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SPECIAL AUDIT REPORT OF THE AUDITOR-GENERAL

ON

UTILIZATION OF COMMERCIAL LOANS IN KENYA
FOR THE PERIOD 1 JULY 2010 To 31 DECEMBER 2021



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List of Abbreviations

Abbreviation	Full Description
AG	Attorney-General
CBK	Central Bank of Kenya
CS-DRMS	Commonwealth Secretariat Debt Recording and Management System
CF	Consolidated Fund
COB	Controller of Budget
DAG	Deputy Auditor-General
DG	Director General
DCI	Directorate of Criminal Investigations
EUR	Euro
FY	Financial Year
GOK	Government of Kenya
MTDS	Medium Term Debt Management Strategy
NT	National Treasury
OAG	Office of the Auditor-General
KRW	South Korean Won
PA	Payment Advice
PFMA	Public Finance Management Act
PFMR	Public Finance Management Regulations
PPDA	Public Procurement & Disposal Act
PDMO	Public Debt Management Office
USD	United States Dollar

EXECUTIVE SUMMARY

Introduction

1. The Auditor-General received a request from Senate vide letter referenced SEN/RESOLS/15/2021 and dated 3 November 2021 to undertake a special audit on the utilization of all Commercial Loans in Kenya to ascertain adherence to Section 15 (2) (c) of the Public Finance Management Act 2012. On further consultations with the Senate, the scope of audit was clarified as 1 July, 2010 to the 31 December, 2021.

Audit Objective

2. To ascertain adherence to Section 15 (2) (c) of the Public Finance Management Act 2012 which stipulates that 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.

Summary of Findings

3. The special audit covered thirty-nine (39) commercial loans borrowed externally for the period under review from 1 July 2010 to 31 December, 2021. The audit revealed the following findings.

Identification of Borrowing from the Foreign Markets

4. The National Treasury prepared the Annual Borrowing programme (ABP) to implement the Medium-Term Debt Strategy as required by Regulations 185 and 186 of the Public Finance Management (National Government) Regulations 2015. The ABP showed how much funds should be borrowed from domestic and foreign market. However, it does not detail out on the type of foreign borrowings.

Loans Contracted without Attorney General's Legal Opinion or Late Legal Opinion

5. The special audit established that twenty-six (26) loans were contracted before the respective legal opinions of the Attorney General (AG) were received contrary to Section 5.4.2.1 of the Debt and Borrowing Policy, 2020. Of these loans, legal opinions for twenty-five (25) loans were signed later while the remaining loan was still outstanding as at the time of the audit. In absence of

the legal opinion ahead of contracting of the loans, the Country is at risk of entering into agreements whose terms may be unfavourable.

Utilization of the Commercial Loans

6. The special audit noted that the borrowing proceeds from the thirty-nine (39) commercial loans amounting to Kshs.1,362.2 billion had the approval of Parliament. However, they were used for activities which although included in the budget, were not exclusively for development expenditure. No records were maintained indicating which development project the funds were channelled to.

Utilization of Sovereign Bonds and Syndicated Loans

7. The special audit established that proceeds from thirteen (13) commercial loans which were syndicated loans and sovereign bonds in nature amounting to Kshs.1,129.7 billion were received into the Consolidated Fund Services (CFS). Similarly, The National Treasury did not maintain a schedule of expenditure showing how the proceeds were used for development expenditure. Consequently, the special audit could not establish whether these funds were utilized exclusively for development expenditure.

Loans without Drawdown Information

8. Three (3) loans whose agreements were entered into between 2013 and 2015 and are denominated in Euro all totalling €29,510,462 had no information on drawdown. The National Treasury indicated that the drawdown amounts were yet to be shared by the implementing agencies. It was, therefore, not possible to confirm the extent of utilization of the individual loans.

Discrepancies in Loan Balances

9. There were unexplained discrepancies between the loan balances as per The National Treasury records and information obtained through alternative audit procedures as at 31 December 2021.
10. This is indicative of lack of periodic loan reconciliations.

Conclusion

11. The proceeds of commercial borrowings are not being utilized exclusively for development expenditure contrary to the provisions of Section 15 (2) (c) of the Public Finance Management Act 2012.
12. Although proceeds from syndicated loans and sovereign borrowings were being deposited into the Consolidated Fund in accordance with the provisions of Section 50 (7) of the Public Finance Management Act, 2012, there is no proper accountability on the extent of application of the loans to development expenditure.
13. The due borrowing process is not consistently being adhered. For instance, some loans were being contracted before the legal opinion of the Attorney General was rendered.
14. The National Treasury does not carry out periodic reconciliations of the its records against those of the creditors.

Recommendations

15. The special audit makes the following recommendations: -
 - I. The National Treasury to adhere to Section 15 (2) (c) of the Public Finance Management Act 2012 by utilizing all the loans proceeds on development expenditure;
 - II. The borrowing process should be strictly adhered to including seeking of the legal opinion of the Attorney General before contracting the loans;
 - III. The National Treasury to carry out a reconciliation of loan balances with the various creditors, and
 - IV. The National Treasury to establish an accountability framework for borrowed funds that specifically identifies the projects or programmes the loans are applied to


CPA Nancy Gathungu, CBS

AUDITOR-GENERAL

28 September, 2022

1.0 INTRODUCTION AND BACKGROUND

Introduction

- 1.1. The Auditor-General received communication on the resolution of Senate vide letter Referenced SEN/RESOLS/15/2021 dated 3 November 2021 requesting for special audit on the utilization of all Commercial Loans in Kenya to ascertain adherence to Section 15 (2) (c) of the Public Finance Management Act 2012 and submit the report to Parliament. On further consultations, the Senate clarified the scope of the audit period as 1 July 2010 to 31 December 2021.

Background

- 1.2. Article 201 (a) and (c) of the Constitution of Kenya 2010 requires openness and accountability including public participation in financial management matters; and that burdens and benefits of the use of resources and public borrowing shall be shared equitably between present and future generations.
- 1.3. The Public Finance Management Act 2012 under Section 62 establishes the Public Debt Management Office (PDMO) directorate at The National Treasury (NT) and sets out its objectives as: - minimize the cost of public debt management and borrowing over the long-term taking account of risk, promote the development of the market institutions for Government debt securities, and ensure the sharing of the benefits and costs of public debt between the current and future generations.
- 1.4. Section 63 of the Public Finance Management Act 2012 sets out the functions of the PDMO as:
 - i. To carry out the government's debt management policy of minimizing its financing cost over the long-term taking account of risk;
 - ii. Maintaining a reliable debt data base for all loans taken by the national government; county governments and their entities including other loans guaranteed by the national government;
 - iii. Prepare and update the annual medium-term debt management strategy including debt sustainability analysis;
 - iv. Prepare and implement the national government borrowing plan
 - v. Servicing of outstanding debts.

Objective of the Audit

- 1.5. The objective of the audit was to ascertain adherence to Section 15 (2) (c) of the Public Finance Management Act 2012 which stipulates that 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.

Terms of Reference

- 1.6. The special audit was guided by the following terms of references:
- i. Review of loan agreements for the external commercial loans contracted during the coverage period;
 - ii. For loans contracted in each period whether there was Parliament approval;
 - iii. Loan drawdowns are as per the loan agreements;
 - iv. Terms of the loan are being adhered to as far as servicing the principal and interest on due dates;
 - v. Check on the utilization of the loan proceeds as per provisions of Section 15 (2) (c) of the Public Finance Management Act 2012;
 - vi. Identify projects implemented or being implemented using the loan proceeds for verifications as to existence, status and if value for money is being realized from the investment.

Scope of Work and Limitation

- 1.7. The special audit covered thirty-nine 39 commercial loans borrowed externally for the period under review from 1 July 2010 to 31 December, 2021. The audit experienced challenges in obtaining information from The National Treasury for three (3) of the loans under investigation. The audit team therefore obtained the information directly from the Directorate of Criminal Investigation. Further information on drawdown for three (3) loans was not provided for audit review.

Audit Approach and Methodology

- 1.8. The special audit adopted the following methodology in evidence gathering, analysis and reporting.

Document Examination

- 1.9. The audit team reviewed and examined documents which included:
- i. The Constitution of Kenya, 2010
 - ii. The Public Finance Management Act, 2012
 - iii. The Public Finance Management (National Government) Regulations, 2015
 - iv. Medium Term Debt Management Strategy
 - v. Annual Borrowing Plans, the Debt and Borrowing Policy
 - vi. Budgets
 - vii. loan agreements, loan and project files.

Analytical Review

- 1.10. Information from loan agreements, files, records for the period under review were analysed and results used to arrive at conclusions.

Interviews

- 1.11. We interviewed the Officers of The NT on diverse dates as indicated in table 1 below: -

Table 1 List of Officials Interviewed

	Name of Officer	Designation and Department	Date of Interview
1	Livingstone Bumbe	Deputy Director PDMO	3 Feb 2022 & 24 March 2022
2	Francis Makumi	AAG – PDMO	9 February 2022
3	Bernard Ndungu	Director General (DG)– Accounting Services	2 March 2022
4	Jane Wacuka	Deputy DG Accounting Services	2 March 2022
5	George Kariuki	Ag. Head, DR&S	23 March 2022

Structure of the Report

- 1.12. This report is presented in the following format: -
- i) Executive Summary,
 - ii) Introduction and Background,
 - iii) Detailed Findings,
 - iv) Conclusion,

v) Recommendations, and

vi) Appendices.

1.13. The report should be read in its entirety in order to comprehend fully the approach to, and findings. The report has reported on facts as understood, with the aim of informing the Senate on its deliberations and decision making, cognizant of challenges and limitations experienced.

2.0 DETAILED FINDINGS

Borrowing Process

- 2.1. Regulation 185 of the Public Finance Management Regulations, 2015 stipulates that any borrowing by the National Government shall be informed by the Medium Term Debt Management Strategy (MTDMS), which shall be reviewed annually, prepared and executed by the Public Debt Management Office (PDMO) in accordance with the delegated authority by the Cabinet Secretary. MTDMS shall be formulated annually on a three year rolling basis with the Strategy being approved by the Cabinet.
- 2.2. In preparing the MTDMS, it should take into account; the borrowing needs of the Country, the prevailing macro-economic and financial markets conditions amongst others. The Strategy shall entail minimizing on the borrowing costs with a prudent degree of risks.
- 2.3. The special audit established that MTDMS was prepared for the period under review.

Identification of Borrowing from Foreign Markets

- 2.4. Regulation 186 of the Public Finance Management Regulations, 2015 provides that, MTDMS shall be implemented through the annual borrowing programme for each fiscal year. The annual borrowing programme shall include issuance of government securities and disbursement of external loans for the fiscal year and show indicative dates of such issuance and disbursements.
- 2.5. Interviews with PDMO confirmed that The National Treasury makes a plan showing how much funds should be borrowed from domestic market and foreign market is prepared. However, it does not detail out on the type of foreign borrowing.

Commercial Loans Issued During the Period under Review

- 2.6. The special audit established that a total of thirty-nine (39) commercial loans externally sourced had been contracted during the period under review. The loans are denominated in three currencies of United States Dollar (USD), Euro and South Korean Won (SKR). The equivalent Kshs. value for the externally contracted commercial loans at the ruling exchange rate as at of date of

agreement was Kshs. 1,362,202,313,013. Table 1 below is a summary of the contracted commercial loans by denomination while appendix I provides the details.

Table 2 Loan Summary by Forex Currency

Loan Currency	Number	Forex Amount	Kshs Amount
USD	16	10,758,708,014	1,073,918,482,334
KRW	1	1,105,012,550	102,545,165
EUR	22	2,547,604,084	288,181,285,515
Grand Total	39		1,362,202,313,013

Approval for Borrowing and Utilization of the Commercial Loans

2.7. Section 49 of the Public Finance Management Act, 2012 and Regulation 187 of the Public Finance Management (National Government) Regulations, 2015 gives the Cabinet Secretary responsible for matters relating to finance power to raise loans for the Government of Kenya. Section 50 (3) of the Act 2012 however requires such borrowings by the National Government to be only for the budget as approved by Parliament and the allocations for loans approved by Parliament. Further, Regulation 188 of the Public Finance Management (National Government) Regulations, 2015 requires all funds borrowed to be expended only on the activities included in the approved estimates of expenditure of the National Government Entities.

2.8. The special audit established that the borrowing from the 39 commercial loans had the approval of Parliament and were utilized for activities included in the budget.

Loans Contracted without Attorney General's Legal Opinion or Late Legal Opinion

2.9. Section 5.4.2.1 of the debt and borrowing policy vests the responsibility of seeking legal opinion of the Attorney General (AG) before loans are contracted on PDMO. It is also vested with the responsibility of loan negotiations and liaising with implementation agencies to fulfil the conditions precedents in a timely manner. This way the costs of borrowing are minimized through the avoidance of unnecessary commitment fees.

- 2.10. The special audit established that twenty-six (26) loans were contracted before the respective legal opinions of the AG were received. Of these loans, legal opinions for twenty-five loans were signed later while the remaining loan was outstanding as at the time of the audit. In absence of the legal opinion ahead of contracting of the loans, the Country is at risk of entering into agreements whose terms may be unfavourable. **Appendices II** and **III** detail the loans contracted without and with late legal opinions of the AG respectively.

Utilization of the Commercial Loans

- 2.11. Regulation 192 of Public Finance Management (National Government) Regulations 2015 provides the reasons for which the National Government may borrow in pursuance to the requirements of Section 49 of the Public Finance Management Act, 2012. These are namely: -

- i. Financing National Government budget deficits;
- ii. Borrowing for purposes of cash management.
- iii. Honouring obligations under outstanding National Government guarantees.
- iv. Refinancing outstanding debt or repaying a loan prior to its date of repayment.
- v. Mitigation against adverse effects caused by an urgent and unforeseen event in cases where the contingency fund has been depleted.
- vi. Mitigation against significant balance of payment imbalances.
- vii. Meeting any other development policy objectives that the Cabinet Secretary shall deem necessary, consistent with the law, and as Parliament may approve.

- 2.12. Thirteen (13) of the thirty-nine (39) commercial loans contracted during the period were syndicated loans and sovereign bonds, while the remaining twenty-six (26) were project funding loans for implementation of specific projects. The following inconsistencies, were, however noted in the utilization of the borrowing proceeds.

i) Utilization of Syndicated Loans and Sovereign Bonds

- 2.13. Section 15 (2)(c) of the Public Finance Management Act 2012 stipulates that, "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.” The special audit established that although the proceeds from the thirteen syndicated loans and sovereign bonds totalling Kshs.1,129,703,842,485 had been received in the Consolidated Fund (CF), there was no evidence that the funding had been applied exclusively to finance development expenditure. The detailed listing of the Syndicated Loans and Sovereign Bonds is at **Appendix IV**.

- 2.14. It was noted that once the loan proceeds have been received in the Consolidated Fund, the monies are utilised for normal Government expenditure that are falling due at the time of receipt of the said funds. No schedule is maintained on the expending of the loan proceeds.

ii) Project Funding Loans

- 2.15. Interviews with PDMO directorate, revealed that funds flow for project financing could take the form of revenue in which case the loan proceeds have to be deposited into the Consolidated Fund and transferred to the implementing agency project account through the respective parent Ministry. The funds could also be treated as Appropriations in Aid (AIA) in which case the creditor / lender pays directly for the expenditure incurred by the project to the contractor or supplier.
- 2.16. In the AIA arrangement, it was noted that once the payment is made by the creditor to the contractor or supplier, PDMO is notified for the purposes of recording in the system. The special audit however, noted that drawdowns for three (3) loans denominated in Euros totalling € 29,510,462 were not available as tabulated below in table 3.

Table 3: Loans With No Drawdown Data

Loan No	Creditor	Agreement Date	Currency	Loan Amount
2014005	Unicredit	03/04/2014	EUR	5,100,000
2013022	BELFIUS	04/10/2013	EUR	15,045,709
2015033	BELFIUS	12/08/2015	EUR	9,364,753
Total				29,510,462

- 2.17. The National Treasury indicated that the drawdown amount were yet to be shared by the implementing agencies. Consequently, the debt records maintained by the NT may not be up to date to the extent.

iii) Principal, Interest and Other Charges Payment

- 2.18. The objective of the debt settlement section under PDMO is to ensure that debt payments are done on timely manner to avoid incurring charges for delays.
- 2.19. The special audit established that principal, interest and other charges was paid as per the provision of the loan agreements. During the period under review the costs incurred in servicing the 39 commercials are as tabulated in **Table 4** below and detailed in **Appendix V**.

Table 4: Principal, Interest and Other Fee Paid

S/No	Currency	No. of Loans	Principal	Interest	Other Charges	Commitment	Total
1	USD	16	1,257,034,896	2,610,695,208	88,236,966	1,569,650	3,957,536,721
2	EUR	22	486,736,245	261,426,244	53,735,814	10,163,333	812,061,636
3	KRW	1	0	0	0	0	0

iv) Discrepancies in Loan Balances

- 2.20. Regulation 194 (1) (h) requires the PDMO to keep timely, comprehensive and accurate records of outstanding Government debt, guarantees and lending in an appropriate database.
- 2.21. The special audit circularized the creditors for the 36 of the 39 loans to obtain an independent confirmation of the outstanding balances, principal, interest and any other charges paid as at 31 December 2021. Responses were received from 21 creditors of the 36 circularized. There were unexplained discrepancies between the loan balances as per the National Treasury records and the individual creditor confirmed balances as at 31 December 2021 as detailed out at **Appendix VI**.
- 2.22. This is indicative of lack of periodic reconciliations of the NT records against those of the creditors.

3.0 CONCLUSION

- 3.1. The proceeds of commercial borrowings are not being utilized exclusively for development expenditure contrary to the provisions of Section 15 (2) (c) of the Public Finance Management Act 2012.
- 3.2. Although proceeds from syndicated loans and sovereign borrowings were being deposited into the Consolidated Fund in accordance with the provisions of Section 50 (7) of the Public Finance Management Act, 2012, there is no proper accountability on the extent of application of the loans to development expenditure.
- 3.3. The due borrowing process is not always being adhered consistently. For instance, some loans were being contracted before the legal opinion of the Attorney General was rendered.
- 3.4. The National Treasury does not carry out periodic reconciliations of the its records against those of the creditors

4.0 RECOMMENDATIONS

- 4.1. The National Treasury to adhere to Section 15 (2) (c) of the Public Finance Management Act 2012 by utilizing all the loans proceeds on development expenditure.
- 4.2. The National Treasury to establish an accountability framework for borrowed funds that specifically identifies the projects or programmes the loans are applied to.
- 4.3. The borrowing process should be strictly adhered to including seeking of the legal opinion of the Attorney General before contracting the loans.
- 4.4. The National Treasury to carry out periodic reconciliations of the loan balances in the system with those of the creditors, with a view of tracing and fully reconciling any differences.

5.0 APPENDICES

Appendix I: Contracted Commercial Loans Between 1 July 2010 to 31 December, 2021

S/No.	CREDITOR	Agreement Date	Loan No.	Forex	Principal Amount	Forex Rate	Amount (Kshs)
1	Standard Chartered Bank (SCB)	23-Oct-12	2012026	EUR	65,152,629	110.8	7,218,911,293
2	Belfius Bank SA/NV	10-Apr-13	2013022	EUR	15,045,709	110.56	1,663,453,587
3	BNP PARIBAS FPORTIS	12-Dec-13	2013016	EUR	9,133,408	119.14	1,088,154,229
4	Unicredit Bank Austria AG	04-Mar-14	2014005	EUR	5,100,000	118.72	605,472,000
5	International Sovereign Bond_10 Years	19-Jun-14	2014011	USD	2,000,000,000	87.42	174,840,000,000
6	Intesa Sanpaolo S.p.A	15-Jul-15	2015010	EUR	306,129,861	111.82	34,231,441,057
7	Bank Leumi Le - Israel B.M	31-Aug-15	2015016	USD	71,408,014	103.86	7,416,436,334
8	Commerzbank AG, Brussels Branch	28-Sep-15	2015019	EUR	12,000,000	118.52	1,422,240,000
9	Belfius Bank SA/NV	08-Dec-15	2015033	EUR	9,364,753	111.02	1,039,674,878
10	Commerzbank AG Brussels Branch (EUR)	09-Feb-16	2016034	EUR	5,495,170	114.81	630,900,468
11	China Development Bank	20-May-16	2016038	USD	600,000,000	100.89	60,534,000,000
12	Eastern and Southern Trade and Development Bank/ PTA Bank	20-Mar-17	2017015	USD	500,000,000	103.16	51,580,000,000
13	ING BANK GERMANY	12-Apr-17	2017053	EUR	54,020,800	110.3	5,958,494,240
14	Intesa Sanpaolo S.p.A London branch	18-Apr-17	2017018	EUR	258,688,882	110.941	28,699,203,258
15	Intesa Sanpaolo S.p.A. London Branch	18-Apr-17	2017019	EUR	319,620,697	110.941	35,459,039,746
16	Belfius Bank SA/NV	23-May-17	2017035	EUR	26,377,743	115.56	3,048,211,981

S/No.	CREDITOR	Agreement Date	Loan No.	Forex	Principal Amount	Forex Rate	Amount (Kshs)
17	Societe General, Sucursal en Espana	04-Jun-17	2017024	EUR	22,740,012	115.77	2,632,611,189
18	Eastern and Southern African Trade and Development Bank	10-Jun-17	2017049	USD	750,000,000	103.244	77,433,000,000
19	Deustche Bank AG Paris	14-Jun-17	2017030	EUR	105,417,579	115.99	12,227,384,988
20	Deutsche Bank AG, Paris Branch	14-Jun-17	2017031	EUR	27,633,375	115.99	3,205,195,166
21	Societe General, Sucursal en Espana	04-Jul-17	2017025	EUR	21,611,147	117.73	2,544,280,336
22	China Development Bank (USD)	12-Nov-17	2017057	USD	67,300,000	103.02	6,933,246,000
23	Unicredit Bank Austria AG _ Export Credit Agreement no. 236.495	23-Nov-17	2017052	EUR	6,400,000	122.4	783,360,000
24	ING BANK	04-Dec-17	2017054	EUR	8,783,120	122.54	1,076,283,525
25	Erste Group Bank AG	07-Dec-17	2017055	EUR	5,000,000	121.11	605,550,000
26	Eastern & Southern African Trade & Development Bank	07-Feb-18	2018007	USD	200,000,000	101.33	20,266,000,000
27	Citigroup Global Markets Deutschland AG	28-Feb-18	2018003	USD	1,000,000,000	101.3	101,300,000,000
28	CITIGROUP GLOBAL MARKETS DEUSTCHLAND	28-Dec-18	2018004	USD	2,000,000,000	101.89	203,780,000,000
29	Eastern and Southern Trade and Development Bank (USD)	17-Jan-19	2019002	USD	250,000,000	101.8	25,450,000,000
30	Eastern and Southern Trade and Development Bank AND Standard Bank of South Africa Ltd Isle of Man Branch	27-Feb-19	2019004	EUR	1,250,000,000	113.99	142,487,500,000
31	CGMG(JP Morgan) International sovereign bond 2019	22-May-19	2019008	USD	1,200,000,000	101.114	121,336,800,000
32	Citigroup Global Markets Deveschle_ International Sovereign Bond III 2019	22-May-19	2019007	USD	900,000,000	101.14	91,026,000,000
33	Banco Bilbao Vizycaya Argentaria, S.A (BBVA)	17-Jan-20	2020003	EUR	2,083,379.90	111.88	233,088,543
34	BBVA	17-Jan-20	2020002	EUR	11,805,819	111.88	1,320,835,030

S/No.	CREDITOR	Agreement Date	Loan No.	Forex	Principal Amount	Forex Rate	Amount (Kshs)
35	Export-Import Bank of Korea	29-Jan-21	2021005	USD	59,000,000	110.15	6,498,850,000
36	Export-Import Bank of Korea	29-Jan-21	2021006	USD	100,000,000	110.15	11,015,000,000
37	Export-Import Bank of Korea	29-Jan-21	2021004	USD	61,000,000	110.15	6,719,150,000
38	CGMG	14-Jun-21	2021011	USD	1,000,000,000	107.79	107,790,000,000
39	DSSI Export Import Bank of Korea (KRW)	06-Oct-21	2021314	KRW	1,105,012,550	0.0928	102,545,165
	TOTAL						1,362,202,313,013

Appendix II: Loans without Legal Opinion

S/No.	Creditor	Agreement Date	Loan Number	Currency	Loan Amount
1	DSSI Export Import Bank of Korea	6-Oct-21	2021314	KRW	1,105,012,550

Appendix III: Loans with Late Legal Opinion

S/ No	Creditor	Loan Number	Currency	Loan Amount	Agreement Date	Legal Opinion Date
1	BNP PARIBAS FPORTIS	2013016	EUR	9,133,408	12 Dec 13	9 Mar 15
2	ING Bank Germany	2017053	EUR	54,020,800	12 Apr 17	22 Dec 17
3	BBVA	2020002	EUR	11,805,819	17 Jan 20	23 Mar 20
4	Deutsche Bank AG Pariks	2017030	EUR	105,417,579	14 Jun 17	25 Jun 19
5	Eastern and Southern Trade and Development Bank	2019002	USD	250,000,000	17 Jan 19	21 Jan 19
6	Eastern and Southern Trade and Development Bank	2019004	USD	250,000,000	27 Feb 19	28 Feb 19
7	Eastern and Southern Trade and Development Bank	2019004	USD	250,000,000	27 Feb 19	28 Feb 19
8	Standard Bank of South Africa Ltd Isle of Man Branch	2019004	USD	160,000,000	27 Feb 19	28 Feb 19
9	Standard Bank of South Africa Ltd Isle of Man Branch	2019004	EUR	300,000,000	27 Feb 19	28 Feb 19
10	China Development Bank	2017057	USD	67,300,000	11 Dec 17	15 Dec 17
11	Commerzbank AG Brussels Branch	2016034	EUR	5,495,170	9 Feb 16	9 May 16
12	Commerzbank AG Brussels Branch	2016034	EUR	10,540,000	14 Apr 16	9 May 16
13	Belfius Bank SA/NV	2017035	EUR	26,377,743	23 May 17	26 Nov 18
14	Eastern & Southern African Trade & Development Bank	2018007	USD	200,000,000	21 Jun 18	28 Jun 18
15	Banco Bilbao Vizcaya Argentaria S.A (BBVA)	2020003	EUR	2,083,380	17 Jan 20	23 Mar 20
16	Belfius Bank SA/NV	2015033	EUR	9,364,753	12 Aug 15	17 Nov 15
17	International Sovereign Bond_10 Years	2014011	USD	1,500,000,000	19 Jun 14	24 Jun 14
18	International Sovereign Bond_10 Years	2014011	USD	500,000,000	19 Jun 14	24 Jun 14
19	China Development Bank	2016038	USD	600,000,000	20 May 16	19 Oct 17
20	Eastern and Southern African Trade and Development Bank	2017049	USD	750,000,000	10 Jun 17	19 Oct 17
21	Commerzbank AG, Brussels Branch	2015019	EUR	12,000,000	28 Sep 15	10 Nov 15
22	Deutsche Bank AG, Paris Branch	2017031	EUR	27,633,375	14 Jun 17	27 Dec 17
23	Intesa Sanpaolo S.p.A London branch	2017018	EUR	258,688,882	18 Apr 17	30 Jun 16
24	Intesa Sanpaolo S.p.A London branch	2017019	EUR	319,620,697	18 Apr 17	30 Jun 17
25	Intesa Sanpaolo S.p.A	2015010	EUR	306,129,861	15 Jul 15	26 Jan 16

Appendix IV: Loans Received in the Consolidated Fund

CREDITOR_NAME	DESCRIPTION	AGREEMENT DATE	SECTOR	CURRENCY	Amount Financed (USD)	Date of Receipt	Amount (Kshs)
Trade and Development Bank	Kenya Airways (KQ) Refinancing	21-Jun-18	Air Transport	USD	200,000,000	02-Jul-18	20,156,000,000
Citigroup Global Markets Deutschland AG	International Sovereign Bond 10 Year Tranche	24-Jun-14	Budget Support	USD	2,000,000,000	08-Sep-14	250,118,014,216
China Development Bank	China Loan USD 600 Million	20-May-16	Multisector	USD	600,000,000	30-Jun-16	60,600,000,000
Trade and Development Bank	East and Southern Africa Trade and Development Bank - PTA-Loan USD500 Mn	20-Mar-17	Multisector	USD	1,000,000,000	04-Apr-17	30,555,876,000
						19-Apr-17	7,477,475,040
						19-Apr-17	12,731,916,960
Citigroup Global Markets Deutschland AG	International Sovereign Bond 2018 Due 2028	28-Feb-18	Multisector	USD	1,000,000,000	12-Mar-18	201,980,895,825
Citigroup Global Markets Deutschland AG	International Sovereign Bond 2018 Due 2048	28-Feb-18	Multisector	USD	1,000,000,000	12-Mar-18	
Citigroup Global Markets Europe AG	International Sovereign Bond 2019 Due 2027	22-May-19	Multisector	USD	900,000,000	25-May-19	212,239,475,695
Citigroup Global Markets Europe AG	International Sovereign Bond 2019 Due 2032	22-May-19	Multisector	USD	1,200,000,000	25-May-19	
Trade and Development Bank	TDB US\$ 750 Million Refinancing Facility	06-Oct-17	Other	USD	1,500,000,000	27-Oct-17	10,759,912,500
						12-Apr-18	50,435,000,000
						12-Apr-18	14,727,020,000
						12-Apr-18	25,217,500
Trade and Development Bank	USD 250 Million Eastern and Southern African Trade and Development	17-Jan-19	Other	USD	250,000,000	24-Jan-19	25,325,000,000

Trade and Development Bank	USD1.25 Billion Equivalent Syndicated Loan Term Facility	27-Feb-19	Other	USD	1,250,000,000	07-Mar-19	44,964,000,000
						07-Mar-19	54,764,066,000
						16-Apr-19	6,053,400,000
						16-Apr-19	19,169,100,000
Citigroup Global Markets Europe AG	International Sovereign Bond 2021 Due 2033 and 2034	14-Jun-21	Other	USD	1,000,000,000	28-Jun-21	107,621,472,749
TOTAL							1,129,703,842,485

Appendix V: Principal, Interest, Commitment and Other fees Paid

S/No.	Loan ID	Currency	Loan amount	Principal paid	Interest paid	Other fees paid	Commitment fees
1	2016038	USD	600,000,000	412,500,000	195,823,651	12,000,000	900,000
2	2017049	USD	750,000,000	321,166,667	201,518,327	22,635,000	-
3	2018003	USD	1,000,000,000	-	253,819,323	-	-
4	2018004	USD	2,000,000,000	-	247,541,250	29,068	-
5	2021011	USD	1,000,000,000	-	395,000	36,971,700	-
6	2019008	USD	1,200,000,000	-	240,005,250	22,350	-
7	2019002	USD	250,000,000	55,555,556	59,842,671	7,425,000	-
8	2017057	USD	67,300,000	47,000,000	9,555,954	3,542,217	115,193
9	2018007	USD	200,000,000	60,000,000	54,253,020	5,240,000	-
10	2019007	USD	900,000,000	-	157,939,867	-	-
11	2017015	USD	500,000,000	340,277,778	149,828,386	80,000	-
12	2014011	USD	2,000,000,000	-	1,032,027,868	6,000	-
13	2021004	USD	61,000,000	-	-	-	-
14	2021005	USD	59,000,000	-	-	-	-
15	2021006	USD	100,000,000	-	-	-	-
16	2015016	USD	71,408,014	20,534,896	8,144,641	285,632	554,457
Sub-Total			10,758,708,014	1,257,034,896	2,610,695,208	88,236,967	1,569,650
1	2017025	EUR	21,611,147	294,142	226,987	466,806	1,217,420
2	2017024	EUR	22,740,012	3,050,042	209,218	229,846	-
3	2017031	EUR	27,633,375	-	-	461,867	623,900
4	2015019	EUR	12,000,000	1,823,282	397,751	49,262	30,278
5	2013016	EUR	9,133,408	2,325,254	396,469	141,001	266,757
6	2017053	EUR	54,020,800	5,010,220	794,753	45,925	47,772
7	2020002	EUR	11,805,819	-	74,780	165,281	184,283
8	2017030	EUR	105,417,579	6,239,013	831,934	9,973,867	4,317,053
9	2017054	EUR	8,783,120	5,267,554	1,821,886	395,067	320,104

S/No.	Loan ID	Currency	Loan amount	Principal paid	Interest paid	Other fees paid	Commitment fees
10	2017055	EUR	5,000,000	-	45,398	112,500	32,767
11	2016034	EUR	5,495,170	1,962,561	411,157	81,302	49,316
12	2017035	EUR	26,377,743	1,575,179	1,143,602	-	-
13	2020003	EUR	2,083,380	625,014	64,220	133,464	-
14	2013022	EUR	15,045,709	5,572,485	3,219	-	-
15	2014005	EUR	5,100,000	536,842	1,307	412,443	-
16	2015033	EUR	9,364,753	2,081,056	-	-	-
17	2017052	EUR	6,400,000	-	6,269	271,783	-
18	2019004	EUR	1,250,000,000	388,655,058	246,647,294	34,454,692	-
19	2012026	EUR	65,152,629	61,718,543	8,350,000	1,654,233	26,377
20	2015010	EUR	306,129,861				
21	2017019	EUR	319,620,697	-	0	2,586,966	1,572,419
22	2017018	EUR	258,688,882	-	-	2,099,511	1,474,886
Sub-Total			2,547,604,084	486,736,245	261,426,244	53,735,814	10,163,333
1	2021314	KRW	1,105,012,550	-	-	-	-

Appendix VI: Circularization

S/No	Instrument_Id	Creditor_Name	Agreement Date	Sector	Cur	Financed_amount	National Treasury Records	Creditor Records	Variance	Remark
1	2018007	Trade and Development Bank	6/21/2018	Air Transport	USD	200,000,000	140,000,000	140,000,000	0	
2	2014011	Citigroup Global Markets Deutschland AG	6/24/2014	Budget Support	USD	2,000,000,000	2,000,000,000	2,000,000,000	0	
3	2017053	ING Bank Germany	12 04 2017	Defence	EUR	8,767,886	3,757,665			Non-Responsive
4	2017054	ING Bank Germany	12 04 2017	Defence	EUR	52,675,545	46,867,783			Non-Responsive
5	2017024	Societe Generale	4 07 2017	Energy (Electricity)	EUR	3,558,382	508,340			Non-Responsive
6	2017025	Societe Generale	4 07 2017	Energy (Electricity)	EUR	21,611,147	3,663,199			Non-Responsive
7	2013016	BNP PARIBAS FPORTIS	12 12 2013	Health & Social Welfare	EUR	9,133,408	6,808,154	6,808,154	0	
8	2017052	Unicredit Bank Austria	11/23/2017	Health & Social Welfare	EUR	6,400,000	6,400,000			Non-Responsive
9	2017055	Erste Group of Banks	12 07 2017	Health & Social Welfare	EUR	5,000,000	5,000,000			Non-Responsive
10	2017057	China Development Bank	12 11 2017	Health & Social Welfare	USD	67,300,000	20,300,000			Non-Responsive
11	2014005	Unicredit Bank Austria	4 03 2014	Housing & Urban Develop.	EUR	5,100,000	1,710,420			Non-Responsive
12	2016038	China Development Bank	5/20/2016	Multisector	USD	600,000,000	262,500,000			Non-Responsive
13	2017015	Trade and Development Bank	3/20/2017	Multisector	USD	500,000,000	159,722,222	159,722,222	0	
14	2018003	Citigroup Global Markets Deutschland AG	2/28/2018	Multisector	USD	1,000,000,000	1,000,000,000			Non-Responsive
15	2018004	Citigroup Global Markets Deutschland AG	2/28/2018	Multisector	USD	1,000,000,000	1,000,000,000	1,000,000,000	0	
16	2019007	Citigroup Global Markets Europe AG	5/22/2019	Multisector	USD	900,000,000	900,000,000	900,000,000	0	

S/No	Instrument_Id	Creditor_Name	Agreement Date	Sector	Cur	Financed_amount	National Treasury Records	Creditor Records	Variance	Remark
17	2019008	Citigroup Global Markets Europe AG	5/22/2019	Multisector	USD	1,200,000,000	1,200,000,000	1,200,000,000	0	
18	2015019	Commerzbank of Belgium	9/25/2015	Other	EUR	4,254,325	2,431,043	2,431,043	0	
19	2017049	Trade and Development Bank	10 06 2017	Other	USD	750,000,000	428,833,333	428,833,333	0	Disbursed in two tranches
20	2019002	Trade and Development Bank	1/17/2019	Other	USD	250,000,000	208,333,333	208,333,333	0	
21	2019004	Trade and Development Bank	2/27/2019	Other	EUR	1,250,000,000	909,583,333	909,583,333	0	
22	2021011	Citigroup Global Markets Europe AG	6/14/2021	Other	USD	1,000,000,000	1,000,000,000	1,000,000,000	0	
23	2021314	Export - Import Bank - Korea	6 10 2021	Other	KRW	1,102,622,848	1,105,012,550	1,105,012,550	0	
24	2020002	Banco Bilbao Vicaya Argentaria, S.A	1/17/2020	Roads and Bridges	EUR	11,805,819	4,136,589	4,136,589	0	
25	2020003	Banco Bilbao Vicaya Argentaria, S.A	1/17/2020	Roads and Bridges	EUR	2,083,380	1,458,366	1,458,366	0	
26	2021004	Export - Import Bank - Korea	1/29/2021	Roads and Bridges	USD	61,000,000	0	0	0	No drawdown as yet
27	2021005	Export - Import Bank - Korea	1/29/2021	Roads and Bridges	USD	59,000,000	0	0	0	No drawdown as yet
28	2021006	Export - Import Bank - Korea	1/29/2021	Roads and Bridges	USD	100,000,000	0	0	0	No drawdown as yet
29	2013022	BELFIUS BANK SA	10 04 2013	Water Supply	EUR	15,045,709	9,473,224			Non-Responsive
30	2015033	BELFIUS BANK SA	8 12 2015	Water Supply	EUR	9,364,753	7,283,697			Non-Responsive
31	2016034	Commerzbank of Belgium	4/15/2016	Water Supply	EUR	5,495,171	3,532,610			Non-Responsive
32	2017030	Deutsche Bank	6/14/2017	Water Supply	EUR	105,417,579	21,836,546	21,836,546	0	
33	2017031	Deutsche Bank	5/14/2017	Water Supply	EUR	27,633,375	0	0	0	No drawdown as yet

S/No	Instrument_Id	Creditor_Name	Agreement Date	Sector	Cur	Financed_amount	National Treasury Records	Creditor Records	Variance	Remark
34	2017035	BELFIUS BANK SA	5/29/2017	Water Supply	EUR	52,755,487	23,996,708			Non-Responsive
35	2012026	Standard Chartered Bank(SCB)	10/23/2012	Election	EUR	65,152,629	6,858,171	6,858,171	0	
36	2015016	Galana Kulalu Food Security Project	8/31/2015	Agriculture	USD	71,408,014	26,402,009			Non-Responsive

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