



**MINISTRY OF ENVIRONMENT, WATER AND NATURAL RESOURCES**  
**State Department of Environment & Natural Resources**

**11<sup>TH</sup> PARLIAMENT SENSITIZATION WORKSHOP ON THE DRAFT CLIMATE CHANGE POLICY AND BILL PROCEEDINGS REPORT**



*Held on date: 8th May, 2014*

*Venue: Flamingo Beach Resort & Spa, Mombasa*



## Table of Contents

1.0 EXECUTIVE SUMMARY .....	4
2.0 INTRODUCTION .....	6
2.1 REMARKS BY MR.JOHN KIOLI-CHAIRMAN, KCCWG .....	6
2.2 REMARKS BY MR.NATHANIEL MTUNJI-ENRM, CRM MANAGER ACT! .....	7
2.3 REMARKS BY SENATOR DAN MAANZO-SENATOR TAITA TAVETA .....	8
2.4 REMARKS BY HON.AMINA ABDALLA-CHAIR PARLIAMENTARY COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES.....	9
3.0 PRESENTATIONS MADE BY KEY STAKEHOLDERS.....	11
3.1 PRESENTATION ON THE IMPACTS OF CLIMATE CHANGE AND THE NCCAP.- MR.STEPHEN KING'UYU, MEW&NR, CCS.....	11
3.2 PRESENTATIONS ON THE OVERVIEW OF THE DRAFT CLIMATE CHANGE FRAMEWORK POLICY-FATUMA HUSSEIN-MEW&NR, CCS.....	16
3.3 PRESENTATION ON THE PROPOSED AMENDMENTS ON THE CLIMATE CHANGE BILL-DR.ROBERT KIBUGI, LEGAL CONSULTANT.....	18
3.3.1 Presentation on the institutional architecture .....	18
3.3.2 Presentation on membership to the board .....	23
3.4 Closing Remarks by Abdalla-Chair Parliamentary committee on Environment and Natural Resources .....	29
3.3.3 Presentation on the powers of the cabinet secretary .....	29
3.3.4 Presentation on the establishment of the climate change directorate.....	31
3.3.5 Presentation on mainstreaming climate change into county development .....	32
3.3.6 Presentation on the climate change fund/financial provisions.....	33
3.5 PRESENTATION ON CLIMATE CHANGE OPPORTUNITIES AND THE UNFCCC PROCESS-Ms.Judy Ndichu, TI KENYA.....	35
3.6PRESENTATION ON CSO PERSPECTIVE OF CLIMATE CHANGE-MR.BENJAMIN KIMANI, ACT! .....	37
3.7 CLOSING REMARKS-DR.RICHARD LESIYAMPE-PS, MEW&NR .....	39

## Acronyms and Abbreviations

<b>ACCRONYM</b>	<b>DEFINITION</b>
ACT!	Act Change Transform
CCS	Climate Change Secretariat
CIDP	County Integrated Development Plan
CRM	Changieni Rasili Mali
CS	Cabinet Secretary
CSO	Civil Society Organization
DFID	Department For International Development
DRR	Disaster Risk Reduction
GHG	Green House Gases
KAM	Kenya Association of Manufacturers
KCCWG	Kenya Climate Change Working Group
KCJWC	Kenya Climate Justice Women Champions
KENFAP	Kenya Farm Agricultural Producers
KEPSA	Kenya Private Sector Alliance
MDG	Millennium Development Goals
MEW&NR	Ministry Of Environment, Water and Natural Resources
NCCAP	National Climate Change Action Plan
NCCRS	National Climate Change Response Strategy
NEMA	National Environmental Management Authority
NGO	Non-Governmental Organization
NSC	National Steering Council
OPM	Office of The Prime Minister
PACJA	Pan-African Climate Justice Alliance
PSC	Public Service Commission
REDD+	Reducing Emissions, Deforestation and Forest Degradation
TI	Transparency International
UNFCCC	United Nations Framework Convention on Climate Change

## **1.0 Executive summary**

Despite the extensive efforts being undertaken to address sustainable development, it is clear that tomorrow's generation will be left with a liability of huge challenge in environmental, social and economic areas. Kenya is one of the most vulnerable countries to the impacts of climate change which calls for the need to provide legal and institutional framework for mitigation and adaptation to the effects of climate change to facilitate and enhance response to climate change and provide guidance and measures to achieve low carbon climate resilient development. It is for this reason that KCCWG in collaboration with the KNA came up with the climate change bill 2012 that successfully went through both the first and second reading but unfortunately the former president failed to assent it into law citing lack of public partnership. KCCWG, KNA, in collaboration with KAM, ME&NR, TI KENYA, KEPSA and other stakeholders have embarked on the process again which has seen the gazettelement of the taskforce and the climate change bill 2014 go through the first reading at the parliament.

It is with this background that the MPs sensitization workshop on the climate change Bill was organized on 9<sup>th</sup> May, 2014 at Flamingo Beach Resort in Mombasa. The workshop was organized by KCCWG in collaboration with MEW&NR with financial support from the government of Kenya through MEW&NR, KAM and the embassy of Sweden and DFID through ACT! The forum brought together stakeholders from the national assembly, the senate, media, KCCWG, TI Kenya, MEW&NR and other CSOs providing an avenue to discuss the draft climate change Bill, the proposed amendments by the taskforce through the Bill's legal consultant and proposed necessary amendments on the bill before it is presented to the parliament for the second reading.

Presentations made included: the impacts of climate change and the NCCAP, proposed amendments on the climate change bill, climate change opportunities and the UNFCCC process, overview of the draft climate change framework and the role CSOs perspective of climate change. However, the climate change bill and the proposed amendments on the bill was the main agenda of the day. Stakeholders gave their input on the various components of the bill e.g. the institutional structure in terms of administrative, regulatory and oversight functions, the functions of the council, membership to the council especially on the professional qualification/background clause, functions of the cabinet secretary e.t.c.

Recommendations proposed by the stakeholders included: organizing more opportunities for engagement with the senate to capacity build them on the climate change Bill, condensing of

the functions of the council, reducing the number of the council members to have a lean body, mainstreaming climate change at the county level through CIDPs, observing the 2/3 constitutional requirement in all the appointments as well as reviewing the NCCAP every three years to be in tandem with the state of the environment by NEMA. As a way forward, it was agreed that the task force and the resource persons meet and make the necessary changes on the recommendations, consultations between the senate and the taskforce to capacity build them on the Bill which would give them a sense of ownership and have the report on the climate change bill and policy presented to the parliamentary committee on environment and natural resources by 3<sup>rd</sup> June for the house business committee to schedule the bill for the second reading.

## **2.0 INTRODUCTION**

### **Session opening -Dr.Richard Lesiyampe-PS, MEW&NR**

Dr.Richard Lesiyampe, PS MEW&NR, called the meeting to order at 9:30am.He welcomed the stakeholders into the forum and led them through the introduction session whereby the stakeholders introduced themselves and stated the respective institutions they represented. He passed apologies from Senator Lenny Kivuti who could not make it to the forum as he had lost some of his constituents from consumption of the illicit brew. He notified the participants that remarks would be made by key stakeholders whom he hoped would be brief as there was a lot to be done as far as the day's agenda was concerned. He congratulated the stakeholders for working as a team having met and discussed pertinent issues about the climate change Bill and policy adding that he looked at engaging more with the stakeholders to ensure a successful delivery of the document. He observed the good turn out from the members of both the national assembly and senate assembly which he said was an assurance of support from the law makers.

Dr.Lesiyampe urged the stakeholders to engage and come to an agreement so that by the end of the day the Bill is ready to go for the second reading. He emphasized this by pointing out that the stakeholders had 'chewed the cow what was remaining was the tail'. He pointed out that a lot of consultations had already been conducted including the sensitization workshop on governors and county secretaries responsible for environment that was conducted a few weeks ago. He urged the stakeholders to feel free in expressing their views and propose recommendations to improve the document. He then invited Mr.John Kioli, Chairman KCCWG, to make his remarks.

### **2.1 REMARKS BY MR.JOHN KIOLI-CHAIRMAN, KCCWG**

Mr.Kioli thanked Dr.Lesiyampe for giving him the opportunity to make his remarks. Observing due protocol, Mr.Kioli said that he was honoured to be in the forum and to talk about climate change which he said is a very important topic. He stated that the talk about climate change started in Stockholm in 1972 where the focus was more on human and environment with the need for the world to talk about the environment. This was followed by The Rio Declaration which was held in Rio De Janeiro whose focus was more on linking international conventions to national conventions which gave birth to The Earth Summit that formed the genesis of the commitments. This was followed by the Kyoto protocol in 1972

whereby nations entered into commitments to reduce emissions and to have committed meetings/protocols that would be binding. Mr. Kioli brought to the attention of the stakeholders that the talk about climate change in Kenya started in 2009 whereby seven research papers were done among energy, water, conflict over natural resources to interrogate the impacts of climate change on the mentioned areas. He added that the recent clashes experienced in Tana River and other areas within and outside the country could be attributed to conflicts over resources between the pastoralists and the agriculturalists over water which could be linked to climate change.

Mr. Kioli pointed out that three lawyers were consulted to draft the climate change Bill and Dr. Ottichilo approached to move the process. He added that Dr. Ottichillo marshalled the climate change Bill which successfully went through the first and second reading but unfortunately the former president failed to assent it into law citing lack of public participation. He mentioned that KCCWG in collaboration with the National assembly, MEW&NR, KAM and TI among other stakeholders had embarked on the process again and had consulted widely with more consultations on the roadmap. He thanked Dr. Lesiyampe for fast tracking the process adding that he was glad with the speed at which the bill was moving. He acknowledged the presence of the law makers which he said was a sign of support from the government. He urged the participants to midwife the process (climate change Bill) which he said was an instrument that would protect humanity. He concluded by thanking ACT! KAM, the Senate and the National assemblies and the government of Kenya through MEW&NR for supporting the process.

***Moderator-Dr. Richard Lesiyampe-PS, MEW&NR***

Dr. Lesiyampe thanked Mr. Kioli whom he said is very passionate about the environment for the enlightening remarks. He then welcomed Mr. Nathaniel Mtunji from ACT! to give his remarks.

**2.2 REMARKS BY MR. NATHANIEL MTUNJI-ENRM, CRM MANAGER ACT!**

Observing due protocol, Mr. Mtunji thanked the PS for giving him the opportunity to make his remarks. He also thanked KCCWG for inviting him to the forum. He said that ACT! Which stands for Act, Change and Transform is a national NGO based in Kenya working on capacity building and grants management. He also added that Changieni Rasili Mali (CRM)

is a facility funded by DFID and the government of Sweden. He also mentioned that ACT! Manages funds for the people of Kenya adding that the objectives of CRM are:

1. Capacity building of CSOs on climate change.
2. Capacity building of citizens especially the disadvantaged and the poor.
3. Advocacy and governance.

He pointed out that it is through the third objective; advocacy and governance that ACT! Supports climate change and environmental initiatives. Mr. Mtunji also mentioned that ACT! is working in all the 47 counties in Kenya adding that by the end of the month, the organization would be supporting ninety two projects. He added that ACT! Supports climate change due to its cross cutting nature thus the need of looking at how best climate change could be managed. Mr. Mtunji brought to the attention of the stakeholders that the initial engagement between KCCWG and ACT! Didn't bear fruits but was optimistic that this time round the partnership would yield fruits.

Mr. Mtunji enlightened the stakeholders that ACT! Gives support to county level engagement through partners e.g. PACJA who would then take the climate change agenda to the grass roots level. As a final remark, Mr. Mtunji thanked KCCWG and said that he was looking forward to the realization of the climate change Bill and policy.

#### ***Moderator-Dr. Richard Lesiyampe***

Dr. Lesiyampe thanked Mr. Mtunji for bringing the stakeholders to speed with what ACT! does and the organization's objectives. He then welcomed Senator Dan Maanzo to make remarks on behalf of Senator Lenny Kivuti.

### **2.3 REMARKS BY HON. DAN MAANZO-SENATOR, TAITA TAVETA**

Senator Maanzo thanked the PS for giving him the opportunity to make his remarks. He said that he was in attendance by his own right as well as representing the senate committee. He brought to the attention of the stakeholders that both the senate and the national assembly are involved in passing of laws which calls for the need to support and complement each other, create partnerships and synergies for the common good. He extended his gratitude to KCCWG, MEW&NR and other stakeholders for their input in the process. He brought to the attention of the stakeholders that he had personally worked with Hon. Ottichilo and Hon. Amina thereby promising to support them and the process in general.

Hon.Maanzo mentioned that the role of the senate in the process would be to ensure devolution/county level sensitization and successful implementation of the climate change bill and policy once passed. He also thanked the parliamentary committee on environment and natural resources for involving the senate from the initial stages of drafting the climate change bill which he said would save on time and resources in terms of creating awareness and sensitization of the senate on the document as they had been in the process all through.Hon.Maanzo also brought to the attention of the stakeholders that Hon.Dr.Ottichilo had discussed the climate change bill at Warsaw urging the stakeholders to play their role so that the two documents are enacted and implemented for the protection of the environment and for posterity. He also mentioned that climate change had become real and its impacts more intense which he said called for the need to act fast. He also assured the stakeholders of the senate's support in the process and wished them fruitful deliberations.

***Moderator-Dr.Richard Lesiyampe***

Dr.Lesiyampe thanked Hon.Maanzo for the encouraging remarks. He was particularly pleased with the assurance of support from the senate assembly as far as the climate change bill and policy was concerned. He then welcomed Hon.Amina Abdalla to make her remarks.

**2.4 REMARKS BY HON.AMINA ABDALLA-CHAIR PARLIAMENTARY COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES**

Hon.Amina thanked the PS for giving her the opportunity to make her remarks. She congratulated MEW&NR for embracing devolution by bringing the senate on board and also through the sensitization workshop on the governors and the members of the county assemblies responsible for environment that was held a few weeks ago. She also congratulated MEW&NR, KAM, KCCWG and TI among other stakeholders involved in the process for ensuring that the bill received as much input as possible adding the day's meeting was not the first one as she had attended another one which she chose to call a one on one meeting as it facilitated demystification of climate change. She also congratulated them for creating awareness even before the bill was published. She mentioned that the working arrangements that the committee had in relation to the climate change bill should be on all bills so that engagement is not only done at the county level but have a tripartite engagement where the CSOs work with the legislature(senate or national assembly) and the executive without thrashing out the details of a bill.

Hon.Amina observed that Kenya is good at entering conventions but implementation has always been a challenge. She added that the constitution stipulates that every time the country signs into a commitment, there should be domestication and implementation at home. She encouraged the stakeholders to move away from what their predecessors did by signing commitments and agreements and not implementing them or by making uninformed decisions which came back to haunt the current generation.Hon.Abdala pointed out that the climate change Bill came at a time when the executive had done a review of parastatals whereby big parastatals were proposed for merger which she said called for the need to have a lean council and justify the need to have it.

Hon.Amina also brought to the attention of the stakeholders that when the bill was drafted, there was no provision for counties but she was happy that the task force had worked on this provision for the bill to be in line with the constitution. She also appreciated the fact that the senate had been brought on board which she said would save on time and resources to conduct capacity building on the contents of the bill. She also enlightened the stakeholders that it was becoming increasingly difficult to justify the establishment of a fund thereby encouraging the stakeholders to look at possible innovative ways of generating the funds to avoid over reliance on the consolidated funds. She wondered if the funds from the compliance provision could be targeted.

Hon.Amina said that the parliamentary committee on environment and natural resources had invested a lot in terms of capacity building their colleagues on the climate change. She encouraged the stakeholders to make the best use of the meeting and engage with each other adding that she did not foresee another opportunity to discuss the bill clause by clause. On behalf of the cabinet secretary responsible for environment Prof.Judy Wakhungu, wished the stakeholders a fruitful discussion and hoped that they would agree on the way forward thereby declaring the forum open.

***Moderator-Dr.Richard Lesiyampe***

Dr.Lesiyampe thanked Hon.Abdala for the enlightening remarks which he said brought out very pertinent issues and for officially opening the workshop. He also brought to the attention of the stakeholders that governors and twenty three county ministers responsible for environment took part in a sensitization workshop on the bill that was held a few weeks ago. He added that during the forum, the participants said that it would have been good if the wildlife bill, the water bill and other bills took the same direction as that of the climate

change bill in terms of capacity building and awareness creation. This they said would have empowered the legislation makers and the citizens in general to make informed decisions.

Dr.Lesiyampe informed the stakeholders that the Prof.Wakhungu, cabinet secretary responsible for the environment, would not be joining the stakeholders in the forum as he would be joining the president in receiving China's prime minister who would be jetting in the country accompanied by over one hundred delegates. He also brought to the attention of the stakeholders that the Kenya National Human Rights Development Report on Climate Change which was launched within the week summarized the need to have in place a climate change legislation to allow for prevention, mitigation and adaptation to climate change. He gave the quote from the famous serikali woman, a mother of six from the flood prone areas of Nyando '*serikali tafadhali saidia niko saizi mbaya kabisa kama unaeza saidia nisaidie pahali naeza enda leo hakuna hata pahali ya kulala, watoto zingine sijui iko wapi viyo yote amebewa na maji...*' He added that floods and other disasters associated with climate change make Kenyans suffer thus the justification to have the climate change bill and policy to ensure the mitigation and adaptation to climate change. He then welcomed Hon.Dr.Ottichilo to chair the second session.

#### ***Moderator-Hon.Dr.Wiber Ottichilo***

Dr.Ottichilo thanked the PS for giving him the opportunity to chair the session. He requested the stakeholders who would be making presentations to be very candid to save on time as there was a lot to be covered within the day. He said that it would be important for all the stakeholders to be brought to speed on the over view of climate change in Kenya, where we are as a country and the documents prepared in relation to climate change. He thus welcomed Mr.Stephen King'uyu to give a presentation on the impacts of climate change and the NCCAP.

### **3.0 PRESENTATIONS MADE BY KEY STAKEHOLDERS**

#### **3.1 PRESENTATION ON THE IMPACTS OF CLIMATE CHANGE AND THE NCCAP.-MR.STEPHEN KING'UYU, MEW&NR, CCS**

Mr.King'uyu took the stakeholders through the impacts of climate change. He said that there the phenomenon had become more real and intense as evidenced by;

- Scientific evidence that climate is changing with projections for even steeper change
- Increased frequency and intensity of extreme climate events.
- Analysis of observational data provides evidence.
- Impacts already being experienced in different sectors.

He said that this call for individual and corporate action required to address climate change required at all levels (international, national and sub-national). He gave some of the impacts of climate change to include:

- Diseases e.g. malaria and diseases associated with malnutrition as due to climate change, some foods are not available which has resulted in stunted growth among the children.
- Reduced availability of fresh food and water
- Interrupted communication, utility, and access to health care services
- Water pollution
- Droughts
- Crop failure
- Floods
- Livestock may be at risk, both directly from heat stress and indirectly from reduced quality of their food supply.
- Fisheries will be affected by changes in water temperature that shift species ranges, make waters more hospitable to invasive species, and change lifecycle timing
- Crop and animal diseases as many weeds, pests and fungi thrive under warmer temperatures, wetter climates, and increased CO<sub>2</sub> levels
- Destruction of roads and railways
- Climate change has created an increased risk of shutdowns at coal, natural gas and nuclear power plants. Changes in the climate mean decreased water availability which affects cooling at thermoelectric power plants, a requirement for operation.
- There are also higher risks to energy infrastructure located along the coasts thanks to sea level rise, the increasing intensity of storms, and higher storm surge and flooding.
- Sexual abuse and disease transmission-Women and children in developed and developing countries are at higher risk of sexual abuse during and after natural disasters than before

Mr.King'uyu then took the stakeholders through the NCCAP.He said that the NCCAP was launched in March 2013 to implement the NCCRS which was launched in 2010.He said that the NCCAP supports efforts towards the implementation of the Constitution, attainment Vision 2030 & MDGs; Identifies priority adaptation & mitigation needs and helps Kenya to meet international obligations. Among the actors in the NCCAP are the academia, mwananchi, the private sector, media and development partners. He then took the stakeholders through the NCCAP components and the output streams which was followed by Kenya's total emission levels from by sector. He then took the participants through the relationship between low carbon options and sustainable options as follows:

<b>Low carbon option</b>	<b>Sustainable development impacts</b>
1.Reforestation of forests on degraded lands	-Contributes to the 10% constitutional requirement  -Biodiversity benefits  -Improved livelihoods from sustainable forest products
2.Geothermal	-Clean environment(constitution requirement)  -Climate resilience  -Energy security, economic growth
3.Improved cook stoves and LPG cook stoves	-Health benefits from reduced indoor pollution  -Lower fuel wood demand and deforestation
4.Agroforestry	-Improved climate resilience  -Increased soil fertility and crop yields improving livelihoods of people and food security

Mr.King'uyu then took the stakeholders through NCCAP 2013-2017 prioritized areas and adaptation measures. This was as follows:

Sector	Prioritized action
Environment	-Enhance current tree planting initiatives and

	<p>provide guidance on the use of more resilient species</p> <p>-Integrate ecosystem based approach in policies and programs</p>
Water and sanitation	<p>-Appraise alternative water supply options and demand management options</p> <p>-Mainstream DRR measures in water sector planning and service delivery</p>
Population, urbanization and housing	<p>-Integrate climate change and DRR into slum upgrading and prevention policy and review the housing policy to increase resilience of slum dwellers and the poor in the country</p>
Energy	<p>-Develop and implement energy generation mix plan that increases the resilience to the impacts of climate change</p>
Climate information services	<p>-Improve climate observational network and establish county climate information centres</p> <p>-Provide greater access to weather/climate records through regional and global institutions and organizations.</p>
Science, technology and innovation	<p>-Strengthen the implementation and enforcement of existing intellectual property laws to promote climate resilient technology development and transfer</p>
Public sector reforms	<p>-Mainstream Climate Change adaptation in the Kenya School of Government curricula</p>
Human Resource Development & Labour	<p>-Provide support to the informal sector to ensure it is climate-proofed and thus able to open up more employment opportunities</p>
Tourism	<p>-Risk and vulnerability assessments of the tourism value chain</p>

Agriculture, Livestock & Fisheries	<ul style="list-style-type: none"> <li>-Risk and vulnerability assessments of the agricultural value chain (inputs, technologies, extension services, marketing)</li> <li>-Promotion of up-scaling of climate resilient strategies/technologies in fisheries and climate resilient fish varieties.</li> <li>-Promote sharing/ up-scaling of coping mechanisms (risk sharing/transfer mechanisms) for livestock production systems and climate resilient livestock species</li> </ul>
Private Sector	<ul style="list-style-type: none"> <li>-Develop and implement a standard environmental management and resource efficiency system for manufacturing</li> <li>-Climate-proof investments to increase resilience to climate change</li> </ul>
Human health	<ul style="list-style-type: none"> <li>-Integrate climate variability and change into health care</li> </ul>
Gender, vulnerable groups and the youth	<ul style="list-style-type: none"> <li>-Develop and implement programmes targeting vulnerable groups (including suitable social protection schemes and livelihood diversification).</li> </ul>

Mr.King'uyu said that NCCAP is an important milestone for Kenya and contributes to implementation of Constitution, attainment of Vision 2030 & MDGs and mainstreaming of climate change adaptation and mitigation. He also said that the enactment of Policy and Bill would give legal backing to climate change coordination & implementation of response actions. In conclusion, Mr.King'uyu mentioned that NCCAP implementation would require the contribution of all stakeholders and partners as well as the mainstreaming at all levels of government.

***Moderator-Hon.Dr. Wiber Ottichilo***

Dr.Ottichilo thanked Mr.King'uyu for the elaborate presentation. He observed that a lot of research on climate change had been conducted but unfortunately, this had not been availed to the general public. He also pointed out that a lot was still on going as far as research on climate change is concerned thus the need to have the climate change bill and policy in place to ensure that information from research is implemented. He said that he was happy that from the presentation made, the stakeholders could then read from the same script adding that from the given impacts, it was evident that climate change was now more real and intense. He then asked the MPs and Senators who had just walked in to introduce themselves.Dr.Ottichilo then welcomed Madam Fatuma to make a presentation on the overview of the draft climate change framework.

**3.2 PRESENTATIONS ON THE OVERVIEW OF THE DRAFT CLIMATE CHANGE FRAMEWORK POLICY-FATUMA HUSSEIN-MEW&NR, CCS**

Madam Hussein gave a brief overview of the draft climate change policy which focussed on the following:

- Context-
  - Constitution(Sustainable exploration of resources, the right to a clean environment
  - Vision 2030
  - International and regional climate poliies;UNFCCC&IPCC
  
- NCCAP 2013-2017
- Actors
- NCCAP components
- Towards a coherent climate change policy and law
- Progress
- Overview of the climate change framework policy
  - Introduction
    - ✓ Background

- ✓ International and regional context
- ✓ Rationale (Constitution, vision 20130,NCCAP,NCCRS)
- Situation analysis of climate change in Kenya
  - ✓ Evidence from Meteorological department
  - ✓ Projected climate scenarios
  - ✓ Emission levels
- Goals, objectives and guiding principles
- Low carbon climate resilient development
  - ✓ Policy intervention
  - ✓ Sustainable utilization of resources
  - ✓ Mainstreaming climate change response
  - ✓ Incentives
- Mainstreaming climate change response
  - ✓ Mainstreaming climate change response in national and county planning
  - ✓ Establishment of institutional framework and capacity to coordinate
- Research, education and knowledge
  - ✓ Education and public awareness
  - ✓ Knowledge management and access to information
- Climate change governance
  - ✓ Climate finance
  - ✓ Climate change monitoring , reviewing and benefit measurement
- Implementation framework
- Next steps in the roadmap
  - ✓ Cluster county consultations
  - ✓ Validation meeting

***Moderator-Hon.Dr. Wilber Ottichilo***

Dr.Ottichilo thanked Madam Fatuma for the informative presentation. He also congratulated the MEW&NR for the immense work that it had done in efforts for the country to address, mitigate and adapt to climate change. He also urged the participants to read through the draft climate change bill and the proposed amendments to the climate change bill and policy by the

national task force both of which had been provided in the folders. He then welcomed Dr.Kibugi to make a presentation on the proposed amendments on the climate change Bill.

### **3.3 PRESENTATION ON THE PROPOSED AMENDMENTS ON THE CLIMATE CHANGE BILL-DR.ROBERT KIBUGI, LEGAL CONSULTANT**

#### **3.3.1 Presentation on the institutional architecture**

Dr.Kibugi gave a brief background to the proposed amendments to the climate change bill 2014.He said that in November 2013, the Cabinet secretary for environment, water and natural resources appointed and convened the National Steering Council (NSC) to undertake the development of a draft legislation on climate change .The policy was meant to guide Kenya's actions and interventions to the adverse impacts of climate change. He added that the NSC made a determination that implementation of climate change actions and interventions should follow a mainstreaming approach. He also mentioned that the NSC was constituted into the task force on the development of the National Climate Change Policy and Law through a gazette notice which has been working on amendments on the bill based on research and consultations with various stakeholders.

Dr.Kibugi brought to the attention of the stakeholders that it would be important to first look at the institutional framework as a concurrence on this would enable the team move forward on several segments. He added that this was the most contentious issue even on the bill which would then be followed by an analysis of the key amendments. He also mentioned that two structures existed:

1. Proposed climate change institutional architecture in terms of administrative, regulatory and oversight
2. Proposed climate change institutional architecture-with climate change fund and how it would be applied

He added that three main things informed the above structures:

- a) The desire to separate between high level advisory and coordination functions with technical coordination function
- b) The desire not to create an additional state corporation but to have the institutional structure within the civil service as it is.

- c) Climate change as envisaged through research in the action plan and the draft climate change bill would be undertaken through mainstreaming.

He also mentioned that it was agreed that climate change action would be undertaken through mainstreaming.

### *Plenary on the Institutional Architecture*

- Hon.Amina was concerned that the structure was trying to replicate what was in the previous parliament whereby the OPM was in charge climate change which resulted into conflict between the OPM and MEW&NR. She also wanted to know why the taskforce wanted to have an administrative activity of the cabinet secretary being legislated upon if it is supposed to be involving cabinet secretaries and the deputy president and also had the power to co-opt anyone. This was addressed by Dr.Kibugi who said that this was done to maintain the multilateral interest and mixed representation. He added that the council would perform critical functions thus the need to be legislated since if this is not done, the functions of the council would become amorphous thereby loose the whole climate change architecture.
- Madam Sonia wished to have a clarification on the functions in particular function xiii-Set targets for the regulation of green house gas emissions. She felt that this ought to have been function number one and wondered what would be next after setting up the standards. This was addressed by Dr.Kibugi who said that the council would set targets for GHG emissions while NEMA would have enforcement and compliance role adding that it would not be practical to have a department under the civil service carrying out the enforcement function.
- Hon.Chachu wanted to have a clarification on where the council would be anchored; whether at the presidency or at the ministry. He was also concerned with the issue of reporting in terms of who would be reporting to the parliament, whether NEMA would be doing the reporting or the institutions themselves. He felt that this should be well put out to avoid institutional conflicts.
- Hon.Martha said that the forum was the first one that had provided the senate committee the chance to come across the document. She hoped that the ministry would facilitate further engagements with the senate to increase their awareness on the contents of the bill. This was clarified by Mr.Kioli who said that KCCWG would

be happy to host the senate in the same program in collaboration with MEW&NR for the senators to be more informed.

- Hon.Dr.Wanyonyi felt that for the council to prepare the strategy for the cabinet secretary to approve which is among the proposed functions of the council need to be revised. This was clarified by Dr.Kibugi who said that the cabinet secretary would prepare the strategy which would then be approved by the council adding that the issue was the language which would be looked into.
- Hon.Amina felt that function (X) Report annually to the parliament on the status of implementation of international and national obligations to respond to climate change, and progress towards attainment of low carbon climate resilient development was impractical. This she said was because it would be impractical for a legislation to pass annual reporting yet the status rarely changes annually. However she said that she was happy with the functions but it would be necessary to condense the rules and functions of the council as well as the membership to the council (should not have more than nine members).She also felt it would be important to have the right people in office to deliver.
- Mr.Msafiri felt that from clause24, there would bring about conflict when it comes to coordination as far as compliance is concerned.
- Dr.Lesiyampe felt that the responsibilities and the functions of the council needed to be summarized to a manageable number of less than seven. He added the need to look at areas that would bring conflict especially on the roles of the ministry and those of the government e.g. annually reporting to the council adding that the parliament had the right to call upon any institution at any time.
- Hon.Wandayi wanted to know what the bill hoped to achieve through function (h) Facilitate capacity development for public participation in climate change responses through awareness creation, consultation and access to information hoped to achieve in response to climate change. He felt that the program could be developed and approved by the council but have it implemented by different ministries. This he said was from the findings of deficit among the populations on climate change e.g.in areas of DRR.He added that key recommendation was to have a coordinated public information mechanism to mainstream gender and future generations on how well to deal with climate change. He also felt that the program would be more applicable if it is a product of the climate change council and not that of the ministry.

- Hon.Martha Wangari pointed out that the forum was the first avenue of intervention with the senate committee in terms of the generation and the progress of the climate change bill. She said that looking at specific provisions for county governments, there was need to have presentation on specific interventions to the senate committee and engage more with the senate for them to own the process and also have a greater input. This was clarified by Mr.Kioli who said that KCCWG would be happy to host the senate in the same program in collaboration with MEW&NR for the senators to be more informed.
- Mr.Mtunji felt that having the climate change council anchored at the presidency would provide the coordination role. His concern was whether the council would be able to command other ministries due to the cross cutting nature of climate change if anchored at the ministry as proposed. This was addressed by Dr.Lesiyampe who said that this would not be a challenge as the council would be an independent body. He gave the example of the issue of drought which he said fall under the ministry of devolution but it's being acted upon in all the ministries. He also pointed out that workings in the government is that everything starts at the top and ends at the top adding that what would be important would be to look at the structures to avoid creating amorphous institutions. Dr.Lesiyampe also mentioned that coordination could be undertaken by the ministry and did not have to come from the top adding that it would not be fair for the stakeholders to create amorphous institutions. He felt that the way to go would be to agree that the Council would be under the Ministry, and consider roles and responsibilities.
- Hon.Dr.Wanyonyi felt that it would be important to strengthen MEW&NR as NEMA might have issues. She said that having the council at the ministry would be one of the ways of strengthening the ministry. She also proposed to have the council at the ministry which she said should be lean and effective. She however wanted to know what informed the taskforce to decide to have the council anchored at the presidency and not at the ministry. This was addressed by Madam Suzy who said that the taskforce had proposed to have the council anchored at the presidency for coordination purposes. She also said that the taskforce looks at climate change as a development issue as opposed to an environmental agenda which would then need the political muscle for Kenya to grow towards the low carbon development pathway.
- Hon.Kinyua said that it would be important to appreciate how the government operates adding that there is always a way in which the ministries coordinate the

affairs that cuts across various ministries .e.g. when the budgetary request is done, there is coordination between the ministry of environment and the treasury. He also felt that it would be important not to create additional structures but use the existing one to operationalize and deliver the proposed law. He also emphasized the need to be innovative in sourcing for funds and pooling of resources for the climate change fund.

- A participant urged the stakeholders to stop looking at the negative side of NEMA in terms of its weaknesses but rather be optimistic that in the near future, it would be able to deliver its mandate. She also said that having the council at the presidency and the directorate at the ministry would result into conflict of power.
- Hon.Kinyua said that there is always a driver in every initiative adding that climate change rests in the ministry of environment. He felt that the cabinet secretary for the time being responsible for the environment should be the driver but anyone could input.
- Hon.Sang' hoped that there would be no conflicts in terms of roles between NEMA and the climate change secretariat
- Hon.Dr.Wanyonyi wanted to know the rationale of having The Institute of climate change, The University of Nairobi (8(1)(ii) )under article 8(composition of the council),why UoN and not any other university? She was also concerned with the required qualification7(b)(expertise and experience in matters of climate change ,climatology, economy, climatology.Hon.Dr.Wanyonyi also wanted a clarification on what Clause 8(4)b-A person shall not be qualified for appointment as chairperson or as a member of the board if the person is a member of a governing political party. She wondered if the document had been tailored and doctored for unknown reasons. This was addressed by Dr.Lesiyampe who said that on the issue of having the institute of climate change in the board, the issue was corrected and replaced with academia. On whether the document was being tailored for specific individuals, Dr.Lesiyampe said that this was not so adding that what was important was to look at amendments and make it more agreeable and consultative especially on the structure. It was also agreed to have the qualification as an expertise in environmental sciences and natural sciences and scrap off 7(b).
- Hon.Maanzo acknowledged that the framework and the architecture were on point. His concern however was that the bill seemed to be leaning more on NEMA yet they have limited capacity which would make it difficult for the it to handle the task and safeguard the country especially after seeing what NEMA had done so far as far as

compliance and environmental protection is concerned. He felt that it would be good to have a climate change regulatory board specifically to deal with matters to do with climate change as opposed to adding more work to NEMA. This was addressed by Dr. Kibugi who pointed out the taskforce could not foresee a department under the civil service carrying out compliance but NEMA would be in a better position to do this due to its existing mandate.

- Hon. Amina said that she was actually surprised by the architecture of the bill especially the size and the potential of the bill. Her opinion was that the structure was similar to that of NESC which she said didn't need a legislation to be put in place. She felt that the structure only proposed a big name with little deliverables. She felt that this was replicating what happened when climate change was under the OPM. She hoped that the legal consultant and the taskforce would give a justification for the choice of the given structure.

***Moderator-Hon. Dr. Wilber Ottichilo***

Having agreed on placing council at the ministry as well as having looked at the functions of the council as a team, Dr. Ottichilo pointed out that a small team which would comprise of the consultant, the taskforce and some members of the parliamentary committee on environment and natural resources would meet and harmonize the functions of the council and also make them fewer and not contradicting/conflicting. He said that the stakeholders would then look at the membership of the council which he said should not exceed nine people and propose amendments. He then welcomed Dr. Kibugi to give a presentation on the composition of the membership to the bill.

**3.3.2 Presentation on membership to the board**

Dr. Kibugi took the stakeholders through the membership of the council both in the climate change Bill 2014 and those proposed by the taskforce. The justifications for the amendments by the taskforce were informed by:

1. The need to clearly set out the membership of the council which is high level representation of the public sector at the cabinet secretary level, to be chaired by the deputy president.
2. The need to set out the nature of representation of the various special interest groups including county government, private sector, research institutions, civil society and the marginalized group.

He added that members would be from two categories;

- Members from the public sector
- Special interest representation.

Hon.Amina said that it would be good if the MPs left the forum with an agreement on which amendments to agree on and take to the committee. For this reason, Hon.Abdala urged the taskforce members to inform the stakeholders where they were coming from, try and sell the amendments as well as justify the need to have them. Members agreed to limit the number to nine with the six representations from the public sector. The CS responsible for environment would chair the council with the membership the public sector being the PS economic planning, PS energy e.tc and three from the alternate category.

#### *Plenary on the Membership to the Council Board*

- Hon.Wandayi felt that KEPSA should represent the private sector instead of having one representation of the private sector nominated by a National Consortium of Private Sector Organization. (Under clause 7(ii) of the proposed amendments by the taskforce/8(IV) of the climate change bill 2014.Madam Sonia felt that the logic on the private sector was very clear adding that other laid laws and policies mention KEPSA in place of the private sector. She was of the opinion that the team does what other laws had done and make changes in future if need be. This was addressed by Dr.Kibugi who said that previously specific entities including those that are not statutory used to be used but the taskforce felt that in the event that such an entity ceased existing, there would be no equivalent representation of the private sector to the council hence the use of a generic term. Madam Cheruto echoed Dr.Kibugi's comment by stating that KEPSA is the umbrella body for the private sector but the fear of being specific on having it as the organization representing the private sector was that it might not be in existence in years to come. She also mentioned that being specific on KEPSA would make other organizations feel they are not represented.
- Hon.Kinyua said that it would not be important to have all the other cabinet secretaries as the cabinet secretary responsible for climate change who would also couple as the chair was a member of the board. He proposed that the all the other cabinet secretaries be changed to the principle secretaries. (Clause 7 (a) (i)-(viii)).
- Hon.Chachu was concerned with qualification 3(i)-One member competent in climate change matters from a recognized Kenyan University. His concern was that this

would lock out qualified persons who might have acquired the skills and experience on climate change from learning institutions outside Kenya. This was addressed by Hon.Dr.Wanyonyi who said that this should be replaced with a member of academia who would be assessed by the joint council of universities especially for those who studied outside the country and are not part of the universities alumni.Hon.Tonui felt that this should be rephrased to a Kenyan citizen from the academia appointed by the joint university council.

- A stakeholder wanted to know what informed the taskforce to include a person competent in climate change as well as the academia to the board. This was addressed by Madam Cheruto who said that this was arrived at due to the role that the academia would play in climate change research and education. She said that these would also inform the programs that would be disseminated.
- Hon.Chachu said that his concern on having one member competent in climate change matters from a recognized Kenyan university was that this would lock out people with competencies and not on the lecturers. He added that following up with the alumni records from the universities would only apply for those who studied in Kenya. This was addressed by Hon.Amina who felt that it would important to retain the wording 'joint university council' as it could receive applications from different individuals across the country including those who received their qualifications from learning institutions outside the country but include a clause that there be a transparent way of reaching the applicants.
- Mr.Kimani felt that having the Director General NEMA in the board would be double representation since he reports to the cabinet secretary responsible for the environment. This was addressed by Dr.Lesiyampe who said that the Director General NEMA had been scrapped off/removed.
- Hon.Chachu felt that if the climate change council is to be placed at the ministry, all the cabinet secretaries initially proposed would remain due to the cross cutting nature of climate change as opposed to it being at the presidency which would have facilitated high level coordination.
- Hon.George wanted a clarification on the private sector in terms of which segment of the private sector is relevant to climate change. He felt that the private sector had different organizations within which called for the need to look at the most relevant e.g.KAM adding that when talking about climate change it's all about emissions to the atmosphere of which KAM is a major culprit.Hon.Madzayo was of the contrary

opinion as he didn't see how workable being the regulator and on the other side a culprit would be. This was addressed by Dr.Kibugi who said that the council is not a regulatory body but an advisory and coordination body. He also said that the taskforce could not go for a specific sector of the private sector since both the manufacturers and the producers would be affected when it comes to the issue of compliance.

- A participant was concerned that the cabinet secretary responsible for climate change did not exist yet he/she is named as a member of the council from the public sector. She also did not see the justification to have the cabinet secretary responsible for foreign affairs. This was clarified by Dr.Lesiyampe who said that this had been deleted from the category. He also said that the cabinet secretary responsible for foreign affairs had been scrapped off since the Attorney general is the custodian of multilateral agreements.
- Hon.Dr.Wanyonyi felt that there was no clear representation of women on the board especially on clause 7(a) (VIII)-Chairperson of the council of governors adding that all the county governors are men. She added that women contribute more to climate change and also constitute the marginalized group thus need for clear representation. This was addressed by Dr.Lesiyampe who said that it would be important to retain the chair person council of governors who could then delegate. His sentiments were echoed by Hon.Amina who said that the chair person council of governors could be maintained but a sub-clause for the board to observe the 2/3 gender requirement as per the constitution be maintained by the appointing authority.Hon.Martha also felt that it would be important to maintain the chair person council of governors at that point who she said have working committees with proper gender representation though implementation is at the county level.
- Hon.Ondie wanted to know if a National Consortium of Civil Society Organizations on climate change existed and if it did what its legal foundation was. Hon.Amina also wanted to know if the National Consortium of Civil Society Organizations on climate change existed and if it did its legal foundation or whether it would survive the test of time. This was addressed by Dr.Lesiyampe who said that it was time the stakeholders thought of the way forward in terms of getting a fully structured and registered consortium of CSOs on climate change. He proposed to have KCCWG as the organization representing the CSO since it had been involved in the process from 2009 and also due to its growth in terms of membership, research on climate change and employment creation.

- Hon.Wundayi felt that if the representation of the CSOs and that of the private sector is left open, there would be a difficulty in knowing or choosing who would represent the respective groups so would be the case if in choosing the organization to represent the marginalized. He added that CSO is a wide and loose term which could be scrapped off by the parliament thereby proposing to go by the National NGO council. His sentiments were echoed by Hon.Tonui who said that by not being specific on the organizations that would represent the respective groups (private sector or CSOs) to the board would complicate the process of getting a representation in terms of who in particular would be consulted. He also said that if the stakeholders were not specific on this, the parliament might scrap off this provision as the latter prefers specifications. This was addressed by Mr.Kioli who said that CSOs aren't necessarily NGOs adding that some organizations are registered under the societies act while others are registered under the ministry. He proposed that the stakeholders retain the general term of CSOs who he said a mechanism to transparently chose a representative.Dr.Lesiyampe said that it would be important to be specific on the organizations to represent the specific sector as parliament would not allow a situation that would allow more intrest.He said that it was time the stakeholders thought of getting a legally structured and registered CSO on climate change. He pointed out that for the private sector, the challenge would be on which organization to choose. He felt that for the CSOs, KCCWG would be better placed to represent the CSOs as it had been involved in the process since 2009 thereby proposing to have it and make changes in future if need be. His sentiments were echoed by Hon.Chachu who said that since KCCWG is a legal entity, he was of the agreement to have it as the organization representing CSOs on climate change.
- However, Ms.Ndichu was of contrary opinion as far as having KCCWG as the organization representing CSOs to the council. She said that the fact that KCCWG had been involved and even funded the process didn't justify the need to have it as the organization representing CSOs on climate change adding that this would be conflict of interest and interpretation. She said that other entities e.g.IYC, KCJWC e.t.c. also existed thus the need to have a system of getting the right organization appointed to avoid policy capture and conflict of interest.

Her sentiments were echoed by Mr.Kimani who pointed out that ACT! had been active in the climate change agenda and had also been supporting KCCWG

throughout the process and could also qualify to be the representative organizations of the CSOs. He felt that there are other organizations and that it would not be appropriate to have KCCCWG as the representative organization of the CSOs simply because it had been funding the process as well as having the advantage to participate in the process all through. This was clarified by Mrs. Kibe who said that KCJWC is a network member of KCCWG and so is KENFAP adding that KCCWG is an umbrella body and is qualified in terms of numbers. Mr. Msafiri also echoed Mrs. Kibe's sentiments by stating that there are quite of NGOs scattered all over some with recent registration while others are yet to register themselves. He added that KCCWG has membership across all the counties thereby emphasizing the need to be objective in terms of membership. He also said that NCCD which is comprised of over four hundred CSOs is represented in KCCWG through Suswatch.

Dr. Lesiyampe said that the ministry did not recognize that KCCWG had been supporting the process adding that the ministry had spent a lot as far as the climate change bill is concerned and could even refund any funds that KCCWG had spent in the process. He said that TI was free to investigate the engagement of KCCWG and MEW&NR adding that the ministry had the resources to run the process to its logical conclusion. He also stated that the fact that KCCWG had spent some money on the process did not justify the reason to rule it out all in the name of conflict of interest. He said that the matter could be left to the parliament to decide on which organizations could be representatives of the respective groups in the board which could be contrary to the stakeholders' expectations thus the need to sit down and agree on the specific organizations to be representatives to the board. Hon. Dr. Ottichilo thanked Dr. Lesiyampe for the insight adding that the parliamentary committee on environment and natural resources would sit and make a decision on the matter as if the issue was to be left to the parliament to decide, it could be contrary to the stakeholder's expectations.

***Moderator-Hon. Dr. Wilber Ottichilo***

Hon. Dr. Ottichilo thanked Hon. Amina and Dr. Lesiyampe for resolving most of the issues adding that what the stakeholders needed to look at next would be the proposed amendments by the taskforce on other contentious issues. He urged the stakeholders to look at how to incorporate county governments as when the bill was being formulated, the county

governments were not in place. He then welcomed Hon.Amina to make her closing remarks since she had to leave for Nairobi to attend to other matters that needed his personal attention.

### **3.4 Closing Remarks by Hon.Amina Abdalla-Chair Parliamentary committee on Environment and Natural Resources**

Hon.Amina thanked Hon.Dr.Ottichilo for the opportunity and for effectively chairing the session. She requested the taskforce not to take things personal as that is how the committee works adding that the latter always calls for justifications in order to own any process. She hoped that the stakeholders would come to an agreement on the amendments adding that she personally looked forward to receiving the amendments with the justifications. She wished the stakeholders fruitful deliberations and journey mercies to their respective destinations.

#### **Remarks by Dr.Richard Lesiyampe**

Dr.Lesiyampe thanked Hon.Amina for being present in most of the sessions adding that her presence and that of other members from the environmental committee that she chairs demonstrated commitment. He appreciated the committee members for always being available as far as the climate change bill process is concerned adding that it is among the most active committees. He pointed out that the climate change bill and policy would be the cornerstone of future laws on sustainable utilization of resources on behalf of the ministry and all those involved. He thanked Hon.Amina and her team adding that he hoped to see them in the two weeks' time at a meeting targeting the senate to enlighten them on the process. He then wished her safe journey back to Nairobi.

#### **3.3.3 Presentation on the powers of the cabinet secretary**

Dr.Kibugi then took the stakeholders through the proposed powers of the cabinet secretary by the taskforce. He added that the taskforce's justification for the amendments was:

1. To clearly set out the functions of the cabinet secretary as different from those of the council
2. To demonstrate the linkages between the cabinet secretary and the climate change directorate

Dr.Kibugi then took the stakeholders through the roles of the cabinet secretary which was followed by the plenary session.

### *Plenary on the Cabinet Secretary*

- Madam Sonia was concerned about clause 15(4) every five years, and in any event concurrent with development of the NCCAP, the cabinet secretary shall....She felt that this would be a challenge since by the time the NCCAP goes for revision, the council would already be in place since membership to the council is three years renewable once. This was addressed by Dr.Kibugi who said that the three years term is for the non-public representatives. He also said that by the time the NCCAP comes for review under the proposed legislation, the council would already be in place adding that it would be difficult to harmonize the two unless the NCCAP is re-written which would not be the optimal choice as it took two years to write it. Dr.Lesiyampe also offered some insight on the matter by stating that there is need to review the powers and pick on a few that touches on climate change and emphasizes on the climate change responsibilities. He also said that currently, the cabinet secretaries get their job descriptions from the president which are more of coordination which called for the review of the powers to emphasize on those that relate to climate change. He also proposed a two years period for review of the NCCAP to be in tandem with the three years that NEMA reports on the state of the environment as the proposed five years is too long a time.
- Hon.Wandayi wanted to know if it would be possible to have clarity on who is senior between the cabinet secretary and the council. This was answered by Dr.Kibugi who said that the cabinet secretary is the chair of the council thus more superior adding that there are specific roles of the council but still don't take away those of the cabinet secretary.Dr.Lesiyampe also clarified the issue by adding that the cabinet secretary is more superior as she/he is at a higher level of oversight and supervisory.Mr.Mtunji added that as long as it is within the ministry, the cabinet secretary would always be superior.
- Mr.Kimani felt that there was no need to have additional mandate to the cabinet secretary since he/she would be chairing the council and thus if the council has its mandate and the cabinet secretary is chairing, then the mandate of the council would be that of the cabinet secretary thus a repetition. This was addressed by Dr.Lesiyampe

who said that there is need to review the powers and pick on a few that touches on climate change and emphasize on the climate change responsibilities. He also said that currently, the cabinet secretaries get their job descriptions from the president which are more of coordination which called for the review of the powers to emphasize on those that relate to climate change.

### **3.3.4 Presentation on the establishment of the climate change directorate**

Dr.Kibugi brought to the attention of the stakeholders that the directorate would take up some roles of the climate change council. He added that the team had agreed not to create parastatals bodies but rather have it as a department under the civil service thus the directorate would be established as a department in the state department responsible for climate change affairs within MEW&NR.

Dr.Kibugi also mentioned that the climate change directorate would deliver technical coordination on matters of climate change for the government at the national level and also report to the CS.He added that it was proposed that the directorate is headed by the director of climate change to be recruited by the PSC with proposed qualifications by the task force which would reflect various competencies.Dr.Kibugi also pointed out that the director would deliver the mandate of the directorate and advise the CS on matters relating to legislation, policy and climate change governance.

#### *Plenary on the establishment of the climate change directorate*

- Hon.Wanyonyi was concerned that changes had not been made on the qualifications to be a member to the council ;10 years experience in environmental sciences, environmental studies....(8(3)(b)).She proposed that the qualification should read ‘environmental social sciences and natural sciences .This was addressed by Dr.Lesiyampe who said that this would be changed. He added that the directorate of climate change would be a leader who would be handling bargaining, negotiation and human resources issues among others. His concern was that emphasizing on the criteria for such a person to have scientific background could be limiting. He wished there would be a different criteria to get a qualified person without being strict on the sciences like one with an MBA.Mr.Mtunji was of a similar opinion too as he felt that there was no need to have the details as there was the wordings was sufficient..with relevance to climate change

- Hon.Dr.Wanyonyi was concerned that initially, the stakeholders had been informed that the cabinet secretary would prepare action plans, climate change policy and strategy and submit to the council for approval. This was addressed by Dr.Kibugi who said that the problem was on the wordings; the council would receive, review and approve policies, strategies and action plans from state departments and advise the cabinet on appropriate action.

### **3.3.5 Presentation on mainstreaming climate change into county development**

Dr.Kibugi brought to the attention of the stakeholders that when the climate change bill was being drafted, there was no provision for devolution. The taskforce proposed the creation of a statutory obligation for the county governments to integrate and mainstream climate change into their various functions. He added that the taskforce proposed to delete the requirement for the preparation of county climate change action plan in the climate change bill 2014 and utilize CIDPs as the mechanism for mainstreaming climate change at the county level. He said that county governments have at least sixteen functions given to them by the constitution among other functions from elsewhere with function 31 being the integration of climate change into the counties' mandate.

Dr.Kibugi pointed out that the county governments would mainstream climate change actions, interventions and duties set out in the act and the action plan into the various sectors through the CIPDs which would be approved by the county assembly and run for 4-10 years. He also mentioned that the Bill stipulates that the county governor shall designate a relevant member of the county executive committee who shall be responsible for climate change affairs, a matter he said was agreeable by the governors during the sensitization workshop on the governors that was held a few weeks ago.

#### ***Plenary on County Governments***

- Hon.Dr.Wanyonyi wanted to know how operations at the county level are linked up at the national level. She also wanted to know where the counties would get funds to carry out climate change obligations and also if the CIDPs were already in existence. This was addressed by Dr.Kibugi who said that the main approach on what is to be done pertaining climate change in Kenya both at national and county level is the NCCAP.He added that it is an obligation by law for each county to prepare its own CIDP which would be used to mainstream climate change at the county level. On the

issue of funding, Dr.Kibugi said that funding would be done through the regular budgeting processes whereby climate change would be factored in. His sentiments were echoed by Hon.Martha who said that there is need to emphasize on the need of counties to develop CIDPs as this is a requirement by law. She added that once the CIDPs are in place, funds for mainstreaming climate change would be received from the county governments. She added that what is at the county level could be addressed in section 31 which stipulates: Subject to this Act and the constitution, a county government may enact legislation that further defines implementation of its obligations under this ACT, or other climate change functions relevant to county or such other related purpose.

### **3.3.6 Presentation on the climate change fund/financial provisions**

Dr.Kibugi pointed out that the task force propose a climate change fund consistent with the findings of the NCCAP sub component eight; a fund mechanism to finance various actions and interventions that facilitate transition of Kenya towards low carbon climate resilient development. He added that strategic actions and priority actions would be put in place to guide the country on the direction to take. He also brought to the attention of the stakeholders that the proposed fund would be vested at the national treasury and managed by the board. The sources of the funds would be grants, consolidated funds, penalties and monies payable by any Act of the fund. He also mentioned that the fund propose regulations for tracking climate finance, mobilization and application in Kenya.

Dr.Kibugi also brought to the attention of the stakeholders that with the entry of oil and petroleum, there is a proposal for the sovereign fund which would intersect with climate change adding that such funds would facilitate climate change intervention.

#### ***Plenary on climate change fund***

- Hon.Wanyonyi wanted to know the justification for creating a board to manage the funds yet the council could manage it.Hon.Mulesi also felt that the board should be vested at the ministry since the ministry already has structures in place in terms of personnel including the accountants who could handle such matters. He added that any other functions within the MEW&NR would be done within the available structures.Hon.Chachu felt that the stakeholders needed to be more precise and work

on the available structures since adding more structures would have an implication on the wage bill. This was addressed by Dr.Lesiyampe who said that the sovereign wealth fund was yet to be formed adding that it would be important for the stakeholders not to loose focus. He added that there is need to put in place policies and legislations to help Kenya acquire funds and resources not just from the national government but also from the international governments to fund the country's adaptation and mitigation measures.Dr.Lesiyampe added that the need to attract more resources informed the need to have a coordination body to manage the resources.

- Hon.Chachu brought to the attention of the stakeholders that there are mechanisms that had worked in the country e.g. the strategic grains reserve fund which was successfully managed by the trustees. He felt that if the climate change fund should be put in place, a trustee within the government structure should be put in place to manage the resources instead of creating another entity.Dr.Lesiyampe justified the need to have the board by pointing out that the need to attract resources both from the national government and from the international government and also for coordination purposes informed the decision to have the board in place.
- Hon.Wanyonyi wanted to know if a best practice existed that the country was trying to emulate or if Kenya would be the first country to come up with such a bill. She also wanted to know if Kenya is the first country to come up with such a bill, why have other countries not attempted to come up with one. This was addressed by Hon.Ottichilo who said that Kenya would be the first African country to come up with such a bill adding that some countries e.g. Canada and Australia already have such bills in place. He also mentioned that most countries had done papers on climate change.Dr.Lesiyampe also shed some light on Hon.Wanyonyi's concern by pointing out that a lot of literature had been conducted on climate change and on how to manage issues to do with climate change in general by countries like Sudan and South Africa. He added that Kenya has always pioneered in many things within the region adding that it would be no harm for other countries to follow in the footsteps of Kenya as they mostly look upon her. He said that the team should be encouraged to take up the risk and come up with the document which adding that no document is perfect; changes would always be made.

*Moderator-Dr. Wilber Ottichilo*

Dr.Ottichilo thanked Dr.Kibugi for the wonderful presentation and for managing to address most of the concerns that the stakeholders had. She then invited Ms.Ndichu to make a presentation on climate change opportunities and the UNFCCC process.

**3.5 PRESENTATION ON CLIMATE CHANGE OPPORTUNITIES AND THE UNFCCC PROCESS-Ms.Judy Ndichu, TI KENYA**

Ms.Ndichu brought to the attention of the stakeholders that Kenya is a party to the UNFCCC adding that the country has several opportunities on climate change and the UNFCCC.These include:

1. Funds
  - a) Adaptation fund-The adaptation fund was established in 2001 to finance concrete adaptation projects and programs in developing countries parties to the Kyoto protocol that are particularly vulnerable to the adverse effects of climate change. The adaptation fund is financed from the share of proceeds on the CDM project activities and other sources of funding.NEMA submitted a 10million USD proposal to implement the adaptation actions and have specific adaptation actions that would be implemented as a country. Kenya as a country is rallying behind NEMA to advocate for the proposal to go through. The adaptation fund tries to eliminate the multinationals like the World Bank that receives money on behalf of other countries.
  - b) Green climate fund-This was agreed upon in Mexico and is based in South Korea.It is a fund within the framework of the UNFCCC founded as a mechanism to transfer money from the developed to the developing world in order to assist the developing countries in adaptation and mitigation practices to counter climate change. As we are putting structures in place at the global level, one of the principles being presented to enable countries access the funds is the enhanced direct access. This would ensure that monies that come to communities or countries that are suffering like Kenya go directly to the communities. The proposal is to have the women groups, youth groups and vulnerable groups receive the money directly so as to address their problems particularly on adaptation.
  - c) Carbon trading-This is an approach used to control carbon dioxide pollution by providing economic incentives for achieving emissions reductions. Kenya has gone a

step ahead and has nominated NEMA to be the designated national authority that approves the CDM projects. Kenya is also number one in Africa having seventeen projects which could be identified as an opportunity to get more money to address our sustainable development agenda.

- d) REDD+-This is a mechanism being negotiated on to ensure the country maintains the tree cover and still consider those who take care of the resources.

She added that experiences from countries like Bangladesh and Mexico have established funds that are helping the countries receive the resources. The climate fund in Bangladesh for instance receives all the climate money coming into the country which makes it easy to monitor and track She felt that such a principle is being used by donors as a conditionality to receive resources. Ms. Ndichu brought to the attention of the stakeholders that Kenya has many institutions receiving climate money but we are not able to show where the three hundred million, second to South Africa, is.

Ms. Ndichu enlightened the stakeholders that other issues being discussed include technology transfer adding that Eng. Omedi Jura from MEW&NR, CCS sits in the technology executive committee to see how Kenya can tap into this and the available technologies. She also mentioned that Kenya had come a long way in the UNFCCC negotiation process in representing the voice of developing countries. She also mentioned that Kenya looks at ADP which would be looking forward to a binding agreement by 2015 of which if agreed on, the process would bind countries including Kenya. Ms. Ndichu also brought to the attention of the stakeholders that MEW&NR had been involved in the negotiations on behalf of the country but the challenge had been getting the mass required to give it the support which she hoped the bill would address or any other opportunity in the parliament. Ms. Ndichu thanked Dr. Lesiyampe for his support and leadership towards the climate change legislation.

***Moderator-Dr. Wilber Ottichilo***

Dr. Ottichilo thanked Ms. Ndichu for the elaborate presentation. He then called upon Mr. Benjamin Kimani to make a presentation on CSOs perspective of climate change

### **3.6 PRESENTATION ON CSO PERSPECTIVE OF CLIMATE CHANGE- MR. BENJAMIN KIMANI, ACT!**

Mr. Kimani defined advocacy as a targeted process of influencing holders of power to arrive at decisions or policies and laws that benefit the poor, vulnerable and marginalized. He said that ACT! Is one of the organizations that had chosen to use advocacy to bring about change. He mentioned that historically, it is known that when CSOs engage in advocacy it's confrontational but time had come when the latter and government realized they are in the same boat and would both sink if the boat sunk thus the need to work together. He pointed out some of the benefits of advocacy to include; Complementing direct service delivery, capacity building and technical assistance, improved program impacts by policy makers and expand strategies available to development practitioners. He highlighted the following as some of the ways of building advocacy:

- Working through Implementing Partners-Grants
- Building their Capacities
  - Support them to identify strategies of engaging decision makers
  - Equip them on advocacy tools
  - Create and Provide platforms and linkages for dialogue
  - Platforms for public participation
  - Round tables
  - Mentorship through Implementation

Mr. Kimani also brought to the attention of the stakeholders that ACT! Engages in climate change advocacy at both the national and devolved levels of governance through:

- Supported non-state actors
- Platforms for public participation- Networks
- Mainstreaming Climate Change in Strategies, Plans, Policies and Laws

- Climate Change BILL
- CIDPs
- Water Bill
- AFFA Act
- Wetlands
- Review of Forest Act!

Mr.Kimani also brought to the attention of the stakeholders that ACT! Supports KCCWG at the national level in the climate change legislation process and also during the climate change hearings that were conducted to collect communities' views on climate change. He also said that at the moment, ACT! was supporting the wildlife Act, the reviewing of EMCA and the forest ACT.

***Moderator-Dr.Wilber Ottichilo***

Dr.Ottichilo thanked the stakeholders for their active participation which had led to a productive day. He added that he hoped that the secretariats had taken up the proposed views and proposals. He gave the *way forward* as follows:

1. The task force and the resource persons to meet and make the necessary changes on the recommendations
2. Continued consultations between the senate and the taskforce
3. A report on the climate change bill and policy is presented to the parliamentary committee on environment and natural resources by 3<sup>rd</sup> June which would then take it to the parliament. The committee would then talk to the house business committee to schedule the bill for the second reading.

Dr.Ottichilo told the stakeholders that they were on the right track as far as attaining climate change legislation was concerned. He then called upon Dr.Lesiyampe to make the closing remarks.

### **3.7 CLOSING REMARKS-DR.RICHARD LESIYAMPE-PS, MEW&NR**

Dr.Lesiyampe pointed out that the proposed clarifications on the climate change bill should be made within the next fourteen days and wait for the bill to be presented to the parliament. He urged the taskforce to carry out any needed meetings to harmonize the amendments. He also thanked the stakeholder for actively contributing in the forum. He thanked the members of both the senate and the national assembly for attending the forum adding that it is not always easy to have positive response. He pointed out that there is no perfect document adding that the stakeholders needed to come up with the climate change bill and have it passed into law which would later be amended on if need be. He wished the stakeholders journey mercies to their respective destinations and called upon Ms.Sonia to close the workshop with a word of prayer.