

REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
CONSTITUTION AND HUMAN RIGHTS DIVISION
CONSTITUTIONAL PETITION NO.32..... OF 2021

IN THE MATTER OF THE ENFORCEMENT OF THE BILL OF RIGHTS UNDER ARTICLE 22 (1),
AND THE ENFORCEMENT OF THE CONSTITUTION UNDER ARTICLE 258 OF THE
CONSTITUTION OF KENYA (2010)

AND

IN THE MATTER OF CONTRAVENTIONS AND THREATENED CONTRAVENTIONS OF
FUNDAMENTAL RIGHTS AND FREEDOMS UNDER ARTICLES 1, 2(2), 3(1), 10(2), 19, 20, 21, 33
35 AND 227 OF THE CONSTITUTION OF KENYA, 2010

AND

IN THE MATTER OF SECTIONS 4, 9, 20 AND 28 OF THE ACCESS TO INFORMATION ACT, 2016

AND

IN THE MATTER OF: DENIAL OF ACCESS TO INFORMATION PERTAINING TO THE CONTRACT
BETWEEN KENYA GOVERNMENT, CHINA EXIM BANK, CHINA ROAD AND BRIDGE
CORPORATION, GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA, CHINA
DEVELOPMENT BANK AND AFRICA STAR RAILWAY COMPANY

BETWEEN

KHELEF KHALIFA.....1ST PETITIONER
WANJIRU GIKONYO.....2ND PETITIONER

AND

PRINCIPAL SECRETARY, MINISTRY OF TRANSPORT.....1ST RESPONDENT
PRINCIPAL SECRETARY, NATIONAL TREASURY AND PLANNING.....2ND RESPONDENT
ATTORNEY GENERAL.....3RD RESPONDENT
SOLOMON KITUNGU.....4TH RESPONDENT
DR. JULIUS MUIA.....5TH RESPONDENT
KATIBA INSTITUTE1ST INTERESTED PARTY
THE COMMISSION ON ADMINISTRATIVE JUSTICE.....2ND INTERESTED PARTY

FURTHER AFFIDAVIT

I, **KHELEF KHALIFA**, an adult male of sound mind and of P.O. Box 42261-80100 Mombasa and resident of the Mombasa County within the Republic of Kenya, do hereby make oath and state as follows; -

1. **THAT** I am the 1st Petitioner herein and thus conversant with the facts of the matter herein, and hence competent to swear and depose this affidavit on my own behalf and I have read and been explained to by our counsel on record the Respondent's Notice of Preliminary Objection and Grounds of Opposition and in response thereto I wish to respond as follows;
2. **THAT** I reiterate the contents of my supporting affidavit filed herein in response to the Notice of Preliminary Objection and Grounds of Opposition.
3. **THAT** the Notice of Preliminary Objection is misplaced and offends the basic principles for raising preliminary objections as enunciated in the Mukhisa Biscuits Case to the extent that it seeks to canvas evidentiary matters that can only be determined upon the Honourable Court receiving and assessing the parties evidence to ascertain if indeed a request for information had been made.
4. **THAT** the Notice of Preliminary Objection is misplaced, the Respondents have at all times material received the request for information from the Petitioner, the same request was at all times equally served upon the second interested party herein and in appropriate cases, the 2nd Interested Party sought interventions from the Respondents to no avail.
5. **THAT** there is no requirement to exhaust any internal means of dispute resolution available to us to pursue before seeking the intervention of the Honourable Court for the infringement of our right to information and our duty to defend and protect the constitution and its provisions.
6. **THAT** it is not true that we have not annexed any supporting documentation in support of the Petition. Our annexures to the Supporting Affidavit contain detailed documentation in support of the Petition which we shall at the hearing of the Petition

invite the Honourable Court to consider the same in determining that our rights and fundamental freedoms have been and continue to be infringed by the Respondents.

7. **THAT** I am advised by our Counsel on record which advise I believe to be correct that Section 22 of the National Government Coordination Act only exempts a public officer from any action, claim or demand only for actions done in good faith for the purpose of executing the functions of the office... in the particular case, the 4th and 5th Respondent were not acting in good faith in refusing to respond to our request for information as granted under the Constitution and the Access to Information Act.
8. **THAT** the 4th and 5th Respondents are the respective information officers for their departments and as such are responsible for upholding our rights to information in respect to information held in their departments. It is further our position that Section 22 of the National Government Coordination Act can only be used as a defence and not to be raised as a preliminary objection. The court has to assess the nature of evidence in the matter vis a vis the conduct of the officer concerned before a determination can be made whether the conduct complained of falls within the protection of Section 22 or not.
9. **THAT** I swear this Affidavit in support of my Petition herein and for the Honourable Court to grant the Orders sought in the Petition as against the Respondents.
10. **THAT** I attach to this affidavit several bundle of documents marked **KK-1** in support of my averments contained herein.

11. **THAT** what is deponed to hereinabove is true to the best of my knowledge save as to matters deponed to and information whose sources whereof have been disclosed and matters deponed to belief, the grounds whereupon have been stated.

SWORN at MOMBASA

this.....^{7th}.....day of October.....2021)

By the said **KHELEF KHALIFA**

) Khelef Khalifa

DEPONENT



OTIENO OGOLA & COMPANY ADVOCATES
OFFICE SUITE B11, 11TH FLR CMS AFRICA HOUSE
CHANIA AVENUE OFF MARCUS GARVEY ROAD
P.O. BOX 22671-00100, **NAIROBI**
Email: willis@otienoogolaadvocates.co.ke

TO BE SERVED UPON:

THE ATTORNEY GENERAL
SOCIAL SECURITY HOUSE, 4TH FLOOR
NKRUMAH ROAD,
MOMBASA
KATIBA INSTITUTE
NAIROBI
THE COMMISSION ON ADMINISTRATIVE JUSTICE
NAIROBI

Chairperson: Hon. Florence Kajuku, MBS
Vice-Chairperson: Mr. Washington Soti
Commissioner: Mrs. Lucy Ndung'u, EBS, HSC

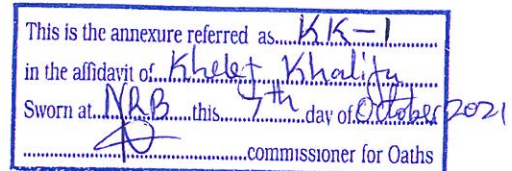


THE
COMMISSION ON ADMINISTRATIVE JUSTICE
"Office of the Ombudsman"

Our Ref: CAJ/ATI/M.TRAN/004/7/20-SNK

17th January, 2020

Principal Secretary
State Department of Transport
Ministry of Transport, Infrastructure, Housing
Urban Development and Public Works
Transcom House, Ngong Road
P.O. Box 52692-00200
NAIROBI



Dear Sir,

**RE: REQUEST FOR INFORMATION/DOCUMENTS ON STANDARD GAUGE RAILWAY
BY MR KHELEF KHALIFA TO YOUR OFFICE**

The Commission is the Oversight and Enforcement Agency of the Access to Information Act, 2016 (ATIA 2016).

The Commission received a letter from Mr. Khelef Khalifa dated 16th December 2019 addressed to your Office requesting for information/documents on Standard Gauge Railways (copy enclosed).

Kindly respond to the above request for information/documents in line with section 9(4) of ATIA 2016.

Your prompt response will be highly appreciated.

LUCY NDUNGU, EBS
ACCESS TO INFORMATION COMMISSIONER

CC:

Mr. Khelef Khalifa
okoamombasa@gmail.com



OFFICE OF THE ATTORNEY-GENERAL
&
DEPARTMENT OF JUSTICE

YOUR REF: CAJ/ATI/AG/001/11/20 - SNK
OUR REF: AG/CONF/4/70 Vol. II (240)

28th August, 2020

Ms. Lucy Ndungu, EBS
Commissioner, Access to Information
Commission on Administrative Justice
West End Towers, 2nd Floor
Waiyaki Way - Westlands
NAIROBI

02 SEP 2020

RE: REQUEST FOR INFORMATION BY KHELEF KHALIFA FROM YOUR OFFICE

We make reference to your letter dated 26th June, 2020 requesting for information.

We comment as follows:

1. We note that Mr. Khelef Khalifa requests for the following documents:

Agreements entered between the Government of Kenya (GOK) or any Kenyan State or public agency with all service providers and or third parties (including foreign government/state) in regard to the Standard Gauge Railway (SGR), including;

- a) All contracts for the carrying out of feasibility studies relating the construction, operation and servicing of the SGR;
- b) Any and all documents relating to expression of interest for the financing, construction, management, operation and servicing of SGR prepared by the GOK or state/public agency or a third party on behalf of the GOK;
- c) Contracts and or Memorandum of Understanding (MOU) between GOK and any third party relating to the financing, construction, management, provision of operating stock, operation and maintenance/servicing of SGR;

P.O. Box 46-112-60/190, NAIROBI, KENYA. TEL: +254 20 224740 / 215 011 550071, 0415555 97323259905
E-MAIL: n.burton@naib.org / frank@naib.org WEBSITE: www.naib.org / naib.org

CO-OPERATIVE BANK HOUSE HAILLE SELASSIE AVENUE, P.O. Box 94857 Addis Ababa, Ethiopia. TEL: Nairobi 2224079; 2240337
E-MAIL: info@coo-bank.org WEBSITE: www.coo-bank.org

ISSN 0013-788X (Printed)



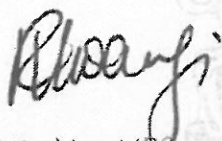
- d) All agreements and contracts entered into including loan agreements, concession agreements, guarantees and/or collateral for financing, construction, management, operation and maintenance/servicing of the SGR;

2. Further, the letter from Kenya Railways dated 17th April, 2020 under Ref. KRC/CS/MD/3/207 indicates as follows:

"Kindly note that the projects to which information is being requested in clauses 1a – 1d are projects between the Government of the People's Republic of China and the Government of Kenya with Kenya Railway's mandate solely being as an implementing agency of the said contracts. The custody of the said contracts is with the Office of the Hon. Attorney General."

3. Kindly be advised that this Office is not the custodian of Project documents such as the ones listed above. We further advise that the role of this Office is to render legal advice to the Government as stipulated under Article 156 of the Constitution.
4. We note that Kenya Railways in its letter has stated that the Contracts have non-disclosure clauses. Therefore, the requested documents cannot be availed as the same would be in breach of the Agreements and might have serious legal and financial repercussions.

Kindly be guided accordingly.



Njeri Wachira, MBS
Deputy Solicitor General
FOR: SOLICITOR GENERAL

Copy to: Hon. P. Kihara Kariuki, EGH
ATTORNEY GENERAL

Mr. Kennedy Ogeto CBS
SOLICITOR GENERAL

8

willis@otienoogolaadvocates.co.ke

From: Okoa Mombasa <okoamombasa@gmail.com>
Sent: 07 August 2020 12:42
To: n.karbolo@ombudsman.go.ke
Cc: Khelef Khalifa
Subject: Follow-up

Dear Naiserian,

We spoke a few days ago by phone and I am writing to follow-up. As mentioned during our conversation, Okoa Mombasa has written several access to information letters to various government ministries and state agencies in relation to official information we are seeking. We have not received responses from some of these agencies and those received have been unsatisfactory (See <http://www.okoamombasa.org/show-us-the-contracts/> for full details).

We are writing seeking redress and enforcement of the ATI requests from your offices. We look forward to hearing from you.

Kind regards,

Waruguru Kaguongo
On behalf of Okoa Mombasa

From: Okoa Mombasa <okoamombasa@gmail.com>
Sent: 15 February 2021 23:03
To: Wanjiru, Maryann
Cc: Khelef Khalifa
Subject: Re: YOUR REQUEST FOR INFORMATION FROM KENYA PORTS AUTHORITY IN
RELATION TO THE MANAGEMENT OF CONTAINER TERMINAL 2 AND STATISTICS
ON CARGO HANDLING

Dear Madam,

Thank you for your email. We have not received the requested information from KPA. Kindly take appropriate further action.

Kind regards
Khelef Khalifa

Sent from my iPhone

On Feb 12, 2021, at 2:57 PM, Wanjiru, Maryann <m.wanjiru@ombudsman.go.ke> wrote:

Dear Sir,
The Commission is the Enforcement Agency of the Access to Information Act, 2016.
The Commission makes reference to its letter dated 17th January, 2020 addressed to the
Information Access Officer ;Kenya Ports Authority.
Kindly let us know if the above information was provided to enable us update our file appropriately.

Kind regards.

Maryann Wanjiru
Commission on Administrative Justice | Office of the Ombudsman
2nd Floor, West End Towers, off Waiyaki Way – Westlands
P. O. Box 20414 - 00200 Nairobi, Kenya
T: +254 20 2270000 | Toll Free Line: 0800-221349
SMS Short code: 15700 (For Safaricom subscribers)
www.ombudsman.go.ke

From: Okoa Mombasa <okoamombasa@gmail.com>
Sent: 22 April 2020 11:06
To: Kihara, Joyce
Cc: Khelef Khalifa
Subject: Re: REQUEST FOR INFORMATION/DOCUMENTS FROM KENYA RAILWAYS CORPORATION

Dear Ms Kihara,

Thank you for your email. We regret the delay in responding and would like to follow up by this email.

Previous correspondence from CAJ shows you have only received substantive responses to Mr Khalifa's request for information from the KNBS. Mr Khalifa would like to take this matter forward as we believe that the lack of a detailed response from the other agencies amounts to dereliction of their duty under the Access to Information Act and the Constitution of Kenya.

Kindly advise on the next steps and further action by CAJ to enforce the implicated rights.

Kind regards,
Waruguru Kaguongo
On behalf of Khelef Khalifa

Sent from my iPhone

On Mar 12, 2020, at 1:26 PM, Kihara, Joyce <j.kihara@ombudsman.go.ke> wrote:

Dear Mr. Khalifa.

Kindly receive compliments from the Commission on Administrative Justice (Office of the Ombudsman).

Please note that we received a response from the Business Registration Offices under the Office of the Attorney General dated 6th March 2020 and is attached herein for your information and further action.

We have also forwarded your request for information to Kenya Railways Corporation relating to the SGR contracts and attached herein is our letter dated 12th March 2020 for your information and records.

Kind regards,
Joyce Wandia Kihara | Legal Officer
Commission on Administrative Justice | Office of the Ombudsman
2nd Floor, West End Tower off Waiyaki Way – Westlands
P. O. Box 20414 - 00200 Nairobi, Kenya
T: +254 20 2270000 | Toll Free Line: 0800-221349
SMS Short code: 15700 (For Safaricom subscribers)
www.ombudsman.go.ke

<doc08199920200312130516.pdf>
<doc08200020200312130534.pdf>

From: Okoa Mombasa <okoamombasa@gmail.com>
Sent: 13 May 2021 17:42
To: Kenya's OMBUDSMAN
Cc: Khelef Khalifa
Subject: Fwd: Request for Information under Articles 33 and 35 of the Constitution of Kenya 2010
Attachments: ATI Letter - Treasury May 2021.pdf; Untitled attachment 00011.htm

Dear Sir/ Madam,

Please find attached a request for information directed to the National Treasury for your attention.

Kind regards,

Khelef Khalifa.

From: Okoa Mombasa <okoamombasa@gmail.com>
Date: May 13, 2021 at 5:34:32 PM GMT+3
To: ps@treasury.go.ke
Cc: Khelef Khalifa <elbusaidykk@gmail.com>
Subject: Fwd: Request for Information under Articles 33 and 35 of the Constitution of Kenya 2010

Dear Sir/Madam,

Please find attached a request for information for your attention.

Kind regards,

Khelef Khalifa

willis@otienoogolaadvocates.co.ke

From: Okoa Mombasa <okoamombasa@gmail.com>
Sent: 13 May 2021 17:34
To: ps@treasury.go.ke
Cc: Khelef Khalifa
Subject: Fwd: Request for Information under Articles 33 and 35 of the Constitution of Kenya 2010
Attachments: ATI Letter - Treasury May 2021.pdf; Untitled attachment 00016.htm

Dear Sir/Madam,

Please find attached a request for information for your attention.

Kind regards,

Khelef Khalifa



✉ okoamombasa@gmail.com
🐦 @OkoaMombasa
f OkoaMombasa

MANAGING DIRECTOR
KENYA PORTS AUTHORITY
17 DEC 2019
RECEIVED
MOMBASA

10:33 am.

December 16, 2019

The Principal Secretary,
Ministry of Transport, Infrastructure Housing,
Urban Development and Public Works,
Transcom House
Ngong road
P.O Box 52692 - 00200
Nairobi.

The Managing Director,
Kenya Ports Authority,
P.O. Box 95009-80104,
Mombasa.

The Managing Director,
Kenya Railways,
P.O Box 30121-00100
Nairobi.

The Director General,
Kenya National Bureau of Statistics,
Herufi House, Lt Tumbo Lane
P.O. Box 30266-00100,
Nairobi.

The Registrar General,
State Law Office,
Sheria House, Harambee Avenue
P.O. Box 40112-00100,
Nairobi.

Request for information under Article 33 and 35 of the Constitution of Kenya and the Access to Information Act, 2016

I am a citizen of Kenya and a member of Okoa Mombasa Coalition. I am writing to request the following information from your various Government and State entities in accordance with Articles 33 and 35 of the Constitution and the Access to Information Act, 2016.

	Description	Period	Form of access
1.	<p>Agreements entered between the government of Kenya (GOK) or any Kenyan State or public agency with all service providers and or third parties (including foreign government/state) in regard to the Standard Gauge Railway (SGR), including:</p> <ul style="list-style-type: none"> a. All contracts for the carrying out of feasibility studies relating the construction, operation and servicing of the SGR; b. Any and all documents relating to expression of interest for the financing, construction, management, operation and servicing of SGR prepared by the GOK or state/public agency or a third party on behalf of the GOK; c. Contracts and or Memorandum of Understanding (MOU) between GOK and any third party relating to the financing, construction, management, provision of operating stock, operation and maintenance/servicing of SGR. d. All agreements and contracts entered into including loan agreements, concession agreements, guarantees and/or collateral for financing, construction, management, operation and maintenance/servicing of the SGR. e. Any concessions, agreements and or MOU relating to the operation of the SGR including <ul style="list-style-type: none"> 1. Take or Pay Agreement between Kenya Railways and Kenya Ports Authority. 		Certified copies

	2. Agreement with Africa Star Railway Operation Company Ltd.		
2.	All documents considering relating to the viability, economic, social, cultural and environmental impacts, including: <ul style="list-style-type: none"> a. Feasibility studies b. Strategic Environmental Assessment c. Environmental Social Impact Assessment d. Cultural Heritage Assessment 		
3.	Memorandum of Understanding between the Government of Kenya or a State/Public Agency and Kenya National Shipping Line, Mediterranean Shipping Company or any of its subsidiaries or affiliates, or any other private entity relating to the management and/or operation of Container Terminal 2 (CT2) Port of Mombasa, including all annexures and associated documents.		Certified copies
3.	Statistics around cargo handling at the Port of Mombasa (ICD Nairobi, Dry Port Naivasha etc.) including but not limited to the amount of cargo handled at the Port, Port storage capacity, amount of cargo loaded on SGR, SGR cargo capacity, number of trains per day.	From commencement of SGR services (passenger and cargo) to date.	Certified copies, online (Entities' website – proactive disclosure)
4.	Details of registration of Africa Star Railway Operation Company Ltd including but not limited to: <ul style="list-style-type: none"> 1. Particulars of registration, 2. Details of all shareholders 3. Proportion of shareholding for each shareholder. 		Certified copies

I am prepared to collect this information in person and undertake to pay the costs incurred for the reproduction of the information as per the Access to Information Act.

It is my view that the information I seek is information the state should have disclosed without any prompting based on positive and proactive disclosure obligations under Article 35 of the Constitution because it is information that is of importance to the public.

I request that you avail this information as soon as possible, but in any event, no later than 21 days from the date of receipt of this application, pursuant to section 9 of the Access to Information Act.

Kind regards,



Khelef Khalifa,
Chairman MUHURI
On behalf of Okoa Mombasa

cc.

The Chairperson,
Commission on Administrative Justice,
2nd Floor, West End Towers,
Opposite Aga Khan High School off Waiyaki Way – Westlands,
P.O Box 20414-00200,
Nairobi.

willis@otienoogolaadvocates.co.ke

From: Okoa Mombasa <okoamombasa@gmail.com>
Sent: 23 December 2019 13:26
To: cmacharia@krc.co.ke
Cc: dknjogu@krc.co.ke; sgitari@krc.co.ke
Subject: Re: REQUEST FOR INFORMATION
Attachments: ATI Letter - Reply to KR 23 Dec.pdf

Attached please find Okoa Mombasa's response to your letter of 18 December 2019.

Regards,
 The Okoa Mombasa Coalition

On Fri, Dec 20, 2019 at 1:58 PM <cmacharia@krc.co.ke> wrote:
 Attached please find our response dated 18th December, 2019.

Christine Macharia
Senior Legal Officer

Kenya Railways
 Workshop Road
 Off Haile Selassie Avenue
 P.O. Box 30121 - 00100, NAIROBI

Tel: +254 (0) 709907000
 Mobile: 0708572574, 0728603581, 0728603582,
www.krc.co.ke / <http://facebook.com/Kenya-Railways>

24 hour emergency number 0711777577



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 Kenya Railways @KenyaRailways www.krc.co.ke

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✉ okoamombasa@gmail.com
🐦 @OkoaMombasa
f OkoaMombasa

December 23, 2019

The Managing Director,
Kenya Railways,
P.O Box 30121-00100
Nairobi.

Request for information under Article 33 and 35 of the Constitution of Kenya and the Access to Information Act, 2016

I am in receipt and thank you for your letter dated December 18, 2019 signed by D. Njogu. That letter was in response to mine of December 16, 2019.

As you are aware, my letter particularized and enumerated the various pieces of information that we were seeking from your office. In your letter, you admit having some of that information. However, you cite non-disclosure on the basis of Section 6(1) and (2) of the Access to Information Act.

Please note that we require you to provide us with the following:

- a. The list of documents and pieces of information you have and in relation to which you seek non-disclosure;
- b. In regard to each item in respect of (a) above, the specific paragraph of Section 6 on which you are basing your objection to disclosure and the particularized and elaborate reasons for non-disclosure. As you know the grounds for non-disclosure under Section 6 are wide-ranging.

Please treat this as a request under Article 47 in particular but also articles 33 and 35 of the Constitution. Kindly avail the requested information and reasons within 7 days of the date of receipt of this request.

Kind regards,

Khelef Khalifa,
Chairman MUHURI
On behalf of Okoa Mombasa

From: Okoa Mombasa <okoamombasa@gmail.com>
Sent: 28 May 2020 15:11
To: communications@ag.go.ke
Cc: Khelef Khalifa; vizej@hrw.org
Subject: Request for Information - SGR
Attachments: ATI Letter - AG May 2020.pdf

May 28, 2020

The Solicitor General,

State Law Office,

Sheria House, Harambee Avenue
P.O. Box 40112-00100,

Nairobi.

Email: communications@ag.go.ke

Request for information under Article 33 and 35 of the Constitution of Kenya and the Access to Information Act, 2016

I am a citizen of Kenya and a member of Okoa Mombasa Coalition. I am writing to request the following information from your various Government and State entities in accordance with Articles 33 and 35 of the Constitution and the Access to Information Act, 2016.

	Description	Period	Form of access
1.	<p>Agreements entered between the government of Kenya (GOK) or any Kenyan State or public agency with all service providers and or third parties (including foreign government/state) in regard to the Standard Gauge Railway (SGR), including:</p> <p>a. All contracts for the carrying out of feasibility studies relating the construction, operation and servicing of the SGR:</p> <p>b. Any and all documents relating to expression of interest for the financing, construction, management, operation and servicing of SGR prepared by the GOK or state/public agency or a third party on behalf of the GOK;</p> <p>c. Contracts and or Memorandum of Understanding (MOU) between GOK and any third party relating to the financing,</p>		Certified copies

	<p>construction, management, provision of operating stock, operation and maintenance/servicing of SGR.</p> <p>d. All agreements and contracts entered into including loan agreements, concession agreements, guarantees and/or collateral for financing, construction, management, operation and maintenance/servicing of the SGR.</p> <p>e. Any concessions, agreements and or MOU relating to the operation of the SGR including 1. Take or Pay Agreement between Kenya Railways and Kenya Ports Authority.</p> <p>2. Agreement with Africa Star Railway Operation Company Ltd.</p>		
2.	<p>All documents considering relating to the viability, economic, social, cultural and environmental impacts, including:</p> <p>a. Feasibility studies</p> <p>b. Strategic Environmental Assessment</p> <p>c. Environmental Social Impact Assessment</p> <p>d. Cultural Heritage Assessment</p>		
3.	<p>Memorandum of Understanding between the Government of Kenya or a State/Public Agency and Kenya National Shipping Line, Mediterranean Shipping Company or any of its subsidiaries or affiliates, or any other private entity relating to the management and/or operation of Container Terminal 2 (CT2) Port of Mombasa, including all annexures and associated documents.</p>		Certified copies

I am prepared to collect this information in person and undertake to pay the costs incurred for the reproduction of the information as per the Access to Information Act.

It is my view that the information I seek is information the state should have disclosed without any prompting based on positive and proactive disclosure obligations under Article 35 of the Constitution because it is information that is of importance to the public.

I request that you avail this information as soon as possible, but in any event, no later than 21 days from the date of receipt of this application, pursuant to section 9 of the Access to Information Act.

Kind regards,

Khelef Khalifa,

Chairman MUHURI

On behalf of Okoa Mombasa

cc.

The Chairperson,

Commission on Administrative Justice,

2nd Floor, West End Towers,

Opposite Aga Khan High School off Waiyaki Way – Westlands,

P.O Box 20414-00200,

Nairobi.