

## COMMENTS RECEIVED FROM PUBLIC PARTICIPATION – CABOTAGE AND VERIFIED GROSS MASS OF A PACKED CONTAINER REGULATIONS

The table below contains the stakeholders’ concerns and comments that were raised during public participation and the Authority’s response to the comments.

Key

	Means the comment/submission has been adopted and incorporated in the Regulations
	Means the comment/submission has not been adopted with sufficient reason
	Means the comment does not require an amendment to the Regulations

### ANNEX I

#### MERCHANT SHIPPING (CABOTAGE) REGULATIONS, 2024 AND MERCHANT SHIPPING (VERIFIED GROSS MASS OF A PACKED CONTAINER) REGULATIONS, 2024- WEBINAR

S.N O	REGULATION	ISSUE/COMMENT/SUBMISSION	STAKEHOLDER	ACTION TAKEN/RESPONSE
<b>MERCHANT SHIPPING (CABOTAGE) REGULATIONS, 2024</b>				
1.	<b>Regulation 9(2)(j)</b>	The percentage does not match the Country’s current strategic objective of generating seafarers to alleviate the huge unemployment problem. It is important to demonstrate the government’s commitment in generating seafarers by ensuring that qualified Kenyan	<b>WMU Alumni</b>	<b>Adopted</b>

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		<p>seafarers do not compete with foreign seafarers.</p> <p>It is recommended that the crewing levels be reviewed from 51% to 90% and that the regulations specify the per centum of ratings and officers to be employed on board foreign ships noting that Kenya has more ratings than officers.</p>		

**ANNEX II**  
**MERCHANT SHIPPING (CABOTAGE) REGULATIONS, 2024 AND MERCHANT SHIPPING (VERIFIED GROSS MASS)**  
**REGULATIONS, 2024- KISUMU**

<i>S.N O</i>	<i>REGULATION</i>	<i>ISSUE/COMMENT/SUBMISSION</i>	<i>STAKEHOLDER</i>	<i>ACTION TAKEN/RESPONSE</i>
<b>MERCHANT SHIPPING (CABOTAGE) REGULATIONS, 2024</b>				
2.	<b>Regulation 5</b>	The provision on the types of ships allowed to engage in local trade- however, it is silent on which types of ships are not allowed to engage in local trade.	<b>ODPP</b>	<b>Matter Clarified</b>  The provision seeks to enlist the categories/types of vessels that may be engaged in local trade. The list is not exhaustive
3.	<b>Regulation 5&amp;8</b>	The provisions are not complete as they do not provide for the cause of action where the ships not allowed to conduct local trade are found to have contravened the provisions of the Regulations.		<b>Matter Clarified</b>  Regulation 19 provides the particulars of offences in relation to ships that engage in local trade in contravention of the provisions. The penalty is limited to the prescription under the Act.

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4.	<b>Regulations 13(a)</b>	The provision does not disclose the element of the offences under the regulation and renders the provisions ambiguous.		<b>Matter Clarified</b>  The elements of the offences have been disclosed under the various provisions of the Act and other Laws of Kenya and the provision meets the country's legislative style.
<b><i>MERCHANT SHIPPING (VERIFIED GROSS MASS) REGULATIONS</i></b>				
5.	<b>Regulations 2 (Interpretations)</b>	Ship agents, shipper, port facility operator and ship-owner among other terms are not defined in the regulations.	<b>Lake Victoria Basin Commission (LVBC)</b>	<b>Matter Clarified</b>  Shipper is defined under regulation 2  <b>Adopted.</b>  Definitions for a) Ship owner is defined under section 2 of Cap 389 whereas, b) Ship agent; and c) port facility operator have been described under the First schedule of the

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				Merchant Shipping (Maritime Transport Operators) regulations, 2024 which we have incorporated
6.	<b>Regulations 15(1)(a)</b>	The offence is not specified	<b>ODPP</b>	<b>Matter Clarified</b>  The elements of the offences have been disclosed under the various provisions of the Act and other Laws of Kenya and the provision meets the country's legislative style.
7.	<b>Regulations 17(2) (c)</b>	Is the port facility operator required to comply with the provisions of regulations 17 only or the whole regulations?	<b>Lake Victoria Basin Commission (LVBC)</b>	<b>Adopted</b>  The compliance in this respect is in relation to where the port facility operator executes functions of a gross mass verifier as envisioned under regulation 5.

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8.	<b>Regulation 24(1)</b>	<p>Clarification was sought as to whether the penalty provided was in respect to one container or several containers.</p> <p>In their view the prescribed penalty was too low and it does not have a deterrence effect, in addition the value of the consignment could be more than Kshs.100,000/-</p>	<b>ODPP</b>	<p><b>Matter clarified</b></p> <p>The offence is in respect of one container.</p>
				<p><b>Adopted</b></p> <p>The penalty has been enhanced in accordance to section 255(1) of the Act.</p> <p>The penalty provided under the regulation cannot exceed the penalty cap under the Act.</p>
9.	<b>Regulations 24 (4)</b>	What amounts to reasonable precaution and due diligence – it is too wide and subjective.		<p><b>Adopted</b></p> <p>To avoid ambiguity, the proposed regulation has been deleted. The regulations shall rely on the defense provided under Section 255(6) of the Act.</p>

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10.	<b>General Comments</b>	<b>Recommendations:</b>  Appreciated the presentations made and requested if further dissemination of the regulations in all counties bordering Lake Victoria be considered in future fora.	<b>Lake        Region Economic Block</b>	<b>Matter clarified.</b>  Comments were well received and appreciated. Participants were informed that Invitations were made to counties bordering Lake Victoria including information as to where the regulations can be accessed on the website and through social media platforms
11.		On GHG emissions- what is KMA doing to curb emissions associated with sea borne trade.		<b>Matter clarified</b>  The Authority is undertaking the drafting of the Merchant Shipping (Air Pollution) Regulations to enhance the regulatory framework on GHG emissions.  The Authority has time and again engaged relevant stakeholders in sensitization sessions and brainstorming sessions on best way to reduce if not prevent harmful emissions.

### ANNEX III

#### MERCHANT SHIPPING (CABOTAGE) REGULATIONS, 2024 AND MERCHANT SHIPPING (VERIFIED GROSS MASS) REGULATIONS, 2024- NAKURU

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<b>MERCHANT SHIPPING (CABOTAGE) REGULATIONS, 2024</b>				
12.	<b>PART I- Preliminary</b>  <b>PART II- Restriction on trading</b>  <b>PART III- Miscellaneous provisions</b>	Stakeholders concurred with the provisions under part I, II & III	<b>Youth Empowering &amp; Maendeleo Wanawake ya</b>	Comment appreciated.
13.	<b>PART I- Preliminary</b>	Stakeholder concurred with the provisions under part I	<b>KAM -Nakuru County</b>	Comment appreciated.



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14.	<b>Regulation 7(2)</b>	<p>Proposal to delete granting of exemptions to ratings as most Kenyans working on board vessels have ratings qualifications</p> <p>Proposed deletion of regulation 7 (2) as it encourages non-compliance by ship owners.</p> <p>Find solutions to overcome the issue of lack of capacity to provide services (ship ownership).</p> <p>Explore means of ensuring Kenyans have the required skills.</p>	<p><b>Nakuru County Public Opinion Consultative Initiative WMU Alumni Representative/ KAM Nakuru/ NLF</b></p>	<p><b>Matter clarified</b></p> <p>Certain ships such as dredgers, LNG carriers and chemical carriers require specialized skill set that Kenyan seafarer may not have. However, the same is being mitigated on.</p> <p>There is a proposal under the maritime investment policy and incentives regime for ship ownership.</p> <p>Where an exemption has been applied, it may be granted on condition that there is training and knowledge and skill transfer to locals.</p> <p>Initiatives such as development of curriculum to guide the provision of maritime training in approved maritime institutions; Kenya entering into MOUS with maritime administrations and shipping companies for Kenya to access training opportunities including exchange programs with maritime</p>

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				<p>training institutions and undertake onboard training which may equip them with the required skills to serve aboard specialized ships.</p> <p>The Authority in partnership with HELB collaborated to provide financial support to students undertaking maritime education courses in Kenyan training institutions through loans.</p>
15.	<b>Regulation 8(1) (2)</b>	Empower our Kenyan Ships to be up to task since we have full authority in place.	<b>NLF</b>	<p><b>Adopted</b></p> <p>Besides policy direction, the provision has been reviewed to afford opportunities where an exemption has been applied may be granted on condition that they train Kenyans, transfer knowledge, skill and technology refer to 7(2) and 9(2)(j)</p>

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16.		Proposed deletion of regulation 8 para (a) to (c) as Kenyans also own ships and have special expertise.	<b>KAM Nakuru</b>	<p><b>Matter clarified</b>            Certain ships such as dredgers, LNG carriers and chemical carriers require specialized skill set that Kenyan seafarer may not have. In addition, vessels engaged in these activities are mostly foreign owned.</p> <p>There is a proposal under the maritime investment policy and incentives regime for ship ownership.</p> <p>Where an exemption may apply would be where training and knowledge and skill transfer to locals is a contribution.</p>
17.	<b>Regulation 9(2)(j)</b>	Review the regulation as it is too permissive to foreign ships	<b>Representative/ KAM Nakuru/NLF</b>	<b>Adopted</b>

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18.	<b>Regulation 12</b>	One year is very short and does not promote business. License period to be 3 years.	<b>KAM County -Nakuru</b>	<p><b>Matter clarified</b></p> <p>The purpose of the Cabotage regime is for Kenya to build capacity to be able to provide shipping services and to permit foreigners to engage within limited period subject to training, transfer of skills and technology. License period of one year facilitates effective and efficient monitoring and oversight of foreign ships activities within the cabotage area.</p>
19.	<b>Regulations 13</b>	Provides the Director General unbridled power to suspend and cancel licenses- there is a	<b>Representative KAM Nakuru / NLF</b>	<p><b>Matter clarified.</b></p> <p>The Director General's power is not open- ended. The function has provided parameters warranting</p>

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		probability that the Director General's powers may be misused.		execution of the function and further, regulation 14(2) provides for appeal mechanism. The aggrieved person may also explore other Alternative Dispute Resolution mechanisms.
20.	<b>Regulation 14- Review</b>	Recommend right of appeal be reduced to 14 days instead of 21 or 30 days Timeline for the aggrieved too long to file.	<b>Nakuru 'R' Association Nakuru Disability Network</b>	<b>Matter clarified</b>  The period provided does not prevent an aggrieved party from submitting an application for review within 14/21 days nor does it prevent the Authority from taking action upon receipt.
21.	<b>Regulation 15</b>	KMA to ensure that the exemption provisions are not abused.	<b>KAM Nakuru County</b>	<b>Adopted</b>  Exemptions issues shall take into account factors provided in the Regulation and conditions shall be attached to the exemption.
22.	<b>Regulation 15(1)</b>	Should all ships be registered?	<b>NLF &amp; Bodioga Gym</b>	<b>Matter clarified</b>  Kenyan ships are registered under the Act.

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		How does the framework support emerging situations and address issues of doing illegal business or security		<p>Foreign ships are registered under the foreign laws. They would therefore be required to apply for a licence under the proposed framework to engage in local trade.</p> <p>Regulation 15 empowers the Director General to exempt foreign ships from licensing requirements in emerging circumstances as enlisted, such as distress call, salvage operations of a ship, cargo or crew, to control marine pollution following an incident among others.</p> <p>The framework will facilitate enhancement of surveillance infrastructure in respect of activities being undertaken within the cabotage area.</p>
23.	<b>Regulation 19- Offence</b>	Reference to the offence in accordance with section 14(4) is not sufficient. It ought to provide the fine and alternative term of imprisonment for the offence.	<b>Representative/ KAM Nakuru/ NLF</b>	<p><b>Matter clarified</b></p> <p>The Act provides for the maximum penalty and the judicial officer has the discretion to prescribe a lesser penalty deemed fit. The Regulations</p>

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				cannot prescribe provisions that contradict the Act.
24.		What are the security measures and fines imposed on Kenyan ships?	<b>Participant</b>	<p><b>Matter clarified</b></p> <p>Kenyan ships must comply with the conditions of registration or licensing under the Act. The crewing requirement under this regulation should also be complied with. Kenyan ships engaged in cabotage will also be registered under the cabotage registry.</p> <p>The regulations have stipulated the applicable fines in the event of non-compliance which are provided under the Act as follows:  <i>“.....each shall be liable, upon conviction, to a fine not exceeding one million shillings and the ship shall be liable to be detained until such time as the owner, agent or master shall each have paid their respective fines.”</i></p>

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25.		The regulation to contain both the offence and penalties instead of referring to the Act.	<b>Bodiroga Gym KAM -Nakuru County/NLF</b>	<b>Matter clarified</b>  The regulations are read together with the Act and the drafting meets the country's legislative style.
26.		Reduce the fine by half and also a low limit and short sentences.		<b>Matter clarified</b>  The Act provides for the maximum penalty and the judicial officer has the discretion to prescribe any lesser penalty it deemed fit.
27.		The penalty provided under the Act is incomplete, it does not provide custodial sentence only a fine and detention of the vessel.		<b>Matter clarified</b>  The penalty provision under section 14(4) of the Act does not provide for custodial sentence.  Notwithstanding the above, Cap 389 has been reviewed to detain the vessels until the licence and fine is paid. The effect of the review would be to promote compliance as a detained vessel is not commercially viable and has dire consequences which can be equated to operating without a licence.



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28.	<b>General comments</b>	Boards of Directors to be formed to assist Director General in various duties.	<b>NLF &amp; Nakuru Disability Network</b>	<b>Matter clarified</b>  Under the current organizational structure of the Authority, there is already established a functional Board.
29.		The audience ought to have been taken through maritime policies before sensitizing them on the law, that is the regulations	<b>KAM</b>	<b>Matter clarified</b>  An overview on the policy and legal framework on maritime sector was given which included: - <ol style="list-style-type: none"> <li>1. Integrated national transport policy 2009</li> <li>2. National maritime transport policy (awaiting adoption by parliament)</li> <li>3. Kenya vision 2030</li> <li>4. Blue economy</li> <li>5. Merchant Shipping Act</li> <li>6. Constitution of Kenya</li> </ol>

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30.		The public should be involved in the exercise where the actual incorporation of their comment is done.	Nakuru Street Hawkers Associations- Kenfric (NASTHA)	<b>Matter clarified</b>  All comments made during the public participation have been considered during the review of the regulations.
31.		TVETS Institutions to offer shipping and maritime courses.		<b>Matter clarified</b>  There are several institutions, including TVET institutions that are approved by KMA to offer shipping and maritime courses
32.		Introduce shipping/maritime studies in the CBC Curriculum		<b>Matter clarified</b>  The approved curricula is aligned to CBC.
33.		What is the significance of Cabotage?		<b>Matter clarified</b>  The benefits include: (a) Protects domestic transportation industries (b) Promotes fair competition

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				<ul style="list-style-type: none"> <li>(c) Provides job opportunities to nationals</li> <li>(d) Transfers maritime knowledge, skill and technology to nationals</li> <li>(e) Maintains national security</li> <li>(f) Develops human capacity</li> <li>(g) Increases ships in national ship register</li> <li>(h) Promotes ship ownership</li> <li>(i) Builds supply services</li> <li>(j) Promotes safety and security of ships in ports/ terminals</li> <li>(k) Enhances marine environment protection</li> <li>(l) Encourages transportation by sea;</li> <li>(m) Enhances provision of public services and infrastructure within ports</li> </ul>
34.		What charges and procedures must be met in relation to imports and exports?	<b>Nakuru Street Hawkers Associations-Kenfric (NASTHA)</b>	<p><b>Matter clarified</b></p> <p>The procedure for importing and exporting goods through the Port of Mombasa begins with proper</p>

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				<p>documentation. Importers and exporters must obtain the necessary licenses and permits from relevant government agencies in line with the goods imported/exported. They also need to prepare a detailed cargo manifest, commercial invoice, packing list, and bill of lading. Once the documentation is in order, the next step is to engage a clearing agent registered with the KRA to handle customs clearance. The agent submits the required documents through the Kenya Trade Net System for customs processing and duty assessment.</p> <p>After customs clearance, the actual movement of goods takes place. For imports, once the vessel arrives, containers are offloaded and moved to the container freight stations (CFS) or the Inland Container Depot (ICD) for inspection and verification. Customs officials may conduct physical inspections or use non-intrusive methods like scanners. Upon satisfactory inspection and</p>

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				<p>payment of applicable duties and taxes, the goods are released to the importer. For exports, goods are delivered to the port, where they undergo security and customs checks before being loaded onto vessels. Throughout this process, adherence to regulations set by the Kenya Ports Authority (KPA) and other relevant bodies is crucial to ensure smooth operations and compliance with international trade standards</p>
35.		<p>The Director General has too much power under various provisions of the Regulations, it is recommended that this power is limited.</p>	<p><b>Nakuru ‘R’ Association &amp; Nakuru Disability Network</b></p>	<p><b>Matter clarified</b></p> <p>The powers of the Director General in the Regulations are derived from the Act which empowers the Director General to perform the specific functions in the Regulations.</p> <p>Regulation 14 provides for review which includes an appeal mechanism under the proposed Bill. Reference to the Director General does not restrict the officer holder</p>

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				from forming a committee to consider such an application.
		Decentralize maritime education for all to be conversant.	<b>WRA</b>	<p><b>Matter clarified</b></p> <p>Efforts are being made towards sensitization of the public on opportunities on maritime issues.</p> <p>The Authority vets and approves maritime courses offered in various training institutions across the country. The lists of institutions can be found on the Authority's website.</p>
		Does the Authority have presence in Lake Nakuru?		<p><b>Matter clarified</b></p> <p>Lake Nakuru is a protected area under Kenya Wildlife Services (KWS). Notwithstanding when it comes to the safety of the vessels the Authority inspects the vessels and issues safety certificates. In relation to protection of the marine</p>

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				environment within the protected area, the Authority cooperates with KWS among others.
36.	General comment	Local investors are shying away from investing on maritime, add more visibility and conferences on trade fairs to increase on local trade would be helpful.	<b>Nakuru Disability Network</b>	<p><b>Matter clarified.</b></p> <p>The comment is well received. KMA, in collaboration with SDSMA among other key agencies has developed a draft maritime investment policy and incentive regime for the maritime sector. There is planned stakeholder engagements that will sensitize the public on investment opportunities in the maritime industry.</p> <p>KMA conducts Trade Facilitation and Maritime Investment workshops in different counties to sensitize the public on investment and other opportunities in the maritime industry.</p>

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				KMA coordinates the development and implementation of blue economy multi- agency framework to harness investment opportunities in the blue economy sector in general.
37.		What regulations are applicable to Migingo?		<p><b>Matter clarified.</b></p> <p>The Lake Victoria Transport Act and its regulations apply in the Lake Victoria waters which include the Migingo area</p> <p>The Merchant Shipping Act Cap 389 and its regulations also applies where it is consistent with the Lake Victoria Transport Act.</p>
38.	General comment	How does this regulation apply to Lake Turkana?	PWD County Nakuru	<p><b>Matter clarified</b></p> <p>The application of these Regulations extends to ships operating in inland waters including Lake Turkana.</p>



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		<p>What is the role of KMA in the importation of goods?</p> <p>What is KMA doing to eliminate middle men in importation of goods?</p>		<p><b>Matter clarified.</b></p> <p>KMA engages in the regulation of maritime service providers and this is done by vetting of applications prior to issuance of licence and the conduct of inspection to ensure compliance with the conditions of licence.</p> <p>As the regulator of the maritime industry, KMA collaborates with other agencies under the Mombasa Port and Northern Corridor Community Charter in enhancing efficiency in the Kenyan ports.</p>
39.	<b>General comment</b>	Public participation ought to be effective and not an avenue simply used to comply with the requirements of the Constitution of Kenya 2010.		<p><b>Matter clarified</b></p> <p>All comments and recommendations are welcomed and will be considered during the review of the Regulations.</p>

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40.		What is KMA doing to create employment opportunities to all persons and to offer training opportunities to persons on maritime affairs?		<p><b>Matter clarified.</b></p> <p>The regulations seek to encourage Kenyans to take up employment on board ships engaged in local trade within the cabotage area to meet the prescribed manning levels.</p> <p>The Merchant Shipping (Maritime Transport Operators) Regulations, 2024 also provide a workforce requirement for maritime transport operators licensed or registered by KMA</p> <p>The draft maritime investment policy and incentives regime and maritime education and training policy encourage building of capacity in the said areas.</p> <p>Development of curriculum to guide the provision of maritime training in approved maritime institutions.</p> <p>Kenya has entered into MOUS with maritime administrations and shipping companies for Kenya to access training opportunities</p>

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				<p>including exchange programs with maritime training institutions and undertake onboard training which may equip them with the required skills to serve aboard specialized ships.</p> <p>The Authority in partnership with HELB to provide financial support to students undertaking maritime education courses in Kenyan training institutions through loans.</p>
<b>MERCHANT SHIPPING (VERIFIED GROSS MASS) REGULATIONS, 2024</b>				
41	<b>Regulation 12</b>	To be strengthened to make reference to the Tribunal.	<b>County Nakuru Youth-</b>	<p><b>Matter clarified.</b></p> <p>Regulation 16(2) provides for the right to appeal.</p>

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42	<b>Regulations 14(2)</b>	What are the checks and balances in the review and appeal processes?	<b>Participant</b>	<p><b>Matter clarified</b></p> <p>The Maritime Laws (Amendment) Bill establishes the National Maritime Review Tribunal under Cap 389 an independent tribunal under the judiciary to address dispute that may arise.</p>
43	<b>PART II- Obligation of parties on Verification of Gross Mass of a packed container</b>	What safety measures have been put in place for explosive goods? Consumer protection must come out clearly.	<b>County Youth Nakuru</b>	<p><b>Matter clarified</b></p> <p>There are various international and national regulations for the carriage of dangerous goods on board ships. There are also provisions on the declaration of dangerous goods and packaging.</p> <p>There are regulatory Authorities mandated to enforce consumer protection and they undertake inspection of goods to ensure that the goods meet set standards e.g. KEBS, KRA, Radiation Board, Department of Veterinary KEPHIS, etc.</p>

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44	<b>Regulation 16(2)</b>	The regulations should uphold the principle of access to justice by aggrieved persons.	<b>Nakuru County Public Opinion Consultative Initiative</b>	<b>Matter clarified</b> Regulation 16(2) provides for redress mechanism for persons aggrieved by the decision of the Director General.
		It is recommended that this section makes reference to the shipping Maritime Tribunal.		<b>Matter clarified</b>  The Maritime Laws (Amendment) Bill seeks to establish the National Maritime Review Tribunal under Cap 389 which once operational will be able to address disputes of such nature following review.

<i>S.NO</i>	<i>REGULATION</i>	<i>ISSUE/COMMENT/SUBMISSION</i>	<i>STAKEHOLDER</i>	<i>ACTION TAKEN/RESPONSE</i>
45	<b>Regulation 17(1)- Obligations of a Gross Mass Verifier</b>	Does Kenya verify containers from other countries before exports?	<b>KWS</b>	<p><b>Matter clarified</b></p> <p>The verified gross mass of every container that is transshipped through a Kenyan port will be submitted to ship agent and port facility operator.</p>
46	<b>Regulation 18</b>	Intercepted containers, why should such container be issued with a fresh gross mass certificate.	<b>County Nakuru Youth</b>	<p><b>Matter clarified.</b></p> <p>Interception arises in the case of targeted random inspections by regulatory authorities or enforcement authorities where a container is suspected to contain suspicious cargo.</p> <p>The gross mass of intercepted containers ought to be obtained afresh as the seal to the container is broken and the container weighed afresh. The essence is to ensure that no additional items are added or removed hence the need to verify gross mass of the container.</p>

<i>S.NO</i>	<i>REGULATION</i>	<i>ISSUE/COMMENT/SUBMISSION</i>	<i>STAKEHOLDER</i>	<i>ACTION TAKEN/RESPONSE</i>
47		What is the difference between a Kenyan and a foreign shipper?		<b>Matter clarified</b>  A Kenyan shipper is a citizen or resident of Kenya who imports or exports goods, while a foreign shipper is the inverse.
		What measures has KMA put in place to eliminate corruption at the port?		<b>Matter clarified</b>  Kenya has various ports and each operator/authority is mandated and required to comply with Kenya anti-corruption laws.  The Mombasa Port and Northern Corridor Community Charter where KMA is the Secretariat seeks to reduce corrupt practices in consultation with the stakeholders by providing timelines, targets and obligations for the Port Community players or operators when using the sea-ports. The level of compliance is monitored on a monthly basis. KMA prepares a quarterly port efficiency report as part of implementation of the Charter.

<i>S.NO</i>	<i>REGULATION</i>	<i>ISSUE/COMMENT/SUBMISSION</i>	<i>STAKEHOLDER</i>	<i>ACTION TAKEN/RESPONSE</i>
	<b>Regulation 19</b>	It is recommended that inspectors undertaking inspections on level of compliance be regulated.	<b>Nakuru County Public Opinion Consultative Initiative</b>	<b>Matter clarified</b>  Inspectors nominated or appointed under the Merchant Shipping laws are guided by Code of conduct and applicable laws of Kenya.
		Proposal that KMA and the shipper to share costs in case the ship capsizes.	<b>Participant</b>	<b>Matter clarified.</b>  The owner of the cargo bears the costs hence the benefits of insuring the cargo. It is a matter of private contract to which KMA is not privy.  KMA's role in relation to VGM is to establish and enforce provisions to avoid marine casualty incidents due to misdeclaration among other related non-compliance issues.
	<b>Regulation 21(3)-Methods of Gross Mass Verification</b>	Why do we have excess load on some vehicles in transit?	<b>KWS &amp; Nakuru Y Consortium</b>	<b>Matter clarified</b>  This may be as a result of the misdeclaration of weight. In terms of export for purposes of international shipping, these Regulations seek to ensure that



<i>S.NO</i>	<i>REGULATION</i>	<i>ISSUE/COMMENT/SUBMISSION</i>	<i>STAKEHOLDER</i>	<i>ACTION TAKEN/RESPONSE</i>
				verified gross mass of containers is obtained and within the permitted limits.
	<b>Regulation 23</b>	It is recommended that KMA take liability for work place negligence.	<b>Nakuru County Public Opinion Consultative Initiative</b>	<b>Adopted</b>  Negligence does not exclude liability on the part of the public officer, notwithstanding, the regulation has been deleted as a protection provision has been provided under article 236 of the Constitution of Kenya.
	<b>FORM 2- ANNEX 1- Documents for submission checklist</b>	Accreditation and certification are not the same. VGM process may not require QMS. Consider.	<b>Participant</b>	<b>Matter clarified.</b>  Certification of equipment for purposes of verifying gross mass of a packed container is undertaken by the State Department of Weights and Measures while KMA issues a certificate of approval for operators carrying out verified gross mass of containers for international shipping. KMA's process is not that of an accreditor.

<i>S.NO</i>	<i>REGULATION</i>	<i>ISSUE/COMMENT/SUBMISSION</i>	<i>STAKEHOLDER</i>	<i>ACTION TAKEN/RESPONSE</i>
				Form 2- Annex I under the sub-heading: Documents for submission checklist requires the submission of a copy of accredited quality management system certificate (where applicable). QMS is required for the facility to ensure that the processes in the facility meets international standards.
	<b>General comment</b>	Is there proper inspection of containers?  Is there a mechanism to ensure forensic screening of containers?	<b>PWD Nakuru County</b>	<b>Matter clarified</b>  The inspection of containers is under the purview of KRA- Customs among other enforcement agencies. They are equipped to carry out this function.
		Who is responsible for sealing of containers?		<b>Matter clarified</b>  Sealing of containers is undertaken by KRA officials in the presence of relevant representatives including the owner of the goods.

<i><b>S.NO</b></i>	<i><b>REGULATION</b></i>	<i><b>ISSUE/COMMENT/SUBMISSION</b></i>	<i><b>STAKEHOLDER</b></i>	<i><b>ACTION TAKEN/RESPONSE</b></i>
		How does KMA protect shipper in the event that a container is lost or damaged?	<b>KWS</b>	<b>Matter clarified</b>  A shipper would at the first instance pursue the resolution of the claim with the party concerned. The shipper may also seek the assistance of KMA to assist in resolution of the complaint through its complaint resolution mechanism.
		Are there any tax exemptions for PWDS in the importation of goods?	<b>Nakuru Consortium</b>	<b>Matter clarified</b>  The taxation regime stipulating any possible exemptions for PWDs is under the relevant laws implemented by the KRA
		The goods which are transported should be insured. Is it possible to include insurance on the VGM certificate on safety measures to safeguard the shipper?	<b>Nakuru County Public Opinion Consultative Initiative</b>	<b>Matter clarified</b>  Insurance of cargo is the prerogative of the shipper. However, insurance companies may in future customize specific package for insurance against liability arising from misdeclaration.

<i><b>S.NO</b></i>	<i><b>REGULATION</b></i>	<i><b>ISSUE/COMMENT/SUBMISSION</b></i>	<i><b>STAKEHOLDER</b></i>	<i><b>ACTION TAKEN/RESPONSE</b></i>
48.	<b>General comment</b>	It was recommended that persons applying to be gross mass verifiers should possess a diploma certificate as a minimum requirement	<b>Nakuru County Public Opinion Consultative Initiative</b>	<p><b>Matter clarified</b></p> <p>Academic qualification requirement is part of the requirement process under the State Department for Weights and Measures for applicants seeking for a certificate of verification of equipment used for verified gross mass.</p> <p>KMA requires that a gross mass verifier must have the certificate of verification of equipment issued by the State the Department of Weights and Measures.</p>
49.	<b>General comment</b>	Are there regulations in place providing for training in container safety?	<b>Telkom</b>	<p><b>Matter clarified</b></p> <p>Container safety is regulated by the 1972 Convention for Safe Containers. KMA incorporates aspects of container safety during trade facilitation workshops.</p>

#### ANNEX IV

#### MERCHANT SHIPPING (CABOTAGE) REGULATIONS AND MERCHANT SHIPPING (VERIFIED GROSS MASS OF A PACKED CONTAINERS), NAIROBI.

S.N O	REGULATION	ISSUE/COMMENT/SUBMISSION	STAKEHOLDER	ACTION TAKEN/RESPONSE
<b>MERCHANT SHIPPING (CABOTAGE) REGULATIONS, 2024</b>				
<b>50.</b>	<b>Regulation 2- Interpretation of ‘cargo’</b>	The definition includes ‘livestock’ - suggestion to replace the word ‘livestock’ with animal, to give a broader meaning to it.	<b>CEO  Shippers Council of Eastern Africa</b>	<b>Matter clarified</b>  Livestock includes all domesticated animals and is the term used under Kenyan law.

41.	Part II	<p>The Regulations only provides for restrictions on local trade, however they are silent on the benefits associated with the objective of the regulations.</p>		<p><b>Matter clarified</b></p> <p>The purpose of the regulations have been summarized under regulation 4 and provide the following benefits:-</p> <ul style="list-style-type: none"> <li>(a) Promotes fair competition</li> <li>(b) Protects domestic transportation industries</li> <li>(c) Provides job opportunities to nationals</li> <li>(d) Transfers maritime knowledge, skill and technology to nationals</li> <li>(e) Maintains national security</li> <li>(f) Develops human capacity</li> <li>(g) Increases ships in national ship register</li> <li>(h) Promotes ship ownership</li> <li>(i) Builds supply services</li> <li>(j) Promotes safety and security of ships in ports/ terminals</li> <li>(k) Enhances marine environment protection</li> <li>(l) Encourages transportation by sea;</li> <li>(m) Enhances provision of public services and infrastructure within ports</li> </ul>
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51	<b>Regulation 5 (d)</b>	In the example of fishing vessels which are required to register with KMA and Kenya Fisheries Service (KeFS), will this additional licence under the Regulations create multiple licenses applicable to one vessel?		<p><b>Matter clarified</b></p> <p>The licensing regime under this regulation is subject to the Fisheries Management and Development Act.</p> <p>The Authority 's licence which is for foreign ships will be in respect of use of the vessel for transportation of cargo, persons within the cabotage area, as well as using the vessel to engage in trade within the cabotage area, while KeFS will issue a fishing trading licence to operators engaged in fishing activities which comprises fishing gear and/or equipment.</p> <p>KMA's concern in respect of the seaworthiness of the vessel and protection of the marine environment against pollution from ships.</p>
52				
53		How will KMA relate with KeFS in terms of licensing of local trade for fishing vessels.		

54	<b>Regulation 7,8(2) and 9(2)(j)</b>	It is not clearly defined what manning is and whether is it temporary or permanent.		<b>Matter clarified</b>  The word, ‘manning’ is an industry terminology used under the Merchant Shipping Act and the Merchant Shipping (Minimum Safe Manning) Regulations. It refers to the crew on board vessel or seafarers. The term has been used interchangeable with crew for consistency.
55	<b>Regulations 8(2)</b>	How will the Authority determine that there is no Kenyan ship available to provide the required services?	<b>Kenya Ship Yard Ltd</b>	<b>Matter clarified.</b>  The Authority maintains a register of all categories of vessels registered under the Kenyan registry as well as those licensed to engage in trade in waters under Kenyan jurisdiction. Due diligence will also be undertaken.
56	<b>Regulation 9(c)</b>	What do you mean to have representative, managing agents of shipping lines be required to establish a business in Kenya?	<b>Alpha Logistics /Shippers Council of Eastern Africa</b>	<b>Adopted</b>  The provision has been reviewed to reflect a local representative recognized under the laws of Kenya.





		Investment in the local trading business is heavy, a one-year license does not match the investment.		
58	<b>Regulations 13</b>	Suspension, cancellation and variation of terms or conditions of license need to be separated.  Include a notice period.		<b>Adopted</b>
59	<b>Regulation 14</b>	In terms of disputes within the provisions of the regulations, what happens? And what are the limitations if any.		<b>Matter clarified</b>  Dispute resolution mechanism has been provided under regulation 14. The time period for filing an application for review is within 30 days.
60		How long will the review process take to obtain a response from the Director General?	<b>Alpha Logistics</b>	<b>Adopted</b>  Within 30 days from receipt of the application for review.

61		The period for lodging to be reduced to 7 days		<b>Matter clarified</b>  The period does not prevent an aggrieved person for applying for review for less days the provision provides a maximum of 30 days
62		Where will the appeal be lodged?		<b>Matter clarified</b>  Upon review of the application, where an aggrieved person is still dissatisfied with the decision of the Authority, they may file to the High Court until such a time that the proposed Tribunal under the Act becomes operational.
63		The Review and Appeal procedure have not been outlined- there ought to be a form to guide the processes involved.		<b>Adopted</b>  The procedure for the review which is an informal process has been reviewed under the regulation. The procedural for appeal to the Tribunal once operational will be guided by the Chief Justice Rules.

<b>64</b>	<b>Regulation 15</b>	How will relief service vessels be treated under the Regulations?	<b>Shippers Council of East Africa</b>	<b>Matter clarified</b>  This has been addressed under regulation 15 which provides for exemptions from requirements for vessels: - <ul style="list-style-type: none"> <li>(a) rendering assistance or responding to a distress call;</li> <li>(b) engaged in marine pollution emergency response; and</li> <li>(c) those engaged during national emergency.</li> </ul>
<b>65</b>	<b>Regulations 18 (2) (b)</b>	What are the circumstances under which the DG may cancel the licence in the event where the owner cancels the license of the ship provided in the Act?	<b>Kenya Ship Yard Ltd</b>	<b>Adopted</b>  The provision has been reviewed.
<b>66</b>	<b>Regulation 20</b>	Amend 'license' typo.		<b>Adopted</b>
<b>67</b>	<b>First Schedule, Form 1</b>	The form should specify the purpose for which the data is collected. (Data protection control measures)	<b>KENTRADE</b>	<b>Matter clarified</b>  The information gathered from the form is for official use only and will be processed in accordance with the

				Data Protection Act. Note area marked G
68	<b>First Schedule Form 1 – page 14</b>	Review the form to be in line with the Company's Act in respect of use of company seals which are no longer a mandatory requirement.	<b>Kenya Ship Yard Ltd</b>	<b>Adopted</b>
69	<b>General</b>	The Regulations should have a regional outlook, where cabotage operates regionally to support trade seaborne trade in other African states.	<b>Shippers Council of East Africa</b>	<b>Matter clarified</b>  The cabotage regulations will be initially established to develop the domestic shipping industry and enable the nation to build its maritime capabilities. The framework envisions foreign ships engaging in local trade within the cabotage area by virtue of a licence or a treaty framework this is to ensure that there is a balance of interests.
70	<b>General</b>	Explain the problem that gave rise to the development of the Regulations should be defined clearly.		<b>Matter clarified</b>  Kenya seeks to develop the local shipping industry, build capacity, and create job opportunities among other aspects. These have been

				summarized under the object regulation. The challenges have further been provided under regulation 8(2) and measures to alleviate these challenges have been enumerated under regulation 9 (conditions of license for a foreign ship) and 15 (conditions of exemptions). The Merchant Shipping Act Cap 389 provides that a regulatory framework would be developed to provide an elaborate framework. The regulations have provided that framework for effective implementation of the provisions.
71	General	Do the Regulations apply to the Lake Victoria Basin Region (Inland waters)		<p><b>Matter clarified</b></p> <p>They do to the extent there is no inconsistencies or conflict with the Lake Victoria Transport Act. where there are inconsistencies the Lake Victoria Transport Act takes precedence.</p>

<b>MERCHANT SHIPPING (VERIFIED GROSS MASS) REGULATIONS, 2024</b>				
<b>72</b>	<b>Regulation 2- Interpretation of Calibrated</b>	Consider using the word container stuffing in place of container packing.	<b>Alpha Logistics</b>	<b>Adopted</b>
<b>73</b>		Calibrated' is a verb- replace it with a noun version of the word.		<b>Not Adopted</b>  MSC.1/Circ.1475 9 June 2014 on Guidelines Regarding the Verified Gross Mass of a Container Carrying Cargo defines the term as calibrated in the context of maritime sector.
<b>74</b>		Expunge the definition of calibrated or replace with verified and certified	<b>Weights and Measures</b>	<b>Adopted</b>

		All the weighing equipment used in determination of gross mass are legal metrology equipment and must be handled according to legal metrology provisions for the outcome to be legal.		
75	<b>Regulation 2- Interpretation</b>	Interpretation of short international voyage. Replace ‘miles’ with ‘distance’.		<b>Matter clarified</b>  Miles is a measure of distance used under the law of the sea among other international maritime instruments
76		Include definition of ship-owner, shipping agent, policy facility operators shipper		<b>Adopted</b>
77		Clarify why as shippers association is included in the definition of shippers		<b>Adopted</b>  Reference to shipper as an association has been deleted



78	<b>Regulation 5</b>	Include measures to minimize entry into port of cargo without the required certificate- to avoid congestion.		<b>Matters clarified</b>  Industry practice provides that port documentation must be prepared before entry into port as such VGM documentation is inclusive  In addition, the regulations provide a liability provision, penalty on the shipper upon failure to verify gross mass of a container under regulations 5(3)(b)(ii)
79	<b>Regulation 6</b>	Provide the precise ISO Certification standard	<b>Weights and Measures</b>	<b>Adopted</b>
80	<b>Regulation 7(1) and (2)</b>	<p>The use of words, “verification” and “re-verification” which are processes defined under the Weights and Measures Act, Cap 513 should either be maintained as defined under Cap 513 or an alternative term. Verification and reverification are processes defined in the Weights and</p> <p>Measures Act, Cap 513. The use of verification and reverification in this regulation is in conflict.</p>		<b>Adopted</b>  There is no conflict between Cap 513 and the draft regulations in respect of verified gross mass of a packed container.  Regulations reviewed to use word consistent with the Safety Convention and related Guidelines

		<p>Option 1. Replace verification in their use with determination</p> <p>Option 2. Define both verification and reverification as per use in your Act</p> <p>Verification and reverification in the whole document.</p>		
81	<b>Regulation 8</b>	<p>Determination of the gross mass is based on the accuracy of the weighing equipment involved and hence the error arising out of the weighing of a packed container is a function of the equipment's error. Since variation in gross mass is as a result of two different weighing equipment, the tolerance thereof should be a function of the maximum permissible error (mpe) of the two equipment.</p> <p>The tolerance (mpe) of the verified gross mass should therefore be <math>\pm 0.3\%</math>.</p> <p>Amend tolerance of the verified gross mass of a packed container to be <math>\pm 0.3\%</math>.</p>	<b>Weights and Measures</b>	<p><b>Matter clarified</b></p> <p>We have to provide allowance for cargo weight of decrease due to moisture loss or gain. Tolerance of <math>\pm 2\%</math> has been provided as guided by the calculation of ship stability under MSC.1/Cir 1229 – Guidelines for approval of Ship Stability.</p>
82	<b>Regulation 11</b>	Clarify why the Authority would require the provision for request for information		<p><b>Matter clarified</b></p> <p>This provision is to enable the Authority execute its regulatory function of monitoring and oversight.</p>

83	<b>Regulation 12 (2)</b>	Include the word, ‘sub’- before the word, ‘regulation’.		<b>Adopted</b>
84	<b>Regulation 12 (2) (a)</b>	Introduce validity of the certificate of verification Replace “the certificate of verification issued under the Weights and Measures Act” with “A valid certificate of verification issued under the Weights and Measures Act		<b>Adopted</b>
85	<b>Regulation 12 (2) (b)</b>	Review provision to provide for payment after issuance of certificate of approval	<b>Shippers Council of Eastern Africa</b>	<b>Matter clarified</b>  Procedure for licensing requires payment of various fees at different stages which comprise application processing fee and annual approval fee.
86	<b>Regulation 12(4) (b)</b>	Recommendation: Delete 30 days- it is too long, and replace with 48 hours for the DG to communicate a decision.	<b>Shippers Council of Eastern Africa</b>	<b>Matter clarified</b>  Application process includes carrying out of due diligence comprising perusal of documents submitted and vetting process. The time period provided is the maximum and does not limit the

				Authority communicating its decision in lesser time.
87	<b>Regulation 15</b>	Review to separate cancellation, suspension and variation. Include period of notification for cancellation		<b>Adopted</b>
88	<b>Regulation 16</b>	Provide a procedure for review and appeal and whether there is an alternative dispute mechanism for resolution of disputes.		<b>Matter clarified</b>  There are avenues for review of the Director General's decision failure to which the applicant may appeal to the High Court or the proposed tribunal in the Bill once operationalized.
89	<b>Regulations 16(1)</b>	Recommendation:  Amend to include review of the decision of the 'Director General'.	<b>Weights and Measures</b>	<b>Adopted</b>
90	<b>Regulation 17 (1) (a)</b>	Instead of use of the word calibrated, use the term certified and verified by weights and measures department		<b>Adopted</b>

		<p>Verification is done by an inspector of Weights and Measures and the result determines the validity of the instrument for use.</p> <p>Delete 17 (1) (a) and replace with “Ensure that the equipment used in gross mass verification (gross mass determination) has a valid certificate of verification issued under the Weights and Measures Act Cap 513.”</p>		
91		Valid Certificate of Verification to be defined in the Regulation 2.		<p><b>Matter clarified</b></p> <p>Defined under regulation 12 (2) (a) of these Regulations</p>
92	<b>Regulation 17(1) (b)</b>	<p>Display in a conspicuous place a valid certificate of verification for each equipment used in gross mass verification.</p> <p>It's not a requirement to display the valid Certificate of Verification in a conspicuous place under the Weights and Measures Act but it is an offence if one fails to produce it when requested.</p>		<p><b>Adopted</b></p>
93	<b>Regulation 17(2)</b>	All provisions of the Regulations should apply to port facility operators		<p><b>Matter clarified</b></p> <p>The regulations applies to various players in light of their role in relation to verified gross mass compliance. The port facility operator's main role is to ensure that</p>

				all containers have a verified gross mass before loading. The regulation applies to the port facility operator during special circumstances where the shipper has entered the port facility without a verified gross mass.
94	<b>Regulation 17(2) (c)</b>	Review provision to reflect that the regulations to, comply with the provisions of Regulations 17 (1)		<b>Adopted</b>
95	<b>Regulation 18</b>	Propose the removal of requirement to re-verify gross mass and obtain a new gross mass certificate.		<b>Matter clarified</b>  Interception may lead to change in the verified gross mass of a container as such there is need to re-verify and obtain a new gross mass certificate. It also affords a protection to the shipper against liability claims.
96	<b>Regulations 19(c)</b>	Reasonable time be replaced with actual working hours- to avoid long waiting durations.	<b>Alpha Logistics</b>	<b>Adopted</b>

97	Regulations 21 (1)	<p>The equipment being used to determine the gross mass in method 1 must have a valid certificate of verification issued under the Weights and Measures Act.</p> <p>To introduce Sub-Regulation 21 (5) to read “The weighing equipment used to verify the gross mass of a packed container and tare mass of a road vehicle by the shipper or the third party shall have a valid certificate of verification issued under the Weights and Measures Act”</p>	Weights and Measures	Adopted
98	Regulations 24	The Regulations to consider a port facility operator, ship agent, master or shipper who may have made admission to the effect that he/she made a mistake by exceeding the maximum verified gross mass to enable correction before being declared to have contravened the provisions of the regulations- similar to tax laws.		<b>Matter clarified</b>  Regulation 5(3) provides an avenue for the shipper, in that the port facility operator will either refuse entry of the cargo or container subject to verification or alternatively upon request obtain the verified gross mass on behalf of the shipper.
99		The penalty is too lenient as there may be serious losses involved- revise to increase the amount.		Adopted

<b>100</b>	<b>Regulations 25</b>	The Regulation to specify actual period where the validity of the licenses issued prior to the regulations will lapse.		<b>Matter clarified</b>  There is a savings provisions which provides that the certificate of approval will continue to apply until the expiry of the approval.
<b>101</b>	<b>Under schedule, form1</b>	The form should be the final form – remove recommendation- which may create room for variations.	<b>Weights and measures</b>	<b>Adopted</b>
<b>102</b>	<b>Schedule1 Form 1</b>	Delete the statement under form 1 and before the table.  Delete the word sample under verified gross mass certificate		<b>Adopted</b>
<b>103</b>	<b>Schedule 1 form 2 Annex 1– part 3</b>	Verification of weighing instrument is done once in a year. The inspector of Weights and Measures can inspect weighing equipment at least once in a year. Delete the entire Section 3  The information required will have already been provided under part 2.		<b>Adopted</b>
<b>104</b>	<b>Form 1 Column 3 Row 4, 5 and 6</b>	The form is used to declare gross mass. For Consistency purposes. Replace the word “weight” with word “mass”		<b>Adopted</b>



105	<p><b>Schedule 1 form 2</b>  <b>Annex 1– part 2</b>  <b>under document</b>  <b>name: copy of</b>  <b>documented</b>  <b>procedure</b></p>	<p>Delete the following provisions: -</p> <ul style="list-style-type: none"> <li>a) Copy of documented procedure of maintenance of weighing equipment or evidence of there being in place a valid third-party maintenance contract;</li> <li>b) Copy of documented procedure for reporting and recording faults of weighing equipment’;</li> <li>c) Copy of documented procedure of calibrating the weighing equipment</li> </ul> <p>Based on the following reasons: -</p> <ul style="list-style-type: none"> <li>• copy of documented procedure is not necessary as the container has already been verified;</li> <li>• maintenance of the weighing equipment is captured in the Weights and Measures Act;</li> <li>• the weighing equipment is a legal metrology equipment which is serviced by technician licensed under the Weights and Measures Act and submitted to an inspector of Weights and Measures for verification. Such equipment are not open to calibration as a finality.</li> </ul>		<p><b>Adopted</b></p>
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106	<b>Form 2 – For office use</b>	<p>The weighing equipment used by the gross mass verifier is deemed to be accurate with issuance of the certificate of verification and the seal is not tampered with.</p> <p>Rephrase the paragraph to read  “The Authority shall issue an approval certificate for the gross mass verifier which shall include information of the Certificate of Verification serial number and its validity period for each equipment and the approved method of verification by the gross mass verifier”.</p>		<p><b>Matter clarified</b></p> <p>The Authority’s focus is compliance related which seeks to ensure that the shipper/ gross mass verifier has obtained verified gross mass of a container having the requisite approval and certification of verification of equipment</p>
107	<b>Regulation 12 (2) (b)</b>	<p>An applicant for registration of gross mass verifier shall pay Registration Fees to the Authority amounting to ..... USD upon being approved for registration</p> <p>Clarify why we are paying in USD as opposed to Kshs</p>		<p><b>Matter clarified</b></p> <p>The Merchant Shipping (Fees) Regulations 2011, has provided a schedule of fees in USD due to the nature of services offered and the global linkages in relation to the maritime sector</p>
108	<b>FORM 2, Annex 1 Guidance notes no. 4 (b)</b>	<p>The weighing equipment is verified and not calibrated under the Weights and Measures Act Cap 513.</p> <p>Rephrase instruction 4 (b) to read “Physically weighing the goods using weighing equipment which has been verified and stamped in</p>	<b>Weights and Measures.</b>	<b>Adopted</b>

		accordance with the Weights and Measures Act Cap 513”.		
109	<b>FORM 2, Annex 1 Guidance notes no. 5</b>	Refer to comment on Form 2 Section 3 above Delete Instruction no. 5		<b>Adopted</b>
110	<b>Form 3</b>	Review the form to include To capture the serial number of the Certificate of Verification and its validity, Form 3 needs to be amended. Amend Form 3.	<b>Weights and Measures</b>	<b>Matter clarified</b>  The Authority’s focus is compliance related which seeks to ensure that the shipper/ gross mass verifier has obtained verified gross mass of a container having the requisite approval and certification of verification of equipment

111	General	Can KENHA be included in the process of certification so as to avoid the container trucks from being subjected to weigh bridges following confirmation of the weight via the VGM certificates?		<p><b>Matter clarified</b></p> <p>The framework of the regulation is in relation to ship safety and protection of the marine environment whereas KeNHA is concerned with matters relating to road safety. KeNHA's framework in relation to road safety is set in the Traffic Act Cap 405 and EAC Vehicle Load Act 2016</p>
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## ANNEX V

### MERCHANT SHIPPING (CABOTAGE) REGULATIONS, 2024 AND MERCHANT SHIPPING (VERIFIED GROSS MASS) REGULATIONS, 2024- MOMBASA

<i>S.N O</i>	<i>REGULATION</i>	<i>ISSUE/COMMENT/SUBMISSION</i>	<i>STAKEHOLDER</i>	<i>ACTION TAKEN/RESPONSE</i>
<b>MERCHANT SHIPPING (CABOTAGE) REGULATIONS, 2024</b>				
112	<b>PART I, No. 4 of 2009</b>	<p>Do foreign ships defined under Regulations include African fleets or EAC fleets?</p> <p>Should be defined as ships registered outside Africa to align with the objective of the Regional Maritime Organization AU on (AIMS) 2050</p> <p>AfCTA that emphasizes on developing a cohesive maritime domain and having a sole market for goods respectively</p>	<b>MOESNA</b>	<p><b>Matter clarified</b></p> <p>Foreign ship is defined in accordance with the provisions of the Act and Regulations cannot vary/ contradict with the definition of the Act.</p> <p>The regulations also provide for a licensing regime of foreign ships under a treaty or agreement.</p>

113	<b>PART II- Restriction on trading</b>	Land logistics have been left out by these Regulations. Is cabotage applicable to land logistics as Ship owners extend business onto land which directly or indirectly impact on players?	<b>KIFWA</b>	<p><b>Matter clarified</b></p> <p>Cabotage regulations are in place to protect and promote the local shipping industry. The regulations support ship operations as a local trade within the cabotage area and permits foreign ship's to engage in local trade where Kenyans have no capacity or expertise.</p> <p>The regulations do not cover land logistics as these are covered under the Act and the Merchant Shipping (Maritime Transport Operators) Regulations.</p>
114	<b>Regulation 2</b>	The definition of 'cabotage area' does not seem to cover port to port transfers	<b>AMP(K)</b>	<b>Adopted.</b>

115		<p>Proposed amendment of definition of local trade as it referred to activities (exploration and exploitation)</p> <p>Proposition that the definition clearly refers to vessels doing transport and even offshore equipment.</p>	WMU Alumni	<p><b>Adopted</b></p>
116	<b>Regulation 3</b>	<p>Review the Jones Act (Home Trade Coastal &amp; Inland Waters Trade) to get further insight on cabotage. Additionally, research on the Indian cabotage experience and explore the</p>		<p><b>Matter clarified</b></p> <p>The development of the cabotage regulation included undertaking a benchmark study of frameworks from other countries including the Jones Act (USA) and the India Merchant Shipping Act.</p>

		reason why they did away with cabotage regime.	<b>AMP(K)</b>	<p>It was noted that the Jones Act was restrictive as ships must be constructed in the United States, owned by US citizens, and crewed by US citizens and US permanent residents.</p> <p>It was also noted that India at present seeks to relax its cabotage framework having promoted its local industry and build capacity.</p> <p>The proposed regulations provide an opportunity to promote local industry and build capacity through requiring conditions to be met for foreign ships to engage in local trade within the cabotage area.</p>
<b>Regulation 5</b>	Add other types of ships under Regulation 5		<b>Kenya Ship Agents Association</b>	<p><b>Adopted</b></p> <p>The provision uses the word, “include” as such does not limit the types/categories of ships.</p>



		The list in Regulation 5 is non- exhaustive. Amend to include other ships e.g. cable ships and oil platform	WMU Alumni	<b>Matter clarified</b>  The use of the term ‘include’ gives room for inclusion of other types of ships and paragraph (n) provides for any other craft or vessel used for carriage of cargo or passengers within the cabotage area to be included as ships eligible to engage in local trade.
	<b>Regulation 6</b>	Define ‘licensed ships’	AMP(K)	<b>Matter clarified</b>  There is no reference to licensed ships made under the regulations. Notwithstanding, Kenyan vessels may be licensed under Section 57 of the Act among other provisions.
		Need to clarify whether the manning is only during coastal operations or all operations.		<b>Matter clarified</b>  The manning requirement refers to crewing requirement and as such applies to all operations on board ships.
<b>117</b>	<b>Regulation 7 and 8</b>	Caution to be upheld to ensure that Kenyans enjoy competitive advantage in the cabotage area while allowing foreign investment.	<b>Kenya Ship Agents Association</b>	<b>Matter clarified</b>  The Regulations promote locals’ participation in shipping industry and provides an opportunity for

				training and skill transfer through foreign ships participation with conditions where there is no local capacity or expertise available.
119	Regulation Manning 7,8,9-	Kenyans to be trained and equipped on oil and gas	Seafarer Forum of Kenya	<p><b>Adopted</b></p> <p>A provision in respect of training and transfer of skills would be included as a condition to licensing as well as a condition for granting of exemptions in relation to the crewing requirements.</p> <p>The Authority to explore the introduction of this training in the curriculum of maritime training institutions.</p>
120		Kenyan seafarers to be trained onboard KPA tugs, pilots and mooring boats.	WMU Alumni	<p><b>Matter clarified</b></p> <p>KPA applies its procedure and processes in terms of training opportunities on board its tugs, ferries and pilot boats.</p>

121	Regulation 8	<p>The Authority to determine the national capacity of Kenyan ships and skilled seafarers to engage in cabotage and encourage the growth in capacity.</p>	<p>KMA among other stakeholders developed the draft maritime investment policy and incentives regime which will apprise on opportunities in the shipping industry.</p> <p>The maritime education and training policy will also apprise on capacity building and training opportunities. Other initiatives have been and will continue to be undertaken to encourage growth and build capacity.</p> <p>These include partnerships with HELB to provide financial support to students undertaking maritime education courses in Kenyan training institutions through loans, establish collaborative framework with maritime administrations and shipping companies for Kenya to access training opportunities including exchange programs with maritime training institutions and undertaken onboard training which may equip them with the required skills to serve aboard specialized ships.</p>
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122	<b>Regulation 8(1)</b>	The licensing of a foreign ship should be for a certain duration and not open ended as contained in the draft.	<b>AMP(K)</b>	<b>Matter clarified</b>  Regulation 12 provides for the duration of licence not exceeding one (1) year. The licence will therefore be for a period less than one year. Should the expertise or the ship be locally available then priority would be given to locals.
123	<b>Regulation 8(2)</b>	How will the management company of a foreign ship allowed to engage in local trade be compelled to give knowledge transfer where Kenyans form part of the crew on board the said ship?		<b>Adopted</b>  Incorporated a condition of training and transfer of knowledge and skills to locals by foreign ships.

	<p><b>Regulation 9(c)</b></p>	<p>The Representative office of the Company owning the Foreign Ship may be misused. What does it seek to provide.</p> <p><b>Recommendation:</b> The representative office should be defined.</p>		<p><b>Adopted</b></p> <p>Representative office to be defined in line with the Companies Act 2015</p>
	<p><b>Regulation 9(2) (j)</b></p>	<p>The section states that the manning of the ship should comprise 51% Kenyan citizens. It is unfair and unjust to the rest of the Kenyan citizens who will still be left without a job. It has been noticed in other countries that no non-citizen is to be part of the manning of a ship when it is docked at the said country's port.</p> <p>The rate of unemployment is increasing day by day and such a regulation is to be said to affect public interest as crime rates increases with increase in unemployment.</p> <p>The stakeholder recommended that instead of 51% the number be increased to at least 90% to be Kenyan citizens so as to help fight the rate of unemployment and protect public</p>	<p><b>Marine Deck      Seamen</b></p>	<p><b>Adopted</b></p>

		<p>interest. Once the ship owner has been issued with a license, Kenyan citizens are to be responsible of manning the ship until the contract or license expires.</p>		
		<p>The ship owner is to issue each Kenyan citizen with working contracts which states that their form of payment, termination, compensation and a form of which they can or unfair appeal the termination if they feel it is unlawful.</p>		<p><b>Matter clarified</b>  The Merchant Shipping Maritime Labour) Regulations 2024 provides for the form of seafarers' employment Agreement which stipulates the minimum requirements (conditions of employment), including form of payment, termination, compensation and conditions for termination.</p>

	<b>Regulation 9(5)- Application for license by foreign ships.</b>	Is the application for licence subjected to a vetting Committee? If yes, this aspect needs to be provided for in the Regulation.	<b>KEBS</b>	<b>Matter clarified</b> The procedure for licensing including the requirements and considerations have been provided within the framework of the Regulations.
	<b>Regulation 10</b>	Does the 51% manning requirement provision contradict the requirement of regulation 7 on manning?	<b>WOMESA Kenya Chapter</b>	<b>Matter clarified.</b> 51% manning requirement is in relation to foreign vessels permitted to engage in local trade under special circumstances only. For Kenyan vessels, the vessel ought to be wholly manned by Kenyan citizens unless an exemption in relation to manning requirement is granted.

124	Regulation 14(2)	Need for clarity on the procedures for appeal?		<b>Matter clarified</b>  Regulation 14 provides an opportunity for review of a decision made by the Director General which includes an appeal mechanism under the proposed Bill
125		Proposal to review regulation 14(2) to provide for an arbitration provision	Kenya Ship Agents Association	<b>Matter clarified</b>  The regulation provides for an appeal process in accordance with the Bill. However, this does not prevent an aggrieved person from pursuing other Alternative dispute resolution mechanisms.
126	Regulation 15	What is the essence of providing for exemptions from licensing, it is contradicting the objective of the Regulations.	AMP(K)	<b>Matter clarified</b> The exemption under Regulation 15 is to allow ships to respond to



				emergency situations requiring assistance.
127		Is the provision of exemption in the event of emergencies tenable?		<p><b>Matter clarified</b></p> <p>Regulation 15 empowers the Director General to exempt foreign ships from licensing in the following circumstance: -</p> <p>Emergencies which are unforeseeable and attended to by ships within the vicinity of the distress call to salvage a ship, cargo or crew to control marine pollution following an incident.</p>
128	<b>Regulation 17</b>	The Regulations do not contain provisions on where the public may access information from the Authority with regards to restriction on local trade.	<b>Registered Seafarers Movement</b>	<p><b>Matter clarified</b></p> <p>These Regulations are read with articles of the Constitution of Kenya, 2010 and provisions in relation of right of access to information.</p>
129	<b>General comment</b>	How does cabotage encourage open ship registry?		<p><b>Matter clarified</b></p> <p>Open ship registry is a different concept from cabotage.</p>

				<p>Open ship registry refers to flagship registry system that allows vessel owners to register their vessel under the flag of Kenya, despite there being no 'genuine link' between Kenya and the vessel. These vessels often engage in international trade.</p> <p>On the other hand, cabotage refers to a framework on engaging in local trade in waters under Kenyan jurisdiction which comprises internal waters, inland waters, territorial sea, the exclusive economic zone and the continental shelf.</p> <p>The purpose of the Regulations is to build the local shipping industry to be able to offer shipping services and protect the local industry from unfair competition.</p>
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130	Regulation 19	Amend to only refer to the Owner as the master and agent are deemed to be acting on behalf of the owner.	WMU Alumni	<b>Matter clarified</b> Use of the terms owner, master or agent is consistent with the provisions of the Act.
131	Regulation 20	Does Kenya have capacity in terms of human resource, to support survey of ships?	AMP(K)	<b>Matter clarified</b> KMA is continuously engaged in capacity building of officers to undertake surveys. However, more has to be done for effective service delivery.  KMA has reviewed the organization structure to increase number of surveyors
132	First Schedule	Suggested the inclusion of the following in the application Form and the licence to reflect:  Former names Gross tonnage Length overall Agent's licence and validity of licence	WMU Alumni	<b>Adopted</b>
133	General Comments	The Regulations to contain provisions to promote the national carrier (protect national carrier from unfair competition).		<b>Matter clarified</b>  The purpose of the Regulations is to build the local shipping industry to

				be able to offer shipping services and protect the local industry from unfair competition.
134		Are there incentives to encourage investment in cabotage?	AMP(K)	<b>Matter clarified</b>  A maritime investment policy and incentives regime has been developed awaiting public participation. The policy provides avenues for investments within the sector. In addition, the National Maritime Education and Training policy has been adopted to build capacity in the said areas.
135		The Regulations ought to be futuristic, taking into account technological advancement	Advocate	<b>Matter clarified</b>  The comment is well received and appreciated. With the increased operations within the cabotage area it is hoped that infrastructural and technology development will also be undertaken to facilitate efficiency in local trade.

136		The Regulations to champion marine protection		<b>Matter clarified</b>  The regulations provides that surveys or inspections of ships is for purposes of ensuring the safety of life at sea and the protection of the marine environment will be undertaken. In addition, they permit rapid response in the event of a marine pollution incident.
137		Cabotage Regulations to encourage growth in cabotage activities as opposed to being punitive.	Kenya Ship Agents Association	<b>Matter clarified</b>  The main purpose of the cabotage regulation is to promote a viable domestic shipping industry that contributes to the broader Kenyan economy. The proposed fines and penalties are in line with Kenya's legislative style and serve as a deterrent measure against non-compliance.

**MERCHANT SHIPPING (VERIFIED GROSS MASS) REGULATIONS, 2024**

<b>138</b>	<b>Regulation 6(1)(b)</b>	Specify the ISO standard in relation to containers.	<b>WMU- Alumni</b>	<b>Adopted</b>
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139	<p><b>PART II- Obligations of parties on verification of Gross mass of a packed container</b></p> <p><b>Regulation 8(2)</b></p>	Automatic weighing to be done to containers to avoid reverification.	KIFWA	<p><b>Matter clarified</b></p> <p>Reverification is a control measure to verify compliance with the weighing requirements and cannot be avoided due to the repercussions in the event of a marine casualty incident.</p>
140	<b>Regulation 23</b>	Recast the provision to avoid legitimate exclusion from liability	WMU – Alumni	<p><b>Adopted</b></p> <p>Provision deleted. Public officers will rely on article 236 of the Constitution of Kenya among other existing provisions under various laws of Kenya.</p>
141	<b>Regulation 24</b>	Do the regulations protect the master of a ship?	Seafarers Union of Kenya	<p><b>Matter clarified</b></p> <p>A master who acts in contravention of these Regulations commits an offence and will be subjected to the</p>

				penalties under section 255 of the Act. A defense has been provided under section 255(6) of the Act.
142	General comment	The government to provide an automatic weighbridge on entry to port and only discrepancies should be subjected to correction.	KIFWA	<b>Matter clarified</b>  Matters relating to the establishment of a weighbridge at the point of entry of the sea-port is within the purview of the port Authority. Notwithstanding, KMA will convey the proposal for further discussion with KPA on the viability of having automatic weighbridge on entry to port.
143	General comment	When is the verified gross mass declaration made? Is it at the final port of exit?	WOMESA	<b>Matter clarified</b>  The declaration is submitted to the port facility operator and ship agent upon obtaining the verified gross mass prior to export.



## ANNEX VI

### MERCHANT SHIPPING (CABOTAGE) REGULATIONS AND MERCHANT SHIPPING (VERIFIED GROSS MASS OF A PACKED CONTAINER) REGULATIONS, SHIMONI.

S.N O	REGULATION	ISSUE/COMMENT/SUBMISSION	STAKEHOLDER	ACTION TAKEN/RESPONSE
<b><i>MERCHANT SHIPPING (CABOTAGE) REGULATIONS, 2024</i></b>				
<b>144</b>	<b>Regulation 9</b>	Is the license issued under these Regulation an additional license?	<b>COMRED</b>	<p style="text-align: center;"><b>Matter clarified</b></p> <p>A license issued under these regulations will be for the purpose of engaging in local trade with the cabotage area which is in accordance with section 14 of the Merchant Shipping Act, cap 389. Kenyan ships are issued with a certificate of registry/ Local Safety Certificate (small vessels) and will not be subject to licensing under these Regulations. All foreign ships engaging in local trade within the cabotage area will be required to</p>

S.N O	REGULATION	ISSUE/COMMENT/SUBMISSION	STAKEHOLDER	ACTION TAKEN/RESPONSE
				apply for a licence if the same has not been issued.
145	General comment	Are the Regulations applicable to vessels operating in the inland waters, e.g. L.Victoria?	BASE TITANIUM	<p><b>Matter clarified.</b></p> <p>The Regulations are applicable to inland waters. In respect of Lake Victoria, the regulations are applicable as long as they are not inconsistent with the Lake Victoria Transport Act.</p>

S.N O	REGULATION	ISSUE/COMMENT/SUBMISSION	STAKEHOLDER	ACTION TAKEN/RESPONSE
		How is KMA promoting the ownership of ships by Kenyan citizens to fully take advantage of the proposed Cabotage Regulations?		<p><b>Matter clarified</b></p> <p>Through the regulations, priority is given to Kenyan ships to engage in local trade within the cabotage area.</p> <p>The draft maritime investment policy and incentives regime explores opportunities for investment on the shipping industry, while the maritime education and training policy provides opportunities on building capacity for the shipping industry.</p> <p>The Maritime Laws Amendment Bill makes reference to the establishment of a maritime cluster fund to promote the local shipping industry.</p> <p>Kenya has entered into MOUS with maritime administrations and shipping companies for Kenya to access training opportunities including exchange programs with maritime training institutions and</p>

S.N O	REGULATION	ISSUE/COMMENT/SUBMISSION	STAKEHOLDER	ACTION TAKEN/RESPONSE
				<p>undertake onboard training which may equip them with the required skills to serve aboard specialized ships.</p> <p>In partnership with HELB to provide financial support to students undertaking maritime education courses in Kenyan training institutions through loans.</p>
146	General comment	<p>What disposal measures are undertaken for waste management as Shimoni has no waste disposal facility/Port reception facility?</p> <p>Need to provide garbage collection measures for the protection of the marine environment and for sustainable tourism.</p>	KWS	<p><b>Matter clarified</b></p> <p>KMA collaborates with NEMA and the County Government in matters relating to waste disposal from Ships by requiring that waste reception facilities within the county are available including the port / terminal facility for such disposal. KMA will engage the relevant stakeholders to facilitate disposal of wastes from ships.</p>

S.N O	REGULATION	ISSUE/COMMENT/SUBMISSION	STAKEHOLDER	ACTION TAKEN/RESPONSE
147	General comment	Are there KMA officers deployed at entry points for purposes of enforcement of the regulations.	KEMFRI	<p><b>Matter clarified</b></p> <p>The enforcement of the provisions of the Merchant Shipping Act, Cap 389 and attendant regulations is undertaken by KMA. On certain circumstances KMA partners with agencies based on their respective mandates. KCGS collaborates with KMA in terms of enforcement of provisions of MSA on aspects related to safety and security and marine protection matters at inland waters, internal waters, territorial sea and continuous zone.</p>

S.N O	REGULATION	ISSUE/COMMENT/SUBMISSION	STAKEHOLDER	ACTION TAKEN/RESPONSE
148	General comment	What measures have KMA put in place that will ensure the safety of crew onboard vessels.	KEMFRI	<b>Matter clarified</b> KMA is mandated to ensure vessels are safe and operated by skilled and certified seafarers. This is through flag state inspection before issuing safety certificate and port state inspection to ascertain compliance. Both inspections entail among others verification of compliance with standards of training, and welfare of seafarers on board.
<b><i>MERCHANT SHIPPING (VERIFIED GROSS MASS OF A PACKED CONTAINER) REGULATIONS, 2024</i></b>				

S.N O	REGULATION	ISSUE/COMMENT/SUBMISSION	STAKEHOLDER	ACTION TAKEN/RESPONSE
149	Regulation 14	Is the two months period for renewal of the certificate before or after the expiry of the certificate?	Base Titanium	<b>Matter clarified</b>  The two months is before the expiry of the certificate.
150	General comment	Is the verification of gross mass undertaken in Shimoni and who is responsible in the Shimoni port?	KEMFRI	<b>Matter clarified</b>  Currently, there are no inbound or outbound containers at the port of Shimoni.
151		Is the reporting requirement also applicable to licensed boat owners	Participant	<b>Matter clarified</b>  The reporting requirement provision is only for exporters loading containers.

S.N O	REGULATION	ISSUE/COMMENT/SUBMISSION	STAKEHOLDER	ACTION TAKEN/RESPONSE
152		The Authority to ensure that the training of Coxswains meets the national training standards for Kenya and train them on how to acquire a proper license.	PILI PIPA	<b>Matter clarified</b>  KMA does not conduct training but oversee training offered and delivered by training institutions it has approved. During recent presidential directive to train coxswains, KMA focused on those who already had prior knowledge and skills to operate boats.
		Make licensing fees for small vessels licensed under the Merchant Shipping (Small Vessels Safety) Regulations 2012 affordable.		<b>Matter clarified</b>  Licensing fees are prescribed under the Merchant Shipping (Fees) Regulations which are under review. The recommendation will be taken into consideration.



S.N O	REGULATION	ISSUE/COMMENT/SUBMISSION	STAKEHOLDER	ACTION TAKEN/RESPONSE
153		<p>There is need for more sensitization on the available opportunities in the maritime sector.</p> <p>KMA to notify operators in the event of any opening for boat operators</p>	Boat operator	<p><b>Matter clarified</b></p> <p>KMA is committed to sensitize and create awareness on maritime opportunities in the whole country. The Authority also partners with different stakeholders and participate in events to ensure the public is enlightened.</p> <p>KMA has socials media presence where important information is shared.</p>
154		Certificates to be issued to coxswains trained by the Authority who have not received their certificates.	KWS	<p><b>Matter clarified</b></p> <p>Coxswains who completed their training successfully and have not received their certificates are encouraged to communicate with KMA for purposes of issuance</p>

S.N O	REGULATION	ISSUE/COMMENT/SUBMISSION	STAKEHOLDER	ACTION TAKEN/RESPONSE
		There is need for KMA to have a search and rescue boat as Shimoni experiences inadequacy of vessel support in handling emergency cases and ensuring sea safety.		<b>Matter clarified</b>  The comment is well received. KMA coordinates search and rescue services in shimoni with KWS, Navy, KCGS, BMU and private operators and will utilize the available search and rescue boats.

## ANNEX VII

### MERCHANT SHIPPING (CABOTAGE) REGULATIONS, 2024 AND MERCHANT SHIPPING (VERIFIED GROSS MASS) REGULATIONS, 2024- LAMU

<i>S.N O</i>	<i>REGULATION</i>	<i>ISSUE/COMMENT/SUBMISSION</i>	<i>STAKEHOLDER</i>	<i>ACTION TAKEN/RESPONSE</i>
<b>MERCHANT SHIPPING (CABOTAGE) REGULATIONS, 2024</b>				
<b>155</b>	<b>Regulation 2</b>	Capitalize ‘k’ in the definition of Kenyan ship	<b>Participant</b>	<b>Adopted</b>

<i><b>S.N O</b></i>	<i><b>REGULATION</b></i>	<i><b>ISSUE/COMMENT/SUBMISSION</b></i>	<i><b>STAKEHOLDER</b></i>	<i><b>ACTION TAKEN/RESPONSE</b></i>
<b>156</b>		Need to define Kenyan Ship	<b>Beach Management Unit(BMU)</b>	<b>Matter clarified</b>  Kenyan Ship has been defined in Section 2 of the Act
<b>157</b>	<b>Regulation 8- Foreign ships engaging in local trade</b>	What are the measures to ensure the owners of big ships comply with these Regulations.	<b>COMRED</b>	<b>Matter clarified</b>  These Regulations cover all ship engaging in local trade within the cabotage area, as such they will be required to comply with these Regulations through observance of requirements, conditions and inspections. KMA will continue to work with other government agencies such as Kenya Coast Guard Services and the Fisheries department to enforce and ensure compliance with the relevant provisions.

<i>S.N O</i>	<i>REGULATION</i>	<i>ISSUE/COMMENT/SUBMISSION</i>	<i>STAKEHOLDER</i>	<i>ACTION TAKEN/RESPONSE</i>
		Government to determine the capacity of Kenyan fishers to exploit waters under the Cabotage regime.		<p><b>Matter clarified.</b></p> <p>Determination of the capacity of Kenyan fishers to engage in local trade in relation to fishing is within the purview of the Kenya Fisheries Service. KMA will collaborate with the Kenya Fisheries Service on the capability and capacity of Kenyan fishers to conduct safe and secure fishing activities in the cabotage area.</p> <p>The government, since 2022, through Kenya Marine Fisheries Research Institute, Bandari Maritime Academy among other platforms embarked on the training of Kenyan fishers to equip them with knowledge and skill in deep sea fishing.</p>
		Are Kenyan research vessels subject to the Cabotage regime?		<p><b>Matter clarified</b></p> <p>Kenyan registered research vessels are not required to take out a licence under these Regulations to engage in research activities within the</p>

<i><b>S.N O</b></i>	<i><b>REGULATION</b></i>	<i><b>ISSUE/COMMENT/SUBMISSION</b></i>	<i><b>STAKEHOLDER</b></i>	<i><b>ACTION TAKEN/RESPONSE</b></i>
				cabotage area. Vessels exempted under Regulation 15(1)(e) are foreign research vessels commissioned under the relevant Ministry collaborative framework
<b>158</b>	<b>Regulation 8.</b>	Are there plans to empower locals to engage in local trade within the cabotage area to avoid or bridge the experience gap that may necessitate the application of Regulation 7(2) and 8(2)?	<b>Fisheries</b>	<p><b>Matter clarified</b></p> <p>Through the regulations, priority is given to Kenyan ships to engage in local trade within the cabotage area.</p> <p>Where foreign vessels are licensed, a requirement for such licence may include training Kenyan cadets, transfer of skills and technology in the trade.</p> <p>The draft maritime investment policy and incentives regime explores opportunities for investment on the shipping industry, while the maritime education and training policy provides opportunities on building capacity for the shipping industry.</p>

<i><b>S.N O</b></i>	<i><b>REGULATION</b></i>	<i><b>ISSUE/COMMENT/SUBMISSION</b></i>	<i><b>STAKEHOLDER</b></i>	<i><b>ACTION TAKEN/RESPONSE</b></i>
				<p>The Maritime Laws (Amendment) Bill makes reference to the establishment of a maritime cluster fund to promote the local shipping industry.</p> <p>Kenya has entered into MOUS with maritime administrations and shipping companies for Kenya to access training opportunities including exchange programs with maritime training institutions and undertake onboard training which may equip them with the required skills to serve aboard specialized ships.</p> <p>In partnership with HELB to provide financial support to students undertaking maritime education courses in Kenyan training institutions through loans.</p>

<i>S.N O</i>	<i>REGULATION</i>	<i>ISSUE/COMMENT/SUBMISSION</i>	<i>STAKEHOLDER</i>	<i>ACTION TAKEN/RESPONSE</i>
		With the advent of the Cabotage regulations and possible increase in fleet trading on Kenyan waters, are there measures in place to prevent over- fishing		<p><b>Matter clarified</b></p> <p>Fisheries Management and Development Act Cap 378 has provisions on the limitations on fishing, prescribing the total allowable catch to prevent over-fishing.</p> <p>KCGS works with the Kenya Fisheries Service in the enforcement of the provisions of Cap 378 which is consistent with the Kenya Coast Guard Service Act Cap 200.</p>
159	Regulation 9- Application for license by foreign ships	Which institution will issue the licence in Regulation 9?	KCGS	<p><b>Matter clarified</b></p> <p>KMA.</p>
		The relationship between the licence under these Regulations and licence issued by Fisheries.		<p><b>Matter clarified</b></p> <p>A license issued under these regulations will be in accordance</p>



<i><b>S.N O</b></i>	<i><b>REGULATION</b></i>	<i><b>ISSUE/COMMENT/SUBMISSION</b></i>	<i><b>STAKEHOLDER</b></i>	<i><b>ACTION TAKEN/RESPONSE</b></i>
				<p>with section 14 of the Merchant Shipping Act, Cap 389</p> <p>KMA's license will be in respect of use of the vessel for transportation of cargo, persons within the cabotage area and engaging in trade using the vessel within the cabotage area while Kenya Fisheries Service will issue a fishing license to operators engaged in fishing activities which includes fishing gear and/or equipment.</p> <p>KMA's concern in respect of the seaworthiness of the vessel and protection of the marine environment against pollution from ships.</p>
<b>160</b>	<b>Regulation 19-</b>	What are the offences and penalties under the Cabotage framework?		<p><b>Matter clarified</b></p> <p>The offences and penalties have been provided in Regulation 19</p>

<i><b>S.N O</b></i>	<i><b>REGULATION</b></i>	<i><b>ISSUE/COMMENT/SUBMISSION</b></i>	<i><b>STAKEHOLDER</b></i>	<i><b>ACTION TAKEN/RESPONSE</b></i>
			<b>Nyota Development Initiative</b>	
		Who are the enforcers of offences under these Regulations?		<b>Matter clarified</b>  KMA will collaborate with other government agencies such as KCGS towards enforcing the provisions of the Act Cap 389 and attendant regulations.
<b>161</b>	<b>Regulation 20</b>	Amend the typo from ‘licenve’ to read ‘licence’	<b>Participant</b>	<b>Adopted</b>
<b>162</b>	<b>Regulation 21</b>	Proposed non- capitalization of the word ‘Licence’		<b>Adopted</b>

<i>S.N O</i>	<i>REGULATION</i>	<i>ISSUE/COMMENT/SUBMISSION</i>	<i>STAKEHOLDER</i>	<i>ACTION TAKEN/RESPONSE</i>
163	General comment	What happens when a foreign vessel strays into Kenyan waters?	National Museums of Kenya	<p><b>Matter clarified.</b></p> <p>A foreign vessel that strays without the requisite approvals or licenses may be intercepted, boarded and detained pending of investigations.</p> <p>The KCGS is mandated to carry out enforcement in Kenyan waters.</p>
164	Regulation Savings Transition 21-and	Clarification on the meaning of ‘Savings’	COMRED	<p><b>Matter clarified</b></p> <p>Savings clause is for purposes of preserving the application of the law, a right, a privilege or an obligation which would otherwise be repealed or cease to have effect with the gazettment of these Regulations. For the purpose of these Regulations, a license issued to a foreign ship to trade within the cabotage area that will be in existence at the commencement of these Regulations shall remain in force for the remainder of the period for which it was issued</p>

<i>S.N O</i>	<i>REGULATION</i>	<i>ISSUE/COMMENT/SUBMISSION</i>	<i>STAKEHOLDER</i>	<i>ACTION TAKEN/RESPONSE</i>
<b>165</b>	<b>General comment</b>	Do the regulations have measures to enhance maritime security?	<b>Nyota Development Initiative</b>	<b>Matter clarified</b>  The Regulations are to be read in tandem with the Merchant Shipping (Maritime Security) Regulations 2015 which deals with maritime security in terms of ship and port/terminal facility security. In relation to security offences committed within the cabotage area, the Act, Kenya Coast Guard Service Act among other laws of Kenya apply.
<b>166</b>	<b>Regulatory framework</b>	Use of the word ‘licence’ and ‘license’ to be looked into for proper use of verb and noun.	<b>Participant</b>	<b>Adopted</b>
<b>167</b>	<b>Regulatory framework</b>	Delete page 11 as it is blank.		<b>Adopted</b>

<i>S.N O</i>	<i>REGULATION</i>	<i>ISSUE/COMMENT/SUBMISSION</i>	<i>STAKEHOLDER</i>	<i>ACTION TAKEN/RESPONSE</i>
<b>MERCHANT SHIPPING (VERIFIED GROSS MASS) REGULATIONS, 2024</b>				
<b>168</b>	<b>General comment</b>	Is verification of containers a multi-agency affair?	<b>National Museums of Kenya</b>	<b>Matter clarified.</b>  The obtaining of a verified gross mass of a container must be undertaken by a certified gross mass verifier or a port facility (in which case the facility assumes the role of a gross mass verifier). The verification is done to determine the gross mass of a container before export to ensure that it is in compliance with these Regulations.
<b>169</b>	<b>General Comment</b>	Is there a career progression path for coxswains?  Are there clear structures in place for coxswains?	<b>NATIONAL DISASTER MANAGEMENT</b>	<b>Matter clarified.</b> There is a career progression path where the starting level is coxswain 3 up to coxswain 1.

<i><b>S.N O</b></i>	<i><b>REGULATION</b></i>	<i><b>ISSUE/COMMENT/SUBMISSION</b></i>	<i><b>STAKEHOLDER</b></i>	<i><b>ACTION TAKEN/RESPONSE</b></i>
<b>170</b>		KMA to partner with local institutions for the training of seafarers.	<b>NATIONAL MUSEUMS OF KENYA</b>	<b>Matter clarified</b>  KMA does not conduct training but approves and oversees training carried out by training institutions in line with the Merchant Shipping (Training and Certification) Regulations 2016.
<b>171</b>	<b>General comments</b>	The difference between coxswain certificates issued by Captain Andy's and those issued by KMA and why the Captain Andy's certificates are for perpetuity and the KMA-issued ones do expire.	<b>Participant</b>	<b>Matter clarified</b>  Indian Ocean Maritime Training Centre (IOMTC) (operated by Captain Andy's) is recognized by the Royal Yacht Association of the UK and trains and issues coxswain certificates on their behalf. IOMTC (similar to other maritime training institutions approved by the Authority) is also authorized by KMA to conduct coxswain training and the Authority upon assessment, issues coxswain certificates to successful candidates. The coxswain certificates issued under the Merchant Shipping (Training and Certification) regulations is valid for a period of 5years.

<i>S.N O</i>	<i>REGULATION</i>	<i>ISSUE/COMMENT/SUBMISSION</i>	<i>STAKEHOLDER</i>	<i>ACTION TAKEN/RESPONSE</i>
172		Steps being taken by the government to address the variance in coxswain salaries in different institutions.		<p><b>Matter clarified</b></p> <p>Institutions are autonomous and salary structures determined in line with the country's labour laws and private employment contracts.</p> <p>This matter may however be brought to the attention of the seafarers' wages council once operationalized.</p>
173		KMA to ensure proper standardized training and examination of coxswain to avoid sub-standard training and examining of coxswains.		<p><b>Matter clarified</b></p> <p>KMA carries out an assessment of training institutions offering maritime courses, develops curriculum and conducts audits in line with the Merchant Shipping (Training and Certification) Regulations 2016 to ensure standardized training for coxswains.</p>

