



REPUBLIC OF KENYA

# MINISTRY OF ENVIRONMENT, CLIMATE CHANGE AND FORESTRY

## IN THE MATTER OF THE PROTECTION OF THE ENVIRONMENT FROM POLLUTION AND BIODIVERSITY LOSS AND IN THE MATTER OF BUDGETARY SUPPORT FOR ENVIRONMENTAL PROTECTION

### INVITATION TO SUBMIT VIEWS AND MEMORANDA

**WHEREAS** paragraph 4 of the Preamble to the Constitution recognizes the need to respect the environment as our heritage, and the determination to sustain it for the benefit of future generations;

**AND WHEREAS** Article 42 of the Constitution bestows the right to a clean and healthy environment for the benefit of the present and future generations through legislative and other measures;

**RECOGNISING** that Article 69 of the Constitution provides for obligations of the State with respect to the environment, which includes, inter alia, ensuring sustainable exploitation, utilization, management and conservation of the environment and natural resources;

**RECOGNISING FURTHER** that the performance of those obligations by the State require sufficient financial resources, without which Kenya risks falling short of its environmental obligations.

**AND WHEREAS** Kenya is grappling with the impacts of the triple planetary crises of pollution, nature and biodiversity loss and climate change, which are exerting immense pressure on the country's ecosystems, economy, and society.

**AND WHEREAS** Kenya's ability to mitigate and adapt to these environmental challenges is severely constrained by inadequate financial resources.

#### BACKGROUND

Kenya is grappling with the impacts of the triple planetary crises of pollution, nature and biodiversity loss and climate change, which are exerting immense pressure on the country's ecosystems, economy, and society.

Pollution has become a severe environmental challenge, accelerating nature and biodiversity loss and exacerbating the negative impacts of climate change in Kenya. While approximately 25,000 tons of solid waste is produced per day, only a small fraction of the waste is adequately managed or recycled. The rest ends up in open dumpsites, rivers, and natural habitats, posing serious public health risks to communities.

The Government enacted the Environmental Management and Co-ordination Act (Cap. 387), the Environmental Management and Co-ordination (Waste Management) Regulations and the Sustainable Waste Management Act, 2022 to establish a statutory, institutional and regulatory regime for the sustainable management of waste in Kenya.

Currently, every person that introduces goods, products or packaging materials into the country have Extended Producer Responsibility (EPR) obligations for the purposes of reducing pollution and the negative environmental impacts of the products they introduce in the country. However, EPR does not cater for all the post-consumption aspects of waste management. Recycling and incineration processes still leave some residual waste behind which needs to be disposed of properly and sustainably.

#### A. THE FINANCIAL CHALLENGE

Kenya's ability to mitigate and adapt to these environmental challenges is severely constrained by inadequate financial resources. The challenges posed by pollution require sustained investment in infrastructure, policy, enforcement and community education. Without reliable sources of domestic funding, Kenya risks falling short of its environmental obligations.

#### B. PROPOSED BUDGETARY SUPPORT TO ENVIRONMENTAL PROTECTION

In order to mitigate the financial burden posed by environmental pollution and sustainable waste management and disposal, the Government proposes to provide additional budgetary allocations in order to address the triple planetary crises of environmental pollution, nature and biodiversity loss and climate change. The additional budgetary allocation is to be derived from revenue generated from imported finished products as may be specified in legislation, and shall be paid directly into the National Environment Restoration Fund established by section 25 of the Environmental Management and Co-ordination Act (Cap. 387).

The additional revenue is meant to be a strategic tool designed to be applied to products that contribute significantly to the waste burden. It is meant to encourage environmentally sustainable practices, fund waste management programs, and promote environmental stewardship across the country.

The additional budgetary allocation is intended to provide for:

- enhanced waste management systems through investment in modern, efficient waste management infrastructure (Material Recovery Facilities) to reduce environmental pollution and create green jobs in the waste management sectors.
- implementation of ecosystem restoration programmes (e.g. wetlands/degraded landscapes restoration)
- pollution management and enforcement actions.
- support for innovation and enhanced research and development in green technologies, sustainable practices and eco-friendly alternatives.

**NOW THEREFORE**, in compliance with Article 232(1)(d) of the Constitution the Ministry of Environment, Climate Change and Forestry hereby invites members of the public and other stakeholders to submit views or memoranda on the proposed additional revenue to be derived from imported finished products as may be specified in legislation.

The views and memoranda should be addressed to the **Principal Secretary, State Department for Environment and Climate Change, Ministry of Environment, Climate Change and Forestry, 12th Floor, NHIF Building, Ragati Road, P.O. Box 30126, Nairobi**; hand delivered to the **Office of the Principal Secretary, State Department for Environment and Climate Change, Ministry of Environment, Climate Change and Forestry, 12th Floor, NHIF Building, Ragati Road, Nairobi**, or emailed to the [psoffice@environment.go.ke](mailto:psoffice@environment.go.ke), to be received **on or before 27th September, 2024, at 5.00 p.m.**

Hon. Aden B. Duale, EGH  
CABINET SECRETARY

