

AFRICA RISK CONSULTING

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Kenya Summary 16 October 2023

President William Ruto (2022-current) reshuffles his government on 4 October for the first time since assuming the presidency. The foreign affairs minister is transferred from cabinet secretary (CS) Alfred Mutua to political heavyweight and prime CS Musalia Mudavadi, and Rebecca Miano takes over as trade minister following Moses Kuria's demotion to the public service, performance, and delivery management ministry. Parliament on 3 October tables the Mining (Amendment) Bill 2023 which proposes amendments to Kenya's Mining Act 2016 to open the mining sector to foreign investment following a 2019 freeze on new licenses. The United Nations Security Council (UNSC) approves Kenya's Multinational Security Support Mission (MSS) to Haiti on 2 October. However, opponents question Kenya's ability to restore peace in a foreign country amid ongoing domestic instability.

Cabinet changes seek to prioritise performance over loyalties

It was announced on 4 October that President **William Ruto** (2022-current) reshuffled his cabinet, changing eight ministries, and moving allies from key ministerial positions in his first government reorganisation since assuming the presidency. Ruto orchestrated the reorganisation amid his **Kenya Kwanza** government's struggle to deal with the high cost of living which has prompted accusations of broken campaign promises and led to a decline in confidence over his leadership. The reshuffle was not a surprise as during the signing of performance reviews in August, Ruto criticised cabinet members of being "clueless" and exhibiting "the highest level of incompetence."¹

As part of the cabinet changes, the president folded the foreign affairs ministry into the office of the prime cabinet secretary (CS) **Musalia Mudavadi**. Mudavadi takes over from CS **Alfred Mutua**, who was moved to the tourism and wildlife ministry. Kenyan political observers speculated that Mutua was inexperienced and despite being a very strong supporter of Kenya's **Multinational Security Support Mission (MSS) to Haiti**, he did not have a strong enough voice for the role.^{2,3}

Mutua is also currently entangled in a KSh60m (\$399,334) row over shares in a Nairobi hotel. **United Kingdom** investor **Ubbi Riphuman Singh**, who has brought the dispute to court, says Mutua CS bought 15 shares in **Brazilian Rodizio Ltd** in October 2022 but is yet to pay for his stake.⁴ However, Mutua's demotion has less to do with the legal scandal and more to do with Ruto's increased use of Mudavadi in foreign affairs, employing him to represent the president and the country at international events such as inauguration ceremonies, the December 2022 **Commonwealth Trade and Investment Summit** in the UK and several other foreign visits crucial to Ruto's foreign and domestic policy.⁵ Mudavadi is the senior-most politician in Ruto's cabinet having previously served as vice president, deputy prime minister and minister under former presidents **Daniel arap Moi** (1978–2002), and **Mwai Kibaki** (2002–2013).⁶ He will likely be a key element in Ruto's campaign for re-election in 2027.

¹ Nairobi Wire, 2 Aug 2023

² Daily Nation, 29 Sep 2023

³ VOA, 6 Oct 2023

⁴ Daily Nation, 14 Oct 2023

⁵ The Standard, 29 May 2023

⁶ The Standard, 8 Oct 2023

In another notable change, trade and investments minister **Moses Kuria** was moved to the public service, performance, and delivery management portfolio ministry. He was replaced by **Rebecca Miano**, who was previously the **East African Community (EAC)**, arid and semi-arid lands and regional development minister. Miano has education and work experience as a lawyer in Kenya and **Australia**.⁷ She worked up the ranks at **Kenya Electricity Generating Company (KenGen)** from assistant legal officer in 1998 to managing director and Chief Executive Officer (CEO) in 2017. **African Leadership Magazine** in 2020 awarded her the **2020 African Inspirational Business Leadership Award**. In 2021, she was named one of **Nation Media's** 2021 "women to watch."⁸

The international business community regards Miano as more likeable than Kuria, who, during his stint as trade minister was involved in numerous controversies. When **Chinese** investors opened **China Square**, a low-cost shop in Nairobi's central business district (CBD), Kuria called it a "*middle-class conspiracy*" that took business away from local traders and he fought unsuccessfully for it to be closed.⁹ In his heavily criticised remarks on the **Sudan** crisis, Kuria proposed over **X** (formerly **Twitter**) to "*bomb Khartoum to smithereens*" as a lesson to other countries.¹⁰ Furthermore, in a series of tweets in June, Kuria called employees at **Nation Media** "*prostitutes*," and accused its journalists of corruption and bias which resulted in **Nairobi's** high court issuing an injunction against him from insulting or vilifying the media.¹¹

Kuria's reputation in global affairs sank even lower when **United States (US)** trade representative **Katherine Tai** refused to meet with him, allegedly calling him an "*extremist*" over his remarks against individuals and institutions.¹² Kuria further lost public support in September when he criticised Kenyans for complaining over the high cost of living and increasing fuel prices.¹³ His insensitive comments prompted a public war of words with deputy president **Rigathi Gachagua**.¹⁴

Political commentator **Martin Andati** speculated that the government sees these cabinet changes as essential to regain public confidence in Ruto and Kenya Kwanza, hoping that the newly shuffled ministers can help improve delivery on campaign promises during the government's second year.¹⁵ Although both Mutua and Kuria were at the forefront of Ruto's election campaign, their demotion can be considered a warning shot to individuals in his administration that performance eclipses loyalty.¹⁶

Government makes moves to unfreeze mining moratorium

Parliament tabled the **Mining (Amendment) Bill 2023** on 3 October with proposed amendments to the **Mining Act 2016** targeted at accelerating mining sector growth while enhancing government oversight of critical mineral resources. In December 2019, former president **Uhuru Kenyatta** (2013-2022) issued a moratorium on the issuance of mining licenses to allow for a geological survey and audit of Kenya's mineral resources, locations, owners, and status of regulatory compliance.¹⁷ At a press conference following the bill's tabling, mining CS **Salim Mvurya** stated that due to the ban and subsequent auditing, the government rooted out 3,000 illegal mining operations and identified 1,546 licenses that were noncompliant with the government's conditions.¹⁸

The proposed amendments include the establishment of a **Mining Regulatory Authority (MRA)** to replace the current **Mining Rights Board**, and a **Mining Rights Tribunal** to deal with dispute

⁷ KBC, 21 Oct 2023

⁸ Daily Nation, 1 Feb 2022

⁹ Citizen Digital, 8 Mar 2023

¹⁰ The East African, 15 May 2023

¹¹ Committee to Protect Journalists, cpj.org, 21 Jun 2023

¹² Daily Nation, 19 Jul 2023

¹³ Tuko, 16 Sep 2023

¹⁴ Daily Nation, 24 Sep 2023

¹⁵ VOA, 6 Oct 2023

¹⁶ Daily Nation, 6 Oct 2023

¹⁷ Business Daily, 12 Apr 2015

¹⁸ The Star, 4 Oct 2023

resolution.¹⁹ While the government will remain responsible for policy decisions, the MRA will be responsible for oversight of the entire critical minerals value chain including exploration, extraction, production, processing, refining, transportation, storage, importation, and sale.²⁰ During the cabinet meeting, mineral smuggling was declared an economic crime and the ministers approved a special police unit within the mining ministry to enforce compliance with laws and regulations on mining.²¹ Illegally mining gold could hold a KSh10m (\$66,555) fine or a 10-year prison term.²²

Despite the ban by Kenyatta, gold mining activities continued by artisanal and small-scale miners (ASM) who operate independently and informally without permits and use basic practices to unearth valuable minerals. Going forward the government wants to take on a more proactive role in the mining sector and formalising ASMs will be part of it. Mvurya said that his ministry has implemented steps to start granting artisanal miners permits upon lifting of the moratorium.²³

The lifting of the moratorium is crucial to continued foreign investment in the sector which has the potential to contribute up to 10% of the country's gross domestic product (GDP).²⁴ Since 2019 the sector's contribution hovered between 0.7% and 0.8% through 2021.²⁵ Following the tabling, the government announced that current mineral rights holders who have been waiting to renew their licences and new applicants had two weeks to deliver updated documents on their registration, owners, and sources of funding. Mining principal secretary (PS) **Elijah Mwangi** stated that applicants are also required to provide recent bank statements or audited financial reports for the last three years in addition to disclosing company shareholders, tax compliance certificates from the **Kenya Revenue Authority (KRA)**, and a work programme.²⁶ The government's efforts to increase transparency and efficiency have been welcomed by stakeholders and have the potential to increase foreign investment in the country.

The geological survey revealed that Kenya has rich deposits of copper, graphite, manganese, nickel, iron ore and nickel-cobalt, all of which are critical minerals projected to increase in demand as countries around the world continue to adopt clean energy technologies such as electric vehicles and wind turbines. **Kenya Chamber of Mines** chairperson **Patrick Kanyoro** stated that if the MRA can operate with the levels of independence indicated by the proposed amendments trust that confidence between the private sector actors in extractive industries and government stands to improve.²⁷ However, the risk of corruption throughout the value chain remains high and it will be important to ensure that voices from local communities, government, industry, and civil society organisations are considered when reopening the mining sector.

Similarly important is that the government ensures that renewed mining does not lead to unregulated environmental degradation and that the government seeks out technological partnerships with industry leaders to practice environmentally friendly exploration and excavation of its minerals, so Kenya's carbon offsetting projects are not jeopardised. **Taita Taveta (Coastal Region)** has **East Africa's** largest carbon offsetting project but also has vast mineral reserves underneath dryland forests. Community leaders receive payments for carbon offsetting by conserving the dryland forests and thus are reluctant to explore mineral resources. **Mgeno Conservancy** chairman **Afiz Nyambu** said "*the moment we allow mining, this land will cease being a conservancy and we will forget about carbon credits.*"²⁸

¹⁹ Daily Nation, 3 Oct 2023

²⁰ Energy Capital & Power, 5 Oct 2023

²¹ The Star, 4 Oct 2023

²² Business Daily, 21 Sep 2023

²³ Daily Nation, 3 Oct 2023

²⁴ Citizen, 17 Jul 2023

²⁵ Business Daily, 15 May 2023

²⁶ Business Daily, 10 Oct 2023

²⁷ The East African, 2 Oct 2023

²⁸ The East African, 17 Sep 2023

Although the lifting of the ban has been long awaited by stakeholders and Kenya's citizens and economy stand to benefit significantly from resumed activity in the sector, it will be a balancing act between government, local communities, and mining companies as policy decisions such as royalties and local ownership are ironed out. In May, the **World Bank** asked Kenya to remove the mandatory 35% local ownership requirement for mining firms in Kenya to increase investment attractiveness.²⁹ This position is backed by the international business community but an **Africa Risk Consulting Briefing** source mentioned that while local participation is important, it should be based on finding the right local partners to benefit the whole value chain.³⁰

UNSC greenlights Multinational Security Support Mission (MSS) to Haiti

The **United Nations Security Council (UNSC)** voted on 2 October to approve Kenya's bid to lead a MSS to **Haiti** with 13 in favour and 2 abstentions (**China** and **Russia**).³¹ At the **United Nations General Assembly (UNGA)** which convened in **New York (United States)** a week prior, Haitian prime minister **Ariel Henry** (2021-present) told participants that police and military personnel were needed urgently and the use of force was "*essential to create an environment in which the state can function again.*"³² The Kenyan-led MSS hopes to help Haiti's national police restore peace and security with the long-term aim of aiding the country to hold general elections. Since early 2010, Haiti's police have been overwhelmed by gangs who are estimated to control 80% of Haiti's capital **Port-au-Prince**.³³

Ruto's government's decision to send 1,000 of its officers to the **Caribbean** country was received controversially within Kenya. Local citizens pointed to the unresolved instability within Kenya's borders caused by bandits in **Samburu, Turkana, and Baringo** counties and highlighted the ongoing insecurity along the **Somali** border caused by **Al-Shabaab** insurgents. The police's ability to fight gangs in a culturally unfamiliar, **French**-speaking country where they have no experience navigating Haitian cities or terrain has been called into question given their perceived inability to guarantee stability in their home country.³⁴ Critics have called it a "*suicide mission*" and opposition leader **Raila Odinga** denounced the deployment and stated "*when coffins start arriving here, that's when we shall regret (sending Kenyan forces)*".^{35,36} Further scepticism is compounded by the use of excessive force, extrajudicial killings, arbitrary arrests, and corruption by Kenya's security forces which has been condemned by international human rights watchdogs.³⁷

Ruto defended the deployment as a "*mission for humanity*"³⁸ and **Mutua** posted on X that the mission was not just about restoring peace and security, but "*about the rebuilding of Haiti – its politics, its economic development and social stability.*"³⁹ Apart from merely helping another nation, Kenya stands to gain on the global stage by leading this mission. Not only does it give Kenya credibility as a dependable ally acting out of goodwill to support another nation's return to democracy but, as **Nairobi**-based political analyst **Dismas Mokuia** highlighted, Kenyan law enforcement agencies will receive specialised training and equipment which will ultimately improve the long-term capacity and quality of Kenya's force. US secretary of state **Antony Blinken** announced that the US would provide logistics such as intelligence, airlift, communications, and medical support to the mission and, dependent on approval from Congress, would contribute \$200m to the MSS.⁴⁰

²⁹ Business Daily, 15 May 2023

³⁰ ARC Briefing Source, consultant at a Trade Promotion Agency

³¹ United Nations Press.un.org, 2 Oct 2023

³² Franc 24, 23 Sep 2023

³³ AP News, 3 Oct 2023

³⁴ The East African, 9 Oct 2023

³⁵ The Star, 3 Oct 2023

³⁶ BBC News, 5 Oct 2023

³⁷ The New York Times, 2 Oct 2023

³⁸ VOA, 10 Oct 2023

³⁹ Alfred Mutua, X, 2 Oct 2023

⁴⁰ The East African, 13 Oct 2023

Despite Mutua's statement that Kenyan boots could be on the ground "within two to three months," the mission has faced domestic legal challenges.⁴¹ High court judge **Enock Mwita** granted an interim injunction in a case brought by opposition politician **Ekuru Aukot** on 9 October. Aukot argued that the deployment was unconstitutional and not backed by any law or treaty.⁴² The petitioners argued that according to **Article 240** of the constitution, parliamentary approval must be sought for the **National Security Council (NSC)** to deploy any forces outside the country.⁴³ Interior CS **Kithure Kindiki** announced on 14 October that the NSC chaired by Ruto approved the request for deployment and it will be submitted to Parliament in the coming week for deliberation.⁴⁴

If Parliament approves the deployment of Kenyan forces to Haiti, analysts are unsure what they will be able to achieve. Although Kenyan police officers have engaged in past **United Nations (UN)** missions to **Namibia, Liberia, former Yugoslavia, Bosnia and Herzegovina, East Timor, Cambodia, Croatia, Kosovo, Sierra Leone, South Sudan, the Democratic Republic of Congo (DRC)** in addition to **Africa Union (AU)** missions in **Darfur** and **Somalia**, interventions in Haiti have historically been unsuccessful and have actively contributed to a deterioration in the security situation.⁴⁵ Nonetheless, the Kenyan government sees the mission as part of its commitment to Pan-Africanism and is positive that its approach will succeed in ways that others failed.

Planner

20 Oct 2023 **(Kenya)** Mashujaa Day (national holiday)

23 - 27 Oct 2023 **Nairobi (Kenya)** 35th Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer (MOP35)

7 - 9 Nov 2023 **Nairobi (Kenya)** East Africa Oil and Gas Summit 2023

10 - 13 Nov 2023 **Nairobi (Kenya)** Business Sweden Africa Technology and Innovation Delegation

30 Nov - 2 Dec 2023 **Nairobi (Kenya)** India International Textile Machinery Exhibition (ITME) Africa & Middle East 2023

16 - 21 Jul 2024 **Nairobi (Kenya)** Kenya Geothermal Congress 2024

2025 **Lamu (Kenya)** Expected commencement of **LAPSSET Corridor Programme** construction of standard gauge railway (SGR) linking Lamu port to **Ethiopia** and **South Sudan**

Chronology

14 Oct 2023 **Nairobi (Kenya)** *Daily Nation*. President **William Ruto** travels to **China** for a three-day state visit where he will hold bilateral talks with President **Xi Jinping** and participate in a Kenya-China investors roundtable discussion;

14 Oct 2023 **Turkana (Kenya)** *The Standard*. Authorities arrest three police officers for allegedly aiding the illegal border crossing of foreigners from **Ethiopia, Eritrea, and Sudan** through Kenya's **Turkana** border enroute to **South Africa**;

14 Oct 2023 **Nairobi (Kenya)** *Energy and Petroleum Regulatory Authority*. Fuel prices hit record high as **Energy and Petroleum Regulatory Authority (EPRA)** list October/November prices as KSh217.36 (\$1.45) per litre of petrol and KSh205.47 (\$1.37) per litre of diesel;

⁴¹ BBC News, 5 Oct 2023

⁴² The East African, 9 Oct 2023

⁴³ Capital FM, 12 Oct 2023

⁴⁴ The Star, 14 Oct 2023

⁴⁵ The East African, 13 Oct 2023

13 Oct 2023 **Nairobi (Kenya)** *United States Embassy in Kenya*. The **United States (US)** embassy in Kenya issues a security alert citing high risks of terrorist activities in Nairobi and elsewhere in Kenya;

13 Oct 2023 **Nairobi (Kenya)** *The Star*. Authorities detain alleged Nairobi fake lawyer **Brian Mwenda** on claims that he falsely presented himself as an advocate of the high court. Reports indicate that he had successfully argued 26 cases before high court judges, magistrates, and court of appeal judges;

13 Oct 2023 **Nairobi (Kenya)** *Daily Nation*. The **National Dialogue Committee** reaches consensus on the creation of the leader of opposition and prime cabinet secretary positions and agree to reconstitute the **Independent Electoral and Boundaries Commission (IEBC)** selection panel which will increase from seven to nine members;

12 Oct 2023 **London (United Kingdom)** *Kenya Airways*. The **United Kingdom's (UK) Royal Air Force (RAF)** fighter jets divert **Kenya Airways** flight KQ100 from **Heathrow** to **Stanstead** airport following an alert of a potential security threat on board;

11 Oct 2023 **London (United Kingdom)** *Reuters*. The **United Kingdom's (UK) King Charles III** and **Queen Consort Camilla** will travel to Kenya from 31 October to 3 November where he is expected to acknowledge "*painful aspects*" of the country's colonial past;

11 Oct 2023 **Nairobi (Kenya)** *Daily Nation*. President **William Ruto** orders the dismissal and prosecution of 23 **Kenya Forest Service (KFS)** employees involved in alleged corruption over Kenya's forest resources;

11 Oct 2023 **Nairobi (Kenya)** *Daily Nation*. Officials begin talks with the **International Monetary Fund (IMF)** and **World Bank** for a new loan to help settle its \$2 billion **Eurobond** repayment which was due in June 2024;

10 Oct 2023 **Nairobi (Kenya)** *The Citizen*. Economic professor **Fred Ogola** launches a report noting that Kenya risks serious economic ramifications, estimated at \$28.13 billion if President **William Ruto** approves the **Family Protection Bill**, which seeks to ban homosexuality, same-sex unions, and LGBTQ activities and campaigns;

7 Oct 2023 **Nairobi (Kenya)** *The East African*. President **William Ruto** is set to ask **China** for a \$1 billion loan and debt restructuring plan as the cost of servicing debt, mainly to China, continues to weigh on the economy;

5 Oct 2023 **Nairobi (Kenya)** *Reuters*. Deputy president **Rigathi Gachagua** announces that President **William Ruto** will request a \$1 billion loan from **China** during a state visit planned in late October, to complete stalled road construction projects and will also request "*more time to repay the debts it is servicing*";

4 Oct 2023 **Nairobi (Kenya)** *Daily Nation*. **United Arab Emirates**-headquartered **Infrastructure Corporation of Africa (ICA)** will take over 60% of shares in **Telkom Kenya** from **United Kingdom**-headquartered **Helios**. The Kenyan government was set to buy the stake, but the cabinet rescinded this decision on Tuesday;

3 Oct 2023 **Nairobi (Kenya)** *Daily Nation*. Cabinet orders all ministers and state departments to cut 10% of their operational budgets for the 2023/2024 financial year as part of the administration's fiscal consolidation plan;

3 Oct 2023 **Nairobi (Kenya)** *KBC*. Prime cabinet secretary **Musalia Mudavadi** returns from a one-day official visit to **Burundi** where he met with Burundian president **Evariste Ndayishimiye** to discuss strengthening bilateral ties;

2 Oct 2023 **Nairobi (Kenya)** *Zawya*. Kenya joins the **Pan African Payments and Settlement System (PAPSS)** which will allow local companies to transact with counterparts in other countries using local currencies;

2 Oct 2023 **Nairobi (Kenya)** *Citizen*. Government suspends all non-essential travel for government officials and imposes limits on foreign trip delegations accompanying the president, deputy president, first lady and prime cabinet secretaries;

2 Oct 2023 **Nairobi (Kenya)** *Citizen*. **Anne Waiguru** is elected to serve a second term as the chair of the **Council of Governors**;

1 Oct 2023 **Nairobi (Kenya)** *The East African*. Former defence cabinet secretary **Eugene Wamalwa** and former chief justice **Willy Mutunga** raise concerns over Kenya's plans to deploy 1,000 police officers as part of a security mission to **Haiti**;

30 Sep 2023 **Nairobi (Kenya)** *Daily Nation*. **National Assembly** members censure information, communication and digital economy cabinet secretary **Eliud Owalo** for misleading the country on the status of **United States (US)** digital identification platform **Worldcoin**'s activities in Kenya which "constituted acts of espionage and a threat to statehood;"

30 Sep 2023 **Nairobi (Kenya)** *Reuters*. **National Bureau of Statistics** reports that annual inflation reached 6.8% in September, up slightly from 6.7% in August;

28 Sep 2023 **Nairobi (Kenya)** *The Africa Report*. **United Kingdom Export Finance (UKEF)** is delaying a \$121.9m payment for the development of the **Nairobi Railway City** after Kenyan authorities failed to award necessary contracts to developers;

26 Sep 2023 **Nairobi (Kenya)** *The East African*. Kenya and the **United States (US)** sign a cooperation agreement that will see the **Kenya Defence Forces (KDF)** trained and provided with financial and technical assistance by the US;

26 Sep 2023 **Nairobi (Kenya)** *Anadolu Agency*. State-owned **Nuclear Power and Energy Agency** CEO **Justus Wabuyabo** confirms that construction on a nuclear power plant is set to begin in 2027;

25 Sep 2023 **Nairobi (Kenya)** *Daily Nation*. **Nandi** senator **Samson Cherargei**, ally of President **William Ruto**, proposes to amend and extend presidential term limits from five to seven years at the **National Dialogue Committee** at the **Bomas of Kenya**;

25 Sep 2023 **Mombasa (Kenya)** *Daily Nation*. The **Kenya Ports Authority (KPA)** backtracks on earlier opposition to the privatisation of key infrastructure at Mombasa and **Lamu** ports and will now seek to lease the ports and the **Lamu Special Economic Zone (LSEZ)** for \$700m on a 25-year lease;

21 Sep 2023 **Nairobi (Kenya)** *Daily Nation*. **United Kingdom** construction firm **GBM Engineering Consortium** signs a project development agreement with the **National Irrigation Authority (NIA)** for the development of the mega **High Grant Falls Dam**;

21 Sep 2023 **Nairobi (Kenya)** *The East African*. President **William Ruto** meets with **United States** secretary of state **Anthony Blinken** to discuss peace plans for **Haiti, Sudan** and the wider **East African** region;

21 Sep 2023 **Nairobi (Kenya)** *The East African*. **Central Bank of Kenya** reports that Kenya's debt stock reached \$69.3 billion at the end of June off the back of increased borrowing during President **William Ruto**'s first year in office;