COMMITTEE ON TRADE, INDUSTRY, ICT, AND COOPERATIVES

REPORT ON

STUDY VISIT TO MINING INDUSTRIES IN KENYA:
DEVKI STEEL COMPANY, ATHI RIVER MINING COMPANY, TAITA TAVETA
COUNTY – KISHUSHE MINING AREA, BASE TITANIUM COMPANY
INTRODUCTION

Mr. Speaker,

Pursuant to Article 185 of the Constitution of Kenya 2010, and Section 8 of the County Government’s Act, the County Assembly of Kitui has the mandate to conduct; Legislative, Oversight, and Approval functions on behalf of the County Government of Kitui.

Mr. Speaker,

Article 185(4)(a) of the Constitution further elaborates that a County Assembly may receive and approve plans and policies for the management and exploitation of County Resources.

Mr. Speaker,

Aware that there are pertinent issues and disputes surrounding the Management and Exploitation of Natural resources in our County, the Committee on Trade, Industry, ICT and Cooperatives constituted by this honorable house was concerned with the nature of these issues and disputes. The committee under Standing Order 191 (5) as well as the Second Schedule, is given mandate to investigate and inquire into all matters related to trading and industries, so as to:

1. Assist in the formulation of County industrial policy and regulatory laws,
2. Assist in the creation of an enabling business environment through improved infrastructure, and investment friendly County laws

Mr. Speaker,

Further Aware that there are crosscutting features between the mandates of this Committee, and the Committee on Environment, Energy, Mining, Natural Resources and Tourism, in the spirit of the above concerns, this committee saw purpose to visit mining industries in Kenya to learn and develop some general awareness on Mining of Natural Resources, as well as to share experiences and challenges with mining experts on Market Capitalization and available Investment and Trading opportunities for Kitui County in the industry.

Mr. Speaker,

The committee visited three mining companies and a County Government engaged in mining activities between the 16th and 21st of June 2015, to realize objectives of this exercise. The places visited were:

- Devki Steel Company
- Athi River Mining Company
- Taita Taveta County, and
- Base Titanium Mining Company
Mr. Speaker,

This is a report of the committee’s deliberations and findings on the same.

Mr. Speaker,

The current composition of the committee on Trade, Industry, ICT and Cooperatives is as follows:

- Hon. Daniel Kimanzi – Chairperson
- Hon. Peter Kilonzo – Vice Chairperson
- Hon. Angela Kanza – Member
- Hon. Colleta Kimanzi – Member
- Hon. George Kililiku – Member
- Hon. Mary Mbandi – Member
- Hon. Mary Ndumbu – Member
- Hon. Nzuki Wambua – Member
- Hon. Patricia Kimanzi – Member
- Hon. Peter Mutemi – Member
- Hon. Samuel Ikunga – Member
ACKNOWLEDGMENT

Mr. Speaker,

The Committee extends its appreciation to the Offices of the Speaker and the Clerk of the County Assembly for the support accorded to it in the execution of its mandate and the opportunity accorded to its Members to undertake the visit to the industries.

Mr. Speaker,

The Committee also wishes to extend its gratitude to, Mr. James Kariuki and Devki Steel Company, Mr. Peter Ndanga and Athi River Mining Company, Mr. Simon Wall and the Base Titanium Mining Company, and lastly, the County Government of Taita Taveta including Mr. Geoffrey Kimonge in the Governors Office, Members of the County Assembly, the Speaker, Hon. Maganga Maghanga, amongst others for the support extended to the Committee in organization of the study visits, and in ensuring that objectives of the visits were met.

Mr. Speaker,

It is my pleasant duty and privilege, on behalf of this committee, to table this report and recommend the same to this house for further consideration and subsequent adoption.

Signed ___________________________________

Hon. Daniel Ngoima,
Chairperson, Trade, Industry, ICT and Cooperatives
25th June 2015
**TABLE OF CONTENTS**

1. Report On The Study Visit To Devki Steel Company ................................. 6
2. Report On The Study Visit To Athi River Mining Company ..................... 8
3. Report On The Study Visit To Taita Taveta County ............................... 11
4. Report On The Study Visit To Base Titanium Mining Company ............. 13
5. Essential Committee Findings .................................................................... 17
1. REPORT ON THE STUDY VISIT TO DEVKI STEEL COMPANY

The committee visited the Devki Steel Company situated in Athi River at 2:00pm on the 16th of June 2015. Mr. James Kariuki of Devki welcomed the Committee into the company’s premises, and requested for a short briefing on the intent and expectation of the committee’s visit. The committee briefed Devki that it was visiting the company for two key reasons:

a. To identify best practices of mining, processing and trading “Iron Ore”
b. To ascertain the best environment to attract investors involved in the mining industry

Duly, Mr. Kariuki commenced the committee’s educational tour to the company by beginning to explain about Devki. He informed the committee that the company dealt in manufacturing steel from scrap metal and did not involve itself in exploiting raw materials. It has three plants in Kenya; in Ruiru, Mombasa, and Athi River. Ruiru was the company’s headquarters with Athi River being the oldest plant. The committee was then provided with safety gear and ushered into the processing unit. The plant tour involved visits to:

i. The Scrap Metal Yard: where all scrap metal is stored. Designated retailers collect and transport the scrap metal to Devki for processing.
ii. The Furnace: where the scrap metal is melted at over 1000 degrees Fahrenheit to remove impurities, and process into renewed steel rods.
iii. The Cooling Pump: the machine that regulates cooling mechanisms for the furnace.
iv. The Metal Rods Assembly Yard: where the steel rods are stored to cool awaiting further processing.
v. The Processing Factory: where the rods are developed into consumer goods, such as; mabatis, chain wires, etcetera.

At the end of Devki Athi River plant tour, the committee was concerned about the following;

- Did Devki need iron ore in processing scrap metal?
- Would it be advisable to build an iron ore-processing factory in Kitui?
- What was the best grade of iron ore for production of steel?

Mr. Kariuki responded that they do not need iron ore as they process steel from scrap metal. While iron ore was an ingredient of steel, he confirmed that the company did not work with raw materials, but was a recycling company.

He informed the committee that processing steel from raw materials needed very huge investments and was also a very risky business that is highly affected by politics and environmental concerns.
He recommended that a comprehensive feasibility study be done to guide the county on the best investment choice to take as per exploiting natural resources. He also warned of the possibility of destabilizing and/or crippling the economy (via “Dutch disease” where a boom in one economic sector results into a rapid decline in other sectors) if matters were not managed properly.

The committee chair thanked Devki for their hospitality and for the educative tour. He assured to share the findings with the Assembly for further action. The committee left Devki Steel Company at 5:00 pm.
2. REPORT ON THE STUDY VISIT TO ATHI RIVER MINING COMPANY

The committee visited the Athi River Mining (ARM) Company situated in Athi River at 11:00 am on the 17th of June 2015. Mr. Peter Ndanga and his colleagues from ARM welcomed the Committee to the company’s premises, and proceeded to actualize the tour of the cement plant. Duly, the committee was provided with safety gear to tour the plant.

The plant tour involved visits to:

i. The Raw Materials Yard: where raw materials are stored i.e. Pozzolana, Gypsum, as well as Limestone, Iron Ore and others

ii. The Conveyor Belts and Weigh Feeders: which respectively carry and measure the raw materials for further processing

iii. The Grinder: the machine that mixes and crushes the “clinker” mixture into fine dust. Clinker is a mixture of Pozzolana, Gypsum, Limestone, Iron Ore and others materials used to make cement.

iv. Loading and Dispatch Unit: where the cement is packed into bags and loaded in lorries.
v. **The Control Room:** where all processing machines are monitored and faults flagged.

After the plant tour, the committee was hosted at the company’s boardroom and given a chance to brief the ARM officials on further expectations. The committee gave the following as objectives for visiting the company:

a. To identify best practices in mining, processing, and trading in “Limestone” and “Iron Ore”
b. To ascertain the best environment to attract investors involved in the mining industry

The committee noted that the plant tour had attained the first objective. Thereby, under the second objective, it requested the company to elaborate if they would be willing investors in Kitui, and to express investment challenges they were facing in mining.

ARM subsequently gave a brief presentation on history of the company, administrative structures, challenges, and successes. The most notable information on the same was that, the company has plants in Tanga, Dare-
Salam, Rwanda, Nairobi, and Mombasa in the East African region. It employs over 1,364 employees directly, has a strong consumer and environmental focus, and was willing to invest in Kitui County, to exploit Limestone and Iron Ore deposits. ARM declared it had interests in Ngaie and Mathima areas, and had already met legal and licensing provisions. However, it noted political interference as the core hindrance to its development agenda in these areas. Subsequently, the committee raised the following concerns:

- Is it possible to set up a similar plant in Kitui County? If yes, how best would the communities benefit?
- What their committee would do to assist in harmonizing political and social interests in the region?

ARM responded that their intent was to set up a plant in the area, since there were vast amounts of raw materials for manufacturing cement in Kitui County. They asserted it would minimize on high transportation cost. ARM exemplified that cement demand was very high in East Africa and was certain communities were poised to benefit economically from such resources. ARM projected itself as a leading cement manufacturer and would provide not only economic gains with its investment in Kitui but also intensify positive environmental, infrastructural, cultural and social activities. They requested the committee to initiate a conflict resolution mechanism to deal with political interference issues facing implementation of the company’s Mathima project, and to utilize such a platform for inclusivity of all stakeholders, ensuring engagement of national, county, and community concerns.

The chair and team leader thanked ARM for the plant tour and the dialogue session, and vowed to assist the company to resolve political disputes through lobbying, mobilizing members of the community, and enacting laws that would speed up development processes for the sake of improving people livelihoods. The committee requested the company to keep the Kitui Assembly engaged, as the matter was very pertinent. The committee left ARM at 4:00 pm heading for Voi Town.
3. REPORT ON THE STUDY VISIT TO TAITA TAVETA COUNTY: INTERACTIONS WITH THE COUNTY GOVERNMENT OF TAITA TAVETA ON KISHUSHE MINING AREA

The committee had requested to visit Kishushe Mining Area in Taita Taveta County to identify best practices of mining, processing, and trading “Limestone” and “Iron Ore” from the region, and ascertain the best environment to attract investors involved in the mining industry. However, the Kishuse project was experiencing impediments and none of the stakeholders was able to approve the visit, nor confirm attendance for a discussion session. The committee thereby reached out to the County Government of Taita Taveta, through the Ministry of Lands and Mining, and as well as the County Assembly. Taita Taveta County Assembly through the Speaker agreed to meet with the committee. This committee arrived in Wundanyi town at 11:00am on the 18th of June 2015 to meet with the Taita Taveta County Assembly to discuss the status of Kishushe Mining Project.

The Honorable Speaker of Taita Taveta County Assembly Hon. Maganga Meshack Magangha welcomed the Committee into the Assembly’s premises, accompanied by Hon. Maria Chao, Hon. Jones Fundi, Majority Leader Hon. Cromwell Baridi, and the Chief Lands Officer, Mr. Kenneth Mwaita. After exchanging greetings, the Speaker elaborated that Members of the Taita Taveta Assembly were engaged in conducting public participation on the Budget Estimates, but directed the committee to the Assembly’s plenary hall/chamber to proceed with discussions on the status of Kishushe Mining Project accompanied by the Members noted above, amongst others.
During the plenary session, a Member of Assembly from Kishushe area Hon. Elizabeth Mwatela took charge of updating the committee on the project. She informed the committee that; the project begun as a small-scale business where local communities sold iron ore to businessmen, but around 2007, an investor known as “Wanjalla” initiated a large-scale project. In the project, the community and investor agreed to a reimbursement of Kshs. 70 per tonne of iron ore, and by the end of the first year, the community had made profits of up to Kshs. 5 Million. The community-investor agreement also ensured the investor would upgrade infrastructure in the area, building facilities such as dispensaries and classes, improving access to water, and upgrading local roads. Over time, the community benefitted immensely, until a certain group in the area claimed ownership of the land. Soon disagreements caused the investment to stall and since then, community-investor benefits seized.

A former Councilor at the time of the agreement, currently a nominated Member of the Taita Taveta Assembly, Hon. Onesmus Mwarabu noted that; Investors came to Taita Taveta because it had natural resources but lacked clear policies and structures. The area was ripe for exploitation. He was therefore of the opinion that sometime investors are attracted by the wrong reasons, and hence recommended that our committee ensures investment agreements in Kitui are done openly and for the benefit of area communities.

Further discussion raised concerns on land ownership as the major issue in the mining industry. It specifically focused on how to deal with societies and groups, and the lack of suitable and acceptable laws on mining. The Chief Officer on Lands Mr. Mwaita informed the committee that the land issue in the Kishushe Project was very contentious and lacked a clear law to resolve it. He however lauded the cooperation efforts between the Legislative and Executive arms of the County Government of Taita Taveta terming it as that of harmony and service to the community and nation. He criticized the current law on mining as old and redundant as it focused on national concerns and did not address the devolved structures. He urged this committee to be updated on international mining standards, and as well, to lobby for consultative laws, and be aware of reviews to the mining act that instigate consultation of counties.

The discussion ended at 2:00pm and the committee was subsequently invited to pay a courtesy call to the Governor’s Office. Messer’s Geoffrey Kimonge and Monday Jumanne (amongst others) were at hand to welcome our committee to Taita Taveta County Executive. They exuded joy in our study visit to their county, and informed this committee they were in the process of legalizing a shift of county headquarters from Wundanyi to Mwatate. They encouraged future cooperation amongst our counties. The committee was warmly received and left the Governor’s office at 3:30 pm, headed for Ukunda Town.
Taita Taveta County, Political Advisor, Mr. Geoffrey Kimonge and Committee Members
4. REPORT ON THE STUDY VISIT TO BASE TITANIUM MINING COMPANY

The committee arrived at the Base Titanium Mining Company situated in Kwale County at 9:00am on the 19th of June 2015. Mr. Simon Wall welcomed the Committee into the company’s premises, and proceeded to enquire about the committee’s expectations of visit. The committee gave the following as objectives for visiting the company:

a. To identify best practices in mining, processing, and trading natural county resources
b. To ascertain the best environment to attract investors involved in the mining industry to the county

Thereby, Mr. Wall commenced the committee’s study visit to the company by explaining about Base Titanium. He informed the committee that the company was Australian and dealt in manufacturing of “ilmenite”, “rutile” and “zircon”. The ilmenite and rutile mineral products were produced in bulk for sale to international markets, while zircon is typically bagged and containerized for export. He informed the committee that most of these products were used by pigment industries as pacifiers that allow mixing and adding color to ceramics. He continued to inform them that the mining processes were clean and environmental friendly, as the company did not use any chemicals in mining. On finances, the committee was informed that the company had injected over USD 310 Million into the project, borrowed from Banks in Netherlands and France. Over USD 170 Million of that amount had been used to buy the specialized equipment, and USD 60 Million for infrastructure (that is, roads and power lines amongst others) so as to commence the project.

Mr. Wall informed the committee that the company was a major investor in Kwale County and it was critical for them to have very cordial relations with members of the community, the county government and national government. The company employs over 600 employees with 60% from Kwale County and 92% of the total are Kenyans. Mr. Wall noted that the current mining act was old and in need of review, and lauded the efforts of the current national mining parliamentary committee’s interactive approach to reviewing the act. The committee was then provided with safety gear and ushered into a company truck for a tour of the plant. The tour involved visits to:

i. The Dozer Mining Pit: where the soil with minerals is excavated by Bull Dozers and pumped to the processing plant at a rate of 1,200 tonnes per hour
ii. **Wet Concentrator Plant ("WCP"):** where the excavated soil is mixed with water and process of separation begins using heavy metal and spiral motions techniques

iii. **Mineral Separation Plant ("MSP"):** which separates the minerals amounting to an annual production rate of approximately 390,000 tonnes of ilmenite, 80,000 tonnes rutile and 30,000 tonnes zircon.

iv. **Slimes and Tailings Disposal:** where waste products from the processing plant are stored. Most of the waste products include; beach sand, soil and other unnecessary materials from the soil.

v. **Water storage dam on the Mukurumudzi River:** constructed at Kshs. 16 Million to supply the plant with water but also served in reducing flash floods in the area. The company controls the water flow, releasing 27 liters of water per second.

vi. **A Community Health Center:** Located outside the company premise built at Kshs. 40 Million, and was handed over to Kwale County Government.

The committee had the following follow-up questions:

- Did the company conduct rehabilitation processes?
- How did the company conduct community compensation?
- What other benefits were there for the community?

The committee was informed that the rehabilitation process had not begun since the company had only been mining for a year and a half. Major rehabilitation programs would begin after six years, which will involve agricultural and environmental programs such as sugar cane farms, tree planting and/or even building a sport stadium depending on government needs.
On community compensation, the committee was informed that Base Titanium took over a project that began in 1996. A Canadian company known as Tiomin Resources initiated the titanium project. Due to relocation issues, amongst others, the Tiomin Resources was unable to commence implementing the project; therefore, the company was forced to close down. Community compensation had been agreed at Kshs. 19,000 per acre but was scaled up to Kshs. 80,000 per acre in which over 4,000 acres was in contention. The matter was settled in court. On this issue, Mr. Wall advised the committee to be acquainted with international standards on compensation especially as regulated by International Financial Corporation (IFC).

On community benefits, the committee was informed that the community gets over 1,000 hours of training every six months where 10 members of the community are targeted and rigorously trained on different technical areas. Some are absorbed into employment. The community also benefits from scholarships, infrastructural developments such as drilling of boreholes, and construction of roads, schools, and health facilities amongst others. Additionally, as a measure of cooperation with the county government, some of the projects implemented were identified and detailed in the County Integrated Development Plans (CIDP).

The committee thanked the company for the tour and subsequent discussions and said it would keep in touch with the company for further expertise on mining.

**Note:** The study visit to the mining industries ended after this session.
5. ESSENTIAL COMMITTEE FINDINGS
The committee identified the following as the key findings and recommendations from the study visit, in efforts to assist in resolving pertinent issues and disputes surrounding trading and investments in the mining industry within our County:

<table>
<thead>
<tr>
<th>No.</th>
<th>FINDING</th>
<th>COMMITTEE’S RECOMMENDED ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Need to conduct a feasibility study by County Government so as to; (a) develop a database of information on key natural resources in the county, (b) increase transparency in mining of Kitui resources (c) enable for a sustainable investment environment</td>
<td>Approach County Government to check what information is available on this. If no action has been taken, Committee on Trade Industry ICT and Cooperatives together with Committee on Environment, Energy, Mining, Natural Resources and Tourism will jointly advocate for conducting of the feasibility study.</td>
</tr>
<tr>
<td>2.</td>
<td>Need to identify a conflict resolution mechanism for the County Government on issues of exploiting County Resources</td>
<td>Approach County Government to check what information is available on this. If no action has been taken Committee on Trade Industry ICT and Cooperatives together with Committee on Environment, Energy, Mining, Natural Resources and Tourism will jointly spearhead; (a) research and benchmarking on similar international methodologies, and (b) initiate the composition of a Technical Committee which includes all stakeholders.</td>
</tr>
<tr>
<td>3.</td>
<td>Need to be sensitized on international mining standards as well as community compensation standards</td>
<td>Concerned Ministries to identify a suitable consultant to engage the Kitui County Assembly. Approach the Institute for Law and Environmental Governance on Best Practices.</td>
</tr>
<tr>
<td>4.</td>
<td>Need to be sensitized on reviews of the current Mining Act and other relevant industrial laws</td>
<td>Concerned Ministries to identify a suitable consultant to engage the Kitui County Assembly. Approach the Institute for Law and Environmental Governance on Best Practices.</td>
</tr>
<tr>
<td>5.</td>
<td>Need to develop a set of regulations for Mining Industry in Kitui County</td>
<td>Approach County Government to check what information is available on this. Concerned Ministries to jointly draft policies and regulations. Established Technical Committee to assist in development of regulations. Approach the Institute for Law and Environmental Governance on Best Practices.</td>
</tr>
</tbody>
</table>

Committee’s Decree: This Committee wishes to express profound willingness to work jointly with our close colleagues, the Committee on Environment, Energy, Mining, Natural Resources and Tourism, fellow Members and Staff of County Assembly of Kitui and officers from the County Executive, relevant stakeholders and other willing partners, ready to assist us to fulfill the promise of Legislative, Oversight, and Approval functions on behalf of the County Assembly and Government of Kitui.
We, honorable members of the Committee on Trade, Industry, ICT and Cooperatives do hereby affix our signatures to this report to affirm our approval and confirm its accuracy, validity and authenticity:

<table>
<thead>
<tr>
<th>NAME</th>
<th>DESIGNATION</th>
<th>SIGNATURE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hon. Daniel Kimanzi</td>
<td>Chairperson</td>
<td>....................</td>
</tr>
<tr>
<td>Hon. Peter Kilonzo</td>
<td>Vice-Chairperson</td>
<td>....................</td>
</tr>
<tr>
<td>Hon. Angela Kanza</td>
<td>Member</td>
<td>....................</td>
</tr>
<tr>
<td>Hon. Colleta Kimanzi</td>
<td>Member</td>
<td>....................</td>
</tr>
<tr>
<td>Hon. George Kililiku</td>
<td>Member</td>
<td>....................</td>
</tr>
<tr>
<td>Hon. Mary Mbandi</td>
<td>Member</td>
<td>....................</td>
</tr>
<tr>
<td>Hon. Mary Ndumbu</td>
<td>Member</td>
<td>....................</td>
</tr>
<tr>
<td>Hon. Nzuki Wambua</td>
<td>Member</td>
<td>....................</td>
</tr>
<tr>
<td>Hon. Patricia Kimanzi</td>
<td>Member</td>
<td>....................</td>
</tr>
<tr>
<td>Hon. Peter Mutemi</td>
<td>Member</td>
<td>....................</td>
</tr>
<tr>
<td>Hon. Samuel Ikunga</td>
<td>Member</td>
<td>....................</td>
</tr>
</tbody>
</table>