

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

June 30, 2020

Ambassador Johnson Weru
Principal Secretary, State Department of Trade
Kenya Ministry of Industrialization, Trade, and Enterprise Developments

Dear Ambassador Weru:

In anticipation of the launch of the negotiations of a free trade agreement between the United States and the Republic of Kenya (the Parties), I am sharing the arrangements the United States will put in place to handle documents and information related to the negotiations.

Following discussions between the Parties regarding the handling of documents and information to be exchanged over the course of the negotiations, the United States will take the following approach:

- First, proposals of each Party, accompanying explanatory material, e-mails related to the negotiations, and other information exchanged in the context of the discussions, will be provided and will be held in confidence by the recipients, unless each Party 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 the documents. Anyone given access to the documents will be informed that they cannot share the documents with people who are not authorized to see them. The documents and information will be held in confidence for five years after entry into force a U.S.-Kenya trade agreement, or five years after the close of negotiations related to such an agreement. However, these restrictions will not apply to a Party regarding its own position. Each Party will be free to disclose that information on condition that, absent consent of the other Party, any reference to positions of the other Party or agreed text is not included in that disclosure.
- Second, while the documents and information are confidential, the 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 a safe. The Parties also may create and store these documents on unclassified computer systems.
- Lastly, documents will be marked in a manner that makes clear that the documents will be held in confidence. To that end, the United States will mark documents as "U.S.-KENYA

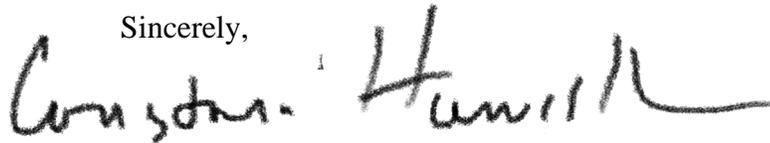
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FTA, Classified CONFIDENTIAL, MODIFIED HANDLING AUTHORIZED (C/FGI-MOD)” and Kenya will mark documents as “KENYA FTA-OFFICIAL-SENSITIVE – Kenya/US official use only”. Documents that are shared will contain both markings.

The policy underlying this approach is to maintain the confidentiality of documents, while at the same time allowing the Parties 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.

Kindly confirm whether you accept this approach, and please share the arrangements Kenya has in place regarding the handling of documents and information that will be exchanged between the Parties regarding the negotiation of a free trade agreement between the Parties.

Sincerely,

A handwritten signature in black ink that reads "Constance Hamilton". The signature is written in a cursive, flowing style.

Constance Hamilton
Assistant United States Trade Representative for Africa