



To: Parastatal Natural and Cultural Resource Government Agencies
From: Save Lamu
Date: September 12, 2011
Subject: **Averting Environmental and Social Impacts of the Lamu Port Project**

The purpose of this memo is to call for your support to reduce the negative impact of the Lamu port project on the inhabitants of Lamu County. We are writing to you on behalf of the people of Lamu County not to stop the Lamu port project, but to propose solutions for potential environmental impacts of the Lamu port project and to appeal for your support to prevent any further legal violations of our natural resource rights made by the Government of Kenya (GOK).

We have recently received news from the media that the Parliamentary Budget Committee has recommended that the Ministry of Transport obtain an extra Ksh 980 million to be used in research, feasibility studies, project preparation and design of the Lamu port development. Additionally, we have frequently read in the media that Hon Mwai Kibaki is rushing to launch the project before the end of the year despite the fact that the Environmental Impact Assessment (EIA) is yet to be carried out whereas the Environmental Management and Coordination Act (EMCA) 1999 section V stipulates that an EIA be carried out prior to the implementation of any project.

While we commend the GOK for looking at efforts to modernize our nation, and respect the work Hon. Kibaki has taxed you with to garner support for the project, we are perplexed that up to today no efforts have been made to consult us as community members nor to inform us about the port plans or the EIA. Consultations have been limited to the Provincial Administration and select community leaders and government officers in Lamu and Nairobi high offices thereby leaving out the affected communities in Lamu County, particularly the four indigenous groups: Bajun, Orma, Sanye and Boni, as well as the indigenous inhabitants of numerous islands in the archipelago.

While we have been informed by the National Environmental Management Authority (NEMA) that the Kenya Marine and Fisheries Institute (KEMFRI) is undertaking an EIA on the port, we are disturbed that this process has not been transparent as we have found out only after rigorous investigations from parties unwilling to reveal any official documentation. Furthermore, it is disconcerting that there was no publicly announced tender for an independent consultant considering that KEMFRI is a government parastatal and thus engendering a considerable conflict of interest. By neglecting to consult with the Lamu community, KEMFRI's appointment clearly violates several laws.

EMCA 1999 section VI(5) states that, "*Environmental Impact Assessment studies...shall be conducted or prepared respectively by individual experts or a firm of experts authorised in that behalf by the Authority.*" According to the NEMA Code of Conduct for the environmental experts, the expert shall "*consult widely with all relevant agencies, stakeholders, interested parties and the general public on all matters that are likely to affect them*" as well as "*disclose to a client or employer any relationships of conflicting or competing interests that may influence his judgement prior to the carrying out of work.*" EMCA 1999 section III (17.1) further emphasizes that, "*during the process of conducting an environmental impact assessment study under these regulations, the proponent shall in consultation with the Authority, seek views of persons who may be affected by the project*".

In view of Lamu's unique eco-system, the marginalized status of its local communities and its recognition as a UNESCO World Heritage Site, the drastic changes from the development of the Lamu port and the related Lamu Port-South Sudan-Ethiopia Transport (LAPSSSET) Corridor development plans will undoubtedly result in a decline in the region's bio-diversity and its indigenous economies. Based on our knowledge of the area, we anticipate that the port will affect the following communities

who must all be consulted: fishermen, mangrove cutters, Boni forest users, the marginalized Sanye, grazing Ormo and Somali communities, farmers, tourism operators, boat operators, and other natural resource users. In addition, natural resource management agencies, both state and non-state as well as tourist facilities will be greatly affected. We therefore expect that the said Government agencies consult all the above parties and stakeholders both during and after the EIA process and not only leaders and residents of Lamu Town.

We have so far distributed several petitions supported by the Lamu community (attached), as well as an online petition supported by fellow Kenyans and the International community. By signing the petition circulated in Lamu, the Lamu community gave Save Lamu the mandate to speak on their behalf and to communicate their grievances on the Lamu Port project and its related LAPSSSET proposals.

The GOKs intent to fast track the Lamu port project without fully considering, mitigating, or publicizing the potential impacts is an issue of great concern. Although we agree that Kenya as a country will stand to benefit from the port, we are in doubt that the economic development for only one part of the country on the one hand, and the ecological, social, cultural and economic destruction of the Lamu archipelago and its indigenous communities , on the other, is a reasonable 'trade-off'. We therefore urge you to support halting of the port construction until all the community demands as per the attached petition are also taken into consideration so as to reduce the ecological and social impacts of the project. These are:

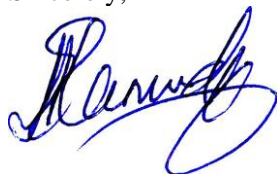
- 1. The GOK publicly shares all information on the proposed project to the local communities;**
- 2. The GOK publicly facilitates for a comprehensive environmental impact assessment to be carried out by independent experts;**
- 3. A participatory process is undertaken with the local communities involved in the assessment of the impacts and planning of the proposed project;**
- 3. The land rights violations against the indigenous Lamu communities are adequately investigated and addressed before any further development plans are inaugurated.**

As per Section III (16) of EMCA 1999, the EIA must: (a)Take into account anticipated environmental, social, cultural and economic impacts; (b) Analyse alternatives to the proposed project; (c) Propose mitigation measures to be taken during and after implementation of the project; and (d) Develop an environmental management plan.

We anticipate that based on your responsibility towards our natural resource rights as citizens of Kenya, you will support our cause and lobby the respective government bodies to halt the port project until all these requirements and demands are addressed.

Thank you in advance for your support.

Sincerely,



Abubakar El-Amoudy
Chairman

Save Lamu

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