REPUBLIC OF KENYA

THE NATIONAL TREASURY & ECONOMIC PLANNING

2023 PRIVATISATION PROGRAMME

A. BACKGROUND

1.0 RATIONALE FOR ESTABLISHING STATE CORPORATIONS:

1.1 The establishment of State Corporations (SCs) dates back to independence in 1963 when the Government of Kenya adopted a mixed economy policy under the Sessional Paper No. 10 of 1965. The thrust of the policy was to allow the Government to participate in economic undertakings that are normally reserved for the private sector. The policy sought to decolonize the economy, promote development and regional balance, increase citizen participation in the economy and finally ensure greater public control of the economy.

1.2 Further, the Government established SCs for various sectors for reasons, amongst which, included: -

i. Achieve socio-economic policy objectives and spur socio-economic development;
ii. Intervene in areas of strategic national interest, such as infrastructure development that require large capital investments where private sector lack capacity or its participation is not guaranteed due to prolonged gestation period and subdued returns on investments;
iii. Wealth creation through strategic investments such as in the extractive industry, manufacturing geared towards value addition and financial services;
iv. Provision of social services/public goods such as in education, health and information & communication;
v. Implementation of large capital investments where private sector lacked capacity or its participation is not guaranteed due to prolonged gestation period and subdued returns on investments;
vi. Investments geared towards price stabilization by enhancing competitiveness to avoid monopolistic tendencies; and
vii. Environmental conservation and protection.

1.3 The Government has continued to establish SCs for various reasons that include:

i. The need for dedicated agencies to address emerging issues of national interest such as the Kenya BioVax Institute;
ii. The need to unbundle commercial and regulatory functions; and
iii. The need to exploit untapped opportunities such as those in the Blue Economy.

1.4 Upon achievement of the envisaged purposes for establishing SCs, and with the private sector becoming more established, the Government embarked on privatization and divestiture of those enterprises while maintaining its role of regulating the various sectors/industry.

2.0 CONCEPT OF PRIVATISATION

2.1 Privatization refers to a transaction that results in a transfer, other than to a public entity, of the assets and or liabilities of a public entity including the shares.

2.2 The privatization initiatives in Kenya have been guided by the 1998 Policy Paper on Public Enterprises Reform and Privatization and the Privatisation Act 2005.

2.3 The Policy and the Act provided a framework for the privatization and restructuring of Government-Owned Enterprises. This was intended among others to address the challenges faced by those entities such as:

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 goods and provision of services hence lack of competitiveness leading to inefficiencies; among others

2.4 Further, privatization and restructuring is geared towards Government's efforts for fiscal consolidation and spurring economic development through:

i. Raising of additional revenue;
ii. Reducing the demand for Government resources among many demanding and competing needs;
iii. Improving regulatory framework in the economy by unbundling regulatory and commercial functions among some entities;
iv. Improving efficiency in the economy by encouraging more private sector participation hence make the economy more responsive to market force and competitions; among others.

B. 2023 PRIVATISATION PROGRAMME

3.0 IDENTIFICATION OF ENTITIES FOR THE PRIVATISATION PROGRAMME:

3.1 In accordance with the Privatisation Act 2023 Section 21 (1), the Cabinet Secretary to the National Treasury shall identify and determine entities to be included in the Privatisation Programme.

3.2 Further, Section 21 (2) stipulates that the Cabinet Secretary shall take into consideration:

i. The relevant government policies in respect of privatisation;
ii. The strategic priorities and policy goals to be achieved by the privatisation;
iii. The strategic nature of the public entity to be privatised;
iv. The need to avoid a privatisation that may result in an unregulated monopoly;
v. The need to avoid a privatisation that may accord the new owners' special protection or access to credit on concessionary terms as a result of the National Government's sovereign status;
vi. The extent of regulatory adjustments required;
vii. The need to reduce budget drain on government resources;
viii. The expected benefits to be gained from a proposed privatisation; and,
ix. any other relevant consideration.

3.3 Based on the criteria above, the following entities are proposed for the Privatisation Programme:

1. Kenya Literature Bureau (KLB).

i. Brief Description of KLB.

- ✓ KLB is a State Corporation, wholly owned by the Government and established by the Kenya Literature Bureau Act of Parliament Cap 209 of 1980. The principal activity of KLB is to publish, print and disseminate quality literary, educational, cultural and scientific literature and materials.
- ✓ KLB has been making profits over the years, with a turnover of Kshs.2,676 million, and a net profit of Kshs.85 million and dividends of Kshs.8 million in the FY 2021/2022.

ii. Justification and Benefits for Privatising KLB:

- ✓ KLB operates in a mature sector served by various private companies.
- ✓ Privatisation of KLB will generate additional revenue to the Government.

2. National Oil Corporation of Kenya (NOCK)

i. Brief Description of NOCK

- ✓ NOCK is a Government-owned enterprise incorporated as a limited liability company with a dual mandate of oil & gas upstream (exploration of potential oil fields) and downstream (importation, distribution & retailing of refined white oil products) operations.

- ✓ NOCK was established to perform the strategic role of price stabilization and provide adequate stock of refined white oil products (oil reserves), a role NOCK has not performed due to capacity constraints.
- ✓ The downstream sector of oil and gas distribution and retailing is mature and competitive, actively served by various players, both multinational and locally-owned oil marketing companies.
- ✓ NOCK's financial performance is poor, the Company has been making huge losses and reporting negative working capital over the years & its assets are highly geared with low liquidity.

ii. Justification and Benefits of Privatising NOCK

- ✓ NOCK will have an opportunity to be restructured to separate upstream operations from downstream operations to two entities.
- ✓ NOCK to retain upstream operations with expanded mandate to hold on behalf of Government all oil fields/blocks in the Country.
- ✓ Government to deliberately build capacity with relevant skills to enable NOCK perform its mandate in identifying appropriate International Oil Companies (IOCS) to undertake upstream operations (Exploration and Development).
- ✓ Nock will reduce reliance on Exchequer funding.
- ✓ NOCK will attract private sector capital investments and expertise.

3. Kenya Seed Company Limited (KSC)

i. Brief Description of KSC

- ✓ Kenya Seed is a state corporation by virtue of majority shareholding by Agricultural Development Corporation (ADC) at 52.88% shareholding. ADC is a state corporation.
- ✓ KSC was incorporated as a limited liability company in Kenya in 1956, with the mandate of producing and marketing high-quality certified seeds.
- ✓ KSC serves the East Africa region through its subsidiaries namely: Simlaw Seeds Kenya, Kibo Seed Tanzania, Simlaw Seeds Uganda and Kenya Seed Rwanda.
- ✓ KSC financial and operational performance has been good over the years.

ii. Justification and Benefit of Privatising KSC

- ✓ The industry is mature and competitive, with other private sector players in the market.
- ✓ Privatisation of KSC will generate additional revenue for Government.

4. Kenyatta International Convention Centre (KICC)

i. Brief Description of KICC

- ✓ KICC is a Government-owned enterprise established under the Tourism Act 2011, to promote the business of Meetings, Incentive Travel, Conferences and Exhibitions.
- ✓ Much as its financial and operational performance has been good over the years, KICC receives GoK exchequer support for recurrent operations.

ii. Justification and Benefits of Privatising KICC

- ✓ KICC operates in a mature and competitive sector of the market, with other private sector players offering similar services both locally and regionally.
- ✓ Privatisation of KICC will generate additional revenue for the government and reduce the demand for exchequer support.

5. Mwea Rice Mills Ltd (MRM)

i. Brief Description of Mwea Rice Mills (MRM) Ltd.

- ✓ MRM is a subsidiary of the National Irrigation Authority (NIA) established as a limited liability company.
- ✓ MRM is jointly owned by the NIA (55%) and Mwea rice farmers through Mwea Rice Growers Multipurpose Co-operative Society Limited (45%).
- ✓ MRM was incorporated in 1967 to operate as the main rice mill at Mwea Irrigation Scheme with its major function being storage, milling and marketing of rice from the Irrigation Scheme.

ii. Justification and Benefits of Privatising MRM

- ✓ MRM operates in a mature and competitive industry.
- ✓ Privatisation of MRM will broaden the base of ownership in the Kenyan economy by encouraging private ownership of entities particularly among the Farmer Co-operatives.
- ✓ NIA will have more resources devoted to its core mandate

6. Western Kenya Rice Mills Ltd (WKRM)

i. Brief Description of WKRM Ltd.

- ✓ WKRM was incorporated in 1993 and is jointly owned by the National Irrigation Authority (NIA) at 60% shareholding and Western Kenya schemes Rice Farmers at 40% shareholding.
- ✓ Its core business is the processing and marketing of milled white rice mainly from Western Kenya Schemes.
- ✓ WKRM financial and operation performance has been relatively poor, making losses over the years.

iii. **Justification and Benefits of Privatising WKRM.**

- ✓ WKEM operates in a mature and competitive industry.
- ✓ Privatisation of WKRM will broaden the base of ownership in the Kenya economy by encouraging private ownership of entities particularly among the Farmer Co-operatives.
- ✓ WKEM will have more resources devoted to its core mandate.

7. Kenya Pipeline Company Limited (KPC).

i. **Brief Description of KPC**

- ✓ KPC, a limited liability company wholly owned by GoK
- ✓ It was established under the Companies Act in 1973 with the mandate of transporting, storing and distributing petroleum products.
- ✓ KPC is a monopoly in gas and refined white oil product pipeline transportation and therefore there is need for a strong regulator.
- ✓ Pipeline is a safe and environment friendly mode of transporting gas and refined white oil product.
- ✓ KPC is a stable good performing Company and its financial and operational performance has been good making profits over the years.
- ✓ Development of pipeline infrastructure require heavy capital investments.

ii. **Justification and Benefits of Privatising KPC**

- ✓ Privatisation of KPC will generate additional revenue for the government.
- ✓ Will encourage more private sector participation hence improve efficiency and competition.
- ✓ Will attract private sector capital investments and expertise, and offer a good opportunity for expansion of the oil and gas pipeline infrastructure to unserved regions.

8. New Kenya Cooperative Creameries Limited (NKCC)

i. **Brief Description of NKCC.**

- ✓ NKCC is wholly owned by GoK established under the Companies Act in 2004.
- ✓ New KCC was established to play strategic roles as an off-taker of raw milk from the dairy farmers for value addition.
- ✓ Established to ensure price stabilization at both the farm gate and retail point during milk glut and ensure strategic milk reserves and strategic food reservoir.
- ✓ New KCC operates in a competitive environment as private sector actively participate in the dairy industry in both milk processing and importation of milk products.
- ✓ New KCC’s financial and operational performance has not been good.
- ✓ New KCC is asset-rich and has property at strategic and prime areas across the Country whose full potential has not been realized.
- ✓ New KCC has great potential opportunity to increase its processing capacity and product range to effectively play its strategic roles but is limited due to its debilitated and obsolete plants and technology.

ii. **Justification and Benefit of Privatisating NKCC.**

- ✓ Privatisation of NKCC will attract capital investments and expertise from the private sector to modernize the company's milk processing plants.
- ✓ Broaden the base of ownership in the Kenyan economy by encouraging private ownership of entities

9. Numerical Machining Complex Limited (NMC)

i. Brief Description of NMC.

- ✓ NMC is a state corporation by virtue of shareholding by Kenya Railways Corporations (KRC) at 51% and Kenya Shipyards Limited (KSL) at 49%.
- ✓ KRC and KSL are state corporations wholly owned by GoK.
- ✓ NMC was established under the Companies Act in 1994 with the mandate of commercial production of steel parts, engineering design and production of machinery and components.
- ✓ NMC's operational and financial performance has been poor due to lack of resources for capital investments and working capital.

ii. Justification and Benefits of Privatising NMC.

- ✓ Privatisation of NMC will reduce the demand for Government resources
- ✓ Will attract capital investments and expertise from the private sector to capitalize and modernize the Company as well as provide working capital.

10. Vehicle Manufacturers Limited (KVM)

i. Brief Description of KVM

- ✓ KVM was incorporated as Leyland Kenya Limited in 1974 but changed its name in 1989 to Kenya Vehicle Manufacturers.
- ✓ KVM was originally designed to produce light and heavy commercial vehicles body buildings but later diversified to Buses and Trucks.
- ✓ KVM is currently a loss-making company in an industry that is mature and sufficiently competitive.

ii. Justification and Benefits Privatising KVM.

- ✓ Privatisation of KVM is envisaged to attract private sector capital for optimization of the Company operations in body vehicle assembly and body building.
- ✓ Put into use an idle facility into production to create value and employment.

11. **Rivatex East Africa Limited (REAL)**

i. Brief Description of REAL.

- ✓ REAL is a Limited Liability Company incorporated on 16th August 2007, wholly owned by GoK through Moi University.
- ✓ The Principal mandate of REAL is textile manufacturing, training, research and extension.

- ✓ The textile and apparel sector in Kenya is mature and is served by various private companies.
- ✓ REAL relies on National Exchequer funding for rehabilitation and modernization of the Plant and working capital.
- ✓ REAL’s financial and operational performance is poor recording losses over the years.

ii. Justification and Benefit of Privatising REAL.

- ✓ Privatisation of REAL will reduce the demand for Government resources
- ✓ Will attract capital investments and expertise from the private sector to capitalize and modernize the Plant as well as provide working capital.

CONCLUSION

The eleven (11) Government Owned Enterprises and Government Linked Corporations listed under paragraph 3.3 are recommended to be included in the 2023 Privatisation Programme.

ANNEX I: 2023 PRIVATISATION PROGRAMME

NO.	ENTITY	ESTABLISHING INSTRUMENT	GOK SHARE-HOLDING (%)	SELECTION CRITERION
1.	Kenya Literature Bureau	Kenya Literature Bureau Act, Cap 209	100%	▪ Wholly-owned by GoK ▪ No reliance on exchequer for recurrent or capital grants ▪ Profitable and pays out dividends ▪ Mature industry ▪ Requires to be incorporated into a Limited Company
2.	Kenyatta International Convention Centre	Tourism Act, 2011	100%	▪ Wholly-owned by GoK ▪ No reliance on exchequer for recurrent or capital grants ▪ Profitable ▪ Requires to be incorporated into a Limited Company ▪ Mature industry
3.	National Oil Corporation of Kenya (NOCK)	Companies Act (Cap 486)	100%	▪ Wholly-owned by GoK ▪ Relies on exchequer grants for Capital Projects ▪ Poor financial performance with huge losses, negative working capital and low liquidity ▪ Requires restructuring – to separate upstream and downstream businesses.
4.	Kenya Seed Company Limited	Companies Act, Cap 486	53% (ADC)	▪ Government-Linked Entity ▪ Profitable ▪ Mature industry
5.	Mwea Rice Mills	Companies Act, Cap 489	NIA -55%; Mwea Rice Growers Multipurpose Co-operative Society Ltd 45%	▪ Government-Linked Entity ▪ Mature industry
6.	Western Kenya Rice Mills Ltd	Companies Act, Cap 490	NIA 74%, Ahero scheme 11.7%, West Kano Scheme 5.7% and Bunyala Scheme 6.1%	▪ Government-Linked Entity ▪ Mature industry
7.	Kenya Pipeline Company	Companies Act, Cap 486	100%	▪ Wholly-owned by GoK ▪ No reliance on exchequer for recurrent or capital grants

ANNEX I: 2023 PRIVATISATION PROGRAMME				
NO.	**ENTITY**	**ESTABLISHING INSTRUMENT**	**GOK SHARE-HOLDING (%)**	**SELECTION CRITERION**
				▪ Profitable. ▪ Remittance of yearly dividends to exchequer. ▪ Has monopolistic characteristics evidenced by lack of competitors in the market. ▪ Several ongoing legal cases.
8.	New Kenya Co-operative Creameries	Companies Act, Cap 486	100%	▪ No further reliance on National Exchequer for recurrent or capital grants ▪ Profitable ▪ Cyclical performance but high potential ▪ The Diary industry is mature
	Numerical Machining Complex	Companies Act, Cap 486	KRC 51% Kenya Shipyards 49%	▪ Loss-making ▪ Relies on exchequer for recurrent and development budget support
10.	Kenya Vehicle Manufacturers Limited	Companies Act, Cap 486	35%	▪ Loss-making over the years. ▪ Mature industry
11.	Rivatex East Africa Limited	Companies Act (Cap 486)	Moi University (99%) and Moi University Holdings (1%).	▪ Loss making ▪ Relies on GOK for recurrent and development budget support ▪ Operates in a mature sector. ▪ Attract private Sector capital and expertise ▪ Reduce the need for GOK funding

ANNEX II STAKEHOLDERS COMMENTS RECOMMODIFICATION JUSTIFICATION FORM:

Serial No.	Institution / Name of Person	Entity Proposed for Privatisation	Comment(s)	Proposed Recommendation and Justification

ANNEX III: VENUES, DATES AND TIME FOR PUBLIC PARTICIPATION

REGION	VENUE	DATE	TIME
Baringo, Uasin Gishu, Elgeyo Marakwet, West Pokot, Turkana, Trans-Nzoia, Nandi Samburu	**ELDORET:** Eldoret National Polytechnic	Monday 11th December 2023	9.00 A.M. to 1:00 P.M.
Nakuru, Kericho, Bomet, Nyandarua, Narok	**NAKURU:** Kenya Industrial Training Institute	Monday 11th December 2023	9.00 A.M. to 1:00 P.M.
Mombasa, Kwale, Kilifi, Lamu, Tana River, Taita-Taveta	**MOMBASA:** Kenya Coast National Polytechnic	Monday 11th December 2023	9.00 A.M. to 1:00 P.M.
Kisumu, Kisii, Migori Homa-Bay, Nyamira, Siaya, Vihiga, Bungoma, Kakamega, Busia, Bomet, Kericho, Narok	**KISUMU:** The Kisumu National Polytechnic	Monday 11th December 2023	9.00 A.M. to 1:00 P.M.
Nyeri, Murang'a, Kirinyaga, Laikipia, Meru, Embu, Tharaka-Nithi, Isiolo, Marsabit	**NYERI:** The Nyeri National Polytechnic	Monday 11th December 2023	9.00 A.M. to 1:00 P.M.
Wajir, Garissa, Mandera	**GARISSA:** Garissa Vocational Training Centre	Monday 11th December 2023	9.00 A.M. to 1:00 P.M.
Kitui, Machakos, Makueni	**KITUI:** Kenya Medical Training College (Kitui)	Monday 11th December 2023	9.00 A.M. to 1:00 P.M.
Nairobi, Kiambu, Kajiado	**NAIROBI:** Nairobi Technical Training Institute	Monday 11th December 2023	9.00 A.M. to 1:00 P.M.
Virtual: Public Participation on 2023 Privatisation Programme Hosted by ict@treasury.go.ke https://treasury-ke.webex.com/treasury-ke/j.php?MTID=m2a2794f7b8dcfef1c771adab3a769539 Monday, 11 December 2023 2:00 PM | 5 hours | (UTC+03:00) Nairobi Meeting number: 2365 313 2078 Password: 223CXupRpJ2 (22329877 from video systems) Join by video system Dial 23653132078@treasury-ke.webex.com You can also dial 62.109.219.4 and enter your meeting number. Join by phone Use VoIP only		Monday 11th December 2023	2:00 P.M to 5:00 P.M