

Approved
SWA
2/12/25

**THIRTEENTH PARLIAMENT – FOURTH SESSION – 2025
DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL
PLANNING**

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REPORT ON:

**THE CONSIDERATION OF THE AGREEMENT BETWEEN THE
GOVERNMENT OF THE REPUBLIC OF SINGAPORE AND THE
GOVERNMENT OF THE REPUBLIC OF KENYA FOR THE ELIMINATION
OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND
THE PREVENTION OF TAX EVASION AND AVOIDANCE.**



**CLERK'S CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI.**

NOVEMBER, 2025

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LIST OF ABBREVIATIONS AND ACRONYMS

MFA	-	Ministry of Foreign and Diaspora Affairs
MDAs	-	Ministries, Departments, and Agencies
UDA	-	United Democratic Alliance
ODM	-	Orange Democratic Movement

LIST OF ANNEXURES

Annexure 1: Adoption Schedule

Annexure 2: Adoption Minutes

Annexure 3: The agreement between the Government of the Republic of Singapore and the Government of the Republic of Kenya for the elimination of Double Taxation with respect to taxes on income and the prevention of tax evasion and avoidance.

Annexure 4: Copy of newspaper advertisement on public participation and submission of memoranda

Annexure 5: Letter from the Clerk of the National Assembly inviting Stakeholders for public participation.

CHAIRPERSON'S FOREWORD

This report details the consideration by the Departmental Committee on Finance and National Planning on its consideration of the agreement between the Government of the Republic of Singapore and the Government of the Republic of Kenya for the elimination of double taxation with respect to taxes on income and the prevention of tax evasion and avoidance.

The National Treasury and Economic Planning, on behalf of the Government of Kenya, concluded negotiations on the Agreement in June 2023. The Agreement was signed on the sidelines of the 79th Session of the United Nations General Assembly in New York by the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs on 23rd September, 2024 paving way for the ratification process. Subsequently, the Cabinet approved the ratification of the Agreement in the 1st Special Cabinet Meeting of 2025 held on 11th February, 2025. The Agreement was published in the Kenya Gazette on 2nd May, 2025 (Gazette Notice No. 5583 of 2025).

Pursuant to section 8(1) of the Treaty Making and Ratification Act Cap 4D, the Cabinet Secretary for Foreign and Diaspora Affairs submitted the Parliamentary Memorandum on Kenya's Accession of the Agreement Establishing European Bank for Reconstruction and Development to the Speaker of National Assembly, laid on the Table of the House and committed to the Committee in line with Standing Order 170A (1).

The Agreement seeks to afford relief from double taxation in relation to income tax and any rates of similar character imposed by the laws of Kenya. The Agreement further seeks to further develop the economic relationship between Kenya and Singapore, enhance their co-operation in tax matters, sealing loopholes for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third jurisdictions). The Agreement contains 30 Articles.

In considering the Treaty, the Committee pursuant to Article 118(1)(b) of the Constitution, section 8(3) of the Treaty Making and Ratification Act Cap 4D and Standing Order 170A(2) placed advertisements in two local dailies on **31st July 2025** calling for submissions of memoranda on the subject matter. Further, the Committee, through a letter dated **26th September 2025** invited different stakeholders to make submissions on the agreement.

Having examined the agreement between the Government of the Republic of Singapore and the Government of the Republic of Kenya for the elimination of double taxation with respect to taxes on income and the prevention of tax evasion and avoidance against the Constitution, the Treaty Making and Ratification Act (Cap 4D) and Standing Order 170A

of the National Assembly Standing Orders, the Committee recommends that the House adopts this report and **approves** the ratification of the agreement between the Government of the Republic of Singapore and the Government of the Republic of Kenya for the elimination of double taxation with respect to taxes on income and the prevention of tax evasion and avoidance.

Pursuant to Standing Orders 199(6) and 170A (4) it is my pleasant duty to present to the House the Report of the Departmental Committee on Finance and National Planning on its consideration of the agreement between the Government of the Republic of Singapore and the Government of the Republic of Kenya for the elimination of double taxation with respect to taxes on income and the prevention of tax evasion and avoidance.



For

Hon. FCPA Kuria Kimani, CBS, M.P.

Chairperson, Departmental Committee on Finance and National Planning.

PART I

1.0 PREFACE

1.1 Introduction

1. This report outlines the consideration by the Departmental Committee on Finance and National Planning of the agreement between the Government of the Republic of Singapore and the Government of the Republic of Kenya for the elimination of double taxation with respect to taxes on income and the prevention of tax evasion and avoidance.
2. The National Treasury and Economic Planning, on behalf of the Government of Kenya, concluded negotiations on the Agreement in June 2023. The Agreement was signed on the sidelines of the 79th Session of the United Nations General Assembly in New York by the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs on 23rd September, 2024 paving way for the ratification process. Subsequently, the Cabinet approved the ratification of the Agreement in the 1st Special Cabinet Meeting of 2025 held on 11th February, 2025.
3. The Agreement was published in the Kenya Gazette on 2nd May, 2025 (Gazette Notice No. 5583 of 2025).

1.2 Mandate of the Committee

4. The Committee is established under the National Assembly Standing Order No. 216. The mandate of the Committee includes, among others, **“to examine treaties, agreements and conventions”**.
5. The Committee’s subject matters are stated in the Second Schedule of the National Assembly Standing Orders and are as follows: public finance, public audit policies, monetary policies, financial institutions, economy, investment policies, competition, banking, insurance, national statistics, population, revenue policies including taxation, national planning, and development, digital finance, including digital currency.

1.3 Oversight

7. In executing its mandate, the Committee oversees the following MDAs: The National Treasury; The State Department for Economic Planning; State Department for Public Investment and Asset Management; The Office of the Controller of Budget and The Commission on Revenue Allocation.

I.4 Committee Membership

8. The Departmental Committee on Finance and National Planning was constituted by the House on **27th October, 2022** and comprises the following Members:

Chairperson

Hon. CPA. Kuria Kimani, CBS, MP
Molo Constituency
UDA Party

Vice-Chairperson

Hon. Amb. Benjamin Langat, CBS, MP
Ainamoi Constituency
UDA Party

Hon. Peter Kaluma, CBS, MP
Homabay Town Constituency
ODM Party

Hon Andrew Okuome, MP
Karachuonyo Constituency
ODM Party

Hon. David Mboni, MP
Kitui Rural Constituency
Wiper Party

Hon. CPA Joseph Oyula, MP
Butula Constituency
ODM Party

Hon. Betty Maina, MP
Muranga County
UDA Party

Hon. Umul Ker Kassim, MP
Mandera County
UDM Party

Hon. CPA Julius Rutto, MP
Kesses Constituency
UDA Party

Hon. Dr. Shadrack Ithinji, MP
South Imenti Constituency
Jubilee Party

Hon. Paul Biego, MP
Chesumei Constituency
UDA Party

Hon. Chiforomondo Mangale, MP
Lungalunga Constituency
UDM Party

Hon. Dr. John Ariko, MP
Turkana South Constituency
ODM Party

Hon. Mohamed Machele, MP
Mvita Constituency
ODM Party

Hon. George Sunkuya, MP
Kajiado West Constituency
UDA Party

I.5 Committee Secretariat

9. The Committee is facilitated by the following staff:

Mr. Benjamin Magut

Principal Clerk Assistant II /Head of Secretariat

Mr. James M. Macharia

Media Relations Officer I

Ms. Winfred Kambua

Clerk Assistant III

Mr. Benson Kamande

Clerk Assistant III

Mr. Benson Muthuri

Serjeant-At-Arms

Mr. Steve Jeremy Kamau

Committee Intern

Mr. Mwangi Muchiri

Audio Officer III

Mr. George Ndenjeshe

Fiscal Analyst II

Ms. Nelly W.N. Ondieki

Research Officer III

Ms. Joyce Wachera

Hansard Officer II

Mr. Allan Kimani Ngugi

Committee Intern

PART II

2.0 BACKGROUND TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE AND THE GOVERNMENT OF THE REPUBLIC OF KENYA FOR THE ELIMINATION OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND THE PREVENTION OF TAX EVASION AND AVOIDANCE

10. The Committee received the Agreement Between the Government of the Republic of Singapore and the Government of the Republic of Kenya for the Elimination of Double Taxation with Respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance.
11. The National Treasury and Economic Planning, on behalf of the Government of Kenya, concluded negotiations on the Agreement in June 2023. The Agreement was signed on the sidelines of the 79th Session of the United Nations General Assembly in New York by the Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs on 23rd September, 2024 paving way for the ratification process. Subsequently, the Cabinet approved the ratification of the Agreement in the 1st Special Cabinet Meeting of 2025 held on 11th February, 2025.
12. The Agreement was published in the Kenya Gazette on 2nd May, 2025 (*Gazette Notice No. 5583 of 2025*).
13. The Agreement seeks to afford relief from double taxation in relation to income tax and any rates of similar character imposed by the laws of Kenya. The Agreement further seeks to further develop the economic relationship between Kenya and Singapore, enhance their co-operation in tax matters, sealing loopholes for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third jurisdictions). The Agreement contains 30 Articles.
14. The Treaty Making and Ratification Act, 2012 (the Act) is the legal framework giving effect to **Article 2(6)** of the Constitution and to provide the procedure for the making and ratification of treaties. Article 2(6) provides that—

“Any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution.”

15. **Section 7** of the Act provides that where the Government intends to ratify a treaty, the Cabinet Secretary of the relevant State department shall, in consultation with the Attorney-General, submit to the Cabinet the treaty, together with a memorandum outlining several things including the objects and subject matter of the treaty.

PROVISIONS OF THE AGREEMENT

16. The Agreement 30 articles.

Article 1: Persons Covered

17. **This article defines the scope of persons to whom the agreement applies.** It applies to individuals or entities who are residents of either or both contracting states. This ensures that only eligible taxpayers benefit from the double taxation relief.

Article 2: Taxes Covered

18. **This article outlines the specific taxes subject to the agreement.** It includes income taxes imposed by Kenya or Singapore and any future taxes of a similar nature. The agreement covers both current and future taxes, whether imposed centrally or locally. Both countries must notify each other of significant changes to their tax laws.

Article 3: General Definitions

19. **This article provides essential definitions for interpreting the agreement.** It defines terms such as “resident”, “company”, “international traffic”, “national” and “**competent authority.**” These definitions ensure clarity and uniform application of the treaty.

Article 4: Resident

20. **This article determines residency for tax purposes.** It establishes rules for **resolving** dual residency for individuals (using tests like permanent home and centre of vital interests) and legal entities (using effective place of management). In cases of ambiguity, competent authorities will resolve disputes through mutual agreement.

Article 5: Permanent Establishment

21. **This article defines the concept of a permanent establishment (PE).** It includes branches, offices, factories, and long-term construction sites. Certain activities, like storage or auxiliary services, do not create a PE. A PE allows the source country to tax profits from that establishment, ensuring fair distribution of taxing rights.

Article 6: Income from Immovable Property

This article addresses taxation of income from immovable property. Income like rent or earnings from agriculture may be taxed in the country where the property is located. Ships and aircraft are excluded from the definition of immovable property.

Article 7: Business Profits

22. **This article governs how business profits are taxed.** Profits are taxed in the **resident** state unless the business has a PE in the other country. Only profits attributable to the PE are taxed in the source country. Internal payments like royalties and interest between a head office and PE are not deductible except in certain cases.

Article 8: Shipping and Air Transport

23. **This article assigns taxing rights for international transport income.** Profits from operating ships or aircraft in international traffic are taxed only in the country where the operator is resident. This includes incidental container rentals.

Article 9: Associated Enterprises

24. **This article deals with taxation between related enterprises.** If related **companies** transact on non-arm's length terms, tax authorities can adjust profits to reflect market conditions. This discourages profit shifting and transfer pricing abuse. Double taxation arising from such adjustments may be relieved through mutual agreement.

Article 10: Dividends

25. **This article regulates the taxation of dividends between residents of the two states.** Dividends may be taxed in both states, but the source state's tax is capped at 8% if the beneficial owner is in the other state. Dividends paid to government entities may be exempt. This encourages cross-border investment while protecting revenue.

Article 11: Interest

26. **This article addresses taxation of interest income.** Interest may be taxed in **both** countries, but the source country's tax is capped at 10% for beneficial owners. Government-related institutions are exempt. Excessive interest payments due to special relationships can be disregarded for tax purposes.

Article 12: Royalties

27. **This article governs taxation of royalties.** Royalties may be taxed in both **countries**, with a 10% cap in the source country. Royalties include payments for

intellectual property, software, and technical data. If the royalties are connected to a PE, they are taxed as business profits.

Article 13: Technical Fees

28. **This article regulates fees for technical services.** Such fees may be taxed in both countries, subject to a 10% cap in the source country. It includes managerial, consultancy, and professional services but excludes employee salaries and teaching. It ensures proper taxation of high-value knowledge exports.

Article 14: Capital Gains

29. **This article governs taxation of capital gains.** Gains from immovable property and business assets of a PE may be taxed in the country where the asset is located. Gains from ships and aircraft are taxed only in the resident country. Shares deriving most of their value from real estate may also be taxed at source.

Article 15: Income from Employment

30. **This article sets rules for taxing income from employment.** Employment income is generally taxed in the country where the work is performed. Short stays (under 183 days) may be exempt if certain conditions are met.

Article 16: Directors' Fees

31. **This article addresses the taxation of directors' fees.** Such fees are taxed in the country where the company is resident. It applies to non-resident directors earning from board duties in foreign companies.

Article 17: Artistes and Sportspersons

32. **This article deals with taxation of entertainers and athletes.** They are taxed in the country where their performance occurs, even if income goes to another party. If performances are funded by public entities, income is taxed only in the residence country.

Article 18: Pensions and Social Security Payments

33. **This article governs taxation of pensions.** Private pensions are taxed in the country of residence. State or social security pensions are taxed only in the paying country.

Article 19: Government Service

34. **This article sets rules for government-paid salaries and pensions.** Such **income** is taxed in the paying state unless the recipient is a national and resident of the other state. It ensures equitable treatment of civil servants working abroad.

Article 20: Professors and Teachers

35. **This article grants tax exemption for short academic visits.** Exemption applies for up to two years if the visit is for teaching or research at a public institution and the **income** is paid from abroad. This promotes academic exchange programs.

Article 21: Students

36. **This article grants tax exemption to foreign students.** Maintenance and education payments from abroad are not taxed in the host country. It supports students pursuing education in the other contracting state.

Article 22: Other Income

37. **This article covers miscellaneous income not addressed elsewhere.** Such **income** is taxed only in the resident country unless it is linked to a permanent establishment in the source country. In that case, source taxation applies.

Article 23: Elimination of Double Taxation

38. **This article ensures that income is not taxed twice.** Each country allows tax **credits** for foreign tax paid, subject to limitations. For dividends, underlying corporate tax may also be credited in certain cases. This promotes cross-border investments and tax neutrality.

Article 24: Non-Discrimination

39. **This article prohibits discriminatory tax treatment.** Nationals and enterprises of one country must not be subjected to harsher taxation in the other. However, local tax incentives or personal reliefs may still be limited to residents.

Article 25: Mutual Agreement Procedure

40. **This article provides a mechanism for dispute resolution.** Taxpayers may seek resolution from competent authorities if they face unjust taxation. Authorities may consult to interpret treaty provisions and resolve double taxation cases.

Article 26: Exchange of Information

41. **This article mandates exchange of tax-related information.** Tax authorities must **exchange** relevant data, even if not needed for their own tax purposes.

Confidentiality must be preserved. Information from banks and nominees is not exempt.

Article 27: Members of Diplomatic Missions and Consular Posts

42. **This article preserves diplomatic tax privileges.** Diplomatic immunity is **maintained** as per international law. The treaty does not override Vienna Convention protections.

Article 28: Entitlement to Benefits

43. **This article limits treaty benefits in cases of abuse.** If obtaining the benefit was one of the main purposes of a transaction, the benefit may be denied. This prevents treaty shopping and protects the integrity of the agreement.

Article 29: Entry Into Force

44. This article defines when the agreement becomes effective. The treaty takes effect once both countries complete their domestic procedures. It specifies the start dates for **different** taxes. This ensures coordinated and predictable implementation.

Article 30: Termination

45. **This article allows either country to terminate the agreement.** Termination requires 6 months' notice after 5 years from entry into force. It outlines how the termination affects existing tax rights depending on the tax type and timing.

Protocol

46. **The Agreement also contains a protocol that seeks to provide clarity on three articles of the Agreement.** These are Article 4 (*Resident*); Article 9 (*Associated Enterprises*); Article 26 (*Exchange of Information*). These are elaborated below.

(a) Clarity on place of effective management

47. With reference to paragraph 3 of Article 4 (*Resident*), the place of effective management is the place where key management and commercial decisions that are **necessary** for the conduct of the entity's business as a whole are in substance made.

(b) Associated enterprises

48. With reference to paragraph 1 of Article 9 (*Associated Enterprises*), a Contracting State shall not change the profits of an enterprise in the circumstances referred to in paragraph 1 of Article 9 after the expiry of the time limits provided in its national laws. This provision shall not apply in the case of fraud or wilful default.

(c) Particulars to provide on request for information

49. With reference to Article 26 (*Exchange of Information*), the competent authority of the applicant State shall provide the following information to the competent authority of the requested State when making a request for information under the Agreement to demonstrate the foreseeable relevance of the information to the request—

- (a) the identity of the person under examination or investigation;
- (b) a statement of the information sought including its nature, the relevance of the information to the request, and the form in which the applicant State wishes to receive the information from the requested State;
- (c) the tax purpose for which the information is sought;
- (d) grounds for believing that the information requested is held in the requested State or is in the possession or control of a person within the jurisdiction of the requested State;
- (e) to the extent known, the name and address of any person believed to be in possession of the requested information;
- (f) a statement that the applicant State has pursued all means available in its own territory to obtain the information;
- (g) a statement that the request is in conformity with the law and administrative practices of the State of the competent authority, and that the competent authority is authorised to obtain the information under the laws of that State or in the normal course of administrative practice;
- (h) the details of the period within which the applicant State wishes the request to be met; and
- (i) any other information that may assist in giving effect to the request.

PART III

3.0 PUBLIC PARTICIPATION/STAKEHOLDER CONSULTATION

3.1 Call for Memoranda from the Public

50. Pursuant to Article 118(1)(b) of the Constitution on Public Participation and Section 8(3) of the Treaty Making and Ratification Act, 2012, the Committee placed advertisements in the local dailies, on 31st July 2025 calling for submissions of memoranda on the subject matter. By the close of the deadline, the Committee received no memoranda from any stakeholder.

LEGAL PROVISIONS

51. Pursuant to the Treaty Making and Ratification Act CAP 4D, the Cabinet Secretary submitted the treaty and a memorandum to the Speaker of the National Assembly on **27th May 2025**.
52. Upon receipt of the Parliamentary Memorandum by the National Assembly, the relevant parliamentary committee during its consideration of the treaty is required to ensure there is public participation.
53. The National Assembly may approve or refuse to approve or approve with reservation the ratification of a treaty.
54. Where the ratification of a treaty is approved by the National Assembly, the Registry of Treaties prepares the instrument of ratification of the treaty.
55. The instrument is then signed, sealed, deposited at the relevant depositary, and a copy is filed with the Registrar of Treaties.

PART IV

4.0 COMMITTEE OBSERVATIONS

56. Having considered the Agreement and analyzed the submissions made, the Committee observed as follows:

- (a) **The Agreement was signed on 23rd September, 2024 whereas the Cabinet approved the ratification of the Agreement on 11th February, 2025. The Agreement was published in the Kenya Gazette on 2nd May, 2025 (Gazette Notice No. 5583 of 2025).**
- (b) **The Agreement seeks to afford relief from double taxation in relation to income tax and any rates of similar character imposed by the laws of Kenya. The Agreement further seeks to further develop the economic relationship between Kenya and Singapore, enhance their co-operation in tax matters, sealing loopholes for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third jurisdictions).**
- (c) **The Agreement is aligned to the Constitution.**


PART V

5.0 COMMITTEE RECOMMENDATION

57. The Committee, having reviewed the Agreement recommends that pursuant to section 8 of the Treaty-Making and Ratification Act, Cap. 4D, the House adopts and approves the Agreement between the Government of the Republic of Singapore and the Government of the Republic of Kenya for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance.

SIGNED:  DATE: *2nd Dec 2025*

For: THE HON FCPA KURIA KIMANI, CBS, M.P.
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON FINANCE AND
NATIONAL PLANNING

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 02 DEC 2025	
DAY: TUESDAY	
TABLED BY:	HON. MBONI MWALIKA (COMMITTEE MEMBER)
CLERK-AT THE-TABLE:	INZFU MWALE



**THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - FOURTH SESSION- 2025**

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING.

ADOPTION LIST

**REPORT ON THE AGREEMENT BETWEEN THE GOVERNMENTS OF THE
REPUBLIC OF KENYA AND THE REPUBLIC OF SINGAPORE FOR THE ELIMINATION
OF DOUBLE TAXATION ON INCOME AND ON THE PREVENTION OF TAX EVASION
AND AVOIDANCE.**

We, the Members of the Departmental Committee on Finance and National Planning have pursuant to Standing Order 199, adopted this Report and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity today, Tuesday, 25th November, 2025.

S/NO.	NAME	SIGNATURE
1.	HON. (CPA). KURIA KIMANI, MP - CHAIRPERSON	
2.	HON. (AMB). BENJAMIN KIPKIRUI LANGAT, MP – VICE CHAIRPERSON	
3.	HON. KALUMA PETER OPONDO, MP	
4.	HON. GEORGE SUNKUYIA RISA, MP	
5.	HON. (CPA) JOSEPH MAERO OYULA, MP	
6.	HON. ANDREW ADIPO OKUOME, MP	
7.	HON. DAVID MWALIKA MBONI, MP	
8.	HON. CHIFOROMODO MANGALE MUNGA, MP	
9.	HON. MAINA BETTY NJERI, MP	
10.	HON. (CPA) JULIUS KIPLETING RUTTO, MP	
11.	HON. PAUL KIBICHIY BIEGO, MP	
12.	HON. UMUL KER SHEIKH KASSIM, MP	
13.	HON. DR. SHADRACK MWITI ITHINJI, MP	
14.	HON. DR. JOHN ARIKO NAMOIT, MP	
15.	HON. MOHAMED SOUD MACHELE, MP	

