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Ref. No. **MOITED/C16/4/01 VOL.1A**

2nd July, 2020

Date:

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Ms. Constance Hamilton
Assistant United States Trade Representative for Africa
Office of the U.S. Trade Representative
600 17th Street NW
Washington DC 20508

Dear *Ms Hamilton*

**RE: LETTER OF CONFIDENTIALITY BETWEEN KENYA AND THE
UNITED STATES OF AMERICA**

I would like to thank you for your letter of June 30, 2020, describing the arrangements that the United States has in place for the protection and handling of information in the context of the negotiation of a Kenya-U.S. free trade agreement. I take this opportunity to inform you that Kenya agrees with the arrangements described in your letter.

Similarly, Kenya will put in place the following arrangements regarding the handling of documents and information concerning the negotiation of a free trade agreement between the United States and Kenya that will be exchanged in the course of the negotiations:

- First, proposals of each government, accompanying explanatory material, e-mails related to the viability of a future free trade agreement, and other information exchanged in the context of the discussions, are provided and will be held in confidence by the recipients, unless each government whose positions are referred to in a communication agrees to its release. This means that the documents may be provided only to (1) government officials and (2) persons outside government who participate in that government's domestic consultation process and who have a need to review or be advised of the information in these documents. Anyone given access to the documents will be informed that they cannot share the documents

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with people not authorized to see them. These documents and information will be held in confidence for four years after the working group concludes. However, these restrictions will not apply to a country regarding its own position. Each country will be free to disclose that information on condition that, absent consent of the other country, any reference to positions of the other government or agreed text is not included in that disclosure.

- Second, while the documents and information are confidential, this information may be mailed, e-mailed, faxed, or discussed over unsecured lines with the groups of people mentioned above (*i.e.*, government officials and persons who participate in the domestic consultation process). Documents and information may be stored in a locked file cabinet or within a secured building; that is, the documents and information do not need to be stored in safes. The United States and Kenya also may create and store these documents on unclassified computer systems.
- Lastly, documents will be marked in a manner that makes clear that they will be held in confidence. To that end, the United States will mark documents as "U.S.-KENYA FTA Foreign Government Information, Classified CONFIDENTIAL, MODIFIED HANDLING AUTHORIZED (C/FGI-MOD)" and Kenya will mark documents as "KENYA FTA-OFFICIAL-SENSITIVE – Kenya/US official use only". Documents that are shared will contain both markings.

The policy underlying this approach is to maintain the confidentiality of documents, while at the same time allowing both countries to develop their negotiating positions, communicate internally and with each other, and engage with their public as they consider appropriate in developing and communicating their own positions.

I look forward to continuing our work towards negotiations of the Kenya-U.S. free trade agreement.

Yours

Sincerely


Amb. Johnson Weru
PRINCIPAL SECRETARY

Copy to: Ms. Betty C. Maina, CBS
Cabinet Secretary
Ministry of Industrialization, Trade and Enterprise Development
Social Security House Building
NAIROBI.

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