



Communique on the stakeholders' feedback session on the Warehouse Receipt System (WRS) Amendment Bill 2024 held on Virtually on MS Teams on 15th January 2023

Introduction

The Eastern Africa Grain Council held a comprehensive stakeholders' feedback session yesterday on 15th January 2024. The forum brought together over 50 representatives from various sectors within the grain industry including members of EAGC. The session whose focus was on the proposed Warehouse Receipt System (WRS) Amendment Bill 2024 witnessed the active participation from farmer cooperatives, processors/millers, financial providers, warehouse operators, and other sector stakeholders. The event was graced by the presence of Mr. Joseph Kimote, Country Director and Vice Chairman of EAGC also, the Managing Director of NCPB, along with the Warehouse Receipt System Council (WRSC) team, led by CEO Ms. Lucy Komen.

In his welcoming remarks, the EAGC Executive Director Mr. Gerald Masila, provided a historical context of the WRS, emphasizing its role in fostering structured grain trade. He acknowledged the enactment of the WRS Act of 2019 and highlighted the challenges reported since its implementation, underscoring the necessity for amendments. Mr. Masila further encouraged stakeholders to contribute feedback to enhance the functionality of the warehouse receipt system.

The CEO of WRSC Ms. Lucy Komen, informed the forum about the notice for the WRS Amendment Bill 2024, initiated on 9th January 2024, and the ongoing public participation period until 24th February 2024. She emphasized the need for amendment due to challenges faced in the past three years.

Ms. Komen identified three key areas of focus in the WRS Amendment Bill 2024 as follows:

- Transfer of WRSC to the Ministry of Trade and investments following Executive Order No. 1 of 2023.
- Harmonization of licensing roles ensuring exclusive licensing authority for the Council to avoid duplication.
- Promotion of cross-border trade allowing the use of WRS for imported goods.

Proposed Amendments and stakeholders' feedback

The stakeholders collectively agreed on the proposed amendments in various sections of the WRS Amendment Bill 2024. Specific feedback and concerns were expressed (see Annex 1) in Sections 21d, 21e, 21, and 31, as follows:

Sections 4a: The stakeholders noted that this would benefit traders as commodities from outside Kenya could be stored under WRS.

Section 17: Emphasised on the need for regulations on how Counties will be integrated into the whole process of WRS.

Section 21d: Concerns were raised regarding the fate of warehouse receipts when a license is revoked and commodities are already stored in the warehouse. Questions were also raised about the rights of the financier in calling up the receipt.

In response to these concerns, it was conveyed that there would be no direct impact on the receipt. Instead, a collateral manager would be appointed to assume control of warehouse operations. Additionally, both the depositor and the financier would receive notice in the event of license revocation. The options for the depositor include transferring commodities or choosing to retain them in the store, facilitated by the presence of a designated collateral manager.

Section 21e: Clarification was sought regarding the definition of 'default' in the regulation and the specific criteria that constitute defaulting.

In response to this concern, it was indicated that there is a consideration to incorporate a clause that explicitly defines 'default' and outlines its constituents within the regulatory framework. This measure aims to provide clarity and precision in understanding instances of default within the specified context.

An additional concern was raised, advocating for the inclusion of a clause allowing an operator to utilize one license for multiple sites or warehouses. It was communicated that there is a deliberation to include a clause accommodating the use of a single license for multiple sites or warehouses by the operator. This consideration aims to address the practicality and efficiency of managing multiple locations under a unified licensing arrangement.

Section 30b: There were concerns raised about enhancing the system to generate real-time notifications from the central registry immediately. Additionally, inquiries were made regarding the requirements for registering receipts at the central registry.

In response to these concerns, it was conveyed that the system would be improved to deliver real-time notifications, ensuring a timely response, with notifications expected by the end of the day upon registration.

The requirements for registering receipts were outlined, encompassing validation procedures, verification of weighbridge tickets, quality checks, and the issuance of receipts. Importantly, no transaction would be permitted until the receipt is duly registered, ensuring a robust and regulated process.

Section 31: There was a concern raised about the potential collusion between the warehouse operator and the depositor, which could disadvantage the financier.

In response to this concern, the following measures were highlighted:

- The warehouse operator assumes the role of a collateral manager, ensuring a neutral position without conflicts of interest.
- No movement of stock would occur without the knowledge and consent of all involved parties, including the financier.
- Additional safeguards include insurance coverage and security measures implemented at the warehouse premises.
- A proposal was made to adopt the oil trade financing model, specifically the CFA (Collateralized Financing Agreement) arrangement, as a further means of ensuring financial security and integrity within the system.

Having exhausted the feedback and addressed critical areas of concern of the Bill, the session came to a close with Jacinta Mwau, the EAGC Regional Manager MIS & Communication and Country Manager - Kenya, DRC, Burundi and Ethiopia, issuing a call to action. She urged stakeholders to continue providing feedback on the WRS Amendment Bill 2024 before the deadline on 24th January 2024. This ongoing input will enable the council to diligently collate and subsequently submit a comprehensive representation.

Closing comments from stakeholders

- A request was made to review the threshold for issuing Warehouse Receipt to accommodate the Small Holder Farmers
- The importance of Small Holder Farmers becoming part of cooperatives for the success of WRS was emphasized.
- WRS regulation is timely as it will promote Warehouse Receipt Financing as most depositors (farmers) expect payment in cash after depositing grains in a store.
- Further farmers awareness, training and sensitization is needed to ensure thorough understanding of WRS.
- Market Information is a key factor to support policy and trade decision making to invest in WRS, or to trade Warehouse Receipts. For instance, farmers were noted to rarely quote a price, instead, they ask buyers what their price offers are. There is a need to empower WRS stakeholders with market information to encourage informed price decision making and negotiations between depositors and buyers on prices.
- A proposal was made to modernize WRS and include a traceability component. Given the WRS shall be open to commodities from outside the country, use of a traceability system of global standards would imply all products in/out of the Warehouses can be traced back to ascertain the place of origin (locally or elsewhere) and manage issues to do with recall in event of defects or quality concerns. Stakeholders proposed introducing a clause on the use of modern technology and global standards of traceability in supply chain.

About EAGC



EAGC is a regional, not-for-profit council of firms and organizations in the grain value that is “the leading voice of the grain industry in Africa” whose mandate is “to facilitate efficient structured, inclusive, sustainable and profitable grain trade” through various interventions and programs that include; policy research and advocacy, provision of market information, training and capacity building as well as developing structured grain trading systems. Email: grains@eagc.org

Annex 1.

Sections	Comments
2a, b, c	Agreed.
3e	Agreed.
4a	Agreed. It was noted that this would be beneficial to traders since commodities from outside Kenya could be stored under WRS.
4b	Agreed.
5	Agreed.
17	Agreed. There is however need to have regulations on how Counties will be integrated into the whole process of WRS.
21a, b, c	Agreed.
21 d	<p>Concerns;</p> <ul style="list-style-type: none">• What happens to the warehouse receipts upon license revocation to the warehouse operator when the commodities are already in the warehouse?• And upon default, or license revocation, what would be the right of the financier in calling up the receipt?• . <p>Responses/feedback;</p> <ul style="list-style-type: none">• No impact to the receipt. A collateral manager will shall be appointed to take up the operations of the warehouse. Primary interest is to the depositor, financier and other key actors in the WRS.• Notice shall be given to both the depositor and financier on license revocation.• The depositor can transfer the commodities or stay in the store since there is a collateral manager appointed.
21e	<p>Concern;</p> <p>Definition of 'default' in the regulation and what constitutes defaulting.</p> <p>Response;</p> <ul style="list-style-type: none">• A consideration to include a clause for defining 'default' and what constitutes defaulting.
21f, g	Agreed.
21	<p>Concern;</p> <p>Still under section 21, a concern emerged to include a clause for an operator to use one license for multiple sites/warehouses.</p> <p>Response;</p> <p>A consideration will be made to include a clause for one license for multiple sites/warehouses.</p>

22	Agreed.
30 a	The word “trading” to extend to “trading platform of a commodity exchange”
30 b	<p>Agreed.</p> <p>Concerns;</p> <ul style="list-style-type: none"> • Enhancing the system to generate a real time notification from the central registry immediately. • What constitutes(requirements) registering receipts at the central registry? <p>Response;</p> <ul style="list-style-type: none"> • The system will be enhanced to provide real time notification at least end of the day upon registration. • Registering receipts requirements will be validation of the receipts, checking weighbridge tickets, quality and quality and issuance of receipts. • No transaction can be made on the receipt until registered.
31	<p>Concern;</p> <p>The warehouse operator and the depositor may collude and act to disadvantage the financier.</p> <p>Response;</p> <ul style="list-style-type: none"> • The warehouse operator doubles as the collateral manager. This means the warehouse operator is neutral and has no conflict of interest. • No stock of commodity will be moved without the knowledge of all the parties including the financier. • Insurance takes care of it. • Security at the warehouse premises. • Proposal to adopt the oil trade financing model i.e. CFA arrangement.
37	<p>Agreed.</p> <ul style="list-style-type: none"> • (4) Instead of public auction, the sale to be made through trading platforms licensed by Capital Markets Authority. • The wordings “when commodity is financed, consent of the financier should be there before release of the commodity”

Attendees

S.NO	NAME
1.	Beatrice Kamiri, Sidian Bank
2.	David Orega, Sauti East Africa
3.	Gilbert Nyakundi, Warehouse Receipting Systems Council (WRSC)
4.	Lucy Komen, Warehouse Receipting Systems Council (WRSC)
5.	Jacqueline Odundo, Warehouse Receipting Systems Council (WRSC)
6.	Fredrick Okoth, Warehouse Receipting Systems Council (WRSC)
7.	Nyando Violet, Cereal Growers Association (CGA)
8.	Geoffrey M. Mugo, Invosoko Africa
9.	Rosemary Mwangi, Edunt Ltd
10.	Gwada Winnie, Warehouse Receipting Systems Council (WRSC)
11.	Noah Kiprop Kosgei, National Cereals & Produce Board (NCPB)
12.	Justus Alinatwe, GrainPro
13.	Nelson Mulwa, Warehouse Receipting Systems Council (WRSC)
14.	Dennis Kimani, Scales & Software (K) Ltd
15.	Dominic Thotho, Sidian Bank
16.	Joseph Muna Kimote, National Cereals & Produce Board (NCPB)
17.	John Kipkorir Kirui, Sidian Bank Ltd
18.	Joel Osodo, Warehouse Receipting Systems Council (WRSC)
19.	Cecilia Muthoni, Warehouse Receipting Systems Council (WRSC)
20.	Eric Oduk, Infrastructure Technology Africa
21.	John Mbaya Matiri, National Cereals & Produce Board (NCPB)
22.	Rosemary Kweya, National Cereals & Produce Board (NCPB)
23.	Leonard Mwashuma, National Cereals & Produce Board (NCPB)
24.	Joseph Mweu Kimeu, National Cereals & Produce Board (NCPB)
25.	Mr. Magara, Kenya Plant Health Inspectorate Service (KEPHIS)
26.	Gideon Muthuri Ntiritu, National Cereals & Produce Board (NCPB)
27.	Lorraine A. Odhiambo, National Cereals & Produce Board (NCPB)
28.	Nahashon Kagiri, Ngarua Cereals Produce Cooperative
29.	Philip Mbunya Makiti, National Cereals & Produce Board (NCPB)
30.	Serah Nzau, Micro Enterprises Support Programme Trust (MESPT)
31.	Quentin Rukingama, JBQ Africa
	EAGC Staff
32.	Gerald Masila
33.	Jacinta Mwau
34.	Penina Gichuru
35.	Duncan Wambugu
36.	Daniel King'ola
37.	Umuro A. Mamo
38.	Olive Mukami
39.	Festus Pole
40.	Martin Njue
41.	Daniel King'ola
42.	Marshel Chanyi
43.	Nicholas Maina
44.	Gillian Kipkemboi