

PARLIAMENT OF UGANDA

**Report of the Committee on Tourism, Trade &
Industry concerning alleged unfair trade
practices in the Rice subsector**

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Kampala

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August 2022

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ACRONYMS


EAC	-	East Africa Community
CET	-	Common External Tariff
MT	-	Metric Tons
RADFO	-	Rice Agribusiness Development Foundation
URA	-	Uganda Revenue Authority
TT&I	-	Tourism Trade and Industry
VAT	-	Value Added Tax
RBSA	-	Rice Business Sector Association Ltd
MAAIF	-	Ministry of Agriculture, Animal Industries and Fisheries
PFMA	-	Public Finance Management Act
EAC	-	East African Community



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1.0 INTRODUCTION

The Committee on Tourism, Trade and Industry has the honour to present a report on investigations carried out as a result of a petition tendered to the Office of the Speaker of Parliament, who subsequently assigned the matter to the Committee on Tourism Trade and Industry on the 5th May 2022 in accordance with rule 30(6) of the Rules of Procedure of Parliament.

The main ingredients of the petition regard the 'ceasure' of clearance of V.A.T Exempt Rice Imports, and other obstacles that culminated from the 21st April 2022 communication from Ministry of Trade Industry & Cooperatives, that was signed on 10th February 2022.

The 'ceasure' of clearance of the VAT exempt rice importation resulted into diverse and dire challenges that left the ground unlevelled for fair trading in the rice business subsector. The resultant challenges prompted the rice business traders, specifically, Kampala Rice Traders Association Limited to petition the Parliament of Uganda to intervene in their plight. The committee interfaced with various stakeholders from various entities and undertook a fact-finding field visit to Mutukula border, from 3rd to 6th August 2022 and these are the Committee's findings, observations and recommendations;

2.0 BACKGROUND

History of Rice in Uganda

It is believed that rice was introduced to Uganda by Indian traders as early as 1904. During this period, rice did not gain any popularity until the late 1940s¹. During the initial years, Indian traders imported paddy rice and milled it using Indian traditional stone mills. As a result, the cost of rice was high making it almost inaccessible to indigenous communities. Its consumption was limited to

¹ Wilfred, O. 2006. Final Survey Report on the Status of Rice Production, Processing and marketing in Uganda. A report submitted to the Embassy of Japan in Uganda through JICA and Sasakawa Africa Association – Uganda pp. 90

the top earning class. However, after the 1940s, rice cultivation started to take root at the subsistence level by a few farmers sourcing seeds from Tanzania (Tanganyika), where rice growing was more developed than in Uganda.

In Uganda, rice production started picking up during the 1950's, with the main focus put on feeding schools, prisons and hospitals and Second World War veterans. Today rice has become a major food security crop as well as a cash crop in a number of districts in Uganda and its cultivation is increasing, especially with the introduction of upland varieties. It is mainly being grown in the Eastern and Western parts of Uganda due to availability of lowlands with high moisture contents throughout the growing season, which conditions are favourable to the crop. Major rice growing districts include Apac, Pallisa, Lira, Tororo, Kamwenga, Bugiri, Jinja and Iganga. Other producing districts include Amuru, Gulu Kitgum, and Pader in Eastern and Northern Uganda, and Hoima, Kibaale, Masindi, Kabarole, Rukungiri, and Kanugu in Western Uganda.

In 2014, the VAT (Amendment Act) was enacted and its enforcement was effected on 1st July 2014. The Act provided that the supply of cereals grown and milled in Uganda would attract VAT at the rate of 18%. However, in July 2014, a company known as SWT Tanners, along with thirteen other companies sued the Commissioner General of URA under Civil Suit No. 880/2014 in the Commercial Court, seeking to prevent URA from collecting VAT on imported rice from Tanzania.

In July 2014, the Commercial Court ruled in favour of URA, and in December 2014, the companies appealed the ruling. Subsequently, an injunction was issued restraining URA from collecting VAT from the 14 companies. To-date, the appeal by the 14 companies, has never been determined or concluded.

In the context of implementing the injunction by Court, URA stopped levying VAT on rice imports on the 14 companies but continued levying it on other rice importers. The impact of this was that some players in the rice production and trade were paying VAT while others were not. This created an unlevelled playing

field and caused distortions in the rice market; giving the 14 companies an undue advantage over all the other players in the rice value chain. In addition, the practice was a clear deviation from the principles governing taxation of fairness, equity and non-discrimination.

In 2019, following back and forth engagements which resulted in tension within the rice business, the Rice Business Sector Association Ltd (RBSA) petitioned the Rt. Hon Speaker of Parliament seeking interventions; that the Court of Appeal expeditiously concludes the pending appeal on Civil Suit No. 880/2014, so that fairness, equity and non-discrimination prevail in the rice trade.

In the same spirit, on June 1st 2020, the Rice Millers Council of Uganda appealed to the then Minister of Trade Industry and Cooperatives, (Hon. Amelia Kyambadde), seeking interventions to address the unfair taxation in the rice sector; given that the 14 companies which had sought court interventions were not paying VAT and the rest of the companies were paying religiously. The period of ad-hoc and erratic policy changes was at play, coupled with the dilution of EAC Common External Tariff, from 2015 up to date. This has culminated into the rice sector losing its stable and predictable status.

Table 1: Value and Volume of Rice Imports for FY 2021/22

Country of Origin	Volume (Kgs)	% age of Volumes of rice imported	Value (Ugx)	% age of Value of Rice Imported
	Volume (MT)			
Tanzania		96.6	628,387,127,984	94.8
South Korea	408,636	1.5	18,782,390,828	2.8
Pakistan	6,322	1.6	12,256,946,744	1.8
India	6,569	0.4	3,112,257,712	0.5
China	1,551	0.0	263,102,903	0.0
UAE	17	0.0	133,431,813	0.0
Thailand	69	0.0	86,123,460	0.0
Kenya	51	0.0	14,052,276	0.0
Italy	5	0.0	9,030,323	0.0

Belgium	4	0.0	2,181,427	0.0
South Africa	0	0.0	1,805,950	0.0
South Sudan	1	0.0	1,583,647	0.0
UK	0	0.0	745,978	0.0
Saudi Arabia	0	0.0	686,584	0.0
Total	423,226	100.0	663,051,467,629	100.0

Source: Author's computations from data obtained from URA

It is estimated that the total rice production in Uganda is about 220,000MT with a total consumption capacity of 450,000MT. This therefore leaves a deficit of 230,000MT that needs to be covered by importation of rice from other countries.

In FY 2021/22, total imports of rice into Uganda was 423,226 MT worth Shs.663Bn of this, rice imports from Tanzania amounted to 408,636 MT (97%) worth of Shs.628.4Bn making Tanzania the biggest source of Uganda's rice imports which Government must take keen interest in all considerations regarding development of the local rice value chain.

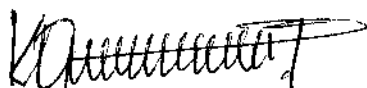
In relation to the above, in May 2018, H.E the President of Uganda, upon realising that the rice deficit in the country had increased; he allowed 11 Rice Millers; predominantly members of the Rice Council of Uganda, to import a total of 114,000 MT of brown rice over a period of two years; at a concessional rate of USD 150 per ton. This was however, pegged on the importers to establish farms for growing rice, and this was premised on the anticipation that it would contribute to an increased volume of rice production in the country, hence addressing the challenge of deficit.

However the rice council's submission to the TT&I Committee was to the effect that the deficit was 100,000 MT per annum and this was validated by DFID finance study in 2019, by MAAIF.

3.0 Rationale for the committee investigation

The Sectoral Committee on Tourism, Trade and Industry derives its mandate from Article 90 of the Constitution of the Republic of Uganda², and accordingly, Rules 156³, 159⁴, 187⁵ and 189⁶ of the Rules of Procedure of Parliament. These provisions enjoin the Committee with the authority and power to, among others, research, investigate and carry out oversight functions with respect to the Ministries, Departments and Agencies (MDAs) under its purview.

On the 5th of May 2022, the rice traders from the rice subsector, specifically Kampala Rice Traders Limited petitioned the Parliament of Uganda to make interventions in relation to the interruption resulting from the communication issued by The State Minister for Trade Industry & Cooperatives; Hon. Harriet Ntabazi, dated the 21st April 2022. The communication was addressed to the Commissioner of Customs in URA; directing the ceasure of clearance of V.A.T exempt rice imports, until further notice. As a result, trucks carrying rice from Tanzania were stuck at the Mutukula border, un-cleared.



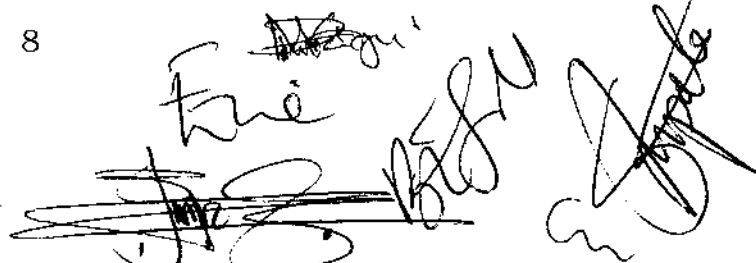
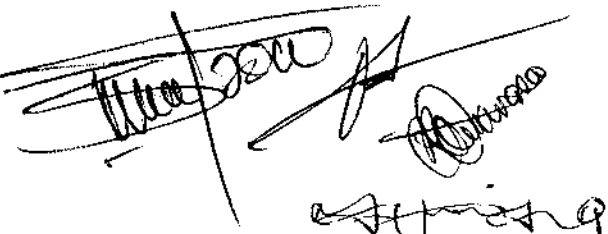
² **Article 90(1)** provides that Parliament shall appoint committees necessary for the efficient discharge of its functions. In **90(2)**, Parliament shall, by its rules of procedure, prescribe the powers, composition and functions of its committees.

³ **Rules 156(1) & (2)** reiterate the above constitutional provisions.

⁴ As all other committees, its general functions, according to **rule 159** include: assessing and evaluating activities of Government and other bodies (in **para. (c)**); carrying out relevant research in the committee's respective field (in **para. (d)**); and reporting to Parliament on its functions (in **para. (e)**).

⁵ **Rule 187(1)** provides for the existence of Sectoral Committees of the House, and in **sub-rule (2)(b)**, there shall be a Sectoral Committee on the Tourism, Trade and Industry sector.

⁶ Specifically, as a Sectoral committee, **rule 189** charges it with functions that include: to examine and comment on policy matters affecting the Ministry of Trade, Industry and Cooperatives and the Ministry of Tourism, Wildlife and Antiquities (in **para. (a)**); to initiate or **evaluate action programmes of the said ministries and their sectors and to make appropriate** recommendations on them (in **para. (b)**); to monitor the performance of Ministries, Departments and Agencies (MDAs) (in **para. (e)**); to monitor Government compliance with approved plans and programmes (in **para. (f)**); and to monitor the progress on implementation of the Sustainable Development Goals (SDGs) made by the tourism, trade and industry sector (in **para. (g)**)



Kampala Rice Traders Limited was concerned that the effects of the directives and actions of the Ministry of Trade, Industry and Cooperatives:

- (a) had caused considerable losses arising from cargo carriage charges and other business-related costs;
- (b) with time caused the total loss of business as trading premises lacked the anticipated rice stock;
- (c) caused unlevelled trading grounds as some traders were paying taxes whereas others were not;
- (d) contravenes the law as she usurped the mandate of the Minister of Finance, Planning and Economic Development.

4.0 Terms of Reference

In executing its mandate, the committee was guided by the following Terms of References:

- To intervene in the matter and carry out an exhaustive investigation into the arbitrary halting of clearance of V.A.T exempt rice imports with the view of finding a lasting solution for the affected importers, who were condemned unheard.
- To explore and find remedial mitigation strategies devised to abate the continued loss being suffered by the V.A.T exempt rice importers, whose consignments stand bound at Mutukula border.
- To investigate the existence and operations of RADFO
- To make appropriate recommendations in regard to the issues under investigation

5.0 Methodology

The committee employed the following methods:

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The committee held meetings and received a number of verbal testimonies from key witnesses, several of whom presented written briefs. Witnesses included leaders and officials from the following institutions:

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The committee carried out desk research in order to back up some of the findings with facts.

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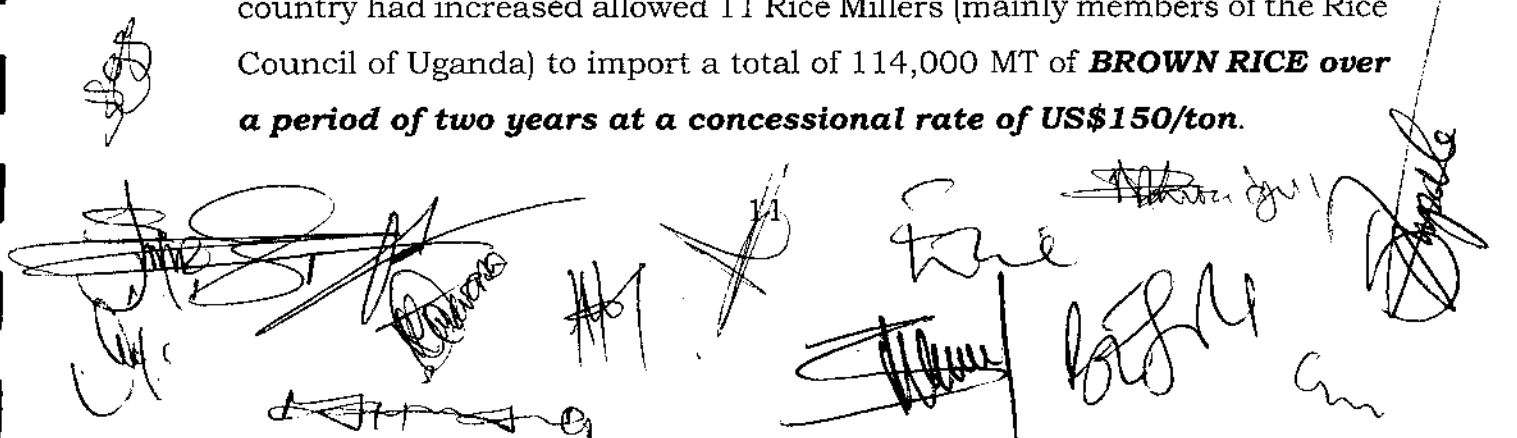
6.0 FINDINGS AND OBSERVATIONS OF THE COMMITTEE

The Committee has examined the petition, received memoranda, interviewed various stakeholders and scrutinized documentary evidence. The Committee therefore, submits the findings and makes the following observations:

6.1 VAT AND WITHHOLDING TAX

The Committee established that from 2015 onwards, the Government of Uganda introduced new policies which affected the rice sector as follows:

- **June 2014**- VAT was introduced on **domestic rice** with an exemption on imports. This affected local millers and subsequently, farmers. Production of rice stagnated as imports rose to 98,981 MT from the eleven-year average of 56,421 MT;
- **December 2014**- there was a reversal of VAT on **domestic rice**. This led to a rebound of the sector. Production increased in 2015 while imports of milled rice reduced. Self-sufficiency increased to about 80%;
- **2015-2016**- special concession rate of 250\$/ton was granted by the Ministry of Finance to one company to import brown rice. Brown rice imports soared to 114,000 MT in 2016 alone. Domestic prices crashed wiping out most milled rice importers. Most milled rice importers lost business. Domestic production plummeted as rice farmers opted for other better paying crops, among others;
- **January 2017**- special concessions were withdrawn by the Minister of Finance Planning and Economic Development. Once again, the sector was put back to a recovery level.
- **May 2018** - H.E the President upon realizing that the rice deficit in the country had increased allowed 11 Rice Millers (mainly members of the Rice Council of Uganda) to import a total of 114,000 MT of **BROWN RICE over a period of two years at a concessional rate of US\$150/ton.**

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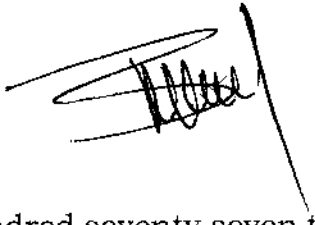
- **With effect from 1st July 2014**, Parliament amended the VAT Act ***whereby milled rice imported to Uganda was subjected to 18% VAT***
- According to URA, the injunction covered **ONLY THE 14 companies and NOT the other rice importers** (yet taxation is supposed to be fair to all)
- With this selective and discriminatory practice, unfair competition emerged. The rice sector was put to a big strain.

The committee was informed by Rice Business Sector Association that trade imbalance between Tanzania and Uganda was at its highest in April and May 2021. According to the Bank of Uganda Statistics, for example in May and April 2021, is the peak season for Rice in Tanzania. Uganda Imported goods worth \$149.38m and \$125.9m respectively, a 43% increase compared to the same period last year. This was also impacted upon by the increase of the number of companies that were granted import permits by the Ministry of Trade. Uganda only exported goods worth \$8.79m and \$9.34m in May and April 2021. The low volume of export to Tanzania is largely due to the import quotas imposed on Ugandan products such as Maize, Sugar and others.

The quantity of rice imported into Uganda from Tanzania increased in peak season from appx 450 MT in 2020 to 550 MT per day in 2021. At a value of \$455 USD, in terms of VAT payable that would amount to 60bn Uganda shillings per annum. (It should be noted that if VAT was payable the amount of 60bn would significantly reduce to about 24bn)⁷.

Uganda Revenue Authority informed the Committee that the VAT foregone from the 14 countries since the onset of the court injunction until June 30th 2022 is, 118, 286,946,600 (One hundred eighteen billion, two hundred eighty six million, nine hundred fourty six thousand six hundred shillings). There is also one company M/S AbA construction that is importing under a stand-alone court injunction with VAT foregone of UGX 19,694,877,233 (Nineteen billion, six

⁷ Rice Business Sector Association Limited



hundred ninety four million eight hundred seventy seven thousand two hundred thirty three shillings) as of June 30th 2022.

Therefore, the total VAT foregone due to the injunctions is UGX 137,981,823,833 (one hundred thirty seven billion, nine hundred eighty one million, eight hundred twenty three thousand, eight hundred thirty three shillings).


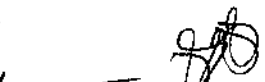



On 21st April 2022, the Minister of state for trade (Hon. Harriet Ntabazi) wrote a letter to the Commissioner customs URA ordering him to seize clearance of VAT exempt rice imports until further notice. She further informed the Commissioner that the ministry will subsequently engage them and other stakeholders in regard to the matter in due course. On 27th April 2022, Julius Nkwasiro Mponooka (deputy commissioner customs) of URA wrote an internal memo effecting the halt of clearing VAT exempt rice from Tanzania. However, the implementation of this directive was reversed a week later by the commissioner customs (Abel Kagumire) as testified during his appearance before the committee on 1st August 2022.

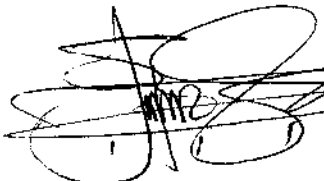
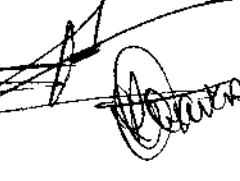
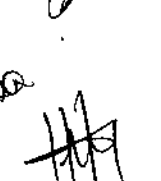



Figure 1: Trucks piled up at the border

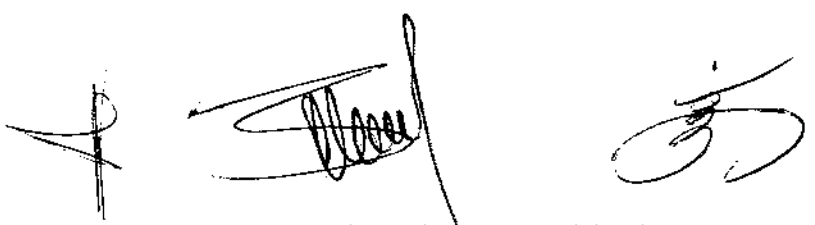






  13  Fine  



The committee was informed by the rice importers/ traders that this directive by the Minister caused them immense losses namely; the cost of hiring trucks per extra day spent at the border, cancelation of their contracts from various customers in Uganda, theft of rice from the trucks at the border and psychological trauma of running out of business.

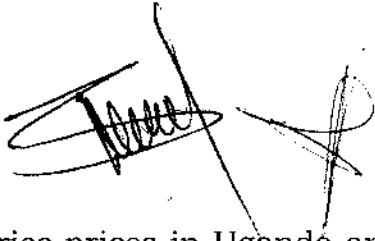
Observations of the Committee

The committee observes that the letter the minister wrote to halt clearance of VAT exempt rice is a clear matter of political interference and abuse of office which resulted into losses suffered by the traders as a result of a 7-day standoff at the border.

The Committee observes that Court, in 2014, issued an injunction **arising from civil suit no.880/2014** restraining URA from collecting VAT on imported rice from the 15 companies which caused government a financial loss in VAT collections worth UGX 137,981,823,833 (one hundred thirty seven billion, nine hundred eighty one million, eight hundred twenty three thousand, eight hundred thirty three shillings).

The Committee observes that it is trite law that the duration of an injunction is determined by the nature of the injunction granted by court. An injunction can be interim, for a short period of time, Temporary, until final determination of the suit for which it is issued or permanent, which is issued in perpetuity. In the case involving the 14 companies, the injunction issued was temporary, meaning it subsists until final determination of the suit, in this case, the appeal filed against the findings of court in civil suit No.880/2014. This meant that URA could not, until final determination of the appeal, levy VAT on the 14 companies.

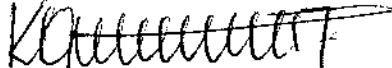
The Committee finds that there is inordinate, unreasonable and excessive delay in determining the appeal, a matter that has affected the competitiveness of the rice subsector and allowed fraudulent practices to take root. The Committee notes that the delay in finally determining the appeal arising from Civil Suit No.880/2014 of 8 years is a long time and has affected URA's tax



collection strategies, distorted rice prices in Uganda and created an avenue for unfair competition in the rice subsector.

The Committee observes that since the appeal was filed and the temporary order issued, SWT Tanners Ltd & 13 other companies have not taken steps to prosecute the appeal, and likewise, URA has not been proactive to ensure that steps are taken to vacate the appeal.


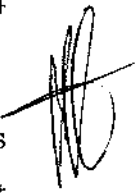
The Committee observes that whereas there is no timeline prescribed under the laws of Uganda to determine appeals of the nature arising from civil suit No 880/ 2014, where there is a delay in prosecuting the appeal, like in this case, a party to the Appeal may apply to court to dismiss the appeal for want of prosecution. In this case, URA should have been proactive enough to ensure that the appeal is prosecuted in time and where this is not done, URA should apply to court to dismiss the appeal.

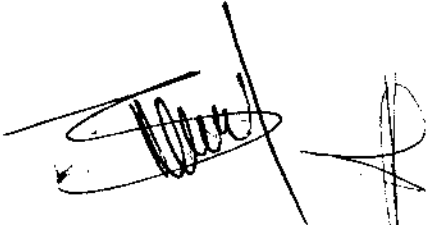


The Committee observes that the delay in determining the appeal has had profound effects on the economy and has affected trade order in rice importation. The Committee was informed that since the imposition of the injunction by Court, the 14 companies have not paid VAT on their batches of imported rice while other companies that are not party to the court order pay VAT.

The injunction also created unfair competition in the rice import business since the VAT paying companies cannot favorably compete with the non VAT paying companies. This has resulted in the domination of the rice trade by the 14 companies since the VAT paying companies cannot compete.

The Committee also notes that there is an increase in the fraudulent activities arising from the discrimination in VAT payments between the companies that were subject to the court order and those that are not. The Committee was informed that in order for companies that are not subject to the court order to remain competitive, they have resorted to importing rice through the 15 companies that are subject to the court order. This state of affairs has meant that the 15 companies, some of which are no longer in the rice import business,








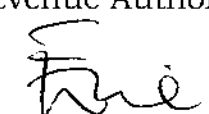


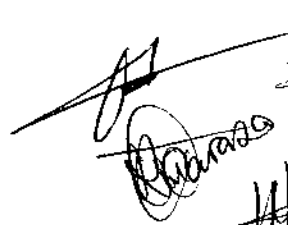
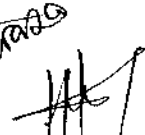
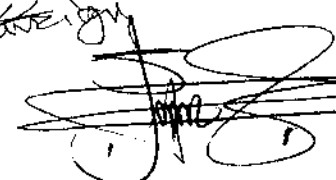
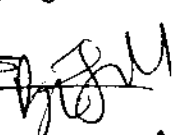
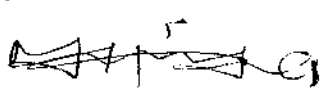
have continued to unjustly enrich themselves by charging fees for use of their TIN in importing rice.


The Committee observes that consequently, many other companies applied to the Ministry of Trade and Acquired import permits exempting VAT. The number of companies importing rice under this scheme rose tremendously to 75 companies as of today and the volumes of Tanzania rice imported into Uganda increased beyond the demand.

6.2 IMPORT PERMITS


The minister of trade, Industries and cooperatives (Hon. Francis Mwebesa) informed the committee that in order to ensure the stability of the sector, and mitigate the domestic impact on the rice sector, an administrative measure would be put in place under the External trade Act, Cap. 88 to control quantities of rice that come into the country. This is how the issuance of the import permit for rice started to create a levelled playing field for rice traders.

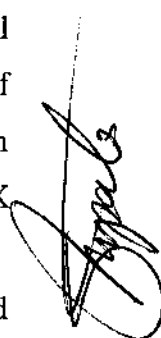
Additionally, the state minister for trade (Hon Harriet Ntabazi) informed the committee that the circumstances that led to a rise in the issuance of permits arose from unfair application of tax laws and the delayed conclusion of the appeal case which has made the temporary injunction stay till 2014.

- The Ministry issues permits to whichever company applied for it as long as they met the conditions since the main aim of the Ministry was to remove the discriminatory practice;
 - The criteria and conditions of the import permits had a number of requirements among which were;
 - Certificate of registration
 - Trading License
 - Updated returns from Uganda Registration Services Bureau
 - Tax Clearance Certificate from Uganda Revenue Authority
 - Tax Registration Certificate from Uganda Revenue Authority
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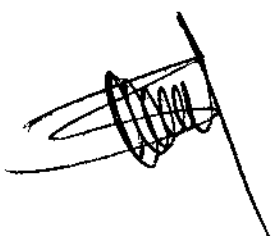


However, interaction with various stakeholders revealed that there were various challenges faced by the rice traders in the bid to get rice import permits. As explored and discovered, there was an official additional requirement as at January 1st 2022 which was pegged on the issuance of the permits; endorsement by the apex association, as being desirable. This was the situation on the ground as received from the testimonies of the witnesses, and yet this was excluded from the submission made before the committee by the MTIC officials. For example the petitioners submitted to the committee evidence of a recommendation letter addressed to the state minister (Hon. Harriet Ntabazi) of NICFRA financial services limited-a rice importation company, signed by Ssekabira Hassan Chairperson Rice Agribusiness Development Foundation (RADFO).

In relation to the above, a one Nassolo Rice Traders Association Limited and Willex Rice Traders Association claimed that their import permits were withdrawn for failure to cooperate with RADFO, by not paying the required dues. This is corroborated by a letter dated 21st February 2022 to the commissioner general URA by the Minister (Hon. Harriet Ntabazi) informing him that those two companies were not compliant with the Apex body (RADFO). 

The committee was informed by a one Nassolo (director of Nassolo rice traders and LC1 chairperson of Mutukula area) that getting a permit was a very difficult and expensive process including bribery and abuse of office. She further informed the committee that while processing her permit, she interfaced with the minister (Hon. Harriet Ntabazi) who advised her to take UGX 20,000,000 (Twenty Million shillings) to a one Atwiine Emmanuel, a project manager for the national response strategy on the elimination of non-tariff barriers at the ministry of Trade Industry and cooperatives which she did. However the twenty million shillings was seemingly not sufficient and was compelled to add another UGX 10,000,000 shillings which she did and got the permit. 

The committee observes that the introduction and issuance of permits opened scenarios of abuse of office and bribery at the expense of rice traders. For example restricting issuance of import permits to companies which did not



subscribe to RADFO resulted into permit vending. This came as a result of the fact that not all companies that were issued with import permits were importers of rice. Those companies that did not poses permits were forced to import through those with licence and had to pay Shs180, 000 to RADFO.

The Committee observes that the issuance of import permits failed to achieve its purpose in managing and controlling excess rice importation as stated by the ministers both in their documents and testimonies. This also contravenes what the Uganda Rice Millers Council objective of protecting the domestic rice value chain. For example the ministry has continued to issue several permits to a tune of 75 each being allocated 4000 MT totalling to 300,000 MT as opposed to the deficit of 114,000MT.

6.3 RICE AGRIBUSINESS DEVELOPMENT FOUNDATION (RADFO)

The committee was informed that Rice Agribusiness Development Foundation (RADFO) is a registered association which was officially launched on the 30th September 2021 by the First Deputy Prime Minister and Minister for East African affairs Rt. Hon. Rebecca Alitwala Kadaga. RADFO was founded by traders who possessed rice import permits.

6.3.1 ESTABLISHMENT AND OPERATION OF RADFO AS THE APEX BODY

The Committee was informed by the Minister of trade, Francis Mwebesa that the Ministry of Trade observed that most of the companies that obtained permits were instead using them to clear rice consignments for other companies that did not possess permits through the border, in essence, trading in permits at the border and not rice.

The Minister further informed the Committee that to create order they held two stakeholders' meetings on 14th December 2021 and 22nd December 2021 at the office of the First Deputy Prime Minister. He further informed the Committee that at the time 3 Associations existed and these are; Rice Business Sector Association (RSBA), Rice Development Association (RDA) and Rice Agribusiness

Development Association (RADFO). The Minister further informed the Committee that the choice of RADFO came as a result of the fact that RDA opted out and RBSA had served its term.

Consequently, the Rice Agribusiness Development Foundation (RADFO) was officially assigned as the apex body by the State Minister for Trade, Harriet Ntabazi, through a letter dated 23rd December, 2021. In the letter, the Minister stated as follows;

“As you recall, in the meetings chaired by myself at the office of the Prime Minister held on 14th and 22nd December 2021 respectively, all rice importers operating at Mutukula were tasked to organize themselves into one agreeable body for proper self-regulation. Government has noted with dismay that the importers failed to come to an agreement on the matter threatening to cause additional injury to the economy. In order to save the sector from further injury and save millions of farmers and millers, government has assigned you the responsibility of acting as the apex body of rice importers from within East African Community Partner states from 1st of January to 30th June 2022. The assignment takes immediate effect. The ministry of Trade working with other respective ministries departments and agencies will keep providing you with policy and technical support for better management of the sector. By copy of this letter, other existing rice importers associations at the border are advised to work under your guidance.”

6.3.2 RADFO'S OPERATIONS AND MODE OF WORK

RADFO commenced operations at Mutukula Border on the 12th of January, 2022 and introduced a number of mechanisms which they said, were intended to curb importation of rice from Tanzania. For instance, they imposed a charge of UGX 230,000 (Two Hundred and Thirty Thousand Shillings) on every ton of rice imported into Uganda. This charge was reduced to UGX 180,000 (One Hundred and Eighty Thousand Shillings) following complaints from traders.

The Committee was informed by Lt. Ssebunya Alex (the Border Intelligence Security Officer) that in order to enforce traders payment of the Shs.180,000 per ton, RADFO, with effect from 12th January, manned the Ugandan exit gate at Mutukula and no rice importing truck was allowed to exit without clearing with it. This disrupted the normal flow of trucks and necessitated security intervention. Initially, security intervened and required RADFO to operate at the Ugandan entry gate and later on, in the no man's land which is about 100m in between the Ugandan and Tanzanian gate.

The Committee was further informed that RADFO operated using coercive means and at times reached the extent of man- handling traders that attempted to disregard their orders.

During the public hearing of the Committee at Mutukula, a clearing agent by the names of Emoiti Pius revealed that URA could not border -arrive the trucks of their clients before they could prove payment and clearance by RADFO. RADFO informed the Committee that only two (2) companies, i.e Zeus Agro Ltd and SWT Tanner Ltd, out of seventy five (75), were not paying the Shs. 180,000 charge.

The secretary general of RADFO, Mr Ssekandi Moses informed the Committee that the fee of 180,000ugx per ton of rice was introduced to increase the price of imported rice and protect local farmers. Mr Ssekandi further informed the committee that between January 1st up to the 28th of February, 2022 RADFO collected a total of 1,698,480,000 (One billion six hundred ninety eight million four hundred and eighty thousand shillings).

Mr Ssekandi Moses further informed the Committee that RADFO had never opened a bank account in any financial institution in Uganda and money was kept in a money changers shop called Christine for security purposes, and was later distributed equally among its members regardless of who had imported that week or not.

S. M. L.

The Committee notes that by the time of the Committee's visit on 4th August, 2022, RADFO had ceased to operate at Uganda's gate and no man's land but still within the vicinity.

Upon request of the Committee, Uganda Revenue Authority submitted a special print out of the Companies that imported rice from Tanzania, between 1st January to 22nd May, 2022. It was established from the Report that, between January 1st and February 28th 2022 when RADFO was actively operating at the border, a total of 99,131,312 kilograms of rice were imported.

The Committee observes that between January 1st and 28th February 2022, according to the URA submission of 99,131,312 Kgs an equivalent of 99,131MT each paying Shs 180,000 amounts to Shs 17,843, 636,160 as opposed to a figure submitted by the RADFO secretary general of Shs 1,698,480,000. This discrepancy which amounts to about 16 billion shows how RADFO extorted very huge sums of money from rice importers and indirectly denied the Government huge sums of revenue.

The committee observes that the monies paid (180,000 per ton) were neither receipted nor banked, but rather a fictitious document that was purported to be a clearance from the Apex body was issued.

The Committee further observes that the letter written by the state Minister Harriet Ntabazi dated 22nd December 2021 appointing RADFO an apex body did not have clear terms of reference on how RADFO was going to save the rice sector from further injury, but rather a promise of policy and technical support from the Ministry Departments and Agencies.

The Committee further observes that whereas the Cabinet Minister for Trade Mwebesa Francis justified the appointment of RADFO as the Apex body on the basis that Rice Business Sector Association (RBSA) had served its term, it was established that RBSA was never appointed an apex body in the past by the ministry of trade.

The Committee observes that whereas the ministry of trade states that rice development association (RDA) opted out during the stakeholder's meetings held on 14th and 22nd December 2021, RDA was never officially invited for both meetings as evident on both invitation letters signed by the state minister for trade Ntabazi Harriet.

The Committee further observes that although RADFO received money on behalf of Government since they were exercising purported powers of the Ministry of Trade, they didn't deposit the funds arising from payment of UGX 180,000 onto the consolidated fund. Instead, the funds collected were received and receipted by RADFO and shared as follows-

- (a) UGX 100,000 was allocated to the Directors of the different companies that were members of RADFO;
- (b) UGX 40,000 to clearing agents;
- (c) UGX 30,000 for RADFO administrative costs;
- (d) UGX 10,000 for brokers.

The Committee observes that with the establishment of RADFO, different rice associations were advised to work under the association with RADFO as an apex body and many could not opt out in order to protect their businesses. The Companies that refused to join RADFO had their permits withdrawn and reviewed.

This above observation is evidenced in a letter dated 21st February, 2022 signed by the State Minister, Harriet Ntabazi in which she stated as follows;

"These 2 Companies have failed to comply (with the apex body) and thus causing disruptions that pose serious injury to the domestic market. Volumes allocated in the import permit of Willex Commodities Ltd and Nassolo Investment Ltd have been reduced from 4000MT to 500MT respectively for the period ending 30th June 2022. In circumstances that

these companies have already exhausted the 500MT limit, then they will wait for the next licensing period starting 1st July to December 2022."

The Committee observes that the advice was tantamount to a mandatory association of the different associations in contravention of 29(1)e) of the Constitution which guarantees a person's right to freedom of association including the freedom to form and join associations or unions, trade unions, political and other civic organisations. This furthermore, contravened Article 40 (2) of the Constitution which guarantees the right of a person to practice his or her profession and to carry on any lawful occupation, trade or business.

The Committee Observes that the mandatory requirement for rice traders to join RADFO as the only means for them to continue trading defeats the purpose of article 29 (1) (e) and 40(2) of the Constitution and has the effect of denying the associations of rice importers the right to enjoy their fundamental right guaranteed under those constitutional provisions.

The Committee Observes that the operation of RADFO contravened article 40 (2) since they prevented traders and trader associations that had not joined RADFO from importing, clearing and trading in rice. The Committee was informed that trader associations and traders who had not joined RADFO were prevented from importing rice into Uganda even when they possessed valid import permits. Those who managed to import rice faced difficulty at the border point at Mutukula since their trucks would be impounded if they did not possess "receipt" indicating they had cleared with RADFO.

The Committee therefore finds that the establishment and operation of RADFO not only contravened the Constitution, but also distorted trade order in rice and hindered fair participation in the rice trade as well as the achievement of the Government objective, of reducing the reliance on imported rice.

The Committee Observes that the designation of RADFO as the Apex body was irregular since the Minister delegated functions of the Ministry to a private body. The Committee is of the considered view that executive functions of the State are

granted to the President under article 99 of the Constitution which is to the effect that "the executive authority of Uganda is vested in the President and shall be exercised in accordance with this Constitution and the laws of Uganda."

In exercising this authority, the President is empowered in article 111 to appoint a Cabinet which consists of the Vice President and such number of Ministers as may appear to the President to be reasonably necessary for the efficient running of the State. Ministers appointed by the President exercise such functions of Government as the President may, from time to time, assign them.

The Committee notes that the mandate of the Ministry responsible for Trade, Industry and Cooperatives is to formulate, review and support policies, strategies, plans and programs that promote and ensure expansion and diversification of trade, cooperatives, environmentally sustainable industrialization, appropriate technology development and transfer to generate wealth for poverty eradication and benefit the country socially and economically.

In the performance of these functions, the Ministry formulates and reviews, where necessary appropriate policies, legislation, regulations and standards for sustainable development of trade, industrialization and technology development, cooperatives movement and other tradable national products for increased wealth creation and benefit to the country. In so doing, the Ministry may issue licenses and permits to ensure proper trade order.

The Committee notes that by delegating the functions of the Ministry to RADFO, the Minister of State (Hon. Harriet Ntabazi) acted irregularly in delegating those powers since the Minister is also exercising delegated functions of the Executive, which cannot be delegated. There was no evidence adduced before the Committee that the Minister possessed authorization from the cabinet or the President, on whom the executive functions of Government are bestowed to delegate the functions of the Ministry.

It is a recognised principle of law that a person to whom a decision making power has been delegated to, from a higher authority cannot in turn, delegate again to

another, unless the original delegation explicitly authorised it. In Uganda, there are a number of cases that have discussed the legality of the irregular delegation of delegated powers and courts have found that in such a situation, the person who delegated those functions did so irregularly.

Indeed, in the case of **Uganda Law Society v Kampala Capital City Authority, High Court Miscellaneous Cause No. 243 of 2017**, Court held that: *"A delegate must exercise its jurisdiction within the four corners of its delegation and if he has acted beyond that, his/her action cannot have any legal sanction and is challengeable by way of judicial review."*

The Committee therefore finds that the delegation of the functions of the Ministry of Trade to RADFO was irregular since the Minister was exercising delegated powers of the Executive, which she could not delegate. By implication therefore, the actions of RADFO are irregular and can be challenged since they are emanating from the irregular delegation of the functions of the Ministry of Trade.

The Committee has examined the imposition and collection of the 180,000 UGX per ton charge and found that the charge was illegal and its collection and sharing irregular.

The Committee observes that once a trader had paid and received a permit and met their tax obligation to URA, there are no other charges that would be required of that trader for importing rice into Uganda. The imposition of a charge by RADFO was therefore illegal since it was not imposed under the authority of any law. Indeed, section 29 (1) of the Public Finance Management Act, 2015 gives direction on the collection and deposit of revenue and bars its collection, receipt and retention of, except where the revenue is collected or received by a vote, state enterprise or public corporation as authorised by an Act of Parliament. The Committee therefore finds that RADFO, being a private company could not collect or retain revenue without authorization. The charge imposed by RADFO

was therefore **arbitrary, fraudulent, deceitful, criminal, illegal and unacceptable in a democratic Society.**

The Committee further observes that the mode of collecting and sharing the charges imposed by RADFO was irregular since it was imposed on traders who were not members of RADFO. In addition, the charge was collected in a manner unknown under the law since the funds were collected by persons who were not authorised under the law and deposited on personal accounts contrary to the specific provisions of the Public Finance Management Act, 2015(PFMA).

The Committee notes that section 30 (1) of the PFMA requires that all revenues or other money raised or received for the purpose of the Government, shall be paid into and shall form part of the Consolidated Fund. The Monies collected by RADFO would ordinarily be monies for Government since RADFO was exercising functions delegated to it by the Ministry of Trade. Therefore, the monies collected by RADFO would be deposited onto the consolidated fund as required in section 30 and be utilized under the authority of the Appropriations Act as required in article 156 of the Constitution and section 32 of the PFMA.

The Committee finds that the imposition of a charge by RADFO not only distorted trade order and increased the price of rice in Uganda, but also occasioned loss of revenue to Government and traders. The charge also amounted to a non-tariff barrier to trade and is prohibited under the East African Community (EAC) Customs Union.

The Committee is of the considered opinion that the clearing agents were in connivance with RADFO to fleece their clients (rice importers) of the Shs. 180,000 per ton; given the fact that before the inception of RADFO, they were receiving an average of 50,000 per 13 ton truck directly from the rice importers/traders, to clear with customs, as opposed to 40,000 per ton, amounting to about 520,000 per 13 tons truck, received from RADFO after its inception.

The Committee is also of the considered opinion that much as RADFO shared the revenues collected on a weekly basis with different beneficiary companies, about half of these companies registered under RADFO, were actually not into the rice importation business.

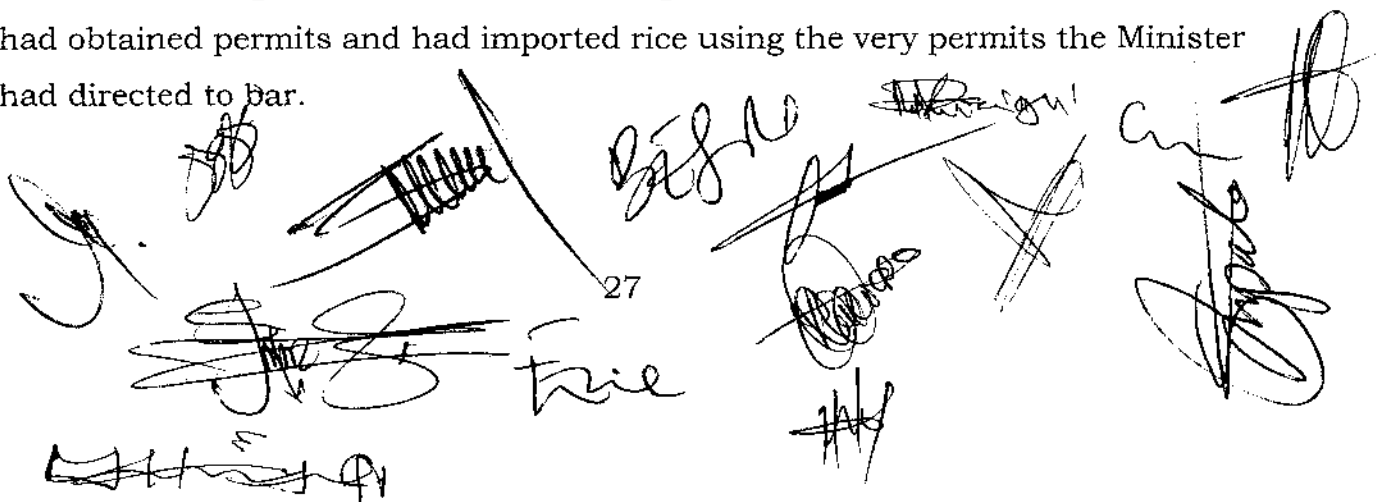
6.4 INTERFERENCE IN THE RICE TRADE BY HON. HARRIET NTABAZI, MINISTER OF STATE FOR TRADE, INDUSTRY & COOPERATIVES

During the Committee's interaction with stakeholders during this investigation, the Committee was informed that the Minister Hon. Harriet Ntabazi, Minister Of State for Trade, Industry & Cooperatives has on numerous occasions exceeded her powers and issued orders that have distorted trade order in the rice trade.

The Committee was informed and it has indeed made findings that Hon. Harriet Ntabazi has exceeded her authority in some of the matters involving trade order in the rice subsector.

For instance, the Committee was informed that the Minister issued directives contained in a letter dated 21st April, 2022 to the Commissioner, Customs Uganda Revenue Authority wherein the Minister directed URA to cease clearing VAT exempted rice imports, save for rice imported by the 15 companies that were part of the court order. The Committee was also informed that the Minister irregularly and without lawful authority instituted RADFO as the Apex body in the rice subsector without involving the rice traders and associations.

The Committee finds that the actions of the Minister are disruptive and do not encourage trade order in the rice trade. The Committee further finds that the Minister acted unfairly when she issued directives to URA to stop rice imports without affording rice traders a fair hearing considering that most of the traders had obtained permits and had imported rice using the very permits the Minister had directed to bar.



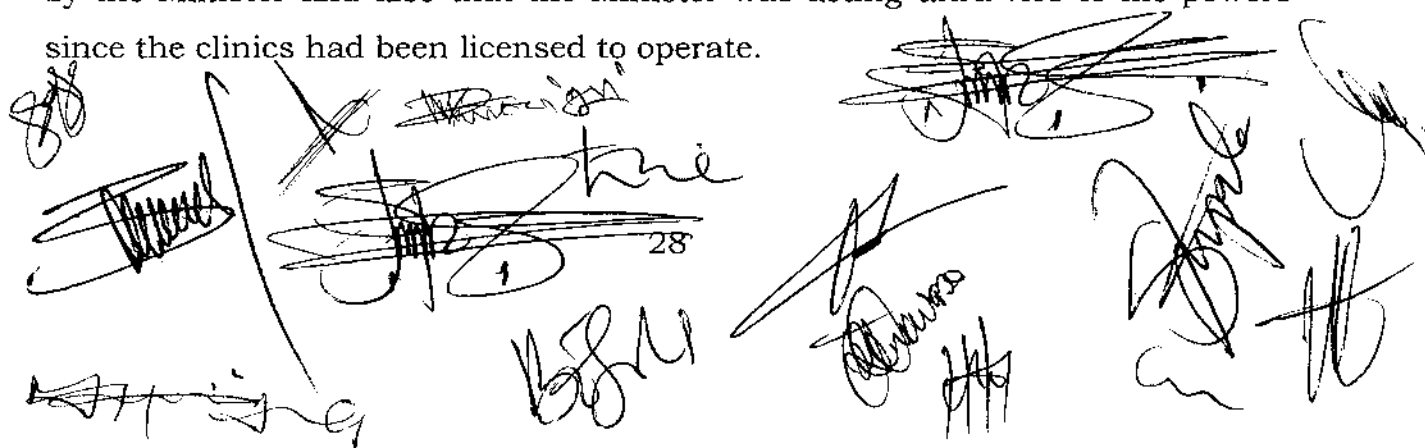
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The directive by the Minister not only resulted in massive losses to traders who but also disrupted trade order since rice traders suspended their operations, resulting in an increase in the price of rice in Uganda.

The Committee finds that the directive by the Minister to URA was ultra-vires to her functions since she has no mandate over tax matters. Furthermore, the failure of the Minister to hear from traders before imposing arbitrary orders expose the Government to unnecessary litigation.

It should be noted that Article 42 of the Constitution provides that any person appearing before any administrative official or body has a right to be treated justly and fairly and shall have a right to apply to a court of law in respect of any administrative decision taken against him/her. Administrative decisions are those decisions that are made by public bodies, government entities, persons in authority and statutory bodies. This constitutional provision requires persons making administrative decisions to comply with the principles of natural justice which entail a right to fair hearing and against bias.

The Committee notes that courts in Uganda have quashed orders and directives by Ministers where such Ministers act outside their authority since such orders and directives are illegal. For instance, in **Koluo Joseph Andrew & 2 Ors. v. Attorney General & 6 Ors, High Court. Misc. Cause No. 106 of 2010**, court faulted the Minister of Tourism, Trade and Industry for failing to follow the requirements of the law in appointing a Board of Trustees for Uganda Wildlife Authority. Furthermore, in the case of **United Reflexologists of Uganda Ltd & Anor v Malinga Minister of Healthy & Anor (HCS No.12 of 2011** Court quashed the arbitrary directive of the Minister responsible for health closing all reflexology clinics on grounds that the owners of the clinics had not been heard by the Minister and also that the Minister was acting ultra-vires to his powers since the clinics had been licensed to operate.



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The Committee is therefore concerned that the Minister's directive can be successfully challenged and Government condemned to costs, damages and compensation of traders as a result of the wrongful acts of the Minister.

6.5 ADMINISTRATION IRREGULARITIES IN THE RICE BUSINESS SECTOR:

6.5.1 Irregularities in money distribution by RADFO;

Whereas RADFO did not own a bank account in a formal banking institution and the proceeds of a weekly collection was distributed on a weekly basis, out of 70 companies allegedly registered and subscribed to RADFO, 36 companies did not import at all during the period of the two months RADFO was in operation. Yet, the 36 companies received full shares from the dues/proceeds from RADFO collections; equally with those in active rice importation.

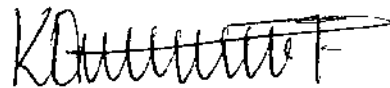
6.5.2 CONNIVANCE AND FRAUD BY GOVERNMENT ENTITIES AND GOVERNMENT OFFICIALS AT THE BORDER;

It is noteworthy that in the process of goods clearance at Mutukula border point, there are four government entities which work along with URA to clear the goods entering the country. These include URA, UNBS, Agriculture unit and clearing agents who are appointed URA in conjunction with the companies they work for and the immigration department.

The testimonies from the witnesses during a public meeting by the committee at Mutukula border, stakeholders who are rice importers/ traders testified before the committee; a one Ms Bonita Kyomuhendo informed the committee that there were extra fees that were charged besides the official dues and these were not receipted; namely

- Ugx 100,000 per truck by the agricultural officer named Kasozi
- Ugx 100,000 per truck by UNBS officer named Luganda Thomas

7.0 RECOMMENDATIONS



1. The Ministry responsible for trade should with immediate effect withdraw the illegal, irregular, unlawful, unprecedented, illicit letter designating RADFO as the Apex body in regard to the rice trade;
2. The Minister of State for Industry, Hon. Harriet Ntabazi's actions are tantamount to abuse of office, corruption, facilitating corrupt transactions with agents, bribery, influence peddling, conflict of interest which are all crimes provided for under the anti-corruption Act of 2009. Therefore, the committee recommends that:
 - a) The Inspectorate of Government carries out further investigations with the aim of prosecution of the state minister Hon. Harriet Ntabazi
 - b) The appointing authority should take appropriate action against the minister of state for trade Hon. Harriet Ntabazi
 - c) The minister should take political responsibility for her actions.
 - d) Parliament should therefore take appropriate actions against the minister Hon. Harriet Ntabazi in respect to her conduct above
3. The committee recommends that civil action be instituted against Rice Agribusiness Development Foundation (RADFO) with the aim of obtaining compensation amounting to 17.8 billion which was illegally, unlawfully, illegitimately, dishonestly, fraudulently and unpatriotically collected from the traders/ importers.
4. The committee recommends that the witnesses that appeared before it and gave evidence pertaining to the crimes of corruption under section 2(b) of the Anti-Corruption Act 2009 should be given state protection and considered as state witnesses during the investigations and prosecution initiated by the Inspectorate of Government.
5. Upon consideration of Ms. Nasolo as a state witness in the 30 million bribe, Mr. Atwiine Emmanuel a project manager for the national response strategy on the elimination of non-tariff barriers at the ministry of Trade

Industry and cooperatives who allegedly received the bribe on behalf of the minister, the committee recommends his immediate arrest with a view of prosecution for crimes under the Anti-Corruption Act

6. Based on the testimonies from the witnesses, where the UNBS officer Mr Luganda Thomas and agricultural officer Mr. Kasozi allegedly are receiving 100,000 Shs per truck each through the proxy of clearing agents, notwithstanding the fact that the committee could not get substantive evidence to this effect, the committee recommends;

- a) Transfer of these officers with immediate effect from Mutukula border post.
- b) Caution in accordance with the Uganda public service standing orders 2021.

7. Based on the testimonies from the witnesses, where it was alleged that URA was denying the rice importers to 'border-arrive' their goods even after they had completed all the URA legal entry requirements in order to first present proof of clearance from RADFO. This is a clear indication that URA was in connivance with RADFO to fleece the rice importers of the 180,000 Shs per ton. The Committee therefore recommends that URA manager Mutukula border Mr. Gikwiyakare Peter, URA supervisor Mr. Rumena Richard be relieved from their official duties with immediate effect as further investigations are carried out in accordance with the Public Service Standing orders 2021.

8. Uganda Revenue Authority should carry out a forensic audit on all companies that have been importing rice, collecting withholding tax and not remitting it with a view of recovering it.

9. Ministry of trade should stop issuing permits which is a non-tariff barrier and against the customs union regulations and the EAC treaty.

10. The committee recommends that the Criminal Investigations Department of Police carries out investigations and retrieves the video footage of URA customs at the border and prosecute any government

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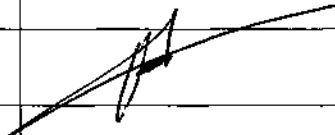
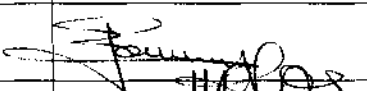

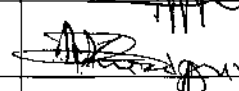



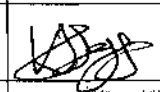
official including security officers who Participated, facilitated and aided RADFO's illegal activities.

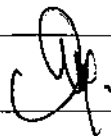
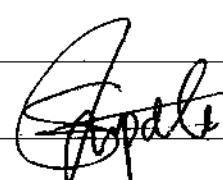
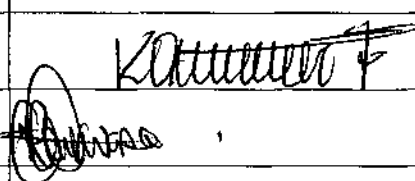
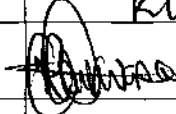

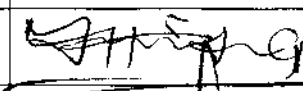
General recommendations

1. The appointing authority cautions all members of the executive against delegating their functions and authority as well as acting ultra vires their mandate, a phenomenon which has become a trend in consideration of the investigations carried out by the committee.
2. Government should fast track the rehabilitation of Masaka-Mutukula road that is in a very sorry, dire, regretful, disappointing state that impedes trade and jeopardizes Uganda's beneficial interests in the common market protocol of the EAC.
3. The government should prioritize support financially and technically to all domestic rice farmers so that they are in position to compete favorably within the EAC Market.



TOURISM TRADE AND INDUSTRY COMMITTEE MEMBERS'
REPORT ON THE ALLEGED UNFAIR TRADE PRACTICES IN THE RICE
SUBSECTOR AUGUST 2022

No	NAME	SIGNATURE
1.	Hon. Mwine Mpaka Rwamirama	
2.	Hon. Lamwaka Catherine	
3.	Hon. Mbwatekamwa Gaffa	
4.	Hon. Mugole Mauku David	
5.	Hon. Michael Timuzigu Kamugisha	
6.	Hon. Afidra Olema Ronald	
7.	Hon. Kemirembe Kyaka Pauline	
8.	Hon. Aleper Margret Achilla	
9.	Hon. Amooti Bright Tom	
10.	Hon. Awor Betty Engola	
11.	Hon. Harriet Businge Mugenyi	
12.	Hon. Edakasi Alfred Elalu	
13.	Hon. Nayebale Sylvia	
14.	Hon. Agnes Kirabo	
15.	Hon. Koyekyenga Olive	
16.	Hon. Osooru-Mourine	
17.	Hon. Ssentayi Muhammad	
18.	Hon. Gaffabusa Richard Muhumuza	
19.	Hon. Wanyama Michael	

20.	Hon. Ssimbwa Fred	
21.	Hon. Kalwanga David Lukyamuzi	
22.	Hon. Kayemba Geoffrey Ssolo	
23.	Hon. Ogwal Cecilia Atim	
24.	Hon. Isabirye David Aga	
25.	Hon. Okello Geoffrey Charles	
26.	Hon. Koluo Joseph Andrew	
27.	Hon. Atukwasa Rita Bwahika	
28.	Hon. Were Godfrey Odera	
29.	Hon. Mushemeza Elijah Dickens	
30.	Hon. Amero Susan	
31.	Hon. Francis Mwijukye	
32.	Hon. Katoto Muhammad	
33.	Hon. Geoffrey Lutaaya	
34.	Wakayima Musoke Hannington	