
1071	The National Treasury	17.07.2023	2,856,352,873	-	-	2,856,352,873	3,853,552,157	6,709,905,030
1072	State Department for Economic Planning	08.08.2023	3,513,983	-	-	3,513,983	1,676,000	5,189,983
1082	State Department for Medical Services	03.08.2023	5,009,170,468	-	-	5,009,170,468	951,751,059	5,960,921,568
1083	State Department for Public Health and Professional Standards	21.07.2023	-	-	-	-	2,623,143,712	2,623,143,712
1091	State Department for Roads	09.08.2023	-	-	-	-	-	-
1092	State Department for Transport	12.07.2023	6,147,242,276	-	-	6,147,242,276	102,018,029	6,249,260,305
1083	State Department for Shipping and Maritime Affairs	07.07.2023	9,000,200	-	-	9,000,200	1,776,980	10,777,180
1065	State Department for Public Works	14.08.2023	803,809,557	-	-	803,809,557	244,625,870	1,048,435,427
1094	State Department for Housing & Urban Development	26.07.2023	1,366,954,769	-	-	1,366,954,769	1,457,911,203	2,824,865,972
1109	State Department for Water & Sanitation	09.08.2023	27,468,127	-	-	27,468,127	197,163,581	224,628,708
1104	State Department for Irrigation	14.08.2023	-	-	-	-	-	-
1332	State Department for Forestry	09.08.2023	-	-	-	-	-	-
1331	State Department for Environment & Climate Change	10.08.2023	122,145,115	-	-	122,145,115	71,011,391	193,156,506
1112	State Department for Lands and Physical Planning	08.08.2023	597,490,014	-	-	597,490,014	178,171,516	745,661,530
1122	State Department for Information Communication Technology & Digital	26.07.2023	189,528,495	-	-	189,528,495	445,152,791	634,681,286
1123	State Department for Broadcasting & Telecommunications	15.07.2022	1,305,256,429	-	-	1,305,256,429	-	1,305,256,429

109

Vote	Ministry/ State Department/ Agency	Latest Submission	Pending Bills as at 30th June 2023					Total Outstanding Pending Bills as at 30th June 2023
			Prior Years				Bills incurred in the FY2022-23	
			Pending bills as at 30th June 2022	Amount Paid in the FY2022/23	Ineligible Bills	Outstanding Bills as at 30th June 2023		
			A	B	C	D	E=B-C-D	
	Kshs	Kshs	Kshs	Kshs	Kshs	Kshs		
1132	State Department for Sports	02.08.2023	1,142,662,980	-	-	1,142,662,980	18,163,794	1,160,823,774
1134	State Department for Culture and Heritage	24.07.2023	48,055,414	12,132,042	-	35,923,372	10,684,942	46,588,314
1152	State Department for Energy	25.07.2023	-	-	-	-	949,489	949,489
1162	State Department for Livestock Development	24.07.2023	189,631,207	157,424,438	-	32,206,769	212,210,571	244,417,341
1199	State Department for Crop Development	24.07.2023	12,568,346,395	-	-	12,568,346,395	3,505,719,806	16,074,066,200
1166	State Department for the Blue Economy and Fisheries	31.07.2023	109,199,310	-	-	109,199,310	47,541,111	156,740,421
1173	State Department for Cooperatives	25.07.2023	-	-	-	-	11,401,098	11,401,098
1174	State Department for Trade	08.08.2023	38,452,189	-	-	38,452,189	14,341,415	52,793,604
1175	State Department for Industry	01.08.2023	25,104,402	-	-	25,104,402	57,721,927	82,826,329
1176	State Department for Micro, Small and Medium Enterprises Development	11.08.2023	-	-	-	-	-	-
1177	State Department for Investment Promotion	17.07.2023	-	-	-	-	-	-
1184	State Department for Labour and Skills Development	21.07.2023	24,619,334	-	-	24,619,334	81,792,785	106,412,009
1185	State Department for Social Protection and Senior Citizens Affairs	01.08.2023	82,045,719	-	-	82,045,719	11,344,825	93,390,344
1192	State Department for Mining	27.07.2023	46,393,688	-	-	46,393,688	59,781,478	106,175,166
1193	State Department for Petroleum	21.07.2023	239,835,911	37,078,514	-	172,759,397	608,000	173,367,397
1202	State Department for Tourism	26.07.2023	17,848,628	-	-	17,848,628	53,168,575	71,017,203
1203	State Department for Wildlife	17.07.2023	2,715,987,161	-	-	2,715,987,161	-	2,715,987,161
1213	State Department for Public Service - NYS	28.04.2022	14,578,189,581	-	-	14,578,189,581	-	14,578,189,581
1213	State Department for Public Service - HQ	21.07.2023	1,478,128,901	1,319,549,680	-	158,579,220	407,807,072	568,386,292
1212	State Department for Gender and Affirmative Action	21.07.2023	5,032,816	-	-	5,032,816	21,947,908	26,980,724
1135	State Department for Youth Affairs and the Arts	31.07.2023	66,186,271	-	-	66,186,271	26,091,836	92,278,107
1221	State Department for East African Community	24.07.2023	16,472,880	916,980	-	15,555,900	51,054,183	66,610,083
1252	State Law Office and Department of Justice	20.07.2022	52,782,046	-	-	52,782,046	-	52,782,046
1261	The Judiciary	31.07.2023	223,235,174	-	-	223,235,174	335,383,675	558,624,649
1271	Ethics and Anti-Corruption Commission (EACC)	17.07.2023	35,051,073	-	-	35,051,073	124,008,114	159,059,187
1281	National Intelligence Service (NIS)	10.07.2023	-	-	-	-	-	-
1291	Office of the Director of Public Prosecutions	24.07.2023	31,017,794	-	-	31,017,794	147,063,154	178,080,949
1311	Office of the Registrar of Political Parties	14.07.2023	37,246,027	-	-	37,246,027	1,461,649	38,707,676
1321	Witness Protection Agency	21.07.2023	-	-	-	-	2,416,383	2,416,383
2011	Kenya National Commission on Human Rights	18.07.2023	12,888,513	-	-	12,888,513	28,103,404	40,991,917
2021	National Land Commission	31.06.2023	531,496,362	-	-	531,496,362	216,090,046	747,586,408
2031	Independent Electoral and Boundaries Commission	03.08.2023	1,804,595,670	-	-	1,804,595,670	3,618,165,970	5,422,761,640
2041	Parliamentary Service Commission	14.08.2023	152,814,517	-	-	152,814,517	240,414,048	393,228,565
2042	National Assembly	20.07.2023	260,665,501	277,197,196	-	13,468,103	17,163,826	30,631,929
2043	Parliamentary Joint Services	03.08.2023	540,153,628	-	-	540,153,628	876,315,563	1,416,469,191
2044	Senate	14.08.2023	-	-	-	-	-	-
2051	Judicial Service Commission	17.07.2023	18,781,934	-	-	18,781,934	3,594,274	22,376,209
2061	Commission of Revenue Allocation	07.07.2023	2,767,933	-	-	2,767,933	6,561,772	9,329,705
2071	Public Service Commission	11.07.2023	60,607,562	58,733,174	1,874,388	-	34,009,400	34,009,400
2081	Salaries and Remuneration Commission	07.07.2023	744,160	-	-	744,160	2,303,651	3,047,811
2091	Teachers Service Commission	01.08.2023	-	-	-	-	2,578,127,886	2,578,127,886
2101	National Police Service Commission	11.08.2023	527,260	-	527,260	-	-	-
2111	Auditor General	24.07.2023	107,574,901	-	-	107,574,901	28,118,784	135,693,685
2121	Controller of Budget	24.07.2023	-	-	-	-	2,969,000	2,969,000
2131	Commission of Administrative Justice	24.07.2023	5,533,492	448,700	-	5,084,792	6,694,879	11,779,671
2141	National Gender and Equality Commission	24.07.2023	-	-	-	-	-	-
2151	Independent Policing Oversight Authority	08.08.2023	448,179	-	-	448,179	-	448,179
	<b>GRAND TOTAL</b>		<b>85,283,269,047</b>	<b>10,001,580,619</b>	<b>2,401,648</b>	<b>75,279,286,780</b>	<b>48,626,145,880</b>	<b>123,905,432,661</b>

Source: The National Treasury

110

**Table 4: Pending bills for the Month of June 2023**

<b>Payables</b>	<b>Principal Amount</b>	<b>Penalties Interest</b>	<b>Total Amount</b>
Projects - Contractors	154,480,154,766.27	4,562,516,255.92	159,042,671,022.19
Projects - Consultancy	3,042,108,482.50	11,867,878.07	3,053,976,360.57
Projects - Land Compensation	42,545,609,736.06	0	42,545,609,736.06
Projects - Retention/Contract Monies	1,410,743,809.82	0	1,410,743,809.82
Consumables & General Supplies	31,072,554,614.26	0	31,072,554,614.26
Other Contracted Services	43,144,759,407.21	0	43,144,759,407.21
Utility-Water	312,123,389.39	0	312,123,389.39
Utility-Electricity	1,577,003,357.06	0	1,577,003,357.06
Pension Arrears - Employer Contribution	41,920,894,023.67	134,294,244.92	42,055,188,268.59
Staff Loan Deductions	1,781,223,776.99	0	1,781,223,776.99
Sacco Deductions	2,358,663,356.36	145,432,051	2,504,095,407.36
Personnel Emolument Arrears	8,924,842,092.35	0	8,924,842,092.35
Dividends	781,220,517.30	0	781,220,517.30
Surpluses	226,733,866	0	226,733,866.00
Cash Call	100,000,000	0	100,000,000.00
Directors' Fees	4,372,327.10	0	4,372,327.10
Fees	792,633,312	0	792,633,312.22
NHIF	33,291,184.07	0	33,291,184.07
NSSF	165,588,031.05	15,875,809	181,463,840.05
HELB Deductions	1,014,674.59	0	1,014,674.59
Levies	1,551,553,567.18	0	1,551,553,567.18
Land Rates	197,936,088.55	41,864,299	239,800,387.55
Lease/Rental	55,969,384.05	0	55,969,384.05
Taxes: Value Added Tax	8,832,395,646.25	1,898,141	8,834,293,787.25
Taxes: PAYE	20,001,311,748.04	157,096,149	20,158,407,897.04
Taxes: Corporation Income Tax	673,742,417.00	0	673,742,417.00
Taxes: Customs	61,292,143.25	0	61,292,143.25
Taxes: Excise	10,668,111,585.00	0	10,668,111,585.00
Taxes: Withholding Tax	1,493,504,162.12	681,882	1,494,186,044.12
Licenses	408,987,662.64	0	408,987,662.64
Pension Actuarial Deficit	4,171,996,241	579,612,000	4,751,608,241.00
Court Awards	87,481,243.88	0	87,481,243.88
Litigation Costs	499,640,427.39	0	499,640,427.39
Principal Payments - GoK On-Lent	15,067,192,727	920,400,699.79	15,987,593,426.94
Principal Payments - GoK Direct Loan	1,414,022,629.46	0	1,414,022,629.46
Interest Payments - GoK Direct Loans	13,954,407,279	0	13,954,407,279.00
Principal Payments - Commercial Loans	7,487,528,079.79	1,094,464,705	8,581,992,784.78
Interest Payments - Commercial Loans	6,376,024,199.19	3,093,683,385.35	9,469,707,584.54
Bank Overdraft	5,112,898,649.85	0	5,112,898,649.85
Letter of Credit	280,650,284	0	280,650,284.00
<b>Total</b>	<b>433,072,180,889.06</b>	<b>10,759,687,500.04</b>	<b>443,831,868,389.10</b>

Source: National Treasury

lll

### c) Crystallization of Contingent Liabilities

31. Contingent liabilities are potential liabilities that may occur depending on the outcome of uncertain future event. They are not reflected in the BPS financial position but must be given adequate disclosure. However, a contingent liability is only recorded in the financial statements if the contingency is probable and the amount of the liability can reasonably be estimated. Contingent liability can be explicit or implicit. Explicit contingent liabilities are specific Government obligations established by law or a contract authorized by law. The Government is legally mandated to settle such an obligation when it becomes due. On the other hand, implicit contingent liabilities represent a moral obligation or expected burden for the Government not in the legal sense but based on public expectations and political intervention.

32. Contingent liabilities are frequently not recorded directly in the budget and thus are not subjected to budgetary oversight. These could lead to poor quantification of Contingent Liabilities and the possibility of large unplanned expenditures if the guarantee crystallizes. There is need therefore to monitor these contingent liabilities to avoid fiscal difficulties in the budget year in the event they happen.

#### i. Government Owned Enterprises (GOEs)

33. Under the State Corporations Act, Government Owned Entities, formally known as state corporations, have legal capacity to contract debts and other liabilities to finance their requirements. Approvals to procure such loans however, must be obtained from the Parent/line Ministry with concurrence from the National Treasury as per the requirement of the State Corporations Act. Government loans to GOEs are either direct or on-lent. Direct Loans refers to the loans that the Government loans to GOEs from the Exchequer resources while On-Lent Loans refer to those loans that the Government borrows on behalf of GOEs.

34. While Government at times has stake in GOEs and GLCs, its contractual obligations may be limited. However, due to strategic nature of those entities in view of the national interest and the overall impact of their failure to the economy, the Government may be morally obliged to bail out these entities in case they are in financial distress. This may pose serious fiscal risk and challenge to budget implementation.

#### *Governance*

35. The Government has continued to strengthen GOEs corporate governance through Mwongozo guidelines and subsequent trainings on the same, to improve governance. Further, the Government recommended establishment and operationalization of audit committees and risk management frameworks for Government entities including the GOEs. The Public Finance Management Act and the Public Audit Act are geared towards enhancing effective financial management and oversight for efficient delivery of strategic objectives by Government entities. In addition, the Capital Market Authority issued Regulations under the Capital Market Act (Cap 485) on code of governance requirements to be

observed by all companies listed at the Nairobi Securities Exchange (NSE) including listed state corporations. These have enhanced accountability, transparency and full disclosure of companies listed at the NSE part of which include the listed GOEs and GLCs.

### ***Privatization***

36. Government Owned Enterprises face a number of challenges including: i) Inadequate capital for investments and working capital due to dwindling Government Resources to invest in those entities; ii) Limited expertise in Government on business and Commercial operations; iii) use of outdated technology due to lack of capital for investments; iv) Dual mandate of regulatory and commercial functions in some entities; and v) Government crowding out the private sector in production of good and services hence lack of competitiveness leading to inefficiencies; among others. 10

37. In order to address the challenges faced by Government Owned Enterprises, the Government has embarked on the process of privatising and restructuring of these entities. Following the enactment of the Privatisation Act 2023, the Government is desirous to fast-track the privatisation of Government-Owned Enterprises (GOEs) and Government Linked Corporations (GLCs). As part of the process, the Government has identified and proposed eleven (11) entities to be included in the 2023/2024 Privatisation Program, in line with the provisions of the Privatisation Act 2023. This privatisation is geared towards the Government's efforts for fiscal consolidation and spurring economic development through: 20  
Raising additional revenue; Reduction in the demand for Government resources; Improvement of regulatory framework in the economy by unbundling regulatory and commercial functions among some entities; and Improvement of efficiency in the economy by encouraging more participation of the private sector hence make the economy more responsive to market forces and competition; among others.

### ***Fiscal Risk Analysis of Government Owned Entities (GOEs)/State Corporations***

38. GOEs can be a major source of fiscal risk to public finances if they underperformed financially. In FY 2021/2022, fiscal risk analysis was performed on a sample of eighteen GOEs whose report identified and disclosed the fiscal risk exposure to the Government. 30

39. In the eighteen major GOEs, detailed financial evaluations and the assessment highlighted a number of fiscal risks that could materialize. These stem primarily from liquidity challenges resulting from unfavorable revenue and economic performance. They also reflected a high liquidity risk demonstrated by their quick ratios. Current ratios being less than one, implying their inability to service short term obligations as and when they fall due. Subsequently, fourteen (14) GOEs were found to have accumulated sizeable arrears/pending bills. These GOEs were chosen, given their size and strategic importance to the economy and society, thus holding high implicit risk to Government in that many of them are too strategic to fail.

40. In 2023/2024 FY, the National Treasury is undertaking financial evaluation for fifty (50) GOEs, using their 2022/2023 FY audited financial statements and report the put come to the fiscal risks Committee by end of June 2024. Further, the 30

National Treasury has customized the IMF Health Check tool in the Government Investments Management Information System (GIMIS) that is being applied in the process of undertaking the financial analysis.

41. Debt stricken GOEs, constitute a potential source of fiscal Risk. However, the Government is cautious in issuance of guarantees and other support measures to state corporations upon such requests. However, as the principal owner of all the GOEs, the Government is naturally the underwriter of the risks that they face.

42. The National Treasury has guaranteed a number of GOEs and GLCs. As at 30<sup>th</sup> June, 2023, only three entities had their loans guaranteed by the Government amounting to approximately Ksh 170.229 billion, amongst which are the Kenya Airways loans which were as a result of novation of the Company's loans taken over by the Government.

43. Total undischarged GoK Loans to GOEs stood at Ksh 961.683 billion by the end of the FY 2022/23 compared with Ksh 916.762 billion reported in FY 2021/22. The commercial loans borrowed by some of the Government Owned Entities on the strength of their balance sheets amounted to Ksh 105.523 billion in FY 2022/23.

44. Pending Bills among the state corporations remain high, with records showing Ksh 443.596 billion as at 30<sup>th</sup> June, 2023. Some of the major pending bills include; Unpaid contractors' fees for capital projects at Ksh 159.043 billion, undischarged tax obligations amounting to Ksh 41.890 billion and unremitted employer pension contributions at Ksh 42.055 billion

## ii. Public Private Partnerships (PPP) Projects

45. As one of the strategic and sustainable approaches towards managing the current pressed fiscal space in meeting the planned development and investment targets of the government, Public Private Partnerships is key in realizing fiscal affordability and sustainability for public infrastructure funding. This is by enabling government access to a more diversified less risky funding, off-balance sheet financing, providing Government with flexibility to re-allocate its own revenues to the urgently needed infrastructure development projects. The Government has dedicated its efforts in supporting projects with greater economic impact like on low-cost housing, provision of water, improving agricultural production, promoting decent healthcare services, ports, roads, energy sectors and the development of Special Economic Zones (SEZs) as per the BETA priorities.

46. Currently, the PPP Directorate has a pipeline total of 31 projects at various stages of the PPP project cycle, with most of them being at procurement stage. With these PPP pipeline projects, the Government envisages mobilizing Ksh 50 billion within the next FY 2024/2025. With the Government's focus in achieving most of the infrastructural developments through the PPP framework, it plans to work with the private sector to develop projects in priority sectors which include Water, Transport, Ports, Housing, Industrial parks, Renewable energy, Agriculture, ICT, Aviation, Hospitals, amongst others.

47. The summary of the targeted sector projects is here below:



- a) The Water sector - rolling out of water and irrigation projects for the next financial years has started with a number currently under the project development stages. Most of the projects in water and irrigation are being prepared as Privately Initiated Proposals (PIPs);
- b) Energy sector - there are two projects under PIPs to support electricity transmission lines currently under project development phase (i) Africa 50 covering 165 km-400KV along Losuk – Lessos; Kisumu – Musaga 72 KM -220KV. The Project is estimated to cost USD.313.25 million (Ksh 44 billion); (ii) Adani Energy Solutions Ltd planning to do 197KM – 400KV along Gilgil – Thika – Mala – Konza; 101KM-220KV along Rongai – Keringut- Chemosit; 90KM – 132KV along Menengai – Olkalau – Rumuruti; 400/220KV sub stations at Lessos and Rongai; and 132/33KV thur –dibuoro substation. Estimated cost USD 907 million (Ksh 127 billion); and
- c) Roads and Transport sector – Mobilization of private sector resources to develop and expand key trunk networks in the country, such as the Mombasa-Nairobi Express way, which is at advanced stages of preparations, having been granted 1st stage approval by the PPP Committee recently and therefore ready to progress to project development phase. Estimated cost is USD 3.6 billion. There is also JKIA Terminals 1E and 2E which are at Feasibility Study phase, with the project implementation targeted to commence in FY 2024/2025. The Roads and Transport projects are intended to alleviate congestion, improve safety and enhance connectivity to boost trade and investment.

48. There are potential fiscal risks associated with the Public Private Partnerships projects including possible breaching of contract obligations, unfunded additional obligations and those stemming from movements in inflation and exchange rate. To mitigate these risks, the Government will reduce implementation bureaucracy, strengthen PPP institutions, improve governance, promote the framework for balancing risks with affordability and value for money while guaranteeing rapid service delivery through cutting down execution timelines and promoting local contents for greater national value capture in PPPs.

49. As part of de-risking public investments in respect to capital mobilization for infrastructure development, the Government will continue to provide Government Support Measures (GSMs) to private investors in PPP projects in the form of Letters of Support (LOSs), Partial Risk Guarantees and Indemnity Agreements. To date, a total of fifteen projects have been issued with GSMs.

#### **d) Fiscal Risks Related to Devolution**

50. County Treasuries are required under Section 107 of the PFM, Act 2012 to manage their public finances in accordance with the principles of fiscal responsibility. Among the fiscal responsibility principles set out in Section 107 (2) is the requirement for the County Treasury to manage its fiscal risks prudently. A number of fiscal risks that require prudence in its management by the County Governments are as follows:

- i) County Governments borrowing through overdrafts from commercial banks and other loan facilities (using different names for the financial securities) without guarantee from the National Treasury;
- ii) Pending Bills for Statutory deductions more especially pensions posing a huge challenge to the social security of the pensioners who may retire without a pension;
- iii) Delays in enactment of crucial laws for the County Governments (both at the county level and the National Government level);
- iv) Overreliance of the County Governments in equitable share which exposes the counties to fiscal shocks occasioned by delays or failure by the National Treasury to raise the projected revenues;
- v) Below potential OSR which results to unfunded budgets resulting to accumulation of pending bills; and
- vi) Accumulation of pending bills over time.

#### e) Climate Change Related Fiscal Risks to the Economy

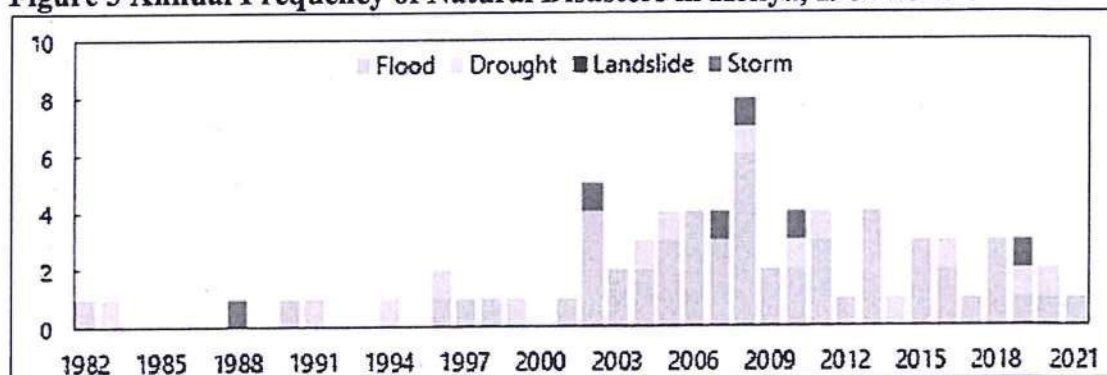
51. Kenya is currently experiencing the effects of climate change, and this is seen predominantly in increasing temperatures and increased rainfall variability among other impacts including sea level rise. Average temperatures in Kenya have increased by just over 1 degree Celsius since the 1950s. The National Environment Management Authority of Kenya (NEMA) <sup>1</sup> notes that the average number of hot days and nights per year have increased by about 15.6 percent and 31 percent respectively between 1960 and 2003. Kenya has also experienced increased rainfall variability with an increase in both extreme rainfall events, droughts and a shortening of seasons coupled by an overall decrease in annual rainfall amounts over most parts of the country. Precipitation patterns vary across Kenya, with highland areas receiving heavy rains, while low plateaus and arid areas remain relatively dry. Since the 1960s, rainfall variability has increased, exacerbating the contrast between the highland wetter regions in the west and lowland dryer areas to the east. Observed extreme rainfall events have become more common and intense, with more prolonged periods of drought in arid areas since 2000 (NEMA, 2015).

52. The main climate-related natural disasters that adversely affect the population include droughts, and floods. Major droughts now recur roughly every 3-5 years compared to a 7-year cycle observed in the past. **Figure 3** shows the recent increase in these events. These events lead to increased food insecurity, water scarcity, reduced economic output, loss of life, loss of biodiversity, resource-based conflicts especially among pastoral communities, and increased damage to infrastructure. A recent severe drought was experienced in 2022-23 (following 5 consecutive failed

<sup>1</sup> National Environment Management Authority (2015). Kenya- Second National Communication to the United National Framework Convention on Climate Change. URL: <https://unfccc.int/sites/default/files/resource/Kennc2.pdf>

rainy seasons), comes after severe flooding in 2019-20 (KMD 2022; 2023). Recent trends have shown an uptick in these events, and climate change is expected to further increase the frequency and intensity of these events.

**Figure 3 Annual Frequency of Natural Disasters in Kenya, 1982-2022**



Source: IMF Climate change dashboard, EM-DAT<sup>[1]</sup>, CRED / UCLouvain, Brussels, Belgium.

53. Climate impacts are spread variably across the country, with geographical features in Kenya resulting in diverse climates across the country. In general, coastal areas are warmer than the milder temperatures in inland and highland areas. Precipitation is affected by altitude, as well as by teleconnections with sea surface temperatures that increasingly are warming, tropical cyclones and advection from the Congo basin. As such the western highland regions experience higher precipitation, while eastern low-lying regions receive lower rainfall amounts on average annually. Therefore, a thorough examination of the evidence and impact of climate change across various regions will be important in determining the impact of specific fiscal risks and appropriate mitigation and adaptation measures.

### Long Term Climate Change Fiscal Risks

54. Rising temperatures associated with climate change will have increasing long term impacts for both the economy and sustainability of public finances, increasing fiscal risks. The impact of higher temperatures on economic growth is assessed based on empirical analysis of past temperature changes on growth, and the consequent impact of slower economic growth on fiscal projections to assess building fiscal pressures. The assessment of the impacts of climate change is undertaken through to the end of the century, given the slow onset nature of climate change impacts on the economy and public finances, which builds slowly over time to result in significant, compounding impacts.

55. The analysis demonstrates the impact of four different scenarios of increasingly severe climate change impacts, against a baseline which reflects the continuation of the current economic and fiscal path in the absence of climate change. Table 5 describes the scenarios and expected increases in temperature globally and for Kenya.

116

[1] The International Disaster Database (EM-DAT), available at: <https://www.emdat.be>

Table 5 Climate Change Scenarios Kenya

Scenario	Description	Temperature Change Degrees Celsius	
		2021-2050	2021-2100
<b>Paris:</b> SSP1-2.6	This scenario aims to limit the global temperature rise to below 2° C above pre-industrial levels by the end of the century.	1.0	1.0
<b>Moderate:</b> SSP2-4.5	In this scenario, emissions follow current trends, peaking and stabilizing by the end of the century. It assumes that countries will maintain their current climate mitigation policies but will not take additional actions to meet their Paris Agreement commitments.	1.2	1.6
<b>High:</b> SSP3-7.0	Countries reduce their current climate mitigation efforts, resulting in limited energy efficiency enhancements and continued reliance on fossil fuels.	1.4	2.2
<b>Hot:</b> SSP3-7.0, 90 <sup>th</sup> percentile	This scenario follows the emissions path of the high scenario. However, it adopts the 90th percentile of temperature increase among all climate models for the SSP3-7.0 emissions, rather than the average temperature projection.	1.9	2.9

56. The impact of climate change reduces GDP growth through lower productivity growth, through several transmission channels, with more severe climate impacts associated with larger reductions in GDP. Key transmission mechanisms include:

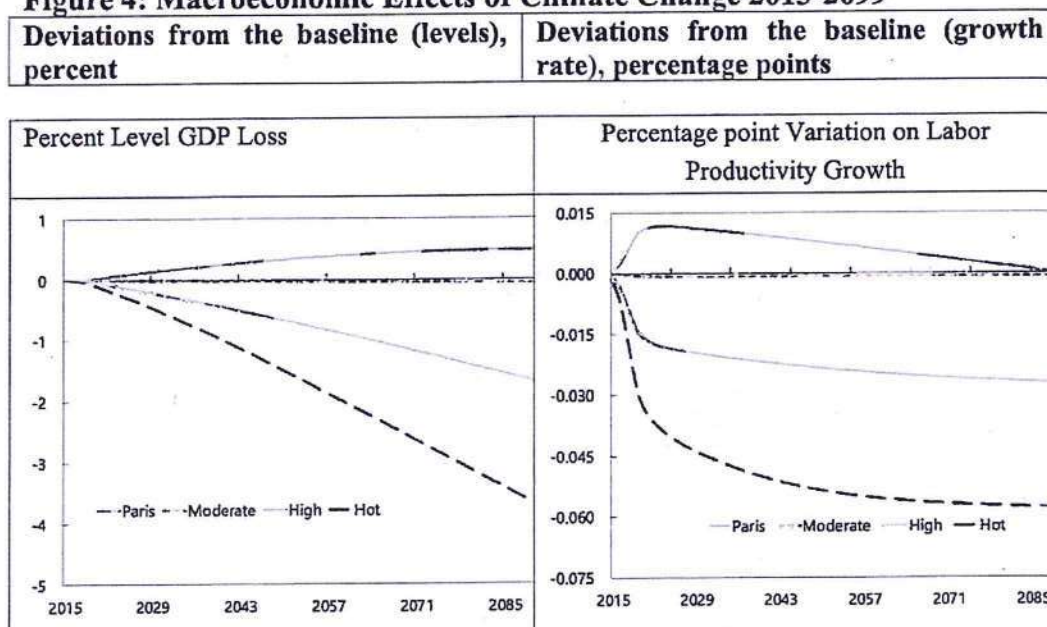
- i) Higher depreciation of the public and private capital stock. Higher and more volatile temperatures and changing precipitation will degrade roads, power transmission lines, machinery and equipment and floods and landslides can damage or destroy assets, all of which degrade the capital stock.
- ii) More frequent and severe climate induced natural disasters. Kenya experiences floods, droughts and landslides. Increases in the frequency and severity of these events would be expected to lead to more adverse economic outcomes.
- iii) Reduced hours worked and effort. Hotter days can reduce productivity, through decreases in the number of days or hours employees are able to work effectively and may also result in worsening health outcomes (including through increased spread of diseases such as malaria, cholera and typhoid).
- iv) Other longer-term effects on economic structure and productivity. For example, in a relatively worse climate scenario, certain sectors such as high value-added agriculture (reduction in yields) or tourism may be affected.

57. The assumptions underlying the analysis is labour productivity growth at 3 percent, inflation 4.9 percent, effective interest rate for public debt at 7.2 percent and assuming the debt to GDP ratio is maintained at around 55 percent of GDP in line with the debt anchor.

**Macroeconomic Impacts of Climate Change**

58. Apart from the Paris scenario which sees a marginal improvement in the level of GDP and growth (increasing the level of GDP by 0.5 percentage points by 2100, under each of the other climate change scenarios there is a compounding decrease in annual GDP growth and the level of GDP. Although reductions in growth rates are small in any given year, this compounds significantly. Under the hot scenario, GDP would be 4.2 percentage points lower than the baseline by the end of the century (Figure 4). This is in line with estimates impacts for other similar countries in the region. 10

**Figure 4: Macroeconomic Effects of Climate Change 2013-2099**

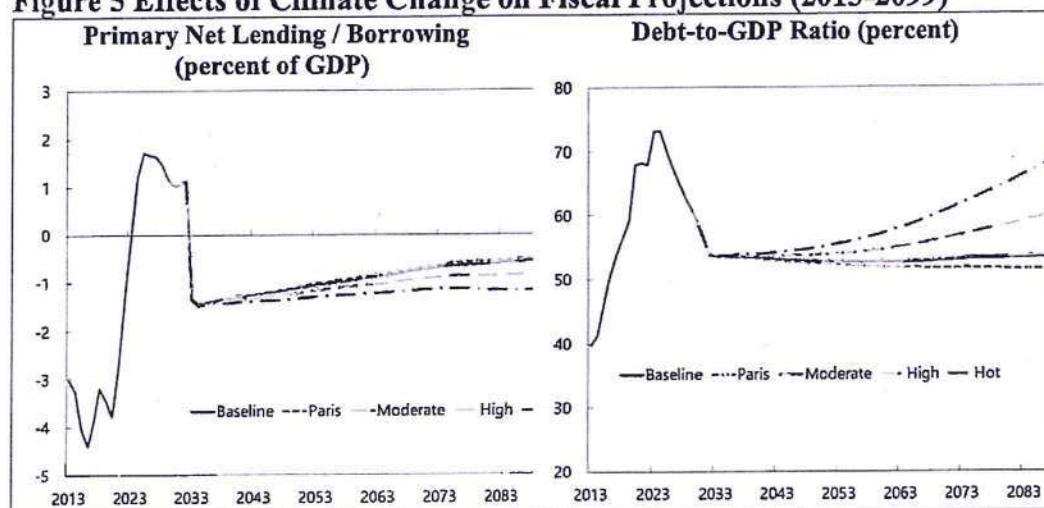


Source: Q-CRAFT

**Effects of Climate Change on Fiscal Projections**

59. Based on an assumption of unchanged expenditure against baseline, and declining revenue in line with the lower levels of GDP, the primary deficit increases under each scenario except Paris, leading to an increase in net borrowing and the debt to GDP ratio (Figure 5). The resulting deterioration would require a level of fiscal consolidation (either expenditure cuts or revenue increases) to ensure finances remain on a sustainable path. Given the need for increased spending on infrastructure and human capital to promote growth, this could prove challenging. 20

118

**Figure 5 Effects of Climate Change on Fiscal Projections (2013-2099)**

60. Under the hot scenario, the primary balance in 2073 increases from -0.4 percent of GDP under the baseline to -1.2 percent of GDP in 2100. Under the baseline and Paris scenarios the debt to GDP ratio declines in line with the target of 55 percent of GDP in net present value terms, which would also be consistent with national debt anchor. However, the compounding effect of higher fiscal deficits over an extended period of time would see the debt to GDP ratio breach the current target under the hot and high scenarios, and under the hot scenario would rise by 22 percentage points against baseline, reaching 76 percent by the end of the century, similar to the current level (Table 6). 10

**Table 6: Fiscal Impacts of Climate Change**

Primary balance (% of GDP)	2024	2050	2075	2099
Baseline	1.2	-1.1	-0.7	-0.4
Paris		-1.1	-0.6	-0.4
Moderate		-1.1	-0.7	-0.4
High		-1.2	-0.9	-0.8
Hot		-1.3	-1.1	-1.2
Debt-to-GDP ratio (%)	2024	2050	2075	2099
Baseline	73.3	52.8	53.2	54.1
Paris		52.4	51.7	51.6
Moderate		52.8	53.3	54.4
High		53.8	57.3	63.8
Hot		55.0	62.7	76.0

61. The baseline scenario requires a modest fiscal consolidation of around 0.1 percentage points of GDP over the projection period to ensure a stabilization of the debt to GDP ratio. Climate change would raise this burden to 0.7 percent of GDP (Table 7). 119

**Table 7 Recalibration Requirements to Stabilize the Debt to GDP Ratio**

Debt Stabilizing Primary Balance	2024			2050			2075			2099		
	PB	PB*	PB Gap	PB	PB*	PB Gap	PB	PB*	PB Gap	PB	PB*	PB Gap
Baseline	1.2	-2.8	-4.0	-1.1	-1.2	0.0	-0.7	-0.6	0.0	-0.4	-0.4	0.1
Paris				-1.1	-1.2	-0.1	-0.6	-0.6	0.0	-0.4	-0.3	0.0
Moderate				-1.1	-1.2	0.0	-0.7	-0.6	0.0	-0.4	-0.4	0.1
High				-1.2	-1.2	0.0	-0.9	-0.7	0.2	-0.8	-0.4	0.3
Hot				-1.3	-1.2	0.2	-1.1	-0.7	0.4	-1.2	-0.5	0.7

All in percent of GDP. PB = primary balance. PB\* = debt-stabilising primary balance.  
PB Gap = fiscal consolidation needed to stabilise the debt-GDP ratio. Negative value indicates fiscal space available before debt starts rising.

### Specific Fiscal Risks from Climate Change

62. Specific fiscal risks arise from the exposure of the government budget to natural hazards and climate change risks. A specific risk relates to a situation that may or may not occur but if it did could negatively impact assets, liabilities and government spending and revenues. Unlike the slow onset risks described above, the impact of specific fiscal risks could be significant in the short-term. There are two key types of fiscal risks of concern:

- i) Direct physical risks, for example landslides causing damage to key public infrastructure. These risks can be acute because of extreme weather events, or chronic because of gradual changes to the environment that could result in an increase in the number or severity of natural hazards.
- ii) Transition risks that may arise when transitioning to a carbon neutral economy which could affect the value of government assets, and the potential need for support to adjust operations to climate neutral production, outside of current transition plans.

63. The vulnerability to specific fiscal risks increases when the capacity to absorb risks is low. Financially weak PCs and, more generally, thinly capitalized sectors such as agriculture and mining do not have the financial capacity or access to finance to absorb the financial consequences of natural hazards and climate change risks, and the cost is more likely to fall on the Government.

64. A complete understanding of specific fiscal risks and assessment of their relevance to fiscal policy and the budget requires a comprehensive assessment of climate change risks across the general government sector and for all public corporations.

### Key Economic Sectors in Kenya Sensitive to Climate Change

- (a) Agriculture: As the backbone of Kenya's economy, the agriculture sector, highly reliant on predictable weather patterns, faces severe threats from erratic rainfall and extreme weather events. This not only affects crop yields but also has a cascading effect on food security and rural livelihoods.

- (b) **Energy:** Kenya's energy sector, particularly hydroelectric power, is vulnerable to changing rainfall patterns. This variability can lead to power shortages and increased reliance on costly fossil fuels. Rising temperatures reduces the efficiency of geothermal power plants and transmission lines.
- (c) **Labor productivity:** Climate change can reduce labor productivity across all sectors, with increased heat significantly affecting outdoor work. This may particularly impact low-skilled workers and sectors like agriculture, forestry, and fisheries in arid and semi-arid regions.
- (d) **Road transport.** Road transport handles 93 percent of all freight and passenger traffic. However, poor road conditions in some regions, where livelihoods depend on livestock and trading, isolate these areas from the rest of the country during the rainy season. Higher temperatures and more extreme rainfall can lead to flooding of both regional and urban roads, as well as accelerated degradation from potholes.
- (e) **Tourism and Wildlife:** Tourism, closely linked to Kenya's wildlife and natural landscapes including coastal ecosystems, is sensitive to climate change. Shifts in weather patterns can alter wildlife habitats and migration patterns, reducing tourism appeal.
- (f) **Water Resources:** Water scarcity and the degradation of water quality due to changing climatic conditions pose challenges to both human consumption and agricultural use. This has implications for health, food production, and energy generation.
- (g) **Health & Education:** Extreme weather events including higher temperatures and flooding can damage infrastructure and affect people's access to health and education services, droughts can reduce food availability and student attendance, and flooding can increase the risk of transmission of waterborne diseases such as cholera and typhoid.

### Mitigation and Adaptation Measures

65. The Government is working to reduce emissions, build resilience and meet NDC targets under the Paris agreement. The Government has also laid frameworks for mainstreaming climate change in government decision making through the development of the 5-year National Climate Change Action Plan (NCCAP) aligned to the Medium-Term Plan (MTP) cycle. Further, most government entities have established Climate Change Units (CCUs) as provided for under the Climate Change Act, 2016. These Units are expected to support mainstreaming actions of climate change.

66. Other examples of measures being undertaken by the government include:

- i) Prioritisation of low emissions power generation (particularly geothermal and hydroelectric);
- ii) Planting 15 billion trees by 2032, which will reduce net emissions and help protect infrastructure against natural disasters;



- iii) Ongoing efforts on tagging climate related expenditure in the budget;
- iv) A target of 25 percent of new government buildings being green;
- v) Reducing vulnerabilities of road infrastructure to flooding through improved drainage design;
- vi) Reducing the vulnerability of road infrastructure to potholing and accelerated degradation through flooding and high temperatures through trialling the use of concrete rather than bitumen surfacing, albeit at a higher cost; and
- vii) Reducing the vulnerabilities of rail infrastructure through improved design.

#### **f) Other Fiscal Risks**

##### **i. Natural Disasters and Man-made Hazards**

67. Crises and disasters remain a major concern for various economies across the globe including Kenya. The Government will continue to enhancing the country's disaster risk management and financing framework by fast tracking the enactment of the Disaster Risk Management Bill (No. 24 of 2023). This will ensure that there will be an over-arching framework that guides disaster risk management in the country. In addition, the Government will fast track the finalization of the disaster risk financing framework under the Public Finance Management Act, 2012 in order to enhance efficient and effective resource mobilization for disaster risk management in country as well as development of Disaster Risk Financing Strategy 2023 -2027 and mainstreaming disaster expenditure reporting into the Government financial reporting framework. 20

##### **ii. Money Laundering**

68. In order to fight money laundering, the Government will continue to promote financial integrity and compliance with international standards, particularly the Financial Action Taskforce (FATF) Recommendations on Anti Money Laundering and Combating the Financing of Terrorism (AML/CFT). This initiative will be achieved through implementation of the AML/CTF National Risk Assessment Report 2021 recommendations; the National AML/CFT Strategy, and the 2<sup>nd</sup> Eastern and Sothern Africa Anti-Money Laundering Group (ESAAMLG) Mutual Evaluation Report (MER) 2022.

69. In order to addressing the strategic deficiencies identified Mutual Evaluation Report, 2022, various legislations relating to AML/CFT issues have been amended through the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Act, 2023. These amendments necessitated the alignment and re-issuance of various Regulations. These included the Proceeds of Crime and Anti-Money Laundering Regulations, 2023; the Proceeds of Crime and Anti-Money Laundering (Criminal Assets Recovery Fund) Regulations, 2023; and the Prevention of Terrorism (Implementation of the United Nations Security Council Resolutions on Suppression of Terrorism) Regulations, 2023. In this regard, Kenya has filed a request with the ESAAMLG for Technical Compliance (TC) re-rating 30 22

as a result of these amendments. In addition, Kenya has completed the post-evaluation observation period and the Post-Observation Period Report (POPR) will be deliberated by the FATF Plenary in February 2024 in respect to the progress made towards strengthening Kenya's AML/CFT regime.

70. To address the recommendations in the Mutual Evaluation Report, the Central Bank of Kenya has taken several actions including: conducting stand-alone AML/CFT onsite inspections, revising Bank Supervision Operations Manual to include AML/CFT risk-based supervisions, and undertaking institutional and sectoral risk assessments.

**Exhibit EWG 4:**

**The National Treasury and Economic Planning 2023  
Medium-Term Debt Management Strategy**

FELISTUS WANGIRU NJOROGE  
ADVOCATE  
COMMISSIONER FOR OATHS  
P.O. Box 75535 - 00204, NAIROBI.

This is the Exhibit Marked EWG 4 Referred to in the  
Affidavit Sworn

Declaration of Eugenia Wangjiru Gixonyo Declared

Before me this 16<sup>th</sup> Day of May 2024  
At Nairobi

  
COMMISSIONER FOR OATHS



REPUBLIC OF KENYA



THE NATIONAL TREASURY AND ECONOMIC PLANNING



# **2023 Medium Term Debt Management Strategy**

**FEBRUARY 2023**

1

For comments and clarifications, please contact:

**Public Relations Office**  
The National Treasury and Economic Planning  
Treasury Building  
P. O. Box 30007-00100  
**NAIROBI, KENYA**

Tel: +254-20-2252-299  
Email: [ps@treasury.go.ke](mailto:ps@treasury.go.ke)

The document is also available on the website at: [www.treasury.go.ke](http://www.treasury.go.ke)

*Information in this publication may be reproduced without restriction provided that due acknowledgement of the source is made.*

© 2023 Medium Term Debt Management Strategy (MTDS)

**2023 Medium Term Debt Management Strategy**

3

## TABLE OF CONTENTS

LIST OF FIGURES.....	iv
LIST OF TABLES .....	v
ACKNOWLEDGEMENT .....	1
ABBREVIATIONS AND ACRONYMS .....	viii
EXECUTIVE SUMMARY.....	x
I. INTRODUCTION.....	1
II. REVIEW OF COST AND RISK CHARACTERISTICS OF PUBLIC DEBT.....	3
III. STOCK OF PUBLIC AND PUBLICLY GUARANTEED DEBT .....	7
IV. COST AND RISKS ANALYSIS OF THE EXISTING PUBLIC DEBT PORTFOLIO .....	10
V. DEBT SUSTAINABILITY ANALYSIS .....	14
VI. MACROECONOMIC ASSUMPTIONS AND KEY RISKS UNDER THE 2023 BUDGET POLICY STRATEGY (BPS).....	17
VII. ASSESSMENT OF POTENTIAL SOURCES OF FINANCING.....	19
VIII. PUBLIC DEBT RISKS AND COSTS EVALUATION UNDER ALTERNATIVE PUBLIC DEBT MANAGEMENT STRATEGIES .....	21
IX. MTDS IMPLEMENTATION, MONITORING AND EVALUATION.....	38
X. ANNEXES.....	40

## FOREWORD

The preparation of the 2023 Medium-Term Debt Management Strategy is in accordance with the requirements of Section 33 (2) of the Public Finance Management (PFM) Act, 2012 and the guidelines outlined in the Debt and Borrowing Policy. The strategy underscores the public debt management objectives over the medium term which aims at reducing the cost and risk linked to public debt and is anchored in the 2023 Budget Policy Statement (BPS).

The Strategy is prepared to guide prudent public debt management, informing the minimization of costs given the risks characteristics of the current debt stock using the designed alternative borrowing strategies and the fiscal deficit approved by parliament.

While preparing the 2023 MTDS, various alternative sources of financing were considered in regards to the cost and risk associated with each alternative strategy to arrive at the optimal financing strategy. Key elements include potential funding sources from domestic and external debt capital markets and the corresponding risks and costs. 10

Accordingly, the 2023 MTDS envisaged maximization of concessional and semi concessional external debt while proposing liability management operations in the domestic and in the international capital markets. The domestic funding components will be through medium to long term bonds as the stock of treasury bills is reduced to lengthen the maturity structure and to reduce refinancing risk.

The development of the domestic debt market is a precursor for accelerating attainment of affordable, sustainable long-term financing for economic recovery. This is in the context of pursuing the objective of a vibrant domestic debt market as per Kenya's Vision 2030 and the Medium-Term Plan. In the same context, sustainability of public debt depends on the commitment to pursue a fiscal consolidation path and macroeconomic stability. 20

To augment public debt sustainability, the 2023 MTDS re-iterates the importance of stepping up reforms in the domestic debt markets to ensure more depth, diversification and increased role of domestic debt market in meeting the financing needs of Government. In tandem with the vision for a deeper domestic debt market, the National Treasury and Economic Planning through the fiscal agent and Capital Markets Authority, is implementing strategic debt market reforms aimed at increasing domestic market efficiency. Deployment of a modern Central Securities Depository (CSD) system that will automate issuance and settlement of government securities processes at both primary and secondary markets will be set by the fiscal agent, while the Over-The-Counter (OTC) market trading platform to improve liquidity and price discovery and complement the NSE role will be operationalized in collaboration with financial markets institutions in Kenya. 30

Implementation of the Strategy will be closely monitored to ensure its smooth implementation while maintaining public debt at sustainability levels.



**NJUGUNA NDUNG'U, C.B.S.**

*Cabinet Secretary/ The National Treasury and Economic Planning*



### ACKNOWLEDGEMENT

The 2023 MTDS is prepared and revised annually to provide guidance for public debt management in the medium term. Preparation and formulation of the 2023 MTDS involves careful reflection on the costs and risks of public debt. The analysis is geared towards minimizing the cost and risks of the ever-evolving debt portfolio. The technical process of preparing MTDS involving use of an analytical tool to analyze the existing debt portfolio debt risk characteristics and potential borrowing alternatives which an optimal borrowing strategy is determined. The analysis takes into account the macro-economic assumptions presented in the 2023 Budget Policy Statement.

The resources raised through borrowing facilitate the achievement of the government's development agenda while minimizing cost of public debt management, promoting development of domestic debt market institutions and intergenerational equity. 10

Preparation of the strategy was spearheaded by the National Treasury and Central Bank of Kenya. This is therefore to convey gratitude to the staff and all Heads of Directorates and Departments of the National Treasury and other stakeholders whose inputs contributed towards the development of this Strategy. Involvement of the Central Bank of Kenya ensured the Strategy is in line with the liquidity position of the country. I wish to recognize the dedication of the technical officers from the Debt Policy, Strategy and Risk Management Department of the Public Debt Management Office for the exceptional commitment in the development of the strategy.

The 2023 MTDS and previous years' versions of the Medium-Term Debt Strategy are available for reference in the National Treasury website: [www.treasury.go.ke](http://www.treasury.go.ke). 20



**DR. CHRIS K. KIPTOO, C.B.S.**  
*Principal Secretary, National Treasury*

## ABBREVIATIONS AND ACRONYMS

ADF	African Development Fund
AfDB	Africa Development Bank
AGD	Accountant General Department
AiA	Appropriation in Aid
ATM	Average Time to Maturity
ATR	Average Time to Re-fixing
BPS	Budget Policy Statement
BROP	Budget Review and Outlook Paper
CBK	Central Bank of Kenya
CFS	Consolidated Fund Services 10
CI	Composite Indicator
CMA	Capital Markets Authority
CoG	Council of Governors
COVID-19	Coronavirus Disease
CPI	Consumer Price Index
CPIA	Country Policy and Institutional Assessment
CSD	Central Securities Depository
DCC	Debt Carrying Capacity
DPO	Development Policy Operations 20
DSA	Debt Sustainability Analysis
DSF	Debt Sustainability Framework
ECA	Export Credit Agencies
ERS	Economic Recovery Strategy
FCCL	Fiscal Commitment and Contingent Liabilities
FX	Foreign Exchange
FY	Financial Year
G20	Group of 20 Developed Countries
GBP	Great Britain Pound
GDP	Gross Domestic Product 30
GoK	Government of Kenya
IB	Internet Banking
IBRD	International Bank for Reconstruction and Development
IDA	International Development Association
IEBC	Independent Electoral and Boundaries Commission

IFAD	International Finance for Agricultural Development
IMF	International Monetary Fund
ISB	International Sovereign Bond
KenGen	Kenya Electricity Generating Company
KPA	Kenya Ports Authority
KQ	Kenya Airways
KSh.	Kenya Shillings
MDAs	Ministries, Departments and Agencies
MFAD	Macro and Fiscal Affairs Department
MTDS	Medium Term Debt Management Strategy 10
MTEF	Medium Term Expenditure Framework
MTP III	Medium Term Plan III
NSE	Nairobi Securities Exchange
OTC	Over the Counter
PDMO	Public Debt Management Office
PFM	Public Finance Management, Act 2012
PPG	Public & Public Guaranteed
PPP	Public Private Partnerships
PV	Present Value
RMD	Resources Mobilization Department 20
S1	Strategy 1
S2	Strategy 2
S3	Strategy 3
S4	Strategy 4
SDR	Special Drawing Rights
SGR	Standard Gauge Railway
SOEs	State Owned Enterprises
TMD	Treasury Mobile Direct
USD	United States Dollar 30
WB	World Bank

## EXECUTIVE SUMMARY

This strategy covers the period FY 2023/24- 2025/26 over which the optimal debt portfolio will be achieved. The 2023 Medium Term Debt Strategy (MTDS) has been prepared amid global economic slowdown caused by the effects of the COVID-19 pandemic and elevated global inflation caused by supply chain disruptions and monetary tightening in the United States.

The strategy is aligned to 2023 Budget Policy Statement (BPS) whose aim is to support economic recovery through a growth friendly fiscal consolidation plan aimed at slowing the public debt accumulation without compromising service delivery to citizens.

The Government's plan in the fiscal year 2023/24 and over the medium term is to implement various priority economic policies, structural reforms, fiscal consolidation plan and sectoral expenditure programs outlined in the 2023 BPS, through a Bottom-Up approach for a socio-economic transformation, economic turnaround and inclusive growth. The agenda is geared towards economic turnaround and inclusive growth. Special focus will be placed on increased employment, more equitable distribution of income, social security while also expanding the tax revenue base, and increased foreign exchange earning

The scope of coverage of this strategy is the existing debt stock, non-performing guarantees, and the stated fiscal deficits in the 2023 BPS.

The Kenya's present value of public debt was at 60.0 percent of GDP of which the domestic debt was 33.2 percent of GDP while external debt was 26.8 percent of GDP. This is as per the IMF-World Bank debt sustainability analysis conducted in December 2022 in collaboration with the National Treasury.

Public and publicly guaranteed debt in nominal terms as at end December 2022 was KSh.9,145.9 billion compared to the statutory public debt limit of KSh.10,000 billion as per the PFM (National Government) (Amended 2022) Regulations, 2015. Total external debt was KSh.4,673.1 billion while total domestic debt was KSh.4,472.8 billion. The debt levels remain sustainable with elevated risk of debt distress as per the Debt Sustainability Analysis (DSA) report by World Bank and International Monetary Fund as at December, 2022.

Preparation of the 2023 MTDS to guide borrowing in the medium term is in line with the PFM Act 2012. The 2023 optimal strategy of the 2023 is to minimize costs and risks through a net financing combination of 50 percent from both external and domestic sources. The strategy will maximize concessional borrowing while rolling over the commercial debt from external debt sources. From the domestic sources, the strategy seeks to lengthen the maturity and deepen the domestic markets through issuance of medium to long term debt securities under the benchmark bond programme.

The strategy will meet the government requirements while repaying its debt maturities. The outcomes of the optimal strategy are:

- i. It results to the least Present Value (PV) of debt to GDP of 53.1 percent in the medium term compared to strategy 1 at 54.9 percent, strategy 2 at 54.4 percent and strategy 3 at 54.5 percent.
- ii. Interest payments to GDP will improve from 5.3 percent as at end December 2022 to 4.4 percent in the medium term. This is attributed to maximization of concessional sources while commercial borrowing is reduced, thereby leading to reduction in the cost of debt over the medium term.

- iii. Minimizes refinancing risk by lengthening the total portfolio ATM as a result of lengthening of external debt portfolio. This is attributed to concessional terms that have longer maturities.
- iv. Minimizes interest rate risk in terms of average time to refixing.
- v. Deepens the domestic bond market through issuance of more medium to long term instruments as the main source of domestic financing.
- vi. It allows for flexibility in the borrowing plan to adjust either external or domestic borrowing targets depending on prevailing market conditions as it is more realistic.

Implementation of the strategy will be monitored and evaluated closely to factor any changes as they evolve based on market realities and fiscal adjustments. 10

Changes in global economic and market conditions may necessitate deviation from the optimal strategy. Appropriate measures will be taken to align the strategy to policy actions at the time.

## I. INTRODUCTION

1. PFM Act 2012, 'General responsibilities of the National Treasury' Section 12. Provides that: (1) Subject to the Constitution and this Act, the National Treasury shall— (b) manage the level and composition of national public debt, national guarantees and other financial obligations of national government within the framework of this Act and develop a framework for sustainable debt control; The public debt management objectives as outlined in Section 62(3) of the PFM Act, 2012 are: (a) minimizing the cost of public debt management and borrowing over the long-term taking risks into account; (b) promoting development of the market institutions for Government debt securities; and (c) ensuring sharing of the benefits and costs of public debt between the current and future generations.
2. The MTDS is prepared as required by as per the requirements of Section 33(2) of the Public Finance Management Act, 2012. The 2023 Medium-Term Debt Management Strategy (MTDS) outlines the strategies and initiatives to be implemented by the National Treasury, the fiscal agent, and Capital Markets Authority aimed at reducing costs and risks of debt management and borrowing, development of domestic debt market institutions and pursuit of intergenerational equity in costs and benefits of public debt. 10
3. The 2023 debt management strategy covers initiatives to manage the costs and risks of the current debt stock and projected debt service, and to minimize the costs and risks of financing the fiscal deficits for the period FY2023/24-2025/26. The deficits for the period are as proposed in the 2023 Budget Policy Statement (BPS). The MTDS analysis takes into account the outstanding public debt and projected debt service in the context of ongoing and projected 20 macroeconomic environment and the conditions in the international capital markets. Performing guaranteed debt and other local debt are excluded from the proposed debt management strategies. Debts excluded amounts to KSh.236.2 billion which includes KSh.151.1 billion uncalled guaranteed debts, KSh.58.5 billion Government overdraft at CBK, KSh.12.8 billion Suppliers credit and KSh.13.9 billion Bank advances.

### Background to the 2023 Medium-Term Debt Strategy

4. Kenya is in the process of recovering from the COVID-19 pandemic and grew by 7.5 per cent in 2021 up from a contraction of 0.3 percent in 2020; and is estimated to have grown by 5.5 per cent in 2022 amidst global economic slowdown occasioned by global supply chain 30 disruptions associated with Russia-Ukraine war in Europe. The economy is projected to grow by 6.1 per cent in 2023 as the recovery process gains momentum.
5. Owing partly to the ensuing global supply chain disruptions, Kenya's annual inflation was 9.1 per cent by end December 2022 up from 5.7 per cent in December 2021. Inflation is projected to stabilize in the near term and converge towards the target range of  $5 \pm 2.5$  per cent. Kenya shilling exchange rate and interest rates are projected to stabilize as inflation declines with the easing of global supply chain disruptions. Exchange rate stability will be supported by recovery in remittances inflow, and tourism as well as reduced import of capital goods. However, there are downside risks to this projection associated with increasing prices of crude oil and delays in full normalization of global supply chain. 40
6. Total revenue is projected at 17.8 per cent of GDP in the FY 2023/24 while total expenditure is projected to decline to 22.5 per cent of GDP in FY2023/24 on account of planned reduction of the fiscal deficits.
7. Public and publicly guaranteed debt in nominal terms as at end December 2022 was KSh.9,145.9 billion compared to the statutory public debt limit of KSh.10,000 billion as per the PFM (National Government) (Amended 2022) Regulations, 2015. Total external debt was KSh.4,673.1 billion while total domestic debt was KSh.4,472.8 billion.

8. The December 2022 Debt Sustainability Analysis (DSA) indicates that Kenya's public debt remain sustainable but government must reduce fiscal deficits to reduce the rate of debt accumulation.

9. The next chapter reviews the costs and risks characteristics of public debt followed by debt sustainability analysis, macroeconomic assumptions and key risks, potential sources of financing, cost and risks of alternative debt management strategies and the last section describes the strategy implementation work plan.

market condition that will trail the current global economic uncertainties. The Government will maintain its presence in the international financial markets through refinancing the existing commercial maturities and may consider liability management operations ahead of scheduled maturities if the international debt capital market condition improves.

107. The policy implications derived from the technical analysis of costs and risks and debt sustainability are that: funding fiscal deficits and refinancing external debt has to be through concessional borrowing and less commercial debt, while implementing development policies geared towards improving Kenya's export sector. The Government will focus to deepening and developing domestic debt market to minimize reliance on external market.

108. The Public Debt Management Office has proposed liability management operation measures to refinance and re-profile debt maturities subject to favorable market conditions. 10

109. To pursue debt sustainability, the Government will continue to lengthen the maturity profile of public debt through issuance of medium to long tenor bonds and deepen domestic debt market to be able to finance a higher proportion of budget deficits.

110. Opportunities for 'debt for climate/nature swaps' will be pursued under the proposed Government water dams investment/funding programme with eligible creditors. Additionally, there is need for restraint measures aimed at reducing the rate of accumulation of public debt stock as an imperative to public debt sustainability.

111. To better manage net sovereign cash flow in funding development programmes, to the extent possible, projects that generate local currency benefits should be funded through local currency while projects that promote economic sectors that have direct and indirect foreign currency income generation may be funded through external borrowing. 20

#### v. *Public Debt Management Reforms*

112. Article 214 (2) of the Constitution of Kenya defines public debt. The Public Finance Management (PFM) Act, 2012 and attendant Regulations make reference to 'National Debt', 'Public County Debt' and 'Public Debt which brings ambiguity with the Constitution of Kenya, hence weakening effective management of public debt. The National Treasury has proposed amendments to replace the terms National Debt and County Debt with Public Debt as enshrined in the Constitution of Kenya.

113. The National Treasury has proposed to Parliament amendments to the PFM (National Government) Regulations, 2015 to replace the current public debt limit of Ksh. 10 trillion with a debt anchor hinged on Gross Domestic Product as a desired level of public debt as a ratio of GDP. The rationale is to allow flexibility and recognition of the periodic impact of exogenous shocks on debt and GDP. Practicability of anchoring debt limit to National Gross Product will be assessed as a more precise measure of relative size of debt. 30

114. Additionally, the National Treasury has developed draft guidelines for the operationalization of the Sinking Fund in conformity with Regulation 206 (1) of the PFM (National Government) Regulations, 2015, to provide liquidity for timely funding for redemption of government securities, and payment of expenses, or incidental to, redemption of an issue of national government loans. The guidelines will be subjected to public participation process before submission to Parliament for consideration and approval.

115. The public debt risks and costs mitigation strategy is defined for each in the following matrix: 40

**Table 21: Costs and risks mitigation strategies**

13



General risk indicators	Risk Indicators	Risk management and mitigation strategies
Debt stock	Nominal debt as percent of GDP	<ul style="list-style-type: none"> <li>Reduce the overall public expenditure and fiscal deficits in line with the consolidation plan recommended in the IMF program</li> <li>Use concessional debt under external borrowing and long tenor debt under domestic</li> </ul>
	Present value debt as percent of GDP	
Cost of debt	Interest payment as percent of GDP	<ul style="list-style-type: none"> <li>The Government to maximize the use of concessional under external borrowing, rollover the existing commercial debt at lower or similar costs, and only access commercial borrowing as a last resort if concessional debt is completely un available <span style="float: right;">10</span></li> <li>On the domestic debt implement reforms to improve national savings, deepen the domestic debt market and improve the domestic debt market infrastructure to attract capital and lower the yields of the domestic borrowing (details of domestic debt reforms below) <span style="float: right;">20</span></li> </ul>
Refinancing risk	Debt maturing in 1yr and ATM of the total portfolio	<ul style="list-style-type: none"> <li>Reduce gradually the stock of T-bills and replace with issuance of long tenor debt</li> <li>Maximize the use of concessional external debt</li> </ul>
Interest rate risk	Debt refixing in 1yr	<ul style="list-style-type: none"> <li>Borrow fixed rate debt as a priority and only resort to variable debt as a last resort.</li> <li>Develop capacity in the use of debt derivatives, develop a debt derivative utilization framework undertake liability management operations on regular basis to refinance near-term maturities <span style="float: right;">30</span></li> </ul>
	Fixed rate debt percent of total	
	T-bills (percent of total)	
FX risk	FX debt as % of total	<ul style="list-style-type: none"> <li>Borrow in local currency debt as a priority and diversify foreign currencies when borrowing</li> <li>Develop capacity in the use of derivatives in debt swap arrangement, develop a derivative utilization framework and begin implementing derivatives in low quantity and increase the use gradually in the medium term <span style="float: right;">40</span></li> </ul>

vi. **Domestic Debt Market Development Strategy**

116. Development of the domestic debt market is a necessary catalyst for public debt sustainability. With domestic debt comprising half the proportion of public debt, it mitigates

against foreign exchange risk exposure and cushions the public debt against the downside risks of the global market volatilities.

117. A number of strategic reforms aimed at increasing domestic market efficiency are operational whereas others are at different stages of implementation. These include:

- i. CBK implementation of the Internet Banking (IB) platform for institutional investors has increased operational efficiency in the domestic debt market with investors provided with access to services such as bidding, receipt of auction results for Government securities and viewing of portfolio positions. The launch of the Treasury mobile Direct (TMD) for retail investors has enhanced financial inclusion by providing easier access and uptake of government securities.
  - ii. Deployment of a modern Central Securities Depository (CSD) system that will automate Government securities processes at both primary and secondary markets is at advanced level. The CSD system is envisaged to promote market deepening, improve market liquidity distribution, enhance operational efficiency and support capital market growth. It will also improve access to the Kenyan capital market by both domestic and foreign investors and is envisioned to position Kenya as the preferred financial hub in the region.
  - iii. M-Akiba bond focuses on promoting financial inclusion and enhancing a savings culture to the Kenyan populace. Re-engineering of M-Akiba will support Government initiative to provide more financial products to retail investors at the bottom of the pyramid.
  - iv. Enhance investor education and outreach to promote awareness in government securities and grow the retail base to boost a savings culture, promote financial inclusion and broadening the investor base.
  - v. Strengthen secondary market liquidity by reducing bond fragmentation through issuance of benchmark bonds and maintaining a well-priced stable yield curve.
  - vi. Enhancement of secondary market efficiency through the establishment of the Over-The-Counter (OTC) trading platform to complement the NSE to improve liquidity and price discovery.
  - vii. Enhance sustained market engagement and stakeholder consultations to improve coordination in debt management and market development initiatives to support the growth of the capital market.
  - viii. The Government is undertaking liability management operations through switch auctions as part of a market-based debt re-profiling approach with the objective to smoothen the domestic debt maturity profile, manage refinancing risks and enhance market development.
- vii. ***Intergenerational debt equity***

118. The PDMO will regularly advise borrowing proposals in regards to promoting sharing of benefits and costs of public debt between current and future generations. In particular, repayment for debts for projects requiring low value investments shall be structured to have shorter repayment periods to minimize of carry costs of debt associated with long grace and repayment periods which increase the overall debt burden on the future generations.

## IX. MTDS IMPLEMENTATION, MONITORING AND EVALUATION

### i. Domestic and external borrowing Plan

119. The Government through the annual borrowing plan will implement both the debt management strategy and the optimal fiscal funding strategy

120. The PDMO will prepare domestic and external borrowing plan comprising of projected borrowing and settlement of maturities within the 2023/24 financial year.

121. The external borrowing plan will comprise of expected disbursements by creditor, the disbursement period and currency of disbursement within the financial year as per 2023 MTDS.

122. The borrowing plan may be revised to include liability management operations to manage debt stock risks when the market conditions allow.

### ii. Review of the Borrowing Plan

123. Review of the outcome of implementation of the borrowing plan will be done on weekly <sup>10</sup> basis (internal reporting), on monthly and annual basis to provide data for strategy evaluation and for public information.

124. The progress of implementation of the 2023 MTDS will be monitored and reported through monthly and annual debt reports. Annual Debt Management Report is regularly prepared and published after end of each financial year.

### iii. Monitoring and Review of Cost and Risk Indicator Outturn of the Strategy

125. The actual costs and risks characteristics of debt will be assessed against sustainability threshold indicators and any deviations will be used to inform strategy review in the next MTDS cycle.

126. The costs and risks outcome characteristics in the 2023 MTDS are evaluated semi-<sup>20</sup> annually and annually against sustainability threshold indicators to determine deviations and suggest mitigation measures. Table 22 outlines the costs and risks parameters to be evaluated.

127. The evolving public debt structure and fiscal deficit will inform review of strategy for management of costs and risks of the public debt going forward.

128. Likewise, guaranteed State corporations' debt, fiscal commitments and contingent liabilities will be tracked and assessed against overall sustainability levels.

16

**Exhibit EWG 5:**

**Copies of newspaper clips detailing Respondent State  
intention to set up debt swap arrangements.**

HELISTUS WANJAU MURAGE  
ADVOCATE  
COMMISSIONER FOR OATHS  
P.O. Box 75555 - 00200, NAIROBI.

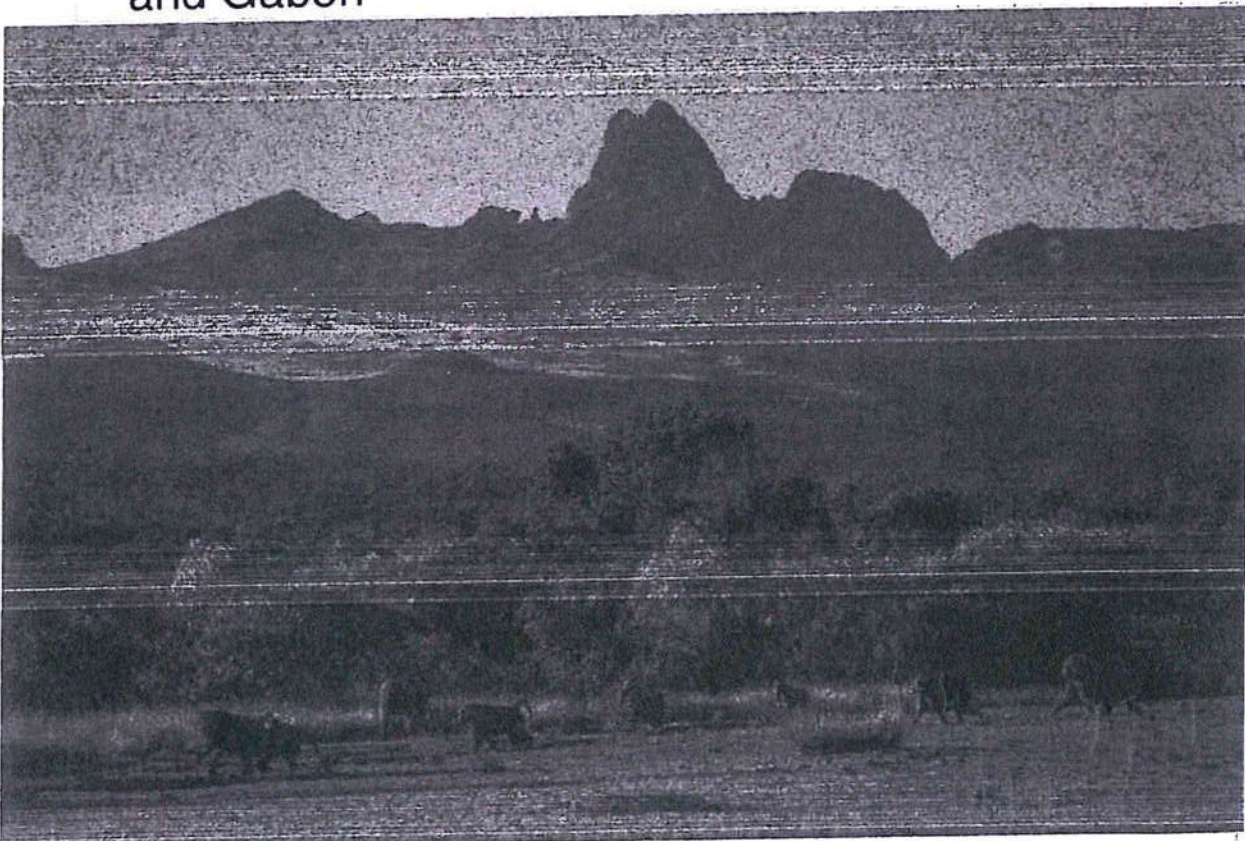
This is the Exhibit Marked EWG.5 Referred to in the  
Affidavit  
Declaration of Eugenia Klafine Gikonyo Declared Sworn  
Before me this 16<sup>th</sup> Day of April 2021  
At Nairobi

COMMISSIONER FOR OATHS



# Kenya Lawmakers Approve Plan to Issue Debt Swaps to Fund Budget

- Nation in talks with development partners to structure swaps
- Similar instruments have been executed by Ecuador and Gabon



Mount Kenya National Park

Photographer: Ed Ram/Getty Images

By [David Herbling](#)

March 6, 2024 at 2:50 AM CST

Updated on

March 6, 2024 at 6:45 AM CST

Save

Listen

2:40

Kenyan lawmakers approved the Treasury's plans to offer debt-for-nature and food-security swaps to bolster the nation's finances for its next fiscal year starting July 1.

The East African nation is in talks with the United Nations and development partners to structure the debt swaps, according to a Treasury report that was published last month. The report didn't provide details on how much Kenya plans to raise via these instruments and how they would work.

"While these swaps have been successful in other countries, there is a need for full disclosure of this type of financing, including, but not limited to, community displacement and the risks associated with them," the National Assembly's public debt & privatization committee said in a separate report.

**BloombergGreen** Shale-Oil 'Fracklog' Shows US Oil

Production May Be Slowing'Zombie Fires' Smoldering Near Oil and

Gas Wells Threaten Canada's DrillersSNB Didn't Reveal Full Carbon

Footprint in Report, Activists SayTexas Among States Facing New

Fire Risks: Weather Watch

Both reports were adopted by lawmakers on Wednesday.

Debt-for-nature swaps have been executed by countries including Belize, Ecuador and Gabon, in which they refinanced

20

existing debt in exchange for commitments to protect their marine environment. Barbados is considering another deal, but this time with proceeds earmarked for the upgrade of a sewage treatment plant in order to cut emissions and improve water quality.

Read More About Kenya's Debt Plans:

- [Kenya Explores a Swap Deal as \\$2 Billion Debt Deadline Looms](#)
- [Kenya Sees 1%-2% Samurai Bond Pricing in Cheap Funding Plan](#)
- [Kenya to Repurchase \\$1.44 Billion of 2024 Dollar Bonds](#)

Kenya, which is classified by the International Monetary Fund as being at high risk of debt distress, is seeking to diversify its sources of borrowing to include sustainability linked bonds, samurai bonds, and diaspora bonds. It has also signed up to a \$4.43 billion IMF program to reduce its debt vulnerabilities.

In February, it tapped international debt markets after years of being priced out of them, encouraged by successful eurobond sales from Ivory Coast and Benin earlier this year. It repurchased \$1.44 billion of its \$2 billion eurobonds due in June, with the issuance of new dollar bonds, easing investor concerns on how it would settle the bullet maturity.

Kenya's public debt stood at 11.25 trillion shillings (\$78.7 billion), or 67.2% of gross domestic product at end-January in present value terms, above its self-imposed fiscal anchor of 55%. 20

**Other Proposals Approved Include:**

- Gross external borrowings in the year through June 2025 of 670 billion shillings comprising 151 billion shillings in commercial financing, project loans of 308 billion shillings and program loans of 210.5 billion shillings.
- Budget deficit target of 3.9% of gross domestic product for year through June 2025 and 3.3% for both 2025-26 and 2026-27.

— *With assistance from Alister Bull*

*(Updates story with approval of debt swaps in paragraph 1)*



Bloomberg the Company & Its Products Bloomberg Terminal Demo Request Bloomberg Anywhere Remote

Login Bloomberg Customer Support

Afronomicslaw

Live TV

- [Markets](#)
- [Economics](#)
- [Industries](#)
- [Tech](#)
- [Politics](#)
- [Businessweek](#)
- [Opinion](#)
- [More](#)

US Edition

[Markets](#)

# Kenya Plans \$500 Million Debut Panda Bond to Fund Next Budget

Kenya seeks to widen its funding pool from foreign sources.

Photographer: Tony Karumba/AFP/Getty Images

[Gift this article](#)

By [David Herbling](#) and [Jing Zhao](#)

March 28, 2024 at 10:08 AM CDT

[Save](#)

[Listen](#)

1:50

Kenya plans to raise \$500 million through a debut bond sale in China as it seeks to widen its funding pool from foreign sources, according to people familiar with the plans.

The sale of the so-called panda bond is planned to take place in the fiscal year commencing July 1 and will be used to finance its budget

deficit, said one of the people, who asked not to be named as they are not authorized to speak.

The deal is in early discussion, and the amount and issue time could change, the people said.

The East African nation is targeting a budget deficit of 3.9% of gross domestic product for the year through June 2025 and 3.3% for both 2025-26 and 2026-27.

The nation also plans to engage the Asian Infrastructure Investment Bank to provide guarantees to support the issuance of the renminbi-denominated bond, one of the people said. The nation's cabinet in 10 January approved its membership of the multilateral lender.

Kenya's Treasury didn't respond to requests for comment.

Read More: [Kenya's Eurobond Attracts More Than \\$5 Billion in Orders](#)

The nation, encouraged by Egypt's sale of Africa's first sustainable panda bond in October, guaranteed by the African Development Bank and AIIB, has been on a drive to expand funding sources since returning to international capital markets in February with the issue of a new eurobond. 20

Egypt's issue of a three-year bond that raised 3.5 billion yuan (\$484 million) priced at 3.5% set "a template for other African countries to follow," according to a research note by HSBC Holdings Plc. China's

# Debt Swaps Explored by Global Fund Targeting Health Investments

March 19, 2024 - 19:02

🕒 3 minutes

(Bloomberg) — The Global Fund, which disburses more than \$5 billion annually to fight diseases, is exploring swapping publicly traded debt for public health investments.

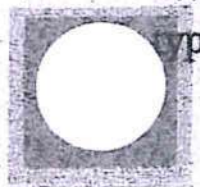
The approach marks a departure from a model used by the fund since 2007, a period during which it oversaw the forgiveness of \$367 million in bilateral debt owed by 10 developing nations to Spain, Australia and Germany. Those arrangements resulted in a combined \$226 million in health investments.

The new approach mimics a framework pioneered by conservation organizations, the goal of which is to refinance existing debt at more favorable terms with savings put toward environmental protection. Such arrangements have been used by a growing list of nations, including Belize, Ecuador and Gabon. 10

“The Global Fund is currently exploring alternative ways and models to leverage this expertise, including debt swaps that involve a buyback component on currently outstanding debts,” the fund told Bloomberg in an emailed response to questions. “To the extent that any of the debt is traded on public markets, market-sensitive information is treated as strictly confidential,” it said.

The Global Fund didn’t say how the swaps would be structured or which countries might be involved. 20

“We are talking to several implementing countries for different types of innovative finance transactions,” the fund said. 7



Kenya's Finance Minister, Njuguna Ndung'u, has said the country is discussing a debt for medicine swap with the fund and a debt for food security swap with the United Nations' World Food Programme, Johannesburg's Rand Merchant Bank said in a note on Friday.

"We have proposals on the table that we are exploring" in terms of a debt for medicine swap, Chris Kiptoo, principal secretary at the Kenyan Treasury, told Bloomberg. "No decision has been made yet on the amount and timelines. We are still exploring to see the best fit. We are also looking at other swaps like debt for nature, food too."

The WFP didn't immediately respond to a request for comment.

The Global Fund was created in 2002 to fight three scourges — HIV Aids, tuberculosis and malaria. The Switzerland-based fund secures donations from governments, private companies and foundations and says it has disbursed \$60 billion, saved 59 million lives and cut the death rate from the three diseases by more than half in the nations where it invests.

The countries that have benefited from the bilateral debt swap program are Ethiopia, Indonesia, Jordan, the Democratic Republic of Congo, Sri Lanka, El Salvador, Egypt, Ivory Coast and Pakistan.

-With assistance from Natasha White.

©2024 Bloomberg L.P.



Imprint

Follow us

SWI swissinfo.ch - a branch of Swiss Broadcasting Corporation SRG SSR

Data Privacy Statement

Terms of Use



Rights to content and liability

RTS

Jobs

Stay informed daily about news in Switzerland with our

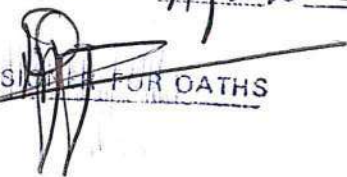
SRF

**Exhibit EWG 6:**

**Africa Sovereign Debt Network's Research and informational output on Gabon's debt-for-nature swap arrangements**

PELISTUS WANJIKU NJOROGE  
ADVOCATE  
COMMISSIONER FOR OATHS  
P.O. Box 75555 - 00204, NAIROBI.

This is the Exhibit Marked EWG6 Referred to in the  
Affidavit Sworn  
Declaration of Eugenia Kijanjira Civeyo Declared  
Before me this 16<sup>th</sup> Day of August 2024  
At Nairobi.

  
COMMISSIONER FOR OATHS



# Sixty Fifth Sovereign Debt News Update: Debt-For-Nature Swap: Portugal Signs Agreement to Trade Cape Verde's National Debt for Climate Investments

**By:**

The African Sovereign Debt Justice Network

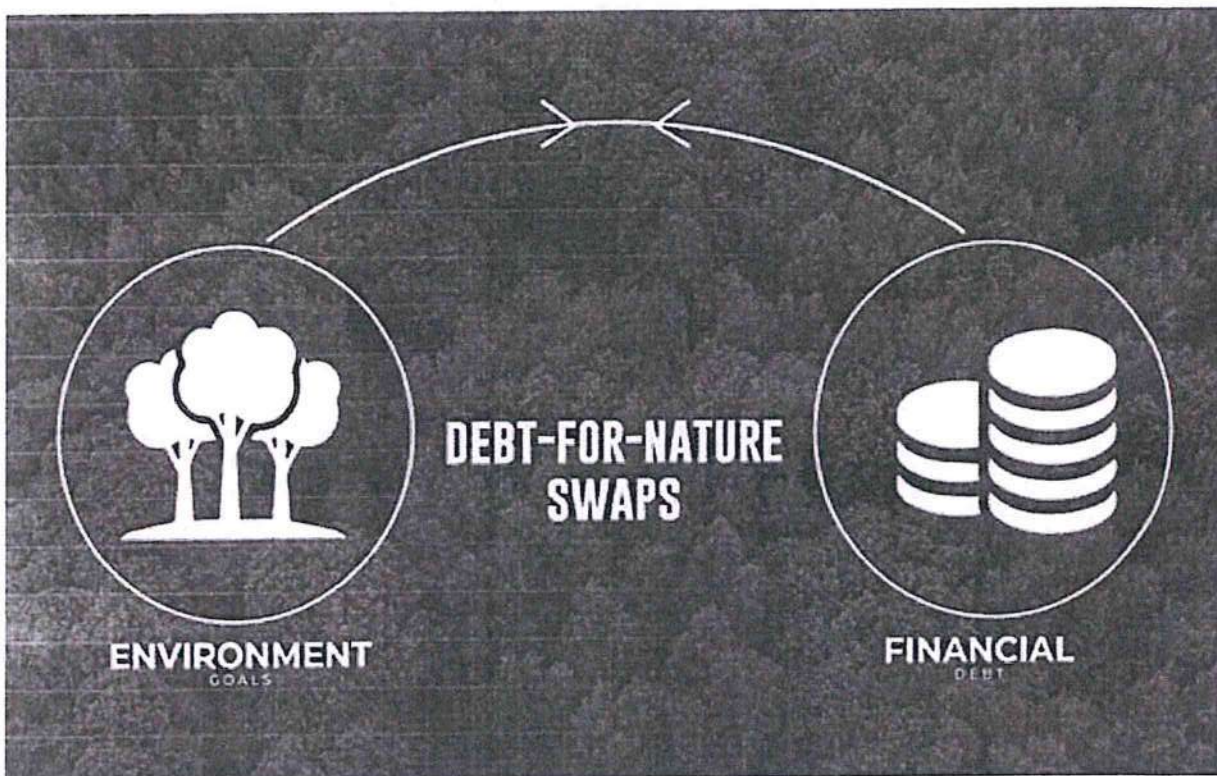
February 6, 2023

In January 2023, Portugal announced it had signed an agreement to swap Cape Verde's debt for investments in an environmental and climate fund that is being established by Cape Verde. The archipelago nation off West Africa's coast, which is already suffering from rising sea levels and significant biodiversity loss due to increasing ocean acidity, owes around €140 million to the Portuguese state and over €400 million to its banks and other entities. Initially, €12 million of debt repayments scheduled until 2025 will be put into an environmental and climate fund established by Cape Verde. Ultimately the entire amount of debt repayments will end up in the fund, allowing Cape Verde to invest in energy transition and the fight against climate change. It is expected that private

sector debts owed by Cape Verde to Portuguese companies will, at least in part, be swapped in similar deals to accelerate mitigation and build resilience to climate change in the country.

Climate change is a challenge that takes place on a global scale and no country will be (environmentally) sustainable if all countries are not sustainable. Debt-for-nature deals can help as they can produce green and blue bonds to finance conservation efforts on land and at sea, which appeal to a rapidly growing number of investors seeking to meet net-zero carbon emissions and other environmental goals. Debt-for-nature swaps are financial transactions in which a portion of a developing country's foreign debt is forgiven in exchange for commitments to environmental investments.

10



Source: News24 While in support of the swap, Cape Verde Prime Minister Ulisses Correia e Silva said in a statement that his country needed to urgently enable mechanisms and financing instruments to support such solutions and deal with natural emergencies. Notably, developed countries have failed to deliver promised climate finance to developing countries. According to research from Overseas Development Institute (ODI), Portugal is one of the countries which in 2020 paid the least percentage of its fair share. The ODI says that -

2

based on its size, historic emissions and population – it should have paid \$688 million towards rich countries' collective \$100 billion target. But it paid just \$70 million, about one-tenth of its fair share.

Even so, “debt-for-nature” swap deals are emerging in other countries such as Kenya, eSwatini, Pakistan, Colombia, and Argentina, and are part of attempts to resolve a dilemma faced by world leaders on how and who will foot the bill for actions taken to reduce the impact of climate change. According to a recent Reuters report, Zambia is also considering a debt-for-nature swap proposal from the World-Wide Fund for Nature (WWF). If it goes through, it could help the country unhook, at least partially, from a \$13 billion debt, currently under re- 10  
evaluation. According to Zambian government debt data, the country accumulated \$31.74 billion by the end of 2021, out of which \$17.27 billion is external debt. While the potential for the swap is not part of the current negotiations under the G20 debt restructuring framework, it could help cut down the country's debt and boost green projects.

But the most notable story of debt-for-nature swaps can be seen in the Seychelles. After defaulting on payment of \$230 million in 2008, The Nature Conservancy in 2015 announced a deal that saw approximately \$22 million of Seychelles' national debt written off. Consequently, Seychelles has progressed from protecting 0.04% to more than 30% of its national waters, covering 410 000 square kilometres of the ocean after developing 13 new marine protected areas. 20

Nonetheless, some challenges such as high transaction costs, the need to monitor conservation or climate projects, and the requirement that a debtor country makes a long-term financial commitment, could limit the reliance on debt-for-climate/nature swaps as a long-term solution for Africa. In addition, coordination among existing creditors is a key hurdle to successfully swapping sufficient and large amounts of debt. Further, debt-for-nature swaps are often incompatible with the economic realities of LDCs. This is because most LDCs' economies depend on natural resources. Therefore, inasmuch as debt-for- 30  
nature programs fund projects that foreclose access to natural resources and slow down the economic development of the South, they will face strong opposition. For this reason, it has been proposed that pure debt-for-nature programs should be rejected and that debt-for-sustainable development should



be implemented. In essence, debt-for-sustainable development calls for strategies that provide incentives to environmentally sound commercial activities and force currently profitable commercial activities to become more environmentally sound. Furthermore, while debt-for-nature swaps are important when debt restructuring is not on the table, these deals do not substitute for comprehensive debt restructuring reform especially for countries with unsustainable debt levels. They also do not obviate the need for climate finance grants and other mainstream debt relief.

Despite the potential challenges, these deals present an opportunity for countries that cannot prioritise environmental actions due to financing constraints and where creditors see the value of possible ecological outcomes. Besides, debt-for-nature programs have promoted a number of valuable conservation projects. However, the magnitude of the environmental crisis will require stronger political commitments and economic resources that are largely incompatible with the complex legal and financial framework that the swaps necessitate. 10

View online: [Sixty Fifth Sovereign Debt News Update: Debt-For-Nature Swap: Portugal Signs Agreement to Trade Cape Verde's National Debt for Climate Investments](#)

Provided by Afronomicslaw 20



# Ninety Sixth Sovereign Debt News Update: Gabon's Debt-For-Nature Swap: Some Critical Reflections

**By:**

The African Sovereign Debt Justice Network

September 4, 2023

Gabon completed a \$500 million debt-for-nature swap on 14 August, 2023. This debt for nature swap seeks to help to refinance a small portion of its debt and lock in funds for marine conservation. The deal is expected to generate \$163 million for marine conservation over 15 years while slashing its debt, making it the first in continental Africa. Credit enhancements, including political risk insurance from US International Development Finance Corporation (DFC) ensured the bond had an Aa2 rating from Moody's, a level much higher than the sovereign's Caa1/B credit rating. 10

Gabon bought back three bonds, one maturing in 2025 and two in 2031, with a total nominal value of \$500 million. The buybacks were equivalent to around 4% of Gabon's total debt. In their place, Gabon issued a \$500 million blue bond which matures in 2038. The coupon on the new blue bond was priced at 6.097%, lower than the coupons on the repaid bonds which were between

5

6.625%-7%.

While smaller than other such debt-for-nature swaps, Gabon's is the first in mainland Africa—a continent conservationists see as ripe for such deals, replete with at-risk marine environments and often high sovereign debts—and it is hoped it will provide the impetus for more blue bonds deals across the continent.

The \$500mn deal, which was arranged by Bank of America, lowers the interest rate on Gabon's debt and gives it longer to make repayments. As part of the transaction, proceeds from a new bond issuance, arranged by Bank of America, were used to refinance a portion of Gabon's existing national debt. The US International Development Finance Corporation (DFC) has provided political risk insurance of up to \$500 million for the financing, which lowers the cost of debt for Gabon. This transaction, it is hoped, will enable the country to make annual contributions to an independent Conservation Fund and an endowment that will continue to fund conservation after the bonds are repaid. In fact, Gabon committed to spend \$5 million a year from the savings over the next 15 years on marine conservation and to fund an endowment that is expected to grow to \$88 million by 2038. That funding is projected to continue financing conservation work after that date. 10

The new funds are designed to help Gabon improve the management of its territorial waters, 26 percent of which are currently earmarked as protected, and make its fishing industry more sustainable. The small West African country is 88-percent covered by forest and has a vast coastline rich in marine species. Its extensive mangrove forests represent one of the most secure carbon sinks in West and Central Africa. 20

Proponents of the deal hope it will drive momentum to reshape the financing landscape for developing countries, which have long called for new ways to address their high debt financing costs and free up money to spend on mitigating the uneven impacts of climate change. For instance, Gabon's President Ali Bongo, who is bidding for a third term, said the swap was an important moment for eco-friendly finance deals in Africa. According to him, "all too often talks of these new mechanisms to reward countries like my own remain just that. In this case... we have made it a reality." The Nature 30

Conservancy, a U.S.-based environmental organization, sponsored the deal and will advise Gabon on its marine-conservation efforts.

### ***The Other Side of the Debt Swap Story: Some Critical Reflections***

Debt-for-nature deals have grown in size and frequency in recent years. The Nature Conservancy has largely spearheaded their growth, with the Gabon deal marking the organization's largest by value following similar deals in Belize, the Seychelles, and Barbados. Ecuador completed a \$1.6 billion debt-for-nature swap, the world's largest, earlier this year, putting \$12 million a year toward the conservation of the Galápagos Islands. TNC wasn't involved in that deal.

These debt-for-nature deals are pitched as kill-two-birds-with-one-stone solutions, as they aim to conserve nature and lower debts. They also provide good branding for countries wanting to market their sustainability credentials to attract investment. However, as with all stories, Gabon's encounter with debt for nature swap can be seen from a number of angles. Framed as a method of averting ultimate financial disaster, it may be a success. Framed as a solution to high debt burdens in developing countries, the Gabon deal is ineffective. Before this deal Gabon was on the worry list for a large 2025 bullet Eurobond maturity. This transaction offered a chance to eliminate this debt risk, but after this transaction that risk remains. In Belize, for instance, the debt for nature deal wiped out only 12% of GDP in debt as compared to the 125% burden.

The relatively small amount of debt relief isn't incidental or unique to Belize or Gabon. Debt-for-nature swaps (and their close cousin, debt-for-climate swaps) are minimally scalable. The sheer size of the debt and number of private actors that must be enticed to participate in a wholly discretionary process is difficult to arrange on even a small scale.

It also remains a mystery how Gabon's conservation promises would be enforced and how the DFC insurance pledge would work if Gabon did one day default. Additionally, Gregory Smith, a fund manager at M&G Investments, also questioned why the swap had bought back just \$95 million of a bond that needs refinancing in 2025 compared to \$405 million of its two 2031 maturing bonds, referring to the bonds' nominal values.

Moreover, debt-for-nature deals were pitched in the 1980s as a means of converting existing hard currency debt into a local currency debt, so can we see this happen soon? Debt risks would be much reduced if the new loan were in local currency and not dollars. It would also be important that these deals result in a small trust fund for improving debt management capacity. One of Gabon's hurdles for lowering its borrowing costs is a low credit rating. The rating is low in part because of frequent mistakes with late debt payments, suggesting efforts are needed to improve cash and debt management.

Besides, these transactions are often complex and costly. The overall fee structure might be clear for participants in the transaction but is certainly not for the market as a whole. The case studies mentioned explicitly exclude the costs of the fees that are paid via the spread between the blue bond and loan, which can amount to substantial figures. Even worse, to this day there is no clarity on the interest on the blue loans provided to Ecuador and Gabon. If anything, the Bank of America, which served as sole initial purchaser, structuring agent and bookrunner on the Gabon deal, declined to reveal its transaction fees. However, an honest conversation about the trade-offs in terms of transaction fees versus conservation commitments requires this information to be public. 10 20

In addition, none of the debt-for-nature swaps conducted in the last two years (Belize, Barbados, Ecuador, and now Gabon) fulfil the debt transparency requirement in terms of the blue loan documentation. This degree of lack of disclosure is a major setback for international efforts to advance debt transparency, including those led by the G20. It runs the risk of normalizing again the idea that is okay for public debt contracts to remain hidden.

Finally, it remains unclear whether independent Second Party Opinion and third-party verification were conducted in the Gabon's blue bond issuance. The International Capital Markets Association (ICMA) principles for green and sustainability-linked bonds lists Second Party Opinion and third-party verification as part of the required elements to ensure the integrity of the asset class. This is meant to ensure to all parties of the fulfilment of the sustainability commitments of the bond through a publicly available performance assessment process. Debt swaps fail to fulfil this criterion. TNC as an active participant of the Gabon transaction is not an independent party. Furthermore, an audit of 30

8

the conservation fund, which is neither public nor related to the conservation targets, does not appear to be material to the conservation goals. Which begs the questions: do previous debt-for-nature swaps also lack third-party verification? And why should debt-for-nature swaps be held to a lower standard in terms of verification than Green or SLB bonds?

In conclusion, these debt-for-nature transactions must be held to high standards. The Gabon debt swap, while highly lauded, demands careful scrutiny and analysis to ensure it genuinely benefits the country's economic and environmental conservation goals. It is critical to encourage transparency, robust scrutiny, and ethical financial practices. And as Smith opines, the narrative on these debt-for-nature swaps needs to be tweaked from maximising the reduction in debt levels, to maximising the reduction in refinancing risks. The African Sovereign Debt Justice Network, in its book entitled 'Transforming Climate Finance in an Era of Sovereign Debt Distress' launched during the African Climate Summit in Nairobi, also proposes that African countries should tread with caution in adopting green finance instruments and other related market-based proposals addressing climate change. The book highlights the ongoing global commodification and corporatization of nature which fuels the trend of extractivism from Africa by developed countries. This manifests through the promotion of continuation of natural resource extraction, particularly, critical minerals, for a "green transition" despite the proven dire environmental consequences, green debt as well as a more significant role to be played by private finance in addressing climate change.

---

This update was prepared by Akinyi J. Eurallyah, AfSDJN Senior Fellow. Email: E.akinyi@dal.ca

View online: [Ninety Sixth Sovereign Debt News Update: Gabon's Debt-For-Nature Swap: Some Critical Reflections](#)

Provided by Afronomicslaw



# Debt-for-Climate Swaps and Illicit Financial Flows: A call for caution in designing climate finance infrastructures

**By:**

Olabisi D. Akinkugbe  
Morris Kingsley Odeh

December 1, 2023

Ahead of COP28, there have been widespread calls for the adoption of 'debt-for-nature' and 'debt-for-climate' swaps as an alternative climate finance system to address funding gaps in developing countries. Typically, these swaps involve a debtor country repurchasing its debt securities at substantial discounts or converting official bilateral debt into environmental assets, which enables more fiscal savings to be redirected toward conservation objectives. Unlike most climate finance instruments, these debt swaps avoid burdening countries in the Global South with additional unsustainable debt, thus allowing for a more <sup>p</sup> effective response to the climate crisis without sacrificing spending on other development projects. Depending on the specific transaction, the entire conservation funding may be provided upfront on day one or over the life of the

deal.

These calls align with emerging debt-for-nature swap agreements in various countries, including Zambia, Kenya, Pakistan, Colombia, Argentina, and Eswatini, and are projected to exceed \$800 billion in global public and private deals in the coming years. For instance, in May 2023, Ecuador secured the largest deal of its kind by refinancing \$1.6 billion (£1.3 billion) of its commercial debt at a discount in exchange for a consistent revenue stream dedicated to conservation around the Galápagos Islands. Additionally, in February 2023, Portugal agreed to forego €12 million in yearly repayments of Cape Verde's €150 million of long-term debt, redirecting the funds to clean-energy transition, climate adaptation, and nature protection in the Cape Verdean archipelago. Similar deals are expected to follow for private sector debts owed by Cape Verde to Portuguese companies.

Although debt-for-nature transactions have roots dating back to the 1980s, the renewed interest in them can be attributed to the recent increase in the debt vulnerability of many countries, a direct outcome of the COVID-19 pandemic. In 2020, global debt surged, contributing an estimated \$19.5 trillion to global deficits. Also, the need for financial firms to boost their Environmental, Social, and Governance (ESG) metrics has played a complementary role. In August 2022, the IMF published a working paper highlighting the intersection between climate change and excessive debt levels. The paper explores how climate change can worsen debt vulnerabilities and how countries with substantial debt face limited fiscal flexibility for climate mitigation and adaptation. Of the 59 developing economies most vulnerable to climate change, 34 are also at high risk of fiscal crises. Therefore, the paper suggests that 'debt-climate swaps could be useful to expand fiscal space for climate investment when grants or more comprehensive debt relief are just not on the table.'

This concept holds particular significance for African countries. For instance, Africa is home to most of the world's most climate-vulnerable countries but struggles to mobilize the financial resources needed to address climate change. Simultaneously, these countries contend with high levels of debt acquired through loans and bonds from international donors and banks. Now, 21 African countries are at high risk of or in debt distress, yet ongoing debt restructuring negotiations are yielding minimal results in terms of debt relief. What is



particularly concerning in this context is that the African continent contributes the smallest share of global greenhouse gas emissions, yet it is the most vulnerable region in the world, experiencing consistently extreme weather events, droughts, and rising sea levels.

The intersection of climate change and unsustainable debt in the Global South, particularly in African countries impedes economic development, exacerbates poverty, and hinders progress toward achieving Sustainable Development Goals (SDGs). This debt places them at a disadvantage in attracting investments for climate adaptation and mitigation measures, including transitioning to cleaner energy sources, implementing sustainable agriculture practices, and improving infrastructure to withstand climate-related disasters, as their budgets are burdened by debt servicing. (10)

The unique financial innovation of debt-for-climate swaps has the potential to address these challenges simultaneously, although this point has been disputed by some commentators. Others prefer a climate finance structure of an 'ecological debt for fiscal debt swap.' In either case, these swaps represent 'a game-changing way' to accelerate climate finance to vulnerable developing countries. Debt conversion, whether based on ecological debt or sovereign debt, can provide much-needed financial relief to African countries, helping them meet their climate commitments outlined in the Paris Agreement and supporting investments in renewable energy, sustainable agriculture, and environmental protection. This includes initiatives like drought-resistant seeds, sea walls, resilient buildings, and environmental restoration. For instance, in 2015, the National Conservancy announced a deal that saw approximately \$22 million of Seychelles' national debt written off. Consequently, Seychelles progressed from protecting 0.04% to more than 30% of its national waters, covering 410,000 square kilometres of the ocean after developing 13 new marine protected areas. (20)

#### Avoid Legitimization of IFFs

While debt-for-climate swaps present potential benefits in terms of both debt relief and climate finance, it is crucial to design and monitor them carefully to prevent inadvertent facilitation and legitimization of illicit financial flows (IFFs) in the Global South, including African nations. IFFs refer to money that is (30)

12

illegally earned, transferred, or used across borders, encompassing corruption, tax evasion, money laundering, and other illegal activities. Despite the high incidence of IFFs in Africa – every year, an estimated \$86.6 billion leave the continent as IFFs - discussions on IFFs have not received adequate attention in the context of debt swaps. In this paper, we call for caution in executing debt conversion transactions and for IFFs to be a central component of climate finance discussions.

There are three ways in which IFFs may feature in debt swap transactions: diversion, greenwashing, and tax evasion. Firstly, freed-up funds emanating from debt swaps can be diverted for private profit or kickbacks to public officials and other stakeholders. For instance, a recent evaluation of Australia's Emissions Reduction Fund (ERF) reveals that 70 to 80% of carbon credits intended for carbon emission reduction projects do not go to those projects.

ERF has been described as an 'environmental and taxpayer fraud' and a waste of billions of dollars. Another example is the first debt-for-nature swap in Africa regarding Gabon. The transaction was structured by the Bank of America. The deal has been criticized for lacking transparency in sustainability frameworks and reporting procedures. Commenting on the possibility of Gabon's funds being diverted for personal gains, Daniel Hardy, a researcher at the Vienna Institute for International Economic Studies, and former head of the IMF's debt and capital market instruments division stated that 'If they decided to spend all the money on the president's private airplane, so be it.' There is no guarantee that the funds derived from the debt relief would be invested in climate-resilient infrastructures.

This problem is exacerbated by the complexities of debt conversion. The financial structures of debt-for-climate swaps can be intricate, involving negotiations between debtor countries, creditors, banks, and international organizations. For example, the debt swaps to protect oceans in Seychelles, Belize, and Barbados in 2018, 2021, and 2022, respectively, were highly complex and included multiple stakeholders. The involvement of various parties creates opportunities for technical and challenging-to-track financial transactions, making them susceptible to corrupt practices and hidden financial dealings.

13

Secondly, debt-for-climate deals, if not properly designed, can provide an <sup>251</sup> avenue for multinational banks to collect substantial fees, with only a relatively small fraction allocated to the environment, especially 'if the funds to repurchase debt are supplied by a third party funding itself via ESG-labeled bonds.' For instance, in the Belize case, only \$84 million of the \$553 million deal was dedicated to marine conservation, making a mockery of the whole idea. Also, there is the Gabon deal, where Bank of America, the structuring agent, refused to disclose its transaction fees or follow the International Capital Markets Association Principles for green and sustainability-linked bonds casting doubt on the purported commitment to sustainability. These transactions have <sup>10</sup> been described as greenwashing because significant portions of the funds from the debt swaps are directed toward transaction costs. While it may appear to be a sustainable transaction, it serves as a façade for channelling profits into private quarters. The fiscal savings that are actually going into nature conservation and climate change are inconsequential as most of the funds end up in the pockets of intermediaries such as credit providers, consultants, and insurers.

Furthermore, in some cases, proceeds from debt relief or climate finance may be funnelled through offshore accounts or tax havens. This is likely to occur in circumstances where the debt-swap transaction is settled through <sup>20</sup> intermediaries, such as foreign firms, special purpose vehicles, and insurance companies. These tax havens are known for their secrecy and may facilitate the concealment of assets from domestic taxes, potentially legitimizing IFFs.

If these issues are not addressed, the potential benefits of debt conversion will be undermined, and countries may continue to resort to costly external borrowing to address the climate crisis, as the fiscal savings resulting from debt forgiveness are not properly directed. So, the policy of debt-for-climate swaps needs to be well-designed and properly implemented to minimize the risk of facilitating or legitimizing IFFs, particularly in Africa. This could be achieved, in <sup>30</sup> our view, through four main initiatives: transparency, centering community interest, oversight structures, and civil society engagement.

Firstly, there is a need for transparency and integrity in the transaction process. Transparency has been widely acknowledged as a critical tool in combating IFFs. The terms of any debt-for-climate swaps should be made accessible to the

14

public, including the amount involved, the projects to be financed, and the parties involved. This involves not just public disclosure, but also allowing the public to obtain and review the relevant transaction documents. The swap should also be open to independent second-party opinions and third-party verification, as required by the International Capital Markets Association Principles for green and sustainability-linked bonds.

Secondly, the transaction should prioritize the interests of people, communities, and ecosystems impacted by climate change as the prevalent consideration. It should be viewed as both a corporate social responsibility and a commitment to the SDGs, rather than a profit-making venture. So, transaction costs should be kept at a reasonable level by excluding unnecessary intermediaries, using domestic firms, and keeping the deal as simple as possible.

Also, there is a need for robust accountability mechanisms to track the use of funds and ensure they are directed toward legitimate climate projects through the establishment of oversight and enforcement bodies, similar to the proposed Anti-Corruption Court or independent domestic monitoring organizations. The recipient of such funds should be accountable to the oversight bodies, whose operations should also be transparent. The oversight and enforcement mechanisms for debt-for-climate swaps should be strong and adequately resourced to detect and prevent IFFs.

Furthermore, it is important to promote the active engagement of civil society organizations in the processes of debt-for-climate swaps. Their role would be to ensure that the involved parties adhere to principles of transparency, accountability, and minimal transaction costs. Involving civil societies in these processes brings in a stakeholder with a public interest focus, adding an extra layer of oversight.

In summary, as stakeholders gather and discuss at the COP28 summit in Dubai, it is important for them to bear in mind that while debt-for-climate or ecological debt for fiscal debt swaps offers a promising approach to addressing debt and climate challenges simultaneously, they need to be implemented with careful attention to transparency, accountability, and integrity. Otherwise, it could become just another pathway to facilitate IFFs in Africa, which have the potential to undermine the fiscal benefits that should ordinarily result from these swaps.

15

View online: [Debt-for-Climate Swaps and Illicit Financial Flows: A call for caution in designing climate finance infrastructures](#)

Provided by Afronomicslaw

16



# **Climate Action in Africa in 2024: Lessons to Draw from the Outcomes of the 28th Meeting of the Conference of Parties to the United Nations Framework Convention on Climate Change (COP 28)**

**By:**

The African Sovereign Debt Justice Network

**African Sovereign Debt Justice Network (AfSDJN) Climate Action in Africa in 2024: Lessons to Draw from the Outcomes of the 28th Meeting of the Conference of Parties to the United Nations Framework Convention on Climate Change (COP 28)**

January 19, 2024

17

The 2023 Africa Climate Summit was criticized for its focus on creating investment opportunities from the climate crisis rather than addressing the devastating impacts of climate change on Africa. Unfortunately, this is a hallmark of climate gatherings. It is not unusual that the outcomes of such conferences are deemed to have missed the mark. COP 28 was not so different. On several fronts, COP 28 was expected to address pertinent issues, including the unjust financial architecture underpinning climate finance, attaining a just transition away from fossil fuels, and the operationalization of the loss and damage fund. Like most other COPs, COP 28 had its 'wins', including pledges regarding the loss and damage fund (L&D Fund) and the first express mention<sup>10</sup> of transitioning from fossil fuels. Serious questions, however, remain on whether the seemingly incremental achievements are at the scale and pace compelled by climate change and the inequality it fuels.

A key concern for Africa going into COP 28 was the inadequacy of climate finance flows to Africa. Studies have revealed that out of an annual need of \$277 billion between 2020 and 2030, the continent receives only \$29.5 billion. COP 28 saw 'additional' financial commitments made with respect to the Green Climate Fund, Least Developed Countries Fund, and Special Climate Change Fund. The commitments, however, pale in comparison to the climate finance needs of the continent. A few countries endorsed the Declaration on a Global <sup>20</sup> Climate Finance Framework, which renews the \$100 billion annual pledge from developing countries and urges debt-free financing for adaptation efforts. These pledges are not only grossly insufficient, but they also promote initiatives like debt swaps and sustainability linked bonds which risk keeping climate vulnerable countries in a cycle of indebtedness. Its call for the continued implementation of the Common Framework, without addressing the existing shortfalls, including inadequate debt relief and its disregard of climate considerations in debt restructuring processes, is also quite problematic.

The final outcome of COP 28 (the UAE Consensus) was silent on the nexus between climate finance and debt. This is a reversal from the moderate engagement with the issue at COP 27. The 2022 Sharm el-Sheikh <sup>30</sup> Implementation Plan shone the light on loss and damage and the growing debt burden in developing States and invited international financial institutions and multilateral development banks to reform practices and priorities 'taking into account debt burdens.' Despite failing to reference the climate finance-debt

nexus, development banks and financial institutions announced plans to expand climate-resilient debt clauses in their lending. The benefits of such clauses will be dependent on their terms, and while commendable, the ultimate relief from the debt crisis worsened by climate change remains the cancellation of debt.

In light of the scale and impact of climate disasters on the continent, the operationalization of the loss and damage fund (L&D Fund) was a key highlight of COP 28. However, in addition to the selection of the World Bank as an interim host, which was initially resisted by several developing countries under G77, the issue of adequate and sustained contributions still needs to be addressed. 10 The effectiveness and transformative potential of the L&D Fund for people and communities affected by extreme climate impacts is ultimately hinged on the modalities of its financing. Currently, pledges to the Fund stand at approximately \$700 million and contribution is on a voluntary basis. The voluntariness of the L&D Fund is a nod to the departure from obligatory climate finance and the entrenchment of *ex gratia* funding. The failed pledge to mobilize \$100 billion in climate finance made in 2009 adopted a similar model. There is little confidence that the L&D Fund will do better. Worse still, there is no consensus target and timeline that could serve as a north star for the L&D fund.

Another key milestone of COP 28 for Africa was the recognition of the linkages 20 between climate change, health, and agriculture. Specifically, the adoption of the UAE Declaration on Climate and Health and the UAE Declaration on Sustainable Agriculture, Resilient Food Systems, and Climate Action in recognition of the adverse impact of extreme weather events on food security as well as health systems in Africa. To yield results, much more will be required in terms of scaling financing to adapt health and agriculture to climate change.

The question of fossil fuels was contentious, following a back and forth on the language until it settled at a 'transition away' from fossil fuels by 2050 rather than a 'phase out.' This issue is key, especially with respect to a just transition for countries whose economies are heavily dependent on fossil fuels for their revenues as well as energy needs. The UAE Consensus retains the Paris 30 Agreement's narrow framing of 'just transition of the workforce and the creation of decent work and quality jobs.' This barebone engagement fails to, in

19



any meaningful way, address the unique impacts of the transition on vulnerable communities, groups, and countries, nor does it contain concrete measures to address adverse impacts. It also fails to address the increasing trend of 'green protectionism' and climate hegemony, and the adverse transboundary impacts of the climate initiatives of developed States.

The first Global Stocktake took place at COP 28. The findings were concerning but not surprising. The Paris Agreement's goal of keeping global average temperature well below 2oC above pre-industrial levels and aiming for 1.5oC remains out of reach. 2023 is set to be the warmest year on record. Only about one fifth of the total carbon budget for a 50% probability of limiting global warming to 1.5oC remains. Adaptation responses remain fragmented, inadequate, and unequally distributed. 10

But there are also reasons to hope. For one, there is progress towards the temperature goal from an expected temperature increase of 4oC in 2015 to the current range of 2.1 - 2.8oC. So, while so much remains to be done, it is possible to transition to a just climate healthy world. Finance is a big part of that conversation. As noted in the UAE Consensus, 'there is sufficient global capital to close the global investment gap.' It is simply a question of responsive and just allocations. COP 29, scheduled for November 2024 in Azerbaijan, will be crucial in this regard since countries are expected to submit their new <sup>20</sup> Nationally Determined Contributions (NDCs) detailing their climate action efforts and required financing. Developed countries will need to actually deliver on climate finance in line with the legal commitments under the UNFCCC for climate action to be achieved. This should be at the centre of climate action discussions at the upcoming US Climate Action Summit as well as the World Bank and IMF Spring Meetings.

View online: Climate Action in Africa in 2024: Lessons to Draw from the Outcomes of the 28th Meeting of the Conference of Parties to the United Nations Framework Convention on Climate Change (COP 28) 30

Provided by Afronomicslaw

**Exhibit EWG 7:**

**The National Assembly Hansard for Tuesday 5<sup>th</sup> March  
2024**

FELISTUS WANJIKU NJOROGE  
ADVOCATE  
COMMISSIONER FOR OATHS  
P.O. BOX 29000 - 00101, NAIROBI.

This is the Exhibit Marked EWG 7 Referred to in the  
Affidavit Sworn

Declaration of Eugenia Kianjiru Gikongo Declared

Before me this 16 Day of April 2024  
At Nairobi

  
COMMISSIONER FOR OATHS



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

VOL. III NO. 13

**THE HANSARD**Tuesday, 5<sup>th</sup> March 2024

The House met at 2.30 p.m.

*[The Speaker (Hon. Moses Wetang'ula) in the Chair]***PRAYERS**

**Hon. Speaker:** Hon. Members, Leaders of the Majority Party and the Minority Party, congratulations. Your good conduct is continuing. We have quorum to transact business.

*(Several Members walked into the chamber.)*

Order, Hon. Members, take your seats. I have two Communications to make.

**COMMUNICATIONS FROM THE CHAIR****RELATIONS BETWEEN THE HOUSES OF PARLIAMENT**

Hon. Members, you will recall that when I took the Oath of Office and assumed the role of the Speaker of the National Assembly on Thursday, 8<sup>th</sup> September 2022, I also solemnly undertook to uphold comity between the two Houses of Parliament and between the National Assembly and other arms of Government. In undertaking to ensure the improvement of bicameral relations between the two Houses, I was cognisant of the unpleasant disputes relating to the processing of legislative business between the Houses. Regrettably, the disputes culminated in a court action that is currently on appeal at the Supreme Court of Kenya. Subsequent to my election, I have consistently engaged the leadership of the House and that of the Senate in discussions to reach an amicable resolution of outstanding matters relating to processing of legislative business between the Houses. I am glad to note that the leadership of Parliament is united in its abhorrence to previous incidents where the Houses have publicly exhibited discord and division while engaging each other on respective mandates of the Houses. 10

I, therefore, wish to inform the House that the leadership of Parliament, comprising the Speakers of both the National Assembly and the Senate and Leaders of the Majority and Minority parties of both the National Assembly and the Senate met on Thursday, 29<sup>th</sup> February 2024. As part of the agenda, the meeting deliberated on enhancing bicameral relations between the two Houses. The meeting addressed the status of the ongoing litigation between the Houses, noting that the Supreme Court of Kenya granted the Houses an extension of 120 days to engage in out-of-court negotiations and record consent. Further, the leadership of Parliament observed the tremendous progress made in the negotiations and interrogated various options for formalising the processing of legislative business in Parliament. In this regard, the leadership noted that the National Assembly is already seized of the Houses of Parliament (Bicameral Relations) Bill, 2023 (National Assembly Bill No.44 of 2023), which is sponsored by Hon. Samuel Chepkong'a. The Bill was read a First Time on 17<sup>th</sup> August 2023. For purposes of expeditiously arriving at a legislative solution to govern bicameral matters, the leadership of Parliament adopted the Bill as the lead/compromise Bill on bicameral relations. In addition, the leadership of both Houses of Parliament agreed that the National Assembly would fast- 20

House. Would I be asking for too much if you asked them to rise if they are in the House so that we can see them? We do not meet some of them in our usual places because we have not yet familiarised ourselves with each other.

**Hon. Speaker:** I presume that you should know your colleagues.

*(Loud consultations)*

Order, Hon. Members. Hon. Kajwang', you have a duty to know your colleagues and, more so, those who are serving in a Committee that you describe as being your lifeline in the House.

*(Question put and agreed to)*

## MOTIONS

### CHANGES TO COMMITTEE MEMBERSHIP

10

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Hon. Speaker, I beg to move the following Motion:

THAT, further to the resolution of the House on Thursday, 27<sup>th</sup> October 2022 appointing Members into various Committees and pursuant to the provisions of Standing Order 173, this House further approves the appointment of Hon. Paul Abuor, MP, to replace Hon. Peter Kalerwa Salasya, MP, in the Departmental Committee on Regional Development.

I request the Deputy Chief Whip of the Minority Party, Hon. Mwenje, to second.

**Hon. Speaker:** Hon. Mwenje.

**Hon. Mark Mwenje** (Embakasi West, JP): Thank you, Hon. Speaker. I beg to second.

*(Question proposed)*

*(Question put and agreed to)*

**Hon. Speaker:** The Chairperson of the Committee on Public Debt and Privatisation, Hon. Shurie. 20

### ADOPTION OF REPORT ON THE 2024 MEDIUM-TERM DEBT MANAGEMENT STRATEGY

**Hon. Abdi Shurie** (Balambala, JP): Hon. Speaker, I beg to move the following Motion:

THAT, this House adopts the Report of the Public Debt and Privatisation Committee on its consideration of the 2024 Medium-Term Debt Management Strategy, laid on the Table of the House on Thursday 29<sup>th</sup> February 2024 and, pursuant to the provisions of Section 15(4) of the Public Finance Management Act of 2012, and Standing Order 232A(7) and (8):

1. Approves the 2024 Medium-Term Debt Management Strategy.
2. Makes the policy and financial resolutions contained in the schedule to the Order Paper.

### SCHEDULE

3

**POLICY AND FINANCIAL RESOLUTIONS RELATING TO THE 2024 MEDIUM TERM DEBT MANAGEMENT STRATEGY**

**A. POLICY RESOLUTIONS**

1. THAT, in the next Medium Term Expenditure Framework (MTEF) cycle, the National Treasury ensures consistency between the Medium-Term Debt Management Strategy and the Budget Policy Statement regarding the optimal borrowing strategy and the fiscal consolidation path;
2. THAT, the National Treasury ensures that the fiscal deficit and subsequent public borrowing projections are realistic by incorporating forecasts on any potential in-year changes to interest rates, exchange rates, and contingency spending;
3. THAT, to address the emerging escalation of domestic interest rates alongside domestic interest payments, within 60 days of adoption of the Report, the National Treasury submits a report to the National Assembly providing practical measures to reduce the domestic debt service burden to sustainable levels; 10
4. THAT, in line with the resolution of the National Assembly on the 2023 Medium Term Debt Management Strategy, the National Treasury publishes guidelines that will ensure that the Treasury Single Account is established and operational by July 1<sup>st</sup>, 2024;
5. THAT, within 30 days of the adoption of the Report, and subject to Section 50 of the Public Finance Management Act, 2012 (Amended in 2023), the National Treasury submits a comprehensive report to the National Assembly on the breach of the debt anchor of 55 percent (+5) of Gross Domestic Product and the remedial measures undertaken to ensure adherence to the debt threshold;
6. THAT, in order to promote fiscal sustainability, reduce debt distress and to slow debt accumulation, any deviation from medium term fiscal deficit path designed by both the Budget Policy Statement and the Medium-Term Debt Management Strategy, and any resultant readjustment to loan financing, should be pre-approved by the National Assembly; 20
7. THAT, the National Treasury ensures the customization of the MTDS for the next MTEF cycle to Kenya's specific debt challenges by providing specific measures to deal with undisbursed loans and related commitment fees, measures to resolve risks emanating from non-performing loans owed by state-owned enterprises, and estimation of contingent liabilities;
8. THAT, in order to help enhance public participation in public debt matters, the National Treasury publishes simplified, citizen-friendly documents to accompany the technical reports on public debt submitted to the National Assembly; and 30
9. THAT, at least two months before the end of the current financial year, the National Treasury submits to the National Assembly:
  - (i) the Annual Borrowing Plan that addresses any deviations from the 2024 MTDS in financing the FY 2024/25 Budget Estimates, attendant cost and risks of the deviations and policy measures to address them; and
  - (ii) a schedule of all projects for which borrowing is to be undertaken in the FY 2024/25.

**B. FINANCIAL RESOLUTIONS**

1. THAT, the fiscal deficit target for the medium term is approved and set at 3.9% of GDP for FY 2024/25; 3.3% of GDP for FY 2025/26, and 3.3% of GDP for FY 2026/27, in line with the fiscal consolidation path; and
- 4

2. THAT, the country's borrowing strategy is approved at 55 percent for net external borrowing and 45 percent for net domestic borrowing as contained in the 2024 Medium Term Debt Management Strategy.

This is the second Report on the Medium-Term Debt Management Strategy that was considered by the Public Debt and Privatisation Committee in the 13th Parliament. I sincerely thank Members of the Committee who diligently worked to ensure that this Report was tabled in this House.

The Medium-Term Debt Management Strategy (MTDS) delineates the strategies and initiatives to be implemented by the National Treasury in financing the fiscal deficit that is projected for the Financial Year 2024/2025, and is projected to amount to Ksh703 billion or 3.9 per cent of the GDP. The 2024 Medium-Term Debt Management Strategy has evaluated four alternative funding strategies and their impact on the inherent costs and risks associated with the current public debt portfolio. Therefore, it recommends a borrowing strategy to finance the fiscal deficit for the Financial Year 2024/2025, comprising a net borrowing ratio of 45 to 55 per cent of net domestic borrowing to net external borrowing, respectively.

The proposed strategy aims to maximise concessional borrowing for external financing while minimising commercial borrowing, thereby mitigating the cost of debt. On the domestic front, the strategy seeks to reduce refinancing risk by increasing the issuance of medium-to-long-term bonds. Adherence to this strategy will be key to achieving public debt sustainability. Public and publicly guaranteed debt stood at Ksh11.25 trillion as of January 2024, comprising Ksh5.06 trillion in domestic debt and Ksh6.19 trillion in external debt. In nominal terms, this represents 69.7 per cent of GDP.

Kenya's debt indicator, as set under the Public Finance Management (PFM) Act 2012, was adjusted in November 2023 to a debt anchor of a threshold of 55 per cent plus 5 that is to be achieved by 2028. Kenya's public debt stock is projected to reach 67.2 per cent in 2024. The subsequent downward movement to 55 per cent is premised on implementing the fiscal consolidation plan as indicated by the fiscal path and economic growth. In this regard, we urge discipline and commitment to this path.

As we move into the financial year, we should understand that the current debt stock is characterised by elevated costs and risk factors that are evident through rising weighted average interest rates, heightened refinancing pressure and exposure to real exchange rate risks. Consequently, this indicates an overall hardening of borrowing terms that amplify the cost of sustaining fiscal deficits as compared to previous fiscal years.

Public debt continues to be a significant driver of our expenses. It is subsequently crowding out development expenditure. Notably, the proportion of interest servicing expenditures as a share of GDP has increased from 3 per cent to 5.5 per cent over the past decade. This could have had a crowding-out effect on development expenditure, which declined from 10.3 per cent to 4.4 per cent over the same period. There is a need to reverse that.

As indicated by movements of the weighted average interest rates of the total debt portfolio, the interest rate risk stood at 7.7 per cent as of June 2023, following a general increase in interest rates that was observed for both external and domestic loans over the past year. Furthermore, the share of debt on fixed interest rates declined while the share of exposure to variable rates increased. This indicated an increase in the interest cost of the debt stock in the coming year.

On the refinancing risk, it is noted that the Average Time to Maturity (ATM) of the stock of debt decreased between December 2022 and June 2023, while the percentage of total debt maturing within one year increased slightly. This indicates an increase in the refinancing

pressure and calls for proper implementation of liability and cash management to minimise the impact of implementing the budget.

The Exchange Rate Risk refers to the vulnerability of the public debt portfolio to exchange rate volatility. A review of the valuation effect following the depreciation of the Kenya Shilling against the US Dollar and the Euro, which jointly account for 88 per cent of the denomination of the debt stock, resulted in an increase of the debt stock by over Ksh800 billion.

Given these circumstances, conventional debt management policies may prove inadequate in addressing the challenges faced by the country. Such challenges include the accumulation of undisbursed loans that necessitate annual payment of commitment fees, possible inefficiency in utilising borrowed resources, and a growing level of contingent liabilities. Therefore, heightened vigilance in debt management and adherence to fiscal consolidation measures is imperative. 10

After deliberation and consideration of contributions by various stakeholders, the Committee gave the following non-financial proposals:

1. That, in the next Medium Term Expenditure Framework cycle, the National Treasury ensures consistency between the Medium-Term Debt Management Strategy and the Budget Policy Statement regarding the optimal borrowing strategy and the fiscal consolidation path.
2. That, the National Treasury ensures that the fiscal deficit and subsequent public borrowing projections are realistic by incorporating forecasts on any potential end-year changes to interest rates, exchange rates, and contingency spending.
3. That, to address the emerging escalation of domestic interest rates alongside domestic interest payments, within 60 days of adopting the Report, the National Treasury submits a report to the National Assembly providing practical measures to reduce the domestic debt service burden to sustainable levels. 20
4. That, in line with the Resolution of the National Assembly on the 2023 Medium-Term Debt Management Strategy, the National Treasury publishes guidelines that will ensure that the Treasury Single Account is established and operationalised by 1st July 2024.
5. That, within 30 days of the adoption of the Report and subject to Section 50 of the Public Finance Management Act of 2012, as amended in 2023, the National Treasury submits to the National Assembly a comprehensive report on the breach of the debt anchor of 55 per cent plus 5 of GDP and the remedial measures undertaken to ensure adherence to the debt threshold. 30
6. That, to promote fiscal sustainability, reduce debt distress and slow debt accumulation, any deviation from the medium-term fiscal deficit path designed by both the Budget Policy Statement and the Medium-Term Debt Management Strategy and any resultant readjustment to loan financing should be pre-approved by the National Assembly.
7. That, the National Treasury ensures customisation of the Medium-Term Debt Management Strategy for the next Medium Term Expenditure Framework cycle to Kenya's specific debt challenges by providing specific measures to deal with undisbursed loans and related commitment fees, measures to resolve risks emanating from non-performing loans that are owed by state-owned enterprises and estimation of contingent liabilities. 40
8. That, in order to help enhance public participation in public debt matters, the National Treasury publishes simplified, citizen-friendly documents to accompany the technical reports on public debt that is submitted to the National Assembly; and, 6



9. That, at least two months before the end of the current financial year, the National Treasury submits to the National Assembly:

- (a) The Annual Borrowing Plan that addresses any deviations from the 2024 Medium-Term Debt Management Strategy (MTDS) in financing the Financial Year 2024/2025 Budget Estimates, attendant cost and risks of the deviations and policy measures to address them; and,
- (b) A schedule of all projects for which borrowing is to be undertaken in the Financial Year 2024/2025.

Hon. Speaker, the Committee also makes the following financial recommendations:

1. That, the fiscal deficit target for the medium term is approved and set at 3.9 per cent of GDP for Financial Year 2024/2025; 3.3 per cent of the GDP for Financial Year 2025/2026 and 3.3 per cent of GDP for Financial Year 2026/2027 in line with the fiscal consolidation path; and,
2. That, the country's borrowing strategy is approved at 55 per cent (+5 per cent) for net external borrowing and 45 per cent for net domestic borrowing as contained in the 2024 MTDS.

Hon Speaker, I beg to move. I request Hon. Makali Mulu, the Vice-Chairman of the Committee, to second.

I thank you, Hon. Speaker.

**Hon. Speaker:** Who is seconding you?

**Hon. Abdi Shurie** (Balambala, JP): Hon. Makali Mulu.

**Hon. Speaker:** Hon. Makali Mulu, go ahead.

**Hon. (Dr) Makali Mulu** (Kitui Central, WDM): Thank you very much Hon. Speaker.

Let me start by thanking my Chairman for moving this important Motion. Before I get to the body of the Report on Consideration of the 2024 Medium-Term Debt Management Strategy, let me make some opening remarks.

Hon. Speaker, first, I thank you, your Office, and the Office of the Clerk of the National Assembly for allowing our Committee to present this Report to the House before the Chairman of the Budget and Appropriations Committee presents the Budget Policy Statement. This is very critical because whatever budget deficit we agree on should inform the Budget Policy Statement so that the two Committees, the Budget and Appropriations and the Public Debt and Privatisation, are seen to be aligned.

The other important issue is to remind Hon. Members that we are discussing public debt as a country because we are spending more than we are collecting. When we look at our revenue, the amount we are collecting and the amount we spend, we realise that public debt is a critical issue in this country.

Let me give an example. When we look at the current Financial Year, it is projected that about Ksh2.5 trillion will be collected. In the coming Financial Year, we project to collect about Ksh2.9 trillion in ordinary revenue. When we look at those figures and compare them with where we are today, we realise that we are currently short by about Ksh300 billion. This means that if the trend remains, by the end of the year, we will not have achieved our projected revenue collection, which in turn will increase our deficit. It means the Ksh2.9 trillion projection for the next Financial Year will start with a negative of Ksh300 billion, assuming this year's projection becomes the base year. We need to be more realistic with revenue projections and be thorough in the assumptions that are made to determine them.

The other important point is the issue of expenditure. We have often said that we do not look at the expenditure side of the equation as a country because the more we spend, the more we increase the budget deficit. Therefore, we need to ensure that we focus on core expenditure items. When we spend, we must look at the items we are supposed to spend on and make sure that they will generate more revenue for this country so that we can grow the economy.

Hon. Speaker, we have projected a Ksh3.9 trillion budget this year. In total, we project borrowing about Ksh703 billion. One thing we need to question as a House is whether the amount we are approving today or tomorrow of Ksh3.9 trillion will remain throughout the year. Experience and practice have confirmed to us that there are in-year deviations. For example, this year, we approved a budget with a deficit of 4.4 per cent. As of now, it has been adjusted upwards to 5.5 per cent. In the process of this adjustment, even though it can be justified, was this House involved in making that decision? As a House, if we want to be effective, and since we have a Public Debt and Privatisation Committee, it is important that the in-year deviations are discussed by this House and approved.

In the process of discussing this matter, there are a few things that I want to note. Average interest rates have increased, leading to an increase in the total amount of loans, and the average change to maturity of loans is getting shorter, making it worse for us. Also, we cannot ignore the exchange rate when discussing public debt matters.

The other important issue is that we approved a debt anchor of 55 per cent, and we said we need to see it go down. It was 63 per cent at the time, but it has now gone up to 69 per cent of the GDP. It is increasing instead of decreasing. As a House, we need an explanation as to why the figure is increasing, instead of decreasing. We do not have that explanation.

Hon. Speaker, I second.

**Hon. Speaker:** Order, Hon. Members.

*(Question proposed)*

Before I give the contributors a chance, allow me to acknowledge the following schools in the Public and Speaker's Galleries. We have Moi Girls' School Nairobi, Kibra Constituency, Nairobi County, and St. Francis Secondary School, Subukia, Subukia Constituency, Nakuru Country. 20

On your behalf and my behalf, I welcome the students and their teachers to the House of Parliament.

Hon. Members, I can see that the screen is full. I believe you have logged in to contribute to this Motion. Hon. Julius Melly, Leader of the Majority Party, do you want to be the first to contribute?

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Yes.

**Hon. Speaker:** Okay.

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. I rise to support the Report on the Consideration of the 2024 Medium-Term Debt Management Strategy.

Hon. Speaker, allow me to begin by thanking....

**Hon. Speaker:** Hon. Members, those who wish to contribute to this Motion should remember that in a Procedural Motion on limitation of debate, the time allocated to each Member to contribute is five minutes, including the Leader of the Majority Party. 30

**Hon. Kimani Ichung'wah** (Kikuyu, UDA): Thank you, Hon. Speaker. I hope the Clerks-at-the-Table have noted that you have taken about 30 seconds of the five minutes.

*(Laughter)*

I thank the Chairman and Members of the Committee. I particularly thank Hon. Makali Mulu, who is a very diligent member of the Committee, along with the Chairman.

I rise to support this Report and many of the recommendations, especially on our fiscal consolidation process from 3.9 per cent of GDP that is envisaged in the Financial Year 2024/2025 to 3.3 per cent of GDP in the Medium-Term Debt Management Strategy for two years after the next financial year. 8

The fiscal consolidation programme will encompass two aspects: Revenue generation and expenditure. The Departmental Committee on Finance and National Planning will bring the Finance Bill, 2025 later in the year that will deal with revenue generation matters. What is more important is expenditure and how we, as a country, can rationalise it. This is where we have a huge challenge. As Hon. Makali Mulu has said, the changes in the medium-term debt management strategy usually emanate from reviews of our expenditure. Every supplementary budget comes with additional expenditure, at the time when there is decline in revenue collection. I hope that the National Treasury will adhere to what the Committee and House recommends this time, should we adopt this Report and its recommendations. If the National Treasury discovers that our revenues are either not performing or improving within the year, then it is imperative that it also reviews the expenditure side of our Budget. This is because it is a challenge that we have. The Chairman of Budget and Appropriations Committee, Hon. 10 Ndindi Nyoro, has been very keen on this. However, I ask him that we actualise the House resolutions this year.

This is not only about the National Treasury but also the county Governments. Recently, a Member said that even our counties have borrowed from their big brother, the National Government. County Governments make budgets based on projected revenues that are never realisable. Kiambu County has collected Ksh1 billion in the half year against a projection of Ksh7.98 billion. It is impossible to achieve the revenue targets that they had in the next four months to the end of the financial year. The same happens in the National Government. Therefore, it is imperative that when the National Treasury realises that the Kenya Revenue Authority (KRA) is not up to speed in terms of the projected revenue collection, it should review the expenditure downwards. It is time that the Budget and Appropriations 20 Committee has food for thought on whether we put an embargo on new expenditure. I know this has been there, but we need to make sure that additional capital expenditure is checked.

The other thing that we must check is our recurrent expenditure. I often see advertisements for jobs in the Public Service in the newspapers. Many of them may not necessarily be replacement of people who have left office. At the end of the day, this will lead to a very huge recurrent expenditure that will negate the fiscal consolidation that we are trying to pursue.

As I conclude, and as I said, the National Treasury must ensure that fiscal consolidation is not only a term that exists in our books and those reports, but it is something that they must actualise this time round.

Hon. Speaker, with those remarks, I beg to support the Motion. 30

**Hon. Speaker:** Hon. Robert Mbui.

**Hon. Robert Mbui (Kathiani, WDM):** Thank you, Hon. Speaker, for giving me this opportunity to also contribute to this debate. Two things come to my mind on this issue of the 2024 Medium-Term Debt Management Strategy. First, before Members vote on this Motion, we must be very careful to know what exactly we are voting for. This is the beginning of the budget cycle. If we are not clear about what is happening, we may just agree to things and then we start complaining later on. We must note that this is the beginning of the budget cycle and it is part of it. As we vote for it, we must be careful.

Secondly, we, as politicians, must also be careful on what we say, even during the campaign time because there are things that we have to do eventually. Sometimes, it is very humiliating and humbling to eat a humble pie. When we passed the Finance Act, 2023, some Members who had voted for it started complaining publicly later on about some sections in it. 40

Thirdly, passing the 2024 Medium-Term Debt Management Strategy enables and allows the Kenya Kwanza Government to borrow more. The promises they made during the campaign trail were that they were against Government borrowing. They demonised the previous President and said that borrowing was a very bad thing. However, they continue to

borrow. We are planning to borrow more money. This regime can teach the previous one a lot of things on borrowing. This is because they are now going further into using other marketing instruments like Green, Blue, Samurai, Panda and Sukuk Bonds, among others. There is a better and more intention of borrowing from that strategy.

Borrowing is not necessarily a bad thing. Even in our investments, we borrow money so that we can do good things with it. What matters is not what one uses the money for, but how he spends it. If you borrow and put up an investment that gives you good returns, then it is a good one. However, if you borrow money and then you consume it or use it for normal day-to-day operations, then that is a problem. There is also a problem when one borrows to pay bad loans. This is not a good strategy. Unfortunately, I have seen a tendency where the current borrowing is at a much higher cost than the previous one. The Government borrows so that it can settle loans that were borrowed at lower interest rates and thus, they pay higher interest rates based on the current plan. We have to be careful about those things. 10

It is also unfortunate that there is a lot of borrowing from the local market. The late President, His Excellency Mwai Kibaki, stopped borrowing from the local market. That immediately opened up and stopped crowding out the private sector. Business people took loans from banks. Before the late President Kibaki's tenure, even opening accounts with some of those major banks was almost impossible. That is because the minimum deposits were so high as they were dealing directly with the Government. It is something that we need to look into. Why should we allow our Government to borrow from the local market and crowd out the private sector? 20

I also want to point out that the National Treasury does not take this House seriously. We are aware that they have told this House several times that they would release funds meant for the National Government Affirmative Action Fund (NGAAF) and National Government Constituencies Development Fund (NG-CDF), but they have not honoured it. This has happened four times. I have said this because the Committee's recommendations confirm the same. Recommendation five says that within 30 days of the adoption of this Report and subject to Section 50 of the Public Finance Management (PFM) Act, the National Treasury will submit a comprehensive report to the National Assembly on the breach of the debt anchor of 55 per cent of GDP. We are at about 70.8 per cent of the GDP. That means that when the National Treasury gave an undertaking, they did not fulfil it. We are now giving them time to go and fulfil something that they did not fulfil, when they had the opportunity.

In the last discussions on the Medium-Term Debt Management Strategy, we talked about the National Treasury opening a single account. We are repeating ourselves. 30

**Hon. Speaker:** Your time is up. Hon. Joseph Makilap.

**Hon. (Dr) Robert Pukose (Endebess, UDA):** He is not in the Chamber.

**Hon. Speaker:** Hon. Omboko Milemba.

**Hon. Omboko Milemba (Emuhaya, ANC):** Thank you, Hon. Speaker, for giving me this chance to speak on this Motion on the Report on the Consideration of the 2024 Medium-Term Debt Management Strategy. It emanates from the International Monetary Fund (IMF). It is supposed to create awareness in the countries on how to fix the deficits in their budgets. However, I also believe greatly that this must be customised to different countries. In this case, it needs to be customised to Kenya so that it can work well for us.

The deficit in the Report before us is likely to be above Ksh703 billion and this needs to be fixed. This strategy is showing us how the National Treasury will fix this through the policy and financial resolutions. It is very important for this House to discuss this matter, thanks to the fact that it is coming earlier than the budget, unlike last year when the opposite happened. 40

Hon. Speaker, it is important to understand that there are situations within our system that are creating huge debts for us that can be fixed as indicated in the Report. Looking at Recommendation No.5, it talks about the adoption of a single account by the National Treasury

---

even though Hon. Mbui stopped there because he got tired. We said this last year and we will continue to say and hammer it until the need for a single account at the National Treasury is accepted. How often do we borrow money while we have it in our own banks?

*[The Speaker (Hon. Moses Wetang'ula) left the Chair]*

*[The Deputy Speaker (Hon. Gladys Boss) took the Chair]*

During the Committee sittings, we received very many case studies, showing how the Government has borrowed money which is deposited in our banks. It has stayed there for more than five or seven years and the banks are lending it to the Government in form of treasury bonds and treasury bills. So, it ends up borrowing its own money which it took from outside at a high interest rate. Then, it is given to a department or ministry and it goes back to the bank. Again, it is given to the Government as local borrowing in form of treasury bonds and treasury bills. This is making our borrowing escalate for no proper reason. Therefore, there is need for the National Treasury to create a single account. Although we repeated this last year, we have to hammer it down until it is done. 10

Another case study which is showing what is making our borrowing to escalate, is the high commitment fees and timelines for disbursing loans. During the Committee sittings, we saw that Kenya has been loaned money by several institutions, but the National Treasury has not utilised it. Somehow, the country is still paying commitment fees for those loans year-in, year-out, even though they are unutilised. This has escalated our borrowing and it is very bad. I urge the Government to go slow in committing itself to taking loans that it is not ready to utilise.

As I conclude, I also want to speak on the issue of various expensive loans that are taken but, unfortunately, are not utilised. Like an Hon. Member said earlier, sometimes, we end up taking expensive loans to pay cheaper ones. This is dangerous because of the deficit we have in our budget. 20

Hon. Deputy Speaker, with those few remarks, I support.

**Hon. Deputy Speaker:** Member for Baringo North, Hon. Joseph Makilap.

**Hon. Joseph Makilap** (Baringo North, UDA): Thank you, Hon. Deputy Speaker, for giving me this opportunity. I rise to support this Report that has been brought by my Committee. Public debt has become a stigma for our country. It needs to be controlled so that we can finance programs in this country without struggling to pay the debt.

As a Committee, one thing we realised and which some Members have raised is that a lot of money to the tune of Ksh4 billion is pending in various international banks. This has been paid as commitment fees for loans we have not received or used. As you are aware, the Public Finance Management (PFM) Act, 2012 is very clear, that we borrow for development and are expected to inject that money into the economy, through programs which in return bring revenue that can be used to finance other programs. 30

Hon. Deputy Speaker, absence of resources for programs like agriculture and roads which are meant to generate revenue for our economy, means that we are not doing much for our country. I urge Members to support the implementation of those raft of proposals that have been recommended by our Committee to the National Treasury, so that we can have value for money. Can you imagine a commitment fee to the tune of Ksh4 billion? That money is enough to build a road from Barwessa to Kolowa, and which can transverse about three or four constituencies in Kenya. That money cannot be accessed because the loan has been approved.

Borrowing is expensive. We need to control the interest rates because, at the moment, if you are in the private sector, you get a loan at 22 per cent. This has come as a result of Government borrowing from commercial banks. What does this mean? It means that 40

commercial banks lend money to the Government because it is offering a good interest rate. The implication is that it becomes very expensive for individuals, commercial enterprises and private companies to borrow from commercial banks. The consequence is that if citizens and business people are unable to borrow from our financial institutions, we will not collect enough taxes to run the economy because the loans are expensive and businesses cannot afford them.

Hon. Deputy Speaker, one proposal we brought through our Chairperson is that we should not get a loan to re-finance another loan but to fund programs. If we borrow money from a financial institution, it must fund a particular program as indicated by the National Treasury so that we can have a positive outcome.

For us to grow our economy, we need to reduce our appetite for huge fiscal debts. As a country, we have to live within our means. For us to continue with our programs, we must reduce the fiscal debts. The source of public debt in Kenya is as a result of high fiscal deficit in our budget. As a country, we need to reduce our development programs and live within our means so that we can grow our economy using our own resources.

Hon. Deputy Speaker, I support the proposals and recommendations that have been made because they will grow our economy and we will have a sustainable...

**Hon. Deputy Speaker:** Hon. Beatrice Elachi, Member for Dagoretti North.

**Hon. Beatrice Elachi** (Dagoretti North, ODM): Thank you, Hon. Deputy Speaker. I also rise to support this Report and appreciate the work that has been done by the Committee in terms of looking at how our country is strained by debt, the risks involved and what we need to do.

When you look at the Report, you realise the Controller of Budget (CoB) has provided serious insights that we need to ask ourselves a few questions whether we like her or not. One thing she has brought out clearly is that there is no way the Government can spend Ksh4 billion or Ksh5 billion on debt interest composed of domestic interest payments. We then come with Ksh300 billion that is foreign interest payments worth Ksh105 billion. She questions us and says that if we continue with this trend, the country will be distressed. Parliament has been given the opportunity to interrogate those reports and the budget but, one thing this House can do to help the country is by looking at different natural resources that we have, like minerals, and determining how we can use them to pay some of those debts.

We agree to pay interest on debts that have not been disbursed. In the last administration, that was the biggest challenge. We borrowed money that we were unable to spend and later found ourselves owing very high interest rates. We thereafter started complaining. Today, we are here and have raised everything we can but, most importantly, how do we balance ourselves and look at the different sectors and parastatals that are ailing. It is time we agreed that there is so much that the national Government can do to create revenue to deal with our current debt.

Additionally, when you read the Report, the Auditor-General in advising the Government and states that the Government continues to pay commitment fees incurred on undrawn amounts regarding loans signed between the Government of Kenya and foreign lenders. If that is what is happening, how do we re-negotiate those loans since we have not spent them? I believe we can re-negotiate. We can take cheap loans to repay the existing ones. This will reduce the strain that is currently affecting the country. The National Treasury has to question the need for some loans and ensure they are spent on the intended purpose. With time, some of them have been overtaken by events. We, therefore, should ask ourselves whether we need the loans. When we get our budgets, we wait to see how the National Treasury will advise us, that, yes, we have our budgets and this is the total amount we want to spend, but we have a framework of how we can re-evaluate and work within the budget regardless of over-estimation. Let us spend what we have. As I support this, I am waiting to see...

**Hon. Deputy Speaker:** Hon. Ndindi Nyoro.

**Hon. Ndindi Nyoro** (Kiharu, UDA): Thank you, Hon. Deputy Speaker. First, I would like to thank and congratulate Hon. Shurie and the entire Committee, including the Vice-Chairperson, Hon. (Dr) Makali Mulu, who is also a member of the Budget and Appropriations Committee.

I will go straight to the point because I want to highlight a few things. When the Kenya Kwanza Government came into power, the President was very categorical that Kenya had to reverse its gears concerning borrowing. The Budget and Appropriations Committee alongside the Public Debt and Privatisation Committee and the Departmental Committee on Finance and National Planning have been able to gradually reduce the deficit. In the last financial year, Kenya had a deficit to GDP ratio of about 5.7 per cent which, at some point, came down to 4.5 per cent and later to 5.5 per cent after the supplementary budgets. Although we will be debating the Budget Policy Statement (BPS) tomorrow, what we have managed to do for the next financial year is to bring down the deficit from Ksh886 billion to about Ksh703.9 billion, which is about 3.9 per cent deficit to GDP ratio. This is a good path in managing our appetite to borrow.

Secondly, we sometimes read in the newspapers about the amount of money that has been borrowed. The truth of the matter is that Kenya does not borrow money outside the budgeted deficit. We have seen an escalation of the debt portfolio due to the fact that 50 per cent of our debt, which is approximately Ksh11 trillion, is domestic, while the rest is foreign. 70 per cent of our foreign debt is dollar-denominated. When the shilling loses its value by 20 per cent, this rolls over to our foreign debt portfolio. This will increase the debt, for instance, by Ksh1 trillion without borrowing a shilling. This is because our debt is in shillings but 50 per cent of the debt is borrowed in external currencies. Whereas Kenya is adopting a conservative model of borrowing less, we have also seen some of the major economies over-borrowing. Currently, the United States of America has a 120 per cent debt to GDP ratio of over Ksh34 trillion, which has also caused a standoff at the Congress. In the United Kingdom, the debt to GDP ratio is over 100 per cent, but we cannot compare our economy to those of the developed economies because our cost and use is different. We will continue to borrow less because we cannot afford to continue digging the hole of debt.

When we talk of debt, we look at several things. For instance, Japan has the highest debt to GDP ratio in the world of over 250 per cent, but we have to look at the cost. In Kenya, the cost of borrowing domestically... Recently, we had an infrastructure bond of over 17 per cent which is tax free. For the last 10 years, Japan has had bonds with negative yield; meaning a negative interest rate. The more reason we cannot compare ourselves to them. The ramifications of Japan over-borrowing have led to inflation which, in turn, has caused their real GDP to remain constant for the last 30 years. Kenya is a gross borrower and, therefore, does not lend to anyone. Some of those big economies report gross borrowing but they also.... My time is up.

**Hon. Deputy Speaker:** Hon. Njeri Maina, Member for Kirinyaga, just give me a minute to recognise some schools. I wish to recognise two schools seated in the Public Gallery:

1. Milimani Secondary School from Naivasha Constituency, Nakuru County.
2. Nairobi River Primary and Junior Secondary School from Embakasi West Constituency, Nairobi City County.

Before you proceed, Hon. Maina, let me allow Hon. Mark Mwenje to welcome the teams.

**Hon. Mark Mwenje** (Embakasi West, ODM): Thank you, Hon. Deputy Speaker. Let me take this opportunity to welcome Nairobi River Primary and Junior Secondary School students from Embakasi West. I thank the school for the splendid job they have been doing. We have done four additional classrooms in the school. It is good the students are here to see

this is where we get funds to build their classrooms. I encourage them and believe that there are future Members of Parliament from among the students.

On behalf of the entire House, I welcome all the students. Thank you.

**Hon. Deputy Speaker:** Thank you. You may proceed, Hon. Njeri Maina.

**Hon. Njeri Maina** (Kirinyaga County, UDA): Thank you, Hon. Deputy Speaker. I rise to support the Report by the Committee. This House owes a fiduciary duty to electorates. It is therefore important to examine our Medium-Term Debt Management Strategy to ensure that any monies are applied accordingly. The ideal situation is that the net external borrowing does not exceed 55 per cent and the domestic borrowing does not exceed 45 per cent of the GDP.

We must, therefore, examine key priority areas that need funding by this House. We must also continue to ensure there is continuity in Government projects. Cutting down recurrent expenditure is also something that we should consider. The fiscal policy that we have must reflect the financial constraints of this nation. That is what I call walking the talk. Since the Kenya Kwanza Government took office, it has borrowed less. I want to disabuse the notion that it has borrowed more as the Kenya Kwanza Government. I refer to my good colleague and friend, Hon. Ndindi Nyoro, that when the shilling depreciates, the value of our debt increases too. Around 70 per cent of our debt is in US dollars. That is the net effect we see in the increase of our debt. It is not about the debt; it is about whether the debt is sustainable.

Countries like the United States of America have debts over 128 per cent of their GDP. As of 2023, the US had more than US\$32 trillion debt. The question that we must continuously examine is whether we have a sustainable debt and whether we can manage the same for posterity. The G7 nations like Canada, Germany and the rest have net debts of around 128 per cent. We must continuously engage in this conversation to ensure that we examine policies that do not denigrate our development agenda but ensure that, for posterity, we sustain the same and can pay our debt.

Thank you.

**Hon. Deputy Speaker:** Hon. Donya Dorice, Member for Kisii.

**Hon. Dorice Donya** (Kisii County, WDM): Thank you, Hon. Deputy Speaker. I rise to support this Report. There was a time when I was a member of the Board of Management (BoM) at Awendo Sugar Company. I saw over 100 unused vehicles. Those are Government assets. If you moved around the country and identified unused Government assets, they could be sold. You could make the process quicker so that the money collected can be used to run Government activities. Anytime there is borrowing, they say we have to fund such activities, forgetting that we have our own sources from where we can collect money and use it to run Government projects and activities.

Each borrowing must have a purpose and approval. If I took a loan from any bank in Kenya today, I would be given a limit on when to pay, interest and purpose. We are never clear on what we want. It is easier to borrow from other places than to allow the Government to give a clear procedure on how it can have its idle assets sold to limit the amount of money it borrows.

Thank you, Hon. Deputy Speaker.

**Hon. Deputy Speaker:** Member for Manyatta, Hon. John Gitonga.

**Hon. Gitonga Mukunji** (Manyatta, UDA): Thank you, Hon. Deputy Speaker. A nation's strength ultimately consists of what it can do on its own and not what it can borrow from others. Around 13 years ago, our debt was less than Ksh1 trillion. Right now, we are talking about close to Ksh1.25 trillion. We need to borrow less as we move forward. The next generation must not find this country in crisis in form of debt. I congratulate the Committee for the Report. As a House, we need to be keener on issues of borrowing in this country and the programmes we are borrowing to finance. I propose that, as we look at handling debt, we need to factor in audits, especially by well-trusted auditors, even international ones, to check on the viability of programmes and projects that we fund with debts. That will help us to get value for



money because we are net borrowers. We cannot say we will live without borrowing. Let us borrow and ensure we maximise the opportunities and value for money.

I will deviate a little bit and go back to the borrowing in Kenya right now. I call upon the National Treasury to look at the interest rates that banks give to ordinary business people. If you borrow from a bank, 20 per cent of your profit goes towards repaying the debt. That means people have a problem financing their operations. I call upon the National Treasury to check on that. I understand inflation, but it is important to have local solutions, especially for our businesses. We also need to review laws. It is always good to say we are a thinking and working nation. We passed the Finance Bill, 2023 last year. Some things are working, others need improvement, while others need to be re-thought. While we are preparing to consider another budget and Finance Bill in June, some of the taxes we introduced and were to increase (0) our collection have not worked right. We must review that as a House and ensure that we come up with ways of raising revenue that are not too much into killing the businesses that are being operated in the country.

On the turnover tax that we introduced to our farmers, it is important because we are asking the House to review it and reduce what is required from farmers, so that we do not have a case where farmers get frustrated and have to use the internet in trying to solve issues.

As I close, we need to work on the savings that this country is accumulating. I am happy that the Government has come out strongly to see how it can improve our savings so that we can stop borrowing too much from foreign entities and get crushed by paying using dollars.

*(The Deputy Speaker (Hon. Gladys Boss) left the Chair)*

20

*(The Temporary Speaker (Hon. Peter Kaluma) took the Chair)*

We need to work with the Kenyan Shilling and negotiate on our interest rates so that we can have this country sorted out as we move on.

That is my submission. I congratulate the Committee. Thank you.

**The Temporary Speaker (Hon. Peter Kaluma):** Hon. Mugambi Rindikiri? He is not in the House. Hon. Geoffrey Ruku, Member of Parliament for Mbeere North? He is also not in the House. Hon. (Dr) Robert Pukose, Member of Parliament for Endebess, do you want to contribute to this?

**Hon. (Dr) Robert Pukose (Endebess, UDA):** Thank you, Hon. Temporary Speaker, for allowing me to contribute to the policy and financial resolutions relating to the 2024 Medium-Term Debt Management Strategy.

From the onset, this strategy states that, at least two months before the end of the current Financial Year, the National Treasury submits to the National Assembly the annual borrowing plan that addresses any deviations from the 2024 Medium-Term Debt Strategy in financing the 2024/2025 Budget Estimates, attendant cost and risks of the deviations and policy measures to address. To help enhance public participation in public debt matters, the National Treasury shall publish simplified, citizen-friendly documents to accompany the technical reports on public debt submitted to the National Assembly. As you are aware, many people do not understand some of the technical terms that are used in some of those reports. Therefore, it will be very important that the National Treasury publishes simplified citizen-friendly documents to accompany the technical reports on public debt. 30

Hon. Temporary Speaker, the country's borrowing strategy is approved at 55 per cent for net external borrowing and 45 per cent for net domestic borrowing as contained in the 2024 Medium Term Debt Management Strategy. We should have some fiscal policies that gives us some discipline that we do not deviate so much. Article 223 of the Constitution allows Parliament to approve expenditure by the Government that was not planned for. The 40

Government can spend, but we have to look at what is in our collections. It is very important that we do not spend beyond what we can collect. We must stick within a certain level of our discipline in our fiscal policies. It is also important that we do not go beyond such that we have to come to supplementary estimates to try and cut down on our costs. Our budget should be limited to what we can collect within our expenditure. For instance, when you go to a supermarket, you can only spend what you have in your pockets. You do not spend what you do not have in your account.

As a country, we need to have fiscal policies and discipline to spend within our means. We should not over-borrow loans that we will be unable to service.

With those few remarks, I support.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Daniel Manduku.

**Hon. Daniel Manduku** (Nyaribari Masaba, ODM): Thank you, Hon. Temporary Speaker. From the onset, let me inform the House that I am a member of the Public Debt and Privatisation Committee, and it is my wish that the National Treasury adheres to its proposal as stipulated in the Medium-Term Debt Strategy. Ironically, the National Treasury proposes a borrowing strategy of 55 per cent being foreign and 45 per cent being local and yet, in the Budget Policy Statement, they are planning to borrow 63 per cent to 37 per cent this year. Further to that, this House, sometimes back, resolved that the debt anchor be 55 per cent. A few months down the line, our debt anchor to Gross domestic product (GDP) is at 69 per cent. I would have wished to see a situation where that debt anchor gradually starts going down towards a target of 55 per cent. The National Treasury has promised that they should achieve that anchor by June 2028. This House needs to sanction the National Treasury strongly so that from time to time, they are obligated to come and give reports on a quarterly basis. 40

There is a problem with our debt. When it is borrowed, there is no rule or law on how it is applied in terms of development versus recurrent expenditures. Any good economist will tell you that debt should strictly be applied to development expenditure. It is very sad to see that we have borrowed a lot of money and used it on recurrent expenditure. In my view, going forward, we need to redefine recurrent *vis-à-vis* development expenditure with special emphasis on the development of human resources like teachers, doctors and other people who help in uplifting our social status as a country. 20

Some Members keep comparing Kenya to countries like Japan and the United States of America, which have exceeded 100 per cent debt to GDP ratios. I want to remind them that those countries have a lot of foreign reserves running to billions of dollars. They also have monies that they have lent to countries like Kenya. So, a comparison to such countries is not appropriate. 30

Lastly, in all discussions that we have had about public debt, we need to seriously consider having a Public Debt Act so that it can legislate and seal any loopholes that the Public Finance Management Act does not cover. This may reduce the abuse of Article 223 of the Constitution.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Edith Nyenze? She has stepped out. Hon. (Dr) James Nyikal, Member of Parliament for Seme, do want to contribute to this?

**Hon. (Dr) James Nyikal** (Seme, ODM): Thank you, Hon. Temporary Speaker, for giving me this opportunity. I must appreciate what the Committee has done. It is the second time that we are discussing the Budget Management Strategy during the budget process. It is the first time we are doing it before the Budget Policy Strategy which means that we are seriously taking up the matter of looking at our debts and linking them to our budget because that is where the issue lies. Debts on their own are not a bad thing. However, it is important to look at what we do with the debt. It is necessary that we achieve its purpose because it comes from the budget deficit which could either be our recurrent or development expenditure. We 40

should agree that we do not borrow for consumption to finance our recurrent expenditure. However, when we borrow for development, we should plan to ensure that it brings revenue later on. Those are the most important issues when you are dealing with debts. What is the source of debt? As I have said, it is basically a budget deficit. The budget deficit is our expenditure against our revenue. Therefore, if we have a large fiscal deficit, we should look at cutting or reducing our expenditure instead of seeking more loans. Debt is good, but it becomes a problem when you cannot repay it. We have too many problems in this country. The cost of living has gone up because we are servicing the debt. We cannot finance our expenditure. We must reduce expenditure.

This Report has two main parts, one is a list of financial resolutions that are directly related to what we plan to do. The fiscal deficit target is projected at 3.9 per cent of the GDP for the Financial Year 2024/2025. The issue is: Can we adhere to these proposals? Last year, we set this target at 4 per cent and now we are at 5.5 per cent of the GDP! We have a deficit. We can come up with all these resolutions but are we going to adhere to them? The country's borrowing strategy is approved at 55 per cent of the GDP for external borrowing and 45 per cent for domestic borrowing. This is a good thing if we stick to it. Last year, we set this at 53 per cent of the GDP and we went up to 68 per cent. We had also set our debt ratio at 55 per cent and we went beyond that.

Therefore, these policy recommendations are key and without them, the financial resolutions in the Report will not work. We should encourage...

*(Hon. (Dr) James Nyikal's microphone went off)*

**The Temporary Speaker** (Hon. Peter Kaluma): Why are you okaying? Will you finish if I add you one more minute?

**Hon. (Dr) James Nyikal** (Seme, ODM): Yes. We have public participation in the budget-making process and the same should apply to the Medium-Term Debt Management Strategy (MTDMS).

In the recommendations, we have stated that we will have a schedule of what we intend to do with the Budget. We should also bring a schedule of what we have accomplished with the debt we took in the last budget and the returns. This is the only way we can have a meaningful approach to debt management.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Peter Kaluma): Next is the Member of Parliament for Kitui Rural, Hon. David Mboni.

**Hon. David Mwalika** (Kitui Rural, WDM): Thank you, Hon. Temporary Speaker. At the outset, I support this Report and thank the Committee for bringing it here.

I also thank the National Treasury on how it has handled the repayment of the Eurobond. The situation with the Eurobond brought a lot of anxiety in the financial market. Last year, when I was in Washington DC for the International Monetary Fund (IMF) and World Bank talks, everyone thought that Kenya would be the next country after Zambia and Ghana, in terms of loan defaulting. Now we are off the hook. As a result, the Kenya shilling has appreciated against the dollar. Many people were hoarding the dollars in the hope that the Government would mop up the dollars to repay the Eurobond. At least, the dollar market has stabilised now.

The proposals in the MTDMS are not new. They have been there before. The question is: Have they been implemented? When you look at the Report, the 2023 set fiscal deficit was targeted at 4.4 per cent, but the actual deficit is at 5.5 per cent. This means that we do not follow the proposals. We need to be serious as a country. If we want to fight debt, we have to have balanced budgets. I like the Committee's recommendation that the National Treasury should

submit to Parliament the list of projects that it intends to borrow for. Currently, we are borrowing for recurrent expenditure. There are no major projects in the country. A country is doing poorly when it starts borrowing for recurrent expenditure and not investments. We need to move towards balanced budgets.

In addition, there have been many roadside promises. When the Head of State makes a roadside promise, it has to be featured in the Budget. This means we have to either re-organise the Budget or bring in Supplementary Budgets further increasing the budget deficit. A budget deficit equals a debt. It is high time those roadside promises stopped and we follow the Budget to the letter. This will reduce the fiscal deficit.

Hon. Temporary Speaker, Article 223 has been over-used and abused. The Auditor-General and the Controller of Budget reported that billions of monies were used under this Article. This creates a deficit and now we have to borrow to fund the projects which the money was budgeted for. It is high time we reduced the use of Article 223. 10

We need to go for concessional loans which are cheaper than commercial loans. We also need professional negotiators for our loans. I do not think the Eurobond was negotiated by professionals because the US\$2 billion was to be repaid once. I am happy that this has been re-negotiated and it is going to be paid in instalments. Imagine if we had to pay Ksh300 billion in June this year; this country would collapse. We need professional negotiators. I also love the Committee recommendation on...

*(Hon. David Mboni raised his hand)*

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Mboni, what are you signalling to the Chair by raising your hand? I will add you two minutes.

**Hon. David Mwalika** (Kitui Rural, WDM): Okay. As a country, we cannot afford to pay Ksh3 billion. We need professional negotiators who can negotiate so that we pay loans in instalments. 20

The implementation of the Treasury Single Account is something which was proposed a long time ago. However, there is a lot of resistance from the National Treasury or the Government agencies. I was talking to somebody who was telling me that Government agencies and parastatals have over Ksh200 billion held in private banks. However, the Government borrows money from there and pays interest on it. The Treasury Single Account should be implemented so that all that money is mopped up and put in the Central Bank of Kenya. The Government can then borrow the money, use it and repay when in a position to do so.

Borrowing domestically closes up private investment. I was talking to somebody and they told me the interest rate for the bonds is 18 per cent while the interest rate in the bank now is around 20 per cent. How many Kenyans can afford to borrow at that rate? The proposals that have been proposed should be implemented so that, at least, we can move forward.

I support.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Thuku Kwenya, Member of Parliament for Kinangop. 30

**Hon. Kwenya Thuku** (Kinangop, JP): Thank you, Hon. Temporary Speaker for giving me the opportunity to contribute to this Report on the Medium-Term Debt Management Strategy.

At the outset, as a Member of the Public Debt and Privatisation Committee, I wish to support our Report. This is a Report that is very important in as far as fiscal planning, Budget, and the Budget Policy Statement are concerned. It is simply a document by the National

Assembly which tries to envision how the National Treasury will manage debts in the coming financial year.

I have taken interest in looking at the Debt Management Strategy of the National Treasury. Parliament must be alive to what is happening in this country, especially the issue of debt. Largely, our budget is financed through borrowing and that is perturbing. Looking back ten years ago, it is sad to say that our borrowing has gone up by around 350 per cent from Ksh2.25 trillion to about Ksh11 trillion to date. That is something that should concern every Member of Parliament because it is our business to oversight the National Treasury. At times, they are just "borrowing happy" to the extent that there are so many loans that have been committed to this country and yet, the absorption rate is so low. The country is made to pay commitment fees for loans that have not hit our coffers! We are borrowing but the money remains in the pockets of the people who lend us the money. I have said it in this House, and I will say it again, that it is a perfect example of walking into a commercial bank, borrowing money but not walking away with the money. You spend the money at the behest of the lender. It becomes a big burden to this country. You can imagine borrowing money but the lender dictates how it should be drawn and yet, you are paying the commitment fee, interest and all that. It, therefore, becomes a trap! We are ensnared in some kind of deep hole or abyss that we are trying to get out of. 10

It is time for the National Treasury to become serious in as far as debt management is concerned. When we talk about expenditure, the House is always full because people are happy to spend money. But we are not careful to ask where the money is coming from. I have listened to one of the Members contribute and he has ably said that our Budget has two columns as many people would think. That is not so because there is the revenue column which has an aspect of debt and it is quite a chunk! This financial year, we have borrowed close to Ksh1 trillion. It is in this financial year that we passed the Debt Management Strategy that envisaged a situation whereby borrowing would be up to a certain extent. We have surpassed it and no report has come to this House and yet, we resolved that if the National Treasury surpasses the amount that was approved by this House, they should come back with a report explaining why. We have not received that as the Public Debt and Privatisation Committee. Indeed, it should concern us. 20

On the issue of the Single Treasury Account, whereby all the monies collected by the Government should be deposited in one Government account, allow me to state as follows: As much as we are saying that our borrowing is at 55 per cent this financial year, we cannot live with that. We are borrowing more than is envisaged in this document. We are not living up to the resolutions of this House. I strongly feel that the National Assembly should rise up...

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Thuku, I have recognized the fact that you are speaking to yourself. Let me take it that you have concluded your contribution. I will give you a minute to tie your comments well. 30

**Hon. Kwenya Thuku** (Kinangop, JP): Thank you, Hon. Temporary Speaker for your magnanimity. As a House, we must live to our calling and responsibility. We must oversight the National Treasury. They should not just be presenting documents to this House and once we interrogate them and pass resolutions, we assume that it is the end of the work of the House. We are not mere spectators in this game. We are not spectators but players; we are part of the budget-making process. The National Treasury must be well advised that any document that they present to this House is for purposes of consumption of this House, which also plays the oversight role. We are going to keep them on their toes so that we bring down the level of debt from wherever it is to a figure that is manageable.

I can see the *Clerk-at-the-Table* is on my case! Kindly be kind to me. The issue of wanton borrowing must be dealt with once and for all by this House. It is only this House that can pronounce itself on the matter. Thank you. 40

**The Temporary Speaker** (Hon. Peter Kaluma): The Chairperson, Departmental Committee on Justice and Legal Affairs Committee, and Hon. Martin Owino Peters, I will give you the chance to contribute after Hon. Jackson Kosgei.

Hon. Jackson Kosgei.

**Hon. (Dr) Jackson Kosgei** (Nominated, UDA): Thank you, Hon. Temporary Speaker. At the outset, I wish to support this Report and Motion.

Allow me to reflect on the rise and fall of empires in history of the last 6,000 years. Historians have summarised reasons that make Governments stand or fall. Sound fiscal policy is a Government plan and decision that determines how much money to borrow and collect in taxes and how to spend it to meet expenditure in the country. If this is not done, it can bring down regimes because it has done so.

Hon. Temporary Speaker, it is important to note that the Constitution we are currently using in this country gives Parliament that solemn role to participate in the financial policy of the country. It meant well because this can sustain the country. It has been found that what sustains a nation is national pride. This is where people are proud of their own country. I remember when the late President Kibaki talked about raising of resources in this country. He came from the point of national pride that *'lipa ushuru ujitegeme'*. Tax compliance enhances sustainability. This should make us proud to be Kenyans because we are the ones who are paying the bills of our civil servants in this country, irrespective of any political affiliation. We are all citizens of Kenya.

In conclusion, this House should look at, and analyse in depth, the impact of any newly borrowed money on our economy and how we can deal with it. I cannot over-emphasize this because colleagues have dealt with it. Otherwise, Hon. Temporary Speaker, I support the Motion.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Martin Owino Peters, Member for Ndhiwa.

**Hon. Martin Owino** (Ndhiwa, ODM): Thank you, Hon. Temporary Speaker. I want to support this Report. There are some idioms that teach us. For example, debt is slavery to those who are free. If those who are free are grossly indebted, they become slaves of the lender as is in this case. Hon. Sir George is a friend of mine. If you see him repeatedly biting off what he cannot chew, he will choke over it. The situation in our country is serious when it comes to debt. Somebody said that for fiduciary responsibility of this House, let us stop lamenting but oversee the Executive so that it does not go overboard.

How I understand the Budget Policy Statement is that it is a plan of action. We have now come up with the mid-term strategies as the policy action plan that should be followed when doing stuff. In following that, I think, as a House, we amended our Standing Orders that we should get reports from those Ministries every three months. Let us not rely on auditors' reports. All these yearly reports are done too late when things have already happened. However, if we can follow closely and see what is being done after every three months, then we can prevent some of those things. I think that is the right intervention we should tap into.

There is something here, which I think is very grave as well. The fidelity to the plans which we put in place. For example, over 90 per cent of what we pay is interest; not principle. There is also another animal called exchange rate. Every time our shilling is down, we pay Ksh40 billion to the loan because of the exchange rate. So, the National Treasury should be uptight in making sure that the Kenyan shilling does not fall that gravely to the dollar.

I want to make a point that has been cited many times on contingency spending as stipulated in the notorious Article 223 of the Constitution. This is what puts the Government way over what they are supposed to be spending whenever they are allocated money. Perhaps, we need to amend the Article. I know there will be a lot of resistance, but spending before and

looking for sanitation later is what is causing all these problems. We should stand up as a House and say: "Enough is enough with this Article."

Lastly, there is an omission here that I thought should have been included in this mid-term strategy - debt re-negotiation. Some debts should just be re-negotiated. There is no way one is going to meet them, especially when they commit the money, do not use it, and it continues to accumulate interest. For us to remain relevant in this market, we should sit with the lender to re-negotiate the loan in order to pay it in a certain way. Otherwise, I thank the Committee. Let us stand for the people of Kenya and say no more borrowing to pay for existing debt.

**The Temporary Speaker (Hon. Peter Kaluma):** The Member of Parliament for Wundanyi, Hon. Mwashako.

**Hon. Danson Mwashako (Wundanyi, WDM):** Thank you, Hon. Temporary Speaker. I rise to support the Report on the consideration of the 2024 Medium-Term Debt Management Strategy that has come to this House at the appropriate time. It is important to put things into perspective. Many years back, this country engaged in borrowing both locally and out of the country without involving Parliament. This Report clearly outlines the policy on how the Government intends to engage in borrowing. This is to make sure that the budget deficits for every year, when the budget is passed, can be covered through borrowing. It is important to realize that this debt management strategy is a Government policy. Now that the Government has brought this document to Parliament as per the Constitution and the Public Finance Management (PFM) Act, 2012, it is upon this House to make sure that the policies and aspirations that have been outlined in these documents are fulfilled.

Many times, borrowing in this country has been shrouded in controversy. Remember the times of the Eurobond. It was clear that money came into the country, but one could not trace where it went. Today, as we read this Report, we find ourselves in a situation where there is hope that if this document is to be followed to the letter, as a country, we shall get ourselves a better way of managing our fiscal debts. That way, we will not overburden the current and future generations. There is a principle in the Constitution that talks about inter-generational equity. Today, we may be excited about big projects that are done through money that we borrow from the Chinese and every other partner out there. However, if we are not prudent enough, then we will be over-burdening our future generations to a situation whereby we bequeath our children a country that is not sustainable. Therefore, we will have failed in our duty as people who are supposed to be responsible.

I remember last year the Cabinet Secretary for the National Treasury stated in this House his attempt to change our national debt from an absolute number of Ksh10 trillion to anchoring it at 55 per cent of the Gross Domestic Product (GDP). We raised many issues because it looked like it was just another gimmick to confuse Parliament and the country. This Report indicates that we are currently above a debt to Gross Domestic Product (GDP) ratio of 70 per cent. The Government's ability to reduce debt-borrowing to 55 per cent plus the 5 per cent that it indicated is something that must be looked into, pushed and forced, so that the Government demonstrates that it has the will and heart to bring down the rate of borrowing.

Before I conclude, it is recommended that foreign borrowing should be 45 per cent of the total debt and domestic borrowing should be 55 per cent of the total debt. However, this Report clearly indicates that we have reversed that trend. The rate of foreign borrowing is higher vis-à-vis domestic borrowing. We find ourselves facing huge foreign exchange rate risks since our shilling has lost a lot of value and depreciated against the dollar. Most of our debt is in dollars. Therefore, our debt ends up ballooning without real value coming into the country. Therefore, as we balance between costs and risks, we must ensure that ...

**The Temporary Speaker (Hon. Peter Kaluma):** I will give you two minutes to conclude.

21

**Hon. Danson Mwashako** (Wundanyi, WDM): Thank you, Hon. Temporary Speaker. We must look at the trade-offs. If we borrow more foreign loans, we face huge foreign exchange rate risks. At the same time, if we borrow more locally, we may crowd out investors and the private sector in the country. This trade-off must be well calculated.

I like the part in this Report that states that after its adoption, the Ministry of National Treasury and Economic Planning must submit its debt sustainability analysis to this House so that we know whether our debt as a country is sustainable, and if we can manage it and pay it off.

I sit in the Budget and Appropriations Committee. The Principal Secretary for the National Treasury and Economic Planning appeared before us yesterday and told us that they wish to make the fiscal consolidation path that they have been following friendly, so that we can cover our budget deficits. At the same time, we must continue paying our debts in good time. As we do so, we should not sacrifice cheap debt for expensive debt like we did recently, where we raised the Eurobond at 6.75 per cent and we will be paying it at 10 per cent and yet, we call that sustainability.

It is my hope that this policy will be followed and Parliament will keep the Government in check so that we can get good dividends from this Report. I support.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. David Gikaria, Chairperson of the Departmental Committee on Environment, Forestry and Mining.

**Hon. David Gikaria** (Nakuru Town East, UDA): Nakushukuru sana, *Hon. Temporary Speaker*, kwa kunipatia nafasi hii ya kuchangia mjadala huu kuhusu madeni.

Hakuna mtu, familia au nchi isiyo na deni. Huwa unakopa pesa ili ufanye nini? Kuna pesa zinazokopwa zisizo na faida yoyote nchini. Hata unapokopa pesa kwako nyumbani, lazima ujiulize utalipa vipi. Lazima uwe na mshahara wa kutosha. Kama ni Serikali inayokopa, lazima ikusanye pesa na iwe na mikakati ya kukusanya hela ambazo zitasaidia kulipa madeni hayo. Lazima ujiulize pia unakopa kutoka kwa nani? Ni nini kitakachofanyika ikiwa utashindwa kulipa? Tunapaswa tujiulize maswali mengi wakati tunakopa hela, iwe ni mtu binafsi au nchi. Wizara ya Fedha imetuelezea kuwa hatujatenda vizuri na tunajua hiyo ni kweli.

Mhe. Spika wa Muda, unakumbuka kuwa pesa zilikuwa zinachukuliwa kufanya miradi ambayo haikuwa ya kuwekeza hela tu, ila ilitoa mapato pia. Hakuna wakati tuliambiwa kazi ambayo hela hizo zilifanya au njia zilizotumika ili tuseme kwa Kiingereza kuwa tumepata *value for what we have borrowed*.

Nashangaa kuwa Wizara ya Fedha bado inaweka mikakati ya kupunguza madeni tangu tupate *Independence*, mikakati ambayo tunaendelea kukiuka. Wenzetu wachache hapa wamesema kuwa tuweke mikakati hiyo na tufanye kazi yetu kama Wajumbe. Hiyo siyo kazi ya *Executive* hata kidogo. Tumepitisha mambo haya yote katika sheria zetu. Chochote ambacho *Executive* inataka kufanya, sana sana kuhusiana na haya maneno, lazima kipitie katika Jumba hili. Ikiwa Jumba hili litapitisha mambo hayo, hatuwezi kumlaumu mtu mwingine. Lawama ni kwetu sisi Wajumbe. Lazima tukae chini na tujiulize pesa tunazokopwa ni za kufanyia nini. Tutapata mapato gani tukikubalia Serikali ikope pesa ili ifanye miradi? Tutaweka mikakati gani ya kupunguza madeni?

Tunaishukuru Kamati husika kwa kazi nzuri iliyofanya katika Ripoti hii. Tunaomba kuwa isiwe tu matamshi na kuandika maneno kwenye karatasi kisha turudi kufanya kinyume na ile mikakati tulioweka.

Kuna njia nyingi ambazo ndugu zetu katika Wizara ya Fedha na Kamati ya Bajeti wamezingatia lakini ni muhimu tusipitishie madeni haya kwa watoto ambao bado hawajazaliwa. Tunapoyachukua haya madeni, ni lazima kila mtu abebe mzigo wake kwa wakati unaofaa. Ni makosa sana mimi nibebe mzigo na nimwachie mwingine aje alipe kama vile ilivyotendeka. Nitaubeba mzigo wangu kwa sababu najua nina miaka fulani ya uhai, na nikimaliza miaka yangu, atakayekuja kulipa sio shughuli yangu. Bunge hili lina jukumu la



kusimamisha fikira kama hizo katika siku zijazo. Isikuwe kuwa mimi kama Mjumbe sijali kile nitakachofanya katika miaka mitano nitakayokuwa hapa kwa sababu yule atakayekuja baada yangu ataubeba mzigo huu.

Tunaomba Wizara ya Fedha na Kamati ya Bajeti kuweka mikakati ya kupunguza madeni. Tunapigia upato Ripoti hii ili ipite lakini ikishapita, tusiambiwe kuwa madeni yetu yamefika Ksh15 trilioni kisha tuanze kuilaumu Bunge ya mwaka jana au mipango ya yule Rais wa awali. Tunapaswa tuzingatia mambo hayo na kuweka mikakati. Yale mambo ambayo wameahidi wana...

**The Temporary Speaker** (Hon. Peter Kaluma): Member for Bomet County, Hon. Linet Chepkorir. On a very special request, make your contribution.

*(Hon. Linet Chepkorir consulted with Hon. Josses Lelmengit)*

10

Is she consulting with Hon. Josses Lelmengit? It is normal for some of the best leaders we have in the country today to consult. Make your contributions.

**Hon. Linet Chepkorir** (Bomet County, UDA): Thank you, Hon. Temporary Speaker. I was still consulting. I have just come to the House but I will contribute before the end of this debate.

**The Temporary Speaker** (Hon. Peter Kaluma): I did not get you well, Member for Bomet County. Are you waiting to contribute on the next one? Let us have Hon. Stephen Mogaka. Before Hon. Stephen Mogaka contributes, Hon. Josses Lelmengit had made a request.

**Hon. Josses Lelmengit** (Emgwen, UDA): Thank you for giving me this opportunity to add my voice on this debate and to let you know that I support this debate. I also thank the Public Debt and Privatisation Committee for coming up with this Report on the Medium-Term Debt Management Strategy.

20

First, I thank the President. During the last financial year, he tried and persuaded the Committees of this honourable House to cut down the Budget by close to Ksh300 billion. In this case, the principle is: Do not spend money you do not have. Truly, we need to cut down on the Budget because we understand the challenges we have as a country, especially the extent of borrowing we have done over the years. Right now, close to Ksh73 of every Ksh100 we collect goes to debt payment. The rest, less than Ksh30, goes to recurrent and development expenditure. We are on the red line. We have a big challenge.

The other question is to the National Treasury. Do we prudently use the money we borrow on projects within the country? Is it allocated to different regions in this country fairly? That is so that we can see a fairer distribution of those resources across board whenever we pay debts as a country or through the taxpayers' money. All Kenyans are paying taxes. This is the big question for the National Treasury.

30

Again, are we budgeting for corruption? This is the hardest thing we need to deal with. As much as we need to borrow this money, we need to use it prudently. We need to cut down on luxurious expenses within our Ministries. For example, one time I asked the President where we would get money to finance the operations of this Government. He said that running a Government is like running a family. What do you do whenever you do not have money as the breadwinner of the family? One easy way for a lazy person is to continue borrowing without considering the generations to come that will be required to pay the foreign debt. The other way is cutting down expenses and living within our means. For example, instead of buying a 300 ml Coca-Cola that goes for Ksh400 in a very expensive and luxurious hotel, you can still buy the same in a local or retail shop at Ksh50. I support the Motion that we need to cut down expenses and borrowing.

30

I would like to encourage and persuade the National Treasury to stick to the previous guidelines we provided—borrowing up to 65 per cent from external sources or foreigners, and

up to 35 per cent from domestic sources. Why do we go overboard? We need to be true to our word so that we can win the Kenyans' trust.

Lastly is on expenditure. We need to ask the Executive to spend this money prudently so that we can stop budgeting for corruption. This entire time, people within our constituencies have been asking why we budget for corruption. People are exaggerating the expenditure of money towards different projects. Just as the President put it last time: *tumeishiwa na wajinga* in this country. People understand the cost of constructing a certain road, a classroom and so on. They question whenever they see we have hiked the tendering prices for particular projects. We need to ask the Executive.

**The Temporary Speaker** (Hon. Peter Kaluma): Member of Parliament for Karachuonyo Constituency. The best finance mind we have in the House. Proceed.

**Hon. Adipo Okuome** (Karachuonyo, ODM): Thank you for the compliment. 10

Let me start by saying that before we borrow, we should first find out why we are borrowing. Let us not borrow money for recurrent expenditure. Let us borrow money that will help us invest in this country. That is very important. If we know what we are borrowing for and we borrow for what purpose, we should be able to follow up on the progress of implementation. We should be receiving reports quarterly, on the progress of the work as it is going on, so that we make sure that the project which has been started using a loan is completed. This is very important. Many times, we have spent a lot of money on a project that cannot be completed.

The other important point is the cost of borrowing. We should be very conscious of the cost of borrowing, which is interest. This is when we can see whether to borrow locally or from external sources. When our money goes down in value when we have borrowed from external sources, the loan increases in amount without any benefit. This is because of the value of the money as we pay the loan we borrowed. When we look at that cost, it will call upon us to see how our Kenya Shilling behaves. We expose ourselves to more debts if the Kenya Shilling is not protected. We expose ourselves to local problems in our purchases, especially purchases from without the country, meaning buying from outside Kenya. That also becomes expensive. 20

What I really want to emphasise is that we should also look at the time we are borrowing. If we are borrowing at a time when the Kenya Shilling is very weak, we will be getting dollars at a very high cost. That gives us a repayment burden. In fact, I would even think of the possibility of borrowing at a time when the Kenya Shilling is strong even if the excess can go to our reserve so that we use this reserve when things get worse with our money.

The other thing that is also increasing the problem of borrowing is the so-called pending bills. That is another borrowing. Let us call it what it is. We are borrowing from the wrong people. We are borrowing locally from contractors. This adds to our burden when we are repaying our debts. Therefore, I wanted us to be holistic in looking at these issues to avoid the possibility of creating a burden that is impossible for us to pay. 30

Thank you for giving me time to contribute to this noble debate. I support.

**The Temporary Speaker** (Hon. Peter Kaluma): The Member of Parliament for West Mugirango, Hon. Stephen Mogaka.

**Hon. Stephen Mogaka** (West Mugirango, JP): Thank you, Hon. Temporary Speaker, for giving me this opportunity and for also giving my elder a chance to go ahead of me. I want to support the Report of this Committee and give my input.

It is commendable that this Report complies with the Public Finance Management Act as well as the Standing Orders. To that extent, *kudos* to the Committee.

What is a bit disappointing about the Committee is their observation about the level of public participation during the consideration and preparation of this Report. Public debt is a matter of public concern. To have a Report in the National Assembly without public participation quite undermines public interest. I do not know why the public did not get to know

that there was this session going on and if they knew, why they kept off from it. Going forward, I suggest that the Committee goes an extra mile to ensure that even if we are going to conduct our proceedings live, the public should be involved. This is very important because it is the public that puts pressure on the Government to fulfil its election manifesto and election pledges which end up in the Appropriation Act and which invariably creates a budget deficit that has got to be filled through both external and domestic debt. Therefore, going forward, I want the public to be an integral part particularly in x-raying the level of public debt so that they give their input on the strategy that we need to employ, as a nation, to manage debt.

My second observation is that there is no doubt that the National Treasury presided over the creation of the public debt, and it is the same National Treasury we are going to rely on going forward to implement the Medium-Term Debt Management Strategy (MTDS). I urge this Committee to go the extra mile for the sake of the Republic to ensure that the recommendations in this Report are followed to the letter. If we get off the road, we will suffer the public wrath and default on our financiers which will interfere or bring down the credit rating of this country that has a stellar performance in redeeming the Eurobond and meeting its international obligations.

I also want to suggest to the Committee that, now that we are in the ICT era, let us create a platform for making online surveillance of what is happening with our public debt. The last I heard is that the public debt register is manual. Let us live the current age and let the Committee be upbeat to help us do the right thing.

I call upon ourselves, as a House, to do our oversight role because, at the end of the day, this MTDS is extremely good. Let it not be yet another policy paper that will be gathering dust in the archives of our good Government offices in the Executive. Above all, I urge members of the public to be patriotic and support the country and the Budget because those debts were incurred to do projects. When duty calls upon the citizens of this country to make their contribution through taxes and to redeem those debts as well as support the development agenda, I call upon us all to rise to the occasion and do our obligations.

I thank you, Hon. Temporary Speaker, for allowing me to contribute.

**The Temporary Speaker** (Hon. Peter Kaluma): The Hon. Julius Melly.

**Hon. Julius Melly** (Tinderet, UDA): Thank you, Hon. Temporary Speaker. First of all, I laud the Chairperson and the Public Debt and Privatisation Committee, Hon. Shurie and his Committee, for doing a wonderful job. I hope that the National Treasury is going to stick to the issues that have been raised. Every other time, the National Treasury issues a very good Budget Policy Statement and a very good framework on MTDS. However, there is no consistency between the two. The other day, as a House, we sat and went through the Budget Policy Statement because it forms the basis under which we fund our Budget. It gives the policies, frameworks and programmes that underpin the estimates that we are going to have. But we realise that it has become a circus. We have a very good document, but it lacks the programmes underpinning the funding. So, we want the National Treasury to be consistent on that. The Medium-Term Expenditure Frameworks (MTEF), the Debt Management Strategy and the Budget Policy Statement should speak to one thing so that we move on as one.

The National Treasury should come to this House to get approvals especially on issues that make us borrow and increase debt. The other day, we had issues with borrowing because our debt went up because of interest rates, exchange rates and contingency spending. The US Dollar at one time was Ksh120, but it is now Ksh160. As a country, we are going to pay more in the international market. Those are the issues we are now telling the National Treasury to look into so that when they make a forecast to borrow, they should know how the interest rates are moving and the contingencies at hand. This will, therefore, enable them to borrow within a framework that they understand very well.

The other issue is that it is very clear that the National Treasury shall submit a report to the National Assembly providing practical measures to reduce the domestic debt service burden to a sustainable level. If this is not done, borrowing within the local market is going to be a problem. The interest rates will go through the roof if we do not have a capping. Capping will spur development and borrowing by ordinary people. If we cannot do that, interest rates will go very high and the banks will not have any money to lend. They will only lend the Government because it will be the only one that will be able to pay.

I thank the Committee for recommending that the National Treasury shall submit a comprehensive report to the National Assembly on the breach of the debt anchor of 85 per cent. This has been said severally. The National Treasury is a very important Government department that has the responsibility of ensuring that public debt is managed and does not go beyond the 55 per cent or plus five digits. That is the reason why we are saying that it has a very big role to play in ensuring that, that aspect is kept and they report to this House because we represent the people.

Because the issues raised here are very important, I ask the Committee on Implementation and the Budget and Appropriations Committee to look into this particular issue. Every time we pass important policy matters that are placed before this House, let them be stuck to and let the relevant committees ensure that they are implemented to the letter.

I thank you, Hon. Temporary Speaker.

**The Temporary Speaker (Hon. Peter Kaluma):** Member for Taita Taveta County.

**Hon. Haika Mizighi (Taita Taveta County, UDA):** Ahsante, Mhe. Spika wa Muda, kwa kunipatia nafasi nichangie Hoja hii. Naunga mkono Ripoti ya Kamati ya Deni ya Umma na Ubinafsishaji. Kukopa na kukopesha kupo. Lakini ni lazima tujue tunakopa fedha kwa malengo na mikakati gani ya kuhakikisha tunaboresha maisha ya wananchi. Tumeona pesa zimekopwa mara nyingi na zinafika nchini. Baadaye, tunapata manung'uniko kwamba hazikufanya ile kazi ama hazikwenda kwa walengwa. Wakati tunakopa zile pesa, ni vyema tuwe na mikakati dhabiti ya kuzifanyia kazi.

Jambo la pili ni kwamba wakati hizo pesa zinafika, ni vizuri ziboreshe wananchi wote kwa jumla. Zisitumiwe katika upande mmoja wa nchi na zikose kufika upande mwingine na wakati wa kulipa, wananchi wote wanajumuishwa.

Nikimaliza kwa sababu ya muda, dawa ya deni ni kulipa. Tuna mpango mzima wa kukopa pesa. Pia, ni vizuri tuwe na mikakati mizuri ya ni vipi pesa hizi zitalipwa, ili tusije kulimbikizia madeni vizazi vijavyo. Mtoto hajazaliwa lakini tayari anadaiwa kwa sababu tulikopa pale mbele bila mipango mizuri. Naunga mkono Ripoti hii. Ni jambo njema tunazungumzia hapa Bungeni masuala haya ya kukopa na kukopesha pesa kutoka kwa nchi mbalimbali ama za nje.

Ahsante.

**The Temporary Speaker (Hon. Peter Kaluma):** Hon. Commissioner Mishi Mboko.

**Hon. Mishi Mboko (Likoni, ODM):** Thank you, Hon. Temporary Speaker. I stand to support the Motion on Report on the Consideration of the 2024 Medium-Term Debt Management Strategy. As Members of Parliament, we need to ensure that the strategies and policies which are being laid down should be implemented and enforced, so that we rescue our country from sinking due to public debts. Before we take any kind of a loan, we need to know its purpose. Sometimes, we borrow so that we can finance Government's budget or some projects. However, do we ask questions? Are the projects which we will build finance the loans we have taken? That is a question we need to answer.

Secondly, we should also ensure that there is no corruption. We borrow money to finance development projects. Some people do some deals or use shortcuts to allocate more money so that they can have their 'cut' which makes the country lose a lot. Before we borrow some money, we need to know the kind of a loan we are borrowing. Is it a concessional or

commercial loan? A commercial loan keeps on accruing some interests and it will reach a time when we will not manage to repay it. Concessional loans are taken under multilateral and bilateral arrangements. Sometimes, we can renegotiate and maybe get a waiver or be given more time to repay them. We need to know the kind of loans we are borrowing.

We also need to do cost-benefit analysis. If we borrow a loan, we need to know whether we would benefit or lose. We should not be enticed to borrow a loan any time. Some organisations like International Monetary Fund (IMF) and World Bank influence us to borrow loans. If we agree to borrow from them without cost-benefit analysis, it can be very risky. We also need to cut our expenses. This is what other Hon. Members have said, which is paramount. We need to do so to ensure that we do not lose any money.

The public debt in the country is very high right now. Before we borrow some money, 10 we should know the debt sustainability. How are we going to sustain it? Will we do so by knowing the total public debt right now? What will be the risk of borrowing new debts? Those are the questions we need to discuss and agree on before borrowing some money.

We should reduce borrowing money because our debt is in trillions. We are not even talking of billions. We need to put a pause on our borrowing. If we borrow to finance projects, let us just complete those that are there. Let us also emphasise and target the ones which can generate some income or funding, and finance the loans we, as country, have taken. I also want to emphasise on what other Members have said. We keep on borrowing loans which burdens Kenyans and future generations. Our economy is going down each and every day.

When we are borrowing money, we need to know the currency that we are using. Are we using the lender's currency or ours? This affects us because our currency is depreciating. 20 It has become a challenge for us because we have been borrowing using foreign currencies. This is an area we need to emphasise on.

Otherwise, I support this Report.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. John Mutunga, you have less than five minutes.

**Hon (Dr) John K. Mutunga** (Tigania West, UDA): Hon. Temporary Speaker, I wish I could tell somebody else to protect me from you. I have been raising my hand since I arrived here. Something has gone wrong.

The 2024 Medium-Term Debt Management Strategy has been brought to the House so that we can look at it. I like the mood in the House. Today, I have listened to Hon. Members speak on this Motion. I wish this is how we debate issues touching this country. The Committee Members have given their comments. The National Treasury is mandated to develop a strategy to manage debts, as per the Constitution and laws of Kenya, specifically the Public Finance Management (PFM) Act which prescribes how it should be done. 30

It is purposely meant to manage the cost of debt. It is not only an expose' of how much debt we have and an outlay of the extent to which we have borrowed but, it is also supposed to enable us manage debt. The goals of this particular strategy are basically to reduce debt costs, lengthen the maturity period and support the domestic market. If we have to reduce the debt costs, we must be conscious of how our trend moves. We, as a country, often get into very high debt levels. We already have them. Rising debt levels raises the sustainability concerns. Are we able to sustain very high debts? Right now, we can speak to the fact that Kenya's public debt is sustainable. However, there are very high risks of distress which need to be looked into. 40 If the National Treasury will listen to what Members have said today in this House, then it will keep on monitoring the public debt to the extent that they will make sure that it is managed to levels where the risks are not extremely high or distressful.

It also needs to bring in measures to include fiscal consolidation and optimising funding to mitigate risks. When we have fiscal consolidation... Sometimes, I marvel at the extent to which we are not conscious of fiscal consolidation. We talk about it a lot but when you ask

---

27

yourself how much we do to make sure that we reduce the fiscal deficit... Every year, we post a budget that has a bigger deficit than the previous year and we keep increasing the money for recurrent expenditure as opposed to the money for development expenditure. Also, we see budgeting for things that are not a priority as far as we are concerned, as a country. The shift in debt composition is an issue that we need to be very careful about. We are more reliant on borrowing domestically than from out there. We need to change that equation. We should focus on relying on long term concessional loans than borrowing the very costly local loans.

The other issue that is important is the servicing cost of the debt. Of course, a drop in the Kenyan shilling will increase the servicing cost of the debt. This is a trend that needs to be monitored very carefully such that, if there is any movement of the shilling, we see how we can bring in the containment measures. 10

On the diversification of the borrowing, we are limited to a few. We need to open up and diversify abroad. We need to look at which other frontiers we can access, how much of the public-private partnerships (PPPs) are we getting into and how much of the green bonds are we going for so that we can diversify our borrowing.

The other key issue is market reforms. How much of over-the-counter trading platforms have we opened and how much of them can we adopt as a country, if we are to manage this state?

I can see my time has gone. Let me say my final point on transparency and accountability. How much do we expose this to Kenyans so that they can also follow what the Treasury is doing?

**The Temporary Speaker** (Hon. Peter Kaluma): Mover. I recognise the interest 20 generated but our Standing Orders provide that the time has reached for the Mover to reply. I am not able to extend the debating time.

*(Hon Ruku spoke off record)*

Hon. Ruku, I know you really wanted to contribute. However, I cannot extend the debate time. The only exception I will create is if the Mover will be philanthropic enough to donate a few minutes to Members. Otherwise, as you all know, once time reaches for the Mover to reply, he has to reply. How many minutes does the Mover have to reply? Ten minutes.

Mover, do you want to be gracious enough to donate a few of your minutes?

**Hon. Abdi Shurie** (Balambala, JP): Hon. Temporary Speaker, I have no choice now that you have put me on the spot. I can see Hon. Ruku, with all due respect, giving me a look 30 that scares the shit out of me. I will give two minutes to *Mheshimiwa* Ruku and *Mheshimiwa* Wamuchomba.

**The Temporary Speaker** (Hon. Peter Kaluma): There is somebody behind you.

**Hon. Abdi Shurie** (Balambala, JP): Ooh Sorry! And *Mheshimiwa* Nyenze as well. Two minutes each.

**The Temporary Speaker** (Hon. Peter Kaluma): Yes, two minutes each. Hon. Ruku.

**Hon. Ruku GK** (Mbeere North, DP): Thank you, Hon. Temporary Speaker and the Mover. I rise to put my voice on this issue of public liability management of our nation. It is a concern that has been hanging over the neck of this nation for quite some time. Liability management is key and all departments in the Treasury should coordinate properly so that our debt can be properly managed. For us to manage our liability properly... For example, by the close of last month, there was Kshs411 billion which was maturing as domestic debt for the Government to pay. 40

Financial shocks are generated if we do not manage our liabilities properly. It is important to recognise that there are clear benefits if debt management is done in the most prudent way. The risk associated with over-burdening the nation with excess debt can be

mitigated if the coordination of monetary policies is managed properly, and we become more accountable to Kenyans when it comes to foreign and domestic debts. We will also know when to limit ourselves in borrowing locally or internationally.

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Gathoni Wamuchomba.

**Hon. Gathoni Wamuchomba** (Githunguri, UDA): Thank you, Hon. Temporary Speaker. I rise to support the adoption of the financial resolutions but with a caution. The story of deficit is deafening. Every time we speak about loans and budgeting processes in this House... I was reading an article – and I do not know how credible it was – that was written by somebody who is not in Kenya. That article made me feel scared. The article outlined the extent to which Kenya has borrowed. We have borrowed loans that will be comfortably repaid after 29 years from the day the article was written. That really scares me. That means that, any child that will be born today will have to wait for 29 years to be off the debt. That is not very good news.

This House must interrogate and inter-interrogate the processes of borrowing in this country. Other countries have moved away from deficit to something we call “national sovereign wealth.” It is sad that in Kenya, we no longer talk about sovereign wealth; we talk about debts. In other words, what we are investing for our young generation is not generational wealth but generational debt. That means that the future of this country will be sunk in debts. So, even as we speak in this House and say that the Auditor-General must be fired because she highlighted a lot of issues that concern Kenyans in debt, we must ask ourselves if we are being fair to the future generations of this country and to what extent have we created generational wealth that young Kenyans will forever enjoy. Otherwise, the story of deficits and loans is really saddening. As I support this policy and recommendations, I want to be on record to put a caution that, it is time to we start moving from deficit to what we call “national sovereign wealth.”

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Edith Nyenze.

**Hon. Edith Nyenze** (Kitui East, WDM): Thank you, Hon. Temporary Speaker for giving me this opportunity. Every financial year, the National Treasury or the Government borrows to finance its fiscal deficit as it is stipulated in the Budget Policy Statement. It also borrows to pay off the maturing debts. However, unstable debt can lead to debt distress where a country is unable to fulfil its financial obligations. If our country reaches that point of distress, it will be pathetic to Kenyans. That is why this calls for debt restructuring so that we can avoid the distress.

There should be control of cashflows to ensure there is no leakage or corruption because money borrowed to do a project will not be well utilised. We should negotiate with our creditors so that we are able to pay our debts in good time to avoid embarrassment and distress. We also need to pay more than the minimum amount required and prioritise paying debts which attract higher interests. We look forward to a time when our country will be stable and debt-free. Even if we have debts, they should not distress Kenyans by being over-taxed to pay them. We look forward to such a time.

Thank you, Hon. Temporary Speaker.

**The Temporary Speaker** (Hon. Peter Kaluma): Mover.

**Hon. Abdi Shurie** (Balambala, JP): Thank you, Hon. Temporary Speaker. I wish to thank all the Members for their contributions. I am glad that this Report generated a lot of interest and, as a Committee, we truly appreciate. I want to put it on record that we did public participation on the Medium-Term Debt Management Strategy (MTDS) which we published in the dailies, although we did not receive any direct contribution from members of the public.

As a House, we are making progress because this is the second time we are debating the MTDS on the Floor. I am sure you have seen the kind of interest it has generated. This has not been the case in the past and we appreciate it.

29

40

Hon. Temporary Speaker, I beg to reply and request that pursuant to Standing Order 53(3), you defer putting of the question to another day. Thank you.

**The Temporary Speaker** (Hon. Peter Kaluma): I consent to the request made by the Mover. The question on this Motion, will be put the next time it is scheduled on the Order Paper by the House Business Committee.

*(Putting of the question deferred)*

Next Order.

## BILL

### *Second Reading*

#### THE NATURAL RESOURCES (BENEFIT SHARING) BILL (Senate Bill No.6 of 2022)

**The Temporary Speaker** (Hon. Peter Kaluma): Mover.

**Hon. David Gikaria** (Nakuru Town East, UDA): Thank you, Hon. Temporary Speaker. 10

I beg to move that the Natural Resources (Benefit Sharing) Bill, (Senate Bill No.6 of 2022), be now read a Second Time.

Hon. Temporary Speaker, I want to start by advising the House that this is a Private Member's Bill from the Senate, that was brought by Senator Mungatana of Tana River County. The Bill went through First Reading on 17<sup>th</sup> August 2023 and was thereafter, committed to the Departmental Committee on Environment, Forestry, Climate Change and Mining, for consideration and reporting in the House, pursuant to the provisions of the National Assembly Standing Order 143.

In accordance with Article 118 (1)(b) of the Constitution and Standing Order 127(3), the Committee sought views from the public by way of written memoranda and further conducted public participation hearings on the same Bill. Organisations and institutions that made their presentations to the Committee on the Bill included the following: The Ministry of Environment, Climate Change and Forestry, which objected to the Bill for various reasons that are... 20

*(Hon. Kimani Ichung'wah consulted with Hon. Naomi Wago)*

**The Temporary Speaker** (Hon. Peter Kaluma): Leader of the Majority Party, the point being made by the Chairperson of the Departmental Committee on Environment, Forestry, Climate Change and Mining is very critical. I request you as the leader in the House and all Members to attend to that point.

**Hon. David Gikaria** (Nakuru Town East, UDA): Thank you very much, Hon. Temporary Speaker. I know how critical this is. Over and above being in the House, when you and I are in the field, we see how critical it is for people to concentrate. Otherwise, you know what happens when one stops concentrating. You concede too many goals and lose!

The National Treasury also came before the Committee. The State Department for Mining...

**The Temporary Speaker** (Hon. Peter Kaluma): Hon. Gikaria, the point you were making is that the ministry in charge of environment matters opposed this Bill. 30

**Hon. David Gikaria** (Nakuru Town East, UDA): Yes, it opposed this Bill.

30



*Published by*  
Clerk of the National Assembly  
Parliament Buildings  
Nairobi

31

**Exhibit EWG 8:**

**Prof. Njuguna Ndung'u addressing the issue of debt swaps**

FELISTUS WANJIKU NJOROGE  
ADVOCATE  
COMMISSIONER FOR OATHS  
P.O. Box 75005 - 00205, NAIROBI

This is the Exhibit Marked EWG 8 Referred to in the Sworn  
Affidavit  
Declaration of Eugenia Wanjiru Givongo Declared  
Before me this 16<sup>th</sup> Day of August 2024  
At Nairobi  
  
COMMISSIONER FOR OATHS

**Exhibit EWG 9:**

**Eurodad Report of November 2023 titled: *Miracle or Mirage? Are Debt Swaps Really a Silver Bullet?***

FELISTUS WANJIKU NJOROGE  
ADVOCATE  
COMMISSIONER FOR OATHS  
P.O. Box 75565 - 00200, NAIROBI.

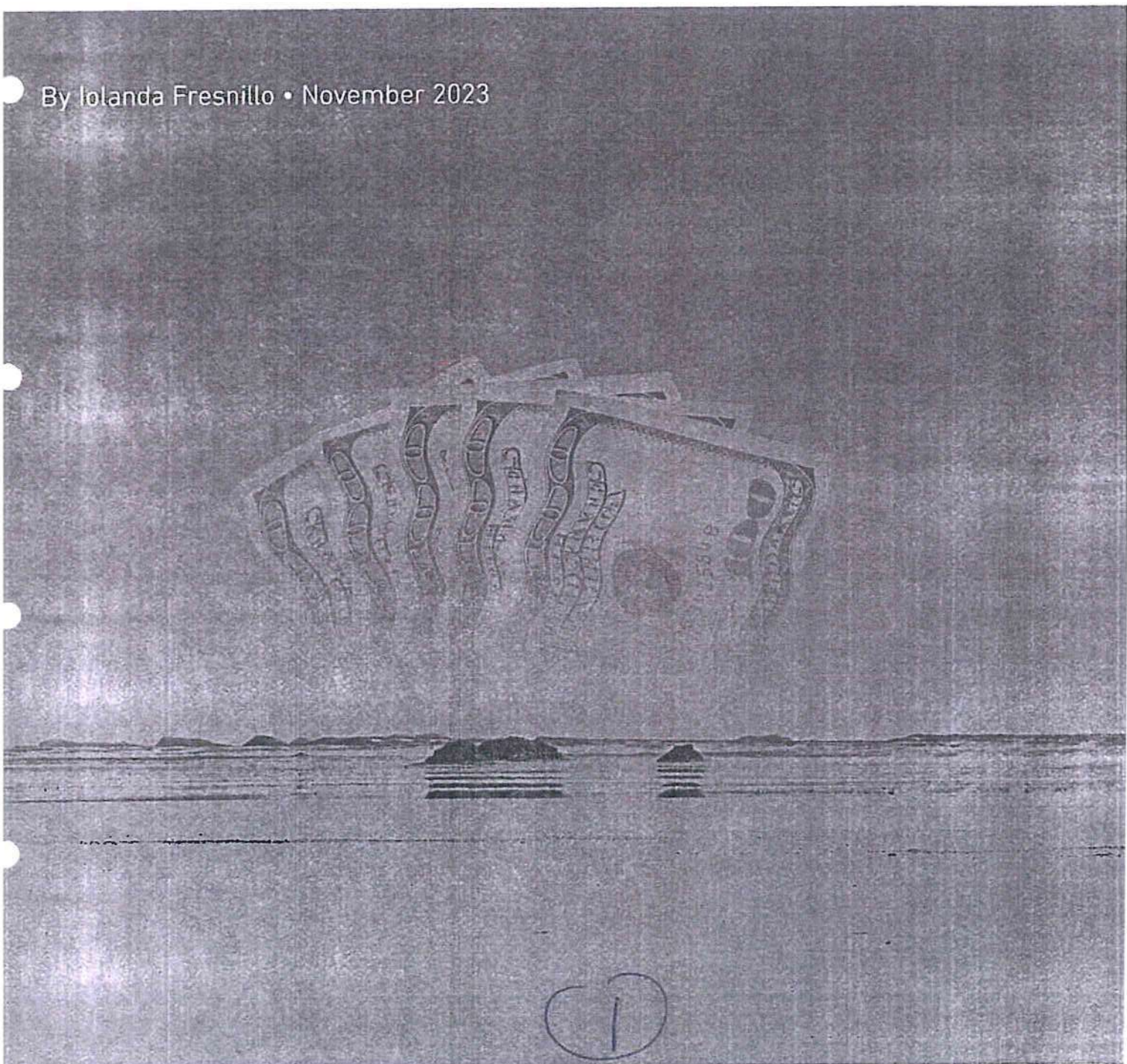
This is the Exhibit Marked EWG 9 Referred to in the  
Affidavit Sworn  
Declaration of Eugene Kariju Gukongo Declared  
Before me this 16<sup>th</sup> Day of April 2024  
At Nairobi

  
~~COMMISSIONER FOR OATHS~~

# Miracle or mirage?

Are debt swaps really a silver bullet?

By Iolanda Fresnillo • November 2023



10

# Contents

Executive summary	3
Introduction	6
<b>1. What are debt swaps and how do they work?</b>	<b>7</b>
1.1. Bilateral debt swaps	8
1.2 Third party involvement debt swap	10
1.3 Private intermediation debt swaps via debt buy-backs	12
<b>2. A new push for debt swaps</b>	<b>17</b>
2.1 From Seychelles to Gabon: the future of debt swaps?	18
<b>3. Questions, concerns and challenges around debt swaps</b>	<b>20</b>
3.1 Are debt swaps fit to deal with unsustainable debts?	20
3.2 Are debt swaps an opportunity to provide development and climate finance?	21
3.3 Is it all about scaling up debt swaps?	22
3.4 Details matter: disbursement schedule and local vs foreign currency	22
3.5 Are debt swaps another open door to donor conditionality?	23
3.6 Slow, complex and costly	25
3.7 Transparency, accountability and civil society participation	25
3.8 The risk of greenwashing and legitimising illegitimate debts	27
<b>4. Conclusions: to swap or not to swap?</b>	<b>28</b>

## Acknowledgements

This report was written by Iolanda Fresnillo (Eurodad), with contributions from Mae Buenaventura (APMDD), Carola Mejía and Patricia Miranda (Latindadd), Tess Woolfenden (Debt Justice UK), Thea Sofie Rusten Grastveit (Debt Justice Norway), Kristina Rehbein and Jürgen Kaiser (erlassjahr.de), Mathieu Paris (French Platform on Debt and Development), Bodo Ellmers (Global Policy Forum), Nicola Scherer (Observatori del Deute en la Globalització), Didier Jacobs (Oxfam International), Marina Zucker Marques (SOAS), Luke Gibson and Jean Saldanha (Eurodad).

Copy editing: Vicky Anning

All opinions are the author's alone, and all errors and omissions are the author's responsibility.

This briefing has been produced with financial assistance from the Open Society Foundations and Bread for the World.

**Brot**  
für die Welt

## Executive summary

As the end of 2023 approaches, 136 countries are considered to be in a critical debt situation. At the same time, fiscal space has been reduced, leading many, including governments, UN agencies and some international NGOs, to point to debt swaps as an innovative solution for tackling sovereign debt problems, while also generating resources for the Sustainable Development Goals (SDGs) or climate action. Therefore, debt swaps, while not new, are gaining increasing attention in international development and climate forums, particularly due to the proliferation of so-called "debt-for-nature swaps".

However, as we detail in this briefing, debt swaps will not provide substantial debt reduction, nor will they create sufficient fiscal space for global south countries to tackle the development and climate challenges. Debt swaps will not cover up the shame of the lack of political will and commitment amongst countries in the global north to support the global south. Instead, countries in the global north should recognise their historical responsibilities in perpetuating neo-colonial economic governance and dynamics that keep countries in the global south tied to debt dependency. As such, progress on debt swaps must not be an excuse to detract attention from the urgent need to move forward fundamental reform of the international debt architecture.

### The evolution of debt swaps

A debt swap is a financial instrument that provides conditional debt reduction in exchange for agreements by the debtor to invest the freed-up resources in specific areas, such as education, health, climate or the environment. Over the last 30 years, the types of debt swaps have evolved in different ways, depending on the origin of the debt (whether private or bilateral), the debt conditions (whether commercial or concessional), the agreed purpose of the swap or the type and number of actors involved, as well as the conditions and mechanisms used to implement the swap and/or the resulting projects. With regards to this briefing, Eurodad has identified three types of debt swaps, which are defined by the main actors involved (see Table 1).

While for many years bilateral debt swaps have been the most prominent form, the focus has switched lately to private intermediation debt swaps, which involve a debt buy-back from bondholders. The recent debt-for-nature swaps focused on marine conservation in Barbados, Belize, Ecuador and Gabon, have been presented as the future of debt swaps, attracting a lot of attention. However, these cases have also raised concerns, mainly due to the lack of transparency, the high transaction costs, and doubts about country ownership and participation from communities and civil society.

Table 1: Types of debt swaps

Debt swap types	Agents involved	Other characteristics
<b>Bilateral debt swaps</b>	A bilateral creditor and a sovereign debtor	<ul style="list-style-type: none"> <li>• Treating bilateral debt</li> <li>• Disbursements are usually in local currency</li> <li>• Can be reported as official development assistance (ODA).</li> <li>• Australia, Belgium, France, Italy, Germany, Norway, Portugal, Spain and the US are among the countries with bilateral debt swap programmes.</li> </ul>
<b>Third party involvement debt swaps</b>	A bilateral creditor, a sovereign debtor and a multilateral or multi-stakeholder fund (public or private)	<ul style="list-style-type: none"> <li>• Treating bilateral debt</li> <li>• Disbursement to the multilateral fund in local currency</li> <li>• Can be reported as official development assistance (ODA)</li> <li>• Active programmes with the World Food Programme (WFP) and the Global Fund to Fight AIDS, Tuberculosis and Malaria (Global Fund).</li> </ul>
<b>Private intermediated debt swaps via debt buy-back</b>	Bilateral or private creditors (bondholders), a sovereign debtor and a non-for-profit private agent	<ul style="list-style-type: none"> <li>• Treating bilateral or, most recently, bondholder debt.</li> <li>• Involves a debt buy-back operation and a new debt issuance/new loan.</li> <li>• Mostly used for debt-for-nature swaps.</li> <li>• Usually involves commercial banks, multilateral development banks, development finance institutions, insurance companies, legal and financial advisors and other private financial institutions.</li> </ul>

Taking both these recent cases into consideration, along with debt swap experiences throughout the last three decades, this report has identified a number of questions, concerns and challenges:

- **Debt swaps are not an effective instrument for significantly reducing debt levels.** The history of debt swaps shows that the overall impact on debt levels has been rather limited, mainly due to the reduced scale of the operations. Over three decades of debt swaps have led to roughly US\$8.4 billion of debt treated, 0.11 per cent of total debt payments by low- and middle-income countries during the same period. Debt swaps are not a means to restore debt sustainability, and cannot be a substitute or a way to avoid a comprehensive debt restructuring, including debt cancellation.
- **Debt swaps should be seen as tools to free up funds for governments with fiscal space constraints and with limited access to grants or concessional finance.** However, it is improbable that debt swaps will be able to substantially contribute to the SDGs, climate and conservation financing needs. According to research from the International Monetary Fund (IMF), climate conditional grants (grants addressed to climate projects or goals) are more efficient than debt-for-climate swaps, due to the length, complexity and high transaction costs that these operations entail and the fact that grants are normally more targeted and therefore lead to a higher net fiscal transfer.
- **The impact of debt swaps does not only depend on the ability to scale them up.** As is shown in this briefing, potential for such scaling up is limited and should be additional to existing official development assistance (ODA) and climate finance commitments. Instead, the potential impact of debt swaps will also depend on elements such as the disbursement schedule and the currency in which the debtor agrees to mobilise the freed-up resources. It is vital that the calendar for the debtor to disburse the freed-up resources is sustainable and realistic, not adding additional fiscal pressure, and that such disbursements are made in local currency.
- **Debt swaps inherently bear conditionality.** The debt swap will not happen if the debtor country does not agree to invest the freed-up resources in the area or project to be approved by the creditor. This entails a risk that they will be used by creditors to impose their own interests and priorities over those of the borrowing country. Particularly concerning is the use of 'tied aid' methods to promote creditor country commercial interests or coupling debt swaps with carbon credit exchanges. In this sense, if ownership by the debtor country is not ensured, a debt swap can lead to a loss of sovereignty. These exact concerns have been raised in recent debt-for-nature swaps, where international conservation foundations or foreign corporations played a prominent role in setting up the deal. 10
- **Debt swaps tend to be slow, complex and costly instruments.** Debt swaps tend to have high transaction costs, particularly in relation to the amounts involved, due to complexity of the process, the number of agents involved, the lengthiness of the negotiation and implementation periods, and the multiplication of transaction and management costs. Even when the amounts dealt with have been scaled up, as with the recent debt-for-nature swaps, these transaction costs have not been reduced. 20
- **Lack of transparency and accountability has been a constant.** In most recent debt-for-nature swaps, the amount, quality and comprehensiveness of available information is not sufficient, which can lead to misunderstandings. Debt swaps are mechanisms to deal with sovereign debt, as such transparency and accountability should be a given. 30
- **Insufficient community and civil society participation.** While debt swaps have occasionally incorporated the participation of citizens, civil society or other local entities of both the lender and borrowing country, this has not always been the case. Additionally, the quality of this participation has been questionable, with many cases barely going beyond a tick box exercise. Another area of concern is the lack of systematic monitoring, accountability and evaluation of the impacts of debt swaps. Reports of the exclusion of indigenous peoples and local communities in the definition and implementation of debt-for-nature swaps in the past, has even led to the violation of their rights. Debt swaps have occasionally led to communities experiencing exclusion, denial of access to traditional lands and resources, displacement, knowledge extraction and biopiracy, and human rights violations. 40

- **The risk of greenwashing.** Debt-for-nature and debt-for-climate swaps can open the door to greenwashing, as in the wrongdoing case where new bonds in debt-for-nature swap schemes were labelled as "blue bonds". However, the bigger greenwashing risk is that creditors and the international community, including international conservation NGOs, appear to be delivering on their climate finance and environmental conservation commitments, while actual results are still to be seen and concerns remain unaddressed.
- **Debt swaps are used as a means of legitimising and erasing responsibilities on illegitimate debt.** The unconditional cancellation of illegitimate debts has long been a key demand from many debt justice organisations. While debt swaps are conditional debt relief instruments, they should not be used in the case of illegitimate debts that should not have been acquired in the first place.

In conclusion, for countries without access to grants or concessional finance, well-designed debt swaps can play a role in mobilising extra resources for the SDGs or climate projects. However, experience shows that their impact on the fiscal outlook and debt situation of the country will not be particularly meaningful. Furthermore, the recent debt-for-nature swaps via debt-buy-back operations, involving new bond issuances to refinance existing distressed debt, are perpetuating the debt dependency and the dependency on financial markets. This is, in turn, enhancing the financialisation of development and climate finance. Moreover, for debt swaps to work for economic, climate, gender and social justice, the quality and governance failures should be actively tackled prior to any further promotion. Finally, the increasing focus on debt swaps should not become an excuse to detract from the urgent need for debt cancellation and delivery of debt-free climate finance, nor to avoid the necessary reforms in the international debt architecture.



## Introduction

Countries in the global south are facing a multiplicity of crises. The Covid-19 pandemic, the climate emergency, inflationary trends and increasing borrowing costs, together with volatile and grim economic forecasts, are some of the elements of the polycrisis generating terrible human, social and political consequences in the global south. Governments in countries across the global south – many of which went into 2020 with high public debt levels<sup>1</sup> – have been taking out more loans to fight the pandemic, invest in the recovery and tackle the climate emergency. Total public debt in the global south increased from 35 per cent of Gross Domestic Product (GDP) in 2010 to 60 per cent in 2021,<sup>2</sup> leading to 136 countries in the global south being in a more or less critical debt situation.<sup>3</sup>

As several United Nations (UN) agencies have been warning, debt service is already crowding out spending on public services that are essential in order to reduce poverty and inequalities and to tackle the climate crisis.<sup>4</sup> On average, domestic and external debt service is absorbing 38 per cent of budget revenue and 30 per cent of spending across the global south. More crucially, debt service equals combined total spending on education, health, social protection and climate.<sup>5</sup> Increasing debt levels, rising borrowing costs and bleak economic prospects will only exacerbate the difficulties that many countries are facing today when it comes to making their debt payments.

In this context, the international community responses to the debt crisis have fallen way short of what is needed. The lack of a comprehensive and fair debt resolution framework, with the G20 Debt Service Suspension Initiative (DSSI) and Common Framework failing to deliver on sufficient debt relief, leaves countries in the global south facing debt distress in a very complex situation. Either they keep borrowing at escalating onerous costs in order to refinance their existing debts – a path that is not available for all countries; or they seek debt restructuring, most probably in a messy, lengthy and costly process, facing credit rating downgrades, with bilateral creditors barely offering any debt cancellation, with private creditors resisting participation and with multilateral creditors totally refusing to participate in debt relief.

On top of this, fiscal consolidation (reducing fiscal deficit by cutting expenses and/or increasing revenue) and other austerity measures (i.e. privatisation, promoting public-private partnerships (PPPs), liberalisation, etc.) will likely be implemented so they can keep up with the payments, by the government's own will or through an International Monetary Fund (IMF) programme that will be needed before even starting any debt restructuring.<sup>6</sup>

To tackle the sovereign debt crisis and at the same time generate the resources needed to invest in sustainable development, including climate resilience, numerous voices have been pointing to "debt swaps" as a possible innovative solution. Debt swaps are not new, but they are gaining increasing attention, particularly due to the proliferation of so-called "debt-for-nature swaps". However, debt swaps are not regarded by everyone with the same level of enthusiasm. 10

This briefing aims to inform the discussions on debt swaps among civil society, academics and policy makers. It has been compiled with information from ten interviews with policy makers, academics and other experts,<sup>7</sup> as well as by online surveys with civil society representatives and a literature review of analyses, proposals and positions by civil society organisations (CSOs) and international organisations. This text has been reviewed by Eurodad members and allies (see acknowledgements on page 2). The first section of the report describes different types and experiences of debt swaps; the second section explores the history of debt swaps, particularly focusing on recent cases; and the third and final section outlines different limitations, risks and opportunities that different actors have highlighted around the implementation and results of debt swaps. 20 30

# 1. What are debt swaps and how do they work?

A debt swap<sup>8</sup> is a financial instrument that provides conditional debt reduction in exchange for the debtor agreeing to invest the freed-up resources (usually in local currency) in specific areas, such as education, health, climate or the environment. A debt swap involves both the sovereign debtor country and also either a creditor (usually a bilateral creditor) or a group of creditors (for example, a group of bondholders or several bilateral creditors). The agreement can establish that the full amount treated by the debt swap should be invested by the creditor, but it can also establish that some of the resources included in the swap will be unconditionally cancelled, and the rest is to be invested in the agreed area.

The mechanics of debt swaps can vary substantially. Throughout the last four decades the types of debt swaps have evolved in different ways, depending on the origin of the debt (whether private or bilateral), the debt conditions (whether commercial or concessional), the agreed purpose of the swap (see Table 1) or the type and number of actors involved, as well as depending on the conditions and mechanisms used to implement the swap and/or the resulting projects.

While most of the attention and discussions today are focused on debt-for-climate and debt-for-nature swaps, over the years debt swaps have been developed and implemented in a wide range of areas, depending on the use of the freed-up resources.

While debt swaps are gaining attention, particularly through the promotion of debt-for-nature and debt-for-climate swaps, they are not so new. Debt swaps have been in place since the 1980s, when there was a proliferation of debt-for-equity swaps and debt-for-nature swaps treating debt with private creditors.<sup>9</sup> In debt-for-equity swaps, sovereign debt was exchanged for public assets (i.e. privatisation of public enterprises),<sup>10</sup> with experiences in "Chile – swapping 70 per cent of its commercial debt in 1985 – as well as Argentina, Mexico, and the Philippines during the 1980s and 1990s".<sup>11</sup>

These debt-for-equity swaps were controversial as they facilitated the acceleration of the privatisation of public assets in the global south. As we will see, there were numerous experiences of debt-for-nature swaps in the 1980s and 1990s, and debt-for-development swaps in the 1990s and 2000s. The present push for debt swaps builds on those experiences.

The following sections explain the different debt swap dynamics, depending on which actors are involved, although the debt swap's final mechanics and details can vary from case to case.<sup>12</sup>

**Table 2:**  
Purposes of  
debt swaps

Debt for development swaps	
Debt for Sustainable Development Goals (SDGs)/development	Freeing up resources from debt service payments in exchange for the debtor government's commitment to fund local development investments, policies, programmes or projects in the debtor country. Some debt swaps have also been focused on economic development, including partnerships with the local and creditor country private sector.
Debt for education	Focused on education projects, normally including investment in education infrastructure (building schools, providing furniture or equipment ...), training and other related public investments in education.
Debt for health	Focused on financing healthcare policies or fighting specific diseases like the Debt2Health programme run by the Global Fund to Fight AIDS, Tuberculosis and Malaria.
Debt for food	Focused on financing projects, programmes and policies to fight undernourishment and promote food security, like those sponsored by the World Food Programme under their debt-for-food programme
Debt for environment swaps	
Debt for nature	Focused on the debtor government commitment to invest in nature or biodiversity conservation projects. These types of debt swaps have usually involved the participation of a conservation non-governmental organisation (NGO) that facilitates the operation and oversees the conservation projects attached to it.
Debt for climate	Broader than debt for nature swaps, focused mainly on climate adaptation policies and projects, although they can also be addressed to mitigation
Other debt swaps	
Debt for equity or	Conversion of debt into equity shares of public companies or into private investments, in order to

**1.1. Bilateral debt swaps**

A classic **bilateral swap** involves a sovereign creditor and a sovereign debtor, in an operation between two governments agreeing over bilateral debt. According to the International Institute for Environment and Development (IIED), debt swaps on bilateral debt have been the most prominent form of debt swaps.<sup>13</sup> A bilateral debt swap can be triggered by a petition from the debtor government, but on occasions it is the creditor government that offers – sometimes as a top up of a debt restructuring process or debt relief commitment – the possibility of the swap. Regardless of who initiates the process, the two governments need to agree on the purpose of the swap. This is the development area or type of infrastructure in which the creditor country is going to invest the proceeds of the debt reduction and on the terms of the operation. According to Aldo Caliarì from Jubilee USA, there are three elements within the terms of the operation that will mark the potential impact of the debt swap:<sup>14</sup>

- i. **The nominal value of the debt to be reduced:** How much debt is included in the swap.
- ii. **The conversion or discount rate:** This is the percentage of the nominal value of the debt treated that is to be mobilised by the donor as counterpart funds. If, for example, US\$100 million will be included in the swap, the deal can determine that US\$50 million is cancelled unconditionally and that the borrower country will invest US\$50 million in the agreed development area or investment. In some cases, the amount

to be disbursed by the borrower is 100 per cent of the debt treated; in others, there is a part of outright debt cancellation.

- iii. **The disbursement modalities:** These can include a schedule and currency in which the debtor agrees to mobilise the freed-up resources. In most bilateral debt swaps, disbursements by the debtor country are to be made in the local currency.

Other terms, including procurement policies for the implementation of the project, monitoring and accountability, or CSO participation, must also be agreed between the parties. While the main agreement is between two governments (therefore, a <sup>10</sup> bilateral operation), the possibility for other stakeholders (CSOs, local institutions or corporations) to participate in the definition, implementation or overseeing of the process also exists.

For Paris Club lenders, when the debt swap is proposed as part or on top of a debt restructuring agreement regarding non-Official Development Assistance (ODA) claims (debt generated by loans under commercial terms and/or non-reported as ODA), such a deal can include a limit on the percentage of debt that can be treated in the swap operation. There are no restrictions, <sup>20</sup> however, regarding debt swaps on ODA claims – debt resulting from concessional lending reported as ODA in the first place.<sup>15</sup> For Organisation for Economic Co-operation and Development (OECD) countries, debt swaps can be reported as ODA following the same rules as other debt relief initiatives.<sup>16</sup>

The following scheme is an attempt to simplify the mechanics within a bilateral debt swap, but as mentioned before, the details may vary from case to case.

Figure 1: Bilateral debt swaps



Debt swaps can be reported as ODA

30

In 1990, debt swaps were integrated as an option in Paris Club provisions, which gave an impetus to the bilateral debt swaps.<sup>17</sup> According to Aldo Caliarì, "after a first wave of debt swaps, at the end of the 1990s their relevance declined in the context of adoption of the much more comprehensive Heavily Indebted Poor Countries initiative (HIPC), which would later be expanded in the [Multilateral Debt Relief Initiative] MDRI". In the 2000s, there was a second wave of bilateral debt swaps for development, particularly targeting countries excluded from HIPC and MDRI, such as lower middle-income countries (like Indonesia and El Salvador), or non-HIPC low-income countries (like Pakistan), or targeting debt remaining after HIPC debt relief (as a top up of this initiative).<sup>18</sup>

In the last two decades, several creditor countries have developed their own debt swap programmes, offering similar schemes to various debtor countries. For instance, this is the case of the French government programme Debt Reduction-Development Contract (C2D), which channelled additional debt relief to HIPC eligible countries through "a unique debt-swap mechanism".<sup>19</sup> The French C2D scheme consisted of eligible debtor countries repaying the debt and then France granting back an equivalent amount in the form

of grants for poverty reduction programmes determined by the two parties. France, Germany, Italy and Spain have active bilateral debt swap programmes, while Australia, Belgium, Norway, Portugal, Russia and the US either had programmes in the past or have occasionally agreed on ad hoc bilateral debt swaps.

There has not been a systematic monitoring or evaluation of debt swaps, but researchers Diego Filmus and Esteban Serrani produced one of the most extensive compilations of bilateral debt swaps, covering 1988 to 2008.<sup>20</sup> Serrani and Filmus identified 128 debt swap operations in 38 countries, with a nominal value of US\$6.13 billion, converted into US\$3.32 billion invested in social projects.<sup>21</sup> In comparison, HIPC and MDRI provided 37 countries up to US\$76.2 billion and US\$43.3 billion of debt relief, respectively.<sup>22</sup> Canada, Germany, Spain, Switzerland and the US appear in the study as the bilateral creditors that are most involved in bilateral debt swap operations, with 72 per cent of all the debt treated by bilateral debt swaps during those 20 years. Geographically speaking, 58 per cent of the operations reviewed took place in Latin American debtor countries (74 cases), 23 per cent in African countries (29 cases) and 19 per cent in Asian countries.

### Box 1: Debt swaps the French way

In 1999, France committed to topping up the debt cancellation that they were to provide via the HIPC initiative with a particular debt swap scheme to cancel the ODA debt obligations. Under the programme Debt reduction and development contract (C2D), the eligible countries continued with the debt payments, but after payment the French government would return to the debtor country "an equivalent sum in the form of a grant to finance programmes previously determined in a contract signed by both parties". The programme mobilised around €5.4 billion – including arrears – over two decades in 18 countries.

However, as the French Platform on Debt and Development (PFDD) highlighted, this mechanism "differs from other debt-swap tools in that it maintains a financial flow in currency from the beneficiary to the creditor. Debt servicing thus weighs all the more heavily on the country's balance of payments because the mechanism calls for interest payments". The grants from the donor side are discontinued when the debtor is unable to continue with the debt payments, even during debt payment moratoria within a broader scheme like the G20 Debt Service Suspension Initiative (DSSI) in 2020. Since the debtor has

to make the debt payments in order to benefit from a refinancing of an equivalent amount in the form of grants, if those payments are postponed, the refinancing in grants is also interrupted.

Right before C2D was announced in 1999, the French authorities promised an additional cancellation of all of the HIPC initiative eligible countries' ODA debt. An extensive evaluation undertaken by PFDD on two decades of C2D programmes showed that delays in the implementation of the HIPC initiative led to countries like Burundi and Rwanda repaying most of their debt obligations before they could sign their first C2D contract. "From this point of view, France has not respected its initial commitment to total cancellation".<sup>23</sup> The evaluation also concluded that, despite the promise of civil society participation, this was only the case in five of the 18 countries. In the cases where CSO participation was allowed, this was limited to monitoring of certain projects financed by the proceeds of the swap, but never on the decision making of the allocation of the funds. Only very late in the process and only in four countries, the CSOs involved received support to ensure independent and quality monitoring of the projects.

30

409

### 1.2 Third party involvement debt swap

Another modality of debt swaps on official debt is what we could call **third party involvement debt swap**, also referred to as triangular or trilateral debt swap. In this type of debt swap, a third party is added to the operation, normally a public or private multilateral or multi-stakeholder fund that plays an intermediary role in the operation. This is the case of debt swaps operated through the World Food Programme (WFP) or the Global Fund to Fight AIDS, Tuberculosis and Malaria (Global Fund).

The WFP has enabled debt swaps involving creditors such as France, Germany, Italy, Russia and Spain, with countries like Egypt, Guinea-Bissau, Mozambique and others in the Sahel and southern Africa region, with the resources freed-up by the debt swap invested in an already existing national WFP food programme in the country, in partnership with the debtor.<sup>24</sup>

The Global Fund started its Debt2Health programme in 2007 and has developed 12 operations since then in ten countries (Cameroon, Côte d'Ivoire, Democratic Republic of the Congo, Egypt, El Salvador, Ethiopia, Indonesia, Jordan, Pakistan and Sri Lanka) involving three creditor countries (Australia, Germany and Spain). The Global Fund facilitates individually negotiated debt swap agreements between a creditor and debtor country, and part or all of the debt cancelled in the operation is invested in programmes to fight AIDS, tuberculosis or malaria or to strengthen public health systems through

Global Fund projects. As with the WFP, the resources released by the swap operation are invested in local currency in existing Global Fund programmes in the country or used to start new programmes. In the 16 years of implementation, the Global Fund has mediated in debt cancellation totalling slightly over €336 million, of which almost €226 million was invested in health programmes (see Table 3).

In this type of debt swap, the creditor – usually a bilateral one – cancels part of the debt owed by a country in the global south that commits to disburse, in local currency, an equivalent amount to the whole or part of the cancelled debt to an existing multilateral fund – the third party. These resources are used to implement existing or new projects by the multilateral fund in the debtor country. The negotiation of the terms for the debt swap, including the quantity of debt that is to be cancelled and the percentage that it is to be disbursed by the debtor country in the existing fund, happen between debtor and creditor country, but with the mediation or facilitation of the multilateral fund.

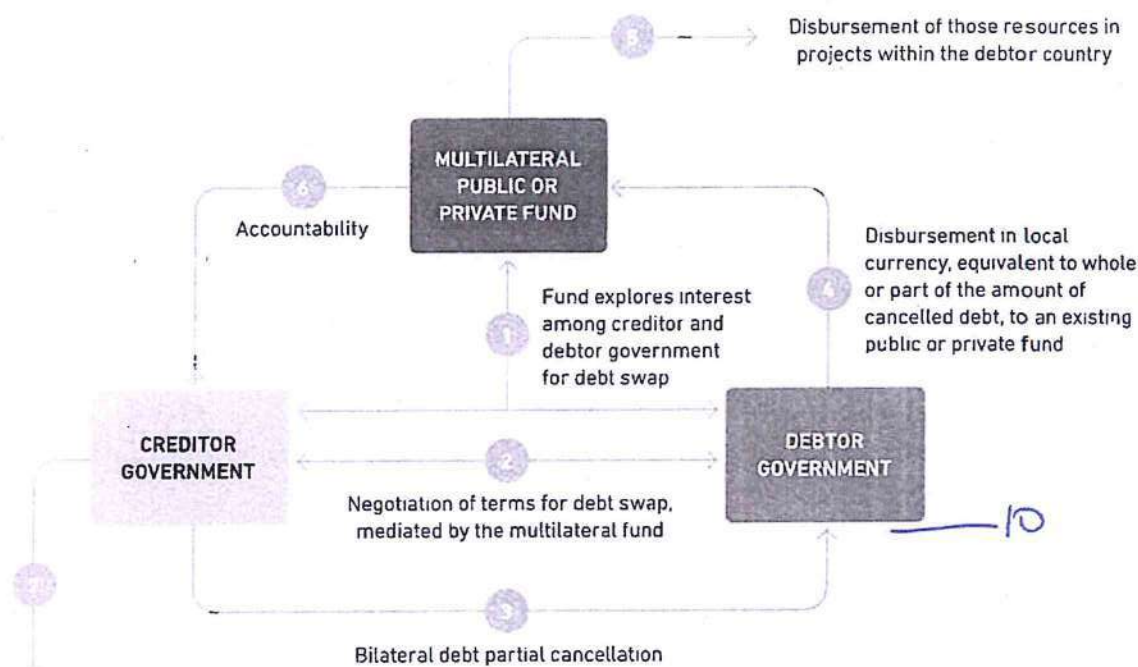
According to the Global Fund, the main benefit for using this modality is that transaction costs can be reduced. There is no need to set up a new mechanism or procedures to implement, monitor or evaluate the project in which the freed resources are invested. According to the Global Fund, they assume the role (at no cost to the debtor or the creditor) of identified programmes aligned with national strategies and priorities, ensuring transparency, accountability, country ownership and measurable impact.

**Table 3:**  
Debt2Health  
swaps  
agreements  
2007-2021

Debt2Health Agreement	Signed	Health investments	Debt swap amount	Benefiting programme
Germany – Indonesia	Sept 2007	US\$35m	US\$70m	HIV/AIDS
Germany – Pakistan	Nov 2007	US\$26m	US\$53m	Tuberculosis
Australia – Indonesia	July 2010	US\$35m	US\$71m	Tuberculosis
Germany – Côte d'Ivoire	Sept 2010	US\$13m	US\$25m	HIV/AIDS
Germany – Egypt	June 2011	US\$5m	US\$10m	Malaria
Spain – Cameroon	Nov 2017	US\$10m	US\$27m	HIV/AIDS
Spain – DR Congo	Nov 2017	US\$3m	US\$8m	Malaria
Spain – Ethiopia	Nov 2017	US\$4m	US\$9m	Resilient and Sustainable Systems for Health (RSSH)
Germany – El Salvador	Feb 2019	US\$11m	US\$11m	RSSH
Germany – Jordan	Dec 2020	US\$11m	US\$11m	Middle East Response (MER)
Germany – Indonesia	Apr 2021	US\$56m	US\$56m	Tuberculosis
Germany – Sri Lanka	Jun 2021	US\$16m	US\$ 16m	RSSH

Source: Additional debt swaps worth up to US\$100m currently in negotiation phase (undisclosed sovereign creditor)

Figure 2: Third party involvement debt swap



Debt swap can be reported as ODA

### Box 2: Multilateral debt swaps

Since multilateral creditors claim to have preferred creditor status in any debt treatment, there have never been experiences of debt swaps involving obligations to multilateral development banks. However, in 2016, the Commonwealth Secretariat defined a proposal for "Multilateral Debt Swap for Climate Change Adaptation and Mitigation".<sup>26</sup> This proposal, besides the debtor government and a multilateral creditor, also requires the participation of a "climate finance" provider, particularly mentioning bilateral donors. The proposal mechanics would require the climate finance provider (or pool of providers) to write down the debt held at multilateral creditors, by making a donation to cover losses caused by the debt cancellation for the multilateral institution (similar to the way the Multilateral Debt Relief Initiative was financed).<sup>27</sup>

A trust fund would be set up to manage, invest and disburse resources for climate adaptation or mitigation projects, and the fund would be financed by the debtor government's payments of debt service, which would be diverted away from multilateral institutions through the swap arrangement. Whether the swap mechanism would entail a discount (partial unconditional debt cancellation) would be up to the climate finance providers participating in the scheme. If there is no debt cancellation, then the full amount owed to the multilateral creditor would need to be disbursed to the trust fund. In this case, the only savings from the debt swap would be those "derived through foreign currency savings (assuming multilateral debt in \$US), increased employment, growth and climate change adaptation progress".<sup>28</sup> In any case, the Commonwealth proposal is a theoretical one.

20

11

### 1.3 Private intermediation debt swaps via debt buy-backs

What we call private intermediation debt swaps also involves third parties, usually a not-for-profit entity – a non-governmental organisation (NGO) or private foundation – offering a debtor government to facilitate a debt swap involving a debt buy-back. A debt buy-back is simply buying debt titles – this can be private but also bilateral – from the creditor, usually at a discount. When it involves bondholders (so debt issued in the form of bonds), this buy-back is made through debt secondary markets. In the case of bilateral debt, it involves just an agreement with the bilateral creditors. The operation usually involves other agents including commercial banks, multilateral development banks, development finance institutions, insurance companies, legal and financial advisors and other private financial institutions.

This kind of scheme was particularly relevant for **debt-for-nature swaps** in the late 1980s and 1990s, led basically by three non-governmental conservation organisations: Conservation International (CI), World Wildlife Fund (WWF) and The Nature Conservancy (TNC). The first debt-for-nature swap was done in Bolivia in 1987, orchestrated by the NGO Conservation International, involving debt to commercial banks.<sup>29</sup> This was in exchange for Bolivia's commitments to protect a biosphere reserve and establish a supporting fund in local currency.<sup>30</sup> From 1987 to 2008, there were at least 48 debt-for-nature swap operations in 15 countries treating around US\$170 million of bilateral and commercial debt, and generating approximately US\$150 million in local currency for conservation purposes.<sup>31</sup> At the end of the 1980s, UNICEF also promoted commercial debt swaps, using a similar scheme but for children's aid programmes instead of for conservation programmes. Between 1989 and the end of the 1990s, UNICEF facilitated 21 swaps worth US\$52 million out of a total of US\$199 million of cancelled debt.<sup>32</sup>

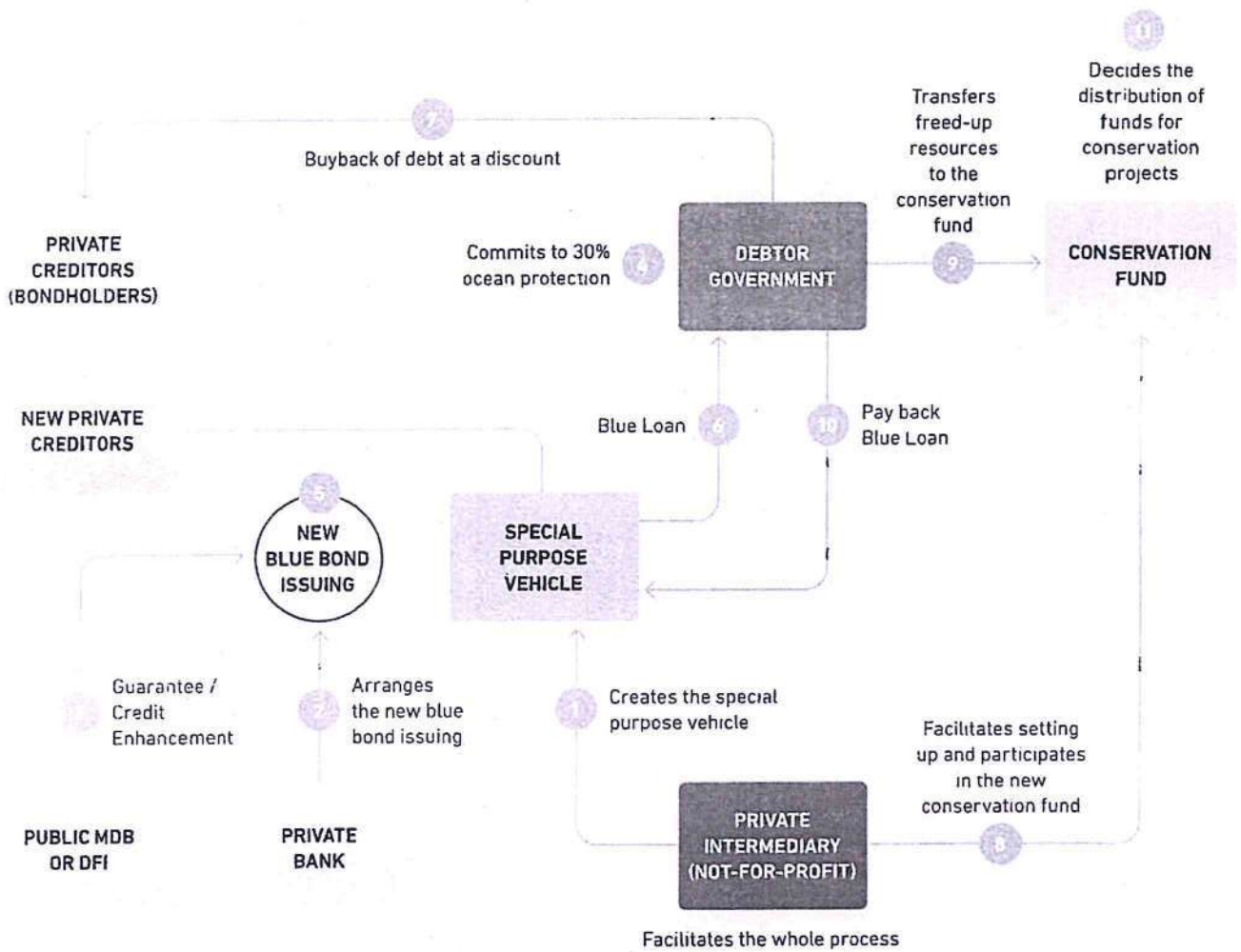
Until 2008, these operations would generally entail the private entity either soliciting a debt claim donation (total or partial) from a bilateral creditor, buying the debt from the bilateral creditor or purchasing commercial debt from a private creditor at a discount. The debt claims could be transferred to a trust fund to which the debtor country then owed the debt. The operation could involve a partial write off of the debt that this third party has bought or received in donations. The debtor country would then commit to disburse, generally in local currency, the equivalent to whole or part of the debt involved in the operation to the trust fund, to be invested in the agreed purpose of the fund. In the cases mentioned

These first experiences with debt swaps did not remain uncontested. According to researcher Andre Standing, "in the run up to the first Earth Summit in 1992, large numbers of organisations, including those representing indigenous peoples and small-scale farmers, denounced debt swaps categorically".<sup>33</sup> Another criticism, particularly on early experiences of debt-for-nature swaps, is that they did not bring indigenous voices into discussions. In fact, they even threatened indigenous peoples' rights<sup>34</sup> (see Box 10).

In 2015, the debt swap that TNC managed in Seychelles brought some innovation to the above scheme, in what has been considered as the basis for the more recent cases of debt-for-nature swaps in Barbados, Belize, Ecuador and Gabon. In that case, TNC set up a trust fund, the Seychelles Conservation and Climate Adaptation Trust (SeyCCAT), through which they issued a blue bond (US\$15.2 million) and received grant money from private philanthropic foundations (US\$5 million). These resources were used to lend to the Seychelles government, which in turn used that money to buy back bilateral debt worth US\$21.6 million from Paris Club creditors at a discount of 6.5 per cent. The direct debt reduction totalled US\$1.4 million, but Seychelles committed to invest US\$5.6 million in marine conservation plus US\$3 million for the endowment trust. According to TNC, "the debt conversion effectively redirects the Seychelles' debt payments from official creditors to the newly created local trust, and restructures debt payments to more favourable terms (i.e. longer term and partial conversion to local currency)".<sup>35</sup> In exchange for the savings that these more favourable terms provided, the government committed to protect 30 per cent of its waters and 15 per cent of its high-biodiversity areas, and adopted a marine spatial plan to guide the update of coastal zone management, fisheries and marine policies. Through SeyCCAT, TNC used the debt payments made by the Seychelles government to repay the blue bond and to fund other marine conservation and climate adaptation programmes.

The recent debt-for-nature swaps in Barbados, Belize, Ecuador and Gabon are slight evolutions of the Seychelles model, involving private creditors (bondholders) instead of Paris Club creditors. The main element of these recent cases is the issuance of a debt bond by a special purpose vehicle (SPV) (see more detail under 'Creation of a Special Purpose Vehicle (SPV)' on page 14) to finance a debt buy-back by the debtor country in debt secondary markets. The savings of the operation, which will be disbursed in a trust fund to finance conservation projects, come from either buying the debt at a discount from bondholders or issuing a new bond in better conditions (lower interest rates and longer maturity periods),

Figure 3. Private intermediation debt swaps via debt buy-backs



13



**Table 4:**  
Key agents  
involved in  
recent private  
intermediation  
swaps

Country	Intermediary (deal arranger)	Bond issuance arranger	Credit enhancement /Guarantees	Other institutions involved
Barbados	TNC	Credit Suisse International and CIBC FirstCaribbean	Inter-American Development Bank (IADB)	Bank of New York Mellon (BNYM) (endowment trustee), Shearman & Sterling, Dentons; DLA Piper; Gilbert LLP; White Oak Advisory, Cleary Gottlieb Steen and Hamilton, Norton Rose Fulbright; Clifford Chance (legal and financial advisors)
Belize	TNC (through NatureVest)	Credit Suisse International	US International Development Finance Corporation (DFC)	Potomac Group (advisors) Shearman & Sterling; Ropes & Gray; DLA Piper; and Barrow & Co (legal and financial advisors)
Ecuador	Climate Fund Managers/Oceans Finance Company and Pew Bertarelli Ocean Legacy	Credit Suisse	DFC (political risk) and IADB (guarantee)	Aqua Blue Investments (technical support) Bank of New York Mellon (BNYM) (facility lender of the loan to Ecuador)
Gabon	TNC	Bank of America	DFC	Lazard Frères, White & Case (advisors)

Source:  
TNC,<sup>38</sup>  
D. Ortega-Pacheco,<sup>39</sup>  
White & Case<sup>38</sup>

The different deals in Barbados, Belize, Ecuador and Gabon have different characteristics, but they all share certain elements, similar to the Seychelles scheme:

- **Marine protection focus:** All of the cases have focused on marine and coastal protection, framed within the global commitment to effectively conserve and manage at least 30 per cent of marine and coastal areas by 2030, as agreed in the Kunming-Montreal UN Global Biodiversity Framework.<sup>39</sup>
- **Third party intermediation:** One of the main elements is the leading role of international foundations, mainly TNC or, in the case of Ecuador, a consortium of private investment agents focusing on the blue economy.<sup>40</sup> All of the above cases have been initiated by these international organisations that have been exploring which countries could be the best placed to develop their schemes for debt swaps. The level of economic gains for these organisations for their participation in the debt-for-nature deals remains unknown.
- **Distressed bond debt:** In most cases, sovereign bonds were being traded in financial markets at a discount before the debt swap. This is a key element for this kind of debt-for-nature swaps/debt buy-back, as such distress is the main element that determines how much debt reduction will be secured. The participation of bondholders in the exchange or debt buy-back (see 'Debt buy-back' below) depends on whether they expect to be paid at all or get a

- **Creation of a Special Purpose Vehicle (SPV):** The intermediary sets up an SPV, which is a subsidiary company that is created to undertake a specific business or purpose. The SPV is the one that issues the new bond to finance the debt buy-back, usually with the support of an international commercial bank as a global lead arranger for the new bond. In the four recent cases, the SPV is domiciled in a tax haven rather than in the borrowing country.

**Table 5. Special Purpose Vehicle and domicile in recent private intermediation swaps**

Country	Special Purpose Vehicle	Domicile
Barbados	BB Blue Financing DAC	Ireland
Belize	Belize Blue Investment Company (BBIC) LLC	Delaware
Ecuador	GPS Blue Financing DAC	Ireland
Gabon	Gabon Blue Bond Master Trust	Delaware

Source: Eurodad, from different sources

- **New "blue" bond:** The SPV issues a new bond, usually on better terms than the existing bonds and lends the proceeds of the new bond to the debtor country through a so-called "blue loan". In the recent cases, the new bond has been labelled as "blue" bond by the issuer, but this has raised concerns from several agents in the financial

be used for: buying back existing bondholder debt from secondary markets; establishing an endowment fund for the conservation objectives of the deal; and covering transaction costs, including closing costs and fees.

- **Credit enhancement:** International financial institutions, such as the Inter-American Development Bank or the US International Development Finance Corporation (DFC), provide credit enhancements (through guarantees) to secure more favourable terms for the blue loan than those that the country would get by themselves (lower interest rates and/or longer grace period and maturity). "The DFC provided political risk insurance of non-payment of arbitral award and denial of justice for Belize and Ecuador, the IDB provided credit guarantees for Barbados and Ecuador, and TNC for Barbados".<sup>41</sup>
- **Debt buy-back:** As mentioned above, the proceeds of the new bond issuance will be used to buy back part (Barbados and Ecuador) or all (Belize) of existing external bonds on the secondary market at a discount (below par market prices) or existing domestic loans with high coupon rates (Barbados).
- **"Blue" loan:** The SPV lends part of the proceeds from the blue bond issuance to the borrowing country through a new loan, which is conditional to the investment in marine conservation.
- **Marine conservation fund:** All of the cases included the creation of a conservation fund to manage the endowment funds and finance marine conservation projects. This body is governed by a board including international partners (usually the deal arrangers) and local agents – government, private sector and in some cases civil society. This fund receives the payments committed by the government (including savings from the debt buy-back operation and additional commitments), usually in local currency, and chooses which projects to fund (if not agreed ex ante). The fund also "assists the government advance on its other conservation commitments". If it is established in the deal, the fund also collects penalties when key conservation milestones are missed. Such penalties, instead of going to the blue bond holders, are held by the conservation fund and can be refundable if the government complies with the commitments.

The deals in Barbados, Belize, Ecuador and Gabon also share some challenges and elements of concern:

- Long preparatory and negotiation process, led by the foreign lead arranger.

- Lack of transparency during the process and even at the announcement of the deal. Some of the transparency concerns have been addressed ex post, mainly due to concerns raised by civil society; in the case of Ecuador, this was through freedom of information demands.
- High transaction costs, given the involvement of multiple agents along with the intermediary. For instance, in the case of Barbados, besides TNC (intermediaries) and the bond issuance arrangers – Credit Suisse and CIBC First Caribbean – up to four legal advisors for TNC were involved, one financial and one legal advisor to Barbados, one legal advisor to the IDB, one legal advisor to the arrangers and one endowment trustee. The potential high payouts for a large number of intermediaries in these privately led operations undermine savings that could otherwise (i.e. if the operation was publicly managed) go towards conservation.
- Linked to the high transaction costs, CSOs have raised concerns about the different interest rates of the blue bond and the blue loan. For instance, the loan to Ecuador carries a 6.98 per cent rate whereas the blue bond was issued at 5.4 per cent.<sup>42</sup> In the case of Barbados, the pre-existing debt carried a 7.2 per cent interest rate, while the new blue bond achieved a very low 3.8 per cent interest rate. However, the loan to Barbados carried a 4.9 per cent interest rate. In the case of Gabon, it seems that the blue loan carried an interest rate about 2 per cent higher than one attached to the blue bond.<sup>43</sup> The difference between both is what covers transaction costs, including the guarantee fees or the intermediaries (TNC or other), as well as advisory, monitoring and reporting cost recovery. However, CSOs have argued that there is usually lack of transparency around these costs and how much will be raised through this difference in interest rates between the bond and the loan.
- A key element in assessing the viability of the conditional debt buy-back model is the element of the distressed debt. In order for these operations to free up substantial resources for conservation, the buy-back operation needs to provide a substantial discount. For the investment bank Lazard, this model is hardly replicable at scale because "the transaction is only possible in case of distressed debt over a long period – as it takes time for an investor to raise funds and reach an agreement with the debtor country over this type of instrument". For Lazard, the type of buy-backs that have recently characterised the debt-for-nature swaps "are inherently country-specific and situation-specific transactions". It is worth noting that the Lazard assessment

- Some have also raised concerns around the possibility that debt-for-nature may trigger a downgrade of the country's credit rating, leading to increasing borrowing costs. In the recent debt-for-nature swaps, the debt buy-back was assessed by Moody's as "distressed exchange" for Ecuador and Belize, but not for Gabon and Barbados. While Belize had already missed payments before the swap and Ecuador lacked market access, and both countries' bond yields were at highly distressed levels, that was not the case for Gabon and Barbados. In Gabon and Barbados, their bond yields were at around 11 per cent and 8 per cent respectively; in the case of Belize and Ecuador, bond yields were above 20 per cent.<sup>45</sup>
- Lack of or unclear participation of local communities and civil society. While TNC argues that, at the government's request, they help "design participatory and transparent processes with active stakeholder engagement to expand marine protections and identify areas for sustainable economic activity".<sup>46</sup> There is no detailed information about how this participation is unfolding in the different processes, and consultation or participation, even by national parliaments, is non-existent in the definition process, for instance to decide whether the focus should be on marine conservation or another social or environmental priority.

Despite being presented as breakthrough proposals and success stories, according to the International Monetary Fund (IMF), "these operations<sup>47</sup> have been small and did not provide a universal solution for countries struggling with debt sustainability and nature loss".<sup>48</sup>

### Box 3: Not so "blue"

In September 2023, the International Capital Markets Association (ICMA) published a guide for bonds to finance the sustainable blue economy, including the so-called "Blue Bonds". In parallel to this launching, Nicholas Pfaff, deputy chief executive and head of sustainable finance at ICMA, stated that the debt-for-nature swaps using the combination of "blue bonds" issuance by Credit Suisse and BOA in the cases of Belize, Barbados and Gabon and debt buy-back, was something "completely different" to what the blue bond terminology referred to, leading to "regrettable confusion". The main reason was that most of the funds raised, if not all, were actually used for the debt buy-back, and not for the marine conservation policies.

TNC responded with a sort of "rebranding" from blue to "nature bonds", as "an expansion of TNC's successful Blue Bonds model".<sup>49</sup> Before the ICMA guidance, Barclays had already raised concerns about "greenwashing", as the proceeds of the bonds were used mostly to finance the purchase of bonds, and only a small subset was being devoted to nature projects. For Barclays analysts, the misuse of the "blue bond" label in these debt-for-nature swap operations was not only misleading, but also "exacerbating concerns over the quality of the ESG-labelled market".<sup>50</sup>

**Table 6:**  
Key indicators  
of recent  
debt-for-  
nature swaps

Country	New "Blue" Loan US\$ millions	Debt bought-back		Debt reduction		Average repurchase price Cents per dollar	Funds for marine conservation US\$ millions
		US\$ millions	US\$ millions	Per cent of GDP	Per cent of external public debt		
Barbados	146	150	4	0.1 %	0.15%	92.2	50
Belize	364	580	216	8.7 %	16.78%	55.0	178
Ecuador	665	1,628	972	0.8 %	1.68%	41.0	450
Gabon	500	455	-	-	-	85 to 96.7551	75 to 12552

Sources:  
Euredsd,  
data from IMF,<sup>51</sup>  
White & Case,<sup>52</sup>  
and World Bank  
International Debt  
Statistics

16

## 2. A new push for debt swaps

Over the last years, debt swaps have started gaining attention again. After the financial crisis in 2008, TNC revived the proposal of debt-for-nature swaps, recognising that the devaluation of sovereign debt bonds from developing countries in financial markets posed an opportunity to revitalise them.<sup>55</sup> More recently, the exacerbation of debt problems across the global south, together with the decline in ODA flows and the lack of conservation and climate finance, have opened the door for a renewed interest in debt swaps, particularly, debt-for-climate and debt-for-nature swaps. As a report by the Potomac Group<sup>56</sup> for the African Development Bank states, "debt-for-climate/nature swaps are seen as a proven and effective method" to address debt, climate and nature challenges "with a comprehensive and holistic strategy".<sup>57</sup>

Other institutions that have been discussing, developing proposals or promoting debt-for-climate swaps and debt-for-SDG swaps include the Commonwealth Secretariat,<sup>58</sup> the UN Economic Commission for Latin America and the Caribbean (ECLAC),<sup>59</sup> the UN Economic and Social Commission for Asia and the Pacific (ESCAP)<sup>60</sup> and the UN Economic and Social Commission for Western Asia (ESCWA). In the case of ESCWA, their proposal is that multiple bilateral creditors write off debt service payments (or part of it) until 2030, and these resources are devoted by the debtor country to a "Debt Conversion Account" to fund projects selected through the ESCWA Debt Swap Mechanism, using a Key Performance Indicator (KPI) framework to select and monitor those projects aligned with existing national development plans and climate commitments. ESCWA would also liaise with donors to scale up the fund for investments.<sup>61</sup> The Global Fund and WFP have been promoting debt swaps in their areas of expertise, health and food security respectively. The Global Partnership for Education, also a multi-stakeholder global fund promoting investment in education in lower income countries, has launched the Debt2Ed programme, a third party involvement debt swap scheme to mobilise more resources for education.<sup>62</sup>

From the creditors' side, the European Commission (EC), the World Bank and the IMF have also shown interest and discussed the possibility of promoting debt swaps further. In the case of the European Commission (EC), the Directorate General for International Partnerships (DG INTPA) commissioned a report from Lazard consultants to explore further actions of the European Union institutions and member states in promoting debt swaps.<sup>63</sup> In 2022, the IMF published a working paper comparing debt-for-climate swaps to alternative fiscal support instruments, concluding that "debt-for-climate" swaps are generally a less efficient form

restructuring. They argued in favour of climate conditionality in comprehensive debt restructurings as an alternative to debt swaps. In debt restructurings, in contrast to debt swaps, both bilateral and private creditors participate, and the perimeter of the debt treated is usually bigger.

The discussion around debt-for-climate swaps has also been part of the climate discussions at the UN Framework Convention on Climate Change (UNFCCC). At COP27 in Sharm El Sheikh, Egypt's Ministry of Finance, with the support of the UN Economic Commission for Africa (UNECA), convened <sup>10</sup> the "Sustainable debt coalition initiative", supported by 16 countries,<sup>64</sup> which called for debt swaps, amongst other mechanisms, "to address issues related to both climate change and financial stability".<sup>65</sup>

The UN Secretary-General Antonio Guterres also endorsed the push for debt-for-climate and debt-for-SDGs swaps in his SDG Stimulus proposal. For Guterres, debt swaps "can be helpful for countries that do not yet have unsustainable debt burdens but do have limited fiscal space for SDG investment". However, he also mentions the limited results "in part due to high transaction costs". Guterres proposes "a reference framework (which could include template term sheets and performance indicators) could help standardise contracts to the extent possible", together with support in the form of partial guarantees or collateralisation, similar to those used in the 1990s in the Brady bonds.<sup>66</sup> In a similar direction, the Group of G77, the largest intergovernmental group of global south countries in the UN, calls for the international financial institutions (IFIs) to support "developing countries in the formulation and financing of SDG swaps" and for the UN Conference on Trade and Development (UNCTAD) to "help standardise the use of debt swaps, and scale up their use from a multilateral approach with the constructive participation of public and private creditors, and recommendations to avoid downgrading from credit rating agencies when these mechanisms are executed".<sup>67</sup> <sup>20</sup> <sup>30</sup>

#### Box 4: Debt relief for climate action

We have also recently seen several proposals following a similar logic to that of debt swaps: connecting debt relief to climate and development action. One of these initiatives is the "Debt Relief for Green and Inclusive Recovery" (DRGR) proposal put out by the Heinrich Böll Foundation, the Centre for Sustainable Finance (SOAS, University of London), and the Global Development Policy Center (Boston University). It proposes a debt restructuring mechanism, including substantial debt write off, conditional to the development of a "Green and Inclusive Recovery Strategy" defined by each country, outlining the actions they commit to in order to advance their development and climate goals.<sup>68</sup> The V20, a group of countries vulnerable to climate change, issued a statement in October 2021 with a proposal along the lines of the DRGR.<sup>69</sup> According to their own definition, this proposal would be "a sort of grand-scale climate-debt swap where the debts and debt servicing of developing countries are reduced on the basis of their own plans to achieve climate resilience and prosperity".

The proposal is based on the commitment from debtor countries to redirect debt servicing payments towards new investments that could include "adaptation and nature-based solutions to render infrastructure projects more resilient to climate harm, while outdated thermal coal, diesel or other fossil power plants could, for instance,

be recapitalized and transformed into hubs for green hydrogen production, waste to energy or biomass power generation facilities". Instead of a small-scale debt relief operation, this would be linked to a large-scale debt restructuring, addressing not only short-term needs but also long-term needs to "lay the foundation for inclusive, sustainable growth and development". In both the DRGR and the V20 proposals, the World Bank and/or other multilateral development banks would act as guarantors for the restructured debt through a new guarantee facility. These proposals also argue that, to determine the level of debt restructuring and debt write-off, the IMF and World Bank should develop new debt sustainability analysis methodology, in order to take into account the climate and other sustainability risks and spending needs for climate action and achieving SDGs.

Along the lines of debt swaps for climate action, the Institute for Environment and Development (IIED) also developed a proposal that would move "from project swaps to programme swaps".<sup>70</sup> Based on the need for much larger scale debt swaps, IIED proposes the freed-up resources to be invested in "budget support programmes for climate resilience or biodiversity protection for poverty reduction". According to them, this approach "would allow a much more cost-effective, high-volume spending instrument that is more strategically linked to policy than projects".

#### 2.1 From Seychelles to Gabon: the future of debt swaps?

The increasing focus on debt-for-climate and debt-for-nature swaps has been spurred by the recent cases managed by TNC and others in Barbados, Belize, Ecuador, Gabon and Seychelles (see Section 1.1.c). These cases have been presented as the future of debt swaps and are attracting increasing interest from both institutions and governments. For instance, United Nations Development Programme (UNDP) is exploring a potential debt-for-nature swap in Lao PDR. The European Investment Bank (EIB) has also recently announced that they are in advanced talks with Barbados for a debt-for-climate swap. The nature of the operation or the role of the EIB has not yet been clarified. However, according to news reports, it is inspired by the combination of debt buy-back and environmental, social and corporate governance

Beyond newcomers, TNC plans to scale up debt-for-nature swaps to at least 20 countries. In a map shared by a coalition of CSOs critical of TNC swaps, on top of the ongoing cases, debt-for-nature swaps were being scoped in countries like Mexico, Jamaica, the Bahamas, Angola, Kenya, Tanzania and South Africa. Meanwhile Peru, Chile, Brazil, Cabo Verde, Senegal, Ghana, Namibia, Mozambique, Madagascar, Mauritius, Sri Lanka, Indonesia, Vietnam, Micronesia, Solomon Islands, Tuvalu, Fiji and Tonga were amongst the potential countries to develop debt-for-nature swaps.<sup>72</sup> Barclays bank analysts have calculated that there is a market for debt-for-nature swaps that could potentially exceed US\$800 billion in both public and private deals.<sup>73</sup>

For the CSO erlassjahr.de, the expansion of the TNC model for debt-for-nature swaps is corrupting the nature of debt swaps because, in the debt-for-nature modality, the creditors do not make any effort to reduce debt, and they are receiving what their claims are worth in the markets at the moment of the swap. For erlassjahr.de, "Unlike some philanthropic private creditors in the earlier phases of the global debt

crisis, today's investors are not prepared to waive their claims beyond what they have already lost due to the falling market price".<sup>74</sup> For erlassjahr.de, the motivation of private creditors in these operations is purely financial, as the nature conservation element is minimal. Such operations should therefore be qualified just as debt buy-backs rather than debt-swaps.

### Box 5: A resurgence of bilateral swaps

2023 has seen a resurgence of bilateral debt swaps. In January, Cabo Verde signed a debt swap deal to convert up to €140 million owed by the African country to Portugal. The deal is the result of a pilot programme that IIED, together with Bankers without Boundaries, UNECA, International Union for the Conservation of Nature (IUCN), Global Green Growth Institute (GGGI), ADAD (a Cabo Verde NGO) and Potomac Group implemented in Cabo Verde and Senegal to promote debt swaps. One of the key novelties in this debt swap programme is the use of climate and nature Key Performance Indicators (KPIs) identified by the debtor government, based on existing national commitments and strategies and local stakeholders' priorities, and negotiated with the creditor country. In a first phase, Cabo Verde will pay - into an environmental and climate fund created for the occasion - €12 million of debt payments to Portugal scheduled until 2025. The total debt payments scheduled between Cabo Verde and Portugal, according to the World Bank International Debt Statistics, between 2023 and 2025 is €61 million, of which €33 million is concessional debt. The debt swap deal will initially cover 19 per cent of the total debt payments from Cabo Verde to the Portuguese government in the next three years. Depending on the performance in relation to the agreed KPIs, more debt relief can come after 2025, up to the full amount owed. The annual climate financing needs for Cabo Verde are estimated to be US\$200 million per year and total public external debt is US\$1.98 billion.<sup>75</sup>

In September 2023, a new bilateral debt swap deal was announced between Peru and the US, in this case with the participation of four international conservation NGOs: Conservation International (CI), The Nature Conservancy (TNC), Wildlife Conservation Society (WCS), and World Wildlife Fund (WWF). The deal follows the traditional bilateral debt swap agreement under the US Tropical Forest and Coral Reef Conservation Act (TFCCA) and will redirect over US\$20 million of Peru's debt to the US government to a conservation fund that will provide grants to local NGOs for projects protecting the Amazon tropical forests. This operation covers all of Peru's public debt to the US government, 2.33 per cent of Peru's debt to bilateral creditors and 0.05 per cent of all external public debt.<sup>76</sup>

Finally, in October 2023 Egypt became the first country to sign a memorandum of understanding for a bilateral debt swap agreement with China. The details of the debt swap are not officially public, but according to media reports, the deal will focus on health and transportation sectors, and it will involve the participation of Chinese corporations.<sup>77</sup> Earlier this year Egypt also signed an agreement with Germany for a bilateral debt swap of €54 million to be invested in energy transition.<sup>78</sup> The possibility that Chinese lenders invest in debt swaps has been addressed by several analysts, given the importance of China as a bilateral but also commercial lender.

### 3. Questions, concerns and challenges around debt swaps

In the context of increasing debt vulnerabilities and shrinking fiscal space, debt swaps are presented as an opportunity to deal with the two problems at once. Many analysts agree that swaps are not an adequate tool for substantially reducing debt levels (see Section 3.1), but nonetheless addressing debt vulnerabilities is one of the arguments used by many of the institutions promoting debt swaps.

Even if we see debt swaps as a tool to release resources to invest in development or climate action, rather than focusing on resolving debt problems, both past and recent experiences teach us that we need to be cautious about the effectiveness of the tool and wary about some wrongdoings in their implementation. The following section explores some of these concerns and challenges in the conceptualisation, definition and implementation of debt swaps.

#### 3.1 Are debt swaps fit to deal with unsustainable debts?

As mentioned above, there is broad agreement among analysts that debt swaps are not an effective instrument for significantly reducing debt levels. The history of debt swaps shows that the overall impact on debt levels has been rather limited, mainly due to the reduced scale of the operations and of the actual debt cancellation involved. Writing for the Institute of Development Policy and Management, Essers, Cassimon and Prowse argue that "traditionally, debt swaps have been piecemeal operations with a negligible effect on overall debt burdens (involving millions rather than billions of US dollars)".<sup>79</sup> As mentioned above, there is not a comprehensive study or calculation of how much debt has been treated through debt swaps or how much has been invested through these instruments.

Table 7 shows some of the partial calculations made by different authors, including Eurodad's calculation of recent debt-for-nature swaps. Adding all these together (although it is a rough estimate, as we do not know if some of the calculations overlap with the others), we could get to a total of US\$8.4 billion of debt treated through swaps between 1987 and 2023. Over these three decades, low- and middle-income countries paid more than US\$7.6 trillion in debt service.<sup>80</sup> That is, debt swaps over the past 36 years treated around 0.11 per cent of total debt payments by low- and middle-income countries during the same period. As mentioned, HIPC and MDRI debt relief delivered on almost US\$120 billion, over 14 times more than through debt swaps.<sup>81</sup>

**Table 7: Selected calculations on amounts treated and invested through debt swaps**

	Debt treated in swaps	Funds invested in projects through swaps
Debt-for-nature swaps from 1987 to 2008 (48 operations in 15 countries) <sup>82</sup>	US\$170 million	US\$150 million
UNICEF debt swaps programme between 1989 and 1990 (21 operations) <sup>83</sup>	US\$199 million	US\$52 million
Bilateral debt swaps between 1988 to 2008 (128 operations in 38 countries) <sup>84</sup>	US\$6.13 billion	US\$3.32 billion
Debt-for-nature swaps 2015-2023 (5 operations in 5 countries)	US\$1.93 billion	US\$811.6 million

Source: Eurodad based on Sheikh,<sup>85</sup> Ruiz,<sup>86</sup> Filmus and Serrani,<sup>87</sup> and other sources.

For a debt swap to have a meaningful impact on debt levels, it should include a significant proportion of the country's debt in the swap, but also entail a significant discount. That is, there has to be an ambitious amount of outright and unconditional debt cancellation included. For researchers Cassimon, Renard and Verbeke, the first wave of debt swaps resulted in nothing more than "an attempt to 'rearrange the deck chairs on a sinking Titanic'".<sup>88</sup>

On top of the limited impact, as several international institutions acknowledge, debt swaps "are not a means to restore debt sustainability in countries with solvency challenges".<sup>89</sup> They cannot be a substitute or a way to avoid a comprehensive debt restructuring, including debt cancellation. In this direction, the G77 states that, while acknowledging debt swaps for SDGs can unlock additional<sup>20</sup> financial resources to address the financing gap, it also recognises that "debt swaps cannot replace broader debt treatments in unsustainable debt situations".<sup>90</sup>

### 3.2 Are debt swaps an opportunity to provide development and climate finance?

As inadequate tools to address debt problems, debt swaps should be seen as mechanisms to free up funds for governments with fiscal space constraints, in order to invest in development, climate action or nature conservation. Different authors consider that debt swaps should be considered in the case of countries with high but sustainable debts, that lack fiscal space and have limited access to grants or concessional finance.<sup>91</sup> Faced with the many pressing financing needs of countries in the global south, and the limited opportunities to access non-debt creating development and climate finance, the prospect of liberating resources from debt payments for investing in SDGs, energy transition, adaptation or conservation projects is an opportunity that most governments will consider beneficial.

That does not mean that debt swaps will be able to substantially contribute to the SDGs, climate and conservation financing needs. The increasing focus on debt swaps can give the (wrong) impression that the financing gap is being addressed through this 'innovative' mechanism. This detracts attention and efforts away from the need to fulfil the existing ODA and climate finance commitments, and to step up both unconditional grants and highly concessional finance to all countries in the global south.

According to IMF research, climate conditional grants (grants addressed to climate projects or goals) are more efficient than debt-for-climate swaps, given the length, complexity and high transaction costs that these operations entail and the fact that grants are normally more targeted and lead to a higher net fiscal transfer. For the IMF researchers, the most cost-efficient from the perspective of a creditor or donor would be to combine "a climate-conditional grant which exactly pays for the climate investment with some additional, unconditional debt relief".<sup>92</sup>

#### Box 6: What is in it for the creditor?

One question that we should be able to answer is why creditors are interested in debt swaps. On the one hand, for bilateral creditors, and according to Lazard's report for the European Commission,<sup>93</sup> debt swaps can support the development finance strategies of donor countries, as well as fostering diplomatic relations between donor and recipient countries. Some donor countries will be interested in the possibility of increasing their ODA or climate finance,<sup>93</sup> others will use the debt swaps to influence the recipient country's development or climate policies. This can give the donor a sense of having control over the use of the freed-up resources, particularly if it is compared with unconditional debt cancellation. This is control that can be secured by introducing some type of clawback mechanism or performance targets, on top of the use of funds oversight.<sup>94</sup> Creditors may also think that debt swaps can be more popular domestically than unconditional debt relief, which might have a connotation of rewarding failure.

The other side of the coin is that the priorities set by creditors might not be aligned with the development or climate agenda of the debtor country, undermining the debtor country's ownership over the projects or programmes funded by the swap and jeopardising the quality of those projects. Authors Cassimon, Bernard and Verbeke write that the excessive earmarking and donor micro-management should be abandoned in favour of country priority setting and implementation in order for debt swaps to "hold at least some promise of translating into an efficient and effective instrument of development".<sup>95</sup>

For private creditors, the incentives are definitely different. For those looking to green their portfolios, swapping their claims through new ESG bonds issuance (even if these include a discount) that might improve their ESG rating can be reason enough. However, in the case of swapping highly distressed debt, the risk assessment of facing a higher haircut in the event of a debt restructuring is surely of bigger importance. In the case of the involvement of other private sector intermediaries, the interest is probably in the business opportunity that debt swaps pose, given the high fees involved.



### 3.3 Is it all about scaling up debt swaps?

If debt swaps are unlikely to cancel enough debt to contribute meaningfully to the debt crisis and so far have not been successful in significantly increasing fiscal space, is it all about making debt swaps bigger? The case for scaling up debt swaps is a constant in the literature and analyses, but we need to consider what is the potential for such scaling up.

For Lazard, analysing the suitability of bilateral debt swaps for European Union institutions and governments, even in its most efficient form – i.e. a full conversion of all ODA claims held by Paris Club members into local currency – bilateral “debt swaps do not have the potential to significantly help bridge the SDG financing gap overall”.<sup>96</sup> Only 2 per cent of financing needs for low-income countries and low- and middle-income countries between 2019 and 2030 would be met. In the case of low-income countries, most debt is bilateral – mostly owed to China and other non-Paris Club lenders without the tradition of debt swaps – and multilateral. It is worth remembering that multilateral creditors refuse to participate in debt relief, including debt swaps. In the case of middle-income countries, most debt is owed to bondholders. As we have seen, the potential of scaling up debt swaps with bondholders will depend on the bonds being traded at discount for a long period of time.

#### Box 7: The additionality factor

In order to make a real impact, debt swaps should be additional to existing ODA and climate finance commitments, which are systematically unmet by countries in the global north. In the case of bilateral debt swaps, the debt relief in a debt swap can be counted as ODA according to the OECD Development Assistance Committee (DAC) rules. For Eurodad, however, debt relief should not be counted as ODA, as it not only inflates the aid figures, but it also opens the door to double counting and is a threat to additionality.<sup>97</sup> Other CSOs, including those that are part of the Climate Action Network International (CAN-I), also argue that it is “problematic to propose that the resources mobilised through debt swaps can be counted towards official climate finance or ODA”.<sup>98</sup>

### 3.4 Details matter: disbursement schedule and local vs foreign currency

The way the funds are disbursed by the debtor country (both in terms of the calendar and currency) is key to determining the impact debt swaps have in freeing up fiscal space. These include the disbursements schedule and the currency in which the debtor agrees to mobilise the freed-up resources.

In relation to the calendar, the arrangement should make sure that there is not an additional budgetary pressure for the debtor government having to advance disbursements upfront when the original debt payments were more spread out.<sup>102</sup> For instance, in a debt-for-education swap between Spain and El Salvador, where no discount rate was granted – the government had to disburse all the debt treated – and payments had to be made upfront. This meant that the fiscal space in the country actually shrunk. It is therefore key to make sure that the calendar for the debtor to disburse the freed-up resources is sustainable and realistic, not adding additional fiscal pressure. In cases of unsustainable debts and liquidity problems, if the debtor government was struggling to make the debt service payments in the first place, “it is unlikely that they will have the resources to invest in areas agreed in the debt swap”.<sup>103</sup>

Additionality means that the debt discount should not reduce the level of other funds, for development or climate, that the creditor should be providing. From the debtor side, additionality means that the development, climate or conservation action that will be undertaken, thanks to the swap, would not have been implemented in the absence of the operation.<sup>99</sup> Such additionality is very difficult to assess given the lack of predictability of both elements, and the difficulty to set the “counterfactual of what would have happened if the debt swap had not taken place”.<sup>100</sup> For Cassimon, Renard and Verbeke, “the combination of donors targeting overall ODA levels and debt swaps being ODA eligible is a recipe for non-additional debt relief”.<sup>101</sup>

22

In traditional bilateral debt swaps, one of the key elements that usually benefits the debtor country is that, while in many cases the debt payments are in foreign currency, the deal establishes that the investments committed by the debtor will be disbursed in the local currency. This diminishes the pressure on the foreign reserves of the country, and usually brings in savings for the debtor country.

However, in the case of a currency devaluation, that can play against the debtor country. In a debt swap between Senegal and Argentina, with the participation of UNICEF, the agreement was for Senegal to pay a reduced amount of the original debt to UNICEF for projects in the country, in local currency. However, "one month after the debt swap agreement was signed, the local currency devalued by 50 per cent, doubling the Government obligation".<sup>104</sup> Currency devaluation or exchange rate instability, in some cases coupled with inflation, can jeopardise the real value of the benefits of the debt swap and undermine its implementation.<sup>105</sup> All of these elements, together with the issues of additionality and transaction costs (see Section 3.6), are key when assessing whether a debt swap will actually create additional fiscal space.

#### Box 8: A fair burden sharing for all creditors?

One of the elements that some analysts raise in relation to the adequacy of debt swaps is that they are not compliant with the principle of comparability of treatment. The experience with debt swaps shows that there is always only one creditor (or multiple bondholders) involved. This means that the effort this creditor is willing to make to provide a debt write-off is not going to be matched by other creditors. In the end, this means that "some of the debt relief generated by debt swaps will end up subsidising non-participating creditors".<sup>106</sup> Debt swaps involving different creditor classes (bilateral, private and multilateral) or different creditors within a group (i.e. two bilateral creditors) have been mentioned as a possibility in theoretical proposals, but have never been implemented. For Lazard, in their report with recommendations for the EU, European institutions "should be careful in granting any sort of debt relief that would not be matched by other creditors, especially non-Paris Club ones".<sup>107</sup> So, why should European creditors be making an effort if China is not willing to?

### 3.5 Are debt swaps another open door to donor conditionality?

In general, debt swaps can be defined as conditional debt relief. By their nature, they inherently bear conditionality, as the debt swap will not happen if the debtor country does not agree to invest the freed-up resources in the area or project to be approved by the creditor. Lenders therefore have "much more control over where freed-up resources are allocated than if the debt was just cancelled outright".<sup>108</sup> While this is an issue that is barely raised by institutional analyses on debt swaps, it is usually a concern for CSOs and independent researchers. The main concern is that the lender will use this door to impose their own interest and priorities over those of the borrowing country. The urgent need for funds and fiscal space would make it difficult for a debtor country to reject a debt swap proposal based on having different priorities. The present focus on debt-for-climate and debt-for-nature swaps, displacing the appetite of debt-for-other SDGs, can illustrate this dilemma. Ultimately, the debt swap can be perceived as leading to a "loss of sovereignty in the allocation of fiscal and natural resources by the debtor country".<sup>109</sup>

Beyond the issue of priorities, debt swaps can also give the creditor a lot more power over how the resources will be allocated and how the projects will be implemented. In past bilateral experiences, lender countries have used debt swaps to impose, for example, a contractor from the donor country (following the practices of tied aid). For instance, in Spain, out of 20 debt swaps implemented between 2001 and 2015, five of them include in the contract that the projects will be implemented "with the participation of Spanish companies or development organisations". In the other 15 cases, the contract reads that it will be implemented by either Spanish or local entities (from the debtor country), leaving the door open to the participation of Spanish corporations.<sup>110</sup> Other bilateral creditors, including Italy and the US, have also occasionally tied their debt swaps to the participation of national entities.<sup>111</sup>

In the case of recent debt-for-nature swaps, the prominent role of international conservation foundations or foreign corporations in setting up the deal also raises concerns about ownership by the debtor country and breach of sovereignty. In the case of Ecuador, for instance, the resources devoted to marine conservation will be managed by the Galápagos Life Fund (GLF), a foreign not-for-profit endowment fund where six of the 11 seats of the board are for private actors. This includes two from Pew Bertarelli Ocean Legacy and Oceans Finance Company (Climate Fund Managers subsidiary) and representatives from local tourism and fishing industry and researchers. Only five seats are to be allocated to the Ecuadorian government. For local, regional and international CSOs analysing the deal, this "undermines sovereign rights for independent definition of conservation policies and the management of its natural resources".<sup>112</sup>

Debt swaps have not proved to be effective in reducing debt levels in a substantive way and they cannot be considered a viable alternative to debt restructuring or outright debt cancellation

### Box 9. Debt swaps and carbon credits

Some authors highlight the possibility of coupling debt swaps with carbon markets. For instance, for the authors of the IMF working paper on debt swaps write that "public or private creditors undertaking debt swaps could be given credits to offset their carbon footprint". While they acknowledge that this actually allows for higher emissions in the creditors' country (mainly the global north), they argue that it would also facilitate the funding of projects focusing on effective emissions reductions.<sup>113</sup> Cassimon, Essers and Prowse also highlight how debt swaps can "package up and sell carbon offset credits". This is not a hypothetical proposal, as they take the example of a debt-for-wind-power swap between Spain and Uruguay in 2005-2007. The deal earned Spain certified emission reduction credits through the now defunct Clean Development Mechanism (CDM).<sup>114</sup> For the IMF researchers, such a mechanism, which could be facilitated with a new facility like the CDM and could help lower the cost of new ESG debt in cases of debt-buy-back, "would need to be designed to avoid risks of greenwashing and align climate actions underpinning debt swaps with global mitigation efforts". For them, this means focusing on projects that would not have happened without the debt swap, so any mitigation gains are additional.<sup>115</sup> However, that additionality will be difficult to assess.

The promotion of coupling debt swaps with carbon credit transfer is an opportunity for creditors to claim as their own climate mitigation efforts that are actually made by the debtor. It is not just difficult to avoid the greenwashing but also an open door for the bigger emitters to avoid their mitigation responsibilities. "This perception could be all the more prevalent as the production and consumption patterns of advanced countries, which have historically been responsible for most of the world's environmental degradation, are not changing", according to a briefing published by Banque de France.<sup>116</sup> The briefing also highlights the risks of double counting climate change mitigation efforts between countries (that could be reported both by the creditor and the debtor).<sup>117</sup> Such a scheme would neither be aligned with the principles of Common But Differentiated Responsibilities (CBDR), as the mitigation effort is made by those who are least responsible for the climate crisis.

### 3.6 Slow, complex and costly

Debt swaps are complex instruments, time-consuming and burdensome at negotiating the terms of the swap, but also at setting up the operational structures for implementation and oversight. Those structures differ in the cases of bilateral, third party involvement or private sector intermediated swaps. Bilateral debt swaps usually involve the set up of one or more binational committees, tasked with monitoring the implementation throughout the life of the debt swap agreement. The composition of these binational committees varies, and can incorporate civil society from both the creditor and the debtor country (see Section 3.7). In the case of third-party involvement swaps, one of the arguments their promoters use is that these structures are already in place, so the time and costs for setting them up are saved. However, the negotiations can still be lengthy. In the case of the private intermediated swaps through debt buy-back, the structures are much more complex and it can take up to several years to negotiate. In the case of Seychelles, for instance, it took up to five years to close the deal.

The complexity of the process, the number of agents involved, the lengthiness of the negotiation and implementation, and the multiplication of transaction and management costs inherent to the fragmentation of projects being dealt with separately,<sup>118</sup> lead to debt swaps tending to have high transaction costs, particularly in relation to the amounts involved. For Caliri, "scaling-up operations through multi-creditor funds can minimise transaction and negotiation costs and create efficiencies".<sup>119</sup>

However, in the case of the recent debt-for-nature swaps, where the amounts dealt with have been scaled up, transaction costs remain high given the complexity of the operations. In the recent debt-for-nature swaps managed by TNC in Barbados, Belize, Gabon or the Seychelles, and the one managed by a consortium of private investment firms in Ecuador, the high transaction costs and the lack of transparency around them has been a key issue for civil society. In the case of Ecuador, for instance, transaction costs will be covered by the 1.33 per cent interest rate difference between the blue bond and the blue loan to Ecuador.<sup>120</sup> In the Belize case, while only US\$84 million of the US\$553 million deal went to actual marine conservation, up to US\$86 million was allocated to intermediaries and service providers such as re-insurers, advisers and credit providers, with an additional US\$10 million provided by Belize to help cover the closing cost for the transaction.<sup>121</sup> Moreover, the part of the transaction costs to pay the fees of the banks involved are in fact free money, because the insurances

In order to lower transaction costs, some institutions and analysts are proposing a standardisation of the mechanism, a sort of template that would "make the instrument less bespoke and less cumbersome",<sup>122</sup> and therefore less costly.

### 3.7 Transparency, accountability and civil society participation

The opacity has been a constant in recent cases of debt-for-nature swaps. The secretive negotiations prior to the debt buy-back operation are justified to avoid a revaluation of the distressed debt being swapped. However, even once the operation is sealed, the quality and comprehensiveness<sup>10</sup> of the information available is not sufficient and can lead to misunderstandings around the operations involved in the complex debt swaps. We need to take into account that these are mechanisms dealing with sovereign debt, so public resources, as well as transparency and accountability, should be a given. In the case of Ecuador, only after local civil society requested information through a constitutional act of access to public information, the government released the details of the debt swap for conservation in Galapagos.

On some occasions, bilateral debt swaps have incorporated the participation of citizens, civil society or other local entities of both the lender and borrowing country. According<sup>20</sup> to Lazard, this "has had significantly positive impact on the implementation of the instrument".<sup>123</sup> For instance, the evaluation of a debt swap between Peru and Germany between 2003 and 2015 concludes that the operation impacted positively on the promotion of citizens' participation at a local level. There was better organisation of citizens' oversight and better participation of civil society in political processes, an increase in women's participation and a strengthening of dialogue between citizens and local authorities.<sup>124</sup>

However, not all the experiences are so positive. First of all, civil society participation has been quite reduced. Of the 128 debt swaps reviewed by Serrani and Filmus, there was some form of citizen representation in the binational committees in just 29 cases; and in 77 cases, civil society was represented in technical committees.<sup>125</sup> Another element is the quality of that participation. The evaluation of the French C2D programme shows how, despite the promises by the government to involve civil society, there was formal participation in only five of the 18 eligible countries. In just four of them, participation went beyond the formalities (Democratic Republic of Congo, Cameroon, Côte d'Ivoire and the Republic of Congo). The experience in these four cases is not completely satisfactory, and the report concludes that civil society could not influence the orientation or implementation methods of the C2D programme. In the case of Spain, an evaluation of debt swaps found that CSOs were only involved in technical committees, but not in the Oversight Binational Committee. This excluded them from decisions on the design and regulation of the debt swap. Moreover, the creditor country, Spain, only guaranteed participation by Spanish civil society, while participation of local civil society was contingent on the decision of the debtor country.<sup>126</sup>

The lack of systematic monitoring, accountability and evaluation of the impacts of debt swaps is also an area of concern. While bilateral debt swaps often undertake periodic reviews of the financial aspects of the debt swap,<sup>127</sup> a more comprehensive monitoring, systematic accountability mechanism and ex post evaluation should be the starting point.

**Debt swaps cannot become an excuse for creditor countries to avoid their commitments to deliver ODA and climate finance**

#### **Box 10: Indigenous peoples and local communities at the centre**

Beyond the tick-box exercise of civil society participation that many debt swap cases have implemented, historically there has been a staggering exclusion of indigenous peoples and local communities in the definition and implementation of debt swaps, particularly when it comes to debt-for-nature swaps. Outcomes from the early debt-for-nature debt swaps in the 1980s and 1990s included "restricting access to traditionally owned natural resources and land uses and the dispossession of indigenous peoples from their lands".<sup>10</sup>

The exclusion of indigenous peoples from using their lands or coastal resources was illustrated by the very first debt-for-nature swap in Bolivia, which prevented the Tsimané indians from securing formal tenure for their land and "restricted their traditional practice of foraging for food and fuel".<sup>128</sup> Unfortunately, the experience in Bolivia was not an exception, and other cases of communities experiencing exclusion, denial of access to traditional lands and resources, displacement, knowledge extraction and biopiracy and human rights violations have occurred linked to debt swaps.<sup>20</sup>

Debt-for-nature swaps focusing on ocean conservation can also come with problematic practices for coastal and small-scale fishing communities, "including the privatisation of fishing rights, advancing blue carbon trading, expanding high end eco-tourism and commercial fish farming".<sup>129</sup> Unfortunately, the lack of transparency and details available regarding how local communities, indigenous peoples and small-scale fishing communities are being involved, or not involved, in the recent cases of debt-for-nature swaps, does not leave much room for optimism.<sup>20</sup>

### 3.8 The risk of greenwashing and legitimising illegitimate debts

The risk of greenwashing in relation to debt-for-nature and debt-for-climate swaps is not just a possibility, it is a reality that even financial market institutions have highlighted. The concerns raised by ICMA or Barclays about wrongly labelling the new bonds in debt-for-nature swap schemes as "blue bonds", when most of the proceedings were not being used for ocean conservation but to buy debt back, are the tip of the iceberg. The multiple challenges raised in this section around the use of conditionalities, the sovereignty breach and the risk of tied aid, the high transaction costs and hidden profits for the many agents involved, the lack of transparency, participation, accountability and engagement of indigenous peoples and local communities, as well as the lack of really significant impacts in debt levels or development and climate finance, are being widely ignored in the PR campaigns around the promotion of debt-for-nature and debt-for-climate swaps. The bigger greenwashing risk is that creditors and the international community, including international conservation NGOs, appear to be delivering on their climate finance and environmental conservation commitments, while the actual results are still to be seen and concerns remain unaddressed.

In addition, social movements and CSOs have frequently highlighted the risk of swapping and therefore legitimising and erasing responsibilities on illegitimate debt. The term "illegitimate debt" generally refers to debt with features that are irregular, inappropriate, irresponsible, dubious or fraudulent – those that go against widely accepted legal, political, financial, economic, environmental and particularly ethical standards and principles. For Filipino activist Lidy Napcil, "when defining illegitimacy, the first thing we need to take into account is that there is more than just legality at stake".<sup>130</sup> A key demand of many debt justice organisations has been the unconditional cancellation of illegitimate debts that should not have been acquired in the first place. In the sense that debt swaps are conditional debt relief instruments, they should not be used in the case of illegitimate debts.<sup>131</sup> 70

For other CSOs, however, debt swaps could be considered as a mechanism for reparation in the case of illegitimate debts. In 2007, erlassjahr.de submitted a proposal to the Indonesian and the German government to convert the proceeds from a 1992 loan to sell ships to the Suharto dictatorship into a compensation fund for the victims of the atrocities committed by the army. Interestingly the German development minister at the time was prepared to consider it, but the democratically elected government of Indonesia was not. 20

## 4. Conclusions: to swap or not to swap?

Debt swaps have not proved to be effective in reducing debt levels in a substantive way and they cannot be considered a viable alternative to debt restructuring or outright debt cancellation, especially in the case of unsustainable debt. With their high transaction costs, complex governance structures and the use of conditionality, debt swaps are a less efficient form of fiscal support for countries in the global south than unconditional grants or even highly concessional finance. However, for countries without access to grants or concessional finance, debt swaps can play a role in mobilising extra resources for SDGs or climate projects. Well-designed debt swaps providing funds for local projects that respect the priorities of communities and meaningfully include community participation from the early stages of operation can have a positive impact. However, experience shows that their impact on the fiscal outlook and debt situation will not be particularly relevant.

When evaluating the efficiency and adequacy of debt swaps, a key distinction has to be made between the traditional bilateral or third-party involvement debt swaps, and the recent debt-for-nature swaps via debt-buy-back operations. The latter, involving new bond issuances to refinance existing distressed debt, are perpetuating the debt dependency and the dependency on financial markets, which is in turn enhancing the financialisation of development and climate finance. These can even be seen as a bail-out and subsidising of private creditors, as the operation ensures the resources for the debt-buy-back thanks to public guarantees (credit enhancement) on distressed debt that, otherwise, could have been the object of a more comprehensive debt restructuring, including debt write-offs.

Moreover, in all types of debt swaps, concerns around the democratic quality and fairness of debt swaps remain unanswered. The challenges and risks highlighted in this briefing should be considered before defining and implementing debt swaps, including: disbursement modalities and prioritisation of local currency; ownership by the borrowing country and respecting the aid efficiency principles (discarding any type of tied aid or coupling with carbon credits); reducing transaction costs and ensuring additionality; transparency, accountability and systematic evaluation; civil society participation, particularly respecting the voices and rights of local communities and indigenous peoples; and considering the origins of the debt and the call for unconditional debt cancellation of illegitimate debts. As exposed in this report, it is not just an issue of scaling up, but the devil is in the details. In order to work for economic, climate, gender and social justice, quality and the governance failures in debt swaps should be actively tackled before

Debt swaps cannot become an excuse for creditor countries to avoid their commitments to deliver ODA and climate finance, nor should they be used to inflate ODA or official climate finance figures. The 0.7 per cent of GDP for ODA is a longstanding commitment that has been systematically undermined. As Eurodad has recently shown, "reported ODA to GNI is stuck at an average of 0.34 percent – not yet halfway to the longstanding UN target of 0.7 per cent".<sup>132</sup> Moreover, countries in the global north are also failing to deliver on climate finance commitments, while offering more than 70 per cent of the climate finance flows in the form of more debt.<sup>10</sup>

Debt swaps will not cover up the shame of the lack of political will and commitment amongst countries in the global north to support the global south. Countries in the global north should recognise their historical responsibilities in perpetuating neo-colonial economic governance and dynamics that keep countries in the global south tied to debt dependency. They should also fully comply with the principles of Common But Differentiated Responsibilities (CBDR) decided within the UNFCCC agreements, as those most responsible for the climate crisis, and pay back the ecological and climate debt that they owe to the global south. As the debt justice movement claims, "like the debt crisis, the climate crisis is rooted in the plunder of the resources of the South, for which we demand reparations and restitution for the massive climate debt owed by the North".<sup>133</sup>

Finally, progress on debt swaps should not be an excuse to detract attention from the urgent need to move forward the fundamental reform of the international debt architecture. Establishing a timely, transparent, rules-based and comprehensive sovereign debt resolution mechanism, together with other reforms of the international financial architecture – including the regulation of Credit Rating Agencies – would offer countries the possibility of undertaking fair and unconditional pre-emptive debt restructurings. The attention that debt swaps are gaining in international development finance arenas should not become a distraction from the structural reforms that the international financial architecture so desperately needs.<sup>30</sup>

28

## Endnotes

- 1 Iolanda Fresnillo, 'Out of Service: How Public Services and Human Rights Are Being Threatened by the Growing Debt Crisis', Eurodad, 17 February 2020, [www.eurodad.org/outofservice](http://www.eurodad.org/outofservice).
- 2 UNCTAD, 'A World of Debt A Growing Burden to Global Prosperity' (Geneva: UNCTAD, July 2023), <https://unctad.org/publication/world-of-debt>, 2023. [unctad.org/publication/world-of-debt](https://unctad.org/publication/world-of-debt).
- 3 Erlassjahr and Misseror, 'Global Sovereign Debt Monitor 2023' (erlassjahr.de, April 2023), [erlassjahr.de/en/news/gsdm-2023/](https://erlassjahr.de/en/news/gsdm-2023/).
- 4 UNCTAD, 'A World of Debt A Growing Burden to Global Prosperity', July 2023; George Gray Molina and Lora Jensen, 'Building Blocks out of the Crisis: The UN's SDG Stimulus Plan', Global Policy Network Brief (UNDP, February 2023), [www.undp.org/publications/dfs-building-blocks-out-crisis-uns-sdg-stimulus-plan](http://www.undp.org/publications/dfs-building-blocks-out-crisis-uns-sdg-stimulus-plan); Inter-agency Task Force on Financing for Development, 'Financing for Sustainable Development Report 2023: Financing Sustainable Transformations' (United Nations, April 2023), [desapublications.un.org/publications/financing-sustainable-development-report-2023](https://desapublications.un.org/publications/financing-sustainable-development-report-2023).
- 5 Matthew Marlin, 'The Worst Ever Global Debt Crisis' (Development Finance International, 11 October 2023), [www.development-finance.org/es/noticias/831-11-october-the-worst-debt-crisis-ever-shocking-new-debt-service-numbers](http://www.development-finance.org/es/noticias/831-11-october-the-worst-debt-crisis-ever-shocking-new-debt-service-numbers).
- 6 Ilaria Crotti and Iolanda Fresnillo, 'The Debt Games – Is There a Way out of the Maze?' (Eurodad, 18 April 2023), [www.eurodad.org/the\\_debt\\_games](http://www.eurodad.org/the_debt_games).
- 7 The following interviews were conducted between June and September 2021:
  - i. Babita Bisht, Resource Mobilization, Green Climate Fund
  - ii. Jörg Haas, Heinrich-Böll-Stiftung
  - iii. Gail Hurley, consultant
  - iv. Paul Steele and Sejal Patel, International Institute for Environment and Development (IIED)
  - v. Vlassis Tigkarakis, Debt2Health, Innovative Financing for Health, The Global Fund to Fight AIDS, Tuberculosis and Malaria
  - vi. Ulrich Volz, Centre for Sustainable Finance at SOAS, University of London
  - vii. Robert Weary, CEO/Founder of Aqua Blue Investments, previously at TNC
  - viii. Yanke Zeltani, Senior Thematic Debt Advisor to UNDP
  - ix. The World Bank and AOSIS shared their interviews in writing.
- 8 Throughout the paper, the expression "debt swap" will refer to this kind of operation, unless stated otherwise. Debt swaps are also known as debt conversion or debt exchange.
- 9 Danny Cassimon, Dennis Essers and Achmad Fauzi, 'Indonesia's Debt-for-Development Swaps: Past, Present, and Future', Working Paper, 2013.10 (Antwerp: Institute of Development Policy and Management (IOB), University of Antwerp, October 2013), <http://dx.doi.org/10.1080/00074918.2014.896238>.
- 10 Stephen Wallenstein, 'Debt-Equity Swaps and Conversion Funds', International Monetary Fund, June 1994, [www.elibrary.imf.org/display/book/9781557753069/ch006.xml](http://www.elibrary.imf.org/display/book/9781557753069/ch006.xml).
- 11 Aldo Caliaari, 'Linking Debt Relief and Sustainable Development: Lessons from Experience', Debt Relief for a Green and Inclusive Recovery (Berlin, London and Boston, MA: Heinrich Böll Foundation, Center for Sustainable Finance (SOAS, University of London), and Global Development Policy Center (Boston University), November 2020), <https://drgr.org/files/2020/11/BackgroundPaper2-Lessons-from-Experience.pdf>.
- 12 This classification and terminology is not a globally agreed one, but we use it in this paper for the purpose of facilitating the explanation of different types of debt swaps.
- 13 Paul Steele and Sejal Patel, 'Tackling the Triple Crisis. Using Debt Swaps to Address Debt, Climate and Nature Loss Post-COVID-19', Shaping Sustainable Markets Papers (London: IIED, September 2020), <https://pubs.iied.org/16674iied>.
- 14 Aldo Caliaari, 'Linking Debt Relief and Sustainable Development: Lessons from Experience', November 2020.
- 15 Debt swap provision, Paris Club, [clubdeparis.org/en/communications/page/debt-swap](http://clubdeparis.org/en/communications/page/debt-swap).
- 16 OECD, 'Reporting on Debt Relief in the Grant Equivalent System. Methodology Note', OECD DAC (blog), 24 July 2020, [www.oecd.org/dac/financing-sustainable-development/development-finance-standards/Reporting-Debt-Relief-In-Grant-Equivalent-System.pdf](http://www.oecd.org/dac/financing-sustainable-development/development-finance-standards/Reporting-Debt-Relief-In-Grant-Equivalent-System.pdf).
- 17 Lazard, 'Debt-for-SDGs Swaps in Indebted Countries: The Right Instrument to Meet the Funding Gap? A Review of Past Implementation and Challenges Lying Ahead' (European Commission, DG International Partnerships, September 2021), <https://eur01.safelinks.gva.gov/paramos/file/120008/>.
- 18 Aldo Caliaari, 'Linking Debt Relief and Sustainable Development: Lessons from Experience', November 2020.
- 19 For an in-depth assessment of this programme, see: Olivier Blamangin (ed.), 'Two Decades of C2Ds: An Assessment of the Debt Reduction-Development Contracts, France's Debt-Swap Mechanism' (Plateforme Française Dette & Développement, 18 January 2022), <https://dette-developpement.org/Two-Decades-of-C2Ds-An-assessment-of-the-Debt-Reduction-Development-Contracts>.
- 20 Diego Filmus and Esteban Serrani, 'Desarrollo, Educación y Financiamiento. Análisis de Los Canjes de Deuda Por Inversión Social Como Instrumento de Financiamiento Extra-Presupuestario de La Educación' (Buenos Aires: Fundación SES & C.A., 2014), [www.fundacion-ses.org.ar/wp-content/uploads/2014/08/Análisis-de-Los-Canjes-de-Deuda-Por-Inversión-Social-Como-Instrumento-de-Financiamiento-Extra-Presupuestario-de-La-Educación.pdf](http://www.fundacion-ses.org.ar/wp-content/uploads/2014/08/Análisis-de-Los-Canjes-de-Deuda-Por-Inversión-Social-Como-Instrumento-de-Financiamiento-Extra-Presupuestario-de-La-Educación.pdf).
- 21 The research is based on secondary data in most cases, and the information, as the authors acknowledge, is incomplete, leaving out operations involving debt to commercial creditors.
- 22 IDA and IMF, 'Heavily Indebted Poor Countries (HIPC) Initiative and Multilateral Debt Relief Initiative (MDRI): Statistical Update' (Washington, D.C.: World Bank Group, International Monetary Fund, August 2019), [www.imf.org/en/Publications/Policy-Papers/Issues/2019/08/06/Heavily-Indebted-Poor-Countries-HIPC-Initiative-and-Multilateral-Debt-Relief-Initiative-MDRI-48566](http://www.imf.org/en/Publications/Policy-Papers/Issues/2019/08/06/Heavily-Indebted-Poor-Countries-HIPC-Initiative-and-Multilateral-Debt-Relief-Initiative-MDRI-48566).
- 23 Olivier Blamangin (ed.), 'Two Decades of C2Ds: An Assessment of the Debt Reduction-Development Contracts, France's Debt-Swap Mechanism', 2022.
- 24 See, for instance: Sara Jerving, 'WFP Plans to Expand Debt-for-Development Swaps', Devex (blog), 17 November 2017, [www.devex.com/news/wfp-plans-to-expand-debt-for-development-swaps-91519](http://www.devex.com/news/wfp-plans-to-expand-debt-for-development-swaps-91519). WFP, 'WFP Launches a €15 Million Project in Egypt with the German Development Bank', World Food Programme (blog), 27 July 2020, [www.wfp.org/news/wfp-launches-eu15-million-project-egypt-german-development-bank](http://www.wfp.org/news/wfp-launches-eu15-million-project-egypt-german-development-bank). WFP, 'Debt Swaps. Resetting Global SDG 2 Development Agenda and Building Back Better from the Impact of Covid-19 Pandemic' (World Food Programme, April 2021), [https://scalingupnutrition.org/wp-content/uploads/2021/10/WFP-Debt-Swap-Communication-and-Advocacy-Note\\_042021.pdf](https://scalingupnutrition.org/wp-content/uploads/2021/10/WFP-Debt-Swap-Communication-and-Advocacy-Note_042021.pdf).
- 25 The Global Fund, 'Innovative Financing of the Global Fund: Debt2Health. Converting debt into investments in health', 2021, <https://www.theglobalfund.org/en/innovative-finance/>.
- 26 Travis Mitchell, 'Commonwealth Multilateral Debt Swap for Climate Change Adaptation and Mitigation Proposal. An Exposition of the Operational Features', Discussion Paper Number 21 (London: Commonwealth Secretariat, June 2016), [www.thecommonwealth-library.org/index.php/comsec/catalog/book/73](http://www.thecommonwealth-library.org/index.php/comsec/catalog/book/73).
- 27 IMF, 'Multilateral Debt Relief Initiative – Questions and Answers', International Monetary Fund (blog), July 2017, [www.imf.org/external/np/exr/mdri/eng/index.htm](http://www.imf.org/external/np/exr/mdri/eng/index.htm).
- 28 Travis Mitchell, 'Commonwealth Multilateral Debt Swap for Climate Change Adaptation and Mitigation Proposal. An Exposition of the Operational Features', 2016.
- 29 Romina Picolotti et al., 'Debt for Climate Swaps', Discussion Document (Institute for Governance & Sustainable Development (IGSD), 19 August 2020), [www.igsd.org/wp-content/uploads/2020/08/Background-Note-on-Debt-Swaps-11Aug20.pdf](http://www.igsd.org/wp-content/uploads/2020/08/Background-Note-on-Debt-Swaps-11Aug20.pdf).
- 30 Aldo Caliaari, 'Linking Debt Relief and Sustainable Development: Lessons from Experience', November 2020.
- 31 Pervaze A. Sheikh, 'Debt-for-Nature Initiatives and the Tropical Forest Conservation Act (TFCA): Status and Implementation' (Congressional Research Service, 24 July 2018), <https://crsreports.congress.gov/product/pdf/RL/RL31286/16>.
- 32 Marta Ruiz, 'Debt Swaps for Development. Creative Solution or Smoke Screen?' (Brussels: Eurodad, October 2007).
- 33 Andre Standing, 'Debt-for-Nature Swaps and the Oceans: The Belize Blue Bond' (Kenya: Coalition for Fair Fisheries Arrangements, 15 March 2022), [www.cffacape.org/publications-blog/debt-for-nature-swaps-and-the-oceans-the-belize-blue-bond](http://www.cffacape.org/publications-blog/debt-for-nature-swaps-and-the-oceans-the-belize-blue-bond).
- 34 Jared E. Knicley, 'Debt, Nature, and Indigenous Rights: Twenty-Five Years of Debt-for-Nature Evolution', *The Harvard Environmental Law Review*: HELR, no. 36(1) (January 2012): P.79–122.
- 35 Convergence, 'Seychelles Debt Conversion for Marine Conservation and Climate Adaptation' (Convergence – natureVest – The Nature Conservancy, March 2017), [www.convergence.finance/resource/seychelles-debt-conversion-for-marine-conservation-and-climate-adaptation-case-study/view](http://www.convergence.finance/resource/seychelles-debt-conversion-for-marine-conservation-and-climate-adaptation-case-study/view).
- 36 TNC (2021) Case Study: Belize Blue Bonds for Ocean Conservation. November 2021. The Nature Conservancy, [www.nature.org/content/dam/tnc/nature/en/documents/TNC-Belize-Debt-Conversion-Case-Study.pdf](http://www.nature.org/content/dam/tnc/nature/en/documents/TNC-Belize-Debt-Conversion-Case-Study.pdf). TNC (2023) Case Study: Barbados Blue Bonds for Ocean Conservation. May 2023. The Nature Conservancy, [www.nature.org/content/dam/tnc/nature/en/documents/TNC-Barbados-Debt-Conversion-Case-Study.pdf](http://www.nature.org/content/dam/tnc/nature/en/documents/TNC-Barbados-Debt-Conversion-Case-Study.pdf).
- 37 Daniel Ortega-Pacheco et al., 'Galapagos Deal: An Ignominious Legacy', 19 May 2023.
- 38 White & Case, 'White & Case Advises Republic of Gabon on inaugural debt-for-nature conversion', Press Release, 23 August 2023, [www.whitecase.com/news/press-release/white-case-advises-republic-gabon-inaugural-debt-nature-conversion](http://www.whitecase.com/news/press-release/white-case-advises-republic-gabon-inaugural-debt-nature-conversion).
- 39 See Kunming-Montreal Global Biodiversity Framework, [www.cbd.int/gbfl/](http://www.cbd.int/gbfl/).
- 40 The private agents promoting the Ecuador debt-for-nature swap are: Climate Fund Managers (CFM) – investment firm, via its subsidiary Oceans Finance Company (OFC), and the Pew Bertarelli Ocean Legacy with technical support from Aqua Blue Investments LLC. See more details here: Daniel Ortega-Pacheco et al., 'Galapagos Deal: An Ignominious Legacy' 19 May 2023, <https://ssrn.com/abstract=4455918>.
- 41 IMF, 'Regional Economic Outlook for Latin America and the Caribbean (2023). Online Annex 5. Debt-for-Nature Swaps in Latin America and the Caribbean' (International Monetary Fund, October 2023), [www.imf.org/en/Publications/REO/WH/Issues/2023/10/13/regional-economic-outlook-western-hemisphere-october-2023](http://www.imf.org/en/Publications/REO/WH/Issues/2023/10/13/regional-economic-outlook-western-hemisphere-october-2023).
- 42 Daniel Ortega-Pacheco et al., 'Galapagos Deal: An Ignominious Legacy', 19 May 2023. SSRN: <https://ssrn.com/abstract=4455918> or <http://dx.doi.org/10.2139/ssrn.4455918>.



- governance', CFFA, 15 November 2023. [www.cffacape.org/publications-blog/gabon-debt-ocean-swap-tnc](http://www.cffacape.org/publications-blog/gabon-debt-ocean-swap-tnc).
- 44 Lazard, 'Debt-for-SDGs Swaps in Indebted Countries: The Right Instrument to Meet the Funding Gap? A Review of Past Implementation and Challenges Lying Ahead', 2021.
- 45 Thorsten Nestmann, 'How debt-for-nature swaps can affect sovereign credit', 16 August 2023. Official Monetary and Financial Institutions Forum (OMFIF). [www.omfif.org/2023/08/how-debt-for-nature-swaps-can-affect-sovereign-credit/](http://www.omfif.org/2023/08/how-debt-for-nature-swaps-can-affect-sovereign-credit/).
- 46 TNC, 'Blue Bonds: An Audacious Plan to Save the World's Ocean', TNC, 27 July 2023, [www.nature.org/en-us/what-we-do/our-insights/perspectives/an-audacious-plan-to-save-the-worlds-oceans/](http://www.nature.org/en-us/what-we-do/our-insights/perspectives/an-audacious-plan-to-save-the-worlds-oceans/).
- 47 Note from the author: refers to the cases in Latin America and the Caribbean (Barbados, Belize and Ecuador) and not Gabon.
- 48 IMF, 'Regional Economic Outlook for Latin America and the Caribbean, (2023). Online Annex 5. Debt-for-Nature Swaps in Latin America and the Caribbean', (International Monetary Fund, October 2023), [www.imf.org/en/Publications/REO/WH/Issues/2023/10/13/regional-economic-outlook-western-hemisphere-october-2023](http://www.imf.org/en/Publications/REO/WH/Issues/2023/10/13/regional-economic-outlook-western-hemisphere-october-2023).
- 49 Natasha White, 'Debt Swaps Arranged by Credit Suisse, BofA Face Scrutiny', Bloomberg, 18 September 2023, [www.bloomberg.com/news/articles/2023-09-17/debt-swaps-arranged-by-credit-suisse-boa-face-scrutiny](http://www.bloomberg.com/news/articles/2023-09-17/debt-swaps-arranged-by-credit-suisse-boa-face-scrutiny); Kenza Bryan, "'Sustainable' Debt Pioneer Ditches Controversial "Blue Bond" Label', *Financial Times*, 22 September 2023, [www.ft.com/content/68bcb820-c4af-42b7-84b7-c2682af60ad](http://www.ft.com/content/68bcb820-c4af-42b7-84b7-c2682af60ad).
- 50 Natasha White, 'Barclays Sees Real Greenwashing Risk in ESG Debt-Swap Market', Bloomberg, 23 January 2023, [www.bloomberg.com/news/articles/2023-01-23/barclays-sees-real-risk-of-greenwashing-in-esg-debt-swap-market](http://www.bloomberg.com/news/articles/2023-01-23/barclays-sees-real-risk-of-greenwashing-in-esg-debt-swap-market).
- 51 The buy-back operation in Gabon was divided into three operations involving three existing bonds. According to Andre Standing, Gabon bought US\$95 million worth of 2025 Eurobond at 96.75% of the face value, US\$105 million worth of 2031 Eurobond at 85% of the face value, and US\$300 million worth of a second 2031 Eurobond, also at 85% of the face value. See A. Standing, 'Gabon's Odious Debt-for-ocean Swap: The implications for ocean governance', Coalition for Fair Fisheries Arrangement (CFFFA), 15 November 2023, [www.cffacape.org/publications-blog/gabon-debt-ocean-swap-tnc](http://www.cffacape.org/publications-blog/gabon-debt-ocean-swap-tnc).
- 52 The savings in the case of Gabon do not come from reducing the debt stock in the buy-back, but by improving the conditions of the refinancing deal in terms of interest rate and maturity. The information about the savings is inconsistent: while the blue bond prospect indicates that US\$125 million will be devoted for conservation, TNC argues that the debt swap would generate an "expected US\$163 million in new funds for ocean conservation, at the same time as indicating that approximately US\$5 million will be made available every year for the next 15 years, which adds up a total of US\$75million". See Rachel Savage, 'Gabon "blue bond" swap raises hopes for wave of African debt-for-nature deals', Reuters, 15 August 2023, [www.reuters.com/sustainability/gabon-blue-bond-swap-raises-hopes-wave-african-debt-for-nature-deals-2023-08-15/](http://www.reuters.com/sustainability/gabon-blue-bond-swap-raises-hopes-wave-african-debt-for-nature-deals-2023-08-15/); Andre Standing, 'Gabon's Odious Debt-for-ocean Swap: The implications for ocean governance', CFFA, 15 November 2023, [www.cffacape.org/publications-blog/gabon-debt-ocean-swap-tnc](http://www.cffacape.org/publications-blog/gabon-debt-ocean-swap-tnc).
- TNC, 'The Nature Conservancy Announces Debt Conversion for Ocean Conservation in Gabon', TNC, 14 August 2023, [www.nature.org/en-us/newsroom/tnc-announces-debt-conversion-for-ocean-conservation-in-gabon/#:~:text=Today%2C%20The%20Nature%20Conservancy%20](http://www.nature.org/en-us/newsroom/tnc-announces-debt-conversion-for-ocean-conservation-in-gabon/#:~:text=Today%2C%20The%20Nature%20Conservancy%20).
- 53 IMF, 'Regional Economic Outlook for Latin America and the Caribbean (2023). Online Annex 5. Debt-for-Nature Swaps in Latin America and the Caribbean', (International Monetary Fund, October 2023), [www.imf.org/en/Publications/REO/WH/Issues/2023/10/13/regional-economic-outlook-western-hemisphere-october-2023](http://www.imf.org/en/Publications/REO/WH/Issues/2023/10/13/regional-economic-outlook-western-hemisphere-october-2023).
- 54 White & Case, 'White & Case Advises Republic of Gabon on inaugural debt-for-nature conversion', Press Release, 23 August 2023, [www.whitecase.com/news/press-release/white-case-advises-republic-gabon-inaugural-debt-nature-conversion](http://www.whitecase.com/news/press-release/white-case-advises-republic-gabon-inaugural-debt-nature-conversion).
- 55 Andre Standing, 'Debt-for-Nature Swaps and the Oceans: The Belize Blue Bond'.
- 56 The Potomac Group is a consultancy firm that has, amongst others, advised the debt swap operation in Belize.
- 57 Jill Dauchy, 'Debt-for-Nature-Swaps: Feasibility and Policy Significance in Africa's Natural Resources Sector' (Côte d'Ivoire: African Development Bank Group, October 2022), [www.afdb.org/en/documents/debt-nature-swaps-feasibility-and-policy-significance-african-natural-resources-sector](http://www.afdb.org/en/documents/debt-nature-swaps-feasibility-and-policy-significance-african-natural-resources-sector).
- 58 Travis Mitchell, 'Commonwealth Multilateral Debt Swap for Climate Change Adaptation and Mitigation Proposal. An Exposition of the Operational Features', 2016.
- 59 Sheldon McLean et al, 'Promoting Debt Sustainability to Facilitate Financing Sustainable Development in Selected Caribbean Countries' (UN ECLAC, 2020), [https://repositorio.cepal.org/bitstream/handle/11362/45108/5/1901211\\_en.pdf?sequence=1&isAllowed=y](https://repositorio.cepal.org/bitstream/handle/11362/45108/5/1901211_en.pdf?sequence=1&isAllowed=y).
- 60 Erik Grigoryan, Alberto Isgut and Patrick Martin, 'Debt for Climate Swaps in the Pacific sites/default/d8files/event-documents/DFCS%20advance%20copy\_15%20March%202022\_webpage.pdf; Erik Grigoryan et al. 'Debt-for-Climate Swaps as a Tool to Support the Implementation of the Paris Agreement' (Economic and Social Commission for Asia and the Pacific (ESCAP), 29 October 2021), [www.unescap.org/sites/default/d8files/knowledge-products/PB\\_Debt-for-Climate%20Swaps\\_final29Oct21.pdf](http://www.unescap.org/sites/default/d8files/knowledge-products/PB_Debt-for-Climate%20Swaps_final29Oct21.pdf).
- 61 ESCWA, 'Climate/SDGs Debt Swap – Donor Nexus Initiative'. June 2022. Economic and Social Commission for Western Asia (ESCWA), [www.unescwa.org/sites/default/files/inline-files/UN%20ESCWA%20Climate%20SDGs%20Debt%20Swap%20-%20Donor%20Nexus%20Initiative\\_21062022\\_0.pdf](http://www.unescwa.org/sites/default/files/inline-files/UN%20ESCWA%20Climate%20SDGs%20Debt%20Swap%20-%20Donor%20Nexus%20Initiative_21062022_0.pdf).
- 62 GPE, 'Debt2Ed Operational Guidelines' (Global Partnership for Education, September 2021), [www.globalpartnership.org/sites/default/files/document/file/2021-10-gpe-debt2ed-operational-guidelines.pdf](http://www.globalpartnership.org/sites/default/files/document/file/2021-10-gpe-debt2ed-operational-guidelines.pdf).
- 63 Lazard, 'Debt-for-SDGs Swaps in Indebted Countries: The Right Instrument to Meet 10 2021.
- 64 Angola, Cabo Verde, Central African Republic, Egypt, Ghana, Guinea, Jordan, Morocco, Lebanon, Madagascar, Malawi, Niger, Nigeria, Pakistan, South Africa and Sudan. See more information here: <https://sustainabledebtcoalition.org/>.
- 65 See more information here: <https://sustainabledebtcoalition.org>
- 66 Antonio Guterres, 'United Nations Secretary-General's SDG Stimulus to Deliver Agenda 2030', (United Nations, February 2023), [www.un.org/sustainabledevelopment/wp-content/uploads/2023/02/SDG-Stimulus-to-Deliver-Agenda-2030.pdf](http://www.un.org/sustainabledevelopment/wp-content/uploads/2023/02/SDG-Stimulus-to-Deliver-Agenda-2030.pdf).
- 67 'External Debt Sustainability and Development (G77 and China Draft Resolution)' (Draft Resolution prepared by Cuba on behalf of G77 and China for the 78th session of the UN Second Committee, 9 October 2023), <https://documents-dds-ny.un.org/doc/UNDOC/LTD/N23/294/47/PDF/N2329447.pdf?OpenElement>.
- 68 Ulrich Volz et al, 'Debt Relief for a Green and Inclusive Recovery', (Berlin, London and Boston, MA: Heinrich Böll Foundation, Center for Sustainable Finance (SOAS, University of London), and Global Development Policy Center (Boston University), 20 November 2021), <https://drgr.org/2020/11/16/report-debt-relief-for-a-green-and-inclusive-recovery/>.
- 69 V20 Presidency, 'V20 Statement on Debt Restructuring Option for Climate-Vulnerable Nations', 27 October 2021, 20, [www.v-20.org/our-voice/statements/group/v20-statement-on-debt-restructuring-option-for-climate-vulnerable-nations](http://www.v-20.org/our-voice/statements/group/v20-statement-on-debt-restructuring-option-for-climate-vulnerable-nations).
- 70 Paul Steele and Sejal Patel, 'Tackling the Triple Crisis. Using Debt Swaps to Address Debt, Climate and Nature Loss Post-COVID-19'.
- 71 Natasha White and Esteban Duarte, 'European Investment Bank to Back Barbados Debt-for-Climate Swap', Bloomberg, 11 November 2023, [www.bnnbloomberg.ca/european-investment-bank-to-back-barbados-debt-for-climate-swap-1.1997137](http://www.bnnbloomberg.ca/european-investment-bank-to-back-barbados-debt-for-climate-swap-1.1997137).
- 72 VVAA, 'Financing the 30x30 agenda for the Oceans: Debt for Nature swaps should be rejected', CFFA, 6 December 2022, [www.cffacape.org/publications-blog/joint-statement-financing-the-30x-30-agenda-for-the-oceans-debt-for-nature-swaps-should-be-rejected](http://www.cffacape.org/publications-blog/joint-statement-financing-the-30x-30-agenda-for-the-oceans-debt-for-nature-swaps-should-be-rejected).
- 73 Natasha White, 'Barclays Sees Real Greenwashing Risk in ESG Debt-Swap Market', Bloomberg, 23 January 2023, [www.bloomberg.com/news/articles/2023-01-23/barclays-sees-real-risk-of-greenwashing-in-esg-debt-swap-market](http://www.bloomberg.com/news/articles/2023-01-23/barclays-sees-real-risk-of-greenwashing-in-esg-debt-swap-market).
- 74 Erlassjahr.de, 'Ecuador – Credit Suisse: a debt for nature swap is something different', Erlassjahr, 19 May 2023, <https://erlassjahr.de/en/news/ecuador-credit-suisse-a-debt-for-nature-swap-is-something-different/>.
- 75 Sandra Guzmán et al, 'The State of Climate Finance in Africa: Climate Finance Needs of African Countries', June 2022. Climate Policy Initiative, [www.climatepolicyinitiative.org/wp-content/uploads/2022/06/Climate-Finance-Needs-of-African-Countries-1.pdf](http://www.climatepolicyinitiative.org/wp-content/uploads/2022/06/Climate-Finance-Needs-of-African-Countries-1.pdf).
- 76 US Department of the Treasury, 'United States Signs \$20 Million Debt Swap Agreement with Peru to Support Amazon Conservation', 11 September 2023, <https://home.treasury.gov/news/press-releases/jy1724>.
- 77 Egypt State Information Service, 'Egypt, China ink MoU to boost coop. on debt-for-development swap', 19 October 2023, [www.sis.gov.eg/Story/187408/Egypt%2C-China-ink-MoU-to-boost-coop.-on-debt-for-development-swap?lang=en-us](http://www.sis.gov.eg/Story/187408/Egypt%2C-China-ink-MoU-to-boost-coop.-on-debt-for-development-swap?lang=en-us).
- 78 German Embassy Cairo, 'German debt-swap of 54 million Euro fosters green energy transition in Egypt', 26 June 2023, <https://kairo.diplo.de/eg-de/aktuelles/-/2604434>.
- 79 Danny Cassimon, Dennis Essers and Martin Prowse, 'Debt-for-Climate Swaps in the COVID-19 Era: Killing Two Birds with One Stone?' (Institute of Development Policy and Management (IOB), University of Antwerp, March 2021), [www.researchgate.net/publication/350451213](http://www.researchgate.net/publication/350451213).
- 80 Eurostat calculations based on the data from the World Bank International Debt Statistics, <https://databank.worldbank.org/source/international-debt-statistics#>.
- 81 IDA and IMF, 'Heavily Indebted Poor Countries (HIPC) Initiative and Multilateral Debt Relief Initiative (MDRI): Statistical Update' (Washington, D.C.: World Bank Group, International Monetary Fund, August 2019), [www.imf.org/en/Publications/Policy-Papers/Issues/2019/08/06/Heavily-Indebted-Poor-Countries-HIPC-Initiative-and-Multilateral-Debt-Relief-Initiative-MDRI-48566](http://www.imf.org/en/Publications/Policy-Papers/Issues/2019/08/06/Heavily-Indebted-Poor-Countries-HIPC-Initiative-and-Multilateral-Debt-Relief-Initiative-MDRI-48566).
- 82 Pervaze A. Sheikh, 'Debt-for-Nature Initiatives and the Tropical Forest Conservation 30

- 83 Marta Ruiz, 'Debt Swaps for Development. Creative Solution or Smoke Screen?' (Brussels: Eurodad, October 2007).
- 84 Diego Filmus and Esteban Serrani, 'Desarrollo, Educación y Financiamiento. Análisis de Los Canjes de Deuda Por Inversión Social Como Instrumento de Financiamiento Extra-Presupuestario de La Educación' (Buenos Aires: Fundación SES & Organización de Estados Iberoamericanos para la Educación, la Ciencia y la Cultura (OEI), March 2009). [www.bnm.me.gov.ar/giga1/documentos/EL002353.pdf](http://www.bnm.me.gov.ar/giga1/documentos/EL002353.pdf).
- 85 Pervaiz A. Sheikh, 'Debt-for-Nature Initiatives and the Tropical Forest Conservation Act (TFCA): Status and Implementation' (Congressional Research Service, 24 July 2019). <https://crsreports.congress.gov/product/pdf/RL/RL31286/16>.
- 86 Marta Ruiz, 'Debt Swaps for Development. Creative Solution or Smoke Screen?', October 2007.
- 87 Filmus and Serrani, 'Desarrollo, Educación y Financiamiento. Análisis de Los Canjes de Deuda Por Inversión Social Como Instrumento de Financiamiento Extra-Presupuestario de La Educación'.
- 88 Danny Cassimon, Robrecht Renard and Karel Verbeke, 'Assessing Debt-to-Health Swaps: A Case Study on the Global Fund Debt2Health Conversion Scheme', *Tropical Medicine and International Health* 13, no. 9 (September 2008): P.1188-95, <https://doi.org/10.1111/j.1365-3156.2008.02125.x>.
- 89 Inter-Agency Task Force on Financing for Development, 'Financing for Sustainable Development Report 2023. Financing Sustainable Transformations'.
- 90 'External Debt Sustainability and Development (G77 and China Draft Resolution)', 77.
- 91 Cassimon, Essers and Prowse, 'Debt-for-Climate Swaps in the COVID-19 Era: Killing Two Birds with One Stone?'.
- 92 Chamon et al., 'Debt-for-Climate Swaps: Analysis, Design, and Implementation'.
- 93 Although it remains unclear how debt swaps can be accounted as climate finance, this possibility is highlighted by several authors. See, for instance, C. Hebbale and J. Urpelainen, 'Debt-for-adaptation swaps: A financial tool to help climate vulnerable nations', *Brookings*, 21 March 2023, [www.brookings.edu/articles/debt-for-adaptation-swaps-a-financial-tool-to-help-climate-vulnerable-nations/](http://www.brookings.edu/articles/debt-for-adaptation-swaps-a-financial-tool-to-help-climate-vulnerable-nations/).
- 94 Lazard, 'Debt-for-SDGs Swaps in Indebted Countries: The Right Instrument to Meet the Funding Gap? A Review of Past Implementation and Challenges Lying Ahead', 2021.
- 95 Danny Cassimon, Robrecht Renard and Karel Verbeke, 'Assessing Debt-to-Health Swaps: A Case Study on the Global Fund Debt2Health Conversion Scheme'.
- 96 Lazard, 'Debt-for-SDGs Swaps in Indebted Countries: The Right Instrument to Meet the Funding Gap? A Review of Past Implementation and Challenges Lying Ahead', 2021.
- 97 Nerea Craviotto and Jan Van de Poel, 'Donor countries will undermine the integrity of aid if they continue reporting debt relief as ODA', Eurodad, 23 June 2020, [www.eurodad.org/donors\\_undermining\\_aid\\_integrity](http://www.eurodad.org/donors_undermining_aid_integrity).
- 98 CAN - I, Climate Action Network Position on Debt Swaps, May 2023, Climate Action Network, [https://climatenetwork.org/wp-content/uploads/2023/06/CAN-position-on-Debt-Swaps\\_May-2023.pdf](https://climatenetwork.org/wp-content/uploads/2023/06/CAN-position-on-Debt-Swaps_May-2023.pdf).
- 99 Quentin Paul, Pierre-Francois Weber and Romain Svartzman, 'Debt-for-nature Swaps: A Two-fold Solution for Environmental and Debt Sustainability in Developing Countries?', *Bulletin de la Banque de France* 24/4/2 (Banque de France, February 2023), [https://publications.banque-france.fr/sites/default/files/medias/documents/823003\\_bdf24\\_2-en\\_version\\_finale.pdf](https://publications.banque-france.fr/sites/default/files/medias/documents/823003_bdf24_2-en_version_finale.pdf).
- 100 Aldo Caliarì, 'Linking Debt Relief and Sustainable Development: Lessons from Experience', November 2020.
- 101 Cassimon, Renard and Verbeke, 'Assessing Debt-to-Health Swaps: A Case Study on the Global Fund Debt2Health Conversion Scheme'.
- 102 Danny Cassimon, Dennis Essers and Martin Prowse, 'Debt-for-Climate Swaps in the COVID-19 Era: Killing Two Birds with One Stone?'.
- 103 Tess Woolfenden, 'Debt-for-Climate Swaps: Not a Silver Bullet' (Debt Justice UK, 12 October 2021), <https://debtjustice.org.uk/blog/debt-for-climate-swaps-not-a-silver-bullet>.
- 104 Nelly Petkova, 'Lessons Learnt from Experience with Debt-for-Environment Swaps in Economies in Transition', IOECD, 2007). [www.oecd.org/environment/outreach/29352290.pdf](http://www.oecd.org/environment/outreach/29352290.pdf).
- 105 Paul, Weber and Svartzman, 'Debt-for-nature Swaps: A Two-fold Solution for Environmental and Debt Sustainability in Developing Countries?', 2023.
- 106 Marcos and Chamon et al., 'Debt-for-Climate Swaps: Analysis, Design, and Implementation' (International Monetary Fund, 12 August 2022), [www.imf.org/en/Publications/WP/Issues/2022/08/11/Debt-for-Climate-Swaps-Analysis-Design-and-Implementation-522184](http://www.imf.org/en/Publications/WP/Issues/2022/08/11/Debt-for-Climate-Swaps-Analysis-Design-and-Implementation-522184).
- 107 Lazard, 'Debt-for-SDGs Swaps in Indebted Countries: The Right Instrument to Meet the Funding Gap? A Review of Past Implementation and Challenges Lying Ahead', 2021.
- 108 Tess Woolfenden, 'Debt-for-Climate Swaps: Not a Silver Bullet'.
- 109 Paul Quentin, Weber Pierre-Francois and Svartzman Romain, 'Debt-for-nature Swaps: A Two-fold Solution for Environmental and Debt Sustainability in Developing Countries?', 2023.
- 110 Data analysed by the author based on public information provided by the Spanish government. See here for more information: [www.tesoro.es/asuntos-internacionales/gestion-bilateral](http://www.tesoro.es/asuntos-internacionales/gestion-bilateral).
- 111 Aldo Caliarì, 'Linking Debt Relief and Sustainable Development: Lessons from Experience', November 2020.
- 112 Daniel Ortega-Pacheco et al., 'Galapagos Deal: An Ignominious Legacy', *Latindadd* (blog), 5 May 2023. [www.latindadd.org/2023/05/25/galapagos-deal-an-ignominious-legacy/](http://www.latindadd.org/2023/05/25/galapagos-deal-an-ignominious-legacy/).
- 113 Chamon et al., 'Debt-for-Climate Swaps: Analysis, Design, and Implementation'.
- 114 Danny Cassimon, Dennis Essers and Martin Prowse, 'Debt-for-Climate Swaps in the COVID-19 Era: Killing Two Birds with One Stone?'.
- 115 Chamon et al., 'Debt-for-Climate Swaps: Analysis, Design, and Implementation'.
- 116 Paul Quentin, Weber Pierre-Francois and Svartzman Romain, 'Debt-for-nature Swaps: A Two-fold Solution for Environmental and Debt Sustainability in Developing Countries?', 2023.
- 117 Paul Quentin, Weber Pierre-Francois, and Svartzman Romain, 'Debt-for-nature Swaps: A Two-fold Solution for Environmental and Debt Sustainability in Developing Countries?', 2023.
- 118 Marta Ruiz, 'Debt Swaps for Development. Creative Solution or Smoke Screen?', October 2007.
- 119 Aldo Caliarì, 'Linking Debt Relief and Sustainable Development: Lessons from Experience', November 2020.
- 120 Daniel Ortega-Pacheco et al., 'Galapagos Deal: An Ignominious Legacy'.
- 121 Natasha White, 'Barclays Sees Real Greenwashing Risk in ESG Debt-Swap Market', *Bloomberg*, 23 January 2023, [www.bloomberg.com/news/articles/2023-01-23/barclays-sees-real-risk-of-greenwashing-in-esg-debt-swap-market](http://www.bloomberg.com/news/articles/2023-01-23/barclays-sees-real-risk-of-greenwashing-in-esg-debt-swap-market).
- 122 Lazard, 'Debt-for-SDGs Swaps in Indebted Countries: The Right Instrument to Meet the Funding Gap? A Review of Past Implementation and Challenges Lying Ahead', 2021.
- 123 Lazard, 'Debt-for-SDGs Swaps in Indebted Countries: The Right Instrument to Meet the Funding Gap? A Review of Past Implementation and Challenges Lying Ahead', 2021.
- 124 Guido Ashoff et al., 'Análisis de impacto del Fondo Contravalor Perú-Alemania', 2012. *Studies 72 German Development Institute/Deutsches Institut für Entwicklungspolitik (DIE)*, [www.idos-research.de/en/studies/article/analisis-de-impacto-del-fondo-contravalor-peru-alemania/](http://www.idos-research.de/en/studies/article/analisis-de-impacto-del-fondo-contravalor-peru-alemania/).
- 125 Diego Filmus and Esteban Serrani, 'Desarrollo, Educación y Financiamiento. Análisis de Los Canjes de Deuda Por Inversión Social Como Instrumento de Financiamiento Extra-Presupuestario de La Educación'.
- 126 Aldo Caliarì, 'Linking Debt Relief and Sustainable Development: Lessons from Experience', November 2020.
- 127 Aldo Caliarì, 'Linking Debt Relief and Sustainable Development: Lessons from Experience', November 2020.
- 128 Nicole Hassoun, 'The problem of debt-for-nature swaps from a human rights perspective', *Journal of Applied Philosophy* 29(4), P359-77, cited in S. Leonard et al., 'Scaling-up Ecosystem-based Debt-for-Climate Swaps: From the Millions to the Billions', November 2020, Heinrich Böll Foundation, Center for Sustainable Finance (SOAS, University of London), and Global Development Policy Center (Boston University), [www.boell.de/sites/default/files/2020-12/BackgroundPaper1%20From%20the%20Millions%20to%20the%20Billions.pdf](http://www.boell.de/sites/default/files/2020-12/BackgroundPaper1%20From%20the%20Millions%20to%20the%20Billions.pdf).
- 129 Andre Standing, 'Debt-for-nature swaps and the oceans: The Belize Blue Bond' CFFA, 15 March 2022.
- 130 For a more detailed definition of illegitimate debts, see Iolanda Fresnillo, 'How to get to the bottom of a country's debts? A short briefing on debt audits', Eurodad, May 2021, [www.eurodad.org/how\\_to\\_get\\_to\\_the\\_bottom\\_of\\_a\\_country\\_s\\_debts](http://www.eurodad.org/how_to_get_to_the_bottom_of_a_country_s_debts).
- 131 See:  
Open Letter to All Governments, International Institutions and Lenders. Statement signed by more than 500 organisations in October 2020, <https://debtgwa.net/#open-letter>.  
CAN - I, Climate Action Network Position on Debt Swaps, May 2023, Climate Action Network, [https://climatenetwork.org/wp-content/uploads/2023/06/CAN-position-on-Debt-Swaps\\_May-2023.pdf](https://climatenetwork.org/wp-content/uploads/2023/06/CAN-position-on-Debt-Swaps_May-2023.pdf).  
Tess Woolfenden, 'Debt-for-Climate Swaps: Not a Silver Bullet' (Debt Justice UK, 12 October 2021), <https://debtjustice.org.uk/blog/debt-for-climate-swaps-not-a-silver-bullet>.
- 132 Nerea Craviotto, 'Aid under threat: The shadowy business of private sector instruments', Eurodad, 14 November 2023, [www.eurodad.org/aid\\_under\\_threat](http://www.eurodad.org/aid_under_threat).
- 133 An Urgent Call for Debt, Climate and Economic Justice, Statement of the Global Week of Action for debt, climate and economic justice, October 2023, <https://debtgwa.net/globalweekofaction2023>.



eurodad  
european network on  
debt and development



APMDD  
ASIAN PEOPLES' MOVEMENT  
ON DEBT AND DEVELOPMENT



Debt  
Justice



323  
erlassjahr.de  
Entwicklung braucht Entschuldung



GPF  
Global Policy Forum



Latindadd  
Rede Lateinamerika per Justitia Economicam Social



OXFAM



pfdd  
plateforme française  
dette & développement

## Contact

Eurodad  
Rue d'Edimbourg 18-26  
1050 Brussels  
Belgium

Tel: +32 (0) 2 894 4640

[www.eurodad.org](http://www.eurodad.org)

facebook.com/Eurodad

twitter.com/eurodad

32

**Exhibit EWG 10:**

**The National Assembly Public Debt and Privatization  
Committee report on the 2024 Medium-Term Debt  
Management Strategy**

FELISTUS WANJIKU NJOROGE  
ADVOCATE  
COMMISSIONER FOR OATHS  
P.O. Box 75255 - 00200, NAIROBI

This is the Exhibit Marked Exh. 10 Referred to in the Sworn  
Affidavit

Declaration of Eugenia Karijiru Gikonyo Declared

Before me this 16<sup>th</sup> Day of July 2024  
At Nairobi

  
COMMISSIONER FOR OATHS



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT (THIRD SESSION)

THE PUBLIC DEBT AND PRIVATIZATION COMMITTEE

REPORT ON THE 2024 MEDIUM-TERM DEBT  
MANAGEMENT STRATEGY

FEBRUARY 2024

23 FEB 2024

*Titus*  
Hon. Abdi Shaurie, MP  
Chairperson, Committee on Public  
Debt & Privatization  
A. Shubaki

## TABLE OF CONTENTS

LIST OF ACRONYMS AND ABBREVIATIONS.....	3
ANNEXURES.....	4
CHAIRPERSON'S FOREWORD.....	5
a) Non-financial Recommendations.....	6
b) Financial Recommendations .....	7
ACKNOWLEDGEMENTS.....	8
I. PREFACE.....	9
I.1. Establishment and Mandate of the Committee .....	9
I.2. Membership of the Committee.....	9
I.3. Committee Secretariat.....	10
I.4. Parliamentary Budget Office.....	10
II. REVIEW OF THE 2024 MEDIUM TERM DEBT MANAGEMENT STRATEGY .....	11
II.1. Introduction.....	11
II.2. Public Debt Stock, Guaranteed Debt and the PFM Debt Threshold.....	11
II.3. Cost and Risk Characteristics .....	12
II.4. Public Debt Sustainability Analysis.....	14
II.5. Financing the 2024/25 Budget and Fiscal Deficit.....	15
II.6. The 2024 Proposed Borrowing Strategy.....	15
II.7. The Fiscal framework underpinning the 2024 MTDS.....	16
III. SUBMISSIONS FROM KEY STAKEHOLDERS.....	17
III.1. The Controller of Budget (COB) .....	17
III.2. The Auditor General (OAG) .....	20
III.3. The Governor, Central Bank of Kenya (CBK).....	22
III.4. The Cabinet Secretary, National Treasury and Economic Planning .....	25
III.5. Submissions from Public Participation .....	29
III.6. Institute of Public Finance (IPF) .....	29
III.7. International Budget Partnership (IBP).....	30
IV. COMMITTEE OBSERVATIONS .....	33
V. COMMITTEE RECOMMENDATIONS .....	35
c) Non-financial Recommendations.....	35
d) Financial Recommendations .....	36
VI. ANNEXURES.....	36

10

20

3

340

2

## LIST OF ACRONYMS AND ABBREVIATIONS

ATR	Average Time to Re-fixing	
ATM	Average Time to Maturity	
BPS	Budget Policy Statement	
CBK	Central Bank of Kenya	
CBR	Central Bank Rate	
CFS	Consolidated Fund Services	
DCC	Debt Carrying Capacity	
DhowCSD	Central Securities Depository System	
DSA	Debt Sustainability Analysis	
GDP	Gross Domestic Product	10
IMF	International Monetary Fund	
MTDS	Medium-Term Debt Management Strategy	
OCOB	Office of the Controller of Budget	
OAG	Office of the Auditor General	
PV	Present Value	
PFG	Public and Publicly Guaranteed	
PPP	Public Private Partnerships	
SOE	State Owned Enterprise	
WAIR	Weighted Average Interest Rate	

**ANNEXURES**

<b>Annex 1</b>	Schedule 1
<b>Annex 2</b>	Schedule 2
<b>Annex 3</b>	Adoption Schedule
<b>Annex 4</b>	Adoption Minutes
<b>Annex 5</b>	Stakeholder Submissions
<b>Annex 6</b>	Newspaper advertisements calling for memoranda
<b>Annex 7</b>	Tabled 2024 Medium-Term Debt Management Strategy



## CHAIRPERSON'S FOREWORD

The 2024 Medium-Term Debt Management Strategy (MTDS) was formally presented to the National Assembly on February 15<sup>th</sup> 2024, in accordance with Section 33(1) of the Public Finance Management Act, 2012, and Standing Order 232A of the National Assembly Standing Orders.

Pursuant to Standing Order 232A(3), the 2024 MTDS was referred to the Public Debt and Privatization Committee for thorough examination and subsequent recommendations for approval by the House. I am pleased to inform this esteemed House that the Committee has diligently carried out its responsibilities. Therefore, it is my esteemed privilege to present the Committee's report on the 2024 Medium-Term Debt Management Strategy to this House. 10

The Medium-Term Debt Management Strategy delineates the strategies and initiatives to be implemented by the National Treasury in financing the fiscal deficits projected for FY 2024/25 and the medium-term, as outlined in the 2024 Budget Policy Statement. For the FY 2024/25, the fiscal deficit is projected at Kshs. 703.9 billion (3.9 percent of the Gross Domestic Product, arising from estimated expenditures of Kshs. 4.19 trillion and projected revenues worth Kshs. 3.44 trillion.

In this context, the 2024 MTDS has evaluated four alternative funding strategies and their impact on the inherent costs and risks associated with the current public debt portfolio. It, therefore, recommends a borrowing strategy to finance the fiscal deficit for the FY 2024/25, comprising of: *a)* Gross Borrowing Ratio of 63 to 37 for external borrowing to domestic borrowing, respectively; and *b)* Net Borrowing Ratio of 45 to 55 for net domestic borrowing to net external borrowing, respectively. 20

The proposed strategy aims to maximize concessional borrowing for external financing while minimizing commercial borrowing, thereby mitigating the cost of debt. On the domestic front, the strategy aims to reduce refinancing risk by increasing the issuance of medium-to-long-term bonds.

The 2024 MTDS was published when the public debt stock stood at a historical high of Kshs. 11.25 trillion or 69.7 percent of GDP in nominal terms. The current debt stock is characterized by elevated costs and risk factors, evident through rising Weighted Average Interest Rates, heightened refinancing pressure, and exposure to real exchange rate risks. Consequently, this indicates an overall hardening of borrowing terms that amplifies the cost of sustaining fiscal deficits compared to previous fiscal years. 30

Given these circumstances, conventional debt management policies may prove inadequate in addressing the challenges faced by the country such as the accumulation of undisbursed loans that necessitate annual payment of commitment fees, possible inefficiency in utilizing borrowed resources, and dwindling inadequate revenues. Furthermore, there is a growing level of contingent liabilities, such as non-performing loans owed by State-Owned Enterprises that need to be addressed. Therefore, heightened vigilance in debt management and adherence to fiscal consolidation measures is imperative. 40

## Examination of the 2024 Medium-Term Debt Management Strategy (MTDS)

In reviewing the 2024 MTDS, the Committee held productive deliberations with key stakeholders and received their submissions. These include the Controller of Budget (OCOB), the Auditor General (OAG), and the Governor, Central Bank of Kenya (CBK). The committee also held discussions with the Cabinet Secretary, National Treasury and Economic Planning before the report was finalized.

Further, in line with Article 201(a) of the Constitution, the National Assembly undertook public participation on the 2024 MTDS. This was done through a request for memoranda, which was submitted to the Committee for consideration. The also held meetings with the Institute of Public Finance (IPF) and the International Budget Partnership (IBP). Recommendations arising from these deliberations have been<sup>10</sup> incorporated into this report.

Once approved, the 2024 MTDS is expected to inform the country's borrowing strategy in the coming financial year and over the medium term.

### Key Recommendations

Arising from these consultative engagements, the Committee has made the following recommendations:

#### a) Non-financial Recommendations

- 1) That, in the next Medium Term Expenditure Framework (MTEF) cycle, the National Treasury should ensure consistency between the Medium-Term Debt Management Strategy and the Budget Policy Statement regarding the optimal borrowing strategy and the fiscal consolidation path;
- 2) That, the National Treasury should ensure that the fiscal deficit and subsequent public borrowing projections are realistic by incorporating forecasts on any potential in-year changes to interest rates, exchange rates, and contingency spending;<sup>20</sup>
- 3) That, to address the emerging escalation of domestic interest rates alongside domestic interest payments, the National Treasury should submit a report providing practical measures to reduce the domestic debt service burden to sustainable levels to the National Assembly, within 60 days upon the adoption of this Report.
- 4) That, in line with the resolution of the National Assembly on the 2023 Medium Term Debt Management Strategy, the National Treasury should publish guidelines that will ensure that the Treasury Single Account is established and operational by July 1st, 2024;<sup>30</sup>

- 5) **That**, within 30 days and subject to Section 50 of the Public Finance Management Act, 2012 (Amended in 2023), the National Treasury should submit a comprehensive report to the National Assembly on the breach of the debt anchor of 55 percent (5) of Gross Domestic Product and the remedial measures undertaken to ensure that the adherence of the debt threshold;
- 6) **That**, in order to promote fiscal sustainability, reduce debt distress and to slow debt accumulation, any deviation from medium-term fiscal deficit path designed by both the Budget Policy Statement and the Medium-Term Debt Management Strategy, and any resultant readjustment to loan financing should be pre-approved by the National Assembly; 10
- 7) **That**, the National Treasury ensures the customization of the MTDS for the next MTEF cycle to Kenya's specific debt challenges by providing specific measures to deal with undisbursed loans and related commitment fees, measures to resolve risks emanating from non-performing loans owed by state-owned enterprises, and estimation of contingent liabilities; and
- 8) **That**, in order to help enhance public participation in public debt matters, the National Treasury should publish simplified, citizen-friendly documents to accompany the technical reports on public debt submitted to the National Assembly.
- 9) **That**, at least two months before the end of the financial year: 20
  - a. the National Treasury shall submit to the National Assembly the Annual Borrowing Plan that addresses any deviations from the 2024 MTDS in financing the FY 2024/25 Budget Estimates, attendant cost and risks of the deviations and policy measures to address them; and
  - b. The National Treasury should submit a list of a schedule of all projects for which borrowing is to be undertaken in the FY 2024/25.

#### **b) Financial Recommendations**

- 1) **That**, the fiscal deficit target for the medium term is approved and set at 3.9% of GDP for FY 2024/25; 3.3% of GDP for FY 2025/26, and 3.3% of GDP for FY 2026/27, in line with the fiscal consolidation path; and 30
- 2) **That**, the country's borrowing strategy is approved at 55 percent for net external borrowing and 45 percent for net domestic borrowing as contained in the 2024 Medium Term Debt Management Strategy.

**ACKNOWLEDGEMENTS**

The Public Debt and Privatization Committee thanks the Office of the Speaker and the Office of the Clerk of the National Assembly for their extended support in fulfilling its mandate of reviewing the 2024 Medium-Term Debt Management Strategy.

Sincere gratitude is also extended to the Institute of Public Finance, International Budget Partnership, the National Treasury, the Office of the Controller of Budget, the Office of the Auditor General, and the Central Bank of Kenya for honouring our invitation on short notice and providing critical information in the process of reviewing the MTDS.

Finally, the Committee would like to thank the Parliamentary Budget Office and the Directorate of Appropriations, Audit, and General-Purpose Committees for the extensive technical assistance provided in the review of the 2024 MTDS and the finalization of this report.

It is, therefore my pleasant undertaking, on behalf of the Public Debt and Privatization Committee, to table this Report to this House and recommend it for adoption.

**SIGNED**

**HON. ABDI SHURIE, MP.**  
**CHAIRPERSON, PUBLIC DEBT & PRIVATIZATION COMMITTEE**

29<sup>th</sup> Feb 2024

**DATE**

8

## I. PREFACE

### I.1. Establishment and Mandate of the Committee

The powers of each House of Parliament to establish Committees and to make Standing Orders for the orderly conduct of its proceedings are provided under Article 124 of the Constitution of Kenya (2010). For critical oversight over matters relating to public debt and debt guarantees, public-private partnerships, and privatization of national assets, Standing Order 207A establishes the Public Debt and Privatization Committee with specific mandates:

- i. Oversighting public debt and guarantees, pursuant to Article 214 of the Constitution
- ii. Examining matters related to debt guarantees by the National Government
- iii. Oversighting Consolidated Fund Services, excluding audited accounts;
- iv. Examining reports on the status of the economy with respect to public debt.
- v. Oversighting Public-Private Partnership programs by the National Government  in respect of the public debt; and
- vi. Oversighting the privatization of national assets

This Committee is, therefore, mandated, among other functions, to examine the Medium-Term Debt Management Strategy and propose recommendations to the House for adoption.

### I.2. Membership of the Committee

The Public Debt and Privatization Committee comprises of the following Members of Parliament: -

**CHAIRPERSON**  
**Hon. Abdi Shurie, M.P.**  
**Balambala Constituency**  
**Jubilee Party**

**VICE-CHAIRPERSON**  
**Hon. (Dr.) Makali Mulu M.P.**  
**Kitui Central**  
**Wiper Party**

Hon. Junet, Mohamed S.N. CBS. M.P  
 Suna East Constituency  
**ODM Party**

Hon. Mohamed, Abdikadir Hussein, M.P  
 Lagdera Constituency  
**ODM Party**

Hon. Omboko Milemba M.P  
 Emuhaya Constituency  
**ANC Party**

Hon. Suleka, H. Harun. M.P  
 Nominated  
**UDM Party**

Hon. (Dr.) Irene Kasalu M.P  
 Kitui County  
**Wiper Party**

Hon. Chege Njuguna M.P  
 Kandara Constituency  
**UDA Party**

Hon. Kwenya, Thuku Zachary, M.P  
Kinangop Constituency  
**Jubilee Party**

Hon. Abdi Ali Abdi, M.P  
Ijara Constituency  
**NAP-K**

Hon. Kipkoros, Joseph Makilap M.P  
Baringo North Constituency  
**UDA Party**

Hon. Letipila, Dominic Eli, M.P  
Samburu North Constituency  
**UDA Party**

Hon. Aden Daud, EBS, M.P  
Wajir East Constituency  
**Jubilee Party**

Hon. Kirwa, Abraham Kipsang, M.P  
Mosop Constituency  
**UDA Party**

Hon. (Dr.) Daniel Manduku, M.P  
Nyaribari Masaba Constituency  
**ODM Party**

### **I.3. Committee Secretariat**

In the preparation of this report, the Committee was facilitated by the following staff: 10

Mr. Leonard Machira  
Principal Clerk Assistant II & Head of Secretariat

Mr. Chacha Machage  
Fiscal Analyst I/ Clerk Assistant

Mr. Job Mugalavai  
Fiscal Analyst III/ Clerk Assistant

Ms. Audrey Ogutu  
Legal Counsel II

Mr. Eugene Luteshi  
Audio Officer III

Ms. Fridah Ngari  
Media Relations Officer III

Ms. Yasmin Hassan  
Assistant Serjeant-at-Arms

Mr. George Mbaluka  
Office Assistant

### **I.4. Parliamentary Budget Office**

The Committee also received technical support from the staff of the Parliamentary Budget Office. 20

Dr. Martin Masinde  
Director, Parliamentary Budget Office (PBO)

Mr. Robert Nyaga  
Ag. Senior Deputy Director, Parliamentary Budget Office (PBO)

Ms. Julie Mwithiga  
Fiscal Analyst I

10

## II. REVIEW OF THE 2024 MEDIUM TERM DEBT MANAGEMENT STRATEGY

### II.1. Introduction

- 1) The 2024 Medium-Term Debt Management Strategy (MTDS) was submitted to Parliament subject to Section 33 of the Public Finance Management Act, 2012. Overall, the 2024 MTDS sets out the medium-term strategy of the national government with respect to the management of actual and potential liabilities related to loans and guarantees, and its plans for dealing with those liabilities. Furthermore, the MTDS provides information on the stock of public debt as of the date of the statement, the sources of loans made to the national government, and the nature of guarantees given by the national government, among other information.
- 2) The 2024 MTDS was tabled in the National Assembly on February 15<sup>th</sup> 2024 and committed to the Public Debt and Privatization Committee subject to Standing Order 232A of the National Assembly Standing Orders for consideration. According to standing order 232A(4), the Committee was required to table its report within 10 days. Nevertheless, a 10-day extension was granted by the House on February 22<sup>nd</sup> 2024, to give the Committee extended time to undertake further engagement with stakeholders and to table a comprehensive report.
- 3) This report of the Committee on the MTDS contains a schedule showing the stock of domestic and foreign public debt (including guarantees), evaluates the principal risks associated with existing loans, evaluates the sustainability of the amount of debt, and makes recommendations on the overall debt strategy for the next financial year and the appropriate limit for domestic and foreign borrowing.

### II.2. Public Debt Stock, Guaranteed Debt and the PFM Debt Threshold

- 4) Public and Publicly Guaranteed Debt amounted to Kshs. 11.25 trillion, as of January 2024, comprising of Kshs. 5.06 trillion in Domestic Debt and Kshs. 6.19 trillion in External Debt. This equates to 69.7 percent of the Gross Domestic Product (GDP) in nominal terms and/or 67.2 percent of GDP in Present Value (PV) terms. In the preparation of the 2024 MTDS, the public debt stock position as of June 2023, provided the baseline.
- 5) As of June 2023, the debt stock amounted to Kshs. 10.27 trillion, and comprised of external debt amounting to Kshs. 5.46 trillion and domestic debt worth Kshs. 4.83 billion. Between June 2022 and June 2023, the public debt stock increased by 1.64 trillion owing to; a) the depreciation of the exchange rate between the Kenya Shilling and major currencies and, b) the fiscal deficit for FY 2022/23 worth Kshs. 837.4 billion.
- 6) The 2024 MTDS indicates that fiscal consolidation measures will strive to achieve the adherence to the debt threshold as set under the PFM Act 2012. In

November 2023, Kenya's debt limit was amended from a numerical ceiling of the Kshs. 10 trillion to a debt anchor threshold of 55% (+5), to be achieved by 2028. A review of the 2024 MTDS notes that the PV of the Debt-to-GDP ratio rose from 63.9 percent in 2022, to 68.2 percent in 2023 and will decline to 67.2 percent in 2024. According to the National Treasury, the threshold will be met to by November 2028.

- 7) The public debt stock also contains total outstanding Government-Guaranteed Debt, which as of June 2023, amounted to Kshs. 170.2 billion and is broken down as follows: Kenya Power & Lighting Company (Kshs. 9 billion); Kenya Ports Authority (Kshs. 50.5 billion); Kenya Electricity Generating Company (Kshs. 22.4 billion); and a called guarantee loan related to the Kenya Airways PLC worth Kshs. 88.2 billion. P

### II.3. Cost and Risk Characteristics

- 8) The structure of the public debt portfolio has evolved over time, along with the associated costs and risks. As of the end of June 2023, external debt at 53 percent, constituted the largest proportion of the total debt portfolio, against domestic debt at 47%. This was largely influenced by valuation effects emanating from the depreciation of the Kenya Shilling against currencies that denominate the debt stock and subsequently increased debt servicing expenditure.
- 9) It is worth noting that the Medium-Term Debt Management Strategy did not consider the costs and risks from contracted but undisbursed loans. According to the Office of the Auditor General, a total of Kshs. 4.99 billion has been utilized to meet commitment fees for undrawn loan amounts between FY 2020/21 and FY 2022/23. The lack or partial disbursement of loans is an indicator of inefficiency in the utilization of loan resources, and the incurrence of commitment fees is an avoidable incidence if the right proactive policies and initiatives are provided. 20

#### a) Interest rate risk.

- 10) As of June 2023, the Weighted Average Interest Rate (WAIR) of the total debt portfolio stood at 7.7 percent. Over the past year, there has been a general rise in interest rates for both external and domestic loans, rising from 3.8 percent to 4.0 percent and from 11.5 percent to 11.7 percent, respectively. This increase in WAIR signifies a widespread tightening of borrowing conditions for domestic and external loans, as evidenced when new domestic and external loans are acquired at higher interest rates. This trend is further corroborated by the escalation of interest payments from Kshs. 121.1 billion (or 3% of GDP) in FY 2013/14, to Kshs. 892.8 billion (or 5.5 percent of GDP) in FY 2023/24. 30
- 11) In addition, the proportion of public debt subject to fixed interest rates decreased from 76.9 percent to 72.7 percent, whereas the proportion subject to variable rates increased from 23.1 percent to 27.3 percent. This indicates a gradual shift



an increase in public debt exposed to interest rates fluctuations, potentially creating the level of uncertainty in determining the public debt interest expenditure.

- 12) The debt re-fixing in 1 year as a percentage of total outstanding debt increased from 23% in December 2022 to 26.7% in June 2023. This was driven by an increase in external debt re-fixing in one year from 27% to 33% during the period; this is as a result of the maturity of the USD 2 billion in 2024. Debt re-fixing in one year for domestic debt, however, declined marginally from 18.7% to 16.8 % owing to the use of long-tenor Treasury bonds. The increase in the proportion of debt re-fixing in one year implies an increase in vulnerability from the external debt stock.

#### **b) Refinancing Risk.**

- 13) The Average Time to Maturity (ATM) for both domestic and external debt experienced a decrease between December 2022 and June 2023. Specifically, domestic debt decreased from 7.8 years to 7.5 years, while external debt decreased from 9.8 years to 9.3 years. This resulted in an overall reduction in the Average Time to Maturity of the total debt portfolio from 8.8 years to 8.5 years. A decline in the Average Time to Maturity indicates an increase in refinancing risk for both domestic and external debt, consequently leading to an increase in debt service expenditure. 10
- 14) The decline in the average time to maturity of domestic debt may follow investor preference for short-term debt instruments compared to longer-term bonds, which are required for lengthening the maturity profile of domestic debt. On the other hand, the increase in refinancing risk for the external debt portfolio is likely to be caused by maturing commercial debt in the medium term. 20
- 15) As such, the percentage of total debt maturing within one year increased to 12.7% in June 2023 from 11.7% in December 2022. This slight increase was influenced by an increase in external debt maturing within one year from 5.1% to 9.7%, which was partially offset by a decline in domestic debt from 18.7% to 16.8%. This shift indicates progress in the objective of lengthening the maturity profile of the domestic debt portfolio by substituting short-term instruments with medium to long-term instruments, thereby reducing refinancing risk.

#### **c) Exchange Rate Risk**

- 16) Exchange rate risk refers to the Public Debt portfolio's vulnerability to exchange rate volatility. This mainly applies to foreign currency-denominated debt in terms of: a) external debt stock share of total stock of debt, b) exchange rate appreciation or depreciation and, c) currency composition/denomination of external debt stock. Changes in exchange rate risk exposure have both upside and downside risks to the public debt stock. 30

- 17) By the end of June 2023, the external debt stock amounted to Kshs. 5.4 trillion (53%). This was a Kshs. 1.2 trillion (27 percent) increase from Kshs. 4.2 billion in June 2022, when it accounted for 50 percent of the entire debt stock, thus indicating an increase in exchange rate risk exposure.
- 18) A review of the currency composition of external debt indicates that, as of June 2023, the United States Dollar accounted for the largest share (67.2%), followed by the Euro (21.3%), Yen (3.9%), Great British Pound (2.3%), Yuan (5.10), and others at 0.2%. Owing to its share, the depreciation of the USD/KSHS Exchange rate will have a larger valuation effect on both the external debt stock and external debt servicing expenditure. As such, the diversification of the currency composition of the external debt stock is recommended. 10
- 19) On the depreciation of the exchange rate between June 2022 and June 2023, the Kenyan shillings depreciated by 19.3% against the United States Dollar and 23.4% against the Euro. This in turn affected over 88.5 percent of the external debt stock. According to the National Treasury, the materialization of this risk resulted in an increase in public debt stock by over Kshs. 800 billion.

#### II.4. Public Debt Sustainability Analysis.

- 20) In terms of Debt Carrying Capacity (DCC), Kenya is classified as a medium performer with a Composite Indicator of 2.98 (a decline from 3.12 in 2020). The Composite Indicator (CI) is assessed using: the World Bank Country Policy and Institutional Assessment; real GDP growth; remittances; international reserves; and global growth. This indicates the need for new policies targeting debt management, improving the quality of institutions, and adherence to fiscal consolidation objectives, among other factors. 20
- 21) According to the 2024 MTDS, Kenya's public debt stock is sustainable but at a high risk of debt distress, primarily from liquidity pressures and increased vulnerability to macroeconomic shocks. The stock of public debt, as of June 2023, amounted to Kshs. 10.26 trillion with a Present Value (PV) debt to GDP ratio of 68.2 percent. This is above the threshold of 55 percent and has increased from 63.9 at the end of 2022. The 2024 MTDS indicates that, following the implementation of the fiscal consolidation plan, this ratio will decline towards 56.9% by 2028. 30
- 22) The pressure from elevated debt servicing expenditures is also indicated by breaches of liquidity thresholds. According to the 2024 MTDS, three (3) thresholds have been breached: a) PV of PPG external debt to exports ratio; c) PPG Debt service to exports ratio; and d) PPG debt service to revenue ratio; due to the impact of Eurobond payments (2024 and 2028) and rollover of other external bank loans on exports and revenues. This indicates increased vulnerability and the need for: a) liability and cash management, b) continued

lengthening the maturity profile for both domestic and external debt, and c) increasing the country's export income.

## II.5. Financing the 2024/25 Budget and Fiscal Deficit

23) According to the 2024 Budget Policy Statement, the total expenditure for FY 2024/25 is estimated to be Kshs. 4.2 trillion against the revenue estimate of Kshs. 3.45 trillion resulting in a fiscal deficit (including grants) of Kshs. 703.9 billion (3.9% of GDP). This is expected to decline to Kshs. 666.7 billion in 2025/26.

24) The fiscal deficit under the 2024 Budget Policy Statement indicates that the fiscal deficit will be financed as follows:

- a. Net external borrowing Kshs. 326.1 billion. Gross external borrowing worth Kshs. 670 billion inclusive of a) Commercial Financing – Kshs. 151 billion, b) project loans: Kshs. 308 billion and c) program loans – Kshs. 210.5 billion; and,
- b. Net Domestic Borrowing worth Kshs. 377.7 billion.

25) The achievement of a lower debt-to-GDP ratio in the medium term is contingent upon the accuracy of macroeconomic assumptions as well as the realization of fiscal consolidation plans. Previous medium-term projections have contrasted with actual achievements, leading to expansion of the fiscal deficit by the end of the financial year, leading to more borrowing than projected. It is critical, therefore, that the macroeconomic assumptions underpinning the Budget Policy Statement are realistic for achieving a sustainable debt position.

## II.6. The 2024 Proposed Borrowing Strategy

26) The 2024 MTDS proposes an optimal borrowing strategy after the evaluation of four different borrowing scenarios to arrive at a financing composition of domestic and external debt that minimizes costs and risks. The assumptions underpinning the selection of the optimal borrowing strategy for FY 2024/25 are outlined in the 2024 Budget Policy Statement, including a real GDP growth rate of 5.5%, inflation target of 5.0%, revenue of 19.1%, and fiscal deficit rate of 3.9%.

27) The risks to the assumptions are outlined as climate-related shocks, exchange rate volatility and depreciation of the Kenya shillings, performance exports, investor preference for short-term instruments that can heighten refinancing risks, and the materialization of contingent liabilities arising from State Owned Enterprises (SOEs) debts and Public-Private Partnerships (PPPs).

28) Therefore, the preferred borrowing strategy to finance the fiscal deficit for FY 2024/25 is as follows:

- a. Gross borrowing ratio of domestic borrowing to external borrowing of 63:37, respectively; and,

- b. Net borrowing ratio of domestic borrowing to net external borrowing of 45:55, respectively.
- 29) The external borrowing composition would maximize concessional borrowing and reduce commercial borrowing, thereby reducing the cost of debt. On the domestic front, the refinancing risk would be reduced by contracting more medium-to long-term bonds instead of treasury bills.
- 30) The chosen strategy is consistent with the FY 2023/24 financing strategy, which gradually reduced reliance on domestic borrowing, primarily short-term domestic borrowing, in favour of long-term securities. External borrowing aims to increase dependence on concessional borrowing. However, commercial borrowing may become unavoidable due to current liquidity constraints. As such, there is a general requirement for efficient, transparent, and accountable use of commercial debt. 10
- 31) Despite developing an appropriate strategy, adherence to it is critical. A review of previous years' borrowing strategies shows a shortfall in achieving the external loan target while surpassing the domestic borrowing target. The lack of adherence to the strategy of choice may lead to the accumulation of unintended costs and the occurrence of unexpected risk characteristics in the medium term and negatively affect progress towards lowering the high level of debt distress and promoting Debt Sustainability.

## II.7. The Fiscal framework underpinning the 2024 MTDS

- 32) In the upcoming fiscal year 2024/25, the government projects that revenue collection, including Appropriation-in-Aid, will rise to Kshs. 3.4 trillion, constituting 19.1 percent of GDP, up from Kshs. 3.1 trillion (FY 2023/24). While there is optimism about revenue growth, it's crucial to critically evaluate the feasibility of meeting these targets. 20
- 33) Total government expenditure and net lending for the upcoming fiscal year is estimated at Kshs. 4.19 trillion. This includes recurrent expenditure worth Kshs. 2.86 trillion (15.9 percent of GDP) and development expenditure of Kshs. 877.8 billion (4.9 percent of GDP). It's noteworthy that the rising proportion of public debt interest payments as a share of GDP has increased from 3 percent to 5.5 percent over the past decade and could have had a crowding-out effect on development expenditure, which declined from 10.3 percent (FY 2013/14) to 4.4 percent (FY 2023/24), over the past 10 years. 30
- 34) Consequently, the resultant projected fiscal deficit for FY 2024/25 is Kshs. 703.9 billion, equivalent to 3.9 percent of GDP. However, the financing approach for this deficit differs between the 2024 Budget Policy Statement (BPS) and the Medium-Term Debt Management Strategy (MTDS). Therefore, there's a need for the National Treasury to enhance its policy formulation processes to ensure consistent communication of fiscal policy and provide clarity on the rationale and outcomes. 16

### III. SUBMISSIONS FROM KEY STAKEHOLDERS

#### III.1. The Controller of Budget (OCOB)

The Controller of Budget made the following submissions to the committee:

- 35) The Office of the Controller of Budget (OCOB) is established under Article 228 of the Constitution to oversee the implementation of the budgets of the National and County Governments by authorizing withdrawals from public funds as established under Articles 204, 206, 207, and 228 of the Constitution.
- 36) To promote prudent borrowing, the 2024 MTDS proposes net financing as follows: 45 percent domestic financing and 55 percent external borrowing. The 2024 MTDS aims to ensure that the government meets its expenditure requirements while repaying debt obligations when they fall due.
- 37) There is a need to adopt a deficit financing policy that is cognizant of a country's export capacity, which does not adversely affect the foreign exchange rate. For instance, debt servicing expenditure amounted to Kshs. 8.26 billion being incurred in the first half of 2023/24 and January 2024 to cover external payments arising from foreign exchange fluctuations. 10
- 38) On the least cost of debt in terms of interest payments as a percentage of GDP and implied interest rate, the OCOB indicated that:
  - i. While maintaining the independence of the Central Bank of Kenya (CBK), the Monetary Policy Committee (MPC) should consider the review of the Central Bank Rate (CBR), which increased from 12.5 percent to 13 percent on the 6th of February, 2024;
  - ii. While the decision to increase the rate mitigated adverse economic impacts and financial disruptions, it is important to note that the national government's interest payments have substantially increased;
  - iii. During the first half of the current financial year, the government spent Kshs. 405 billion on debt interest expenses, composed of domestic interest payments worth Kshs. 300 billion and foreign interest payments worth Kshs. 105 billion. If this trend continues, it is projected that the government will end up spending over Kshs. 800 billion on debt interest expenses by the end of the financial year; 20
  - iv. Domestic interest expenses rose by 19% compared to a similar period last year because of rising interest rates and further debt accumulation. Foreign interest rose by 57%, driven mainly by the depreciation of the shilling. Fiscal policy should, therefore, refrain from replacing cheaper debt with costlier ones; and
  - v. The twin tragedy of rising interest rates and steep depreciation of the shilling is increasing our debt servicing burden to unmanageable levels, with the risk 30

of leaving the government with limited funds for other necessary expenditures.

39) Regarding the Present Value (PV) of Debt to GDP as an outcome of the Fiscal Consolidation Plan, the OCOB indicated the following:

- i. The current PV of debt to GDP, as stated in the MTDS, is at 68.3 percent as reported. Fiscal consolidation, as a government policy, is intended to reduce deficits and the attendant accumulation of debt.
- ii. The Government should endeavour to develop a balanced budget and encourage it at the subnational level. As evidenced by the Controller of Budget Reports, Kenya's budget deficit and debt crisis stem from the government's persistent overspending on non-core areas. 10

40) To minimize refinancing risk by lengthening the total portfolio Average time to Maturity (ATM) through the issuance of medium to long-term bonds and concessional loans with longer maturities, the OCOB indicated that:

- i. Kenya secured partial repayment of the USD 2bn Eurobond due in June 2024.
- ii. Kenya decided to buy back most of that bond and issue a new long-term USD 1.5 billion note that alleviates the pressure of bullet payments until 2029, when repayments start.
- iii. The instrument was taken at a high price of 10.375% in effective terms to repay a bond, with a yield of 6.875%. 20
- iv. There are circumstances in which expensive concessional loans are acquired. It has been observed that such loans are expensive in the long run and with a low impact in terms of economic development. Multilateral agencies typically provide these concessional loans.
- v. An audit of concessional loans and their respective projects should be conducted to ascertain the effectiveness of these loans. Analysis by COB revealed that the average interest paid on concessional loans averaged 14.5% for many years.

41) Regarding measures to minimize interest rate risk arising from the status of average time to re-fixing, the OCOB indicated the following:

- i. There has been a reduction in the average time to re-fixing of domestic debt from 11.3 years, as reported in the 2022 MTD target to 7.7 years as of June 2023. 30
- ii. Furthermore, there is a deviation of -3.6 years, occasioned by a marginal increase in the interest rate indicators. The indicators point towards investors' preference for short-term securities over long-term securities.

18

42) On the operations of the Overdraft facility, the Controller of Budget indicated that:

- i. During the first six months of FY 2023/24, the total charge on the overdraft facility amounted to Kshs. 4.21 billion, an increase of 105.8 percent compared to Kshs. 2.04 billion incurred during a similar period in FY 2022/23.
- ii. This increase is due to a gradual increase in the CBR rate from 8.75 percent to 10.5%, and finally to 12.5 percent in December 2023, combined with an increase in the overdraft facility limit from 80.05 billion to Kshs. 97.05 billion in FY 2023/24

43) The OCOB therefore recommended that:

- i. The Central Bank of Kenya should consider revisiting the interest rate adjustment at the earliest opportunity to reduce domestic interest rates, as inflation in Kenya is driven by a supply and demand imbalance. As such, the rise in interest rates to curb inflation may not necessarily impact inflation caused by a food supply shortage; 10
- ii. There is a need to implement fiscal policies such as levying higher taxes for non-essential imports and giving more incentives to support local production that would enhance GDP and consequently lower food prices;
- iii. The establishment of the single treasury account should be fast-tracked, this will help mop up the idle balances belonging to MDAs being held in commercial banks;
- iv. There is a need to implement the 2024 MTDS and deepen the domestic bond market to enhance economic growth and limit the crowding-out effect on credit supply to the private sector;
- v. Measures should be put in place to increase the absorption rate of loans. A case example was provided and involved the Coast Development Authority (CDA) which received Kshs. 271 Million for implementing the Malindi Integrated Social Health Program, funded by the Italian Government. According to the status report, some of the reasons for the delays are awaiting approval by the National Project Steering Committee (NPSC) and Tax exemption approvals; 20
- vi. The National Treasury should fast-track the long outstanding Sinking Fund implementation during this period of high debt service requirements;
- vii. The National Assembly should enact strict legislation that would help alleviate the pending bills and ensure that pending bills are priority expenditures each financial year in line with the National Treasury Circular-No.10-2020-on-Prioritization-of-Pending-Bills by State Corporations and Semi-Autonomous Agencies (SAGAs); and 30

- viii. There is a need to adopt a deficit financing policy that is cognizant of the export capacity of the country, and that does not adversely affect the foreign exchange.

### III.2. The Auditor General (OAG)

In the presentation to the Committee, the Auditor-General indicated that:

- 44) Section 42 of the Public Audit Act, 2015 bars the Auditor-General from questioning the merits of a policy objective of the National Government or County Government or any other public entity. However, Article 229(6) mandates the Auditor-General to confirm whether or not public money has been applied lawfully and effectively. This entails the assessment of implementation of Government policies and programs.
- 45) The Office has continually raised concerns over the growing level of public debt in Kenya. The outstanding amount of public debt has increased over the years from Kshs. 4.8 trillion in FY 2017/2018 to Kshs. 10.3 trillion in FY 2022/2023, representing a Kshs. 5.5 trillion (114%) increase over the six (6) year period 10
- 46) The increase in public debt was driven by the issuance of commercial debt with high market interest rates, additional fees, and commissions. The government has issued 4 Eurobonds including a 10-year Eurobond, issued in 2014 is due to mature in June 2024, with a coupon rate of 6.875% and an initial value of USD 2 billion, 2019 issuance and matures in May 2027, with a coupon rate of 7% and an initial value of USD 900 million, a 2018 and matures in February 2028, with a coupon rate of 8.500% and an initial value of USD 2 billion.
- 47) The fourth and the newest Eurobond was issued in February 2024 and mature in 2031, with a coupon rate of 10.375% and a value of USD 1.5 billion (approx. Kshs. 233.25 billion at an exchange rate of 155.5Kshs/USD). This bond was issued to finance the repayment of the Eurobond, maturing in June 2024. 20
- 48) The Office has raised various issues pertaining to accountability and sustainability of public debt expenditure and has submitted annual financial audit reports on public debt expenditure. Among them: Public Debt Servicing Activities (September 2022) Special Audit on Utilization of Commercial Loans in Kenya for the period 1 July 2010 to 31 December 2021 (September 2022) and, Contracting of External Loans for Public Development Projects by The National Treasury (October 2023).
- 49) The audits have revealed, among other issues, that: 30
- i. There are no specific financial statements prepared to show the complete debt position (Debt stock). Currently, the status of public debt is only included as an annexure in the Consolidated Fund Services - Public Debt. Other

20



government liabilities or obligations, such as pending bills/ accounts payable and pension arrears, are not included in the Debt stock.

- ii. The cost of debt servicing has over the years increased from Kshs. 322, billion in FY 2017/2018 to Kshs. 617.7 billion in FY 2022/2023 (92% increase).
  - iii. The cost of domestic debt has become more expensive than the cost of external borrowing. The cost of domestic debt averaged three times the cost of external borrowings despite it constituting 47% of the total debt. During the period 2017/2018 to 2022/2023, the cost of external borrowing averaged 28% while domestic debt averaged 72% of total finance costs.
  - iv. The Government continues to pay commitment fees incurred on undrawn amounts regarding loans signed between the Government of Kenya and foreign lenders. A total of Kshs. 4.99 billion was incurred for undrawn between FY 2020/2021 and 2022/2023. The amount of Kshs. 4.99 billion comprises of Kshs. 2,063,104,537, Kshs. 1,486,813,083, and Kshs. 1,435,968,272 for the years 2020/2021, 2021/2022 and 2022/2023 respectively. These amounts are included in the Interest Payments on Foreign Borrowings for the respective years
  - v. Debt servicing is prone to foreign exchange loss exposure on payment of external debt. In order to reduce the exchange rate risk exposure, the Office has recommended that the Government consider hedging mechanisms on foreign exchange risks.
  - vi. A review of records held by the National Treasury's Commonwealth Secretariat Debt Recording and Management System as of 30 June 2023 revealed that the Government has defaulted on servicing an amount of Kshs. 11.04 billion in respect of three (3) loans advanced towards the construction of the following three (3) dams:
    - a) Arror dam, of which Euro 91.9 million had been disbursed, resulting in a default of Euro 3.2 million in principal payments and Euro 9.9 million in interest payments thus far totalling Euro 23.1 million or Kshs. 2.9 billion.
    - b) Itare dam project of which Euro 141.5 million had been disbursed, resulting in a default of Euro 36.4 million in principal payments and Euro 6.7 million in interest payments thus far totalling to Euro. 43.1 million or Kshs. 5.3 billion.
    - c) Kimwarer dam project, of which Euro 71.9 million had been disbursed, resulting in a default of Euro 15.4 million in principal payments and Euro 7.4 million in interest payments thus far totalling to Euro. 22.8 or Kshs. 2.8 billion.
- 50) In addition to the proposals on reducing the risks and costs of the stock of debt in line with the Debt Management Objectives, the office gave the following proposals, that:

- (a) Acquisition of land, relocation of utilities, and wayleave compensation should be financed in advance through timely disbursement of GOK counterpart funding before the signing of financing agreements.
- (b) The time between feasibility studies and the actual time for signing financing agreements is reduced to avoid the cost of redoing feasibility studies.
- (c) Implementing agencies should involve project implementing agencies during project identification and designs through public participation in order to enhance ownership, social accountability, and sustainability of the projects.
- (d) In instances where a project has several loans attached to it, there should be clear segregation and utilization of funds.
- (e) Establishment of a Debt Sinking Fund in foreign currency (USD) to be used in debt repayment. 10
- (f) The capacity and skills of PDMO should be enhanced for adequate evaluation and negotiation of favourable credit terms and conditions and for adequate monitoring and evaluation of loan projects.
- (g) To ensure adequate project oversight, the implementing agencies should enhance the monitoring and evaluation of debt-funded projects.

### III.3. The Governor, Central Bank of Kenya (CBK)

The Governor, Central Bank of Kenya gave the following submissions to the Committee:

- 51) Kenya's public debt as a share of GDP has been rising steadily since 2008 to an estimated 73.3 percent by end-December 2023. While public debt is considered sustainable, the Debt Sustainability Analysis (DSA) conducted in December 2023 placed Kenya at high risk of debt distress, calling for appropriate measures to be put in place to reduce debt vulnerabilities. In particular, the DSA showed increased vulnerability of Kenya's public debt to exports and financing risks. 20
- 52) The objectives of the 2024 Medium-Term Debt Management Strategy (MTDS) are similar to those of the 2023 strategy. The 2024 MTDS prioritizes concessional external borrowing, while medium to long-term Treasury bonds are the main instruments for domestic financing. The main difference in the two strategy documents is in the financing mix.
- 53) The 2024 MTDS targets increased deficit financing from external sources with a financing mix of 55 percent from external sources and 45 percent from the domestic market, compared to a balanced financing mix of 50:50 in the 2023 MTDS. Regarding gross financing needs, the 2024 MTDS assumes a ratio of 63:37 percent from domestic and external sources compared to 65:35 percent in the 2023 MTDS. 30

22

- 347
- 54) Assessment of the implementation of the 2022 MTDS, which guided borrowing in FY 2022/23, shows the realization of 22:78 percent external to domestic financing of the gross financing needs compared to the projected 25:75 percent. This was on account of unfavourable global market conditions.
  - 55) The review also shows the deterioration of costs and risk characteristics of the public debt portfolio. The Strategy aimed at lowering the debt service cost and minimizing the refinancing risk. However, there was an increase in both the debt service cost and the refinancing risk due to the appreciation of major currencies against the Kenya shilling and elevated interest rates in the domestic market. Investors' preference for shorter-dated instruments also contributed to the decline in the Average Time to Maturity (10)
  - 56) The key macroeconomic assumptions underpinning the 2024 MTDS are based on stable and robust real GDP growth supported by the implementation of priority programs outlined in the Bottom-Up Economic and Transformational Agenda (BETA), improving fiscal position, and a stable macroeconomic environment. These are largely aligned with the government's policy objectives stipulated in the 2024 Budget Policy Statement and CBK's view on the macroeconomic outlook.
  - 57) The 2024 MTDS considered four deficit financing strategies with varying financing mixes from domestic and external sources. The most preferred strategy (S4) minimizes costs and risks through increased concessional borrowing and a gradual reduction of Treasury bills stock, with domestic financing mainly (20) coming from medium to long-term Treasury bonds. Regarding net financing, the option assumes 45 percent domestic and 55 percent external borrowing.
  - 58) The projected budget deficit for FY 2024/25 is Kshs. 703.9 billion, and the required borrowing in alternative financing strategies. Under the most preferred strategy, the budget deficit will be financed through net domestic financing of Kshs. 316.8 billion (45 percent) and net foreign financing of Kshs. 387.1 billion (55 percent). The preferred financing strategy is feasible, given that the actual domestic borrowing in the last four years averaged at Kshs. 462.3 billion.
  - 59) There are significant differences between the projected financing of the budget deficit articulated in the 2024 Budget Policy Statement and the preferred strategy in the 2024 MTDS. Whereas the MTDS is more skewed towards foreign financing of the budget deficit, the BPS relies more on domestic financing. (30)
  - 60) The preferred financing strategy, compared to alternative strategies, gives improved expected outcomes in terms of the cost and risk of debt, reduced refinancing risks, and longer time to maturity. Consequently, public debt as a percent of GDP is expected to decline gradually to sustainable levels as the government pursues a fiscal consolidation plan.

- 61) In addition, there will be a notable improvement in the borrowing terms reflecting the Government's strategy to maximize concessional and semi-concessional loans from multilateral and bilateral sources.
- 62) On Domestic Debt Market Development, it was indicated that the CBK is committed to continue implementing and supporting reforms aimed at further deepening the domestic debt market to reduce the cost of debt and improve market liquidity. Some of the major initiatives and reforms include:
- i. Modernization of market infrastructure: The government successfully implemented the Central Securities Depository System (DhowCSD) is expected to enhance the efficiency of domestic debt operations, improve market liquidity, promote capital market growth, broaden investor base, and position Kenya as the preferred financial hub in the region. 10
  - ii. Automation of access to government securities: CBK rolled out TMD in February 2020, a digital channel for retail investors to access government securities through mobile phones and an Internet Banking platform for institutional investors.
  - iii. Sustained market engagement and stakeholder collaboration: CBK has enhanced coordination with the National Treasury on debt and market development initiatives, including debt re-profiling through switch operations, and improved market engagement through the Bond Market Forum, which has been instrumental in developing one of the fastest-growing bond markets in Africa. 20
- 63) The 2024 MTDS objectives are consistent with the key priorities of domestic debt management and ongoing fiscal consolidation measures aimed at reducing the fiscal deficit and lowering debt costs and risks. CBK welcomes the Government's plans to diversify the investor base and explore new sources of financing, such as green and blue bonds. The CBK will continue to deploy measures to develop the domestic debt market, including ongoing modernization of the market infrastructure to diversify the investor base and mitigate the exchange rate risk.
- 64) The 2024 MTDS notes that the risks posed by inflation-induced high interest rates in both domestic and international markets may pose a challenge to the government's financing of the FY2024/25 Budget and performing liability management operations on its debt portfolio as well as increasing its debt service costs. However, it should be noted that the issue of liability management operation relating to the 2024 Eurobond has now been addressed conclusively following the recent issuance of a Eurobond of US\$ 1.5 billion. 30

24

### III.4. The Cabinet Secretary, National Treasury and Economic Planning

The Cabinet Secretary, National Treasury and Economic Planning gave the following submissions to the Committee:

- 65) The current stock of public and publicly guaranteed debt stands at Kshs. 11.25 trillion or 69.7 percent of GDP in nominal terms. The current Present Value of public debt to GDP is 67.2 percent. The public debt comprises a mix of External debt of Kshs. 6,189.97 billion; and Domestic debt of Kshs. 5,058.04 billion.
- 66) In recent months, external debt has risen relative to domestic debt due to the depreciation of the Kenya shilling against foreign currencies. External debt is largely from official creditors and on concessional terms. It is composed of Kshs. 3,118.57 billion as multilateral debts (50% of total external debt); Kshs. 1,399.72 billion bilateral debts (23%); and Kshs. 1,671.68 billion commercial debts (27%) of which Eurobonds account for Kshs. 1,141.33 billion (18%).
- 67) Domestic debt is mainly held in the form of Government debt securities as follows: Kshs. 4,272.25 billion in Treasury Bonds (85% of the total domestic debt), Kshs. 565.63 billion Treasury Bills (11%); and Kshs. 220.16 billion (4%) as others (Overdrafts from Central Bank of Kenya, IMF SDR Allocation and Bank advances).
- 68) The proposed FY 2024/2025 fiscal deficit of Kshs. 703.87 billion will be financed as follows: Net Foreign financing worth Kshs. 326.12 billion and Net Domestic financing worth Kshs. 377.75 billion
- 69) Under the current revenue-driven multi-year fiscal consolidation program, the National Treasury commits to bring down the Present Value of debt as a percentage of GDP from 67.2 percent to 55% over a period of five years as per the recent amendment of the Public Finance Management Act on the debt anchor.
- 70) The weighted average interest rate of the total debt portfolio was 7.7 percent per annum in June 2023, of which domestic debt is 11.4 percent per annum. The weighted average interest rate of external debt increased to 4.5% in June 2023 compared to 3.9% in December 2022.
- 71) The rise in interest rates in the public debt portfolio is attributed to the tight liquidity conditions both in the domestic and international financial markets.
- 72) The average Time to Maturity of the total portfolio declined from 8.8 years in December 2022 to 8.5 years in June 2023 because of the reduced performance of long-tenor bonds and issuance of more short-term domestic debt attributed to the tightness of liquidity in the market.
- 73) The projected debt redemption profile is characterized by large maturities in 2028, 2029, and 2030 on account of Eurobond and bank-syndicated debts.

- 74) The 2024 Medium-Term Debt Strategy aims to optimize access to external concessional borrowing and undertake liability management to minimize costs and refinancing risks in the debt portfolio. On a net basis, the strategy assumes a mix of 45% domestic and 55% external financing over the medium term. In gross borrowing terms, external and domestic financing accounts for 37% and 63%, respectively.
- 75) In addition to the commitment to fiscal consolidation (required to stabilize the growth of public debt), the 2024 Medium-Term Debt Strategy identifies key actions to guide borrowings during FY2024-25 to 2026-2027, which include:
- i. Use of long-tenor Treasury bonds for refinancing of maturing domestic debt and raising of new deficit funding resources along with a reduction in the proportion of short-term domestic debt (Treasury bills). This will minimize refinancing risks and lengthen the Average Time Maturity for domestic and total debt. 10
  - ii. Deepening the domestic bond market by issuing more medium to long-term instruments as the main source of domestic financing.
  - iii. Maximize the use of concessional borrowing as opposed to commercial debt to lower costs and risks;
  - iv. Minimize interest rate risk in terms of average time to re-fixing.
- 76) In collaboration with other financial sector players, including the Capital Market Authority and the Central Bank of Kenya, The National Treasury will sustain domestic debt market reforms to improve the performance of the primary issuance and promote vibrancy of the secondary market to develop a credible yield curve for Government securities. These reforms include the publication of an issuance calendar, Separation of the Retail and Wholesale Market for Government Securities; and Re-engineering of Retail-Bond Issuance, among others. 20

**Further submissions to the Committee included:**

- 77) On whether the financing framework under the 2024 Budget Policy Statement is linked to the strategy under the 2024 Medium Term Debt Management Strategy, it was indicated that the 2024 MTDMS has been prepared based on the projected macroeconomic indicators and fiscal deficit trajectory in the 2024 BPS. The strategy focuses on maximizing concessional and reducing commercial borrowing, thereby reducing the cost of debt. 30
- 78) On how the MTDS addresses rising debt servicing costs and creates fiscal space to support other sectors' expenditure needs, the Committee was informed that the objective of the MTDS is to raise resources through borrowing to finance the budget deficit while maintaining minimum costs and prudent levels of risks in the portfolio. Debt service costs have continued to rise in line with the growth of public debt; however, efforts have been made to grow the proportion of 26

concessional debt in the portfolio and increase the stock of long-tenure domestic debt to minimize settlement risk. A multi-year fiscal consolidation framework seeking to lower the fiscal deficit will ultimately drive debt servicing costs downward.

- 79) On how the strategy would achieve the PFM threshold of 55% (+5) by 2029, the Committee was informed that the fiscal deficit is the primary driver of debt. The 2024 BPS pronounces a tight fiscal deficit path underpinning the projected PV of debt to GDP from 68.2% in 2023 to 56.9% in 2028 and 55% by November 2028.
- 80) On how the strategy has accommodated policy impact emanating from the continuous deviation from the annual MTDS plan/strategy, the committee was informed that the strategy considers the impact of exogenous shocks that influence access and cost of financing. Under the 2024 MTDS, the National Treasury will seek to explore alternative sources of financing to raise resources for budget financing and liability management to help lower costs and risks in the debt portfolio. 10
- 81) On undertaking a conservative approach towards commercial borrowing and ensuring that loans are earmarked to capital projects whose returns are comparable to the high yields that the loans bear, the Committee was informed that commercial borrowing is driven by a lack of access to adequate budget support from multilateral and bilateral lenders. Whereas project-linked finance is desirable, some flexibility in the use of funds is required to ensure the delivery of high social impact projects like education, health, water, and sanitation which may not necessarily demonstrate revenue streams but contribute to human capital development critical for growth and development of the country. 20
- 82) On how 2024 MTDS addresses the materialization of domestic debt-related interest and refinancing risk that could cause liquidity constraints, the Committee was informed that the 2024 MTDS seeks to maintain a trade-off of risk and cost in the domestic debt portfolio. Whereas interest costs have risen in the last few months due to external factors, the focus is to undertake a number of reform measures in the domestic debt market to promote efficiency in the primary market and restore vibrancy in the secondary market. The interventions will lower overall costs and reduce refinancing risks along the maturity structure of domestic debt. 30
- 83) On possible strategies designed to address issues raised by Sovereign/Credit Rating Agencies whose reports are critical in determining the cost of borrowing, the Committee was informed that credit rating agencies have raised concerns over the ability of the Government to fully finance the budget deficit due to limited access to international market particularly to refinance the 2024 Eurobond. However, Kenya has been able to de-risk the 2024 Eurobond through a buy-back operation, and domestic debt markets have positively responded to

this action. The National Treasury has initiated a process to develop a strategy to enhance Kenya's credit rating profile.

- 84) On how the materialization of the exchange rate risk resulted in the increase in the debt stock by over Kshs. 800 billion would be addressed in the future, and how the appreciation of the exchange rate would be factored; the Committee was informed that Kenya has a market-determined exchange rate regime that acts as an automatic stabilizer; it stabilizes prices and supports economic activity. The recent 2024 Eurobond buyback operation de-risked the space and slowed depreciation of currency and a surge in foreign exchange flows is expected in the near term. Overall, the debt-to-GDP ratio will continue to decline due to revenue mobilization and fiscal consolidation efforts. 10
- 85) On how the MTDS addresses contracted but undisbursed loans (the resultant commitment fees) and measures geared towards increasing the rate of loan disbursement, the Committee was informed that the MTDS's primary objective is to mobilize resources to finance the deficit and maintain an optimal mix of debt to lower costs and risks. Absorption of project funds is a matter of budget execution by line ministries, departments, and agencies and is outside the scope of debt management strategy.
- 86) On the need to expound on the components of net domestic and net external borrowing proposed under the strategy, the Committee was informed that the details of net domestic and net external financing may be broadly stated in future MTDS as details depend on lending policies of potential multilateral, 20 bilateral and private lenders and market conditions.
- 87) Having noted that up to \$8.5 billion or 25% of total debt will be maturing in +10 years thus raising concern on how the burdens and benefits of the use of resources and public borrowing are shared equitably between present and future generations (Article 201(c) of the Constitution), the Committee was informed that new loan commitments will continue to be contracted over the period consistent with Government development plans over time. This will ensure intergenerational equity in terms of benefits and burden sharing. When such an imbalance occurs, corrective measures will be taken.
- 88) On how the strategy would improve the position of Kenya's DSA risk indicators, the Committee was informed that a multi-year fiscal consolidation policy stance would drive debt to GDP downward and improve debt sustainability indicators. 30 The MTDS will continue to lay emphasis on concessional financing and issuance of longer domestic debt instruments to finance the deficit and ensure a balanced mix of external and domestic debt.

28



### III.5. Submissions from Public Participation

- 89) In line with Article 201 of the Constitution, the National Assembly undertook public participation in the 2024 Medium-term Debt Management Strategy through requests for memoranda from the public. The period provided was seven days as from February 19<sup>th</sup>, 2024, and the advertisements were placed on the Daily Nation and The Standard newspapers.
- 90) At the expiry of the period indicated in the advertisement for submission of memoranda, no submissions had been received from the public on the 2024 Medium term debt management strategy. However, the Committee invited three civil society groups and met two of the groups and their submissions are contained in this report.

### III.6. Institute of Public Finance (IPF) 10

The Institute of Public Finance (IPF) made the following submission to the Committee, that:

- 91) The Institute of Public Finance (IPF) is an independent non-profit think tank that furthers the principles of public finance management through the generation of Credible Evidence, Advocacy, and Technical Assistance.
- 92) There is a need for increased oversight on public-private partnerships, noting the acknowledgement of increased risk exposure by both the 2024 BPS and 2024 MTDS and the need to ensure value for money.
- 93) To promote debt transparency and accountability and manage fiscal risks, PPPs should be highlighted in the MTDS and attendant contingent liabilities.
- 94) To minimize the cost of external debt and exposure to foreign exchange risks, scenario analysis for various strategies should be deepened to include currency composition to guide an optimal debt structure for foreign currency-denominated debt. This would help maintain a portfolio that is not excessively vulnerable to dollar fluctuations. 20
- 95) To minimize refinancing and lengthen the total portfolio Average Time to Maturity (ATM), new debt contracted for FY2024/25 and the medium term should be pegged on a longer maturity period. The MTDS should strive to attain the pre-COVID repayment periods, which, according to the Annual Debt Management Report for FY2021/22, averaged nine years for domestic debt and 10 years for external debt.
- 96) There is progressive improvement in debt reporting with the 2024 MTDS, including loan guarantees, to three State-Owned Enterprises: Kenya Airways, Kenya Ports Authority, and Kenya Power and Lighting Company. Nevertheless, 30

comprehensiveness should be improved to include information such as the duration of the guarantee, nature, and risk assessment.

- 97) For the government to achieve fiscal targets, the BPS and Annual Borrowing Plans must be aligned with the MTDS. It has been noted that over the medium term, the best scenario (S4) proposed by the 2024 MTDS differs from the domestic to external debt ratios reflected in the 2024 BPS over the medium term.
- 98) To promote transparency, accountability, and predictability, the MTDS should include a requirement that the Annual Borrowing Plans indicate the investment to be funded by the borrowed funds. As such, any infrastructure bond procured should be able to identify the infrastructure to be funded by the proceeds. 10
- 99) The 2024 MTDS proposes debt-for-nature swaps and food security swaps to fund the budget deficit for FY2024/25. While these swaps have been successful in other countries, there is a need for full disclosure of this type of financing, including, but not limited to, community displacement and the risks associated with them.
- 100) The MTDS provides that the PDMO will explore alternative funding sources, including issuing Kenya Shilling syndicated debt, foreign currency-denominated domestic bonds, and private placement for both local and external markets. The following concerns arose:
- i. The domestic issuance of the US\$-US\$-denominated bond could amplify the country's foreign exchange pressures if potential investors create a preference for bonds. As such, the government needs to finalize issuing a diaspora bond by mobilizing dollars from Kenyans abroad.
  - ii. The government pursues Kenya shilling syndicated debt, specifically targeting pension funds holding more than Kshs. The bulk of the 1.7 trillion worth of assets are locked in government securities.
- 101) There is a need for the National Treasury and the Central Bank to undertake nationwide civic education on investing in government securities, given the innovative platforms in place, such as the new Central Securities Depository System (DhowCSD) that went live on July 31, 2023. Reducing the denomination of investments should also be considered. 30

### III.7. International Budget Partnership (IBP)

The International Budget Partnership (IBP) made the following submission to the Committee, that:

- 102) The International Budget Partnership Kenya (IBP Kenya) is a Kenyan non-profit organization working to advance transparency, accountability, participation, and equity in national and county budgeting processes.

30

- 103) Kenya's growing appetite for borrowing to facilitate expenditures has seen Kenya's public debt stock grow from Kshs. 2.45 trillion as of December 2014, to Kshs. 10.58 trillion as of September 2023, an astonishing increase of 331.8%. This significant growth in Kenya's public debt burden over a short period has generated a vicious cycle, necessitating more expenditures on debt servicing and repayment each year. This has and will continue to affect the state's ability to provide basic services over the medium term.
- 104) The MTDS and the Budget Policy Statement are tabled for analysis and approval. Therefore, it presents an opportunity to provide visibility of the state of debt and assess what options exist to manage it. 10
- 105) Despite the availability of actual statistics as at the end of December 2023, the MTDS baseline was based on public debt statistics as of the end of June 2023 as such there is a need to adopt a more proactive methodology in the future.
- 106) There is a contrast in the borrowing strategy proposed by MTDS and BPS. The 2024 MTDS proposes a borrowing strategy of 45:55 for the domestic-to-external debt mix, while the 2024 BPS proposes a domestic-to-external financing mix of 54:46.
- 107) The proposed BPS 2024 mix may be more costly in the medium term because of the high-interest rate on domestic borrowing and the low interest rate on external borrowing.
- 108) The yearly budget deficit of the national government determines the amount of borrowing undertaken each year. Where persistent deviations exist between national government expenditures and revenue collection, the resultant budget deficit necessitates growth in borrowing to bridge the resource gap. 20
- 109) The BPS 2024 proposes a decrease in the fiscal deficit (excluding grants) of KES -761.1 billion as envisaged at the start of the FY2023/24, to KES -753.2 billion – a 1% decrease in absolute terms. Including grants, the deficit is expected to fall from KES -718.9 billion to KES -703.9 billion equivalent to a 2% decrease.
- 110) The intended decrease in the deficit aligns with the national government's efforts to narrow the fiscal deficit (including grants) to 3.9% of GDP in FY 2024/25. To the extent that this target deficit will impact the sustainability of Kenya's public debt, the target is welcomed.
- 111) However, historically, the achievement of this target has been affected by in-year increases in expenditure (encouraged by supplementary budgets) and underperformance of revenue, creating a historical pattern of in-year fiscal deficit increases. This requires action to align expenditures with available resources. 30
- 112) There should be a commitment by the government to reduce the fiscal deficit as a percentage of GDP and to consolidate the fiscal deficit. Failure to do so will

perpetuate the current tendency to spend more than the available tax revenues, worsening the growth in our public debt burden.

- 113) The significant growth in Kenya's public debt over a short period has generated a vicious cycle, necessitating more expenditures on debt servicing and repayment each year. This has and will continue to affect the national government's ability to disburse funds to county governments over the medium term.
- 114) Kenya's public debt stock stood at KES 11.14 trillion as at the end of December 2023. Domestic and external debt stocks account for 45.3% and 54.7%, respectively. Over time, Kenya's public debt burden has become increasingly unsustainable shown by its gradually worsening Risk of Debt distress rating.<sup>10</sup> According to the International Monetary Fund (IMF), debt distress refers to a situation in which a country cannot fulfil its financial obligations, and debt restructuring is required. Kenya is currently at a high risk of debt distress, exceeding three of our four external debt substitutability indicators, as shown in the snippet below.
- 115) However, the sustainability of public debt is premised on the choice of financing decisions made each year in BPS and MTDS documents. Kenya has taken to the commercial markets to refinance its 2014 debut sovereign bond due in June of 2024. This includes the issuance of a brand-new Eurobond worth \$1.5 billion at a 9.85% interest rate – notably higher than the 2014 Eurobond rate of 6.85%,<sup>20</sup> and additional loans from the Trade Development Bank.
- 116) In addition, the national government has been borrowing on the domestic front at relatively high rates, with the most recent 8.5-year infrastructure bond (IFB1/2024/8.5) earning an interest rate of 18.46%.
- 117) The increased use of expensive commercial external loans has increased the cost and risk of the public debt stock and is unlikely to realize the development objective as commercial debt is utilized for general budgetary support and refinancing maturity of loans. This negates the country's capacity to repay public debt permanently, leading to a vicious cycle of debt repayments.
- 118) One consequence of Kenya's borrowing decisions in the past has been the astronomical growth in Kenya's allocation to public debt servicing through the Consolidated Fund Services (CFS). Between FY 2014/15 and FY 2023/24, the amount allocated to debt servicing each year rose by 1068.8% or KES 1.71 trillion. Currently, 73 out of every 100 shillings collected in ordinary revenue will be going towards servicing public debt, leaving little for national and county governments to county governments to deliver services.<sup>30</sup>
- 119) The MTDS does not dig deeper into the portfolio and attendant risk debt owed by state-owned enterprises and corporations. This is of concern because these

32

357

institutions hold an increasing loan portfolio. The reforms envisioned to rationalize SOEs should take place to minimize attendant contingent liability.

120) The International Budget Partnership (IBP) therefore recommended that:

- i. There is a need for the MTDS to present the actual debt portfolio and effect the reforms that are necessary to reduce the risk exposure presented by State Owned Enterprises and Corporations.
- ii. Debt repayments be restructured in the medium term to create less pressure on available tax revenues. It is clear that in the medium term, there will be limited fiscal space if current CFS spending is sustained. The available windows should be utilized, and the public should be informed of what measures are being taken. 10
- iii. Beyond fiscal consolidation measures, the national government should seek more affordable borrowing options over the medium term given the projected resource envelope and cost of borrowing. This includes reducing the prominence of commercial and domestic debt in the debt portfolio and exploring alternative sources of financing.
- iv. The National Treasury should employ realistic revenue targets and ensure adherence to the proposed fiscal deficit in FY 2024/25. On the expenditure side, options should be put in place to minimize the use of Article 223 of the Constitution, and issues raised by the Office of the Auditor General's Special Audit Report on the Supplementary Budget should be addressed.
- v. The 2024 Budget Policy Statement should be aligned with the proposed financing strategy in the 2024 MTDS to ensure sustainable and optimal borrowing in the future financial years. 20
- vi. A public debt policy upon which the MTDS is anchored should be developed. This would consider the country's developmental needs, as well as how to handle both public and publicly guaranteed debt.

#### IV. COMMITTEE OBSERVATIONS

**Arising from the above deliberations, the Committee made the following observations:**

- 121) The proposed borrowing ratio in the 2024 MTDS of 45 percent domestic and 55 percent external borrowing differs from the proposed ratio in the 2024 BPS of 54 percent domestic and 46 percent external borrowing. This observation was also noted by the Committee's report on the 2023 MTDS and indicates a continued disconnect in policy formulation geared towards minimizing the cost and risk of borrowing; 30
- 122) The depreciation of the exchange rate against the United States Dollar and the Euro, which when combined account for over 88.5 percent of the denomination of the external debt stock, has been costly as indicated by the incurrence of Kshs.

- 8.26 billion to meet external debt servicing arising from the fluctuation of the foreign exchange rate between July 2023 and January 2024;
- 123) There is a cross-board tightening of borrowing conditions for both domestic and external borrowing, as evidenced by the increasing Weighted Average Interest Rate (WAIR) of the total debt portfolio and is collaborated by the increasing debt service expenditure under the Consolidated Fund Services;
- 124) The Medium-term Debt Management Strategy (MTDS) is a framework that was developed by the World Bank and the IMF to guide countries in debt management decisions and operations. Nevertheless, there is a need to customize the MTDS to Kenya's country-specific challenges in order to address high public debt stock, committed but undisbursed loans (and commitment fees), and the rise in non-performing loans owed by state-owned enterprises, among other rising contingent liability risks; 10
- 125) There is low civic participation in public debt management policy design and debt management. This is indicated by the lack of response from the public following the call for submissions issued by the National Assembly on the 2024 MTDS. Appropriate measures are therefore required to promote citizen engagement through enhancing transparency and public accountability;
- 126) There is slow progress in the establishment of the Treasury Single Account. The resolution of the National Assembly on the 2023 MTDS intended to ensure the government mops up surplus funds held by Ministries, Departments and Agencies bank accounts. The account is a requirement of Section 28(2) of the Public Finance Management Act, 2012, and an effective method for enhancing payment and revenue collection systems. Guidelines will also help minimize the impact on financial transfers from domestic financial institutions and initiate the full transition to the Treasury Single Account as from FY 2024/25. 20
- 127) There is a deviation from the fiscal deficit target for FY 2023/24. The 2023 MTDS set the fiscal deficit target at 4.4 percent as a share of GDP; this has increased to 5.5 percent in the first Supplementary Estimates. It is important to note that in-year deviations from fiscal targets negate the substantial efforts undertaken in designing a policy framework and strategies intended at a) reducing debt distress, b) slowing debt accumulation, and c) improving overall resource utilization. 30
- 128) The PV of debt to GDP is projected to reach 67.2 percent in 2024 and has thus surpassed the anchored debt threshold of 55 percent (+5) subject to Section 50 of the PFM Act 2012 (Amended in 2023), the National Treasury is yet to submit a report on the breach of the debt threshold, indicating the exceptional circumstances, as required by the PFM Act, 2012. 34

## V. COMMITTEE RECOMMENDATIONS

In view of the foregoing, the Committee has made the following recommendations:

### c) Non-financial Recommendations

- 129) That, in the next Medium Term Expenditure Framework (MTEF) cycle, the National Treasury should ensure consistency between the Medium-Term Debt Management Strategy and the Budget Policy Statement regarding the optimal borrowing strategy and the fiscal consolidation path;
- 130) That, the National Treasury should ensure that the fiscal deficit and subsequent public borrowing projections are realistic by incorporating forecasts on any potential in-year changes to interest rates, exchange rates, and contingency spending;
- 131) That, to address the emerging escalation of domestic interest rates alongside domestic interest payments, the National Treasury should submit a report providing practical measures to reduce the domestic debt service burden to sustainable levels to the National Assembly, within 60 days upon the adoption of this Report. 20
- 132) That, in line with the resolution of the National Assembly on the 2023 Medium Term Debt Management Strategy, the National Treasury should publish guidelines that will ensure that the Treasury Single Account is established and operational by July 1<sup>st</sup>, 2024;
- 133) That, within 30 days and subject to Section 50 of the Public Finance Management Act, 2012 (Amended in 2023), the National Treasury should submit a comprehensive report to the National Assembly on the breach of the debt anchor of 55 percent (5) of Gross Domestic Product and the remedial measures undertaken to ensure that the adherence of the debt threshold;
- 134) That, in order to promote fiscal sustainability, reduce debt distress and to slow debt accumulation, any deviation from medium term fiscal deficit path designed by both the Budget Policy Statement and the Medium-Term Debt Management Strategy, and any resultant readjustment to loan financing, should be pre-approved by the National Assembly. 20
- 135) That, the National Treasury ensures the customization of the MTDS for the next MTEF cycle to Kenya's specific debt challenges by providing specific measures to deal with undisbursed loans and related commitment fees, measures to resolve risks emanating from non-performing loans owed by state-owned enterprises, and estimation of contingent liabilities;
- 136) That, in order to help enhance public participation in public debt matters, the National Treasury should publish simplified, citizen-friendly documents to accompany the technical reports on public debt submitted to the National Assembly; and 30

- 137) That, at least two months before the end of the financial year:
- a. the National Treasury shall submit to the National Assembly, the Annual Borrowing Plan that addresses any deviations from the 2024 MTDS in financing the FY 2024/25 Budget Estimates, attendant cost and risks of the deviations and policy measures to address them; and
  - b. The National Treasury should submit a list of a schedule of all projects for which borrowing is to be undertaken in the FY 2024/25.

d) **Financial Recommendations**

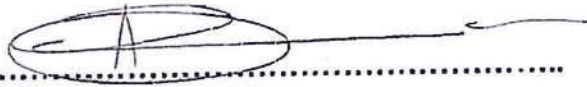
- 138) That, the fiscal deficit target for the medium term is approved and set at 3.9% of GDP for FY 2024/25; 3.3% of GDP for FY 2025/26, and 3.3% of GDP for FY 2026/27, in line with the fiscal consolidation path; and 10
- 139) That, the country's borrowing strategy is approved at 55 percent for net external borrowing and 45 percent for net domestic borrowing as contained in the 2024 Medium Term Debt Management Strategy.

**VI. ANNEXURES**

- 140) Further, pursuant to Standing Order 232A(5)(a), Schedule 1 indicates details on the stock of foreign public debt and publicly guaranteed debt, and Schedule 2 indicates details on the stock of domestic debt, are hereby attached in Annex 1 and Annex 2.



SIGNED



HON. ABDI SHURIE, MP.  
CHAIRPERSON, PUBLIC DEBT & PRIVATIZATION COMMITTEE

29<sup>th</sup> Feb 2024

DATE

29 FEB 2024

**Exhibit EWG 11:**

**The Senate Standing Committee on Finance and Budget  
Report on the 2024 Medium-Term Debt Management  
Strategy**

FELISTUS WANJIKU NJOROGE  
ADVOCATE  
COMMISSIONER FOR OATHS  
P.O. Box 75555 - 00204, NAIROBI.

This is the Exhibit Marked Exhibit 11 Referred to in the  
Affidavit Sworn  
Declaration of Eugenia Wangari Gikonyo Declared  
Before me this 16<sup>th</sup> Day of April 2024  
At Nairobi

  
COMMISSIONER FOR OATHS



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT | THIRD SESSION**

**THE SENATE**

---

**STANDING COMMITTEE ON FINANCE AND BUDGET**

**REPORT ON THE 2024 MEDIUM TERM DEBT MANAGEMENT STRATEGY**

Clerk's Chambers,  
Parliament Buildings,  
**NAIROBI.**

**MARCH, 2024**

# TABLE OF CONTENTS

364

## Table of Contents

LIST OF ABBREVIATIONS/ACRONYMS .....	3
PRELIMINARIES .....	4
ESTABLISHMENT AND MANDATE OF THE COMMITTEE.....	4
MEMBERSHIP OF THE COMMITTEE.....	5
CHAIRPERSON’S FOREWORD.....	6
Acknowledgment.....	11
CHAPTER ONE .....	13
1.0 OVERVIEW OF MEDIUM-TERM DEBT MANAGEMENT STRATEGY .....	13
1.1 Stock of Public Debt and Debt Service Expenditures.....	14
1.2 Cost and Risk Profile of Public Debt Portfolio.....	15
1.3 The 2024 Proposed Borrowing Strategy.....	15
1.4 Public debt sustainability analysis .....	16
CHAPTER TWO .....	17
2.0 OVERVIEW OF SUBMISSION FROM STAKEHOLDERS .....	17
2.1 The National Treasury and Economic Planning .....	17
2.2 The Commission on Revenue Allocation .....	20
2.3 Institute of Certified Public Accountants- Kenya (ICPA-K) .....	21
2.4 The Institute for Social Accountability.....	22
2.5 The International Budget Partnership-Kenya (IBP-K) .....	25
CHAPTER THREE .....	26
3.0 COMMITTEE OBSERVATIONS AND FINDINGS .....	26
CHAPTER FOUR.....	28
4.0 RECOMMENDATIONS.....	28

10

20

2

## LIST OF ABBREVIATIONS/ACRONYMS

BPS	-	Budget Policy Statement	
DSA	-	Debt sustainability Analysis	
FY	-	Financial Year	
GDP	-	Gross Domestic Product	
IMF	-	International Monetary Fund	
MTDS	-	Medium Term Debt Management Strategy	
PDMO	-	Public Debt Management Office	
PFMA	-	Public Finance Management Act	
PPG	-	Public and Publicly Guaranteed Debt	10.
PV	-	Present Value	
SDR	-	Special Drawing Rights	
US	-	United States	
USD	-	United States Dollar	

3

## PRELIMINARIES

### ESTABLISHMENT AND MANDATE OF THE COMMITTEE

Article 124 (1) of the Constitution of Kenya provides that each house of Parliament may establish committees and shall make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its committees.

Parliamentary Committees consider policy issues, scrutinise the workings and expenditures of the national and county governments, and examine proposals for legislation. The end result of any process in Committees is a report, which is tabled in the House for consideration.

The Senate Standing Committees on Finance and Budget is established pursuant section 8 (1) of the Public Finance Management Act, Cap.412A and standing order 228 of the Senate Standing Orders. The Fourth Schedule to the Senate Standing Orders outlines the subject matter assigned to each specific Committee. The Standing Committee on Finance and Budget is mandated to-

- a) Investigate, inquire into and report on all matters relating to coordination, control, and monitoring of the county budgets and examine -
  - i. the Budget Policy Statement presented to the Senate;
  - ii. the report on the budget allocated to constitutional Commissions and independent offices;
  - iii. the Division of Revenue Bill, the County Allocation of Revenue Bill, the County Governments Additional Allocations Bill, and the cash disbursement schedule for county governments;
  - iv. all matters related to resolutions and Bills for appropriations, the share of national revenue amongst the counties, matters concerning the national budget, including public finance and monetary policies and public debt, planning, and development policy; and
- b. Pursuant to Article 228 (6) of the Constitution, to examine the report of the Controller of Budget on the implementation of the budgets of county governments.

4

## MEMBERSHIP OF THE COMMITTEE

Following the constitution of Standing Committees of the Senate of the Thirteenth (13<sup>th</sup>) Parliament on Thursday, 13<sup>th</sup> October, 2022, the Senate Standing Committee on Finance and Budget as currently constituted is comprised of the following Members-

- |   |   |                         |
|---|---|-------------------------|
| 1. Sen. (Capt.) Ali Ibrahim Roba, EGH, MP | - | <b>Chairperson</b>      |
| 2. Sen. Maureen Tabitha Mutinda, MP       | - | <b>Vice-Chairperson</b> |
| 3. Sen. (Dr.) Boni Khalwale, CBS, MP      | - | Member                  |
| 4. Sen. Tabitha Karanja Keroche, MGH, MP  | - | Member                  |
| 5. Sen. Joyce Chepkoech Korir, MP         | - | Member                  |
| 6. Sen. Mohamed Faki Mwinyihaji, EGH, MP  | - | Member                  |
| 7. Sen. Richard Momoima Onyonka, MP       | - | Member                  |
| 8. Sen. Shakila Abdalla Mohamed, MP       | - | Member 10               |
| 9. Sen. Eddy Gicheru Oketch, MP           | - | Member                  |

5

## CHAIRPERSON'S FOREWORD

The 2024 Medium Term Debt Management Strategy (MTDS) was submitted to Parliament by the National Treasury on 15<sup>th</sup> February, 2024 pursuant to section 33 of the Public Finance Management Act, Cap.412A. The Act provides that *'On or before the 15<sup>th</sup> February in each year, the Cabinet Secretary shall submit to Parliament a statement setting out the debt management strategy of the national government over the medium term with respect to its actual liability and potential liability in respect of loans and guarantees and its plans for dealing with those liabilities'*.

The 2024 MTDS was tabled in the Senate at the sitting held on 15<sup>th</sup> February, 2024. Thereafter, it was referred to the Standing Committee on Finance and Budget for consideration, facilitation of public participation and consequent tabling of a report in the Senate. 10

Pursuant to section 33(2) of the PFMA, the MTDS should be aligned to the broad strategic priorities and policy goals set out in the Budget Policy Statement. Section 33(3) of the Act provides that *'the Cabinet Secretary shall include in the statement the following information-*

- a) *the total stock of debt as at the date of the statement;*
- b) *the sources of loans made to the national government and the nature of guarantees given by the national government;*
- c) *the principal risks associated with those loans and guarantees;*
- d) *the assumptions underlying the debt management strategy; and*
- e) *an analysis of the sustainability of the amount of debt, both actual and potential."* 20

The MTDS covers the period between FY 2024/25 to FY 2026/27 and it outlines the strategies and initiatives to be implemented, aimed at minimizing costs and risks of debt management.

Public and publicly guaranteed debt in nominal terms as at the end of June, 2023 was Kshs.10.278 trillion (70.8% of GDP). This comprised an external debt stock of Kshs.5.446 trillion and domestic debt stock of Kshs.4.832 trillion. The National Treasury indicated



that the stock of public and publicly guaranteed debt as at February 2024 stood at Kshs.11.248 trillion (69.7% of GDP) in nominal terms. Present value of public debt to GDP is 67.2%. This comprises external debt stock of Kshs.6.1899 trillion and domestic debt stock of Kshs.5.05804 trillion.

The National Treasury committed to bringing down the Present Value (PV) of debt as a percentage of GDP from 67.2% to 55% over a period of five (5) years in accordance with the requirements of section 50 of the PFMA Cap.412A.

External public debt comprises; multilateral, bilateral and commercial creditors-

- a) Kshs.3.118 trillion as multilateral debts (accounting for 50% of total external debt);
- b) Kshs.1.399 trillion bilateral debts (23%); and
- c) Kshs.1.671 trillion commercial debts (27%) of which Eurobonds account for Kshs.1.141 trillion (18%).

Domestic debt mainly comprises Treasury bonds and bills as follows-

- a) Kshs.4.272 trillion in Treasury Bonds (accounting for 85% of total domestic debt);
- b) Kshs.565.63 billion Treasury Bills (11%); and
- c) Kshs.220.16 billion (4%) as others (Overdrafts from Central Bank of Kenya, IMF Special Drawing Rights (SDR) Allocation and Bank advances.

Government guaranteed debt at the end of June 2023, to Kenya Power and Lightning Company (KPLC), Kenya Ports Authority (KPA), Kenya Electricity Generation (KenGen) and Kenya Airways (KQ) amounted to Kshs.170.2 billion. The called-up guarantee loan of Kshs.88.2 billion relates to KQ guaranteed debt.

The proposed fiscal deficit for FY 2024/2025 is Kshs.703.87 billion which will be financed through Kshs.362.12 billion as net foreign financing and Kshs.377.75 billion as domestic financing.

Regarding optimal borrowing strategy- The MTDS aims to optimize access to external concessional borrowing to minimize costs and refinancing risks in the debt portfolio. The optimal borrowing strategy assumes a mix of 45% domestic and 55% external financing

over the medium term. In gross borrowing terms, external and domestic financing accounts for 37% and 63%, respectively.

Total Debt Sustainability Analysis- According to the National Treasury, the Debt Sustainability Analysis (DSA) conducted in December, 2023 indicates that Kenya's public debt remains sustainable but with a high risk of debt distress. The PV of debt to GDP ratio is projected to remain above the 55% threshold until 2029. This is projected to decline steadily to 48.1% in 2033 because of fiscal consolidation.

The External Debt Sustainability Analysis indicates that-

- a) External debt sustainability indicates that PV of public and publicly Guaranteed (PPG) external debt to GDP ratio remains below 40% threshold throughout projection period. 10
- b) The PV of PPG external debt to exports (solvency indicator) remains above the threshold (180%) through 2029.
- c) The debt service to exports (liquidity indicator) exceeds its threshold (15%) in the medium term on account of Eurobond repayments in 2024 and 2028, and rollover of external bank loans (2025-26).
- d) The breaches in the debt thresholds in terms of exports indicate increased vulnerability of public debt to export and financing shocks.

Regarding the cost and risks analysis of existing public debt portfolio, its evident that- 20

- a) Depreciation of Kenya shilling against major currencies increased the nominal debt to GDP ratio to 70.8% in June 2023 from 67% in December, 2022.
- b) The total interest payments as a share of GDP increased to 5.5% as at June, 2023 from 5.3% as at end of December, 2022.
- c) The weighted average interest rate of external debt increased to 4.5% in June 2023 compared to 3.9% in December 2022.
- d) Average Time to Maturity of the total portfolio declined from 8.8 years in December 2022 to 8.5 years in June 2023.
- e) The projected debt redemption profile is characterized by large maturities in 2028, 2029, and 2030 on account of Eurobond and bank syndicated debts. 30

Some salient observations made by the Committee include-

- a) The stock of public and publicly guaranteed debt is KSh 11.248 trillion; comprising of domestic debt of KSh 5.058 trillion (45%) and external debt of KSh 6.89 trillion (55%). This is an increase of Ksh. 970 billion from Kshs. 10.278 trillion by the end of FY 2022/23 and is attributed to exchange rate movements and additional borrowing, among other factors.
- b) The present value (PV) of debt to GDP stands at 67.2% against the recommended benchmark of 55% as provided in section 50 of the PFM Act, 2012. Whereas this is a breach against the benchmark, the National Treasury projects that the present value of debt will be aligned with the benchmark by FY 2028/29 through a defined fiscal consolidation path including revenue mobilization targeted at 20.2% of GDP by 2028. This requires regular reporting to Parliament to enhance continuous oversight and ensure compliance. 10
- c) Although the debt-carrying capacity declined from strong in 2021 to medium as at December 2023 and the National Treasury indicates that the overall debt levels remain sustainable, the risk of debt distress is high due to global shocks that can potentially exacerbate macroeconomic vulnerabilities and subdue economic performance.
- d) The recent liquidity management measures undertaken in February 2024 involving partial buy-back (USD 1.5 billion) of the USD 2 billion Euro bond maturing in June 2024, addressed the settlement risk associated with the Bond and has consequently influenced key macro variables such exchange rate dynamics and investor sentiments. 20
- e) The proposed fiscal deficit for FY 2024/2025 of Kshs. 703.9 billion is to be financed through net foreign financing (55%) and net domestic financing (45%), targeted at optimizing the cost and risk indicators of debt. Despite the National Treasury indication that the national government will favour concessional borrowing, there is a proposed commercial borrowing in FY 2024/25 of Kshs. 151.00 billion which has the potential of worsening the debt position as commercial loans have higher interest rates 30

9

**The Committee made several recommendations including-**

- a) That, consistent with the financing requirements underpinning the 2024 Budget Policy Statement, the proposed fiscal deficit target of Ksh. 703.9 billion (3.9% of GDP) for FY 2024/25 be approved. This is broadly in line with the proposed fiscal consolidation path, progressing to 3.1% of GDP by FY 2027/28.
- b) That, the proposed borrowing strategy in the 2024 MTDS of 55% for net external borrowing and 45% for net domestic borrowing be approved for FY 2024/25 and the medium term.
- c) That, going forward, the National Treasury should in subsequent budget cycles, ensure that the MTDS submitted to Parliament for consideration and approval<sup>10</sup> contains the most recent data on the stock of public and publicly guaranteed debt as at the date of the statement in line with section 33(3) of the PFM Act, Cap.412A.

10

**Acknowledgment**

I take this opportunity to commend the Members of the Committee for their devotion and commitment to duty, which made the consideration of the 2024 Medium Term Debt Management Strategy successful.

I also wish to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to the Committee in undertaking this important assignment.

Lastly, I wish to thank the stakeholders who submitted written memoranda and who appeared before the Committee to present their comments.

It is now my pleasant duty, pursuant to standing order 223(6) of the Senate Standing Orders, to present the Report of the Standing Committee on Finance and Budget to the Senate on the 2024 Medium Term Debt Management Strategy.

Signature.....

Date.....

10

**SEN. CAPT. ALI IBRAHIM ROBA, EGH, MP.**

**CHAIRPERSON,**

**STANDING COMMITTEE ON FINANCE AND BUDGET**

11

**ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE 2024 MEDIUM TERM DEBT MANAGEMENT STRATEGY**

We, the undersigned Members of the Senate Standing Committee on Finance and Budget, do hereby append our signatures to adopt this Report-

	Name	Designation	Signature
1.	Sen. (Capt.) Ali Ibrahim Roba, EGH, MP	Chairperson	
2.	Sen. Maureen Tabitha Mutinda, MP	Vice-Chairperson	
3.	Sen. (Dr.) Boni Khalwale, CBS, MP	Member	
4.	Sen. Tabitha Karanja Keroche, MP	Member	
5.	Sen. Joyce Chepkoech Korir, MP	Member	
6.	Sen. Mohamed Faki Mwinyihaji, CBS, MP	Member	
7.	Sen. Richard Momoima Onyonka, MP	Member	
8.	Sen. Shakila Abdalla Mohamed, MP	Member	
	Sen. Eddy Gicheru Oketch, MP	Member	

10

1

12

## CHAPTER ONE

**1.0 OVERVIEW OF MEDIUM-TERM DEBT MANAGEMENT STRATEGY**

1. Article 201 of the Constitution read together with Section 62 (3) (c) of the Public Finance Management (PFM) Act, Cap 412A gives the basis for prudent and responsible use of public finances. Particularly, the law requires that the burdens and benefits of the use of resources and public borrowing shall be shared equitably between present and future generations. Prudent and responsible use of public resources entails management of debt levels and borrowing as well as minimization of the cost of debt.
2. The Medium-Term Debt Management Strategy is submitted to Parliament pursuant to section 33 (1) of the PFM Act, Cap 412A on or before the 15th February in each year. The document sets out the debt management strategy of the National Government over the medium term with respect to its actual and potential liability in respect of loans and guarantees and its plans for managing the liabilities. 10
3. The Debt Management Strategy is submitted alongside the Budget Policy Statement (BPS) hence the law requires that the medium-term debt management strategy be aligned to the broad strategic priorities and policy goals as set out in the Budget Policy Statement. Section 64(2)(a) of the PFM Act, Cap 412A requires the Medium-Term Debt Strategy (MTDS) to be consistent with the Budget Policy Statement (BPS).
4. The Cabinet Secretary responsible for matters relating to finance is tasked to include in the MTDS information on the following-
  - a) The stock of public debt as at the date of the statement. 20
  - b) The sources of loans made to the national government and the nature of guarantees given by the national government.
  - c) Principal risks associated with these loans and guarantees,
  - d) Assumptions underlying the debt management strategy.
  - e) An analysis of the sustainability of the amount of debt, both actual and potential. 13

5. Section 62 of the PFM Act, Cap 412A provides for the establishment of a Public Debt Management Office (PDMO) domiciled within the National Treasury. The core objective of the office is to ensure minimization of the cost of public debt management and borrowing over the long-term taking account of risk; to promote the development of the market institutions for Government debt securities and to ensure the sharing of the benefits and costs of public debt between the current and future generations.
6. The PDMO is also mandated to assist County Governments in debt management and borrowing. Consequently, County Treasuries are required to furnish the PDMO with any information that shall enable it to execute its mandate efficiently. This points to the role of the County Governments in the management of public debts.

### 1.1 Stock of Public Debt and Debt Service Expenditures

7. Public and publicly guaranteed debt increased by Ksh.1.64 trillion from Ksh.8.63 trillion in June 2022 to Ksh.10.278 trillion by the end of June, 2023. By the close of FY 2022/23, the composition of debt indicates that Ksh.5.446 trillion was attributable to external debt and Ksh.4.832 trillion was from domestic sources. This represented a 26% (Ksh.1.117 trillion) and 12% (Ksh.527 billion) increase respectively. The significant increase in the external debt stock was exacerbated by the depreciation of the Kenya Shilling against major world currencies especially the US dollar which accounts for the largest share of the loan portfolio.
8. According to the National Treasury the Public and publicly guaranteed debt stood at Ksh.11,248.01 billion. This was equivalent to 69.7% of GDP in nominal terms. The debt mix shows that Kshs. 6,189.97 billion (55.07%) was due to external creditors and Kshs. 5,058.04 billion (44.93%) due to domestic lenders.
9. There was Kshs. 170.2 billion in outstanding government-guaranteed debt as of June, 2023. Guarantees totaling Kshs.9.0 billion were given to Kenya Power & Lighting Company, Kshs.50.5 billion to Kenya Ports Authority, and Kshs.22.4 billion to Kenya Electricity Generating Company (KenGen), all of which were performing. The MTDS analysis included a guaranteed debt of Kshs 88.2 billion owed by Kenya Airways which was called up.



10. In financing the budget, revenue collection including Appropriation-in-Aid (A.i.A) is estimated to be Ksh. 3,435.0 billion (19.1% of GDP) against estimated overall expenditure and net lending of Ksh.4,188.2 billion (23.2% of GDP) in FY 2024/25. Consequently, the fiscal deficit (including grants), is projected at Ksh.703.9 billion (3.9 % of GDP), and further to 3.1% of GDP by FY 2026/27.

## 1.2 Cost and Risk Profile of Public Debt Portfolio

11. With regards to the cost of the public debt portfolio, the 2024 MTDS indicates the weighted Average Interest rate on the total debt portfolio was 7.6% in June 2023 compared to 7.7% in June 2022.

12. The Average Time to Maturity (ATM) of the domestic debt declined from 7.8 years to 7.5 years while that of external debt declined from 9.8 years to 9.3 years between June 2022 and June 2023. Moreover, the ATM for total debt portfolio reduced to 8.5 years from 8.8 years during the same period. Partly, the implication could result in more credit instruments maturing within a shorter period and thus leading to liquidity constraints. 10

13. The composition of external debt by currency as at June 2023 comprised of USD (67.2%), Euros (21.3%) Japanese Yen (3.9%), GBP (2.3%), Chinese Yuan (5.1%) and others (0.2%). The implication is that total external debt is subject to exchange rate volatility mainly the US Dollar.

## 1.3 The 2024 Proposed Borrowing Strategy 20

14. The 2024 BPS highlights the assumptions underpinning the selection of the optimal borrowing strategy for FY 2024/25, which are: real GDP growth rate of 5.5 % , inflation target of 5.0%, revenue of 19.1% of GDP and fiscal deficit rate of 3.9 % of GDP.

15. In addition, climate-related shocks, exchange rate volatility and depreciation of the Kenya shillings, performance of exports and investor preference for short-term 15

instruments could potentially impact refinancing risks as well as risks of contingent liabilities under SOEs and PPPs.

16. The indicated borrowing strategy for deficit financing for FY 2024/25 is a gross borrowing ratio of domestic and external financing of 63: 37, and a net borrowing ratio of 45:55, respectively. The strategy intends to maximize concessional loans and reduce commercial borrowing on the external component while utilizing more of medium to longer-term bond instruments.
17. However, actual performance of past approved strategies indicates deviation from the projected borrowing strategies due to market realities or conditions. For FY 2022/23, external sources contributed 22% while domestic sources contributed 78% as compared to the approved ratio of 25% from external and 75% from domestic sources putting more pressure on the domestic market. 10

#### 1.4 Public debt sustainability analysis

18. The reported present value of public debt to GDP stands at 67.2 % against the recommended benchmark of 55 %. The National Treasury projects that the present value of debt will be aligned with the benchmark by 2029 through a defined fiscal consolidation path as well as revenue mobilization. This requires regular reporting to Parliament to enhance continuous oversight and ensure compliance. 20
19. The debt carrying capacity has declined from strong in 2021 to medium as at December 2023; and although overall debt levels remain sustainable, the distress level remains high. However, the Committee was informed by the National Treasury that the successful liquidity management involving partial buy-back (USD 1.5 billion) of the USD 2 billion Euro bond maturing in June 2024, addressed and removed the settlement risk associated with the Bond. 16

## CHAPTER TWO

### 2.0 OVERVIEW OF SUBMISSION FROM STAKEHOLDERS

20. Pursuant to the provisions of Article 118 of the Constitution and the Senate Standing Orders, the Committee sent invitations to key Stakeholders inviting them to a meeting and submit their comments on the Medium-Term Debt Management Strategy.
21. The Committee received submissions from the following Stakeholders-
- a) The National Treasury and Economic Planning;
  - b) The Commission on Revenue Allocation;
  - c) The Institute for Social Accountability;
  - d) The Institute of Certified Public Accountants-Kenya (ICPAK); and
  - e) The International Budget Partnership-Kenya (IBP-K).

#### 2.1 The National Treasury and Economic Planning

10

22. The National Treasury appeared before the Committee and made the following submissions-
- a) The current stock of public and publicly guaranteed debt stands at Kshs. 11,248.01 billion or 69.7 percent of GDP in nominal terms. The current Present Value of public debt to GDP is 67.2 percent. It comprises a mix of external debt of Kshs. 6,189.97 billion; and domestic debt of Kshs. 5,058.04 billion.
  - b) External debt, which has risen relative to domestic debt due to depreciation of the Kenya shilling against foreign currencies, is largely from official creditors and on concessional terms. It is composed of: Kshs. 3,118.57 billion as multilateral debts (accounting for 50% of total external debt); Kshs. 1,399.72 billion bilateral debts (23%); and Kshs. 1,671.68 billion commercial debts (27%) of which Eurobonds account for Kshs 1,141.33 billion (18%).

17

- c) Domestic debt is mainly held in the form of Government debt securities as follows: Kshs. 4,272.25 billion in Treasury Bonds (accounting for 85% of total domestic debt) Kshs. 565.63 billion Treasury Bills (11%); and Kshs 220.16 billion (4%) as others (That is, Overdrafts from Central Bank of Kenya, IMF SDR Allocation and Bank advances).
- d) The proposed FY 2024/2025 fiscal deficit of Kshs. 703.9 billion is to be financed through Net Foreign financing of Kshs 326.12 billion (Commercial Borrowing -Kshs. 151.00 billion, Programme loan -Kshs. 210.48 billion, Project Loans & A-I-A-Kshs. 308.54 billion, External Repayment -Ksh (343.90) billion) and Net Domestic Financing of Kshs. 377.75 billion. 10

#### **Assessment of the cost and risk characteristics of the current debt portfolio**

- e) Under the current revenue driven multi-year fiscal consolidation program, the National Treasury commits to bring down the Present Value of debt as a percentage of GDP from 67.2 percent to 55% over a period of five years as per the recent amendment of the Public Finance Management Act on the debt anchor.
- f) The weighted average interest rate of the total debt portfolio was 7.7 percent per annum in June 2023, of which domestic debt was 11.4% per annum. The weighted average interest rate of external debt increased to 4.5% in June 2023 compared to 3.9% in December 2022. 20
- g) The rise in interest rates in the public debt portfolio is attributed to the tight liquidity conditions both in the domestic and international financial markets.
- h) Average Time to Maturity of the total portfolio declined from 8.8 years in December 2022 to 8.5 years in June 2023 on account of reduced performance of long tenor bonds and issuance of more short-term domestic debt attributed to tightness of liquidity in the market.
- i) The 2024 Medium-Term Debt Strategy aims to optimize access to external concessional borrowing and undertake liability management to minimize costs and refinancing risks in the debt portfolio. On a net basis, the strategy assumes a mix of 45% domestic and 55% external financing over the medium 30

term. In gross borrowing terms, external and domestic financing accounts for 37% and 63%, respectively.

- j) The 2024 Medium-Term Debt Strategy identifies key actions to guide borrowings in addition to fiscal consolidation during FY2024-25 to 2026-2027, which include-
- i. Use of long tenor Treasury bonds for refinancing of maturing domestic debt and raising of new deficit funding resources along with reduction in the proportion of short-term domestic debt (Treasury bills) to minimize refinancing risks and lengthening Average Time Maturity for domestic and total debt.
  - ii. Issuance of more medium to long-term instruments as the main source of domestic financing to deepen the domestic bond market. p
  - iii. Maximize use of concessional borrowing as opposed to commercial debt to lower costs and risks.
  - iv. Minimize interest rate risk in terms of average time to re-fixing.
- k) The latest Debt Sustainability Analysis Report indicates that;
- i. Public debt remains sustainable though the distress level is elevated due to the adverse effects of multiple shocks experienced by the country since 2020.
  - ii. The Debt Carrying Capacity has declined from strong to medium since 2021 to date.
  - iii. External debt vulnerability has increased as a result of subdued growth in exports. 20
  - iv. Recently, Kenya successfully executed a liability management operation targeting the 2024 Eurobond. The operation permanently removed settlement risk on the USD 2 billion Eurobond maturing in June 2024 by partially buying-back USD 1.5 billion of the Bond.
- l) In collaboration with other financial sector players including the Capital Market Authority and the Central Bank of Kenya, the National Treasury will sustain domestic debt markets reforms to improve performance of the

19

primary issuance and promote vibrancy of the secondary market to develop a credible yield curve for Government securities.

m) These reforms include-

- i. Publication of an issuance calendar;
- ii. Separation of the Retail and Wholesale Market for Government Securities;
- iii. Re-engineering Retail-Bond Issuance;
- iv. Establishment of the Over-The-Counter (OTC) Market for Government Debt Securities;
- v. Establishment of an Efficient Horizontal Repo Market and Securities Lending and Borrowing (SLB). 10
- vi. The National Treasury & Economic Planning has engaged the IMF/World Bank to assist the PDMO in the domestic market development.

## 2.2 The Commission on Revenue Allocation

23. The Commission appeared before the Committee and made the following submissions-

- a) That there is inconsistency in figures of the public debt stock between the 2024 MTDS and the 2024 BPS. According to CRA, the MTDS provides the debt stock as at end of June 2023 as Ksh. 10,278.7 billion, comprising of Ksh. 5,446.6 billion in external debt and Ksh. 4,832.1 billion in domestic debt while the BPS provides the debt stock as at end of June 2023 as Ksh. 10,189.5 billion, comprising Ksh. 5,357.4 billion in external debt and Ksh. 4,832.1 billion in domestic debt. 20
- b) Further, the stock of domestic debt as Ksh. 4,832.1 billion and External Debt Ksh. 5,446.5 billion are inconsistent with the figure of Ksh. 4,741.9 billion and Ksh. 5,349.1 billion, respectively. The Commission recommended for harmonisation of the two figures and also with the figures presented in the BPS 2024 on external debt indicated at Ksh. 5,357.4 billion

- c) CRA noted that the figure of pre-1997 government loans of Ksh. 17.8 billion is always acknowledged in the current and previous MTDS, yet no explanation is provided on why it has never been paid. They submitted that there should be an explanation of the pre-1997 government loans of Ksh. 17.8 billion and why this loan is still outstanding.
- d) On debt sustainability analysis, the Commission indicated that Section 6 of the Public Finance Management (Amendment) Act 2023, amended the debt sustainability thresholds to 55 percent in PV terms with a compliance period of not later than five years from 17<sup>th</sup> October 2023-the date of coming into force of the Act. The national government is required only in exceptional circumstances to exceed the threshold by not more than 5%. Therefore, the PV of debt to GDP ratio projected at 56.9% in 2028 is above the 55% benchmark and thus against the PFMA (Amendment) Act 2023. 10

### 2.3 Institute of Certified Public Accountants- Kenya (ICPA-K)

24. ICPA-K appeared before the Committee and submitted that the growth of Kenya's public debt in the last ten years has raised concern on the sustainability of the government's fiscal path given the increasing impact of debt service repayments on service delivery and the economy.

25. The institute recommended the following- 20

- a) Establish and operationalize a Sinking Fund to enable the country set aside funds in the years leading to debt maturity.
- b) Establish and operationalize a Kenyan Sovereign Wealth Fund through policy and legislation.
- c) Prioritize projects independently assessed for financial viability and consider absorptive capacity constraints within the investment timelines.
- d) Consider Public Private Partnerships (PPPs) as a form of financing development expenditure.
- e) Gradually retire expensive commercial loans for long-term concessional loans. 20

21

- f) Publish core public and publicly guaranteed debt statistics at the general government level annually, including information on individual debt instruments contracted.
- g) Develop and adopt strict analytical and monitoring processes for approval and implementation of resource-backed loans.
- h) Parliament should demand regular reports on capital projects financed through debt from the National Treasury to enhance openness and transparency. The reports should include the corresponding feasibility studies, details of commitment fees, if any and project implementation status. 20
- i) Enhance prudent financial management and accountability in implementation of development projects.

#### 2.4 The Institute for Social Accountability

26. TISA appeared before the Committee and submitted the following-

- a) The government revised the fiscal deficit from Ksh. 718 billion to Ksh. 785 billion in the supplementary budget I for FY 2023/24. Given the trends in the previous fiscal years, TISA noted with concern the upward revision of fiscal deficit in the supplementary budgets.
- b) From the Controller of Budget report for FY 2022/23 which highlighted that interest payments on domestic debt (Ksh. 527.93 billion) were three times higher than interest payments on external debt (Ksh. 154.94 billion), TISA pointed out the cost of domestic debt to the economy, indicating that it would result in a crowding-out effect on the private sector. 20
- c) The latest Controller of Budget report on the national government budget implementation indicates a possibility that the country's public borrowing does not necessarily finance development needs as envisioned. A case in point is the Eurobonds, whereby oversight reports could not trace their utilization by MDAs.
- d) The National Treasury should contemplate actively pursuing debt restructuring initiatives in both the short and medium term to mitigate the current trend of rising interest rates. The government should also put in debt 30



restructuring efforts focused on current expensive loans, whose fiscal risk is high.

- e) That there is a notable improvement in the domestic debt maturity profiles. Debt with maturity of less than 1-year decreases from 19.5% in Dec 2022 to 16.7% in June 2023 and those with maturity of 4 - 5 years increases from 8.7% to 16.0%. This needs to be scaled up to minimize the cost of public debt management and borrowing over the long term.
- f) The high debt-to-GDP ratio (70.8) raises concerns about default risk, potentially affecting Kenya's ability to borrow at favourable interest rates. This has consistently seen debt servicing divert resources away from critical investments in basic services like education, and healthcare. This is also against the IMF program which prescribed 55.0% target that should be achieved by 2027. The interest payment as a share of GDP also increased by 1.2% due to accumulation of debt and increase in interest rates by Central banks in the domestic and international markets. 20
- g) While the anticipated decrease of the fiscal deficit to 3.9% of GDP is positive, there is room for further improvement. There is also need for a cost-benefit analysis for the government's tax exemptions amounting to nearly 400 billion, especially in light of ongoing fiscal consolidation efforts.
- h) TISA lauded the National Treasury's decision to diversify funding sources by incorporating Kenyan Shilling syndicated debt. However, they expressed concern on the proposal to float domestic bonds which come at very high interest in foreign currency, saying that it will deal a double blow to Kenyans in the form of deferred taxation. 20
- i) They noted that the interest rates for the infrastructure bond continue to have a crowding out effect on other producers (manufacturers, farmers and MSMES) who would be pivotal in supporting the expansion of the tax base.
- j) That the National Treasury should give clear and deliberate commitment on green and blue bonds as part of development financing. The green bond market offers opportunities for national and subnational governments to

invest in climate change related projects while contributing towards climate resilience and sustainable development.

- k) The government's plan to involve the private sector especially in infrastructure financing through Public-Private Partnerships should follow the transparency and accountability mechanisms spelt out in the constitution, which have previously been disregarded.
- l) TISA recommended that the National Treasury should expedite the operationalization of a sinking fund which was part of the commitments outlined in the 2023 MTDS, to help stem default in times of economic distress, such as the ongoing global financial crisis, the depreciation of the shilling as well as the current drought facing most Kenyan counties. 10
- m) That PFM Act 2012 seeks to establish PDMO within Treasury but with some degree of autonomy. TISA proposed for fast tracking of the development of a Policy, Financial and Administrative Framework within which PDMO would operate.
- n) TISA commended the government's commitment to expand coverage in reporting of public debt to include non-guaranteed debt owed by SOEs, saying that this will improve transparency and accountability in public debt management. Further, that it will ensure they are subjected to budgetary oversight reducing the possibility of poor quantification of Contingent Liabilities and the possibility of large unplanned expenditures if the guarantee materializes. Guaranteed debt has been rising over the years closed at Kes 19.02 billion by June 2023 which expose taxpayers to risks of hefty bailouts in the event of default. 20
- o) TISA suggested that MTDS should delve into the question of increased borrowing to repay loans which is a deviation from section 15(2)(c) of the PFM act that requires public debt to be used for development. The government should liaise with the OAG, COB, EAC and Parliament to create proactive plans to improve debt. There should be transitional justice for the economic extraction, abuse and near slavery to the Kenyan people who continue to pay for debt that was not properly utilized. 30

## 2.5 The International Budget Partnership-Kenya (IBP-K)

27. The International Budget Partnership-Kenya (IBP-K) appeared before the Committee and submitted as follows-

- a) That MTDS should provide an opportunity for visibility of the state of the debt and options to manage it. The MTDS contains data as at June 2023 yet there are sufficient details up to December 2023.
- b) The MTDS should play a proactive role in debt management over the medium term. It should also be an opportunity for robust public discourse on deficit financing. Its short-term nature means that there isn't much consideration of the long-term effects of the different options and mix of borrowing. This then means that it's difficult to tell what different options would mean in the long run. 10
- c) Develop a public debt policy on which the MTDS will be anchored. This will consider the developmental needs of the country and set a direction of how the country will handle both public and publicly guaranteed debt.
- d) The BPS of 2024 should align with the proposed financing strategy in the MTDS to ensure sustainable and optimal borrowing in the next financial year.
- e) IBP submitted that since growing fiscal deficit is a key driver of public debt burden, the government should reduce the fiscal deficit as a percentage of GDP to consolidate the existing fiscal deficits. Further, the National Treasury should employ realistic revenue targets and ensure adherence to the proposed fiscal deficit in FY 2024/25.
- f) Beyond fiscal consolidation measures, the national government must seek more affordable borrowing options over the medium term given the projected resource envelope and cost of borrowing. This includes reducing the prominence of commercial and domestic debt in the debt portfolio and exploring alternative sources of financing that are lower. 20
- g) IBP noted that expenditure on public debt obligations continues to pose a risk to the timely delivery of public services. They recommended that debt repayments be restructured in the medium term to create less pressure on the available tax revenues.

## CHAPTER THREE

## 3.0 COMMITTEE OBSERVATIONS AND FINDINGS

28. Having considered the 2024 MTDS and submissions from the stakeholders, the Committee made the following observations and findings. That-

- a) The stock of public and publicly guaranteed debt is KSh 11.248 trillion; comprising of domestic debt of KSh 5.058 trillion (45%) and external debt of KSh 6.89 trillion (55%). This is an increase of Ksh. 970 billion from Kshs. 10.278 trillion by the end of FY 2022/23 and is attributed to exchange rate movements and additional borrowing, among other factors.
- b) The 2024 MTDS indicates the stock of public debt as at 30<sup>th</sup> June 2023 instead of indicating the status as at the date of statement as required by the PFM, Cap.412A. 10
- c) The present value (PV) of debt to GDP stands at 67.2% against the recommended benchmark of 55% as provided in section 50 of the PFM Act, 2012. Whereas this is a breach against the benchmark, the National Treasury projects that the present value of debt will be aligned with the benchmark by FY 2028/29 through a defined fiscal consolidation path including revenue mobilization targeted at 20.2% of GDP by 2028. This requires regular reporting to Parliament to enhance continuous oversight and ensure compliance.
- d) Although the debt-carrying capacity declined from strong in 2021 to medium as at December 2023 and the National Treasury indicates that the overall debt levels remain sustainable, the risk of debt distress is high due to global shocks that can potentially exacerbate macroeconomic vulnerabilities and subdue economic performance. 20
- e) The recent liquidity management measures undertaken in February 2024 involving partial buy-back (USD 1.5 billion) of the USD 2 billion Euro bond maturing in June 2024, addressed the settlement risk associated with the Bond and has consequently influenced key macro variables such exchange rate dynamics and investor sentiments. 26

- f) The proposed fiscal deficit for FY 2024/2025 of Kshs. 703.9 billion is to be financed through net foreign financing (55%) and net domestic financing (45%), targeted at optimizing the cost and risk indicators of debt. Despite the National Treasury indication that the national government will favour concessional borrowing, there is a proposed commercial borrowing in FY 2024/25 of Kshs. 151.00 billion which has the potential of worsening the debt position as commercial loans have higher interest rates.
- g) There is a notable deviation in the approved borrowing strategies under the MTDS and the actual borrowing outturn that necessitates in-year reporting <sup>10</sup> to Parliament. To illustrate, the approved strategy in the 2022 MTDS for FY 2022/23 (in gross terms), was 25:75 percent external to domestic financing, compared to actual borrowing of 22:78 external to domestic financing. This trend has been observed over the last three financial years, with the tendency to favour domestic borrowing.
- h) The debt service has been on an upward trajectory since June 2018 and stood at Ksh. 1.199 trillion as at June 2023 (59% of revenue). This has significantly reduced the fiscal space available to fund other critical expenditure needs.

#### 4.0 RECOMMENDATIONS

The Committee makes the following recommendations-

- a) That, consistent with the financing requirements underpinning the 2024 Budget Policy Statement, the proposed fiscal deficit target of Ksh. 703.9 billion (3.9% of GDP) for FY 2024/25 be approved. This is broadly in line with the proposed fiscal consolidation path, progressing to 3.1% of GDP by FY 2027/28.
- b) That, the proposed borrowing strategy in the 2024 MTDS of 55% for net external borrowing and 45% for net domestic borrowing be approved for FY 2024/25 and the medium term.
- c) That, going forward, the National Treasury should in subsequent budget cycles, ensure that the MTDS submitted to Parliament for consideration and approval contains the most recent data on the stock of public and publicly guaranteed debt as at the date of the statement in line with section 33(3) of the PFM Act, Cap.412A. 10
- d) That, to enhance monitoring and transparency on in-year borrowing operations, at the end of every quarter of the financial year, the National Treasury should submit to the Senate a status report on any deviation from the approved borrowing strategy indicating the reasons for the deviation.
- e) That, pursuant to section 50 of the Public Finance Management Act, Cap.412A, the National Treasury should submit a report to the Senate by end of 30<sup>th</sup> April, 2024, on the specific measures being taken to ensure that the National Government complies with the 55% debt threshold within the timelines provided in the Act. 20

28

**LIST OF APPENDICES**

Appendix 1: Minutes of the sittings of the Committee

Appendix 2: Copies of submissions

28

**Exhibit EWG 12:**

**IMF Report of 31<sup>st</sup> July 2023 titled: *Making Public Debt Public—Ongoing Initiatives and Reform Options***

FELISTUS WANJIKU NJOROGE  
ADVOCATE  
COMMISSIONER FOR OATHS

This is the Exhibit Marked EWG.12 Referred to in the Sworn  
Affidavit  
Declaration of Eugenia Wanjiru Gikonyo Declared  
Before me this 16<sup>th</sup> Day of Aug 2024  
At Nairobi

  
COMMISSIONER FOR OATHS





September 2023

## MAKING PUBLIC DEBT PUBLIC—ONGOING INITIATIVES AND REFORM OPTIONS—BACKGROUND PAPER

IMF staff regularly produces papers proposing new IMF policies, exploring options for reform, or reviewing existing IMF policies and operations. The following document(s) have been released and are included in this package:

- The **Staff Report**, prepared by IMF staff and completed on June 22, 2023

The report prepared by IMF staff has benefited from comments and suggestions by Executive Directors following the informal session on July 25, 2023. Such informal sessions are used to brief Executive Directors on policy issues and to receive feedback from them in preparation for a formal consideration at a future date. No decisions are taken at these informal sessions. The views expressed in this paper are those of the IMF staff and do not necessarily represent the views of the IMF's Executive Board.

10

The IMF's transparency policy allows for the deletion of market-sensitive information and premature disclosure of the authorities' policy intentions in published staff reports and other documents.

Electronic copies of IMF Policy Papers  
are available to the public from  
<http://www.imf.org/external/pp/ppindex.aspx>

**International Monetary Fund**  
**Washington, D.C.**



June 22, 2023

## **MAKING PUBLIC DEBT PUBLIC—ONGOING INITIATIVES AND REFORM OPTIONS—BACKGROUND PAPER**

### **EXECUTIVE SUMMARY**

**This Background Paper provides technical information to accompany the main paper on Making Public Debt Public: Ongoing Initiatives and Reform Options.** This material, presented in three chapters, covers the following issues:

- Empirical evidence of benefits of public debt transparency
- Sound practices in public debt management that promote transparency
- Review of international data standards and public debt databases

**Approved By**  
**Paolo Mauro (FAD);**  
**Yan Liu (LEG); Miguel**  
**Savastano (MCM);**  
**Mark Flanagan (SPR);**  
**Carol Baker (STA)**

Prepared by an IMF team led by Manrique Saenz and coordinated by Plamen Iossifov (both SPR), and consisting of Sailendra Pattanayak, Emre Balibek and Felipe Bardella (FAD); Hoang Pham, Sebastian Grund, Alissa Ashcroft and Karla Vasquez Suarez (LEG); Thordur Jonasson, James Knight, Arindam Roy, Miriam Tamene and Shijia Luo (MCM); Khalid Elfayoumi, Pilar Garcia Martinez, Prateek Samal, Jasmin Sin, and Tim Willems (SPR); Lusine Lusinyan, Daniela Marchettini, and Daniel Rodriguez Delgado (STA); with overall guidance provided by Paolo Mauro (FAD), Miguel Savastano (MCM), Yan Liu (LEG), Mark Flanagan (SPR), and Carol Baker (STA). Administrative assistance was provided by Eiman Afshar and Claudia Isern.

10

## CONTENTS

<b>INTRODUCTION</b>	<b>3</b>
<b>EMPIRICAL EVIDENCE OF BENEFITS OF PUBLIC DEBT TRANSPARENCY</b>	<b>3</b>
A. Better Data Dissemination Practices Lower Financing Costs	3
B. Public Debt Transparency Promotes Diversified Investor Base	4
<b>SOUND PRACTICES IN PUBLIC DEBT MANAGEMENT PROMOTING TRANSPARENCY</b>	<b>6</b>
<b>REVIEW OF INTERNATIONAL DATA STANDARDS AND DATABASES ON PUBLIC DEBT</b>	<b>9</b>
A. Summary of Provisions of Relevant International Data Standards	9
B. Public Debt Databases	13
References	15
<b>FIGURES</b>	
1. Effect on Sovereign Spreads of Joining the Data Standards Initiatives	4
2. Sovereign Investor Base Concentration Risk Versus Debt Data Dissemination Practice Score	6
<b>TABLES</b>	
1. Summary of Provisions of International Standards for Public Debt Data	11
2. Public Sector Debt Data in International Databases	14

20

3

## INTRODUCTION

### 1. **Public debt transparency can provide significant benefits to borrowers and creditors.**

Increasing debt transparency, however, requires closing significant country data gaps and addressing adverse incentives. This background paper delves deeper into the benefits of public debt transparency already briefly described in the main paper and expands on two elements that can be used to enhance debt transparency: (i) sound debt management practices and (ii) an overview of public debt-related international statistical standards and a review of publicly available debt databases and information available therein.

## EMPIRICAL EVIDENCE OF BENEFITS OF PUBLIC DEBT TRANSPARENCY

### A. **Better Data Dissemination Practices Lower Financing Costs**

#### 2. **Greater data transparency reduces information asymmetries and uncertainty about economic developments and prospects,**

which in turn should translate into lower riskiness markets attach to more transparent countries, reducing their financing costs. The question of whether transparency is rewarded by financial markets has been a focus of many studies which indeed find a favorable effect of transparency on countries' financing conditions as evidenced in lower sovereign bond spreads (see, for example, Cady, 2005; Cady and Pellechio, 2006; Glennerster and Shin, 2008; Moretti, 2011; and Choi and Hashimoto, 2018; Kubota and Zeufack, 2020; Gonzalez-Garcia, 2022).

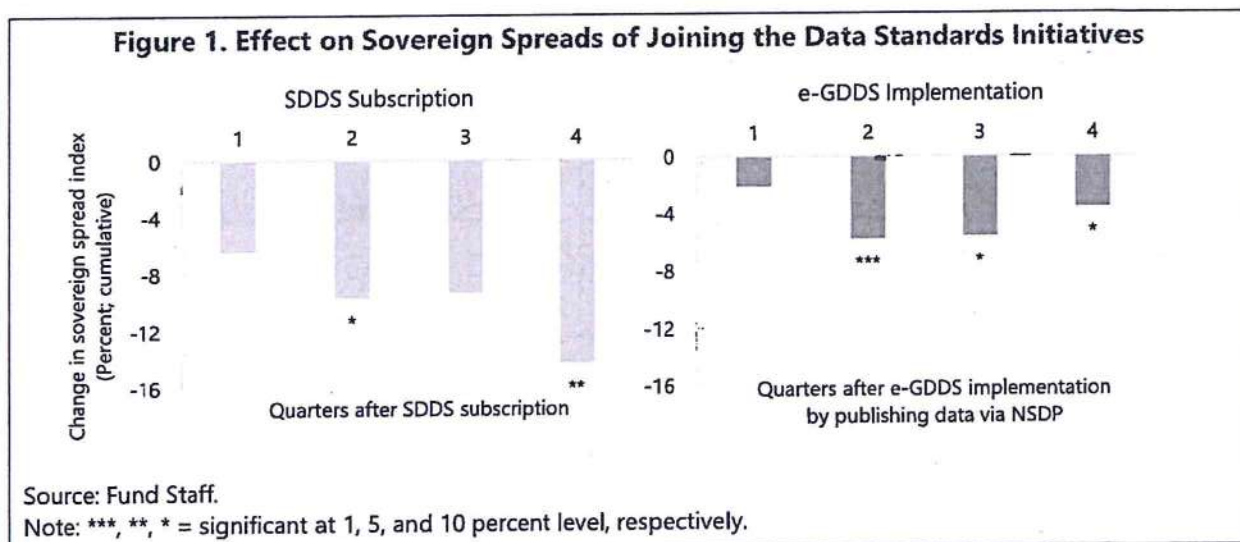
#### 3. **One way to assess the countries' level of data transparency is through their participation in the IMF Data Standards Initiatives—**

a global data transparency framework which sets standards for data dissemination. The dissemination of government debt data, along with other key macroeconomic and financial data, has been an essential part of the IMF Data Standards Initiatives since their creation in 1996. Depending on which of the three tiers of the Initiatives countries participate, the framework prescribes or encourages dissemination of government debt, with various disaggregation.<sup>1</sup> Encouraging all the countries to publish more granular public debt data with detailed creditor breakdowns has been the focus of the latest Tenth Review of the Data Standards Initiatives, approved by the IMF Executive Board in 2022.

#### 4. **Results from a recent IMF study provide further evidence of a significant improvement in sovereign financing costs as countries enhance their data dissemination practices through implementing the IMF Data Standards Initiatives.** In particular, Gonzalez-Garcia (2022) shows a

<sup>1</sup>In particular, the framework prescribes quarterly dissemination of general government gross external public debt (by maturity and instrument) for the countries subscribing to the Special Data Dissemination Standard (SDDS) and of total general government gross debt (by instrument, currency, and residency of creditors) for the countries in the highest tier, SDDS Plus. Countries in the first tier, Enhanced Data Dissemination System (e-GDDS), are encouraged to disseminate quarterly public and publicly guaranteed external debt (by maturity).

significant reduction in sovereign spreads (measured by the JP Morgan EMBIG spread index) in the quarters following countries' subscription to the Special Data Dissemination Standard (10–14 percent reduction in the spread index) or publication of data by countries participating in the Enhanced General Data Dissemination System through a dedicated data portal, a National Summary Data Page (4–6 percent reduction) (Figure 1). Furthermore, these favorable effects manifest more significantly in countries with relatively weaker governance as they would likely set to benefit the most, including through a signaling effect from increasing transparency through data dissemination.



## B. Public Debt Transparency Promotes Diversified Investor Base

10

Information on public debt management practices, which are primarily the responsibilities of debt managers, can be used to measure the benefits of public debt transparency. Debt managers influence the composition and characteristics of public debt portfolio; the extent to which they adhere to sound debt management principles is reflected in the resilience of debt portfolio to shocks, including the degree of diversified investor base. This section presents evidence of strong link between public debt transparency and diversified investor base.

**5. Sound public debt management practices help to build resilient debt portfolios, reducing vulnerability to domestic and external shocks.** While public debt managers have limited role in influencing fiscal risk indicators, such as public debt to GDP or interest payment to revenue, their main influence is in building debt portfolios that can absorb shocks. For example, a debt portfolio comprising mainly domestic currency securities of long maturity, with wide investor base will be more resilient to shocks than a debt portfolio with shorter maturity or a portfolio with large foreign currency component. 20

**6. Public debt managers that borrow from international capital markets to meet the government's financing requirement exhibit high transparency.** Tapping the international capital market requires detailed dissemination of information through publications of prospectus. Similarly, to attract foreigner to the domestic debt markets, countries have to disseminate timely, accurate and comprehensive information. In a well-functioning domestic market, issuance of

securities is a recurring activity, thus information needs to be easily accessible and current. In return, such market can allow debt managers to lengthen maturity and rely on fixed rate domestic security—thus reducing refinancing, interest, and exchange rate risk. For example, Brazil and Hungary, whose debt portfolio carries low market risk—and therefore less vulnerable to shocks—are amongst the top scorers on public debt transparency as reported by the Institute of International Finance (IIF).<sup>2</sup>

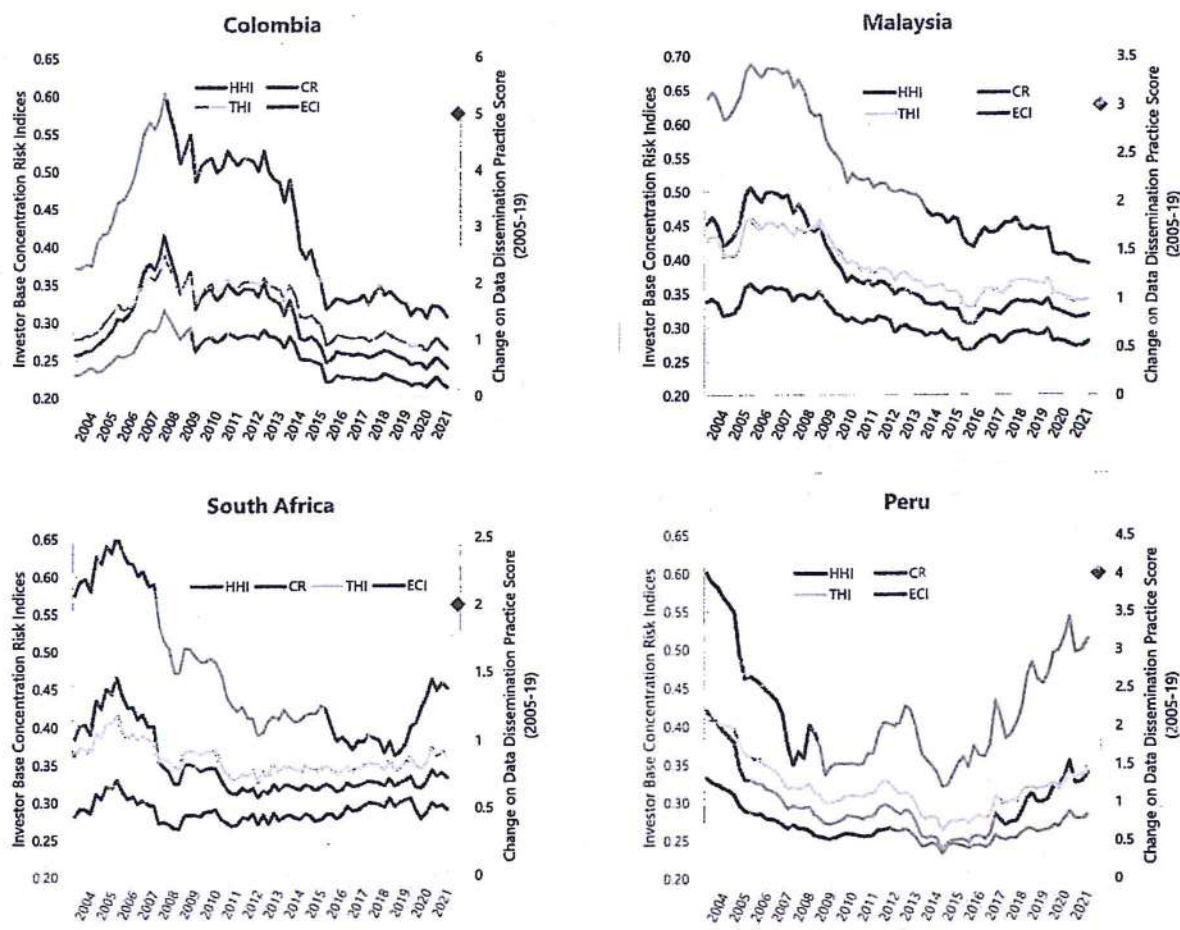
**7. Progress in the sovereigns' diversification of their investor base is mirrored by improvement in public debt transparency.** Applying concentration risk measures, Herfindahl-Hirschman Index (HHI), Concentration Risk (CR), Hall and Tideman Index (THI) and Entropy Concentration Index (ECI) to the sovereign investor base, improvement in the diversification of the investor base is closely linked to better performance in public debt transparency (Figure 2). Indeed, in some cases, a unit of improvement in public debt transparency (based on IIF ranking on debt data transparency), is associated with reduction in the concentration of the investor base by 2.5 - 7.3 percent. 10

**8. In summary, evidence supports the notion that strong public debt transparency practices result in resilient public debt portfolios.** Sovereigns that borrow regularly from international capital markets need to have in place strong public debt transparency. Regular publications of debt management strategy, annual borrowing plan, debt management report, investor presentation, debt bulletin, issuance calendar and debt statistics are highly encouraged. Organizational and legal documents, such as borrowing powers, governance framework and institutional structure should also be publicly available. 20

---

<sup>2</sup>The stock of domestic currency stands at 95 and 80 percent of total, and average time to maturity are 4 and 5 years, for Brazil and Hungary, respectively.

**Figure 2. Sovereign Investor Base Concentration Risk Versus Debt Data Dissemination Practice Score**



Sources: Institute of International Finance Assessment of Data Dissemination Practices Tables, Sovereign Debt Investor Base (Arslanalp and Tsuada, 2014), Brazil Tesouro Nacional, Hungary AKK, and Fund staff calculations.

## SOUND PRACTICES IN PUBLIC DEBT MANAGEMENT PROMOTING TRANSPARENCY

9. **Sound governance mechanism that supports prudent sovereign debt management requires transparency in public debt management operations and accountability of the institutions involved.** Transparency in the public debt management framework, which is broader than reporting on the indebtedness position, helps to enhance the credibility of a sovereign borrower and mitigate investors' uncertainty, both during normal times and crisis periods (IMF and World Bank, 2014). This Chapter considers the key channels for enhancing public debt transparency through legal framework, overall fiscal framework, institutional arrangements, organizational

structure, operating framework, and management information system used for public debt management.

**10. The power to borrow on behalf of the government as defined by the legal authority to borrow is not absolute and is often subject to controls and transparency safeguards to promote discipline and accountability (Awadzi, 2015).**<sup>3</sup> Transparency safeguards include legal obligations for reporting and audit of public debt management thereby making governments less likely to over-borrow or borrow in risky instruments. Such legislative oversight would compensate for the delegation of authority from the legislature to the executive without requiring the legislature to approve individual government borrowing decisions (Roy and Williams, 2010).<sup>4</sup>

**11. Legal obligations should include adoption of sound practices on the operating framework of public debt management and on its reporting.** Reporting should include regular submission of public debt statistics and annual publications of public debt management strategy (DMS), borrowing plan (ABP) and report on previous year's public debt management operations along with an evaluation of its outcome. Publication of periodic "in-year" public debt statistics typically include information on debt position of the government and its explicit contingent liabilities, portfolio composition and risk indicators, terms and conditions on new borrowings, auction results, collateral and fees.<sup>5</sup> For disclosure on new borrowings, a National Gazette or Council of Ministers' legal documents could be used where such officially published information is catalogued and identified for long-term record-keeping and cross-reference purposes (Maslen and Aslan, 2022). Publication of DMS, ABP and issuance calendar enhances predictability of public debt operations while the annual report to the legislature strengthens accountability of public debt managers (IMF and World Bank, 2014). A host of transparency requirements are essential in the primary and secondary market segments of domestic public debt (IMF and World Bank, 2021).<sup>6</sup> In addition to dissemination of public debt related information through publications, transparency in the broader sense could also include periodic consultation with market participants and analysts on public debt management policies and future reform plans.

**12. The transparency and accountability framework can be further strengthened by public disclosure of external audit reviews conducted impartially by the supreme audit institution,**

<sup>3</sup>The control measures include legal restrictions on the sources from which the government may borrow, purposes of borrowing, debt ceilings, and annual borrowing resolution.

<sup>4</sup>Reliance on ex-ante transactional approval by the legislature may, however, be necessary in countries with weak political and economic institutions to preserve debt sustainability, especially for non-marketable external loans.

<sup>5</sup>The coverage of public debt statistics should include borrowing, liability management operations such as buy backs / debt exchanges, restructuring, loan guarantees extended, on-lending operations and derivatives position. Information on cost and risk aspects of explicit contingent liabilities (including deposit insurance schemes and credit guarantees) should be disclosed in the public accounts (IMF and World Bank, 2014).

<sup>6</sup>For issuance of government securities, the adoption of market-based pricing in auctions is predicated on a strong commitment to transparency and non-interventionist policies by the public debt manager. Transparency that improves predictability in the timing and amount of issuance enables better planning for investors to manage their balance sheets. On the other hand, dissemination of pre and post trade information in the secondary market through market quotes and transactions improve secondary market liquidity (IMF and World Bank, 2021).



typically the Auditor General (IMF and World Bank, 2014; World Bank, 2021). Audited annual financial statements on public debt are the principal means by which governments report to their legislature on its debt position. Specifically, a financial compliance audit examines the reliability and integrity of the government's reported indebtedness including an assessment of the risk of material misstatement, whether due to error or fraud. Compliance audits also helps to determine the adherence of public debt management operations to the domestic laws and regulations.

**13. Institutional arrangements that are based on transparent allocation of mandates and responsibilities for public debt management among the key stakeholders** (for e.g., between the public debt management office, ministry of finance and the central bank) helps to resolve conflicts between public debt management and fiscal and monetary policies, especially when the central bank acts as an agent of the government for issuing securities (IMF and World Bank, 2014). Transparency about roles and instruments is important for market participants to reduce the risk of misinterpreting policy signals and implementation. Clarity in roles and responsibilities also enable public debt managers to have the operational independence to execute their public debt management strategies while ensuring adherence to internal controls and due diligence.

**14. As part of organizational structure, consolidation of public debt management functions in the same authority as a public debt management office (DMO) could enhance efficiency in debt management operations resulting in better transparency through comprehensive and timely reporting on government debt.** Reflecting the functions of a modern DMO, the establishment of a sovereign investor relations office could serve as a key vehicle for promoting public debt transparency through comprehensive dissemination in investor friendly formats and communications with a wide network of stakeholders within and outside the country (Knight and Northfield, 2020).<sup>7</sup> When public debt management responsibilities are dispersed across several official entities, transparent reporting on overall public debt portfolio and operations must be closely coordinated through regular exchange of information within the institutional framework.<sup>8</sup> This is facilitated through the formation of a separate middle office which has the responsibility of monitoring the overall public debt portfolio.

**15. The incentives for governments to use some entities for off-budget fiscal activity could be reduced by requesting fiscal reports from all the public sector, including all corporations that governments can control by directing to spend or borrow,** (IMF, 2014; IMF, 2019). Targeting a broader category of public sector debt to be reported is usually done to monitor wider coverage of contingent liabilities, including indirect contingent liabilities stemming from unguaranteed debt liabilities of the subnational governments or public sector enterprises. For such arrangements, the ministry of finance, the public debt manager, the central bank, or a statistical agency should be given legal powers to obtain relevant public debt and guarantee information from

<sup>7</sup>Stakeholders comprise domestic and non-resident investors, primary dealers, credit rating agencies, international financial institutions, public and the press.

<sup>8</sup>Monitoring of stocks and flows on loans would require close coordination with individual creditors and disbursing units, especially if the entities spending the resources are located outside the Ministry of Finance. It is good practice for disbursement requests to be processed through the DMO (World Bank, 2022).

sub-national governments and other parts of the public sector for publishing a consolidated public sector debt position on a regular basis.<sup>9</sup>

**16. Public debt transparency through comprehensive, timely and accurate reporting could be supported by the development of a consolidated and updated government debt database in a debt management information system (DMIS).** The DMIS should have the core functionalities to capture the creation of a debt instrument that include commitments and any enhancements or cancellations; and cover all relevant cash flows across the “loan cycle” that include disbursements, prepayment or buybacks, debt service payments, fees, exchanges, and arrears. Development of a public debt database that ensures a high degree of integrity based on strong internal controls require an organizational separation between the front office that records the initial debt creation and the back office that confirms the debt liability.<sup>10</sup> Straight-through-processing capabilities of the DMIS that allows for automatic settlement, payment and registry of debt related transactions further mitigates scope for operational risks. The DMIS should be fully integrated with the government’s accounting system to ensure consistency between public debt statistics and fiscal accounts.

## REVIEW OF INTERNATIONAL DATA STANDARDS AND DATABASES ON PUBLIC DEBT

### A. Summary of Provisions of Relevant International Data Standards

**17. International statistical standards provide a single coherent framework for reporting public debt stocks and flows across economies (Table 1).** The *Government Finance Statistics Manual (GFSM)*, *External Debt Statistics (EDS): Guide for Compilers and Users, 2013*, and *Public Sector Debt Statistics (PSDS) Guide for Compilers and Users* are the main international standards for debt statistics. The frameworks in the manual and guides are derived from the *System of National Accounts 2008 (2008 SNA)* and *Balance of Payments and International Investment Position Manual (BPM6)*.

**18. The definitions of sectors, instruments, and residence are consistent between the different statistical manuals (Table 1).** For external public debt, the methodology is aligned with BPM6, in which external debt includes all liabilities as defined in the SNA 2008 (excluding equity liabilities and investment fund shares, and financial derivatives and employee stock options) that are owed to non-residents; the total amount of such liabilities is presented as the gross external debt position. In turn, external government (public) debt as reported in the EDS will conceptually be the same as external government or public debt reported in GFS/PSDS. Metadata should specify valuation and coverage of debt instruments as well as information on country specific data sources

<sup>9</sup>Reports on public sector debt should consolidate intra-sectoral flows and stocks by eliminating all material transactions/flows and crossholdings of assets and liabilities among institutional entities.

<sup>10</sup>Similarly, for recording payments, the staff member preparing the payment order should be different from the one clearing the payment, with both reporting to distinct hierarchical lines.

and compilation practices. The PSDS Guide and GFS Manual provide methodology for reporting domestic public debt.

Table 1. Summary of Provisions of International Standards for Public Debt Data

	Revised Public Debt Management Guidelines, 2014	Fiscal Transparency Code (2018 Handbook)	Public Sector Debt Statistics (PSDS) Guide / Government Finance Statistics Manual (GFSM) 2014	2013 External Debt Statistics (EDS) Guide
Debt Data:	<p>Monthly/quarterly reports on:                      Outstanding debt stock                      Composition of debt liabilities by currency denomination, maturity, and interest rate                      Domestic and external debt statistics</p>	<p>Fiscal reports (budget execution reports, fiscal statistics, annual financial statements) that include a balance sheet containing all debt and liabilities.</p>	<p>Summary table with gross debt at nominal and market value, by: type of instrument; original and remaining maturity; currency of denomination; type of interest rate (fixed/variable); residency of creditor (domestic/external)                      Additional information in detailed tables, such as:                      creditor classified by institutional sector                      debt service payment schedules of outstanding gross debt                      Memorandum tables could present details of:                      Net debt;                      Arrears by type of arrear and type of debt instrument;                      Reconciliation between opening and closing stock positions;                      Publicly guaranteed debt by maturity and debt type;                      Summary of explicit contingent liabilities and net obligations for future social security benefits.                      Disclosure of aggregate Information: the information supplied by entities outside CG will not be separately disclosed and will only be published in the form of statistical aggregates (except explicit permission)</p>	<p>Summary tables for external debt (liabilities to non-residents) positions, transactions, and exceptional financing operations by sectors                      The 2013 EDS Guide encourages to provide additional data on remaining maturity, market valuation (or nominal valuation), type of creditor, currency structure, future debt service of the external debt, and other attributes of external debt</p>

**Table 1. Summary of Provisions of International Standards for Public Debt Data**  
(concluded)

<p><i>Institutional coverage</i></p>	<ul style="list-style-type: none"> <li>• Central Government</li> </ul>	<ul style="list-style-type: none"> <li>• Central government (<i>basic practice</i>)</li> <li>• General government (<i>good practice</i>)</li> <li>• All Public Sector, including public corporations: by subsector and consolidated (<i>advanced practice</i>)</li> </ul>	<ul style="list-style-type: none"> <li>• All Public Sector including public corporations and by subsector</li> </ul>	<ul style="list-style-type: none"> <li>• General government</li> <li>• For the main tables, it is also recommended to present data for public sector and publicly guaranteed debt</li> </ul>
<p><i>Debt instrument coverage</i></p>	<ul style="list-style-type: none"> <li>• Main financial obligations</li> </ul>	<ul style="list-style-type: none"> <li>• All debt – securities and loans (<i>basic practice</i>)</li> <li>• Liabilities – debt instruments and other contractual liabilities, such as trade payables, lease contracts, financial liabilities related to PPPs, equity of public corporations, other liabilities arising from insurance, pension, standardized guarantee schemes (<i>good and advanced practice</i>)</li> </ul>	<ul style="list-style-type: none"> <li>• Debt instruments (SDRs, currency and deposits, debt securities, loans, insurance, pension, standardized guarantee schemes and other accounts payable/receivable)</li> </ul>	<ul style="list-style-type: none"> <li>• Debt instruments (SDRs, currency deposits, securities, loans, insurance, pension, standardized guarantee schemes and other accounts payable/receivable)</li> </ul>
<p><i>Static framework disclosure</i></p>	<ul style="list-style-type: none"> <li>• PDM legal framework</li> <li>• Organizational structure (including governance framework, DMO structure, delegation of responsibilities)</li> <li>• Design of debt instrument</li> </ul>		<ul style="list-style-type: none"> <li>• Statistics dissemination process, concepts, definitions, classifications, and methodology.</li> </ul>	
<p><i>DM Strategies and operations</i></p>	<ul style="list-style-type: none"> <li>• Medium-Term Debt Strategy Document (DM objectives, macroeconomic environment, evaluation of debt stock, key risk factors)</li> <li>• Annual report on outcomes of the DM strategy disclosed to Parliament and the public (with material operations, derivatives statistics, and rationale for their use)</li> <li>• DM operations in primary market (borrowing plans and terms and conditions of new issues)</li> </ul>			

W

## B. Public Debt Databases




### 19. There are at least fifteen publicly available databases for public debt data (Table 2).




























































































































Some databases explicitly focus on debt (like the Quarterly Public Sector Debt—QPSD) or have specific series for government debt (like GFS and IFS). Others provide partial information on debt, such as the Coordinated Portfolio Investment Survey (CPIS) (for bilateral cross-country exposures for portfolio securities but not loans and no domestic component) and Monetary and Financial Statistics (MFS) (for debt held by domestic financial sector). Two of the databases—the BIS Locational Banking Statistics and the OECD Creditor Reporting System—are based on creditor-reported data.

### 20. The key messages from this overview are the following:

- Public debt data are fragmented across databases and across institutions (the Fund, World Bank, other IFIs).
- While nearly all the databases aim to have universal country coverage, the actual availability of data falls short of this. 10
- About half of the databases cover total government debt—both external and domestic, while the remaining half focuses only on government external debt.
- In most cases, the databases aim to cover all the levels of government. The most comprehensive public debt database is QPSD, but it does not include a composition by creditor type.
- Most databases include breakdown of public debt data by instrument, following the guide on Public Sector Debt Statistics but not always (for example, GFS includes only debt securities and loans, while the full breakdown includes SDRs, currency and deposits, insurance/pensions/standardized guarantee schemes, and other accounts payable).
- While the breakdown by creditor is requested in more than half of the databases, definitions vary, and availability of data is limited. The World Bank's IDS database is the most comprehensive database of long-term, public external debt with breakdowns of aggregate external debt data by individual creditor. Data are sourced from the loan-level data collected in the World Bank's DRS. While loan-by-loan information is confidential, aggregated data, including the stock of public external debt and debt service data by creditor type and by individual creditor countries are published. In addition, information on average commitments and average loan terms by creditor type and creditor country for each individual debtor country and debtor type is published. 20
- There is no single database that provides data on total public (general government) debt for all countries with desired breakdowns, and the differences in coverage and concepts and variety of reporting frameworks can lead to inconsistencies across databases along with duplication of effort for countries reporting to these databases. 30

Table 2. Public Sector Debt Data in International Databases

: universal coverage : share of countries reporting debt data in total IMF membership : applies fully / partially

Database	Debtor Country Coverage	Share/Number of Countries Reporting Debt Data (approx.)	Sectoral Coverage			Coverage by Creditor Residency		Composition by Instrument	Composition by Creditor Type
			General Government	Public Sector	Public and Publicly Guaranteed	Domestic Debt	External Debt		
GFS (IMF) 1/		 85							
IFS (IMF)		 40							
PSBS (IMF) 2/	Mixed	 55							
GDD (IMF) 2/		 90							
Sovereign Debt Database (IMF) 3/		 115							
QPSD (WB-IMF)		 100							
IDS (WB)	Low- and middle-income	 123							 4/
QEDS (WB-IMF)		 125							
JEDH (BIS-IMF-OECD-WB)		 125							
CPIS (IMF)		 85							
CDIS (IMF)		 110							
MFS-SRFs (IMF)		 65							
LBS (BIS) 5/		 44							
CRS (OECD) 6/	ODA-eligible (141)	 31							

Source: Fund staff.

Notes: **GFS**=Governance Finance Statistics; **IFS**=International Finance Statistics; **PSBS**=Public Sector Balance Sheet; **GDD**=Global Debt Database; Sovereign Debt Database by Arslanp-Tsuda (2014), separate databases for advanced economies and emerging market economies; **QPSD**=Quarterly Public Sector Debt; **IDS**=International Debt Statistics; **QEDS**=Quarterly External Debt Statistics; **JEDH**=Joint External Debt Hub; **CPIS**=Coordinated Portfolio Investment Survey; **CDIS**=Coordinated Direct Investment Survey; **MFS-SRFs**=Monetary and Financial Statistics-Standardized Report Forms; **LBS**=Locational Banking Statistics; **CRS**=Creditor Reporting System; ODA=Official Development Assistance. 1/ Sectoral coverage varies by country, with about 60 countries reporting general government debt; 2/ constructed; sectoral coverage varies by country; 3/ constructed; 4/ includes composition by creditor country and multilateral institution; 5/ covers data reported by BIS-reporting banks from 44 countries (by nationality of reporting bank); 6/ covers data for 141 ODA-eligible countries reported by Development Assistance Committee (DAC) members, including DAC member countries (31), non-members, and multilateral organization.

## References

Awadzi, Elsie A., 2015, "Designing Legal Frameworks for Public Debt Management," IMF Working Paper 15/147, available at: [www.imf.org/en/Publications/WP/Issues/2016/12/31/Designing-Legal-Frameworks-for-Public-Debt-Management-43045](http://www.imf.org/en/Publications/WP/Issues/2016/12/31/Designing-Legal-Frameworks-for-Public-Debt-Management-43045), (Washington: International Monetary Fund).

Cady, Jady, 2005, "Does SDDS Subscription Reduce Borrowing Costs for Emerging Market Economies?" IMF Staff Papers, 52(3), pp. 503-517, available at: [www.imf.org/en/Publications/WP/Issues/2016/12/30/Does-Sdds-Subscription-Reduce-Borrowing-Costs-for-Emerging-Market-Economies-17322](http://www.imf.org/en/Publications/WP/Issues/2016/12/30/Does-Sdds-Subscription-Reduce-Borrowing-Costs-for-Emerging-Market-Economies-17322), (Washington: International Monetary Fund).

Cady, John, and Pellechio, Anthony J., 2006, "Sovereign Borrowing Cost and the IMF Data Standards Initiatives," IMF Working Paper 06/78, available at: [www.imf.org/en/Publications/WP/Issues/2016/12/31/Sovereign-Borrowing-Cost-and-the-IMFs-Data-Standards-Initiatives-18900](http://www.imf.org/en/Publications/WP/Issues/2016/12/31/Sovereign-Borrowing-Cost-and-the-IMFs-Data-Standards-Initiatives-18900), (Washington: International Monetary Fund). 10

Choi, Sangyup, and Hashimoto, Yuko, 2018, "Does Transparency Pay? Evidence from IMF Data Transparency Policy Reforms and Emerging Market Sovereign Bond Spreads," *Journal of International Money and Finance*, 88, available at [doi.org/10.1016/j.jimonfin.2018.08.002](https://doi.org/10.1016/j.jimonfin.2018.08.002), pp. 171–190.

Glennerster, Rachel, and Shin, Yongseok, 2008, "Does Transparency Pay?" IMF Staff Papers, 55(1), pp. 183–209, available at: <https://www.imf.org/external/pubs/ft/staffp/2008/01/glennerster.htm>, (Washington: International Monetary Fund).

Gonzalez-Garcia, Jesus, 2022, "Improving Sovereign Financing Conditions Through Data Transparency," IMF Working Paper No. 2022/230, available at [www.imf.org/en/Publications/WP/Issues/2022/11/18/Improving-Sovereign-Financing-Conditions-Through-Data-Transparency-525742](http://www.imf.org/en/Publications/WP/Issues/2022/11/18/Improving-Sovereign-Financing-Conditions-Through-Data-Transparency-525742), (Washington: International Monetary Fund). 30

International Monetary Fund, 2014, "Fiscal Transparency Code," (Washington).

International Monetary Fund, 2019, "The Fiscal Transparency Code," available at: [www.imf.org/external/np/fad/trans/Code2019.pdf](http://www.imf.org/external/np/fad/trans/Code2019.pdf), (Washington).

International Monetary Fund and World Bank, 2014, "Revised Guidelines for Public Debt Management," available at [www.imf.org/-/media/Websites/IMF/imported-full-text-pdf/external/np/pp/eng/2014/040114.ashx](http://www.imf.org/-/media/Websites/IMF/imported-full-text-pdf/external/np/pp/eng/2014/040114.ashx), (Washington). 30

International Monetary Fund and World Bank, 2021, "Guidance Note for the Development of Local Currency Bond Market," available at [www.imf.org/-/media/Files/Publications/analytical-notes/2021/English/ANEA2021001.ashx](http://www.imf.org/-/media/Files/Publications/analytical-notes/2021/English/ANEA2021001.ashx) (Washington).



International Monetary Fund and World Bank, 2022, "Macroeconomic Developments and Prospects in Low-income Countries," IMF Policy Paper 2022/054, available at [www.imf.org/-/media/Files/Publications/PP/2022/English/PPEA2022054.ashx](http://www.imf.org/-/media/Files/Publications/PP/2022/English/PPEA2022054.ashx), (Washington).

Kubota, Megumi, and Zeufack, Albert, 2020, "Assessing the Returns on Investment in Data Openness and Transparency," Policy Research Working Paper No. 9139, available at: <https://doi.org/10.1596/1813-9450-9139>, (Washington: World Bank)

Knight, James, and Northfield, Bill, 2020, "Sovereign Investor Relations: From Principles to Practice," IMF Working Paper 20/204, available at: [www.imf.org/en/Publications/WP/Issues/2020/09/25/Sovereign-Investor-Relations-From-Principles-to-Practice-49720](http://www.imf.org/en/Publications/WP/Issues/2020/09/25/Sovereign-Investor-Relations-From-Principles-to-Practice-49720), (Washington: International Monetary Fund). 10

Maslen, Susan, and Aslan, Cigdem, 2022 "Enhancing Debt Transparency by Strengthening Public Debt Transaction Disclosure Practices," EFI Insight, available at [hdl.handle.net/10986/37420](http://hdl.handle.net/10986/37420), (Washington: World Bank).

Moretti, Laura, 2011, "Transparency and Emerging Market Bond Spreads," Center for Financial Studies Working Paper 2011/14, (Frankfurt: Goethe University), available at: <https://publikationen.uni-frankfurt.de/frontdoor/index/index/year/2011/docId/22157>

Roy, Arindam, and Williams, Mike, 2010, "Government Debt Management: A Guidance Note on the Legal Framework," (London: Commonwealth Secretariat), available at: [www.mj-w.net/pdfs/Legal%20Guidance%20Note%20Oct10.pdf](http://www.mj-w.net/pdfs/Legal%20Guidance%20Note%20Oct10.pdf).

Weidemaier, Mark, and Gulati, Mitu, 2021, "Unlawfully-Issued Sovereign Debt", *Virginia Journal of International Law*, 61(3), available at [scholarship.law.unc.edu/cgi/viewcontent.cgi?article=1563&context=faculty\\_publications](http://scholarship.law.unc.edu/cgi/viewcontent.cgi?article=1563&context=faculty_publications), pp. 553-92. 20

World Bank, 2021, *Debt Management Performance Assessment Methodology*, available at [documents1.worldbank.org/curated/en/526391628746190611/pdf/Debt-Management-Performance-Assessment-Methodology-2021-Edition.pdf](http://documents1.worldbank.org/curated/en/526391628746190611/pdf/Debt-Management-Performance-Assessment-Methodology-2021-Edition.pdf), (Washington).

World Bank, 2022, *International Debt Report 2022: Updated International Debt Statistics*, available at [openknowledge.worldbank.org/entities/publication/47f55cbf-ee14-531a-8acb-8e2406f4354d](http://openknowledge.worldbank.org/entities/publication/47f55cbf-ee14-531a-8acb-8e2406f4354d), (Washington).