

# REPUBLIC OF KENYA



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## NATIONAL ASSEMBLY TENTH PARLIAMENT – THIRD SESSION

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### REPORT OF THE IGAD-IPU KENYA DELEGATION TO THE 2<sup>ND</sup> MEETING OF THE IGAD-IPU EXECUTIVE COUNCIL AND THE 2<sup>ND</sup> CONFERENCE OF SPEAKERS OF IGAD MEMBER STATES HELD IN KAMPALA, UGANDA

27 -28 NOVEMBER 2008

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APRIL 2009

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## **PREAMBLE**

Mr. Speaker,

The Protocol establishing the Inter-Parliamentary Union of IGAD Member States (IGAD-IPU) came into force on 28 November 2007 after being ratified by four IGAD member states, namely: Ethiopia, Djibouti, Sudan and Somalia.

The objectives of IGAD-IPU as stipulated in the Protocol for Inter-Parliamentary Union of IGAD Member States are listed below:

- (i) promote unity and strengthen ties of cooperation among IGAD Member States Parliaments;
- (ii) promote peace, security and stability within the IGAD sub-region;
- (iii) promote and ascertain good governance, transparency and rule of law within IGAD Member States;
- (iv) promote respect for and protection of human rights and fundamental freedoms, justice and gender equality;
- (v) promote dialogue and exchanges between Parliaments of IGAD Member States and between the Union and other regional Inter-Parliamentary Organizations;
- (vi) promote, create awareness and popularise the aims and objectives of the Union and IGAD among the peoples of the IGAD sub-region.

The first meeting of the Conference of Speakers of Parliaments of IGAD member states, the highest organ of the Union, took place in Addis Ababa on 28 November 2007.

The meeting was attended by Speakers of Parliaments of Djibouti, Ethiopia, Uganda, Sudan and Somalia. Kenya was represented by high level government officials for the parliament was dissolved because of the General Elections in the country.

The first meeting of the Executive Council, the second highest organ of the parliamentary Union took place on 25-26 May 2008 in Khartoum, Sudan under the chairmanship of Hon. Ahmed Ibrahim El-Tahir, Speaker of the National Assembly of the Sudan.

### **EXECUTIVE SUMMARY**

The Second IGAD-IPU Meeting of the Executive Council and the Second Conference of Speakers of Parliaments of IGAD Member States was held on the side line of the 53<sup>rd</sup> Session of the Executive Council and the 31<sup>st</sup> Conferene of the African Parliamentary Union on 28-29 November 2008, Kampala, Uganda.

The core issues deliberated upon were intended to set a clear basis on which to run the affairs of IGAD-IPU that consequently enabled the fulfilment of the Union's mandate. This only possible by strengthening all three organs of the Union: the Conference, the Executive Council and the Secretariat.

These issues included among others:

- the draft structure and budget for IGAD-IPU Secretariat; and
- the selection of a candidate to the post of Secretary General; etc.



## **CONSTITUTION OF DELEGATION**

The Kenya National Assembly as a member of the IGAD-IPU sent a delegation with the sole objective to attend and consequently participate in the deliberations of:

- the Second Meeting of the IGAD-IPU Executive Council; and
- the Second Conference of the Speakers of Parliaments of IGAD Member States.

The delegation comprised the following:

The Hon. Farah M. Maalim, MP (Deputy Speaker – Kenya National Assembly)

Accompanied by:

Ms. Anne Musandu – Third Clerk Assistant/ Secretary to the Delegation

Also in attendance from Kenya was:

Hon. Felix Useru Kanyauchi – former Member of Parliament for Gwassi Constituency and a candidate for the position of Secretary General of IGAD-IPU.

## **ACKNOWLEDGEMENT**

The Delegation to the Second Meeting of the Executive Council and the Second Conference of Speakers of IGAD-IPU is grateful to the Hon. Speaker and the Liaison Committee of the Kenya National Assembly for facilitating the visit. The Committee would further like to thank the Clerk of the National Assembly and

parliamentary staff for all the logistical and technical support accorded that guaranteed its successful attendance.

Furthermore, the Delegation specially thanks the IGAD Secretariat headed by the Executive Secretary, Eng. Mahboub Mohamed Maalim who ably facilitated positive and fruitful deliberations.

Last but not least, the Delegation by all means recognizes the people of Uganda whose warm hospitality ensured a comfortable and memorable stay in Kampala.



**HON. FARAH M. MAALIM, MP  
DEPUTY SPEAKER AND LEADER OF THE DELEGATION  
KENYA NATIONAL ASSEMBLY**

**APRIL 2009**

## **THE SECOND MEETING OF THE IGAD-IPU EXECUTIVE COUNCIL**

### ***Opening Session***

The Second Meeting of the Executive Council of IGAD-IPU was held on 27 November 2008 in Kampala, Uganda under the chairmanship of Hon. Mohamed El-Hassan Elamin, the Deputy Speaker of the National Assembly of Sudan. It was attended by representatives from Djibouti, Ethiopia, Kenya, Somalia, Sudan and Uganda.

The Deputy Speaker welcomed the delegates to the meeting and expressed his hope that the meeting would be of great value to the countries in the region to foster development and integration. He further stated that it was his wish to see the organization grow from strength to strength and make good progress for the future of the people in the region.

He noted that all over the world, countries were grouping together for common objectives and hoped the IGAD region would benefit from such grouping.

He also thanked the people and the government of Uganda for accepting to host the meeting and for the good hospitality extended to all the delegates since their arrival in Uganda.

### ***Adoption of the Draft Agenda***

The Council after considering the draft agenda, adopted the same without amendments.

***Adoption of the draft minutes of the First Meeting of the Executive Council***

The Council considered the minutes of the First Meeting of the Executive Council and adopted the same without amendments.

***Consideration and Recommendation of the Revised Draft Structure and Budget for IGAD-IPU Secretariat***

The Council considered the views expressed by Ethiopia on the living standards in Addis Ababa in relation to the budget and confirmed that the draft budget was adequate.

The Executive Secretary of IGAD clarified on the new directives issued by the Assembly of IGAD Heads of State and Government on revitalization of IGAD and Staff rationalization that was also going to consider staff remunerations.

The Council after taking into consideration all the issues presented adopted the Draft structure and the Budget for the IPU Secretariat.

***Consideration and Recommendation of the candidate to the post of Secretary General of the Union's Secretariat***

Kenya withdrew its candidate in favour of Djibouti's candidate. In the same light, Sudan also withdrew its candidate in favour of the Djibouti candidate. Somalia also stated that for the sake of unity, it was withdrawing its candidate in support of the Djibouti candidate.

Ethiopia and Uganda did not present candidates for consideration but shared the sentiment of Kenya, Sudan and Somalia supported the candidate of Djibouti.

There being consensus, the Council recommended the candidate from Djibouti, Mr. Bourhan Daoud Ahmed for the position of Secretary General of IGAD-IPU.

Djibouti paid tribute and thanked all the member states who supported their candidate and promised to cooperate with all of them in promoting the values of IGAD-IPU. Mr. Bourhan Daoud Ahmed, also proposed that in future IGAD-IPU would endeavour to hold its meetings apart from other conferences and meetings.

### **Consideration of the Draft Agenda for the 2<sup>nd</sup> Conference of Speakers of IGAD-IPU.**

The Council considered the draft agenda of the Conference of Speakers and adopted the same and recommended it to the Conference of Speakers.

Uganda and Kenya raised the issue of the Kenya candidate being considered for a position in filling the remaining posts in the IGAD-IPU Secretariat. Members agreed that while qualification was paramount in considering the best candidates to fill in vacant positions, equity would be considered to satisfy every member state.

The Chairman in his closing remarks thanked all the participants for their openness and deliberations and wished them a fruitful meeting in the Conference of Speakers.

It was agreed that the next meeting of the Executive Council would be communicated after consultation with the IGAD Secretariat.

## **THE SECOND CONFERENCE OF THE SPEAKERS OF PARLIAMENTS OF IGAD MEMBER STATES**

The Agenda of the Second Conference of the Speakers of Parliaments of IGAD Member states included the following pertinent issues:

- 1.0 Adoption of the proposed Draft Structure and Budget for the IGAD-IPU Secretariat.
- 2.0 Selection of candidate to the post of Secretary General of the Union in accordance with the Terms of Reference.
- 3.0 General briefing on the current Political, Economic and Social Situation in the IGAD Region by member states.

### **Opening Remarks by H.E. Ahmed Ibrahim El Tahir, Speaker of the Sudan National Assembly, President of the Executive Council.**

The President welcomed the delegates and expressed confidence of fruitful deliberations. He stressed the importance of peace and security in the region. He further explained that peace and security were paramount because they were required for progress.

### **Statement by Representative of the Host country.**

The representative of the Host country, Uganda welcomed the delegates and expressed his wish for successful discussions.

## **Statement by Eng. Mahboub M. Maalim, Executive Secretary of IGAD**

In his statement, the Executive Secretary expressed concern on the overall ratification of the Protocol for the Inter-Parliamentary Union of IGAD Member States.

He noted that not all member states had ratified the protocol.

It is important to note that Kenya is one of the states that has not complied with this urgent and critical requirement.

### **Adoption of the proposed Draft Agenda of the Second Conference IGAD-IPU Speakers of Parliaments**

The Draft Agenda for the Conference was considered and adopted without amendments.

### **Adoption of the Draft Minutes of the First Conference of Speakers of Parliaments of IGAD Member States**

The Draft Minutes of the First Conference of Speakers of Parliaments of IGAD Member states were adopted.

### **Adoption of proposed Draft Structure and Budget for the IGAD-IPU Secretariat**

The following is a summary of the Draft Budget (Currency US\$) for the IGAD-IPU Secretariat Office was adopted without amendments:

<b>Description</b>	<b>Unit Price</b>	<b>Quantity</b>	<b>Total Budget Requirement</b>
Salary & allowance for staff			794,037,55
Office Rent	3,500,00	12,00	42,000,00
Vehicle purchase	38,000,00	2,00	76,000,00
Office furniture & equipment for new staff			60,000,00
General overhead expense			40,000,00
<b>TOTAL</b>			<b>1,012,037,55</b>

**Selection of candidate to the post of Secretary General of the Union in accordance with the Terms of Reference**

The fundamental role of the Secretary General is to be CEO of the Secretariat of Union. The Secretary General will aim to intensify regional parliamentary cooperation at different levels, ensuring coordination and fostering political support for the formulation and execution of regional activities. He/She will provide an efficient information network between and for the different Parliaments and help to establish and consolidate networks between sector-specific Parliamentary Committees, paving the ground and preparing a basis for a more institutionalized cooperation in this field.

He/She will contribute to strengthening the democratic efficiency and effectiveness of the Parliaments in the sub-region; promoting bilateral and multilateral cooperation among Parliaments in the region and to bringing closer to IGAD the parliamentary structures of the region.



Being the Chief Executive Officer of the IGAD-IPU, the Secretary General will focus on strengthening the sub-regional parliamentary dimensions thus contributing to the enhanced overall cooperation in IGAD.

He/She will promote sub-regional approach in the process of IGAD integration and will assist positioning the sub-region as a whole at the African scene and globally.

The Secretary General shall report to the Speakers of the Parliament of the Member states, and is responsible for the Secretariats consistent achievement of its mandate and in this regard he/she will be responsible for the financial and administrative management in programs development.

The Conference then confirmed the appointment of Djibouti's Mr. Bourhan Daoud Ahmed for the position of Secretary General of IGAD-IPU.

### **General Briefing on the Political, Economic and Social Situation in the IGAD Region by Member States**

The President of the Executive Council called upon Kenya to give a general briefing of its current political, economic and social situation. The President noted that Kenya had during the First Conference sought to have this agenda item included during subsequent conferences.

In the briefing, the Deputy Speaker, Hon. Farah M. Maalim, MP enlightened the Conference on the current political situation in Kenya. He gave a follow up of what had been achieved as the country got back on track following the widespread violence, untold human suffering, internal displacement and incalculable loss of property that characterized the aftermath of the disputed elections in December 2007. He explained that Kenya was in the process of

ensuring the future integrity of the electoral process and gave an overview of both the Kriegler Independent Review Commission and the Waki Commission. He further informed the Conference that Kenya's constitutional and legal framework relating to elections had a number of weaknesses and inconsistencies that would be revised to ensure a solid foundation for coping with the challenges that future elections would be likely to present.

On the economy, the Deputy Speaker explained the achievements of the Constituency Development Fund and also told the Conference about Kenya's Vision 2030 economic development plan to develop several different economic zones in various parts of the country. On the existing global financial crisis, the Government had put in place mechanisms to closely monitor the situation and its likely short and long term effects on Kenya's economy and to determine how best the country could mitigate against these likely effects.

On the social front, he informed the Conference that Kenya was still grappling with the issue of Internally Displaced Persons (IDPs) but acknowledged that Government had been able to resettle a large number and was currently working towards ensuring that all IDPs are resettled.

In addition, the Deputy Speaker gave outline of Kenya's position in its fight against HIV/AIDS stating that the Government continued to steadily ensure more and more People Living with HIV/AIDS were receiving free Antiretroviral treatment from Government hospitals. He further explained the recently launched voluntary male circumcision campaign as part of the country's national HIV prevention strategy.

The President lauded Kenya's comprehensive briefing.

Sudan briefed the Conference on the continued implementation of the 2005 Comprehensive Peace Agreement based on three points: peace, democracy and economic growth.

On Darfur, the Conference was informed that there were continuous efforts aimed at bringing lasting peace and that it was the government's responsibility to bring peace. However, Sudan took issue with the International Crime Court's support for a warrant of arrest against the country's President. The charges against the President were uncalled for and uncultured in terms of political development.

Ethiopia expressed the need for peaceful co-existence with Eritrea denoting the consequences of instability.

Uganda expressed the importance of the pending signing of the peace agreement with Joseph Kony of the Lord's Resistance Army so that Northern Uganda could settle in peace.

### **Closing**

In closing, the Executive Secretary urged the Member States to remain united so as to ultimately improve all aspects of life for all citizens. He said that IGAD-IPU supported:

- efforts of development in the region;
- peace efforts in all IGAD member states; and
- strengthening of relations between member countries.

The newly appointed Secretary General for IGAD-IPU:

- thanked all members for their support;
- promised to serve efficiently;
- said that he would act to have an effective and functioning institution as soon as possible; and
- would spare no effort to execute the tasks ahead with professionalism.

Kenya expressed fervour in the role that Parliaments could play in brokering peace between warring factions within the region.

Ethiopia proposed that in future, it would be in the interest of the Union to have media coverage of its proceedings so as to enlighten various interested parties.

The Speaker of the Djibouti Parliament proposed that the next meeting of the Executive Council be held in Djibouti. Members noted that all arrangements of future meetings would be communicated in due course.



**REPUBLIC OF KENYA  
KENYA NATIONAL ASSEMBLY  
TENTH PARLIAMENT – FOURTH SESSION**

# **REPORT**

**OF THE  
DEPARTMENTAL COMMITTEE ON FINANCE,  
PLANNING & TRADE**

**ON THE APPOINTMENT OF THE  
CHAIRPERSON AND MEMBERS OF THE  
SALARIES & REMUNERATION  
COMMISSION**

**DECEMBER, 2011**

## PREFACE

**Mr. Speaker Sir,**

On behalf of the Members of the Departmental Committee No. F on Finance, Planning & Trade, and pursuant to the provisions of Standing Order No 181, it is my pleasure and duty to present to the House, the Committee's Report on the nominees to the Commission on Revenue Allocation.

The Committee membership comprise of the following:-

The Hon. Chrysanthus Okemo, EGH, MP **(Chairman)**

The Hon. (Prof.) Philip Kaloki, MP **(Vice Chairman)**

The Hon. Jakoyo Midiwo, MGH, MP

The Hon. Musikari Kombo, EGH, MP

The Hon. Lucas Chepkitony, MP

The Hon. Sammy Mwaita, MP

The Hon. Lenny Kivuti, MP

The Hon Nelson Gaichuhie, MP

The Hon. Ntoitha M'Mithiaru, MP

The Hon. Shakeel Ahmed Shabbir, MP

The Hon. Nkoidila Ole Lankas, MP

The Finance, Planning & Trade Committee is one of the Departmental Committees established under Standing Order No. 198 whose functions *are inter alia*:-

- (i) to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
- (ii) to study the programme and policy objectives of the ministries and departments and the effectiveness for the implementation.
- (iii) to investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary and as may be referred to them by the House.
- (iv) to make reports and recommendations to the House as often as possible including recommendations of proposed legislation.

## **Committee mandate**

In accordance with Second Schedule of the Standing Orders, the Committee is mandated to consider:-

- ◆ Public finance;
- ◆ Banking and insurance;
- ◆ National planning and population development;
- ◆ Trade, commerce and industry;
- ◆ Tourism promotion and management.

The line Ministries falling within the purview of the Committee are:-

- (i) Office of the Deputy Prime & Ministry of Finance
- (ii) Ministry of Planning, National Development & Vision 2030
- (iii) Ministry of Industrialization
- (iv) Ministry of Tourism
- (v) Ministry of Trade

## **Nomination to Salaries & Remuneration Commission**

Pursuant to Article 230 of the Constitution and Section 7(2) and (10) of the Salaries and Remuneration Act, 2011 the following thirteen (13) persons were nominated by the different prescribed institutions for consideration by the National Assembly for appointment as Members of the Salaries & Remuneration Commission:-

### **Chairperson**

1. Mrs Sarah Jepkemboi Chumo Serem

### **Members**

### **Nominating Body**

2. Mr. Daniel Omondi Ogutu - Public Service Commission
3. Ms Sellestine A. Kiuluku - Judicial Service Commission
4. Mrs Serah Kinyua - Teachers Service Commission
5. Brg. (Rtd) Samuel Ndururi Kirugi - Defence Council
6. Mr. Isaiah Kubai - Central of Organization of Trade Unions
7. Mrs Jackquiline Mugo - Federation of Kenyan Employers
8. Hon. Peter Oloo Aringo, MP- Parliament
9. Mr. Jason A. N. Namasake - Parliamentary Service Commission

10. Mrs Anne Elizabeth Owuor- Association of Professional Societies in East Africa (APSEA)

**Ex-Officio Members**

11. Mr. Joseph Kinyua, CBS – Permanent Secretary/Treasury- nominated by the Cabinet Secretary responsible for Finance under Article 230(2)(d)(i).
12. Mr Wanjuki Muchemi, CBS - Solicitor General – nominated by the Attorney General under Article 230(2)(d)(ii)
13. Mr. Titus Ndambuki, CBS- Permanent Secretary, Ministry of State for Public Service- nominated by the Cabinet Secretary responsible for Public Service under Article 230(2)(e).

**Committee meetings**

The Committee held five Sittings during which twelve (12) of the said thirteen (13) candidates appeared before the Committee and were vetted in accordance with the Public Appointments (Parliamentary Approval) Act No 33 of 2011 for nomination to the Salaries & Remuneration Commission.

**Nomination by Central Organization of Trade Unions (COTU)**

The Committee noted that Article 230(2)(c)(i) of the Constitution provides that one of the persons forming the Salaries and Remuneration Commission shall be a person appointed by an umbrella body representing trade unions and that COTU has nominated Mr. Isaiah Kubai under the said Article.

However, the Committee receive through the Clerk of the National Assembly, letter Ref. UKCS/NA/Vol.1/(13) dated 24<sup>th</sup> November, 2011 from the Union of Kenya Civil Servants, KUPPET, and Universities Non-Teaching Staff Union objecting the nomination by COTU to the Commission on the ground that COTU only represents private sector trade unions and not public sector trade unions. They further claimed to have applied, in December, 2010 for registration of an umbrella body to represent public sector trade unions as provided for in Article 41(4)(c) of the Constitution but have not been registered to-date (**Annex 1**). Consequently, they filed a Judicial Review Application in High Court No. 204 of 2011 against the selection Panel for the Appointment of



Members of Salaries and Remuneration Commission and obtained a Court Order on the same on 14<sup>th</sup> September, 2011 (*Annex 2*)

The Committee resolved to defer the vetting of Mr. Isaiah Kuba and to seek further clarification from the Office of the Attorney General regarding the registration of trade unions and in particular which umbrella body represents trade unions.

**National Police Service Commission**

Article 230 of the Constitution provides that the Salaries and Remuneration Commission shall consist of 14 members one of which is to be nominated by the National Police Service Commission. Given that the Commission has not been constituted, the representative of the National Police Service Commission will be nominated and vetted at the appropriate time.

**Mr. Speaker Sir,**

On behalf of the Departmental Committee on Finance, Planning & Trade, I have the honour and pleasure to present the Committee's Report on the nominees to the Salaries & Remuneration Commission for consideration and adoption by the House.

**Mr. Speaker Sir,**

May I take this opportunity to thank all Members of the Committee for their input and valuable contributions during the deliberations on the matter.

Thank you

Signed .....  .....

**Hon. Chrysanthus Okemo, EGH, MP**

**Chairman,  
Departmental Committee on Finance, Planning & Trade**

Date ..... *8/12/2011* .....

## **BACKGROUND**

### **1. ESTABLISHMENT OF THE SALARIES AND REMUNERATION COMMISSION**

Article 230 of the Constitution provides for the establishment and membership of the Salaries and Remuneration Commission as follows:-

230(1) there is established the Salaries and Remuneration Commission.

(2) The Salaries and Remuneration Commission shall consist of the following person appointed by the President:-

(a) a chairperson

(b) one person each nominated by the following bodies from among persons who are not members or employees of those bodies:-

(i) the Parliamentary Service Commission;

(ii) the Public Service Commission

(iii) the Judicial Service Commission

(iv) the Teachers Service Commission

(v) the National Police Service Commission

(vi) the Defence Council; and

(vii) the Senate, on behalf of the county governments,

(c) one person each nominated by:-

(i) an umbrella body representing trade unions;

(ii) an umbrella body representing employers, and

(iii) a joint forum of professional bodies as provided by legislation;

(d) one person each nominated by:-

(i) the Cabinet Secretary responsible for Finance; and

(ii) the Attorney General; and

(e) one person who has experience in the management of human resources in the public service, nominated by the Cabinet Secretary responsible for public service.

2. **APPOINTMENT PROCESS FOR THE NOMINEES TO THE SALARIES AND REMUNERATION COMMISSION**

The process for the appointment of the Chairperson and Members of the Salaries and Remuneration Commission commenced by the advertisement by the Public Service Commission in the local daily newspapers in August, 2011 followed by interviews conducted by the Selection Panel for the shortlisted candidates.

A letter from the Office of the Permanent Secretary, Secretary to the Cabinet and Head of Public Service dated 18<sup>th</sup> November, 2011 to the Clerk of the National indicated that His Excellency the President has, in consultation with the Right Honourable Prime Minister, has nominated the following persons to be considered for appointment as the Chairperson and Members of the Salaries and Remuneration Commission.

**Chairperson**

1. Under Article 230(2)(a) - Mrs Sarah Jepkemboi Chumo Serem

**Members**

2. Under Article 230(2)(b)(i) – Hon. Oloo Aringo, MP- nominee of the Parliamentary Service Commission.
3. Under Article 230(2)(b)(ii) - Mr. Daniel Ogutu nominee for Public Service Commission
4. Under Article 230(2)(b)(iii) - Ms Sellestine A. Kiuluku, nominee for Judicial Service Commission
5. Under Article 230(2)(b)(iv) - Mrs Serah Kinyua, nominee for Teachers Service Commission
6. Under Article 230(2)(b)(vi) - Brg. (Rtd) Samuel Ndururi Kirugi, nominee for Defence Council
7. Under Article 230(2)(b)(vii) - Mr. Jason A. N. Namasake, nominee of the Senate
8. Under Article 230(2)(c)(i) -Mr. Isaiah Kubai, nominee for Central of Organization of Trade Unions

9. Under Article 230(2)(c)(ii) - Mrs Jacqueline Mugo, nominee of Federation of Kenyan Employers
10. Under Article 230(2)(iii) - Mrs Anne Elizabeth Owuor- Association of Professional Societies in East Africa (APSEA)
11. Under Article 230(2)(d)(i) - Mr. Joseph Kinyua, CBS - Permanent Secretary/Treasury-nominee of the Cabinet Secretary responsible for Finance.
12. Under Article 230(2)(d)(ii) - Mr. Wanjuki Muchemi, CBS - Solicitor General - nominee representing the Attorney General
13. Under Article 230(2)(e) - Mr. Titus Ndambuki, CBS- Permanent Secretary, Ministry of State for Public Service- nominee of the Cabinet Secretary responsible for Public Service.

On 22<sup>nd</sup> November, 2011 the Honourable Speaker in a Communication to the House referred the names of the thirteen (13) nominees to the together with their curriculum vitae to the Departmental Committee on Finance, Planning & Trade for vetting and directed the Committee to submit its report on the nominees to the House on Tuesday 29<sup>th</sup> November, 2011.

### 3. **CONSIDERATION OF THE NOMINEES BY THE COMMITTEE**

In conducting the vetting process, the Committee examined the candidates against the following criteria, amongst others, in accordance with the Public Appointments (Parliamentary Approval) Act No. 33 of 2011.

- (i) Academic qualifications
- (ii) Employment record
- (iii) Professional affiliations
- (iv) Potential conflict of interest
- (v) Knowledge of the relevant subject
- (vi) Overall suitability for the position
- (vii) Tax compliance

During its Sittings held on Thursday 1<sup>st</sup>, Friday 2<sup>nd</sup>, and Tuesday 6<sup>th</sup> December, 2011, the Committee orally interviewed twelve (12) nominees to the Salaries and Remuneration Commission and at the conclusion of the vetting exercise, the Committee made the following observations:-

4. **CHAIRPERSON - MRS SARAH JEPKEMBOI SEREM**

The Committee having considered the curriculum vitae of Mrs. Sarah Jepkemboi Serem and having heard her submissions during the interview, made the following observations on her nomination:-

- i) She holds Masters Degree in Human Resource Management (2002) and Bachelor of Arts Degree (1982) both from the University of Nairobi.
- ii) Has over 28 years experience in Human Resource Management in the corporate world, having worked as the Head of Human Resource Department both at Kenya Post & Telecommunication Corporation from 1981-1990 and Kenya Post Office Savings Bank from 1990 to 2010.
- iii) Currently a Board Member of Mumias Sugar Company from January 2011 to-date and a Director of Young Biz Kenya from April 2010 to-date.
- iv) Has attended various management and leadership courses on Human Resource Management at Kenya Institute of Administration, Kenya Institute of Management, Federation of Kenya Employers (FKE) and workshops organized by Manpower Services. Has also attended Strategic Human Resource Conferences abroad.
- v) Member of the Institute of Human Resource Management and has attended the following professional certificate courses locally and abroad.
  - Personnel Functions in Management (KIM)
  - Personnel Practice – IPM(K)
  - Personnel Management & Industrial Relations (London)

- Certificate in Personnel Practice- London
  - Personnel Policy Formulation – ESAMI, Arusha
  - Performance Management – Sweden
  - Industrial Relations - (FKE)
  - Advanced Supervisory Management – FKE & KPTC
  - Total Quality Management – Tips Management
  - Management Challenge- Out Bound Trust
  - Team Building – Out Bound Trust
- vi) Received the Certificate of Long Service award from Kenya Posts Office Savings Bank in 2006.
- vii) Has never been charged in a Court of Law, has no potential conflict of interest and has fully complied with tax obligation.
- viii) The Committee found the nominee qualified

**OTHER NOMINEES (MEMBERS OF THE COMMISSION)**

5. **Hon. Peter Oloo Aringo, MP**

Nominated under Article 230(2)(b)(i) to represent the Parliamentary Service Commission. The Committee having considered the curriculum vitae of Hon. Aloo Aringo, MP and having heard his submissions during the interview, made the following observations on his nomination:-

- i) He holds Masters Degree (Arts) from University of Toronto (1972) and Bachelor of Arts Degree from University of Nairobi (1969).
- ii) Has wealth of experience having served six terms of 35 years as a Member of Parliament between 1974 and 2007 during which he served as a Cabinet Minister in the following ministries:-
- Information & Broadcasting (1980-1982)
  - Environment & Natural Resources (1982)
  - Ministry of Labour (1985-1986)
  - Ministry of Education (1986-1991)
  - Ministry of Manpower (1991)
  - Assistant Minister for Education (1979-1980)

- iii) Founder Commissioner and Vice-Chairman of the Parliamentary Service Commission (1999-2007) during which he initiated the following -
  - 12 year Strategic Plan of Parliament (2000-2012.)
  - Restructuring of the Parliamentary Service.
  - Creation of the Budget Committee and Office in Parliament.
- iv) Received the Presidential award and honour of the Elder of the Golden Heart (EGH) in 1982.
- v) The Committee found the nominee qualified.

6. **Mr. Daniel Omondi Ogutu**

Nominated under Article 230(2)(b)(ii) to represent the Public Service Commission. The Committee having considered the curriculum vitae of Mr. Daniel Omondi Ogutu and having heard his submissions during the interview, made the following observations on his nomination:-

- i) He holds Masters Degree in Business Administration from Eastern and Southern Africa Management Institute (ESAMI) and Maastricht School of Management (2006) and Bachelor of Arts Degree from Kenyatta University (1992).
- ii) Currently the General Manager, Human Resource & Development at Agricultural Finance Corporation from January, 2011.
- iii) Has professional experience in personnel matters having worked in the public service in the following ministries as Human Resource Management Officer:-
  - Commission for Higher Education (2008-2010)
  - Ministry of State for Public Service (2007-2008)
  - Directorate of Personnel Management (2001-2005)
- v) Has attended various training on Human Resource Management, new labour laws, performance management at the Institute of Human Resource Management, Federation of Kenya Employers and ESAMI.

- v) Has never been charged in a Court of Law, has no potential conflict of interest and has fully complied with tax obligation.
- vi) The Committee found the nominee qualified.

7. **Ms Sellestine Kiuluku**

Nominated under Article 230(2)(b)(ii) to represent the Judicial Service Commission. The Committee having considered the curriculum vitae of Ms Sellestine Kiuluku and having heard her submissions during the interview, made the following observations on her nomination.-

- 1) She is a holder of Masters Degree in Public Administration (Netherlands -2003) and Bachelor of Education Degree from Kenyatta University (1989).
- ii) Currently the Director of Human Resources and Administration at Interim Independent Electoral Commission from 2010 to-date. Has wide exposure in Manpower Development having worked in the following organization as Human Resource Manager prior to this appointment:-
  - Nairobi City Water & Sewerage Company (2004-2010)
  - National Water Conservation & Pipeline Company (1999-2004)
  - National Museums of Kenya (1996-1999)
  - Agricultural Development Corporation (1990-1995)
- iii) A Member of the Institute of Human Resource Management and has attended several management courses E.g.
  - Performance contracting and development
  - Management and Leadership Development
  - Training needs assessment
  - Negotiation Skills and Presentation Skills
  - Human Resource Management
  - Strategic Planning and Management
  - Corporate Governance/Effective Director program



- iv) Has professional skills and expertise in the following fields:-
  - Leadership and management skills.
  - Salaries and Remuneration policy development and negotiation skills.
  - Human Resources Management and Labour relations skills.
  - Change initiation and management skills.
  - Negotiations, team building and supervisory skills.
  - Budgeting, strategic planning skills.
  - Customer Care skills.
- v) Has never been charged in a Court of Law, has no potential conflict of interest and has fully complied with tax obligation.
- vi) List of publications include Masters programme dissertation – Civil/Public Service Reforms in Kenya.
- vii) The Committee found the nominee qualified.

8. **Mrs Serah Kinyua**

Nominated under Article 230(2)(b)(iv) to represent the Teachers Service Commission. The Committee having considered the curriculum vitae of Mrs Serah Kinyua and having heard her submissions during the interview, made the following observations on her nomination:-

- i) She holds Masters Degree in Public Administration from University of Connecticut (USA-1980) and Bachelor of Arts Degree from Makerere University in 1972.
- ii) Has wealth of experience in personnel matters having worked in the public service as a Personnel Officer from 1972 in various ministries upto 1982 when she was appointed by the Teachers Service Commission as the Chief Personnel Officer where she retired in 2002 as the Chief Human Resource Manager.
- iii) Has attended several personnel management courses locally at Kenya Institute of Administration and abroad in Harare and Britain.

- iv) Has never been charged in a Court of Law, has no potential conflict of interest and has fully complied with tax obligation.
- v) The Committee found the nominee qualified.

9. **Brig. (Rtd) Samuel Ndururi Kirugu**

Nominated under Article 230(2)(b)(vi) to represent the Defence Council  
The Committee having considered the curriculum vitae of Brg. (Rtd) Samuel Ndururi Kirugi and having heard his submissions during the interview, made the following observations on his nomination:-

- i) He holds Masters Degree in International Studies (University of Nairobi) and Bachelor of Education (Kenyatta University-1977).
- ii) Has extensive military experience from 1979 to 2002 and has attended various management courses both at Kenya Institute of Administration and University of Nairobi E.g.
  - Project Development and Management.
  - Disaster Management.
  - Management of Change
  - Defence Resources Management.
- iii) Has attended various military training locally and abroad E.g.
  - International Peacekeeping (Canada)
  - Peace support Operations (United Kingdom)
  - Artillery Employment (Pakistan)
- iv) Has never been charged in a Court of Law, has no potential conflict of interest and has fully complied with tax obligation.
- v) The Committee found the nominee qualified.

10. **Mr. Jason Nambulu Namasake**

Nominated under Article 230(2)(b)(vii) to represent the Senate. The Committee having considered the curriculum vitae of Mr. Jason A. N. Namasake and having heard his submissions during the interview, made the following observations on his nomination:-

- i) He holds Masters Degree in Law (LLM) from University of Dar-es-Salaam (1972) and Bachelor of Law Degree (LLB) from University of London (1974).
- ii) An Advocate of the High Court of Kenya, Lecturer at Catholic University and a consultant in Labour and Industrial Relations.
- iii) Has wealth of experience in labour and industrial relations matters having worked at Kenya Federation of Kenya Employers (FKE) for 26 years from 1980 to 2006 during which he rose through the ranks to head the Legal Services & Industrial Relations Department and representing employers in Industrial Court, Ministry of Labour and other Government Departments.
- iv) Has practical experience on industrial relations, negotiations and arbitration by representing and presenting papers on behalf of FKE in national and international fora (ILO conferences). Has also attended several courses and seminars on labours issues. E.g. Internship Course on ILO Operations – Geneva; Training of Trainers Course – Italy; study tours to USA (1989), Mauritius (1980), Norway (1986), Japan (1995).
- v) Has never been charged in a Court of Law, has no potential conflict of interest and has fully complied with tax obligation.
- vi) The Committee found the nominee qualified.

11. **Mrs Jacqueline Mugo, OGW**

Nominated under Article 230(2)(c)(ii) to represent Federation of Kenya Employers. The Committee having considered the curriculum vitae of Mrs Jacqueline Mugo and having heard her submissions during the interview, made the following observations on her nomination:-

- i) She is a holder of Bachelors in Law (LLB) from the University of Nairobi (1981) and a Higher Diploma in Human Resource Management from the Institute of Personnel Management (2001).

- ii) An Advocate of the High Court of Kenya, Lecturer at Catholic University and a consultant in Labour and Industrial Relations
- iii) Currently the Executive Director/Chief Executive of Federation of Kenya Employers from 2006 to-date Has over 20 years wealth of experience in Human Resource Management and industrial/labour relations matters having worked at in the following organizations:
  - Federation of Kenya Employers- Legal/Industrial Relations Officer (1989-1996)
  - Unilever Kenya Ltd.- Employees Relations Manager (1996)
  - Unilever Kenya Ltd.- Regional Human Resources Operations Manager (2001)
  - Kenya Airways Ltd. Head of Human Resources (2002-2004)
  - National Aids Control Council – Head of Human Resources and Administration (2004-2005)
  - Federation of Kenya Employers – Deputy Executive Director (September, 2005)
- iv) A Member of the Law Society of Kenya from 1983; Institute of Chartered Arbitrators from 2009; and Institute of Personnel Management from 2002.
- v) Has been appointed to serve in the following Boards:-
  - National Social Security Fund;
  - Higher Education Loans Board;
  - Labour Advisory Board;
  - General Wages Council;
  - National Industrial Council;
  - National Health Insurance Fund;
  - Productivity Centre of Kenya;

Has also been elected to serve in the following Boards:-

- Chairman, East African Employers' Organization
- Member, Governing Board of ILO
- Member, International Organization of Employers

- Deputy Secretary, Business Africa (formerly Pan African Employers Confederation)

vi) Has received the following Honours and Awards:-

- Order of the Grand Warrior of Kenya (OGW)-2008
- Appreciation of support of YES-MSE programme-2007
- Outstanding Role in Advocating for Employers' Rights, ILO - 2011
- Recognition of participation in the United Nations Global Compact - 2009
- Appreciation of participation in growing sustainable business initiative - UNDP

vii) Has published several Articles and Editorial pieces in the Business Daily and Daily Nation from 2009 to-date on the varied topics relating to employers obligations, employees rights, safety in work place and labour relations:-

viii) Has never been charged in a Court of Law, has no potential conflict of interest and has fully complied with tax obligation.

ix) The Committee found the nominee qualified.

12. **Mrs Anne Elizabeth Owuor**

Nominated under Article 230(2)(iii) to represent the Association of Professional Societies in East Africa (APSEA).

The Committee having considered the curriculum vitae of Mrs Anne Elizabeth Owuor and having heard her submissions during the interview, made the following observations on her nomination -

- i) She holds Masters Science Degree (2007) and Post Graduate Diploma in Audit Management, Consultancy, and Risk Management from the University of Central England, Birmingham (2006).
- ii) Has extensive professional experience in financial, accounting and auditing matters having worked at Kenya Power & Lighting

Company for over 20 years and as Commercial Services Debt Control Manager both from 1997 -1999 and from 2003 to-date.

- iii) A certified Public Accountant, CPA (K); Certified Internal Auditor, CIA; Certified Internal Auditor Quality Assessor; and Certified Training Instructor. A Fellow of the Institute of Certified Public Accountants of Kenya and a member of both the Institute of Internal Auditors and Association of Women Accountants.
- iv) Has attended several courses, seminars and conferences both locally and internationally on the following-
  - Auditing and Accounting
  - Management and Leadership
  - Corporate Governance
  - Strategic Planning and Risk Management
  - Team Building and Performance Management
  - Leadership Change and Organizational Renewal
- v) Has presented the following Papers:-
  - Accountants' role in Micro Financing Projects.
  - Harnessing Finances in the Corporate Sector.
  - Overview, Trend of the Audit Profession and Risk Based Auditing.
  - Challenges of promotion of internal auditing profession in the public sector.
- vi) Received commendation and Fellowship award from ICPAK for the promotion of professionalism in the accountancy profession. Also received recognition from the Institute of Internal Auditors (Inc.), the global body for the promotion of Internal Auditing in Kenya.
- vii) Has never been charged in a Court of Law, has no potential conflict of interest and has fully complied with tax obligation.
- viii) The Committee found the nominee qualified.

13. **Mr. Wanjuki Muchemi, CBS – Solicitor General**

Nominated under Article 230(2)(d)(ii) to represent the Attorney General.

The Committee having considered the curriculum vitae of Mr. Wanjuki Muchemi and having heard his submissions during the interview, made the following observations on his nomination.-

- i) He holds Masters Degree in Business Administration (2003) and Bachelor of Laws Degree (LL.B- 1975) both from the University of Nairobi.
- ii) Currently the Solicitor General of the Republic of Kenya and the principal assistant to the Attorney-General since 2003 and was in private legal practice from 1977-2003 prior to the appointment.
- iii) Has extensive professional experience on legal matters having been admitted to the Roll of Advocates in 1976, appointed as a Commissioner for Oaths in 1984, admitted both as an Associate of the Chartered Institute of Arbitrators, London in 1999 and a Fellow of the said Institute in 2000.
- iv) Has attended numerous international and regional assignments including leader of various legal delegation to the United Nations General Assembly, especially to the 6<sup>th</sup> Committee of the United Nations, from 2003 to-date. Has also attended numerous courses, seminars and workshops both locally and abroad on relevant fields of law.
- v) A Member of the following from 2003 to-date:-
  - Permanent Public Remuneration Review Board.
  - Ministerial Task Force on the Development of Policy and Legal Framework for Legal Education in Kenya.
  - National Committee on Implementation of International Humanitarian Law.
  - Convenor of key results under the Governance Justice Law and Order Programme (GJLOS).

- vi) A Member of the following Professional Societies:-
  - Law Society of Kenya
  - Chartered Institute of Arbitrators, London UK (FCI Arb).
  - Chartered Institute of Arbitrators, Kenya Chapter.
  - Institute of Certified Public Secretaries of Kenya, CPS (K).
- vii) Has never been charged in a Court of Law, has no potential conflict of interest and has fully complied with tax obligation.

14. **Mr. Joseph Kinyua, CBS – Permanent Secretary/Treasury**

Nominated under Article 230(2)(d)(i) as the Permanent Secretary, Treasury to represent the Cabinet Secretary responsible for Finance.

He informed the Committee that:-

- (i) The role of Treasury in the Salaries & Remuneration Commission will be very crucial in term of assisting the government by providing a stable framework for the remuneration of all public officers which is attractive so as to retain quality staff and manage the wage bill.
- (ii) The Treasury's role will be to assist the government by providing broad economic perspective regarding the factors to be taken into account by the Commission when determining the remuneration.
- (iii) Through harmonization of the salary structure, the Commission will assist in minimizing the discrepancies and the differentials in the salaries which has occasioned distortion and caused public institutions quality staff.
- (iv) The Commission should play a greater role in educating the public on fiscal sustainability and competitiveness of the economy.

15. **Mr. Titus Ndambuki, CBS- Permanent Secretary, Public Service**

Nominated under Article 230(2)(e) as the Permanent Secretary, Ministry of State for Public Service to represent the Cabinet Secretary responsible for Public Service.



He informed the Committee that:-

- (i) The Salaries and Remuneration Commission will undertake benchmarking and harmonization of the salaries through job valuation in the public service to ascertain their competitiveness, purchasing power parity, ability to pay the salaries in the country and beyond the region.
- (ii) The Commission has to determine the remuneration package for various government levels as provided for in the new Constitution before the next General Election in 2012.
- (iii) The Commission will determine and set the salary structure so that nobody will be entitled to retain his/her salary package from the previous employer when appointed so as to encourage mobility by transferring services on point of promotion.
- (iv) The Salary Revision for all sub-sectors will be undertaken by the Commission within a legal framework so as to minimize the strikes currently being experienced in the country.
- (v) Performance contracting for all public officers is of necessity so as to measure productivity and for consideration of promotion.

## 16. **COMMITTEE'S OBSERVATIONS**

### (i) **Nomination by Central Organization of Trade Unions (COTU)**

The Committee noted that Article 230(2)(c)(i) of the Constitution provides that one of the persons forming the Salaries and Remuneration Commission shall be a person appointed by an umbrella body representing trade unions and that COTU has nominated Mr. Isaiah Kuba under the said Article.

However, the Committee received through the Clerk of the National Assembly, letter Ref. UKCS/NA/Vol.1/(13) dated 24<sup>th</sup> November, 2011 from the Union of Kenya Civil Servants, KUPPET, and Universities Non-Teaching Staff Union objecting the nomination by COTU to the Commission on the ground that COTU only represents private sector

trade unions and not public sector trade unions. They further claimed to have applied, in December, 2010 for registration of an umbrella body to represent public sector trade unions as provided for in Article 41(4((c) of the Constitution but have not been registered to-date. Consequently, they filed a Judicial Review application in High Court No. 204 of 2011 against the selection Panel for the Appointment of Members of Salaries and Remuneration Commission and obtained a Court Order on the same on 14<sup>th</sup> September, 2011.

The Committee resolved to defer the vetting of Mr. Isaiah Kuba and to seek further clarification from the Office of the Attorney General regarding the registration of trade unions and in particular which umbrella body represents trade unions.

(ii) **Nomination of Bg.(Rtd.) Samuel Ndururi Kirugi**

The Committee received through the Clerk of the National Assembly, a letter for Capt.(Rtd.) Fredrick Kalumbo objecting to the nomination of Brg (Rtd.) Samuel Kirugi for appointment to the Salaries and Remuneration Commission. Consequently the Committee invited Capt.(Rtd.) Fredrick Kalumbo to appear before it regarding the same on Thursday 8<sup>th</sup> December, 2011.

The Committee considered the complainant and submissions of Capt.(Rtd) Fredrick Kalumbo and was particularly concerned with establishing if the complainant raised questions as to the personal integrity, competence and suitability of Brg.(Rtd) Samuel Ndururi Kirugi as set out at Article 73(2) in Chapter 6 of the Constitution and made the following observations:-.

(a) The complainant did not establish that Brg. (Rtd) Samuel Ndururi Kirugi is unsuitable to be a Commissioner in the Salaries and Remuneration Commission.

(b) His allegations were of a personal nature between him and Brg(Rtd.) Samuel Ndururi Kirugi.

(c) He disclosed that his allegation of nepotism was based on the fact that when he was first placed under Brig (Rtd.) Samuel Kirugi, he was ordered to work under the supervision of an officer who was junior in rank to him. He considered this “nepotism” as he had come from a different Unit while Brg.(Rtd.) Samuel Kirugi and the officer he was to work under came from another Unit and both had worked together for

The Committee did not find any evidence of nepotism and indeed the Committee found that Brg.(Rtd.) Kirugi may well have had operational reasons for first requiring the complainant to work under an officer from the Unit he was joining, even though the officer was junior in rank. The Committee therefore recommends the appointment of Brg.(Rtd,) Samuel Ndururi Kirugi as a Commissioner in the Salaries and Remuneration Commission.

(iii) **National Police Service Commission**

Article 230 of the Constitution provides the Salaries and Remuneration Commission shall consist of 14 members one of which is to be nominated by the National Police Service Commission. Given that the Commission has not been constituted, the representative of the National Police Service Commission will be nominated and vetted at the appropriate time.

17. **COMMITTEE’S RECOMMENDATIONS**

**The Committee recommends that pursuant to Article 230 of the Constitution, this House approves the following persons for the appointment by H.E the President to the Salaries and Remuneration Commission.**

(a) **Chairperson of the Salaries & Remuneration Commission**

1. Mrs Sarah Jepkemboi Chumo Serem

(b) **Members of the Salaries & Remuneration Commission**

2 Hon. Oloo Aringo, MP - Parliamentary Service Commission.

3. Mr Daniel Ogutu - Public Service Commission

- 4 Ms Sellesine A Kiuluku - Judicial Service Commission
5. Mrs Serah Kinyua - Teachers Service Commission
6. Brg. (Rtd) Samuel Ndururi Kirugi -Defence Council
7. Mr. Jason A. N Namasake- The Senate
8. Mrs Jacqueline Mugo - Federation of Kenyan Employers
9. Mrs Anne Elizabeth Owuor- Association of Professional Societies in East Africa (APSEA)
10. Mr. Joseph Kinyua, CBS – Permanent Secretary/Treasury
11. Mr. Wanjuki Muchemi, CBS - Solicitor General
12. Mr. Titus Ndambuki, CBS- Permanent Secretary, Ministry of State for Public Service-

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# UNION OF KENYA CIVIL SERVANTS

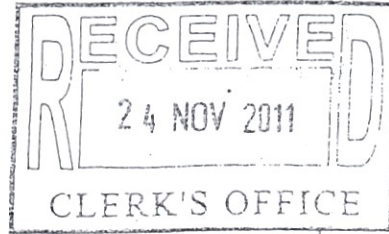
Ufundi Co-op. Plaza, 8th Floor  
Moi Avenue, Next to Jeevanjee Gardens  
P.O. Box 48083 - 00100 GPO, Nairobi  
Tel: 020 2212589, 8001514  
Tel-Fax: 020 2240423  
Email: info@ukcs.or.ke

ANNEX I  
213

UKCS/NA/VOL. II (13)

24<sup>th</sup> November, 2011

Clerk to the National Assembly  
Parliament Building  
P. O. Box 41842  
**NAIROBI**



Attn: Chairman - Finance Committee

Dear Sir,

**RE: OBJECTION TO THE NOMINATION AND APPOINTMENT OF A MEMBER TO THE SALARIES AND REMUNERATION COMMISSION BY COTU**

The Union of Kenya Civil Servants (UKCS) together with other unions representing workers in the public service went to court on August 24, 2011 under a Certificate of Urgency regarding the above mentioned matter.

The unions namely: Union of Kenya Civil Servants (UKCS), Kenya National Union of Teachers (KNUT), Kenya Union of Post Primary Education Teachers (KUPPET), the Universities Non-Teaching Staff Union (UNTESU) and the Universities Academic Staff Union (UASU) are the registered and recognized trade unions that filed the Judicial Review Application through their following members:

- William Ochieng Ogolla - UKCS
- Leonard Rufus Ochieng - KUPPET
- Anne Keeru Muli - UNTESU

This was occasioned by an advert appearing in one of the local dailies, The Star of August 11, 2011, in which COTU had advertised for a position in the Salaries and Remuneration Commission as provided for in the constitution. Despite the fact that COTU is an umbrella body representing trade unions, it represents private sector trade unions.

The public service trade unions in Kenya had applied to register their own umbrella body in an application dated December 22, 2010 as provided for in Article 41 (4c) of the Constitution of Kenya. This was a decision reached by the trade unions whose members draw remuneration from the Exchequer.

ional Chairman -	Noah Rotich	Secretary General -	Tom M. Odege	National Organising Secretary -	Atisokor M. Ishaq
National Vice Chairman -	John M. Nzau	1st Deputy Secretary General -	Jerry S. Ole Kina	Deputy National Organising Secretary -	Titi M. Mbwana
National Vice Chairman -	Ramadhan Bendersa	2nd Deputy Secretary General -	Ruth Barasa	National Treasurer -	Justus K. Mugo
		1st Ass. Secretary General -	Gregory Shikanda	Deputy National Treasurer -	Rehema A. Ibrahim
		2nd Ass. Secretary General -	Joseph Sharon	Women Leader -	Melda Ogutu
				National Young Worker -	Mary Mukiri

ALL CORRESPONDENCE SHOULD BE ADDRESSED TO THE SECRETARY GENERAL

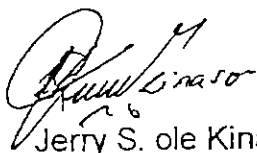
It is worthwhile to note that none of the public service trade unions listed above is affiliated to COTU and as such it (COTU) does not represent any of them. Thus, being appointed into the Salaries and Remuneration Commission defeats the purpose and objectives of the Commission.

Despite the presence of a Court Order (Attached) the Secretary to the selection panel for the appointment of members of the Salaries and Remuneration Commission went ahead to select and forward the name of a nominee by COTU. We view this as absolute disregard and contempt of court.

We are therefore urgently appealing to you to intervene on behalf of the public servants' trade unions to ensure that the rule of law is respected and we are given an opportunity to be heard; for any attempts to impose representation to the public servants will be resisted with all the necessary force.

Thank you.

Yours faithfully,



Jerry S. ole Kina

**For: Secretary General**

**Union of Kenya Civil Servants**

C. C - Chairman  
Justice & Legal Affairs Committee



REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NAIROBI  
MILIMANI LAW COURTS  
JUDICIAL REVIEW APPLICATION NO. 204 OF 2011

14 SEP 2011

RECEIVED

REPUBLIC ..... APPLICANT  
..... VERSUS .....  
REGISTRAR OF TRADE UNIONS ..... 1<sup>ST</sup> RESPONDENT  
THE SECRETARY,  
SELECTION PANEL FOR THE APPOINTMENT OF MEMBERS  
OF THE SALARIES AND REMUNERATION COMMISSION ..... 2<sup>ND</sup> RESPONDENT  
THE ATTORNEY GENERAL ..... 3<sup>RD</sup> RESPONDENT  
AND  
CENTRAL ORGANIZATION OF  
TRADE UNIONS (COTU) ..... 1<sup>ST</sup> INTERESTED PARTY  
  
EX-PARTE  
WILLIAM OCHIENG OGOLLA  
LEONARD RUFUS OCHIENG  
ANNE KEERU MULI

RECEIVED  
14 SEP 2011

IN CHAMBERS ON 9<sup>TH</sup> SEPTEMBER 2011  
BEFORE THE HONOURABLE LADY JUSTICE M.A. NG'AWA

RECEIVED  
14 SEP 2011  
SECRETARY OF STATE FOR PUBLIC  
WORKS AND INFRASTRUCTURE

ORDER

UPON READING the application presented to this Court on 6<sup>th</sup> September 2011 under Order 53 Rules 1, 2, 3 and 4 of the Civil Procedure Rules Chapter 21 Laws of Kenya AND UPON READING the statutory statement and the verifying affidavit of William Ochieng Ogolla, Leonard Rufus Ochieng and Anne Keeru Muli all sworn on 22<sup>nd</sup> August 2011 and the annexures thereto AND UPON HEARING Counsel for the Applicants, Counsel for the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents and Counsel for the Interested Party in the absence of the 1<sup>st</sup> Respondent;

IT IS HEREBY ORDERED:-

1. THAT the leave granted on 26<sup>th</sup> August 2011 it being Judicial Review proceedings do operate as a stay till the finalization of the Judicial Review Proceedings.
2. THAT there will be costs in the cause.

GIVEN under my hand and the seal of this Court this 9<sup>th</sup> day of September, 2011.

ISSUED at Nairobi this ..... day of ..... 2011.

THIS IS TRUE  
OF THE ORIGINAL  
13/9/11  
DEPUTY REGISTRAR  
HIGH COURT OF KENYA

DEPUTY REGISTRAR  
HIGH COURT OF KENYA, NAIROBI

J.A. GUSERWA & CO. ADVOCATES  
RECEIVED  
14 SEP 2011  
Sign: ..... Time: 10:55  
P.O. Box 8384-00200, NAIROBI

**MINUTES OF THE FORTY-NINTH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE HELD ON THURSDAY 1<sup>ST</sup> DECEMBER, 2011 IN COMMITTEE ROOM ON 5<sup>TH</sup> FLOOR, CONTINENTAL BUILDING AT 10.00 A.M.**

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**PRESENT**

Hon. Chrysanthus Okemo, EGH, M.P (Chairman)

Hon. Jakoyo Midiwo, MGH, M.P

Hon. Lucas Chepkitony, M.P

Hon. Nelson Gaichuhie, MP

Hon. Ntoitha M'Mithiaru, MP

Hon. Ahmed Shakeel Shabbir, MP

**ABSENT WITH APOLOGY**

Hon. (Prof.) Philip Kaloki, M.P (Vice-Chairman)

Hon. Musikari Kombo, EGH, M.P

Hon. Nkoidila Ole Lankas, MP

Hon. Sammy Mwaita, MP

Hon. Lenny Kivuti, MP

**IN ATTENDANCE**

**NOMINEES TO THE SALARIES AND REMUNERATION COMMISSION**

Brig. (Rtd) Samuel Ndururi Kirugu - Member

Hon. Peter Oloo Aringo, MP - Member

Mrs. Serah Kinyua - Member

Mr. Jason Nambalu Namasake - Member

**KENYA NATIONAL ASSEMBLY**

Florence Atenyo- Abonyo - First Clerk Assistant

Evans Oanda - Third Clerk Assistant

Anthony Njoroge - Legal Counsel

**MIN. NO. 225/2011 VETTING OF NOMINEES TO THE SALARIES AND REMUNERATION COMMISSION**

In conducting the vetting process, the Committee examined the nominees against the following criteria amongst others,



in accordance with the Public Appointments (Parliamentary Approval) Act No 33 of 2011-

- (i) Academic qualifications
- (ii) Employment record
- (iii) Knowledge of the relevant subject
- (iv) Overall suitability for the position
- (v) Professional affiliations
- (vi) Potential conflict of interest
- (vii) Tax compliance

**MIN. NO. 226/2011**

**BRIG. (RTD) SAMUEL NDURURI KIRUGU**

He informed the Committee that.-

- He holds Masters Degree in International Studies (University of Nairobi) and Bachelor of Education (Kenyatta University-1977).
- Has extensive military experience from 1979 to 2002 and has attended various management courses both at Kenya Institute of Administration and University of Nairobi E.g.
  - Project Development and Management.
  - Disaster Management.
  - Management of Change
  - Defence Resources Management.
- Has attended various military training locally and abroad E.g.
  - International Peacekeeping (Canada)
  - Peace support Operations (United Kingdom)
  - Artillery Employment (Pakistan)
- Has never been charged in a Court of Law, has no potential conflict of interest and has fully complied with tax obligation.

He informed the Committee that:-

- He holds Masters Degree (Arts) from University of Toronto (1972) and Bachelor of Arts Degree from University of Nairobi (1969).
- Has wealth of experience having served six terms of 35 years as a Member of Parliament between 1974 and 2007 during which he served as a Cabinet Minister in the following ministries:-
  - Information & Broadcasting (1980-1982)
  - Environment & Natural Resources (1982)
  - Ministry of Labour (1985-1986)
  - Ministry of Education (1986-1991)
  - Ministry of Manpower (1991)
  - Assistant Minister for Education (1979-1980)
- Founder Commissioner and Vice-Chairman of the Parliamentary Service Commission (1999-2007) during which he initiated the following:-
  - 12 year Strategic Plan of Parliament (2000-2012.)
  - Restructuring of the Parliamentary Service.
  - Creation of the Budget Committee and Office in Parliament.
- Received the Presidential award and honour of the Elder of the Golden Heart (EGH) in 1982.

He informed the Committee that:-

- He holds Masters Degree in Law (LLM) from University of Dar-es-Salaam (1972) and Bachelor of Law Degree (LLB) from University of London (1974).

- An Advocate of the High Court of Kenya. Lecturer at Catholic University and a consultant in Labour and Industrial Relations.
- Has wealth of experience in labour and industrial relations matters having worked at Kenya Federation of Kenya Employers (FKE) for 26 years from 1980 to 2006 during which he rose through the ranks to head the Legal Services & Industrial Relations Department and representing employers in Industrial Court, Ministry of Labour and other Government Departments.
- Has practical experience on industrial relations, negotiations and arbitration by representing and presenting papers on behalf of FKE in national and international fora (ILO conferences). Has also attended several courses and seminars on labours issues E.g. Internship Course on ILO Operations – Geneva; Training of Trainers Course – Italy; study tours to USA (1989), Mauritius (1980), Norway (1986), Japan (1995).
- Has never been charged in a Court of Law, has no potential conflict of interest and has fully complied with tax obligation.

**MIN. NO. 229/2011**

**MRS SERAH KINYUA**

She informed the Committee that:-

- She holds Masters Degree in Public Administration from University of Connecticut (USA-1980) and Bachelor of Arts Degree from Makerere University in 1972.
- Has wealth of experience in personnel matters having worked in the public service as a Personnel Officer from 1972 in various ministries upto 1982 when she was appointed by the Teachers Service Commission as the

**MINUTES OF THE FIFTY-THIRD SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE HELD ON THURSDAY 8<sup>TH</sup> DECEMBER, 2011 IN COMMITTEE ROOM NO. 9, MAIN PARLIAMENT BUILDING AT 10.00 A.M.**

---

**PRESENT**

Hon. Chrysanthus Okemo, EGH, M.P (Chairman)

Hon. Lucas Chepkitony, M P

Hon Ahmed Shakeel Shabbir, MP

Hon. Sammy Mwaita, MP

Hon. Nkoidila Ole Lankas, MP

Hon. Lenny Kivuti, MP

**ABSENT WITH APOLOGY**

Hon. (Prof ) Philip Kaloki, M.P (Vice-Chairman)

Hon. Jakoyo Midirwo, MGH, M P

Hon. Musikari Kombo, EGH, M P

Hon. Nelson Gachuhie, MP

Hon. Ntoitha M'Mithiaru, MP

**IN ATTENDANCE**

Capt. (Rtd) Fredrick Kalumbo

**KENYA NATIONAL ASSEMBLY**

Florence Atenyo- Abonyo - First Clerk Assistant

Anthony Njoroge - Legal Counsel

**MIN. NO. 249/2011**

**CONFIRMATION OF THE MINUTES**

Minutes of the Fifty-Second Sitting of the Committee held on Tuesday 6<sup>th</sup> December, 2011 were confirmed by the Members present and signed by the Chairman after being proposed by Hon. Lucas Chepkitony, MP and Seconded by Hon. Sammy Mwaita, MP.

**MIN. NO. 250/2011**

**EVIDENCE BY CAPT.(RTD.) FREDRICK KALUMBO**

Capt. (Rtd) Fredrick Kaumbo informed the Committee that

he was objecting to the nomination of Brg (Rtd) Samuel Ndururi Kirugi to the Salaries and Remuneration Commission due to the following:-

- (i) Brg (Rtd.) Samuel Ndururi Kirugi is temperamental, full of personal vendetta and hatred in addition to being non-forgiving.
- (ii) He worked under Brg(Rtd) Samuel Ndururi Kirugi from 1986 to 1999 during which he suffered as follows:-
  - In 1986, while in Nginyang Training Camp, he intimidated him and degraded him in the presence of his juniors and thereafter drafted charges against him which were entered into his personal file.
  - In 1987 at the School of infantry where he as an instructor, he oftenly provoked him so has to cause him problems.
  - In 1997, during a six months course at the School of Artillery, he used the opportunity to intimidate him and eventually failed him on the course for not attending the final military exercise due to ill-health despite having attained the required marks. Consequently he could not be promoted to the rank of Major and was forced to repeat the same course in 1999.
- (iii) In general he was demoralized and suffered emotionally during his service while working under him and he was eventually retired in 2000 at the tender age of 39 years and this affected his capacity to educate his children.

**MIN. NO.251/2011      COMMITTEE'S OBSERVATIONS**

The Committee considered the complainant and submissions of Capt (Rtd) Fredrick Kalumbo and was particularly concerned with establishing if the complainant raised questions as to the personal integrity, competence and suitability of Brg.(Rtd) Samuel Ndururi Kirugi as set out at Article 73(2) in Chapter 6 of the Constitution and made the following observations.-.

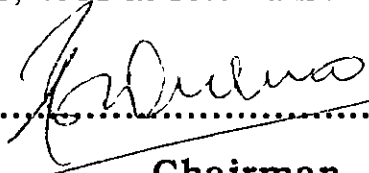
- (i) The complainant did not establish that Brg. (Rtd) Samuel Ndururi Kirugi is unsuitable to be a Commissioner in the Salaries and Remuneration Commission.
- (ii) His allegations were of a personal nature between him and Brg(Rtd.) Samuel Ndururi Kirugi.
- (iii) He disclosed that his allegation of nepotism was based on the fact that when he was first placed under Brig (Rtd ) Samuel Kirugi, he was ordered to work under the supervision of an officer who was junior in rank to him. He considered this "nepotism" as he had come from a different Unit while Brg (Rtd.) Samuel Kirugi and the officer he was to work under came from another Unit and both had worked together for long

**MIN. NO.252/2011      COMMITTEE'S RECOMMENDATION**

The Committee did not find any evidence of nepotism and indeed the Committee found that Brg.(Rtd ) Kirugi may well have had operational reasons for first requiring the complainant to work under an officer from the Unit he was joining, even though the officer was junior in rank.

The Committee therefore recommends the appointment of Brg.(Rtd,) Samuel Ndururi as a Commissioner in the Salaries and Remuneration Commission.

The Chairman adjourned the meeting at one O' Clock until Tuesday 13<sup>th</sup> December, 2011 at 10.00 a.m.

Signed .....  .....

**Chairman**

Date..... 13/12/2011 .....

**MINUTES OF THE FIFTY-SECOND SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE HELD ON TUESDAY 6<sup>TH</sup> DECEMBER, 2011 IN COMMITTEE ROOM ON 5<sup>TH</sup> FLOOR, CONTINENTAL BUILDING AT 10.00 A.M.**

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**PRESENT**

Hon. Chrysanthus Okemo, EGH, M.P (Chairman)

Hon. Musikari Kombo, EGH, M.P

Hon. Lucas Chepkitony, M P

Hon. Ahmed Shakeel Shabbir, MP

Hon. Sammy Mwaita, MP

**ABSENT WITH APOLOGY**

Hon. (Prof.) Philip Kaloki, M P (Vice-Chairman)

Hon. Jakoyo Midiwo, MGH, M.P

Hon. Nkoidila Ole Lankas, MP

Hon. Lenny Kivuti, MP

Hon. Nelson Gaichuhie, MP

Hon Ntoitha M'Mithiaru, MP

**IN ATTENDANCE**

**NOMINEES TO THE SALARIES AND REMUNERATION COMMISSION**

Mr Joseph Kinyua, CBS - Permanent Secretary/Treasury

Mr. Titus Ndambuki, CBS- Permanent Secretary, Ministry of State for Public Service

**KENYA NATIONAL ASSEMBLY**

Florence Atenyo- Abonyo - First Clerk Assistant

**MIN. NO. 244/2011 CONFIRMATION OF THE MINUTES**

Minutes of the following previous Sittings of the Committee were confirmed by the Members present and signed by the Chairman

- (1) Forty-Ninth Sitting held on Thursday 1<sup>st</sup> December, 2011 were proposed by Hon. Lucas Chepkitony, MP and Seconded by Hon. Shakeel Shabbir, MP.



- (ii) Fiftieth Sitting held on Thursday 1<sup>st</sup> December, 2011 were proposed by Hon. Sammy Mwaita, MP and Seconded by Hon. Lucas Chepkitony, MP.
- (iii) Fifty-First Sitting held on Friday 2<sup>nd</sup> December, 2011 were proposed by Hon. Lucas Chepkitony, MP and Seconded by the Chairman.

**MIN. NO. 245/2011**

**MR. JOSEPH KINYUA, CBS**

Nominated under Article 230(2)(d)(i) as the Permanent Secretary/Treasury to represent the Cabinet Secretary responsible for Finance.

He informed the Committee that.-

- (i) The role of Treasury in the Salaries & Remuneration Commission will be very crucial in term of assisting the government by providing a stable framework for the remuneration of all public officers which is attractive so as to retain quality staff and manage the wage bill.
- (ii) The Treasury's role will be to assist the government by providing broad economic perspective regarding the factors to be taken into account by the Commission when determining the remuneration.
- (iii) Through harmonization of the salary structure, the Commission will assist in minimizing the discrepancies and the differentials in the salaries which has occasioned distortion and caused public institutions quality staff.
- (iv) The Commission should play a greater role in educating the public on fiscal sustainability and competitiveness of the economy.

Nominated under Article 230(2)(e) as the Permanent Secretary, Ministry of State for Public Service to represent the Cabinet Secretary responsible for Public Service.

He informed the Committee that:-

- (i) The Salaries and Remuneration Commission will undertake benchmarking and harmonization of the salaries through job valuation in the public service to ascertain their competitiveness, purchasing power parity, ability to pay the salaries in the country and beyond the region.
- (ii) The Commission has to determine the remuneration package for various government levels as provided for in the new Constitution before the next General Election in 2012.
- (iii) The Commission will determine and set the salary structure so that nobody will be entitled to retain his/her salary package from the previous employer when appointed so as to encourage mobility by transferring services on point of promotion
- (iv) The Salary Revision for all sub-sectors will be undertaken by the Commission within a legal framework so as to minimize the strikes currently being experienced in the country.
- (v) Performance contracting for all public officers is of necessity so as to measure productivity and for consideration of promotion.

ADOPTION OF THE REPORT ON THE VETTING OF  
NOMINEES TO THE SALARIES AND REMUNERATION  
COMMISSION

The Committee adopted its report with the recommendation for the appointment of the following nominees to the Salaries and Remuneration Commission pursuant to Article 230 of the Constitution.

(a) Chairperson of the Salaries & Remuneration Commission

1. Mrs Sarah Jepkemboi Chumo Serem

(b) Members of the Salaries & Remuneration Commission

2. Hon. Oloo Aringo, MP- Parliamentary Service Commission.

3. Mr. Daniel Ogutu - Public Service Commission

4. Ms Sellestine A. Kiulukuku - Judicial Service Commission

5. Mrs Serah Kinyua - Teachers Service Commission

6. Brg. (Rtd) Samuel Ndururi Kirugi -Defence Council

7. Mr. Jason A. N. Namasake- The Senate

8. Mrs Jacqueline Mugo - Federation of Kenyan Employers

9 Mrs Anne Elizabeth Owuor- Association of Professional Societies in East Africa (APSEA)

10. Mr. Joseph Kinyua, CBS- Permanent Secretary/Treasury

11. Mr. Wanjuki Muchemi, CBS - Solicitor General

12. Mr. Titus Ndambuki, CBS- Permanent Secretary, Ministry of State for Public Service

MIN. NO.248/2011 ADJOURNMENT

The Chairman adjourned the meeting at one O' Clock until Thursday 8<sup>th</sup> December, 2011 at 10.00 a.m.

Signed .....

  
Chairman

Date..... 8/12/2011.....

**MINUTES OF THE FIFTY-FIRST SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE HELD ON FRIDAY 2<sup>ND</sup> DECEMBER, 2011 IN COMMITTEE ROOM ON 5<sup>TH</sup> FLOOR, CONTINENTAL BUILDING AT 10.00 A.M.**

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**PRESENT**

Hon Chrysanthus Okemo, EGH, M.P (Chairman)

Hon. Lucas Chepkitony, M.P

Hon. Nelson Gaichuhie, MP

Hon Ntoitha M'Mithiaru, MP

**ABSENT WITH APOLOGY**

Hon. (Prof.) Philip Kaloki, M.P (Vice-Chairman)

Hon Musikari Kombo, EGH, M.P

Hon. Jakoyo Midwo, MGH, M.P

Hon. Nkoidila Ole Lankas, MP

Hon. Sammy Mwaita, MP

Hon. Lenny Kivuti, MP

Hon. Ahmed Shakeel Shabbir, MP

**IN ATTENDANCE**

**NOMINEES TO THE SALARIES AND REMUNERATION COMMISSION**

Mrs. Sarah Jepkemboi Serem - Chairperson

Mrs Ann Elizabeth Owuor - Member

Mrs. Jacqueline Mugo, OGW - Member

Ms Sellestine A Kiuluku - Member

**KENYA NATIONAL ASSEMBLY**

Florence Atenyo- Abonyo - First Clerk Assistant

Evans Oanda - Third Clerk Assistant

**MIN. NO. 237/2011 VETTING OF NOMINEES TO THE SALARIES AND REMUNERATION COMMISSION**

In conducting the vetting process, the Committee examined the nominees against the following criteria amongst others,

in accordance with the Public Appointments (Parliamentary Approval) Act No. 33 of 2011:-

- (i) Academic qualifications
- (ii) Employment record
- (iii) Knowledge of the relevant subject
- (iv) Overall suitability for the position
- (v) Professional affiliations
- (vi) Potential conflict of interest
- (vii) Tax Compliance

**MIN. NO. 238/2011**

**MRS SARAH JEPKEMBOI SEREM**

She informed the Committee that.-

- She holds Masters Degree in Human Resource Management (2002) and Bachelor of Arts Degree (1982) both from the University of Nairobi
- Has over 28 years experience in Human Resource Management in the corporate world, having worked as the Head of Human Resource Department both at Kenya Post & Telecommunication Corporation from 1981-1990 and Kenya Post Office Savings Bank from 1990 to 2010
- Currently a Board Member of Mumias Sugar Company from January 2011 to-date and a Director of Young Biz Kenya from April 2010 to-date.
- Has attended various management and leadership courses on Human Resource Management at Kenya Institute of Administration, Kenya Institute of Management, Federation of Kenya Employers (FKE) and workshops organized by Manpower Services. Has also attended Strategic Human Resource Conferences abroad.

- Member of the Institute of Human Resource Management and has attended the following professional certificate courses locally and abroad.
  - Personnel Functions in Management (KIM)
  - Personnel Practice – IPM(K)
  - Personnel Management & Industrial Relations (London)
  - Certificate in Personnel Practice- London
  - Personnel Policy Formulation – ESAMI, Arusha
  - Performance Management – Sweden
  - Industrial Relations - (FKE)
  - Advanced Supervisory Management – FKE & KPTC
  - Total Quality Management – Tips Management
  - Management Challenge- Out Bound Trust
  - Team Building – Out Bound Trust
- Received the Certificate of Long Service award from Kenya Posts Office Savings Bank in 2006.
- Has never been charged in a Court of Law, has no potential conflict of interest and has fully complied with tax obligation.

**MIN. NO. 239/2011**

**MRS ANNE ELIZABETH OWUOR**

She informed the Committee that:-

- She holds Masters of Science Degree (2007) and Post Graduate Diploma in Audit Management, Consultancy, and Risk Management from the University of Central England, Birmingham (2006).
- Has extensive professional experience in financial, accounting and auditing matters having worked at Kenya Power & Lighting Company for over 20 years and as Commercial Services Debt Control Manager both from 1997 -1999 and from 2003 to-date.

- A certified Public Accountant, CPA (K), Certified Internal Auditor, CIA; Certified Internal Auditor Quality Assessor; and Certified Training Instructor. A Fellow of the Institute of Certified Public Accountants of Kenya and a member of both the Institute of Internal Auditors and Association of Women Accountants.
- Has attended several courses, seminars and conferences both locally and internationally on the following-
  - Auditing and Accounting
  - Management and Leadership
  - Corporate Governance
  - Strategic Planning and Risk Management
  - Team Building and Performance Management
  - Leadership Change and Organizational Renewal
- Has presented the following Papers:-
  - Accountants' role in Micro Financing Projects.
  - Harnessing Finances in the Corporate Sector.
  - Overview, Trend of the Audit Profession and Risk Based Auditing
  - Challenges of promotion of internal auditing profession in the public sector.
- Received commendation and Fellowship award from ICPAK for the promotion of professionalism in the accountancy profession. Also received recognition from the Institute of Internal Auditors (Inc.), the global body for the promotion of Internal Auditing in Kenya.
- Has never been charged in a Court of Law, has no potential conflict of interest and has fully complied with tax obligation.

She informed the Committee that:-

- She is a holder of Bachelors in Law (LLB) from the University of Nairobi (1981) and a Higher Diploma in Human Resource Management from the Institute of Personnel Management (2001).
- An Advocate of the High Court of Kenya, Lecturer at Catholic University and a consultant in Labour and Industrial Relations.
- Currently the Executive Director/Chief Executive of Federation of Kenya Employers from 2006 to-date. Has over 20 years wealth of experience in Human Resource Management and industrial/labour relations matters having worked at in the following organizations:
  - Federation of Kenya Employers- Legal/Industrial Relations Officer (1989-1996)
  - Unilever Kenya Ltd.- Employees Relations Manager (1996)
  - Unilever Kenya Ltd.- Regional Human Resources Operations Manager (2001)
  - Kenya Airways Ltd. Head of Human Resources (2002-2004)
  - National Aids Control Council – Head of Human Resources and Administration (2004-2005)
  - Federation of Kenya Employers – Deputy Executive Director (September, 2005)
- A Member of the Law Society of Kenya from 1983; Institute of Chartered Arbitrators from 2009; and Institute of Personnel Management from 2002.
- Has been appointed to serve in the following Boards:-
  - National Social Security Fund;



- Higher Education Loans Board,
- Labour Advisory Board;
- General Wages Council;
- National Industrial Council;
- National Health Insurance Fund;
- Productivity Centre of Kenya;

Has also been elected to serve in the following Boards:-

- Chairman, East African Employers' Organization
  - Member, Governing Board of ILO
  - Member, International Organization of Employers
  - Deputy Secretary, Business Africa (formerly Pan African Employers Confederation)
- Has received the following Honours and Awards.-
    - Order of the Grand Warrior of Kenya (OGW)-2008
    - Appreciation of support of YES-MSE programme-2007
    - Outstanding Role in Advocating for Employers' Rights, ILO - 2011
    - Recognition of participation in the United Nations Global Compact – 2009
    - Appreciation of participation in growing sustainable business initiative - UNDP
  - Has published several Articles and Editorial pieces in the Business Daily and Daily Nation from 2009 to-date on varied topics relating to employers obligations, employees rights, safety in work place and labour relations.
  - Has never been charged in a Court of Law, has no potential conflict of interest and has fully complied with tax obligation.

She informed the Committee that.-

- She is a holder of Masters Degree in Public Administration (Netherlands -2003) and Bachelor of Education Degree from Kenyatta University (1989).
- Currently the Director of Human Resources and Administration at Interim Independent Electoral Commission from 2010 to-date. Has wide exposure in Manpower Development having worked in the following organization as Human Resource Manager prior to this appointment:-
  - Nairobi City Water & Sewerage Company (2004-2010)
  - National Water Conservation & Pipeline Company (1999-2004)
  - National Museums of Kenya (1996-1999)
  - Agricultural Development Corporation (1990-1995)
- A Member of the Institute of Human Resource Management and has attended several management courses E g.
  - Performance contracting and development
  - Management and Leadership Development
  - Training needs assessment
  - Negotiation Skills and Presentation Skills
  - Human Resource Management
  - Strategic Planning and Management
  - Corporate Governance/Effective Director program
- Has professional skills and expertise in the following fields:-
  - Leadership and management skills.
  - Salaries and Remuneration policy development and negotiation skills.

- Human Resources Management and Labour relations skills
  - Change initiation and management skills
  - Negotiations, team building and supervisory skills.
  - Budgeting, strategic planning skills.
  - Customer Care skills.
- Has never been charged in a Court of Law, has no potential conflict of interest and has fully complied with tax obligation.
  - List of publications include Masters programme dissertation – Civil/Public Service Reforms in Kenya.

**MIN. NO. 242/2011 COMMITTEE'S RECOMMENDATION**

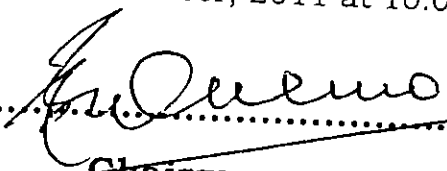
The Committee having considered the curriculum vitae of the following nominees and having heard their submissions during the interview, found the nominees qualified and recommends their appointment to the Salaries and Remuneration Commission

- 1 Mrs Sarah Jepkemboi Serem - Chairperson
2. Mrs Ann Elizabeth Owuor - Member
3. Mrs Jacqueline Mugo - Member
4. Ms Sellestine A. Kiuluku - Member

**MIN. NO.243/2011 ADJOURNMENT**

The Chairman adjourned the meeting at fifteen Minutes past One O' Clock until Tuesday 6<sup>th</sup> December, 2011 at 10.00 a.m.

Signed .....

  
 \_\_\_\_\_  
 Chairman

Date.....6/12/2011.....

**MINUTES OF THE FIFTIETH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANNING AND TRADE HELD ON THURSDAY 1<sup>ST</sup> DECEMBER, 2011 IN COMMITTEE ROOM ON 5<sup>TH</sup> FLOOR, CONTINENTAL BUILDING AT 2.30 P.M.**

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**PRESENT**

Hon. Chrysanthus Okemo, EGH, M.P (Chairman)

Hon. Ahmed Shakeel Shabbir, MP

Hon. Lucas Chepkitony, M.P

Hon. Nelson Gaichuhie, MP

Hon. Ntoitha M'Mithiaru, MP

Hon. Sammy Mwaita, MP

**ABSENT WITH APOLOGY**

Hon. (Prof.) Philip Kaloki, M P (Vice-Chairman)

Hon. Jakoyo Midiwo, MGH, M.P

Hon. Musikari Kombo, EGH, M.P

Hon. Nkoidila Ole Lankas, MP

Hon. Lenny Kivuti, MP

**IN ATTENDANCE**

**NOMINEES TO THE SALARIES AND REMUNERATION COMMISSION**

Mr. Wanjuiki Muchemi, CBS - Solicitor General/Member

Mr. Daniel Omondi Ogutu - Member

**KENYA NATIONAL ASSEMBLY**

Florence Atenyo- Abonyo - First Clerk Assistant

Evans Oanda - Third Clerk Assistant

**MIN. NO. 232/2011 VETTING OF NOMINEES TO THE SALARIES AND REMUNERATION COMMISSION**

In conducting the vetting process, the Committee examined the nominees against the following criteria amongst others, in accordance with the Public Appointments (Parliamentary Approval) Act No. 33 of 2011.-

(i) Academic qualifications

- (ii) Employment record
- (iii) Knowledge of the relevant subject
- (iv) Overall suitability for the position
- (v) Professional affiliations
- (vi) Potential conflict of interest
- (vii) Tax compliance

**MIN. NO. 233/2011**

**MR. WANJUKI MUCHEMI, CBS**

He informed the Committee that:-

- He holds Masters Degree in Business Administration (2003) and Bachelor of Laws Degree (LL.B- 1975) both from the University of Nairobi.
- Currently the Solicitor General of the Republic of Kenya and the principal assistant to the Attorney-General since 2003 and was in private legal practice from 1977-2003 prior to the appointment.
- Has extensive professional experience on legal matters having been admitted to the Roll of Advocates in 1976, appointed as a Commissioner for Oaths in 1984, admitted both as an Associate of the Chartered Institute of Arbitrators, London in 1999 and a Fellow of the said Institute in 2000.
- Has attended numerous international and regional assignments including leader of various legal delegation to the United Nations General Assembly, especially to the 6<sup>th</sup> Committee of the United Nations, from 2003 to-date. Has also attended numerous courses, seminars and workshops both locally and abroad on relevant fields of law.
- A Member of the following from 2003 to-date:-
  - Permanent Public Remuneration Review Board.

- Ministerial Task Force on the Development of Policy and Legal Framework for Legal Education in Kenya.
- National Committee on Implementation of International Humanitarian Law.
- Convenor of key results under the Governance Justice Law and Order Programme (GJLOS).
- A Member of the following Professional Societies:-
  - Law Society of Kenya
  - Chartered Institute of Arbitrators, London UK (FCI Arb).
  - Chartered Institute of Arbitrators, Kenya Chapter.
  - Institute of Certified Public Secretaries of Kenya, CPS (K).
- Has never been charged in a Court of Law, has no potential conflict of interest and has fully complied with tax obligation.

**MIN. NO. 234/2011**

**MR. DANIEL OMONDI OGUTU**

He informed the Committee that:-

- He holds Masters Degree in Business Administration from Eastern and Southern Africa Management Institute (ESAMI) and Maastricht School of Management (2006) and Bachelor of Arts Degree from Kenyatta University (1992).
- Currently the General Manager, Human Resource & Development at Agricultural Finance Corporation from January, 2011.
- Has professional experience in personnel matters having worked in the public service in the following ministries as Human Resource Management Officer:-
  - Commission for Higher Education (2008-2010)

- Ministry of State for Public Service (2007-2008)
- Directorate of Personnel Management (2001-2005)
- Has attended various training on Human Resource Management, new labour laws, performance management at the Institute of Human Resource Management, Federation of Kenya Employers and ESAMI.
- Has never been charged in a Court of Law, has no potential conflict of interest and has fully complied with tax obligation.

**MIN. NO. 235/2011    COMMITTEE’S RECOMMENDATION**

The Committee having considered the curriculum vitae of the following nominees and having heard their submissions during the interview, found the nominees qualified and recommends their appointment to the Salaries and Remuneration Commission.

1. Brig (Rtd) Samuel Ndururi Kirugu- Member
2. Hon Peter Oloo Aringo, MP - Member
- 3 Mrs Serah Kinyua - Member
4. Mr. Jason Nambalu Namasake- Member
5. Mr. Wanjuiki Muchemi, CBS - Solicitor General/Member
6. Mr. Daniel Omondı Ogotu - Member

**MIN. NO. 236/2011    ADJOURNMENT**

The Chairman adjourned the meeting at fifteen Minutes past Four O’ Clock until Friday 2<sup>nd</sup> December, 2011 at 10.00 a.m.

Signed .....

**Chairman**

Date.....

Chief Personnel Officer where she retired in 2002 as the Chief Human Resource Manager.

- Has attended several personnel management courses locally at Kenya Institute of Administration and abroad in Harare and Britain.
- Has never been charged in a Court of Law, has no potential conflict of interest and has fully complied with tax obligation.

**MIN. NO. 230/2011**

**MRS. ISAIAH KUBAI**

The Committee was informed that:-

- Article 230(2)(c)(i) provides that one of the persons forming the Salaries and Remuneration Commission shall be a person appointed by an umbrella body representing trade unions and that COTU has nominated Mr. Isaiah Kubai under the said Article.
- The Union of Kenya Civil Servants, KUPPET, and Universities Non-Teaching Staff Union have written to Clerk of the National vide letter Ref. UKCS/NA/Vol.1/(13) dated 24<sup>th</sup> November, 2011 objecting the nomination by COTU to the Commission on the ground that COTU only represents private sector trade unions and not public sector trade unions. Consequently, they have filed a Judicial Review application in High Court No 204 of 2011 and obtained a Court Order on the same on 14<sup>th</sup> September, 2011.

The Committee observed that there is a dispute over the nomination process with respect to Article 230(2)(c)(i) and the issue of whether COTU is the umbrella body envisaged under the said Article.



Consequently, the Committee resolved to defer the vetting of Mr. Isaiah Kuba and to seek legal opinion from the Attorney General regarding his nomination.

**MIN. NO. 231/2011**    **ADJOURNMENT**

The Chairman adjourned the meeting at fifteen Minutes past One O' Clock until this afternoon at 2.30 p.m.

Signed .....  .....  
Chairman

Date..... 6/12/2011



10000 26/08/2011

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TENTH PARLIAMENT – FOURTH SESSION

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REPORT OF JOINT COMMITTEES  
ON THE SESSIONAL PAPERS NO. 1, 2 AND 3 OF 2011

By

Departmental Committee on Finance, Planning & Trade  
and Departmental Committee on Energy, Communications & Information

(As directed by the House on August, 3, 2011)

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Clerks Chambers,  
Parliament Buildings,  
NAIROBI.

August, 2011

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## PREFACE

**Mr. Speaker,**

On Wednesday, 27th July, 2011, the Deputy Prime Minister and Minister for Finance Hon. Uhuru Kenyatta tabled the following three Sessional Papers in the House:-

- i Sessional Paper No. 1 of 2011 on Kenya Government guarantee of a loan of EUR 39,100,000 00 equivalent to Ksh, 4,926,600,000.00 from the KfW Frankfurt AM Main Federal Republic of Germany for the rehabilitation and upgrade of the Kindaruma hydropower plant,
- ii Sessional Paper No. 2 of 2011 on Kenya Government guarantee of a loan of EUR 60 million equivalent to Ksh 7,560,000,000 from the KfW, Frankfurt AM Main Federal Republic of Germany for financing Olkaria I and IV Geothermal power plant,
- iii Sessional Paper No. 2 of 2011 Kenya Government guarantee of a loan of Japanese Yen 29,516 million equivalent to Ksh 33 3 billion from Japan International Cooperation Agency (JICA) to finance Olkaria I units four and five.

On Wednesday, 3<sup>rd</sup> August, 2011, the Speaker directed that the three (3) Sessional Papers be referred to the joint Committee of the House between the Departmental Committee on Energy, Communications and Information and the Departmental Committee on Finance, Planning and Trade which will endeavour to file a joint report.

Pursuant to the directive, the joint Committee held seven joint sittings to examine the matter

**Mr. Speaker,**

The Departmental Committee on Energy, Communication and Information is established under Standing Order 198 and is mandated to consider:-

- Development, production, maintenance and regulation of Energy.
- Communication.
- Information.
- Broadcasting, and
- Information Communications Technology (ICT) development.

The Departmental Committee on Finance, Planning and Trade is established under Standing Order 198 and mandated to consider;-

- Public finance
- Banking
- Insurance
- Population planning
- National development
- Trade
- Tourism promotion and
- Management, commerce and industry

The Departmental Committees executes their mandate in accordance with the provisions of Standing Order 198 (3), which is –

- a) to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and Departments;
- b) to Study the programme and policy objectives on Ministries and Departments and the effectiveness of the implementation,
- c) to Study and review all legislation referred to it;
- d) to study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives,
- e) to investigate and enquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House or a Minister; and
- f) to make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

**Mr. Speaker,**

The membership of the Joint Committees was as follows -

- i. The Hon. (Eng.) James Rege, M.P - Co-Chairperson
- ii. The Hon. Chrysanthus Okemo, M.P - Co- Chairperson
- iii. The Hon. Maina Kamau, M.P
- iv. The Hon. Danson Mwazo Mwakulegwa, M.P
- v. The Hon. (Eng.) Nicholas Gumbo, M.P
- vi. The Hon. Edwin O. Yinda, M.P
- vii. The Hon. Emilio Kathuri, M.P

- viii The Hon. Ekwere Ethuro, M P
- ix The Hon Joshua Kutuny, M.P
- x. The Hon. Adan Keynan, M P
- xi. The Hon (Prof) Phillip Kaloki, M P
- xii The Hon Cyprian Omolo, M P
- xiii. The Hon. Jakoyo Midiwo, M.P
- xiv. The Hon. Musikari Kombo, M.P
- xv The Hon. Lucas Chepkitony, M P
- xvi. The Hon Lenny Kivuti, M P
- xvii The Hon. Nelson Gaichuhie, M.P
- xviii. The Hon. Ntortha M'Mithirau, M P
- xix The Hon. Ahmed Shabbir, M P
- xx. The Hon Nkoidila Ole Lankas, M.P
- xxi The Hon Sammy Mwaita, M P

Mr. Speaker,

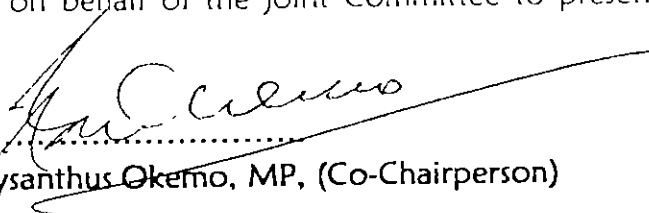
The joint Committee held a meeting with the Minister for Energy and the Managing Director of KenGen Ltd to discuss the Sessional Papers No. 1, 2 and 3 of 2011 whose findings are contained in this report.

The joint Committee wishes to thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate.

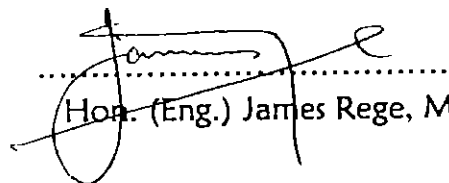
Mr. Speaker,

It is our pleasant duty, on behalf of the joint Committee to present this report to the House for adoption.

Signed:

  
 .....  
 Hon. Chrysanthus Okemo, MP, (Co-Chairperson)

Signed:

  
 .....  
 Hon. (Eng.) James Rege, MP, (Co-Chairperson)

Date:

August 25, 11  
 .....

## INTRODUCTION

1. On Wednesday, 27<sup>th</sup> July, 2011, the Deputy Prime Minister and Minister for Finance Hon. Uhuru Kenyatta tabled in the House the following three (3) documents -
  - i. Sessional Paper No. 1 of 2011 on Kenya Government guarantee of a loan of EUR 39,100,000 00 equivalent to Ksh, 4,926,600,000.00 from the KFW Frankfurt AM Main Federal Republic of Germany for the rehabilitation and upgrade of the Kindaruma hydropower plant;
  - ii Sessional Paper No. 2 of 2011 on Kenya Government guarantee of a loan of EUR 60 million equivalent to Ksh 7,560,000,000 from the KFW, Frankfurt AM Main Federal Republic of Germany for financing Olkaria I and IV Geothermal power plant;
  - iii Sessional Paper No. 2 of 2011 Kenya Government guarantee of a loan of Japanese Yen 29,516 million equivalent to Ksh 33 3 billion from Japan International Cooperation Agency (JICA) to finance Olkaria I units four and five.
2. On Wednesday, 3<sup>rd</sup> August, 2011, the Hon. Speaker directed that the three (3) Sessional Papers be referred to the joint Committee of the House between the Departmental Committee on Energy, Communications and Information and the Departmental Committee on Finance, Planning and Trade which will endeavour to file a joint report.
3. Pursuant to the directive, the Departmental Committee on Energy Communication and Information, jointly with the Departmental Committee on Finance, Planning and Trade Committees held meetings to examine the matter.

### Meetings of the Committee

4. The Committee held a total of Seven meetings, the first one being on August 9<sup>th</sup> , 2011, wherein the joint Committees identified the following as issues to ask the Minister for Energy together with the Managing Director (M.D) of KenGen Ltd:-
  - i) Why KenGen has failed to pay the loan of Kshs 34 million which KenGen inherited from its predecessor Kenya Power Company, given that the last payment was made on 30<sup>th</sup> June 1997.
  - ii) The total loan portfolio of KenGen and any loan guaranteed by NIC Bank or Indian Company.

- iii) The shareholding of KenGen and the contribution of the private shareholders to the loan guarantee- *the Minister to provide the share certificate.*
- iv) The cash flow projections of KenGen indicating the Company's capability to service the loans.
- v) Explanation on the utilization of the proceeds from the Kshs 25 billion Infrastructure Bond, its repayment schedule and overall impact on KenGen Debts
- vi) The total cost of each of the projects, other financiers and the breakdown on how the funds will be utilized.
- vii) The legal status of Geothermal Development Corporation (GDC) and the possibility of establishing GDC by an Act of Parliament as a state corporation with specific mandate to generate geothermal power.
- viii) The possibility of having the wells that were drilled by GDC through Grate Wall drilling Company of China handed over to GDC as opposed to handing them over to KenGen. In addition, handling of all geothermal exploration by GDC including Olkaria blocks which belong to the Government

Thereafter, the joint Committee held a meeting with the Minister and the M.D on August 10, 2011. The Committee met on August 11<sup>th</sup> and analysed the evidence of the Minister, the M D and additional information and compiled their report. The report was adopted at the Committee's meeting of August 25<sup>th</sup>, 2011.

### BACKGROUND INFORMATION

Government guaranteed loans refer to the debt owed by the country's public entities to both foreign and local creditors, but are guaranteed by the Central Government. The debts may be denominated in domestic or foreign currency and are charged to the Consolidated Funds Services (CFS). The Guarantee (Loans) Act, Cap 461 provides the legal framework for issuance of Government loan guarantees to public entities.

2

7. The Guarantee (Loans) Act Cap 461 gives the Government the power to guarantee loans for a local authority or body corporate but with the prior approval of the National



Assembly The Act mandates the Minister for Finance to prepare a Sessional paper and lay it before the House specifying;

- i) The covenant the due performance which is to be guaranteed
  - ii) Where the covenant is for repayment of the loan- the amount of the loan, terms and conditions as to interest and repayment in respect of the loan, the Government's total contingent liability and any other information.
8. If approved by the National Assembly, the Government has the powers to guarantee the repayment of the principal loan and interest incurred. Under Section 3B the National Assembly, may by a resolution increase the limit of any contingent liability specified in the Act. On 12<sup>th</sup> July, 1993 the total contingent liability was increased to US\$ 1 billion (Ksh 80 billion) and at the time of the amendment, the guaranteed debt stood at US\$ 992 million (Ksh. 57.5 billion) with the dollar exchange rate at Ksh. 58.
9. The debt ceiling was further raised on 16<sup>th</sup> June, 2011, when the House approved a motion to increase the total contingent liability of the Government outstanding in respect of principal amount of money from US\$ 1 billion (Ksh 80billion) to US\$ 2.5 billion (Ksh. 200 billion) As at May 2011, the guaranteed debts disbursed and outstanding on contractual basis stood at US\$874 million, equivalent to Ksh 75 billion.

#### Overall Government Guarantees

10. As at 31<sup>st</sup> May, 2011 guaranteed debts and outstanding amounts on contractual basis stood at US\$874 million equivalent to Ksh 75 billion. This include, outstanding guarantees to -
- |                        |                                       |
|------------------------|---------------------------------------|
| i) Government of Japan | - Ksh 70,438,000,000 million          |
| ii) United States      | - US\$3 million (Ksh 291 million)     |
| iii) Canada            | - US\$ 4million (Ksh 394 million)     |
| iv) World Bank         | - US\$ 45 million (Ksh 3.856 billion) |
11. The Government is still paying debts owed by 15 parastatals that have defaulted in repayment of their loans including Kenya Power (now KenGen). Kenya Power Company a predecessor of KenGen. The Government has paid a total loan of Ksh2, 643,851,171.60 on behalf of KenGen. The principal amount was Ksh. 1,487,367,793 and an accrued interest of Ksh. 1,156,483,377.70. The outstanding loan has been repaid to the Government and the outstanding balance is Ksh 34million. The last payment was however made in 1997.

## KENGEN LOAN GUARANTEES

Before 1998, KPLC was charged with generation, transmission and distribution of electricity in Kenya. The Electric Power Act of 1997 saw the separation of generation from transmission and distribution functions therefore KenGen was established and mandated with power generation while KPLC was mandated with distribution of power to the consumers. KenGen was fully Government of Kenya (GOK) owned until May 2006 when the government off-loaded 30% of its stake in the company through an Initial Public Offering (IPO) which attracted a historic 236% oversubscription. Through a Public Infrastructural Bond Offer (PIBO) in 2008, the company raised Ksh 25 billion.

1. KenGen has an installed capacity of 1,056 MW which is 75% of the National capacity and utilizes various primary sources of energy to generate electricity which are:-
  - Hydro- 761.28MW installed capacity (72.05%)
  - Geothermal 150MW (14.20%)
  - Thermal 139.83MW (13.23%)
  - Wind 5.45 MW (0.52%)
4. KenGen operates in a liberalized market and competes with five independent power producers with an installed capacity of 344.5MW which is 25% of the National installed capacity. The IPP generation comprises of:-
  - Fuel thermal - 270 MW
  - Geothermal - 48MW
  - Bagasse - 26MW
5. The total installed capacity of the country is about 1400 MW against a peak demand of about 1302 MW. The Least Cost Power Development Plan (LCPDP) envisions that Kenya's electricity peak demand will increase from 1,302 MW in 2011 to 15,026 MW by 2030 in line with the Vision 2030 which envisages energy as a key enabler for economic growth across the country. Accordingly, through the Rural Electrification Master Plan, the Government seeks to have 100% connectivity across the country through grid extensions and off-grid systems.
6. The least cost plan To meet the increased electricity demand due to the enhanced economic activities various generation sources have been considered, targeting 5,040 MW from geothermal, 900 MW from hydro, 1,500 MW from wind, 2,340 MW from LNG, 2,400 MW from coal, 1,400 MW from diesel, 4,000MW from nuclear and

2,000MW from imports. The investments required for generation, transmission and distribution to meet this demand are enormous

### Energy generation as envisioned by the Vision 2030

17. The Vision 2030 is the Government's roadmap that aims to transform Kenya to a middle income country by 2030. Energy is one of the infrastructural enablers of the economic, social and political pillars. Development projects recommended under *Vision 2030* will increase demand on Kenya's energy supply. Kenya must, therefore, generate more energy at a lower cost and increase efficiency in energy consumption. Under Vision 2030, the Government is committed to continued institutional reforms in the energy sector, including a strong regulatory framework, encouraging more private generators of power, and separating generation from distribution. New sources of energy will be found through exploitation of geothermal power, coal, renewable energy sources, and connecting Kenya to energy-surplus countries in the region. Kenya is targeting to develop 5000 MW of geothermal power by year 2030 as stipulated in Vision 2030.
18. On Wednesday July, 3<sup>rd</sup>, 2011 the Minister for Finance tabled three Sessional papers with regard to loan guarantees for KenGen.

#### I. Sessional Paper No.1 of 2011

Kenya Government guarantee of a loan of EUR 39,100,000 00 equivalent to Ksh, 4,926,600,000 00 from the Kfw Frankfurt AM Main Federal Republic of Germany for the rehabilitation and upgrade of the Kindaruma hydropower plant

The loan has two components:

- i) An interest rate of 2.5% per annum for EUR 30million and 5.3% for EUR 9.1 million
  - ii) A commitment fee of 0.25% per annum on undisbursed loan amounts and a one-time lump-sum management fee of 0.75% of the principal amount of the loan.
- The loan has a three year moratorium and a repayment period of 10 years in 20 semi-annual installments.
  - KenGen is expected to augment the total project financing by about 31% (Ksh 1.932 billion).
  - The current total contingent liabilities of GOK in respect of guarantees under Cap 461 amount to Ksh 72.5 billion. Request for guarantee of Ksh 4.9 billion will increase the aggregate amount to Ksh 77.4 billion.

- The rehabilitation and upgrade is scheduled to be completed by June 2013. It will entail rehabilitation of the existing 40MW power station by raising its capacity to 48MW and installation of a new 24MW unit giving a total installed capacity of 72MW.

## II. Sessional Paper No.2 of 2011

Kenya Government guarantee of a loan of EUR 60 million equivalent to Ksh 7,560,000,000 from the KfW, Frankfurt AM Main Federal Republic of Germany for financing Olkaria I and IV Geothermal power plant.

The loan comprises of;

- An interest of 3.0% per annum.
- A commitment fee of 0.25% per annum on undisbursed loan amounts and a one-time lump sum management fee of 0.75% of the principal amount.

The loan has a 3.5 year moratorium and a repayment period of 8.5 years translating into 17 semi-annual installments.

KenGen is expected to augment the total financing by about 12% (Ksh 12.2 billion).

The current contractual contingent liabilities of GOK in respect of the guarantees amount to Ksh 77.4 billion. Request for 7.5 billion will increase the amount to Ksh 84.9 billion.

The project aims to increase generation capacity of Olkaria I and IV to 280MW.

## III. Sessional Paper No.3 of 2011

Kenya Government guarantee of a loan of Japanese Yen 29,516 million equivalent to Ksh 33.3 billion from Japan International Cooperation Agency (JICA) to finance Olkaria I units four and five.

The loan comprises of;

- An interest rate of 0.2% per annum.
- A commitment fee of 0.1% per annum to be paid semi-annually on the total unused loan balance.

The loan has a 10 year moratorium and a repayment period of 20 years while KenGen is expected to augment the total project financing by about 12%.

The current total contingent liabilities of the GOK under Cap 461 amount to Ksh 84.9 billion. Request for Ksh 33.3 billion will increase the aggregate amount to Ksh 118.2

billion The implementation of the project will contribute an additional 140MW to the national grid.

### Kindaruma Power Station

19. The seven forks hydro stations comprises of Masinga, Kamburu, Gitaru, Kindaruma and Kiambere power dams

i) Masinga Power Station	- 2x20 MW	=40MW
ii) Kamburu power station	-3x 31.4 MW	= 94 2MW
iii) Gitaru power station	- (2x72 5MW) + (1X80 25MW)	= 225 MW
iv) Kindaruma Power Station	- 2x20MW	= 40 MW
v) Kiambere Power Station	- 2x 84 MW	= 168 MW

20. Kindaruma power station was commissioned in 1968 and currently has 2 units with an installed capacity of 40MW each at 20MW The sessional paper No.1 aims to upgrade the 2 units to 48MW and install a third unit with a capacity of 24MW to increase the total capacity to 72MW Te Committee on Energy, Communications and Information on Friday August 5<sup>th</sup>, 2011 made an inspection visit of the Seven forks cascade and was able to ascertain that indeed there were upgrading works at the Kindaruma power station where a third unit was being installed.

### Olkaria I and IV Power Plants

21. Olkaria I Power Station was the first geothermal power plant in Africa. The 45 MW plant was commissioned in three phases and has three units each generating 15MW of electricity. Olkaria II has 105MW while Independent Power Producers (IPPs) generate 52 MW at Olkaria West.

22. KenGen is embarking on a project are further plans to install 4 units each of 70 MW (total of 280 MW) at Olkaria I and IV. Units four and five will be installed at Olkaria I each with 70 MW while Olkaria IV will be installed with Units one and two each with 70 MW therefore giving a total of 280 MW.

### SUMMARY OF THE EVIDENCE AS PRESENTED BY THE MINISTER FOR ENERGY AND MANAGING DIRECTOR OF KENGEN

23. On Wednesday, 10th 2011 the joint Committees met with the Minister for Energy and the KenGen Managing Director to deliberate on the three Session papers.

## Olkaria I and IV 280 Mw Project Status

4. The project which is expected to be completed by June 2013 will require a total amount of 1,187 USD (Ksh 112,765,000,000). KenGen had already signed loan guarantees with Japan International CA, AFD, EIB and KFW. A summary is provided herebelow;

Loans Currency	Loan amount	Currency	Exchange Rate to the USD	Equivalent in USD m
JICA	29,516 00	Yen	0 010943	323
AFD	150 00	EURO	1 4	210
EIB	119 00	EURO	1 4	166 6
KFW	60 00	EURO	1 4	84

5. The scope of the project is;
- i) Supply and installation of steam gathering and distribution systems; (financed by Kfw and IDA)
  - ii) Construction of access roads and local infrastructure,
  - iii) Technical advisory services including a panel of geothermal experts to provide technical review;
  - iv) Design and supervision engineering services (financed by KfW and IDA)
  - v) Expansion of the existing power plant at Olkaria I;
  - vi) Construction of new power plant at Olkaria IV,
  - vii) Construction of switchyards and transmission lines for connection to the grid; and
  - viii) Acquisition of land and way leaves for construction of Olkaria IV power plant.
6. The cost of electricity from the 280MW geothermal power plant is estimated at Ksh. 4 50 per kWh on completion in 2013.

### KINDARUMA 3<sup>RD</sup> UNIT AND UPGRADE OF UNITS 1 AND 2

7. Kindaruma power plant was commissioned in 1968 and has two units each of 20 MW but had a provision for a 3<sup>rd</sup> unit KenGen is installing the 3<sup>rd</sup> unit with a capacity of 24 MW and upgrading the other two units from 20 MW to 24 MW. Implementation is being done through two contracts namely the electro-mechanical awarded to Andritz Hydro of Austria and civil works awarded to Farab of Iran.

28. Work commenced in March 2010. The 3<sup>rd</sup> unit will be commissioned in June 2012 while the upgraded units 1 and 2 will be commissioned in December 2012 and June 2013 respectively. The estimated tariff for Kindaruma additional capacity is UScts 7/kWh. The total project cost is Ksh 7.4 billion comprising;
- i) Electro-mechanical Euro 45 Million + Shs 177 million amounting to Ksh 6.2 billion
  - ii) Civil works – Ksh 737 million
  - iii) Consultancy GBP 2.6 million – Ksh 395 million
  - iv) KenGen Management - Ksh 60 million
29. The cost of power from the new Kindaruma plant will be Ksh. 4.00 kWh.

### KenGen's Cash Flows and Loan Portfolio

30. The Members main concern was that the proof that KenGen would be able to service the requested loan guarantees as well as their outstanding obligations. The Committee was informed that the company's total loan portfolio including interest and factoring the exchange rates amounts to Ksh 69, 639,380,412 while financing of upcoming projects including the requested loan guarantees for Kindaruma and Olkaria I&IV amounts to Ksh. 93, 501, 912, 110
31. The outstanding Government guarantees to KenGen amounting to Ksh. 29,320,300,871 are;
- i) Kipevu 75 MW from JICA at Ksh 6,991,476,256
  - ii) Sondu Miru from JICA at Ksh. 6,353, 528, 928
  - iii) Sondu Miru from JICA at Ksh. 12,392,137,410
  - iv) Sangoro Power Plant from JICA at Ksh 3,583,158,277
32. The MD, KenGen informed the Committee that the capitalization of KenGen was Ksh 60 billion while the income before tax was about Ksh. 13 billion. The MD went on to explain that the Power Purchase Agreements (PPAs) signed with the Kenya Power and Lighting Company (KPLC) recognized debts and therefore provided security in terms of debt repayment therefore this was proof that KenGen will be able to meet its debts.
33. The MD further assured the Committee that KenGen had not defaulted on any loan and did not intend to do so. The Ksh 34 million outstanding debt currently owed by KenGen had been inherited from Kenya Power Company (KPC) the predecessor of KenGen and according to the MD, it was previously thought that KPLC would service the loans and

until recently when the issue arose in Parliament was KenGen informed that they were expected to pay the loan. The MD assured the Members that the Ksh 34 million outstanding loan would be immediately cleared by KenGen.

### KenGen shareholding

4. The MD KenGen, informed the joint Committee that the Government was the majority shareholder of KenGen owning 70% of the shares. He provided the share structure as follows,

Shareholder	No. of Shares	%
1 Permanent Secretary, Treasury	1,538,853,019	70.00
2 National Social Security Fund	28,927,829	1.32
3 Standard Chartered Nominees Limited A/C 9230	10,175,300	0.46
4 Standard Chartered Nominees Limited A/C 9098	8,194,631	0.28
5 CFC Stanbic Nominees Limited	6,185,131	0.28
6 Standard Chartered Nominees Limited A/C 1853	5,046,204	0.23
8 Jubilee Insurance Company of Kenya Limited	4,571,600	0.21
9 Kensington Developers Limited	4,148,427	0.19
10 Standard Chartered Nominees Limited A/C 9187	4,052,002	0.18
<b>Sub-total</b>	<b>1,614,533,874</b>	<b>73.44</b>
203,955 other shareholders	583,827,582	26.56
<b>Total</b>	<b>2,198,361,456</b>	<b>100</b>

### Ownership of Geothermal resources in Kenya

5. The Committee was informed that GDC was formed to accelerate and to facilitate reduction of costs in the production of geothermal resources in Kenya and the Company is succeeding in its mandate. Regarding the legal status of GDC, the Committee was informed that it is a 100% state owned Corporation established under Cap 446 of the Laws of Kenya.
6. In view of the fact that GDC was a 100% state owned Corporation mandated with geothermal development, the Committee sought to understand why the Minister had not handed over the 21 wells at Ol Karia I & IV drilled by GDC which had contracted Great wall drilling Company of China to drill 10 wells. The Minister informed the Committee that he had allocated KenGen the entire Ol Karia block before the



establishment of GDC and that all other geothermal sites including Silali, Menengai, Paka and others were allocated to GDC

**FURTHER EVIDENCE BY THE MINISTER FOR ENERGY AND MANAGING DIRECTOR OF KENGEN**

37. Arising from the evidence submitted by the Minister for Energy and the M D of KenGen, the joint Committee requested the Minister and the Management of KenGen to furnish the Committee with documents and additional information with respect to:-
- a. Present a Share Register containing all the shareholders of KenGen (*to be returned after scrutiny by the Joint Committee*),
  - b. Submit to the Committee the Latest audited accounts of KenGen,
  - c. What are the terms of the lenders to KenGen and what type of securities do they require,
  - d. What collateral has KenGen offered besides the Power Purchase Agreements to each of the projects which are subject of Sessional Papers No. 1, 2 & 3 of 2011;
  - e. Elucidate on the assumptions underlying the projections in cash flow statements submitted to the joint Committee;
  - f. Elucidate on the tender for the 15 additional well-heads that was awarded to the Norwegian company , Green Energy Group Inc;
  - g. Elucidate on the relationship between the Norwegian company - Green Energy Group Inc-, and the Indian company – Hindustan Turbo Machinery;
  - h. What was the justification of paying US \$ 4 million to Green Energy Group Inc.

**Responses by the Minister for Energy and Management of KenGen:**

38. The Minister for Energy together with the management of KenGen further appeared before the joint Committee on 17<sup>th</sup> August, 2011 and the following was their response to the above questions as posed by the Committee:
- KenGen has not offered to any of the lenders who have financed the projects which are subject to these Sessional Papers. Furthermore, the Power Purchase Agreement has not been offered as collateral.
  - With respect to the assumptions underlying the projections in cash flow statements submitted to the joint Committee, they are derived from a

financial model which KenGen developed with the assistance of our financiers (KfW). The model has the following assumptions:

- 15% return on equity
  - 6% inflation rate p a
  - Capital investment will be recovered over a period of 25 year for Olkaria (Geothermal) and over 50 years for Kindaruma (Hydro)
  - The operational cost are based on those of existing plant (Hydro and Geothermal for Kindaruma and Olkaria respectively)
  - It is also assumed that Kindaruma will produce 32 additional MW and Olkaria I & IV 280 MW.
- With respect to the names of the nominee in the top ten shareholders of KenGen, right now we don't have the information but we will obtain it from the respective banks and avail it to the Committee. We believe that the banks will not object to the disclosure
- In event KenGen defaults in servicing the guaranteed loan, the law (the Energy Act) is very clear that the Minister will step in and take over and operate or off-load the assets of the defaulting company and in this case the Government of Kenya (through the Minister for energy) will step in and take over KenGen and continue running KenGen until it honours its contractual obligation. The law also safeguards the government from objection or interference from the other 30% share holders of KenGen
- The question of dilution of GOK shareholding in KenGen in order to utilize the proceeds raised in funding the proposed project cannot arise given that it is not in the government policy to dilute the government shareholding in KenGen.
- Right now it is not proper for the government to offload its shareholding in KenGen since this will push the value of the dollar higher.
- With respect to the tender for the 14 additional well-heads that were awarded to the Norwegian company , Green Energy Group Inc, we response as follows:-
- We refer the Committee to tender report submitted as **appendix A** and the advertisement contained therein. The tender report contains the names of the eleven (11) firms that participated in the

tendering process out of which three firms were shortlisted and after evaluation the tender was awarded to Green Energy Group AS

- With respect to the faulty Well Head, it was a condition precedent for the tender that the winning company was to provide one Well Head unit for pilot purposes and that the unit was to work satisfactory for 18 months, and once it had satisfactorily worked it was only then when the 14 units could be tendered for. This Well Head was a prototype.
- KenGen paid USD 3.499 Million for the prototype which was equivalent to 50% and this amount was paid since the company was shipping in equipment.
- The terms of the contract provided that KenGen would pay 50% of the total price i.e. USD 4.124m in the following criteria:-
  - a. US\$ 1m payable after receipt of GEG bank guarantee of US\$1m from a bank acceptable to KenGen,
  - b. US\$ 2.5m payable against shipping documents;
  - c. US\$ 0.625M payable after the First Acceptance Test
- KenGen would pay the remaining 50% after Second Acceptance Test that the unit runs for 18 months
- KenGen were dealing with a Norwegian company, and we refer the Committee to appendix F. The Company has an outlet in Iceland and branch in India.
- KenGen engineers visited the Company in India in the process of manufacturing.
- Technical due diligence was done by a risk Company from Norway called Det Norske Veritas and we don't know whether it is affiliated to Green Energy Group Inc.
- The Wellhead is a temporary unit but our plan is to build a power plant. The Wellheads are single mobile units which will be mobile pending completion of Olkaria IV.
- If the new unit were to fail, the purchaser will be at liberty to declare non-compliance.
- We saw the Unit rotating in the factory but we had never seen it operational on the ground.

?

- The donors do a risk analysis for the project before funding.

## COMMITTEE OBSERVATIONS

2. In its observations, the joint Committee notes the following:-
- a. The joint Committee notes that currently the country has a negative power generation margin and therefore there is need for more investments in the energy generation sub- sector.
  - b. The Committee further raised concerns about the possibility of the Government of Kenya offloading its shareholding in KenGen and concluded that it will closely monitor the privatization programme to ensure the GOK does not lose its controlling interest in KenGen.
  - c. The procurement for the supply, installation and commissioning of the Wellhead turbine generator by KenGen was not done satisfactorily and since the matter is still ongoing, the Departmental Committee on Energy, Communications and Information will engage fully with the Ministry of Energy on this subject
  - d. All the twenty one (21) wells drilled at the Olkaria IV Domes by the Great Wall Drilling Company of China with funds from Government of Kenya should be transferred to GDC in consideration for the Kshs 3.7b paid by GOK to KenGen as indicated in the printed estimates for FY 2011/12

## RECOMMENDATIONS

40. The Committee recommends that the House resolves.-

- (i) THAT, this House adopts Sessional Paper No. 1 of 2011, on the Kenya Government Guarantee of a loan of Eur 39, 100,000.00 equivalent to Kshs. 4,926,600,000.00 from the KfW, Frankfurt Am Main to the Kenya Electricity Generation Company for the rehabilitation and upgrade of the Kindaruma Hydro Power Plant laid on the Table of the House on Wednesday July 27, 2011.
- (ii) THAT, this House adopts Sessional Paper No. 2 of 2011, on the Kenya Government Guarantee of a loan of Eur 60,000,000.00 equivalent to Kshs. 7,560,000,000.00 from the KfW, Frankfurt Am Main to the Kenya Electricity Generation Company for financing the 280mw Olkaria I and IV Geothermal Power Plant laid on the Table of the House on Wednesday July 27, 2011.
- (iii) THAT, this House adopts Sessional Paper No. 3 of 2011, on the Kenya Government Guarantee of a loan of Japanese Yen 29, 516,000,000.00 equivalent to Kshs. 33,353,080,000.00 from the Japan International; Cooperation Agency (JICA) to the Kenya Electricity Generation Company for financing the Olkaria I unit Four and Five Geothermal Power Project laid on the Table of the House on Wednesday July 27, 2011.
- (iv) THAT the Minister of Energy do expedite the transfer of ownership of all the twenty one (21) wells drilled at the Olkaria IV Domes by the Great Wall Drilling Company of China with funds from Government of Kenya to the Geothermal Development Company (GDC) a fully owned government company .

.....end.....

ANNEX I:

MINUTES OF THE JOINT COMMITTEES

MINUTES OF THE FIRST JOINT SITTING OF THE DC (F) ON FINANCE,  
PLANNING & TRADE AND DC(E) ENERGY, COMMUNICATIONS &  
INFORMATION HELD ON TUESDAY 9<sup>TH</sup> AUGUST 2011, IN COMMITTEE  
ROOM NO. 9, MAIN PARLIAMENT BUILDING AT 4.00 P.M.

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PRESENT

Hon. Chrysanthus Okemo, EGH, M P. (Co-Chairman)

Hon. Eng. James Rege, CBS, M.P. (Co- Chairman)

Hon. Jakoyo Midiwo, MGH, M P.

Hon. Ahmed Shakeel Shabbir, M P.

Hon. Nelson Gaichuhie, M.P

Hon. Sammy Mwaita, M P.

Hon. Musikari Kombo, M P.

Hon. Eng. Nicholas Gumbo, M.P.

Hon. Edwin Yinda, M P

Hon. Joseph Kutunyi, M P

Hon. Cyprian Omolo, M P

ABSENT WITH APOLOGY

Hon. (Prof.) Philip Kaloki, M.P.

Hon. Lucas Chepkitony, M P.

Hon. Ntoitha M'Mithiaru, M.P

Hon. Lenny Kivuti, M.P.

Hon. Nkoidila Ole Lankas, M.P.

Hon. Maina Kamau, M P.

Hon. Emilio Kathuri, M.P.

Hon. Ekwere Ethuro, M.P.

Hon. Adan Keynan, M.P.

Danson Mwazo Mwakulegwa, MP

## IN ATTENDANCE

### KENYA NATIONAL ASSEMBLY

Florence Atenyo-Abonyo	-	First Clerk Assistant
Abdullahi Aden	-	Third Clerk Assistant
Jacob Ngwele	-	Third Clerk Assistant
Veronicah Kibati	-	Research Officer

### MIN. NO. 1/2011

### DELIBERATION ON THE SESSIONAL PAPERS

Committee Members deliberated on the following Sessional Papers which were tabled in the House and referred to the two Departmental Committees by the Speaker to scrutinize and report on the same to the House.

#### **(a) Sessional Paper No.1 of 2011**

Kenya Government guarantee of a loan of EUR 39,100,000 00 equivalent to Ksh, 4,926,600,000.00 from the KFW Frankfurt AM Main Federal Republic of Germany for the rehabilitation and upgrade of the Kindaruma hydropower plant

The Committee noted that:-

- The loan has two components;
  - i) An interest rate of 2.5% per annum for EUR 30million and 5.3% for EUR 9.1 million
  - ii) A commitment fee of 0.25% per annum on undisbursed loan amounts and a one-time lump-sum management fee of 0.75% of the principal amount of the loan.



- The loan has a three year moratorium and a repayment period of 10 years in 20 semi-annual installments.
- Kengen is expected to augment the total project financing by about 31% (Ksh 1.932 billion)
- The current total contingent liabilities of GOK in respect of guarantees under Cap 461 amount to Ksh 72.5 billion. Request for guarantee of Ksh 4.9 billion will increase the aggregate amount to Ksh 77.4 billion
- The rehabilitation and upgrade is scheduled to be completed by June 2013. It will entail rehabilitation of the existing 40MW power station by raising its capacity to 48MW and installation of a new 24MW unit giving a total installed capacity of 72MW

(b) Sessional Paper No.2 of 2011

Kenya Government guarantee of a loan of EUR 60 million equivalent to Ksh 7,560,000,000 from the KfW, Frankfurt AM Main Federal Republic of Germany for financing Olkaria I and IV Geothermal power plant.

The Committee noted that:-

- The loan comprises of;
  - i) An interest of 3.0% per annum.
  - ii) A commitment fee of 0.25% per annum on undisbursed loan amounts and a one-time lump

sum management fee of 0.75% of the principal amount.

- The loan has a 3.5 year moratorium and a repayment period of 8.5 years translating into 17 semi-annual installments.
- Kengen is expected to augment the total financing by about 12% (Ksh. 12.2 billion).
- The current contractual contingent liabilities of GOK in respect of the guarantees amount to Ksh 77.4 billion. Request for 7.5 billion will increase the amount to Ksh 84.9 billion.
- The project aims to increase generation capacity of Olkaria I and IV to 280MW.

(c) **Sessional Paper No.3 of 2011**

Kenya Government guarantee of a loan of Japanese Yen 29,516 million equivalent to Ksh 33.3 billion from Japan International Cooperation Agency (JICA) to finance Olkaria I units four and five.

The Committee noted that:-

- The loan comprises of;
  - i) An interest rate of 0.2% per annum
  - ii) A commitment fee of 0.1% per annum to be paid semi-annually on the total unused loan balance
- The loan has a 10 year moratorium and a repayment period of 20 years.

- Kengen is expected to augment the total project financing by about 12%
- The current total contingent liabilities of the GOK under Cap 461 amount to Ksh 84.9 billion. Request for Ksh 33.3 billion will increase the aggregate amount to Ksh 118.2 billion.
- The implementation of the project will contribute an additional 140MW to the national grid.

MIN. NO. 2/2011

MEETING WITH THE MINISTER FOR ENERGY AND  
MANAGEMENT OF KENGEN

Committee Members resolved to invite both the Minister for Energy and the management of KenGen for a meeting on Wednesday 10<sup>th</sup> August, 2011 to deliberate on the Sessional Papers on Guarantee of Loans to KenGen

The Committee Members further resolved to seek clarification on the following issues during the said meeting:-

- (i) Why KenGen has failed to pay the loan of Kshs 34 million which KenGen inherited from its predecessor Kenya Power Company, given that the last payment was made on 30<sup>th</sup> June 1997.
- (ii) The total loan portfolio of Kengen and any loan guaranteed by NIC Bank or Indian Company.
- (iii) The shareholding of Kengen and the contribution of the private shareholders to the loan guarantee- *the Minister to provide the share certificate.*

- (iv) The cash flow projections of Kengen indicating the Company's capability to service the loans
- (v) Explanation on the utilization of the proceeds from the Kshs 25 billion Infrastructure Bond, its repayment schedule and overall impact on KenGen Debts.
- (vi) The total cost of each of the projects, other financiers and the breakdown on how the funds will be utilized.
- (vii) The legal status of Geothermal Development Corporation (GDC) and the possibility of establishing GDC by an Act of Parliament as a state corporation with specific mandate to generate geothermal power
- (viii) The possibility of having the wells that were drilled by GDC through Grate Wall drilling Company of China handed over to GDC as opposed to handing them over to Kengen. In addition, handling of all geothermal exploration by GDC including Olkaria blocks which belong to the Government.

MIN. NO. 3/2011

ADJOURNMENT

The Co-Chairpersons adjourned the meeting at Forty Minutes Past Six O'clock until Wednesday 10<sup>th</sup> August, 2011 at 10.00 a.m.

Signed .....  
Hon. Chrysanthus Okemo, EGH, MP (Co-Chairman)

Signed .....  
Hon. Eng. James Rege, CBS MP (Co-Chairman)

Date ..... 22/08/2011

**MINUTES OF THE SECOND JOINT SITTING OF THE DC (F) ON FINANCE,  
PLANNING & TRADE AND DC(E) ENERGY, COMMUNICATIONS &  
INFORMATION HELD ON WEDNESDAY 10<sup>TH</sup> AUGUST 2011, IN  
COMMITTEE ROOM, 1<sup>ST</sup> FLOOR, COUNTY HALL, PARLIAMENT BUILDING  
AT 10.30 A.M.**

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**PRESENT**

1. The Hon. (Eng.) James Rege, M P. - Co. Chairman
2. The Hon. Chrysanthus Okemo, M.P - Co- Chairman
3. The Hon. Lucas Chepkitony -Vice Chairman
4. The Hon. Maina Kamau, M P - Vice Chairman
5. The Hon. Jakoyo Midiwo, M P
6. The Hon. Emilio Kathuri, M.P
7. The Hon. Sammy Mwaita, M.P
8. The Hon. Nelson Gaichuhie, M.P
9. The Hon. Ahamed Shabbir, M.P
10. The Hon. Musikari Kombo, M P
11. The Hon. Edwin O. Yinda, M.P
12. The Hon. Joshua Kutuny, M P
13. The Hon. Cyprian Omolo, M.P
14. The Hon. Charles Kilonzo, M.P - Observer
15. The Hon. Martin Ogindo, M P - Observer
16. The Hon. Rev Mutava Musyimi, M.P- Observer

**ABSENT WITH APOLOGY**

1. The Hon. (Eng.) Nicholas Gumbo, M P
2. The Hon. Ekwee Ethuro, M.P
3. The Hon. Danson Mwazo, M.P.
4. Hon. Philip Kaloki, M.P
5. Hon Lenny Kivuti, M P
6. Hon. Ntoitha M' Mithiaru, M.P
7. Hon. Nkoidila Ole Lankas, M.P
8. The Hon. Aden Keynan M.P

**IN ATTENDANCE:**

1. Ms. Florence Abonyo
2. Ms. Emmy Chepkwony
3. Mr. Jacob Ngwele
4. Mr. Abdulahi Ahmed
5. Ms Veronicah Kibati

**NATIONAL ASSEMBLY**

First Clerk Assistant  
Third Clerk Assistant  
Third Clerk Assistant  
Third Clerk Assistant  
Research Officer

IN ATTENDANCE:

Ministry of Energy/KenGen

Hon. Kiraitu Murungi, M.P  
Mr. Patrick Nyoike  
Eddy Njoroge  
Henry Nyachae  
David Muthike  
Albert Mugo  
John Mudany  
Hiroyuki Idino

Minister for Energy  
Permanent Secretary Ministry of Energy  
MD/CEO- KenGen  
Finance Manager- KenGen  
Transport Manager- KenGen  
Strategy Manager-KenGen  
Director, Finance/Communication KenGen  
Economic Advisor- Office of the Prime Minister

MIN. NO.4/2011

PRELIMINARIES

The proceedings commenced at 10 30am with a word of prayer.

MIN.NO.5/2011:

ADOPTION OF THE PROGRAMME

The Committee adopted the sitting's programme as follows;

1. Introduction of members present
2. Introductory remarks by the Hon. (eng.) James Rege, M.P
3. Introductory remarks by the Hon. Chris Okemo, M P
4. Introductory Remarks by the Minister for Energy
5. Briefs on Sessional papers by the MD Kengen
6. Questions and Responses
7. Any other business

MIN.NO. 6/2011: MEETING WITH MINISTER OF ENERGY- DELIBERATION ON:-

a. QUESTION NO. 992: MAGNITUDE OF LOANS GIVEN TO PARASTATALS

b. GOVERNMENT- GUARANTEED PUBLIC DEBT TO KENYA POWER COMPANY (NOW KENGEN) AND THE SESSIONAL PAPERS 1.2 & 3 OF 2011 ON GUARANTEE OF LOANS TO KENGEN.

A. Deliberation on the three Sessional papers and utilization of the fund: The Minister presented a breakdown of the utilization of funds under the three Sessional papers and project status was as follows:

**OLKARIA I AND IV 280 MW PROJECT STATUS**

The project is expected to be completed by June 2013 and will require a total amount of 1,187 USD (Ksh 112,765,000,000). KenGen had already signed loan guarantees with Japan International CA, AFD, EIB and KFW. A summary is provided here below;

Loans Currency	Loan amount	Currency	Exchange Rate to the USD	Equivalent in USD m
JICA	29,516.00	Yen	0.010943	323
AFD	150.00	EURO	1.4	210
EIB	119.00	EURO	1.4	166.6
KfW	60.00	EURO	1.4	84

The scope of the project is;

- i) Supply and installation of steam gathering and distribution systems; (financed by KfW and IDA)
- ii) Construction of access roads and local infrastructure;
- iii) Technical advisory services including a panel of geothermal experts to provide technical review,
- iv) Design and supervision engineering services (financed by KfW and IDA)
- v) Expansion of the existing power plant at Olkaria I;
- vi) Construction of new power plant at Olkaria IV;
- vii) Construction of switchyards and transmission lines for connection to the grid; and
- viii) Acquisition of land and way leaves for construction of Olkaria IV power plant

The cost of electricity from the 280MW geothermal power plant is estimated at Ksh. 4 50 per kWh on completion in 2013

### KINDARUMA 3<sup>RD</sup> UNIT AND UPGRADE OF UNITS 1 AND 2

Kindaruma power plant was commissioned in 1968 and has two units each of 20 MW but had a provision for a 3<sup>rd</sup> unit. Kengen is installing the 3<sup>rd</sup> unit with a capacity of 24 MW and upgrading the other two units from 20 MW to 24 MW. Implementation is being done through two contracts namely the electro-mechanical awarded to Andritz Hydro of Austria and civil works awarded to Farab of Iran.

Work commenced in March 2010. The 3<sup>rd</sup> unit will be commissioned in June 2012 while the upgraded units 1 and 2 will be commissioned in December 2012 and June 2013 respectively. The estimated tariff for Kindaruma additional capacity is Uscts 7/kWh. The total project cost is Ksh. 7.4 billion comprising;

- i) Electro-mechanical Euro 45 Milion + Shs 177 million amounting to Ksh 6.2 billion

- ii) Civil works – Ksh 737 million
- iii) Consultancy GBP 2.6 million – Ksh 395 million
- iv) Kengen Management - Ksh 60 million

The cost of power from the new Kindaruma plant will be Ksh. 4.00 kWh

**The Committees sought to understand the following:**

- i. Why KenGen had failed to pay the loan of Kshs. 34 Million which it inherited from its predecessor KPC.

The Meeting heard that the KPLC had committed to pay the loan and the outstanding amount accrued from exchange rate differences. KenGen expressed its opinion that the amount should be paid by KPLC but after a lengthy deliberation on the matter, KenGen committed to settle the debt

- ii. **The total loan portfolio of KenGen and the status of the loan repayment.**  
KenGen presented its loan portfolio as attached in the report
- iii. **Loan guarantees to KenGen:** the joint Committee heard that KenGen was guaranteed a loan by StandBic Bank and not NIC Bank and that they are not aware of any Indian Company
- iv. **Shareholding of KenGen:** The MD Kengen informed the joint Committee that the Government was the majority shareholder of KenGen owning 70% of the shares. He further presented a share structure as indicated in the report. KenGen informed the Committee that share certificates will be sent to the Committee before Thursday 11<sup>th</sup>, 2011.
- v. **Cash flow projections of KenGen: on Kengen's Cash flow and Loan Portfolio**

The Members main concern was that the proof that Kengen would be able to service the requested loan guarantees as well as their outstanding obligations. The Committee was informed that;

The company's total loan portfolio including interest and factoring the exchange rates amounts to Ksh 69,639,380,412 while financing of upcoming projects including the



requested loan guarantees for Kindaruma and Olkaria I&IV amounts to Ksh. 93, 501, 912, 110

The outstanding Government guarantees to Kengen amounting to Ksh. 29,320,300,871 are;

- I. Kipevu 75 MW from JICA at Ksh 6,991,476,256
- II. Sondu Miriu from JICA at Ksh. 6,353, 528, 928
- III. Sondu Miriu from JICA at Ksh. 12,392,137,410
- IV. Sangoro Power Plant from JICA at Ksh 3,583,158,277

The MD, Kengen informed the Committee that the capitalization of Kengen was Ksh 60 billion while the income before tax was about Ksh 13 billion p a. The MD went on to explain that the Power Purchase Agreements (PPAs) signed with the Kenya Power and Lighting Company (KPLC) recognized debts and therefore provided security in terms of debt repayment therefore this was proof that Kengen will be able to meet its debts.

The MD further assured the Committee that Kengen had not defaulted on any loan and did not intend to do so. The Ksh 34 million outstanding debt currently owed by Kengen had been inherited from Kenya Power Company (KPC) the predecessor of Kengen and according to the MD, it was previously thought that KPLC would service the loans and until recently when the issue arose in Parliament was Kengen informed that they were expected to pay the loan. The MD assured the Members that the Ksh. 34 million outstanding loan would be immediately cleared by Kengen.

- vi. **Debt reflection the books of Account:** KenGen presented an overview of debt reflection in their books of account as attached in the report.
- vii. KenGen presented an explanation on the utilization of the proceeds from the Kshs. 35 billion bond and its repayment schedule and the overall impact on KenGen debts.
- viii. **Total Cost of each of the projects and other financiers:** the Committee received a presentation of the costs and list of financiers of all the projects. 7
- ix. The Committee sought to understand the Mandate and legal states of Geothermal Development Company. The Committee was informed that the Company was

formed to accelerate and to facilitated reduction of costs in the production of Geothermal resourced in Kenya and the Company is succeeding in its mandate. On the legal status the Committee heard that GDC is a 100% state owned Corporation established under Cap 446 of the Laws of Kenya.

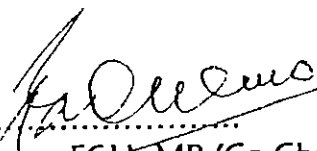
- x **Ownership of Geothermal resources in Kenya:** In view of the fact that GDC was succeeding in its mandate and it is 100% state owned Corporation, the Committee sought to understand why the Minister had not handed over the GDC explorations in Ol Karia I & IV drilled by Great wall drilling Company of China. The Minister informed the Committee that he was mandated by law to allocated Geothermal sites and that he had allocated KenGen the entire Ol Karia site way before GDC was established and that he has allocated GDC the entire Geothermal sites in the Country.

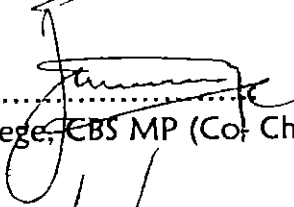
MIN.NO.7/2011: ANY OTHER BUSINESS

The Committee adjourned its meeting to work on the report and resolved to adopt it on the Thursday 11<sup>th</sup>, 2011 for tabling on the same date.

MIN.NO.8/2011: ADJOURNMENT

There being no other business and the time being ten minutes past 3.00 O'clock the meeting adjourned.

Signed .....   
Hon. Chrysanthus Okemo, EGH, MP (Co-Chairman)

Signed .....   
Hon. Eng. James Rege, CBS MP (Co-Chairman)

Date ..... 22/8/2011

**MINUTES OF THE THIRD JOINT SITTING OF THE DC (F) ON FINANCE,  
PLANNING & TRADE AND DC(E) ENERGY, COMMUNICATIONS &  
INFORMATION HELD ON TUESDAY 16<sup>TH</sup> AUGUST 2011, IN COMMITTEE  
ROOM NO. 9, MAIN PARLIAMENT BUILDING AT 4.00 P.M.**

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**PRESENT**

Hon. Chrysanthus Okemo, EGH, M.P. (Co-Chairman)

Hon. Eng. James Rege, CBS, M P. (Co- Chairman)

Hon. Musikari Kombo, M.P.

Hon Edwin Yinda, M P

Hon. Joseph Kutunyi, M.P

Hon. Cyprian Omolo, M P.

Danson Mwazo Mwakulegwa, MP

Hon. Emilio Kathuri, M.P

Hon (Prof.) Philip Kaloki, M P.

**ABSENT WITH APOLOGY**

Hon Ahmed Shakeel Shabbir, M.P.

Hon Eng. Nicholas Gumbo, M.P.

Hon Nelson Gaichuhie, M P.

Hon Sammy Mwaita, M.P.

Hon Jakoyo Midiwo, MGH, M.P.

Hon. Lucas Chepkitony, M.P.

Hon. Ntoitha M'Mithiaru, M P

Hon Lenny Kivuti, M P.

Hon. Nkoidila Ole Lankas, M.P.

Hon. Maina Kamau, M.P.

Hon. Ekwee Ethuro, M.P.

Hon. Adan Keynan, M.P

## IN ATTENDANCE

### KENYA NATIONAL ASSEMBLY

Florence Atenyo-Abonyo - First Clerk Assistant  
Abdullahi Aden - Third Clerk Assistant  
Jacob Ngwele - Third Clerk Assistant  
Emmy Chepkwony - Third Clerk Assistant

### MIN. NO. 12/2011 DELIBERATION ON THE SESSIONAL PAPERS NO.1, 2 & 3 OF 2011

Committee Members deliberated on the outcome of the meeting with the Minister for Energy and M.D KenGen which was held 10<sup>th</sup> August, 2011 resolved to invite once again both the Minister for Energy and the management of KenGen for a meeting on **Wednesday 17<sup>th</sup> August, 2011** in order to provide documents and the following additional information.

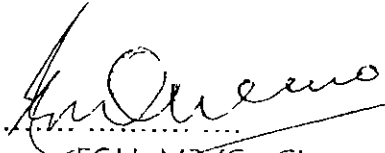
- (i) A Share Register containing all the shareholders of KenGen (to be returned after scrutiny by the Joint Committee),
- (ii) Latest audited accounts of KenGen;
- (iii) What are the terms of the lenders to KenGen and what type of securities do they require;
- (iv) What collateral has KenGen offered besides the Power Purchase Agreements to each of the projects which are subject of Sessional Papers No. 1, 2 & 3 of 2011;
- (v) Elucidate on the assumptions underlying the projections in cash flow statements submitted to the joint Committee;
- (vi) Elucidate on the tender for the 15 additional well-heads that was awarded to the Norwegian company , Green Energy Group Inc;

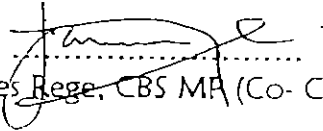
- (vii) Elucidate on the relationship between the Norwegian company - Green Energy Group Inc-, and the Indian company – Hindustan Turbo Machinery,
- (viii) What was the justification of paying US \$ 4 million to Green Energy Group Inc

MIN. NO 13/2011

ADJOURNMENT

The Co-Chairpersons adjourned the meeting at Thirty Minutes Past Five O'clock until Wednesday 17<sup>th</sup> August, 2011 at 11 00 a.m.

Signed  .....  
Hon. Chrysanthus Okemo, EGH, MP (Co-Chairman)

Signed  .....  
Hon. Eng. James Rege, CBS MP (Co-Chairman)

Date August 24, 11 .....

MINUTES OF THE FOURTH JOINT SITTING OF THE DC (F) ON FINANCE,  
PLANNING & TRADE AND DC(E) ENERGY, COMMUNICATIONS &  
INFORMATION HELD ON WEDNESDAY 17<sup>TH</sup> AUGUST 2011, IN  
COMMITTEE ROOM NO. 9, MAIN PARLIAMENT BUILDING AT 11.00 A.M.

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PRESENT

1. The Hon. (Eng.) James Rege, M.P. - Co. Chairman
2. The Hon. Chrysanthus Okemo, M.P - Co- Chairman
3. The Hon. Lucas Chepkitony -Vice Chairman
4. The Hon. Jakoyo Midiwo, M.P
5. The Hon. Emilio Kathuri, M.P
6. The Hon. Sammy Mwaita, M.P
7. The Hon. Ahamed Shabbir, M.P
8. The Hon. Musikari Kombo, M.P
9. The Hon. Edwin O. Yinda, M.P
10. The Hon. Ekwée Ethuro, M.P
11. The Hon. Danson Mwazo, M.P.
12. Hon. Philip Kaloki, M.P
13. Hon. Ntoitha M' Mithiaru, M.P
14. The Hon. Cyprian Omolo, M.P
15. The Hon. Martin Ogindo, M.P - Observer

ABSENT WITH APOLOGY

1. The Hon. Maina Kamau, M.P - Vice Chairman
2. The Hon. Joshua Kutuny, M.P
3. The Hon. Nelson Gaichuhie, M.P
4. The Hon. (Eng.) Nicholas Gumbo, M.P
5. Hon. Lenny Kivuti, M.P
6. Hon. Nkoidila Ole Lankas, M.P
7. The Hon. Aden Keynan M.P

IN ATTENDANCE:

1. Ms. Florence Abonyo
2. Ms. Emmy Chepkwony
3. Mr. Jacob Ngwele
4. Mr. Abdulahi Ahmed

NATIONAL ASSEMBLY

First Clerk Assistant  
Third Clerk Assistant  
Third Clerk Assistant  
Third Clerk Assistant

IN ATTENDANCE:

Ministry of Energy/KenGen

Hon. (Amb). M. M Mohammed, M.P  
Mr. Patrick Nyoike  
John Mudany

Asst. Minister for Energy  
Permanent Secretary Ministry of Energy  
Director, Finance/Communication- KenGen

Rebecca Mirano  
Albert Mugo  
Daniel Barkala  
Henry Gisia  
David Muthike

Company Secretary - KenGen  
Director Business Dev & Strategy - KenGen  
Chief Accountant - KenGen  
Chief Accountant - KenGen  
Transformation Manager- KenGen

MIN. NO.14/2011 PRELIMINARIES

The proceedings commenced at 10.30am with a word of prayer.

MIN.NO. 15/2011: MEETING WITH MINISTRY OF FINANCE- DELIBERATION ON THE SESSIONAL PAPERS 1.2 &3 OF 2011 ON GUARANTEE OF LOANS TO KENGEN.

- I. The following questions were posed by the joint Committee to the Minister for Energy and Management of KenGen.
  - a Present a Share Register containing all the shareholders of KenGen (*to be returned after scrutiny by the Joint Committee*),
  - b Submit to the Committee the Latest audited accounts of KenGen;
  - c. What are the terms of the lenders to KenGen and what type of securities do they require;
  - d. What collateral has KenGen offered besides the Power Purchase Agreements to each of the projects which are subject of Sessional Papers No. 1, 2 & 3 of 2011;
  - e. Elucidate on the assumptions underlying the projections in cash flow statements submitted to the joint Committee;
  - f. Elucidate on the tender for the 15 additional well-heads that was awarded to the Norwegian company , Green Energy Group Inc;
  - g. Elucidate on the relationship between the Norwegian company - Green Energy Group Inc-, and the Indian company – Hindustan Turbo Machinery;
  - h. What was the justification of paying US \$ 4 million to Green Energy Group Inc.

II. Papers Laid:

The following documents were tabled before the committee:-

1. Share Register containing all the shareholders of KenGen
2. Copies of the audited accounts of Kengen for the FY ending 30<sup>th</sup> June 2010
3. Report on the due diligence that was carried out against Green Energy Group Inc by Det Norske Veritas;

### III. Responses by the Minister for Energy and Management of KenGen:

- The collateral which KenGen has offered besides the Power Purchase Agreements to each of the projects which are subject of Sessional Papers No 1, 2 & 3 of 2011 have been defined on the terms of the Sessional Papers.
- With respect to the assumptions underlying the projections in cash flow statements submitted to the joint Committee they are derived from a financial model which KenGen developed with the assistance of our financiers (KfW). The model has the following assumptions:
  - 15% return on equity
  - 6% inflation rate p.a
  - Capital investment will be recovered over a period of 25 year for Olkaria (Geothermal) and over 50 years for Kindaruma (Hydro)
  - The operational cost are based on those of existing plant (Hydros and Geothermal for Kindaruma and Olkaria respectively)
  - It is also assumed that Kindaruma will produce 32 additional MW and Olkaria I & IV 280 MW.
- With respect to the names of the nominee in the top ten shareholders of KenGen, right now we don't have the information but we will obtain it from the respective banks and avail it to the Committee We believe that the banks will not object to the disclosure
- In event KenGen defaults in servicing the guaranteed loan, the law (the Energy Act) is very clear that the Minister will step in and take over and operate or off-load the assets of the defaulting company and in this case the Government of Kenya (through the Minister for energy) will step in and take over kengen and continue running kengen until it honours its contractual obligation. The law also safeguards the government from objection or interference from the other 30% share holders of Kengen.
- The question of dilution of GOK shareholding in KenGen in order to utilize the proceeds raised in funding the proposed project cannot arise given that it is not in the government policy to dilute the government shareholding in KenGen.
- Right now it is not proper for the government to offload its shareholding in KenGen since this will push the value of the dollar higher.
- With respect to the tender for the 14 additional well-heads that were awarded to the Norwegian company , Green Energy Group Inc, we response as follows:-



- We refer the Committee to tender report submitted as appendix A and the advertisement contained therein. The tender report contains the names of the 11 firms that participated in the tendering process out of which three firms were shortlisted and after evaluation the tender was awarded to Green Energy Group AS.
- With respect to the faulty Well Head, it was a condition precedent for the tender that the winning company was to provide one Well Head unit for pilot purposes and that the unit was to work satisfactory for 18months, and once it had satisfactory worked it was only then when the 14 units could be tendered for. This Well Head was a prototype.
- KenGen paid US \$ 4 Million for the prototype which was equivalent to 50% and this amount was paid since the company was bringing in equipment, and the Company requested for payment of 10% and the balance was to be paid on testing and then the rest after 18 months. Nothing has been paid for the 14 units.
- KenGen were dealing with a Norwegian company, and we refer the Committee to appendix F. The Company has an outlet in Ice Land and branch in India.
- KenGen engineers visited the Company in India in the process of manufacturing.
- Technical due diligence was done by a risk Company from Norway called Det Noske Veritas and we don't know whether it is affiliated to Green Energy Group Inc.
- The Wellhead is a temporary unit but our plan is to build a power plant. The Wellheads are single mobile units which will be mobile pending completion of Olkaria IV.
- If the new unit were to fail, the purchaser will be at liberty to declare none compliance.
- We saw the Unit rotating in the factory but we had have never seen it operational on the ground.
- Concept of well head generation came up from GDC but they don't have capacity to operate them since the engineers are at KenGen.
- The intention of GOK was to make GDC a steam provider not power generator.
- The donors do a risk analysis for the project before funding.

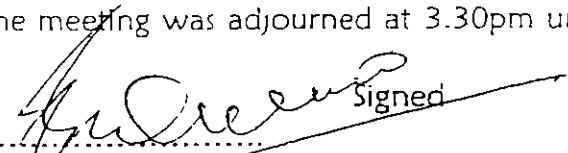
MIN.NO. 15/2011 JOINT COMMITTEES DELIBERATION ON THE WAY FORWARD

After a brief deliberation between the P.S Ministry of Energy and management of KenGen, the Joint Committees made the following observations:

- ❖ The Wellhead turbine generator supplied to KenGen by Green Energy Group is faulty it should be returned and replaced with one that meets the specification
- ❖ The procurement for the supply, Installations and Commissioning of the Wellhead turbine generator by KenGen was not done satisfactory and the joint Committee therefore needs to ask how secure is the US Dollar 4 million that was paid for the defective well head
- ❖ All the 21 wells in Olkaria drilled by Great wall Company of China with GOK money should be transferred to a fully owned government company in this case Geothermal Development Company.
- ❖ The following issues require further clarification and information
  - KenGen should answer all the questions contained in the letter dated 16/08/11 in writing
  - KenGen to provide a copy of the agreement for design , supply, installation and commissioning of Geothermal Power Plant between KenGen and Green Energy Group As;
  - KenGen to provide a copy of the Feasibility Study Report for new units of the Optimization Project
  - KenGen must show to the joint committee what safeguards or fall back they have put in place to secure the US \$ 4 Million already paid to Green Energy Group Inc;
  - KenGen to provide names of the nominees in top ten shareholders

MIN.NO.16/2011: ADJOURNMENT

There being no other business and the meeting was adjourned at 3.30pm until Monday 22/8/11 at 2 30pm

  
Signed .....  
Hon. Chrysanthus Okemo, EGH, MP (Co-Chairman)

Signed .....  
Hon. Eng. James Rege, CBS MP (Co- Chairman)

Date August 24, 11 .....

MINUTES OF THE FIFTH JOINT SITTING OF THE DC (F) ON FINANCE,  
PLANNING & TRADE AND DC(E) ENERGY, COMMUNICATIONS &  
INFORMATION HELD ON MONDAY 22<sup>ND</sup> AUGUST 2011, IN COMMITTEE  
ROOM NO. 9, MAIN PARLIAMENT BUILDING AT 2.30 P.M.

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PRESENT

1. Hon. (Eng.) James Rege, M P. - Co. (Chairman)
2. Hon Chrysanthus Okemo E G H, M P -Co. (Chairman)
3. Hon. Philip Kaloki, M P Vice Chairman
4. Hon. Jakoyo Midiwo, M G.H, M.P
5. Hon Aden Keynan, M.P
6. Hon. Nelson Gaichuhie, MP
- 7 Hon. Ntoitha M'Mithiaru, M.P
8. Hon. Ahmed Shabbir Shakeel, M.P.
- 9 Hon. Lucas Chepkitony, M.P.
10. Hon. Martin Ogindo, M P - Observer

ABSENT WITH APOLOGY

1. Hon. Musikan Kombo, M P
- 2 Hon Nkoidila Ole Lankas, M P
3. Hon Sammy Mwaita, M P
4. Hon. Lenny Kivuti, M.P.
- 5 Hon Maina Kamau, M.P Vice Chairman
6. Hon. Emilio Kathuru, M P
7. Hon.Edwin O. Yinda, M P
8. Hon. Joshua Kutuny, M.P
- 9 Hon. Cyprian Omolo, M.P
- 10 Hon. (Eng) Nicholas Gumbo, M.P
11. Hon Ekwwe Ethuro, M P
12. Hon. Danson Mwazo, M.P

KENYA NATIONAL ASSEMBLY

- Florence Abonyo - First Clerk Assistant  
Jacob Ngwele - Third Clerk Assistant  
Abdullahi Aden -Third Clerk Assistant

MIN. NO 17/2011

CONFIRMATION OF MINUTES

Minutes of the following previous sittings were confirmed by  
the members present and signed by the Co. Chairpersons.

- (i) Minutes of the first joint sitting held on Tuesday 9<sup>th</sup> August 2011 were proposed by Hon Nelson Gaichuhie, M P and seconded by Hon. Shakeel Shabbir, M P
- (ii) Minutes of the second joint sitting held on Tuesday 16<sup>th</sup> August 2011 were proposed by Hon. Lucas Chepkitony, M P and seconded by Hon. Nelson Gaichuhie, M.P.

**MIN.NO. 18/2011**

**MATTERS ARISING**

- (i) The Committee was informed that the Guarantee for the loan to KenGen is Euro but the letter from KenGen has it in Dollars.
- (ii) The Committee also seeks further clarification on the additional Commitment fee of 0.25% per annum on undisbursed loan amounts.

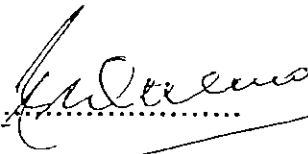
**MIN. NO. 19/2011 DELIBERATION ON SESSIOMNAL PAPERS 1, 2 & 3 OF 2011**

The Committee members resolved to invite the Minister for Energy, Management of both KenGen and GDC on Wednesday 24<sup>th</sup> August 2011 to seek clarification on the following

- (i) Cash flow projections of KenGen indicating the Company capability to service the loans.
- (ii) Committee not satisfied with loan guarantee aspects of KenGen and to interrogate the cash flow statements.
- (iii) General governance issues with KenGen.
- (iv) The 30% shareholding by private the sector and how is government guaranteeing them.
- (v) When and how is KenGen planning to repay the 3.7 billion to geothermal development Corporation?
- (vi) Geothermal development corporation did the work as KenGen financed the drilling and that must get the money from government and pay KenGen
- (vii) The possibility of handing over the wells that were drilled by GDC through great wall drilling to GDC as opposed to handing them over to KenGen.

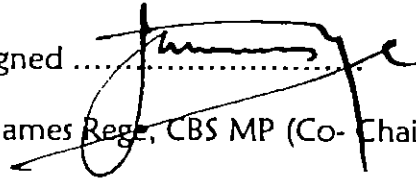
The Co Chairpersons adjourned the meeting at five O'clock until Wednesday 24<sup>th</sup> August 2011 at 11 00 am

Signed .....



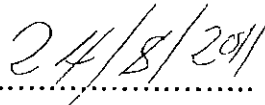
Hon. Chrysanthus Okemo, EGH, MP (Co-Chairman)

Signed .....



Hon. Eng. James Rege, CBS MP (Co-Chairman)

Date .....



MINUTES OF THE SIXTH JOINT SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY, COMMUNICATION AND INFORMATION AND THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANING AND TRADE HELD ON WEDNESDAY 24<sup>th</sup> AUGUST 2011 IN COMMITTEE ROOM 9,MAIN PARLIAMENT BUILDINGS AT 10.30 AM

PRESENT

1. Hon. (Eng.) James Rege, M.P. Co. (Chairman)
2. Hon. Chrysanthus Okemo E.G.H, M.P Co. (Chairman)
3. Hon. Jakoyo Midiwo, M G.H, M P
4. Hon. Aden Keynan, M.P
5. Hon. Nelson Gaichuhie, MP
6. Hon. Ntoitha M'Mithiaru, M.P.
7. Hon. Ahmed Shabbir Shakeel, M P.
8. Hon. Lucas Chepkitony, M.P.
9. Hon Edwin O. Yinda, M P
- 10 Hon. Musikari Kombo, M.P
11. Hon.Edwin O. Yinda, M P
12. Hon. Ekwee Ethuro, M P

ABSENT WITH APOLOGY

1. Hon. Nkoidila Ole Lankas, M P.
- 2 Hon. Sammy Mwaita, M.P
3. Hon. Lenny Kivuti, M.P.
4. Hon Maina Kamau, M.P Vice Chairmam
5. Hon. Emilio Kathuru, M.P
6. Hon. Joshua Kutuny, M.P
7. Hon. Cyprian Omolo, M.P
8. Hon. (Eng) Nicholas Gumbo, M.P

**MINISTRY OF ENERGY**

Hon. Kiraitu Murungi, EGH, M.P	Minister for Energy
Patrick Nyoike	P.S Ministry of Energy
Edward Njoroge	MD, KenGen
Dr. Silas Simiyu	MD, GDC
Mr. Martin Heya	Ministry of Energy

**KENYA NATIONAL ASSEMBLY**

Florence Abonyo	- First Clerk Assistant
Jacob Ngwele	- Third Clerk Assistant
Abdullahi Aden	- Third Clerk Assistant
Rose Mudibo	- Committee Secretary

**MIN. NO 21/2011****CONFIRMATION OF MINUTES**

Minutes of the following previous sittings were confirmed by the members present and signed by the co Chairman

- (i) Minutes of the Third joint sitting held on Tuesday 16<sup>th</sup> August 2011 were proposed by Hon. Crysanthus Okemo, M P, and seconded by Hon. James Rege, M.P
- (ii) Minutes of the fourth joint sitting held on Wednesday 17<sup>th</sup> August 2011 were proposed by Hon. Ekwee Ethuro, M P and seconded by Hon. Musikan Kombo, M P.
- (iii) Minutes of the Fifth joint sitting held on 22<sup>nd</sup> August 2011 were proposed by Hon. Nelson Gaichuhie, M P. and seconded by Hon. Ntoitha M'Mithiaru, M P.

**MIN.22/2011****REMARKS OF THE MINISTER FOR ENERGY, M.D FOR KENGEN AND M.D FOR GDC**

The Minister informed the Committee that;

- (i) The all the wells drilled by GOK funds post IPO by the Great Wall Company of China will be transferred to GDC and to that effect he directed the two M.D's to do the necessary agreements.

- (ii) Presently the government holds 70% share in KenGen, however the Committee was also informed that even if the government off-loads its shareholding, the government will still retain the controlling 51% in safeguarding the fear of shareholding and privatization.
- (iii) KenGen will generate power at Olkaria and Geothermal Development Corporation (GDC) to concentrate at Menengai, Silai and Paka. GDC will continue drilling Olkaria for the remaining the 7 wells which it is drilling at the moment, but once the drilling of the 7 wells is complete, GDC should move its operations to Menengai, Paka and Silali.
- (iv) The Committee Mandate of KenGen was to give affordable and sustainable power to the Country.

MIN. NO. 23/2011

JOINT COMMITTEE OBSERVATIONS

- The joint Committee notes that currently the country has a negative power generation margin and therefore there is need for more investments in the energy generation sub-sector.
- The Committee further raised concerns about the possibility of the Government of Kenya offloading its shareholding in KenGen and concluded that it will closely monitor the privatization programme to ensure the GOK does not lose its controlling interest in KenGen.
- The procurement for the supply, installation and commissioning of the Wellhead turbine generator by KenGen was not done satisfactorily and since the matter is still ongoing, the Departmental Committee on Energy, Communications and Information will engage fully with the Ministry of Energy on this subject.
- All the twenty one (21) wells drilled at the Olkaria IV Domes by the Great Wall Drilling Company of China with funds from Government of Kenya should be transferred to GDC in consideration for the Kshs 3.7b paid by GOK to KenGen as indicated in the printed estimates for FY 2011/12



The Committee recommends the approval and issuance for Sessional paper 1, 2 & 3 of 2011 of Government of Kenya guarantee for loan to KenGen as follows;

- (i) Recommends for approval of session paper 1, the issuance of Government of Kenya Guarantee for the loan to KenGen of Euro 39.1 million equivalent to Kshs 4.9 billion from Kfw, Frankfurt am main, federal Republic of Germany, a government owned overseas development assistance bank
- (ii) Recommends for approval of session paper 2, the issuance of Government of Kenya Guarantee for the loan to KenGen of Euro 60.0 Million equivalent Kshs 7.5 billion from Kfw, Frankfurt am main, federal Republic of Germany, a government owned overseas development assistance bank.
- (iii) Recommends for approval of session paper 3, the issuance of Government of Kenya Guarantee for the loan to KenGen of JPY 29516 million equivalent to Kshs 33.3 billion from Japan international Corporation Agency (JICA) A government of Japan Owned overseas development agencies.
- (iv) That the Minister for Energy do expedite the transfer of ownership of all the twenty one (21) wells drilled at the Olkaria IV Domes by the Great Wall Drilling Company of China with funds from Government of Kenya to a fully owned government company in this case the Geothermal Development Company (GDC).

MIN. NO 24/2011

ADJOURNMENT

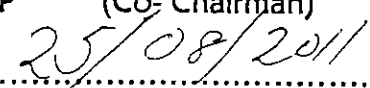
The Co. Chairpersons adjourned the meeting at Thirty minutes past 12 O'clock until Thursday 25<sup>th</sup> August 2011 at 11.00 a.m.

Signed.....

Hon. Crysanthus Okemo, EGH, M.P (Co- Chairman)

Signed.....

Hon. Eng James Rege CBS, M.P (Co- Chairman)

Dated.....

MINUTES OF THE SEVENTH JOINT SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY, COMMUNICATION AND INFORMATION AND THE DEPARTMENTAL COMMITTEE ON FINANCE, PLANING AND TRADE HELD ON THURSDAY 25<sup>th</sup> AUGUST 2011 IN COMMITTEE ROOM 9,MAIN PARLIAMENT BUILDINGS AT 10.30 AM

PRESENT

1. Hon. (Eng.) James Rege, M.P Co. (Chairman)
2. Hon. Chrysanthus Okemo E.G.H, M.P Co. (Chairman)
3. Hon. Jakoyo Midrwo, M.G H, M P
4. Hon. Nelson Gaichuhie, MP
5. Hon Ntoitha M'Mithiaru, M P
- 6 Hon. Sammy Mwaita, M P
7. Hon Edwin O. Yinda, M.P
8. Hon. Musikari Kombo, M.P
9. Hon Ahmed Shabbir Shakeel, M.P.
10. Hon. Ekwee Ethuro, M P
- 11 Hon. (Eng) Nicholas Gumbo, M.P
12. Hon. Joshua Kutuny, M.P

ABSENT WITH APOLOGY

1. Hon. Philip Kaloki, M.P Vice Chairman
2. Hon. Lucas Chepkitony, M.P.
3. Hon. Nkoidila Ole Lankas, M.P
4. Hon Lenny Kivuti, M.P
5. Hon Maina Kamau, M P Vice Chairmam
6. Hon. Emilio Kathuru, M.P
7. Hon. Cyprian Omolo, M.P
8. Hon Danson Mwazo, M.P

KENYA NATIONAL ASSEMBLY

- Florence Abonyo - First Clerk Assistant
- Jacob Ngwele - Third Clerk Assistant
- Abdullahi Aden - Third Clerk Assistant

MIN. NO 25/2011

CONFIRMATION OF MINUTES

Minutes of the following previous sittings were confirmed by the members present and signed by the co. Chairman.

- (i) Minutes of the Sixth joint sitting held on Wednesday 24<sup>th</sup> August 2011 were proposed by Hon. Ahmed Shabbir Shakeel, M P, and seconded by Hon. Edwin O. Yinda, M P.

MIN.26/201

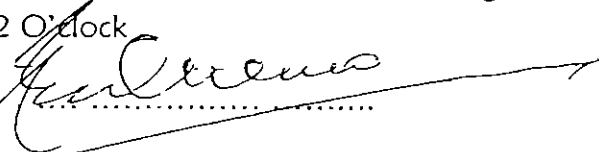
ADOPTION OF THE JOINT COMMITTEE REPORT

Members unanimously adopted the report of the joint Committee for tabling in the House.

MIN. NO 27/2011

ADJOURNMENT

The Co. Chairpersons adjourned the meeting at Thirty minutes past 12 O'clock

Signed.....

Hon. Crysanthus Okemo, EGH, M.P (Co- Chairman)

Signed. ....

Hon. Eng James Rege CBS, M P (Co- Chairman)

Dated. ... 25/8/11 .....